

**MASTER TRUST AGREEMENT**

**Made as of APRIL 21, 2017**

**BETWEEN**

**TSX TRUST COMPANY**

**and**

**TACTEX ASSET MANAGEMENT INC.**

**Governing the**

**MYLO FUNDS**

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**MYLO FUNDS**  
**MASTER TRUST AGREEMENT**

**THIS TRUST AGREEMENT** made as of the 21<sup>st</sup> day of April, 2017

**BETWEEN:** **TACTEX ASSET MANAGEMENT INC.** a company incorporated under the laws of Canada (the "**Manager**")

**OF THE FIRST PART**

**AND:** **TSX TRUST COMPANY**, a trust company existing under the laws of Canada (the "**Trustee**")

**OF THE SECOND PART**

**WHEREAS** Tactex Asset Management Inc. is an investment fund manager;

**AND WHEREAS** the Manager as settlor wishes to establish and manage one or more separate unit investment trusts under this Master Trust Agreement, such trusts to be collectively known as the "**Mylo Funds**";

**AND WHEREAS** the Manager wishes to appoint **TSX TRUST COMPANY** to act as the trustee of such trust(s);

**AND WHEREAS** the Trustee is willing to accept such appointment and to act as trustee of the trust(s), upon and subject to the conditions herein contained;

**AND WHEREAS** the Trustee and the Manager intend that certain of the affairs of the trust(s) shall be managed by the Manager, as hereinafter set forth.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual obligations and agreements herein contained, the parties hereto covenant and agree as follows:

**ARTICLE 1**  
**INTERPRETATION**

**1.1 Definitions**

In this Trust Agreement, unless the subject matter or context otherwise requires, the following expressions shall have the meanings set forth below:

**"Adjusted Cost Base"** means the adjusted cost base of a Unit as computed in accordance with the provisions of the Tax Act as determined by the Manager;

"**Affiliate**" means, with respect to a party, that party's affiliated companies within the meaning of the *Canada Business Corporations Act* (R.S., 1985, c. C-44 ).

"**Applicable Laws**" means, unless the context otherwise dictates, any applicable statute of Canada or a province or territory of Canada or any applicable regulations, orders, instruments, rules, policies, administrative practices or other laws made under statutory authority by any governmental or regulatory body or agency having jurisdiction over the Funds, the Trustee or the Manager including, but not limited to, Securities Legislation and the Tax Act;

"**Auditors**" means the auditors appointed pursuant to Section 14.2;

"**business day**" means any day that The Toronto Stock Exchange is open for trading;

"**Class Net Asset Value**" in respect of any particular class of Units of a Fund is the portion of the Net Asset Value of the Fund attributed to such class determined in accordance with Section 4.3(f);

"**Class Net Asset Value per Unit**" in respect of any particular class of Units of a Fund is the portion of the Net Asset Value of the Fund attributed to each Unit of such class determined in accordance with Section 4.3(f);

"**Common Expenses**" means those expenses of a Fund other than Series Expenses;

"**Corporate Action**" means any conversion privileges, subscription rights, warrants or other rights or options available in connection with any securities forming part of Fund Property, including those relating to the reorganization, recapitalization, takeover, consolidation, amalgamation, merger, liquidation, filing for or declaration of bankruptcy or plans of arrangement, of any corporation, association or other entity;

"**Custodian**" means the person or persons appointed as custodian of Fund Property pursuant to Section 16.2 of this Trust Agreement;

"**this Trust Agreement**", "**hereto**", "**herein**", "**hereof**", "**hereby**", "**hereunder**" and similar expressions refer to this instrument in its entirety, as amended from time to time, and not to any particular Article, Section, Subsection or other portion hereof, and include any and every instrument supplemental or ancillary hereto and any and every Schedule hereto; "Article", "Section" and "Subsection" refer to the specified article, section or subsection of this Master Trust Agreement;

"**Disclosure Documents**" means any term sheet, offering memorandum, prospectus, or similar document as may be used by the Manager or required by Securities Legislation in connection with the distribution of Units of a Fund;

"**Fund**" means any mutual fund trust established and governed by this Trust Agreement from time to time and "Funds" has the corresponding plural meaning;

"**Fund Property**" at any time means any and all securities, property and assets, transferred, conveyed or paid to a Fund including:

- (i) the \$10.00 contributed by the Manager to constitute and settle a Fund;

- (ii) all proceeds realized from the issuance of Units of a Fund;
- (iii) all investments and sums from time to time delivered to the Trustee or held for its account and accepted by the Trustee, or on its behalf, in accordance with this Trust Agreement for the purposes of a Fund;
- (iv) all rights to acquire, or to the return of, the foregoing property and assets;
- (v) any proceeds of disposition of any of the foregoing property and assets; and
- (vi) all income, interest, profit, gains and accretions and additional rights arising from or accruing to such foregoing property or such proceeds of disposition;

"GAAP" means generally accepted accounting principles and whenever in this document, reference is made to GAAP, such reference shall be deemed to be to (i) "accounting principles" as defined under National Instrument 52-107 - *Acceptable Accounting Principles and Auditing Standards*, or (ii) such accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor entity thereto, in either case applicable as at the date on which such principles are to be applied or on which any calculation or determination is required to be made in accordance with GAAP;

"Investment Objective" means the investment objective of a Fund as set forth in Section 2.4, as the same may be changed from time to time in accordance with the provisions hereof and, if applicable, Securities Legislation;

"Management Expense Distribution" means a distribution pursuant to Section 7.4;

"Manager" means Tactex Asset Management Inc., in its capacity as investment fund manager of the Funds, or any successor person or corporation from time to time appointed as the manager of the Funds in accordance with this Trust Agreement;

"Net Asset Value" at any time means the dollar value of assets less liabilities, and shall be calculated in respect of a Fund, of any class, series or sub-series of Units, and of any Units, as applicable, in accordance with Section 4.2 or Section 4.3, as applicable;

"Net Capital Gains" for any year means the net capital gains of a Fund for such year computed in accordance with Section 7.2;

"Net Change in Non Portfolio Assets" for a Fund on a Valuation Date means

- (i) the aggregate of all income accrued by a Fund, including cash dividends and distributions, interest and compensation, minus;
- (ii) the Common Expenses accrued by a Fund as of that Valuation Date which have not otherwise been accrued in the calculation of Net Asset Value as of that date, plus or minus;



- (iii) any change in the value of any non portfolio assets or liabilities stated in any foreign currency accrued on that Valuation Date, including, without limitation, cash, accrued dividends or interest and any receivables or payables, plus or minus;
- (iv) any gain or loss resulting from transfers of currencies accrued on that Valuation Date, plus or minus;
- (v) any other item accrued on that Valuation Date determined by the Manager or its delegate to be relevant in determining Net Change in Non-Portfolio Assets;

in each case measured from the previous Valuation Date on which the Net Change in Non Portfolio Assets was last calculated to and including the current Valuation Date;

**"Net Income"** for any year means the net income of a Fund for such year computed in accordance with Section 7.1;

**"Net Portfolio Transactions"** for a Fund on any Valuation Date means the impact of portfolio transactions and the adjustments to the assets as a result of a stock dividend, stock split or other Corporate Action, from the previous Valuation Date on which the Net Change in Non Portfolio Assets was last calculated to and including the current Valuation Date;

**"person"** includes an individual, body corporate, corporation, company, limited partnership, general partnership, joint venture, joint stock company, association, bank, trust company, government, syndicate, trust or any trustee, executor, administrator or other legal representative or any legal entity, including, without limitation, pension and profit share trusts, or other entity or organization whether incorporated or not;

**"Portfolio Manager"** means Tactex Asset Management Inc. in its capacity as portfolio manager of the Funds and/or any other person appointed by the Manager as portfolio manager or sub-adviser, in accordance with paragraph 9.4(l) hereof, to make investment decisions for and on behalf of the Funds whether in respect of all of Fund Property or any portion thereof;

**"Proportionate Share"**, when used to describe

- (i) an amount to be allocated to any one series of Units of a Fund, means the total amount to be allocated to all series of Units of a Fund multiplied by a fraction, the numerator of which is the Series Net Asset Value of such series and the denominator of which is the Net Asset Value of a Fund at such time (however for the purpose of Subsection 4.3(b), "Proportionate Share" attributable to a series on a Valuation Date means the total amount to be allocated to all series of Units of a Fund on that Valuation Date multiplied by a fraction, the numerator of which is the Series Net Asset Value of such series on the previous Valuation Date and the denominator of which is the Net Asset Value of a Fund on the previous Valuation Date, in each case after giving effect to all redemptions on that previous Valuation

Date and after giving effect to all subscriptions and redesignations on the Subscription Date immediately following that previous Valuation Date), and

- (ii) a Unitholder's interest in or share of any amount, means, after an allocation has been made to each series as provided in clause (i), that allocated amount multiplied by a fraction, the numerator of which is the number of Units of that series registered in the name of that Unitholder and the denominator of which is the total number of Units of that series then outstanding (if such Unitholder holds Units of more than one series, then such calculation is made in respect of each series of Units of a Fund and aggregated);

**"Redemption Date"** means each Valuation Date;

**"Register"** means the register or registers established and maintained pursuant to Section 16.1;

**"Securities Legislation"** means the securities laws and regulations in each province and territory of Canada that are applicable to the Funds and the Manager, from time to time, and the requirements, rules, policies, instruments and decisions of the securities regulatory authorities that are applicable to the Funds and the Manager, from time to time, subject to any exemptive relief therefrom granted by such securities regulatory authorities to the Funds or the Manager;

**"Series Expenses"** in respect of any particular series of units of a Fund means the expenses of the Fund (including any management, performance and other fees) that are charged only to that series; if there is only one series (or no series designated) for a class, the **"Series Expenses"** for that class means the expenses of the Fund (including any management, performance and other fees) that are charged only to that class;

**"Series Net Asset Value"** in respect of any particular series of Units of a Fund is the portion of the Net Asset Value of the Fund attributed to such series determined in accordance with Section 4.3;

**"Series Net Asset Value per Unit"** in respect of any particular series of Units of a Fund is the portion of the Net Asset Value of such Fund attributed to each Unit of such series determined in accordance with Section 4.3;

**"Special Distribution"** means any of the Management Expense Distribution and the allocation and distribution of Net Capital Gains as contemplated by Section 7.4 of this Trust Agreement;

**"Subscription Date"** means each Valuation Date;

**"Tax Act"** means the *Income Tax Act* (Canada), as the same is presently in force and may hereafter be amended from time to time and includes any statute that may be enacted in substitution therefor, and any reference to a specific provision thereof shall be subject to any subsequent amendment to or replacement of such provision;

**"Unitholders"** means the person or persons for the time being entered in the Register as the holder or holders of any of the Units of a Fund;

**"Units"** means units of beneficial interest in a Fund issued or to be issued hereunder and for the time being outstanding, having the attributes set out herein;

**"Valuation Date"** means each business day and such other date or dates as the Manager may designate as a Valuation Date for any Fund;

**"Valuation Period"** means a period commencing on the day immediately following a Valuation Date to and including the next Valuation Date; and

**"Voting Materials"** means all proxies, proxy solicitation materials and other communications, relating to the securities forming part of Fund Property that call for voting.

## **1.2 Gender and Number**

Words importing the singular number only shall include the plural, and *vice versa*, and words importing the masculine gender shall include the feminine gender.

## **1.3 Headings**

The headings of all of the Articles and Sections hereof and the Table of Contents are inserted for convenience of reference only and shall not affect the construction or interpretation of this Trust Agreement. All Schedules hereto form part of this Trust Agreement.

## **1.4 Governing Law**

This Trust Agreement, which by common accord has been drawn in the English language, shall be construed in accordance with the laws of the Province of Quebec and the federal laws of Canada applicable therein and the responsibilities of the Trustee shall be principally performed from its office in Toronto unless otherwise agreed by the Manager and the Trustee.

## **1.5 Rights of Unitholders**

A Unitholder in a Fund shall have no rights other than those rights expressly provided for Unitholders herein or added by amendment hereto.

## **1.6 Conflict**

In the event of a conflict between the terms and conditions of this Trust Agreement and the Disclosure Documents, the terms and conditions of this Trust Agreement shall prevail.

# **ARTICLE 2 THE FUNDS**

## **2.1 Establishment of Funds**

- (a) The Manager confirms that it has contributed the sum of Ten Dollars (\$10.00) to constitute and settle each of the trusts set out in Schedule "B" hereto. Schedule "B", as amended from time to time, forms part of this Trust Agreement. Each Fund listed in Schedule "B"

shall constitute a separate trust. Schedule "B" to this Trust Agreement sets out the name, investment objectives, strategies and restrictions applicable to each of the Funds described therein.

- (b) The Manager may establish one or more new funds, from time to time, by way of a supplementary schedule to this Trust Agreement which sets out the name of each such new fund and the investment objectives, strategies and restrictions applicable to each of the funds described in such schedule. The Manager shall provide the Trustee with prior written notice of the establishment of any new Fund and any such prior notice shall be sufficient for the Trustee, acting reasonably, to review, assess and document such new Fund in accordance with its internal policies, practices and procedures.
- (c) If satisfactory to the Trustee, acting reasonably, such supplementary schedule shall be executed by the parties hereto and shall be incorporated in and form part of this Trust Agreement. On the effective date of any supplementary schedule to this Trust Agreement, each such new fund shall constitute a new Fund for all purposes of this Trust Agreement.

## **2.2 Appointment of Trustee**

The Manager, as settlor of each of the Funds and settlor of any new funds, hereby appoints the Trustee as the trustee of each of the Funds and the Trustee hereby accepts such appointment and agrees to act as the trustee of each of the Funds and to and to hold the Fund Property in accordance with the provisions of this Trust Agreement.

## **2.3 Name and Office**

The Funds shall be known by the names that the Manager may from time to time designate under any schedule hereto and each Fund may at any time adopt a French version of its name at the sole discretion of the Manager. Each Fund shall have its offices at 481 Viger street West, Suite 200, Montreal, Quebec, H2Z 1G6 or at such place as the Manager may from time to time designate.

## **2.4 Investment Objective**

A Fund, for the benefit of its Unitholders, will engage in making investments. The investment objective of each Fund (the "**Investment Objective**") is set out in the applicable schedule to this Trust Agreement and in the Disclosure Documents of such Fund. In pursuit of its Investment Objective, a Fund may hold Fund Property such investments or classes of investments as are set out in the Disclosure Documents pertaining to the Fund. Subscription or redemption amounts in connection with a Fund that are pending investment or disbursement may be held in an account at a Canadian Chartered Bank in trust for Unitholders. The Manager may adopt, approve or amend such investment strategies as it deems appropriate in furtherance of the Investment Objective of each Fund. The financial instruments available for investment by a Fund and the strategies employed are not hereby limited and shall be within the discretion of the Manager or any other Portfolio Manager engaged by the Manager. From time to time, some or all of Fund Property may be invested in cash or other investments as the Manager or other Portfolio Manager may deem prudent in the circumstances. The activities of the Funds shall include all things necessary or advisable to give effect to the Investment Objective.

## **2.5 Possession of Fund Assets**

The Trustee shall hold Fund Property in trust for the Unitholders according and subject to the provisions of this Trust Agreement and the property and assets comprising Fund Property from time to time shall be dealt with in accordance with the provisions hereof.

## **2.6 Title to Fund Assets**

The Trustee shall hold Fund Property of each Fund in trust for the benefit of the Unitholders of such Fund. All Fund Property shall at all times be considered as property held by the Trustee or its agents in trust for the Unitholders of each Fund. The Trustee, subject only to the specific limitations contained in this Trust Agreement, shall have, without further or other action or consent, and free from any power of control on the part of the Unitholders, full, absolute and exclusive power, control and authority over Fund Property and over the business and affairs of a Fund to the same extent as if the Trustee were the sole and absolute beneficial owner of such property in its own right, to do all such acts and things as in its sole judgment and discretion are necessary or incidental to, or desirable for carrying out the purposes of the Funds. No Unitholder shall have or be deemed to have individual ownership of any property or asset of a Fund and the interest of a Unitholder shall consist only of the right to receive payment from a Fund of that Unitholder's interest in a Fund at the time, place, in the manner and subject to the conditions herein expressly provided.

## **2.7 Trust Agreement Binding on Unitholders**

The terms and conditions of this Trust Agreement and any schedule, instrument or deed supplemental hereto shall be binding upon each Unitholder and all persons claiming through the Unitholder.

## **2.8 Legal Character of a Fund**

The Funds are not intended to be and shall not be treated as anything other than a trust of which the Unitholders are beneficiaries with the rights ascribed to them hereunder and with no other rights. Without limitation, the Funds do not constitute a partnership, joint venture, corporation, company, syndicate, association or joint stock company nor shall the Trustee, the Manager or the Unitholders or any of them for any purpose be deemed in any way whatsoever to be liable or responsible hereunder as partners or joint venturers.

## **2.9 Indemnification of Unitholders**

- (a) No Unitholder shall incur or be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with Fund Property or the obligations or affairs of the Funds or with respect to any agreement relating to the Funds and all such persons shall look solely to Fund Property for satisfaction of claims of any nature arising out of or in connection therewith and such Fund Property only shall be subject to levy or execution.
- (b) The Funds shall indemnify and hold each of their respective Unitholders harmless from and against all claims and liabilities to which any such Unitholder may become subject by reason of being or having been a Unitholder and each Unitholder shall be entitled to reimbursement out of Fund Property to the full extent of such liability and to the costs of any litigation or other proceedings in which such liability shall have been determined, including without limitation the reasonable fees and disbursement of counsel. The rights accruing to a Unitholder under this Section 2.9 shall not exclude any other right to which

such Unitholder may be lawfully entitled nor shall anything herein contained restrict the right of the Funds to indemnify or reimburse a Unitholder in any appropriate situation even though not specifically provided for herein; provided, however, that the Funds shall not have liability to reimburse Unitholders for taxes assessed against them by reason of their ownership of Units nor for any losses suffered by reason of changes in the value of Units.

## **2.10 Liability under Contracts**

Any written instrument creating an obligation of a Fund shall be conclusively taken to have been executed or done by the Manager on behalf of the relevant Fund in its capacity as Manager under this Trust Agreement. The Manager shall use its commercially reasonable efforts to ensure that any written instrument creating a material obligation of the Funds refers to the Trust Agreement and contains a term or other provision to the effect that the obligations created thereunder are not personally binding upon, nor shall resort be had to, nor recourse or satisfaction sought from, the private property of any of the Unitholders. The omission of such recital, term or other provision shall not impose or have the effect of imposing personal liability on the Manager or its directors, officers, employees or agents or on any of the Unitholders or agents of a Fund, whether in contract, tort or otherwise.

## **ARTICLE 3 DESCRIPTION OF UNITS**

### **3.1 Attributes of Units**

- (a) The Manager shall have sole discretion in determining whether the beneficial interests in a Fund are to be divided into one or more classes and/or series of Units, and the attributes that shall attach to each class and/or series of Units. The classes and/or series of Units created and authorized for a Fund, from time to time, shall be as shown in the Disclosure Documents. Until changed by the Manager or provided otherwise herein or in the Disclosure Documents, Units of each series (if any) within a class shall have the following attributes:
- (i) each Unit shall be without nominal or par value;
  - (ii) each Unit of a particular series shall entitle the holder thereof to one vote at all meetings of Unitholders of a Fund where all series vote together and to one vote at all meetings of Unitholders of a Fund where that particular series votes separately as a series;
  - (iii) each Unit of a particular series shall entitle the holder thereof to participate *pro rata*, in accordance with the provisions hereof, with respect to all distributions made to that series (except with respect to any Special Distribution) and, upon liquidation of a Fund, to participate pro rata with the other Unitholders of that same series in the Series Net Asset Value of a Fund remaining after the satisfaction of outstanding liabilities of a Fund and the series as provided in ARTICLE 21 hereof;
  - (iv) there shall be no pre-emptive rights attaching to the Units;
  - (v) there shall be no cancellation or surrender provisions attaching to the Units except as set out herein;

- (vi) once the Series Net Asset Value per Unit thereof, determined in accordance with Section 4.3, has been paid, Units shall be non-assessable so that there shall be no liability for future calls or assessments with respect to the Units;
  - (vii) all Units shall be transferable, but only as contemplated pursuant to Section 3.6;
  - (viii) fractional Units of a series may be issued and shall be proportionately entitled to all the same rights as whole Units of that same series, except voting rights (however fractional Units held by a single Unitholder may be combined).
- (b) Subject to limitations and requirements determined from time to time by the Manager, each Unit of a particular series of a class may be redesignated as a Unit of another series of the same class or of another class as at the first moment in time on a Subscription Date based on the respective Series Net Asset Value per Unit for each of the two series of Units on the Valuation Date immediately preceding such Subscription Date;
  - (c) The Manager may at any time name or rename any class or series of Units within a class without otherwise affecting the attributes of such class or series within a class;
  - (d) The number of Units, classes of Units and series of Units of a Fund that may be issued is unlimited;
  - (e) Units within each class shall have the same attributes as above, with necessary adjustments, if there is only one series (or no series designated) for such class. Each series of Units may be further subdivided into sub-series for the purpose of allocations as provided herein, each such sub-series having the same features, other than the date of issue and any reference dates, for the purpose of calculating applicable fees, expenses and allocations for that sub-series. For all purposes in this Trust Agreement, each such sub-series shall be considered a series. The distinguishing features and characteristics of each class and series of Units shall be disclosed in the Disclosure Documents.

### **3.2 Subdivision of Units**

The Manager may, at any time or times, subdivide Units of any class or series in a manner that is different to the treatment of Units of another series only if the Net Asset Value per Unit of such series is amended such that the aggregate Net Asset Value of all Units of such series prior to such subdivision is equal to the aggregate Net Asset Value of all Units of such series following such subdivision. The Manager shall take such steps as may be necessary to notify the registrar and/or transfer agent of the basis of the subdivision so that applicable notification can be made in the Register of the applicable series of a Fund. If there is only one series (or no series designated) for a class, the same rules shall apply (with necessary modifications) in respect of the subdivision of Units of that class.

### **3.3 Consolidation of Units**

The Manager may, at any time or times, and subject to Section 7.3, consolidate Units of any series in a manner that is different to the treatment of Units of another series only if the Net Asset Value per Unit of such series is amended such that the aggregate Net Asset Value of all Units of such

series prior to such consolidation is equal to the aggregate Net Asset Value of all Units of such series following such consolidation. The Manager shall take such steps as may be necessary to notify the registrar and/or transfer agent of the basis of the consolidation so that appropriate notification can be made in the Register of the applicable series of a Fund. If there is only one series (or no series designated) for a class, the same rules shall apply (with necessary modifications) in respect of the consolidation of Units of that class.

### **3.4 Unit Certificates**

Unless and until otherwise determined by the Manager, no certificates in respect of the Units held by a Unitholder shall be issued, provided that every subscriber (including each Unitholder who reinvests distributions in additional Units) and every redeeming (or redesignating) Unitholder is advised as soon as is practicable, following such subscription, redemption or redesignation, of the number, class and/or series of Units held by them. In the event that the Manager authorizes the issue of certificates as aforesaid, the Manager shall be entitled to determine all procedures relating to the issue or surrender of certificates, including, without limitation, the form thereof, the persons authorized to sign the same, any fees charged in connection therewith and the procedures to be followed in the event of the loss or destruction of a certificate.

### **3.5 Trustee and Manager not Affected by Notice of Trust**

Except as required by law, no person shall be recognized by the Funds, the Trustee or the Manager as holding any Unit in trust, and none of the Funds, the Trustee or the Manager nor any transfer agent or registrar shall be charged with notice of or be bound or compelled in any way to recognize (even when having actual notice) any legal, equitable, contingent, future or partial interest in any Unit or in any fractional part of a Unit or any other rights in respect of any Unit except an absolute right to the entirety of the Unit of the Unitholder registered as holder of such Unit.

### **3.6 Transfer of Units**

Units are not transferable by a Unitholder except by operation of law, or if the Manager has otherwise determined. Units shall be transferable only on the register of transfers or on one of the branch registers of transfers (if any) kept pursuant to this Trust Agreement and only by the registered holder of such Units or by the owner's legal representative or representatives or the owner's attorney duly appointed by an instrument in writing in form and execution satisfactory to the Manager or the transfer agent upon compliance with such reasonable requirements as the Manager or the transfer agent may prescribe.

### **3.7 Transfer by Representative of Unitholder**

The written authorization of an executor, administrator, committee of a mentally incompetent person, guardian, trustee or other fiduciary who is registered on the books of the Funds as holding Units in any such capacity is sufficient justification for the Trustee, the Manager or the registrar and/or transfer agent to register a transfer of such Units, including a transfer into the name of such executor, administrator, committee of a mentally incompetent person, guardian, trustee or other fiduciary absolutely.

### **3.8 Closing of Registers**

The Manager may close the register of transfers and the branch register or registers of transfers, if any, of the Funds or of a class or series of Units for a period of time not exceeding 48 hours,



exclusive of Saturdays and holidays as defined in the *Interpretation Act* (Canada) for the time being in force, immediately preceding any meeting of the Unitholders of a Fund or of that class or series, and notice of every such closing shall be given as set out in ARTICLE 15.

### **3.9 Receipts and Payments**

The receipt by a Unitholder in whose name a Unit of a Fund is registered shall be a valid and binding discharge to the Fund, the Trustee and the Manager for any payment in respect of such Unit and if two or more persons are registered as joint holders, any one of them may give an effectual receipt on behalf of all of them. Payment of amounts owing to Unitholders may be made by wire transfer to an account designated in writing by each Unitholder. If no account has been so designated, the Manager shall be entitled to send a cheque for the required amount by ordinary post addressed to the last address appearing on the Register. In the case of joint registered Unitholders, wire transfers or cheques shall, unless the joint registered Unitholders otherwise direct, be made payable to the order of, or to the account of, all of the said joint registered Unitholders and if more than one address or account appears on the books of the Fund in respect of such joint unitholding, the wire transfer or cheque shall be sent or mailed to the first account or address so appearing. The wire transfer or mailing of cheques as aforesaid shall satisfy and discharge all liability of the Fund, the Trustee and the Manager for the payment represented thereby unless, in the case of a cheque, the cheque is not paid at par on presentation to the payor at Montreal, Quebec, or at any other place where it is by its terms payable. In the event of non-receipt of any cheque by the person to whom it was mailed, the Manager, on proof of the non-receipt and upon satisfactory indemnity being given to it and to the Fund, shall issue to the person a replacement cheque for a like amount.

### **3.10 Limitation and Non-Resident Ownership**

- (a) At no time may non-residents of Canada be the beneficial owners of more than 50% of the Units of a Fund (on a number of Units or a fair market value basis). The Manager and/or the transfer agent may require declarations as to the jurisdictions in which beneficial owners of Units are resident, and, if a partnership, as to its status as a "Canadian partnership".
- (b) Until such time as a Fund qualifies as a "mutual fund trust" within the meaning of the Tax Act throughout a particular taxation year of a Fund, and if the Fund earns "designated income" within the meaning of Part XII.2 of the Tax Act in that year, then no Unitholder of the Fund may be a "non-resident" of Canada or otherwise a "designated beneficiary" within the meaning of the Tax Act, and no Unitholder of the Fund shall change its status or transfer or purport to transfer its Units to any person if such change or transfer would have the effect of making the Unitholder, or the transferee, a "designated beneficiary" within the meaning of the Tax Act.

## **ARTICLE 4 NET ASSET VALUE**

### **4.1 Valuation**

The Manager shall provide, or arrange to provide for, the valuation services for the Funds, including the determination of the Net Asset Value of the Funds, the Series Net Asset Value, and the Series Net Asset Value per Unit, as applicable, and the computation of Net Income and Net Capital Gains for distribution purposes for the Funds in accordance with GAAP, the Disclosure Documents and Applicable Laws. The Manager, in its discretion, may appoint a service provider to provide the

foregoing valuation services for the Manager on behalf of the Funds pursuant to the terms of a separate valuation services agreement.

#### **4.2 Computation of Net Asset Value**

- (a) As at the close of business (or such other time as the Manager may deem appropriate) on each Valuation Date, the Manager shall determine the Net Asset Value of the Funds. In calculating the Net Asset Value of the Funds as at any particular time, the valuation principles and procedures adopted by the Manager and as set out in a Funds' Disclosure Documents at that time shall apply. If there is more than one class and/or series of Units, the Manager shall determine the Series Net Asset Value of each class and series in accordance with Section 4.3.
- (b) The Net Asset Value of a Fund as of any date will mean the value of the Fund's investment assets and the Fund's other assets, less all liabilities, costs, and expenses accrued or payable of every kind and nature, including management fees and distributions due but not yet paid or made. In determining the Fund's liabilities, the Manager may estimate expenses of a regular or recurring nature in advance, and may accrue the same into one or more Valuation Periods, any such accrual to be binding and conclusive on all Unitholders, irrespective of whether such accrual subsequently proves to have been incorrect in amount (in which case any adjustments shall be made in the Valuation Period when such error is recognized).
- (c) The Manager may from time to time adopt and amend rules and guidelines for the determination of the Net Asset Value of a Fund, which shall be set out in the Fund's Disclosure Documents. The calculation of Net Asset Value for the purpose of determining subscription price and redemption proceeds of the Units, and for determining any fees payable to the Manager, any Portfolio Manager and other service providers, need not comply with GAAP for financial statement presentation purposes.

#### **4.3 Calculation of Series Net Asset Value and Series Net Asset Value per Unit**

- (a) Upon the designation of a new series of Units by the Manager, the Series Net Asset Value per Unit shall initially be as determined by the Manager pursuant to Section 5.2 and the Series Net Asset Value shall initially be the Series Net Asset Value per Unit multiplied by the number of Units of such series initially issued.
- (b) After the initial issue of Units of a series, the Series Net Asset Value for a series of Units of a Fund as at any particular time on a Valuation Date is determined in accordance with the following calculation:
  - (i) the Series Net Asset Value last calculated for that series (if any); plus
  - (ii) the increase in the assets attributable to that series as a result of the issue of Units of that series or the redesignation of Units into that series since the last calculation; minus
  - (iii) the decrease in the assets attributable to that series as a result of the redemption of Units of that series or the redesignation of Units out of that series since the last calculation; plus or minus

- (iv) the Proportionate Share of the Net Change in Non Portfolio Assets attributable to that series since the last calculation; plus or minus
  - (v) the Proportionate Share of the Net Portfolio Transactions attributable to that series since the last calculation; plus or minus
  - (vi) the Proportionate Share of market appreciation or depreciation of the portfolio assets attributable to that series since the last calculation; minus
  - (vii) the Proportionate Share of the Common Expenses allocated to that series since the last calculation; minus
  - (viii) any Series Expenses allocated to that series since the last calculation.
- (c) If Units of a series are redesignated by the Manager as being Units of another series pursuant to Subsection 3.1(b), the aggregate Net Asset Value of such Units shall be deducted from the Series Net Asset Value of the first series and shall be added to the Series Net Asset Value of the second series as at the effective date of the redesignation.
- (d) On any Valuation Date on which a distribution is paid to Unitholders of a series of Units, a second Series Net Asset Value shall be calculated for that series, which shall be equal to the first Series Net Asset Value calculated on that Valuation Date minus the amount of the distribution. For greater certainty, the second Series Net Asset Value shall, subject to any adjustment arising as a result of a subdivision or consolidation of Units of that series, be used for determining Series Net Asset Value per Unit on such Valuation Date for purposes of determining the redemption price for Units of that series on that date and the purchase price of Units of that series on the next Subscription Date, as well as the redesignation basis for Units being redesignated into or out of such series on the next Subscription Date.
- (e) The Series Net Asset Value per Unit of a series of Units of a Fund as at any particular time is the quotient obtained by dividing the applicable Series Net Asset Value as at such time by the total number of Units of that series outstanding at such time.
- (f) If there is only one series (or no series designated) for a class, Class Net Asset Value shall be calculated in a similar manner (with necessary adjustments) as Series Net Asset Value is calculated, and Class Net Asset Value per Unit shall be calculated in a similar manner (with necessary adjustments) as Series Net Asset Value per Unit is calculated, in this Section 4.3, and references in this Trust Agreement to "Series Net Asset Value" and to "Proportionate Share" as it applies to a series, shall be deemed to be references to "Class Net Asset Value" and to "Proportionate Share" as it applies to a class, as the context requires. If there is more than one series in a class, then the Class Net Asset Value for such class shall be the aggregate of the Series Net Asset Values of all series in such class and the Net Asset Value per Unit shall be calculated in respect of each series only, and not for the class.
- (g) If there is more than one class of Units, and the Manager has designated that all or part of certain Fund Property and/or Fund expenses or liabilities shall be allocated to a single class of Units, the Proportionate Share of assets, liabilities, expenses, Net Change in Non Portfolio Assets and Net Portfolio Transactions allocated to Units within such class shall reflect such allocations of Fund Property, expenses and liabilities.

#### **4.4 Suspension of Calculation of Net Asset Value and Redemption**

- (a) The Manager shall suspend the calculation of Net Asset Value (and the right to redeem Units of a Fund) for a Fund and for each class and series of Units when required to do so under Securities Legislation.
- (b) The Manager may also suspend the calculation of the Series Net Asset Value per Unit (and the right to redeem Units) for each class and series of Units the whole or any part of a period during which normal trading is suspended on any securities exchange on which securities are listed and posted for trading, if those securities represent more than 50% by value, or underlying market exposure, of the total Net Asset Value of a Fund, and at such other times as the Manager is of the opinion that the Net Asset Value of the Fund cannot reasonably be determined.
- (c) During any period of suspension there shall be no calculation of the Net Asset Value of any class of Units affected by the circumstances giving rise to the suspension, and there shall be no calculation of the Series Net Asset Value per Unit of any series of Units of each such class, and the Fund shall not be permitted to issue, redesignate or redeem any Units of such class and the Manager may postpone the payment of any redemption proceeds. The right to redeem Units and to receive redemption payments and the calculation of the Series Net Asset Value per Unit for each series of Units shall resume as soon as possible and in compliance with any applicable Securities Legislation.
- (d) In the event of such a suspension, a Unitholder who has delivered a redemption request for which the redemption price has not yet been calculated may either withdraw such Unitholder's redemption request within three (3) business days of receiving notice of such suspension or receive payment based on the Series Net Asset Value per Unit of the applicable series of Units next calculated after the termination of the suspension. A Unitholder who has submitted a redesignation request for which the redesignation basis has not yet been calculated may either withdraw such Unitholder's redesignation request prior to the end of such suspension period or redesignate the Units based on the Series Net Asset Value per Unit of the applicable series of Units next calculated after the termination of the suspension. An investor who has submitted a purchase order for which the issue price has not yet been calculated may either withdraw such investor's purchase order prior to the end of such suspension period or receive Units based on the Series Net Asset Value per Unit of the applicable series of Units next calculated after the termination of the suspension.

### **ARTICLE 5 SUBSCRIPTION FOR UNITS**

#### **5.1 Minimum Investment**

The minimum initial investment and each minimum subsequent investment in the Funds shall be determined from time to time by the Manager and shall be set forth in the Disclosure Documents. The Manager shall be entitled in its discretion to reject, in whole or in part, a subscription for the purchase of Units from time to time.

## **5.2 Issue Price of Units**

The Net Asset Value per Unit for the purpose of the initial subscription for Units of each class and/or series of Units, as applicable, shall be determined by the Manager in its sole discretion. The issue price for each Unit of that class and/or series of Units, as applicable, on each subsequent Subscription Date shall be the Net Asset Value per Unit of that class and/or series, as applicable, determined as of the immediately preceding Valuation Date in accordance with Section 4.3. In the event that the Manager determines to create sub-series of Units within each series pursuant to Section 3.1, the subscription price for Units of each sub-series shall be determined in a manner approved by the Manager and as set out in the Disclosure Documents.

## **5.3 Distribution of Units**

Subject to Section 5.2, the Manager may from time to time, at its discretion, determine the terms upon which Units of the Funds will be offered for sale to the public and the nature and amount of any fees or charges to be paid by investors in the Funds, whether at the time of purchase or on such other basis as the Manager shall determine. Such terms, fees or charges as may be so determined shall be described in the Disclosure Documents of the Funds or in a notice that is given to Unitholders in accordance with the provisions of ARTICLE 15 hereof in order for them to be binding upon the Unitholders. The person to whom any such fee or charge shall be payable shall be determined by or under the authority of the Manager from time to time.

## **ARTICLE 6 REDEMPTION OF UNITS**

### **6.1 Right to Redeem Units**

- (a) Subject to Section 4.4 and paragraph 6.1(b) below, each Unitholder shall be entitled at any time and from time to time to require the redemption of all or any part of such Unitholder's Units of a Fund on a specified Redemption Date at the Series Net Asset Value per Unit for the applicable class and series of Units calculated in the manner herein provided less, in the discretion of the Manager, any redemption deduction, charge or fee determined pursuant to Section 6.2 hereof. Upon payment to the redeeming Unitholder of the Series Net Asset Value per Unit of the Units redeemed, less any applicable redemption charge or fee, the Fund and the Manager shall be discharged from all liability to the Unitholder in respect of the Units redeemed.
- (b) Redemption requests must be given in writing to the Manager not less than one (1) business days (or such shorter period as the Manager in its absolute discretion may permit or is described in a Fund's Disclosure Documents) prior to a Redemption Date. The Manager may specify any other conditions of redemption it may impose before it will consider a redemption request. The Manager has the discretion to waive any conditions in respect of one or more redemption requests from time to time.
- (c) Subject to Section 4.4, the Manager shall be entitled, at any time and from time to time, in its absolute discretion, to compulsorily redeem or cause to be redeemed all or any part of the Units held by any Unitholder, on such terms and conditions as the Manager may, from time to time, determine, at its discretion, at the applicable Net Asset Value per Unit of the class or series, as applicable, calculated in the manner provided herein, less, in the discretion of the Manager, any redemption charge or other fee determined pursuant to Section 6.2 hereof.

## **6.2 Deductions on Redemption**

The Manager may from time to time provide that there will be deducted from redemption proceeds otherwise payable to a Unitholder of a Fund an early redemption deduction (to be retained in the Fund) or fee (payable to the Manager or other service provider by the Fund or the redeeming Unitholder) for Units that are redeemed within a specified period of time. The Manager may amend or waive the applicable amounts or other terms for certain investors from time to time. Notice of any such deductions and/or fees and the terms of their application shall be given to Unitholders either as provided in ARTICLE 15 hereof or by stating the same in the Disclosure Documents of the Funds prior to the purchase of the affected Units by the Unitholder.

## **6.3 Method of Redemption**

- (a) The Manager may from time to time prescribe redemption procedures that are not inconsistent herewith or with Securities Legislation. Notice of such redemption procedures shall be given to Unitholders either as provided in ARTICLE 15 hereof or by stating the same in the Disclosure Documents and as otherwise may be required under Securities Legislation. Such procedures may include, but are not limited to, the establishment of:
- (i) any applicable notice period as determined in accordance with Subsection 6.1(b);
  - (ii) any rules applicable to the suspension of the right of Unitholders to redeem their Units or deferral thereof;
  - (iii) any required method of transmission of a redemption request, including any required forms for redemption requests;
  - (iv) any procedures to be followed and documents to be delivered by the time of delivery of a redemption request to an order receipt office of the Funds or by the time of payment of the redemption proceeds;
  - (v) any required documentation or evidence relating to the authority of any person to submit a redemption request;
  - (vi) the requirements for the surrender of certificates, if any, representing the Units to be redeemed; and
  - (vii) a systematic redemption program.
- (b) Redemption requests will be processed in respect of each Redemption Date, and any partial redemption proceeds shall be allocated pro rata (based on respective numbers of Units to be redeemed on such date) amongst all Unitholders requesting redemption on such date; provided however that no redemption requests received after any cut-off time for redemptions on such Redemption Date (as set out in the Disclosure Documents) shall be fulfilled in whole or in part until all redemption requests received prior to such cut-off time (and not withdrawn) have been fulfilled in whole.
- (c) The Manager shall advise the Unitholders who have requested a redemption if redemptions will be limited or suspended on a designated Redemption Date.

- (d) Redemption requests specifying the receipt of the price on a forward date or specific price will not be processed and redemption requests will not be processed before payment has been received for the Units that are the subject of the redemption request.
- (e) Redemption requests are irrevocable except with the consent of the Manager (in its absolute discretion), unless they are not honoured on the designated Redemption Date, in which case they may be withdrawn within three (3) business days following such Redemption Date.

#### **6.4 Payment for Units Redeemed**

The amount payable on redemption shall be paid by wire transfer, in cash, by cheque or by such other means as the Manager may determine. Payment for Units that are redeemed shall be made within five (5) business days following the later of the Redemption Date specified for such redemption and the receipt by the Manager of properly completed redemption documents or the waiver by the Manager of all such properly completed documents.

#### **6.5 Redemption to Pay Elected Fees**

Units held by a Unitholder may be redeemed by or under the authority of the Manager to satisfy the payment of fees or charges to which such Unitholder has agreed to be subject, such agreement by the Unitholder to be conclusively evidenced by the purchase of any Unit that gives rise to such fee or charge being levied, provided the nature and amount of such fee or charge was disclosed in the relevant Disclosure Documents of the Funds or in an agreement between the Unitholder and the Manager (or an associate or affiliate) at the time of such purchase.

#### **6.6 Special Distribution on Redemptions**

When a Unitholder redeems all or any of his Units of a Fund, there shall be a distribution in cash out of the total amount payable under Section 6.1 of any Special Distribution accrued to such Unitholder to the time immediately prior to redemption as determined by the Manager in its absolute discretion or allocated to such Unitholder pursuant to Section 7.4. The balance of the amount payable to such Unitholder at the time of redemption shall be paid as proceeds of redemption.

### **ARTICLE 7**

#### **DETERMINATION AND DISTRIBUTION OF NET INCOME AND NET CAPITAL GAINS**

##### **7.1 Determination of Net Income**

The Manager shall compute the net income of the Funds (the "**Net Income**") for each taxation year in accordance with the provisions of the Tax Act, other than paragraph 82(1)(b) and subsection 104(6) thereof, taking into account the application of available non-capital loss carryforwards, but excluding therefrom the Net Capital Gains of the Funds for such taxation year. Such determination shall be made not less frequently than as of the close of business on the last day in each taxation year.

##### **7.2 Determination of Net Capital Gains**

The Manager shall compute the net capital gains of the Funds (the "**Net Capital Gains**") for each taxation year, which shall be the capital gains of the Funds for such taxation year less the capital

losses of the Funds for such taxation year computed in accordance with the provisions of the Tax Act, taking into account the application of available non-capital loss carryforwards remaining after application in determining Net Income. Such determination shall be made not less frequently than as of the close of business on the last day in each taxation year of the Funds.

### **7.3 Unitholder Entitlement for Tax Purposes**

- (a) Save and except as hereinafter provided, and subject to ARTICLE 21, the Manager shall have the sole discretion to determine if any distribution or distributions of the property or assets of the Funds are to be made, the classes and series of Units to which such distribution will be paid (having regard to the distribution methodology set out in Subsection 7.3(c)), the time or times of such distributions and the record date or dates for the purposes of determining Unitholders entitled to receive distributions.
- (b) The Manager shall declare and credit as due and payable to Unitholders in each calendar year all of the Net Income of the Funds for the taxation year ending in such calendar year and a sufficient amount of the Net Capital Gains of the Funds for the taxation year ending in such calendar year so that the Funds will not have any obligation to pay tax under Part I of the Tax Act, other than alternative minimum tax, after taking into account any entitlement to a capital gains refund under the Tax Act. To the extent that such declaration is not made prior to 11:59 p.m. on December 31 of a calendar year, then at 11:59 p.m. on December 31 of that calendar year an amount, not less than that amount necessary to ensure that the Funds will not be liable for income tax under Part I of the Tax Act, other than alternative minimum tax, for the taxation year ending in such calendar year, after taking into account any entitlement to a capital gains refund, shall be automatically due and payable by a Fund to Unitholders on such day, and such amounts will be automatically reinvested in additional Units of the same class or series of a Fund on which the amount was considered to have been declared or, if permitted by the Manager, distributed in cash on the basis provided in Section 7.6. Immediately following any such distribution and/or reinvestment, the number of Units of the relevant class or series outstanding shall, notwithstanding Section 3.3, be automatically consolidated so that the Net Asset Value of each Unit of such class or series after the distribution and/or reinvestment is the same as it was immediately before the amount was considered to have been declared due and payable by a Fund.
- (c) Distributions to which Unitholders of a class or series are entitled shall be determined by the Manager. For this purpose, the Manager shall determine the entitlement to distributions in a manner that provides, to the extent possible, an equitable distribution of the Net Income and Net Capital Gains among each class and series of Units having regard to the date of issuance of Units of a class or series during the financial year of a Fund, Special Distributions made in respect of redeemed Units during a financial year of a Fund pursuant to Subsection 7.4(b), the dates of realization of items of income and capital gains (or losses) during the financial year and Series Expenses incurred in respect of each class and series during the financial year. In the case where the Manager does not make a declaration on or before the last day of the calendar year and an amount becomes automatically due and payable by a Fund to Unitholders on such day, then allocations of such Net Income and Net Capital Gains shall be made according to the following formula:
  - (i) the Proportionate Share of each class (or if separate series have been designated within a class, of each such series) of Net Income and Net



Capital Gains for each Valuation Period (which shall be computed as if the Valuation Period is a taxation year but shall not, for this purpose, take into account the application of available non-capital loss carryforwards) in the financial year shall be calculated and aggregated, provided that:

- (A) any amount distributed during a Valuation Period pursuant to Subsection 7.4(b) to a Unitholder that has redeemed Units shall be deducted from Net Capital Gains that are to be allocated to all other Unitholders;
  - (B) Series Expenses shall only be reflected in the Net Income and Net Capital Gains allocated to the class or series of Units to which such expenses relate;
  - (C) at no time shall the aggregate amount so calculated for a class or series be less than zero and any expense or item of loss, or part thereof, that would otherwise be allocated to a class or series and cause the aggregate amount allocated to such class or series to be less than zero shall instead be allocated to all other classes and/or series in their respective Proportionate Shares;
- (ii) the amounts of Net Income and Net Capital Gains so allocated to all classes and series shall be proportionately increased or decreased, as required, so that the aggregate of such amounts equals the amount automatically due and payable pursuant to Subsection 7.3(b); and
  - (iii) the distribution payable to the holder of each Unit in such class or series shall equal such Unit's Proportionate Share of the amount so allocated to such class or series.

Despite Section 18.2, any change may be made to this Subsection 7.3(c) from time to time without prior Unitholder approval if the Manager determines that such change is in the best interest of Unitholders generally and that such change would provide, to the extent possible or permitted, the most equitable distribution of the Net Income and Net Capital Gains among each class and series of Units.

- (d) Unitholders of record on December 31 of each calendar year shall be entitled to enforce payment of the amount of the aforesaid distributions to the extent that such distributions have not been paid to Unitholders in such calendar year. For these purposes any taxes withheld from, or paid or payable on account of income, shall be considered to have been paid or be payable on behalf of Unitholders to the extent that related income is made payable to such Unitholders for income tax purposes.

#### **7.4 Special Distributions**

- (a) In the event that the Manager agrees to accept a reduction in the fee charged to a Fund with respect to the Units held by a Unitholder and/or to provide a rebate in respect of all or any portion of the Unitholder's share of a Fund's operating expenses on condition that an amount equal to such reduction in the fees and/or expenses otherwise payable by a Fund is paid to the Unitholder, the Manager shall distribute an amount equal to such reduction to such Unitholder (a "**Management Expense Distribution**"). Management

Expense Distributions shall be calculated on each Valuation Date, shall be distributed at such intervals as prescribed from time to time by the Manager and shall be payable out of Net Income and Net Capital Gains of a Fund for the taxation year ending in the calendar year in which the Management Expense Distributions are made to the extent necessary so that a Fund will not have any obligation to pay tax under Part I of the Tax Act after taking into account any entitlement to a capital gains refund under the Tax Act, and otherwise out of capital.

- (b) The Manager shall have the sole discretion to determine the amount, if any, of a Fund's Net Capital Gains for its taxation year and the sole discretion to allocate all or any portion of such Net Capital Gains to a Unitholder who has redeemed Units of a Fund at any time in that year, provided that the amount of Net Capital Gains allocated to a particular redeeming Unitholder shall not exceed the amount, if any, by which the amount payable on the redemption of the Units exceeds the Adjusted Cost Base of the Units being redeemed.
- (c) If the total of the amounts determined by the Manager under Subsection 7.4(b) for all those redeeming Unitholders in any year exceeds the Net Capital Gains of a Fund for that taxation year, Net Capital Gains shall be allocated rateably to those redeeming Unitholders based on the amounts determined under Subsection 7.4(b) above.
- (d) Such portion, if any, of the amount paid on the redemption of a Unit as is determined pursuant to Subsection 7.4(b) or (c) shall be deemed to be a distribution of a Fund's Net Capital Gains for its taxation year ending in the calendar year.

## **7.5 Use of Capital**

The Manager, in its discretion, may return capital to facilitate distributions to the Unitholders.

## **7.6 Methods of Payment of Distributions**

- (a) Each Unitholder of a Fund shall, subject to Sections 7.3 and 7.7 hereof, receive such Unitholder's Proportionate Share of any distribution of a Fund made in respect of the applicable classes and/or series of Units, other than a Special Distribution contemplated by Section 6.6, by the reinvestment thereof in additional Units of the applicable classes and/or series of Units of a Fund at the Net Asset Value per Unit of the class or series, as applicable, computed for the Valuation Date on which such distribution is made or, if permitted by the Manager, distributed in cash. Payment of amounts owing to Unitholders may be made by wire transfer to an account designated in writing by each Unitholder. If no account has been so designated, the Manager shall be entitled to send a cheque for the required amount by ordinary post addressed to the last address appearing on the Register. In the case of joint registered Unitholders, wire transfers or cheques shall, unless the joint registered Unitholders otherwise direct, be made payable to the order of, or to the account of, all of the said joint registered Unitholders and if more than one address or account appears on the books of a Fund in respect of such joint unitholding, the wire transfer or cheque shall be sent or mailed to the first account or address so appearing. The wire transfer or mailing of cheques as aforesaid shall satisfy and discharge all liability of a Fund, the Trustee and the Manager for the payment represented thereby unless, in the case of a cheque, the cheque is not paid at par on presentation to the payor at Montreal, Quebec, or at any other place where it is by its terms payable. In the event of non-receipt of any

cheque by the person to whom it was mailed, the Manager, on proof of the non-receipt and upon satisfactory indemnity being given to it and to a Fund, shall issue to the person a replacement cheque for a like amount. No sales charge shall be payable with respect to Units issued upon the automatic reinvestment of distributions.

- (b) Immediately following such payment and/or reinvestment of distributions, the number of Units of the relevant classes or series of Units outstanding shall, notwithstanding Section 3.3, be automatically consolidated so that the Series Net Asset Value per Unit after the distribution and/or reinvestment shall be the same as it was immediately before the amount was considered to have been declared as due and payable by a Fund (before any redesignation of Units from one class or series to another, and subject to withholding tax that may be applicable to a non-resident).

#### **7.7 Distribution to Pay Elected Fees**

All or any part of a distribution in respect of which a Unitholder would otherwise receive cash or additional Units of a Fund may be applied to the payment of any fee or charge to which the Unitholder has agreed to be subject, such agreement by the Unitholder to be conclusively evidenced by the purchase of any Unit that gives rise to such fee or charge being levied, provided the nature and amount of such fee or charge was disclosed in the Disclosure Documents of a Fund or in an agreement between the Unitholder and the Manager at the time of such purchase. Upon payment of such fee or charge, any remaining amount of the distribution shall be reinvested in additional Units of a Fund or, if permitted by the Manager, distributed in cash on the basis provided in Section 7.6.

#### **7.8 Recovery of Distributions Improperly Made**

Where the Manager, or any third party appointed by the Manager, has been unable, because of default on the part of any third party to make payment of any dividends declared or interest accrued or any other amounts owing in respect of the portfolio securities of a Fund, to collect any amount which has been included in determining any amount paid or payable to any Unitholder (including payments made on a redemption of Units), the Manager, or any third party appointed by the Manager, shall have the right, where such amount has been paid to such Unitholder, to recover such amount from such Unitholder (or former Unitholder in the case of a redemption of all of a Unitholder's Units). Notwithstanding the foregoing, the Manager, or any third party appointed by the Manager, shall not be required to exercise such right with respect to any particular amount or class of amounts where, in the judgment of the Manager, or any third party appointed by the Manager, the anticipated costs and likelihood of recovery outweigh the anticipated benefit of such recovery.

### **ARTICLE 8**

#### **POWERS AND RESPONSIBILITIES OF TRUSTEE**

##### **8.1 General Powers**

- (a) The Trustee, subject only to the specific limitations contained in this Trust Agreement, shall have full, absolute, and exclusive power, control and authority over Fund Property and over the business and affairs of a Fund to the same extent as if the Trustee were the sole and absolute beneficial owner thereof in its own right, to do all such acts and things as it, in its sole judgment and discretion deems necessary or incidental to, or desirable for, the carrying out of any of the purposes of a Fund or conducting the business of a Fund.

- (b) The enumeration of any specific power or authority herein (including pursuant to Section 8.2) shall not be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustee. Except as specifically required by laws which are of public order, the Trustee shall, in carrying out investment activities, not be in any way restricted by the provisions of the laws of any jurisdiction limiting or purporting to limit investments which may be made by trustees.
- (c) The Trustee shall be entitled to assume, without inquiry or investigation or attempt to verify, that all action that the Manager directs, instructs, requests or recommends the Trustee to take or which the Manager takes, are permitted and not prohibited by any Applicable Laws. In construing the provisions of this Trust Agreement, presumption shall be in favour of the grant of powers and authority to the Trustee.

## **8.2 Specific Powers**

- (a) The Trustee shall have the following powers and authority in the administration of the Funds, exercised in its sole discretion, to be in addition to or consistent with any general rights and powers of a trustee under Applicable Laws of the relevant jurisdiction in which it acts:
  - (i) to commence, defend, adjust or settle suits or legal proceedings in connection with a Fund and to represent a Fund in any such suits or legal proceedings and to keep the Manager reasonably informed; provided, however, that the Trustee shall not be obliged or required to do so unless it has been indemnified by a Fund out of Fund Property to its satisfaction against all expenses and liabilities sustained or anticipated by the Trustee by reason thereof;
  - (ii) to incur and pay out of Fund Property, any charges or expenses incurred in respect of a Fund in accordance with the provisions of this Trust Agreement and to dispose of any Fund Property on such terms as the Trustee may in its sole discretion determine for the purpose of paying any obligations imposed on a Fund;
  - (iii) to hold eligible securities through the facilities of depositories or clearing agencies such as The Canadian Depository for Securities Limited or the Depository Trust Company, or any other domestic or foreign depository or clearing agency which is duly authorized to operate a book-based system (including a transnational book based system) in the country, province, state or other political subdivision of any country in which such depository or clearing agency is located, as the Trustee may determine, so long as the Trustee's records clearly indicate that the assets held are part of Fund Property and provided the Trustee shall not be responsible for any losses resulting from the deposit or maintenance of securities or other property (in accordance with market practice, custom or regulation) with any recognized foreign or domestic clearing facility, book entry system, centralized custodial depository or similar organization;
  - (iv) to register the securities or other property of a Fund in its own name or in the names of nominees, or in bearer form if the investment is not

registrable or it would not be in the best interest of a Fund to do otherwise; and the Trustee is hereby expressly empowered to keep the same, wholly or partly, in the principal office of the Custodian or in any one of its branches in any province of Canada or in any other jurisdiction, or at the office of any other financial institution including an Affiliate of the Trustee (any such financial institution hereinafter referred to as a “**subcustodian**”) that is authorized to act as a custodian of securities by the laws of any country, province, state or any other political subdivision of any country in which such financial institution is located, all as the Trustee may determine so long as the Trustee's records clearly indicate that the assets held are a part of Fund Property;

- (v) to make, execute, acknowledge and deliver any and all deeds, leases, mortgages, conveyances, contracts, waivers, releases or other documents of transfer and any and all other instruments in writing that may be necessary or proper for the accomplishment of any of the powers herein granted, whether for a term extending beyond the office of the Trustee or beyond the possible termination of a Fund or for a lesser term;
- (vi) to hold such portion of Fund Property in cash, the amount of which will be determined by the Manager and communicated to the Trustee as the Trustee may request, in order to meet a Fund's expenses and other obligations and to retain the cash balances of a Fund on deposit with any Canadian chartered bank or trust company, including any Affiliates of the Trustee, in an interest-bearing account; or to invest such cash balances in short term interest bearing or discount debt obligations issued or guaranteed by the Government of Canada or a Province thereof or a Canadian chartered bank or trust company (which may include an Affiliate of the Trustee) as directed in writing by the Manager, provided that each such obligation is rated at least R1 (middle) by DBRS Inc. or an equivalent rating by Canadian Bond Rating Service;
- (vii) to employ such legal counsel, notaries, officers, advisors, agents or other persons as the Trustee may deem necessary from time to time for the purpose of discharging its duties hereunder and to allocate and pay out of Fund Property their reasonable expenses and compensation;
- (viii) to delegate any or all of the powers, authority and duties of the Trustee to any one or more agents, representatives, officers, employees, independent contractors or other persons which may include Affiliates of the Trustee including the Manager;
- (ix) to do all such acts, take all such proceedings and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to administer a Fund, and to carry out the purposes of this Trust Agreement; and
- (x) to appoint any person, which the Trustee in its discretion considers appropriate, as a Custodian for any or all of Fund Property or instruments forming part of a Fund's records, and may at any time revoke any such

appointment by a signed instrument delivered to such person, with or without the appointment of a successor. While any Custodian is so acting, copies of any instrument deposited with and certified by the Custodian to be a true copy may be relied on as if it were the original thereof by any person dealing with the Trustee or a Fund. For greater certainty, the Trustee shall not be obliged to hold, take possession, manage or deal with any Fund Property that is not in its usual line of business, but shall name a person to hold and deal with said Fund Property if needed.

- (b) Notwithstanding the foregoing and any other provision of this Trust Agreement, the Trustee may dispose of any assets of a Fund on such terms as the Manager may direct the Trustee or the Trustee may determine in order to pay any obligations imposed on a Fund or repay any loan authorized by this Trust Agreement.
- (c) The Trustee, except as herein otherwise provided, shall, as regards all the trusts, powers, authorities and discretions vested in it, have absolute and uncontrolled discretion as to the exercise thereof, whether in relation to the manner or as to the mode of and time for the exercise thereof.
- (d) The Trustee without any action or consent by the Unitholders shall have and may exercise, at any time and from time to time, the powers and authorities set out in Section 8 which may be exercised by it in its sole judgment and discretion and in such manner and upon such terms and conditions as it may from time to time deem proper.
- (e) For greater certainty, the enumeration of specific powers and authorities herein are in addition to the general powers granted in Section 8.1 or by statute and shall not be construed as limiting the general powers or authority or any other specific power or authority conferred herein on the Trustee.

### **8.3 Reliance**

Without limiting the foregoing, the Trustee may rely and act upon any statement, report or opinion prepared by or any advice received from the Manager, Auditor, counsel, solicitors or other professional advisors of a Fund and shall not be responsible nor held liable for any loss or damage resulting from so relying or acting provided the Trustee acted in good faith in relying or acting thereon and adhered to the standard of care in Section 12.1. The Trustee shall not be bound to act upon such opinion or advice provided the Trustee acted in good faith in not relying thereon and adhered to the standard of care in Section 12.1.

### **8.4 Powers Inexhaustible**

The exercise of any one or more of the foregoing powers or any combination thereof from time to time shall not be deemed to exhaust the rights of the Trustee to exercise such power or powers or combination of them thereafter from time to time.

### **8.5 Self-Dealing**

- (a) The Trustee's services to the Manager and a Fund are not exclusive and, subject to the Trustee's standard of care as set out in Section 12.1, the Trustee may for any purpose, and is hereby expressly authorized from time to time in its discretion, to appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body

corporate, including without limitation, itself and any partnership, trust or body corporate with which it may directly or indirectly be affiliated or in which it may be directly or indirectly interested, whether on its own account or for the account of another (in a fiduciary capacity or otherwise), without being liable to account therefor and without being in breach of this Trust Agreement.

- (b) Without limiting the generality of the foregoing, the Trustee may:
- (i) purchase, hold, sell, invest in or otherwise deal with securities or other property of the same class and nature as may be held by the Trustee as Fund Property, whether for the Trustee's own account or for the account of another (in a fiduciary capacity or otherwise);
  - (ii) use in other capacities knowledge gained in its capacity as Trustee hereunder, provided that such use does not adversely affect the interests of a Fund and provided further that the Trustee may not make use of any specific confidential information relating to a Fund for its own benefit or advantage that, if generally known, might be expected to affect materially the value of Fund Property;
  - (iii) invest in the securities or other property of any Affiliates;
  - (iv) earn profits from any of the activities listed herein;

without being liable to account therefor and without being in breach of this Trust Agreement.

## ARTICLE 9 POWERS AND DUTIES OF THE MANAGER

### 9.1 Powers and Duties of Manager

- (a) The Trustee hereby delegates to the Manager the exclusive power and sole responsibility to manage the business and affairs of a Fund. The Manager shall have the powers and duties expressly provided for herein, including the power to further delegate the administration of a Fund, where in the discretion of the Manager, it would be in the best interest of a Fund to do so.
- (b) For greater certainty, it is hereby confirmed that the Trustee shall have no responsibility for investment management of the securities or other Fund Property of a Fund or for any investment decisions or for compliance with any investment policy or principle regardless of whether such policy or principle is set out in a supplemental agreement.

### 9.2 Acceptance

The Manager hereby accepts the appointment and the delegation of the authority and responsibility provided for under this Trust Agreement and agrees to act in such capacity and to provide or cause to be provided to a Fund such management and administration services upon the terms set forth in this Trust Agreement.

### **9.3 Execution of Documents**

Any director or officer of the Manager shall have authority to sign on behalf of a Fund all documents including, but not limited to, any certificate attached to a Disclosure Document, unaudited semi-annual financial statements, audited annual financial statements, subscription agreements and such documents shall be signed in accordance with the then current authorized signatories list of the Manager and any documents so signed shall be binding upon a Fund without any further authorization or formality.

### **9.4 Duties of the Manager**

Without limiting the foregoing the Manager shall, as manager of the Funds, during the term of this Trust Agreement and any renewal thereof, have the following duties, powers and authority:

- (a) to administer the day-to-day business and affairs of the Funds, including making decisions relating to a Fund, the preparation of all written and printed material for distribution to Unitholders and assisting the Funds in compliance with registration, filing, reporting and similar requirements of applicable Securities Legislation;
- (b) to manage and direct the investment of Fund Property, to grant, on behalf of a Fund, a security interest in Fund Property to any party, including the Trustee, and the powers necessary to perform its duties as set forth in this ARTICLE 9 or elsewhere in this Trust Agreement;
- (c) to engage, from time to time, dealers, consultants or other agents in connection with its responsibilities hereunder;
- (d) to provide, or arrange for the provision of, all valuation and recordkeeping services for the Funds;
- (e) to determine the investment policies, practices, objectives and investment strategies applicable to a Fund including any restrictions on investments which it deems advisable and to implement such policies, practices and objectives, provided that the investment policies, practices and objectives and investment restrictions applicable to a Fund shall concur with those set forth in any current Disclosure Documents of a Fund or in any amendment thereto and such investment policies, practices and objectives and investment restrictions shall be incorporated herein by reference;
- (f) to appoint, upon such terms and conditions as it may determine, one or more agents (who may, but need not be, the same individual or company) to act as principal distributor of the Units;
- (g) to receive all subscriptions and notices of redemption or transfer, accept or reject subscriptions and notices of redemption or transfer, complete all necessary forms required under the relevant Securities Legislation and regulations and submit such subscriptions, notices of redemption or transfer and associated forms to the recordkeeper for processing. Without limitation, the Trustee shall have no responsibility or liability, whatsoever, for reviewing, accepting or rejecting any subscriptions or notices of redemption or transfer and the Manager shall be solely responsible for reviewing all subscriptions and notices of redemption or transfer and for ensuring that all subscriptions and notices of redemption or transfer are accepted prior to the Valuation Date;



- (h) to offer Units of the Funds for sale to prospective purchasers including the power and authority to enter into arrangements regarding the distribution and sale of Units, including arrangements relating to the right to charge fees of any nature or kind (including, without limitation, sales commissions, redemption fees, distribution fees and transfer fees) in connection with the distribution or sale of Units. Any such fees may be deducted from the amount of a subscription, redemption proceeds or a distribution if not paid separately;
- (i) to appoint the Auditor of the Funds and subject to any required notice to Unitholders, to change the Auditor of the Funds;
- (j) to appoint the bankers of the Funds;
- (k) to establish general matters of policy for the Funds;
- (l) to appoint or retain one or more portfolio managers or sub-advisers to make investment decisions with respect to Fund Property or any portion thereof, in accordance with the Investment Objective, policies and investment restrictions of a Fund;
- (m) to authorize payment on behalf of a Fund of expenses incurred on behalf of a Fund;
- (n) to authorize, negotiate, enter into and execute all contractual arrangements, that it deems necessary or advisable for the operation of the Funds (including, but not limited to, any loan agreements and supporting documentation relating to the Funds, agreements with custodians, prime brokers, registrar and transfer agents, valuation agents, legal counsel, auditors, insurance companies and printers);
- (o) to appoint, as may be required, a valuation service provider, recordkeeping service provider, and the Custodian;
- (p) to prescribe any minimum initial and/or subsequent subscription amounts and minimum aggregate Net Asset Value balances of a Fund or any class or series, as applicable;
- (q) to prepare, certify, execute and file with the appropriate authorities, all such documents as may be necessary or desirable in connection with the issue, sale and distribution of Units, including subscription agreements, any Disclosure Documents of a Fund, including, if applicable, reports of private placements as prescribed by Applicable Law and Form T2217 under the Tax Act, and any other applicable Disclosure Documents;
- (r) to determine the Net Asset Value of the Funds and the Net Asset Value per Unit and to compute the Net Income and Net Capital Gains for distribution purposes for the Funds as set out in ARTICLE 4 hereof;
- (s) to establish and maintain the Register and related ledgers, records and information relative to the Units of the Funds held by all Unitholders in accordance with ARTICLE 14 hereof.
- (t) as soon as reasonably practicable following the end of each calendar year, to provide the Trustee with an officer's certificate substantially in the form attached as Schedule "A" hereto;

- (u) to keep proper records relating to the performance of its duties as Manager hereunder, which records shall be accessible for inspection by the Trustee, its agents and the Auditors, at any time, upon reasonable notice, during ordinary business hours;
- (v) to purchase, or otherwise acquire, on behalf of the Funds, any securities, currencies or other assets and purchase, hold and retain the same in trust hereunder;
- (w) to sell, convey, exchange for other securities or other property, convert, transfer, assign, pledge, encumber or otherwise dispose of any Fund Property held by it at any time, and to receive the consideration and grant discharges therefor;
- (x) to write, issue, purchase, hold, sell and exchange derivative products, including without limitation:
  - (i) rate swap transactions, swap options, basis swaps, forward rate transactions, commodity swaps, commodity options, equity or equity index swaps, equity or equity index options, bond options, interest rate options, foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, credit protection transactions, credit swaps, credit default swaps, credit default options, total return swaps, credit spread transactions (including any options with respect to any of these transactions and any combination of these transactions);
  - (ii) repurchase transactions, reverse repurchase transactions or buy/sell back transactions;
  - (iii) forward contracts;
  - (iv) financial and/or stock index futures contracts;
  - (v) contracts under which the rights and/or liabilities of the parties are determined by reference to a financial and/or stock index or securities or commodities;
  - (vi) contracts or other instruments or strategies the value of which is based upon the market price, value or level of an index or the market price or value of a security, commodity, economic indicator or financial instrument or bench mark, or the value of a specified account in which securities, commodities and/or derivative transactions or any combination of such transactions may be carried out;
  - (vii) put and call options on securities, contracts, instruments, or derivative products; and
  - (viii) any transaction similar to any of those described in sub-paragraphs (i) to (vii) above that currently or in the future becomes regularly entered into in the financial markets and that is a forward, swap, future or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or debt instruments, or economic

indices or measures of economic risk or value, whether or not such derivative products, contracts or transactions or any underlying interest are traded over-the-counter or on an exchange;

- (y) subject to applicable Securities Legislation, to lend money whether secured or unsecured;
- (z) to complete and process Voting Materials and Corporate Actions;
- (aa) to exercise any conversion privileges, subscription rights, warrants and/or other rights or options available in connection with any Fund Property and to make any payments incidental thereto;
- (bb) to renew or extend or participate in the renewal or extension of Fund Property, upon such terms as it may deem advisable, and to agree to a reduction in the rate of interest on Fund Property or of any guarantee pertaining thereto, in any manner and to any extent that it may deem advisable; to waive any default whether in the performance of any covenant or condition of Fund Property, or in the performance of any guarantee, or to enforce rights in respect of any such default in such manner and to such extent as it may deem advisable; to exercise and enforce any and all rights of foreclosure, to bid on property on sale or foreclosure with or without paying a consideration therefor and in connection therewith to release the obligation on the covenant secured by such security and to exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies in respect of any such security or guarantee pertaining thereto;
- (cc) to make, execute, acknowledge and deliver any and all deeds, leases, mortgages, conveyances, contracts, waivers, releases of other documents of transfer and any and all other instruments in writing that may be necessary or proper for the accomplishment of any of the powers herein granted, whether for a term extending beyond the office of the Trustee or beyond the possible termination of a Fund or for a lesser term;
- (dd) to borrow securities on behalf of a Fund pursuant to an agreement with a financial institution, and in connection therewith to accept securities and deliver collateral in accordance with such agreement;
- (ee) to prepare and deliver the Funds' income tax returns, the Funds' interim financial statements and annual audited financial statements and related information and the Funds' reports to Unitholders, and make all designations, elections, determinations and applications under the Tax Act as the Manager considers to be necessary and appropriate in the circumstances; and
- (ff) 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 business of the Funds, to promote any of the purposes for which the Funds are formed and to carry out the provisions of this Trust Agreement.

For greater certainty, it is hereby confirmed that the Trustee in any capacity hereunder shall have no responsibility for providing any fund valuation or recordkeeping services or for any investment management of Fund Property, initiating any trades in respect of any Fund Property or for any investment decisions in respect of any of Fund Property. Without limitation, the Trustee in any capacity hereunder shall have no responsibility or liability whatsoever for the monitoring of any investment objectives or restrictions of the Funds.

## **9.5 Dealing with Others and Self**

The Manager's services to the Funds are not exclusive and, subject to the limitations otherwise provided in this Trust Agreement on the power and authorities of the Manager and the Manager's standard of care as set out in Section 13.1 the Manager may for any purpose, and is hereby expressly authorized from time to time in its discretion to, appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, including without limitation, itself and any partnership, trust or body corporate with which it may directly or indirectly be affiliated or in which it may be directly or indirectly interested, whether on its own account or for the account of another (in a fiduciary capacity or otherwise), without being liable to account therefor and without being in breach of this Trust Agreement, subject only to the requirements of Securities Legislation. Without limiting the generality of the foregoing, the Manager may:

- (a) purchase, hold, sell, invest in or otherwise deal with securities or other property of the same class and nature as may be held by the Funds, whether on the Manager's own account or for the account of another (in a fiduciary capacity or otherwise);
- (b) act in the same transaction as agent for more than one client;
- (c) use in other capacities, knowledge gained in its capacity as Manager hereunder; provided that such use does not adversely affect the interests of the Funds and provided further that the Manager may not make use of any specific confidential information for its own benefit or advantage that, if generally known, might be expected to affect materially the value of Fund Property;
- (d) retain cash balances from time to time on hand in a Fund and pay interest to the Fund on such balances;
- (e) invest in the securities or other property of any entity with which the Manager may be directly or indirectly associated, affiliated or interested; and
- (f) earn profits from any of the activities listed herein;

without being liable to account therefor and without being in breach of the trust established hereunder.

## **9.6 Delegation by the Manager**

- (a) In carrying out its duties herein specified, the Manager may, subject to the authority vested in the Trustee, and any limitation on delegation imposed by Applicable Laws, engage or employ any persons, including persons with whom the Manager does not deal at arm's length, as agents, representatives, employees or independent contractors, including without limitation, investment advisers, portfolio managers, financial consultants, brokers, dealers, distributors, sub-distributors, depositories, custodians, providers of recordkeeping services, accountants, lawyers, bankers, or underwriters in one or more capacities and any other advisors which the Manager deems advisable and may delegate any of its powers and duties to any such person and may pay reasonable remuneration for all services performed by such persons and shall be entitled to receive reimbursement from a Fund for all disbursements, costs, liabilities and expenses made or incurred by it in the discharge of its duties hereunder.

- (b) Without limiting the generality of the foregoing, to the extent permitted by Applicable Laws, the Manager may, at its sole discretion, delegate any of its functions and powers and responsibilities in respect of a Fund to any person and arrange for the provision of services directly to the Fund by any such person.
- (c) Where arrangements are made for the provision of services directly to a Fund that would otherwise be provided directly by the Manager hereunder, the contractual arrangements with the Fund may provide for payment directly to the third party service provider of a portion of the fees and expenses that would otherwise be paid directly to the Manager hereunder in respect of the Fund. If such payment arrangements with a third party service provider cease to apply in respect of the Fund, the full fee provided for hereunder, as well as applicable expenses, shall thereafter be paid to the Manager, as manager hereunder, and such payment of the full fee to the Manager hereunder, and entitlement to expenses, shall not be considered to be an increase in the charges to the Fund.
- (d) Notwithstanding the foregoing, despite any delegation by the Manager made in accordance with this Section 9.6, the Manager shall remain responsible for the functions, powers and responsibilities so delegated and shall supervise the person to whom the delegation has been made but shall not be responsible for any misconduct, neglect or default on the part of any such person unless such person is an Affiliate of the Manager or any of its directors, officers or employees, and provided that the delegation was made to such person in good faith and that the Manager has adhered to its standard of care provided for in Section 13.1.

#### **9.7 Compliance with the Trust Agreement and Laws**

The Manager shall comply, and shall cause any agents engaged by it as permitted by this Trust Agreement to comply, as applicable, with the Trust Agreement, Investment Objectives, policies, restrictions and practices established by the Trust Agreement, with Applicable Laws and with all other requirements insofar as they relate to the Manager's duties and obligations as a manager hereunder.

#### **9.8 Investment Advisers and Portfolio Managers**

The Manager shall have the absolute discretion and authority to appoint, change and generally deal with the Funds' investment advisers and portfolio managers.

#### **9.9 Compliance with Disclosure Documents**

The Manager agrees to act in accordance with, and not take any action which is inconsistent with, the statements contained in the Disclosure Documents and any amendments thereto relating to the Funds.

### **ARTICLE 10 INVESTMENT OF TRUST PROPERTY**

#### **10.1 General Investment Powers**

In pursuit of the Investment Objective of the Funds, the Manager may from time to time, in its sole discretion, but subject to any policies and/or investment restrictions adopted from time to time by the Manager in accordance with Section 10.2, employ such investment strategies in managing the

assets of the Funds as it considers appropriate and as may from time to time be set forth in the Funds' Disclosure Documents. Notwithstanding the Investment Objective of a Fund, the Manager may from time to time, in light of prevailing economic conditions, temporarily invest in any securities or other assets as the Manager deems appropriate to protect the capital of the Funds.

## **10.2 Investment Restrictions and Policies**

Subject to Section 10.1 and to compliance with any applicable Securities Legislation, the Manager may adopt and amend from time to time, in its sole discretion, additional investment strategies, restrictions and policies that the Manager intends to apply (or to cause a Portfolio Manager to apply) to the investment and reinvestment of Fund Property. Such investment strategies, restrictions and policies shall be set out in or incorporated by reference in the Disclosure Documents of the Funds or shall be included in a notice given to Unitholders of the Funds.

## **10.3 Change of Investment Objective, Strategies or Restrictions**

The Manager shall not make or permit a change to the Investment Objectives, or to the investment strategies and restrictions of a Fund disclosed in the Disclosure Documents, that it determines in good faith to be a material change unless the Unitholders are given not less than 60 days written notice prior to the effective date of the change (together with an explanation of the reasons for the change) in accordance with Section 15.2 and each Unitholder is given the opportunity to redeem all of such Unitholder's Units prior to the effective date of such change (in such event the Manager shall be deemed to have waived, to the extent necessary, any redemption deductions for Units that are redeemed in the period prior to the effective date of the change).

## **10.4 Borrowing**

The Manager may borrow any money to the extent that the Manager in its discretion deems necessary and to evidence the borrowing may execute and deliver negotiable or non-negotiable instruments to guarantee, indemnify or act as surety with respect to the payment or performance of the obligations of any person, to enter into other obligations on behalf of the Funds and to assign, convey, transfer, subordinate, pledge, grant security interests in, encumber or hypothecate Fund Property to secure any of the foregoing; provided, in all cases, that this may be done only in compliance with Securities Legislation.

## **10.5 Right to Vote Shares and Securities in Investment Portfolio**

- (a) Except as provided or required in Securities Legislation, any shares or other securities carrying voting rights held from time to time as part of the assets of the Funds may be voted at any and all meetings of shareholders, bondholders, debentureholders, debenture stockholders or holders of other securities (as the case may be) in such manner and by such person or persons as the Manager managing such securities, shall from time to time determine.
- (b) The Manager may also from time to time execute and deliver, or cause to be executed and delivered, proxies for and on behalf of the Funds and arrange for the issuance of voting certificates or other evidence of the right to vote in such names as it may from time to time determine. The Manager managing such securities, shall be entitled to exercise the foregoing rights in its discretion as it considers to be in the best interests of the Fund holding the securities and shall not be subject to any liability or responsibility in respect of the management of the investment in question or in respect of any vote, action or consent

given or taken, or not given or taken, by the Manager managing such assets (as the case may be), whether in person or by proxy.

- (c) The provisions of this Section 10.5 shall apply to and govern not only a vote at a meeting but any consent to or approval of any arrangement, scheme or resolution or any alteration in or abandonment of any rights attaching to any part of the assets of the Funds and the right to requisition or join in a requisition to convene any meeting or to give notice of any resolution or to circulate any statement.

## ARTICLE 11 FEES, COMPENSATION AND EXPENSES

### 11.1 Trustee's Fee

For its services hereunder, the Trustee shall be entitled to an annual fee (the "**Trustee Fees**") as may be agreed upon, from time to time, by the Trustee and the Manager by written agreement (the "**Fee Agreement**"). The Trustee Fees shall be paid by the Manager to the Trustee within 30 days of receipt by the Manager of an invoice in respect of such Trustee Fees. The Trustee Fees shall be subject to interest at the interest rate usually charged by the Trustee to its commercial clients from 30 days after the date of the invoice in respect of such Trustee Fees and all other applicable charges. Such compensation, as well as all other disbursements made and expenses incurred (including out-of-pocket expenses) by the Trustee in the performance of its duties and obligations hereunder shall be paid by the Manager.

### 11.2 Manager's Fees

The Manager may be compensated for its services as investment fund manager and portfolio manager of the Funds and shall be paid such fees as may be established by the Manager from time to time (subject to existing Unitholders providing any necessary approval or being given necessary notice for any change to such compensation if so required by Section 18.2). For services performed, the Manager is entitled to receive the management fees and/or performance fees (if any) payable by the Funds as may be set out in the Disclosure Documents from time to time (subject to existing Unitholders providing any necessary approval or being given necessary notice for any change thereto if so required by Section 18.2). The Manager may agree to pay the fees of other portfolio managers out of the fees received by the Manager from the Funds. As set out herein, the Manager may be entitled to reimbursement from the Funds for all reasonable costs and expenses incurred by it in connection with the activities of the Fund, subject to the terms defined in the Disclosure Documents.

### 11.3 Expenses

- (a) Subject to paragraph (c) below, the Funds shall be responsible for payment of all expenses relating to the operation of a Fund and the carrying on of its activities, including, but not limited to:
  - (i) fees and expenses relating to a Fund's portfolio investments, including the cost of securities and related expenses, brokerage fees and commissions and expenses, and;
  - (ii) such other fees and expenses disclosed in the Disclosure Documents; and

- (iii) all reasonable extraordinary or non-recurring expenses, including litigation expenses.
- (b) The expenses listed above shall be allocated by the Manager to each class and series of Units of a Fund as follows:
  - (i) all Series Expenses shall be allocated only to the class and series of Units of a Fund in respect of which the Series Expenses were incurred; and
  - (ii) each type of Common Expense shall be allocated among the classes and series of Units of a Fund as determined by the Manager, in its sole discretion.
- (c) Notwithstanding the foregoing, the Manager may in its sole discretion agree to pay certain expenses that are otherwise the responsibility of a Fund, without requiring reimbursement, and or determine a maximum limit of expenses to be borne by a Fund, any such limit shall be disclosed in the Disclosure Documents or in a schedule attached hereto.

## ARTICLE 12 LIABILITY AND INDEMNIFICATION OF TRUSTEE

### 12.1 Standard of Care

In performing its obligations and duties hereunder, the Trustee shall act honestly, in good faith and in the best interests of the Funds and each Fund and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in dealing with the property of another person.

### 12.2 General Disclaimer of Liability

- (a) The Trustee, its Affiliates or any director, officer, employee or agent of the Trustee or any other person retained by the Trustee to discharge any of the Trustee's responsibilities hereunder shall not be liable to the Funds, to the Manager, to any Unitholder or any other person for any loss, damage, cost, charge, judgment or expense (including reasonable legal costs) relating to any matter regarding the Funds, including without restriction or limitation any loss or diminution in the value of the Funds or of Fund Property, for any reason except to the extent attributed to its own bad faith, willful misconduct, gross negligence, reckless disregard of its duties hereunder or breach of its standard of care in Section 12.1. For greater certainty, the Trustee shall not be responsible or liable to the Manager, the Funds or to any Unitholder for any losses or damages suffered by the Funds arising as a result of the insolvency of any sub-custodian. The Trustee is not required to take any actions required by it under the terms of this Trust Agreement if its fees and expenses are not paid. For greater certainty, the Trustee, any consultants and agents of the Fund, in incurring any debts, liabilities or obligations, or in taking or omitting any other actions for or in connection with the affairs of the Funds are, and will be conclusively deemed to be, acting for and on behalf of the Funds, and not in their own personal capacities.
- (b) The Trustee, its Affiliates or any director, officer, employee or agent of the Trustee shall not be liable to the Manager, the Funds or to any Unitholder for any act, omission, receipt, neglect or default of any person employed or engaged by it as permitted hereunder, or for joining in any receipt or act of conformity, or for any loss, damage or expense caused to



the Funds through the insufficiency or deficiency of any security in or upon which any of the monies of or belonging to the Funds will be laid out or invested, or for any loss or damage arising from the bankruptcy, insolvency or tortuous act of any person, with whom or with which any monies, securities or Fund Property may be lodged or deposited, or for any loss occasioned by error in judgment or oversight on the part of the Trustee, or for any other loss, damage or misfortune that may happen in the execution by the Trustee of its duties hereunder, except to the extent attributed to its own bad faith, willful misconduct, gross negligence, reckless disregard of its duties hereunder or breach of its standard of care in Section 12.1.

- (c) The Trustee, its Affiliates or any director, officer, employee or agent of the Trustee shall not be responsible or liable to the Funds, the Manager or any Unitholder for any claims, losses or damages whatsoever resulting from any event beyond the reasonable control of the Trustee or its agents, including but not limited to nationalization, strikes, expropriation, devaluation, seizure, or similar action by any governmental authority, de facto or de jure; or enactment, promulgation, imposition or enforcement by any such governmental authority of currency restrictions, exchange controls, levies or other charges affecting a Fund's property; or the breakdown, failure or malfunction of any utilities or telecommunications systems; any order or regulation of any banking or securities industry including changes in market rules and market conditions affecting the execution or settlement of transactions; or acts of war, terrorism, insurrection or revolution; or acts of God; or any similar or third party event. For greater certainty, the Trustee shall under no circumstances be responsible, accountable or liable for or in connection with any act or omission of the Manager or its Affiliates, or the directors, officers, employs or agents of either.
- (d) The Trustee shall not be subject to any personal liability for any debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Funds arising out of anything done or omitted to be done in respect of the execution of the duties of its office or for or in respect of the affairs of a Fund except to the extent attributed to its own bad faith, willful misconduct, gross negligence, reckless disregard of its duties hereunder or breach of its standard of care in Section 12.1. A Fund shall be solely liable therefore and resort shall be had solely to the assets of the Fund for the payment or performance thereof. No property or assets of the Trustee, whether owned in its personal capacity or otherwise, will be subject to levy, execution or other enforcement procedures with regard to any obligation under this Trust Agreement or under any other transaction documents.

### **12.3 Protection of Trustee**

The Trustee shall not be responsible for (i) the proper application, declaration or treatment by any Unitholder of any part of its interest in a Fund, if payments are made in accordance with this Trust Agreement, (ii) the adequacy of Fund Property of a Fund to meet and discharge any and all payments and liabilities to any Unitholder or (iii) the compliance by any Unitholder or the Manager with the rules under the Tax Act or any other Applicable Laws. The Trustee will disburse monies or Fund Property according to this Trust Agreement only to the extent that monies have been deposited with it.

#### **12.4 Indemnification of Trustee**

Subject to Section 12.5, the Funds shall indemnify and save harmless the Trustee, its Affiliates or any director, officer, employee or agent of the Trustee out of Fund Property from and against:

- (a) all claims whatsoever, (including legal fees, other costs, charges and expenses in connection therewith) brought, commenced or prosecuted against it for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of the Trustee's and the Manager's duties hereunder;
- (b) all other costs, charges, and expenses which it sustains or incurs in or about or in relation to the affairs of the Funds and the execution of the Trustee's and the Manager's duties hereunder; and
- (c) any personal liabilities of the Trustee incurred in connection with the failure of a Fund, or the Manager, on behalf of a Fund, to report, remit or withhold taxes as required by the Tax Act or otherwise failing to comply with the Tax Act,

so long as the Trustee has relied in good faith on the Manager in the performance of its duties hereunder and such personal liabilities have not been caused by the Trustee's bad faith, willful misconduct, gross negligence, reckless disregard of its duties or the breach by the Trustee of its standard of care in Section 12.1. This indemnification shall survive the resignation or removal of the Trustee or Manager and the termination of this Trust Agreement solely to the extent that such liabilities have been incurred in connection with taxation years occurring during the term of this Trust Agreement.

#### **12.5 Exception**

Section 12.4 does not apply to the extent that any such claim, cost, charge or expense has been caused by the bad faith, willful misconduct or gross negligence on the part of the Trustee, its Affiliates or any director, officer or employee of the Trustee or as a result of the reckless disregard by the Trustee of its duties hereunder or for breach of its standard of care in Section 12.1.

#### **12.6 Survival of Indemnity**

Any termination of this Trust Agreement or the termination or resignation of the Trustee shall not affect any obligations of a Fund and the Manager to the Trustee (including its Affiliates, or any director, officer, employee or agent of the Trustee) arising prior to such termination, including without limitation the obligation to indemnify by reason of any matter which has arisen or circumstances which have occurred prior to such termination.

#### **12.7 Reliance**

- (a) The Trustee, its Affiliates or any director, officer, employee or agent of the Trustee may employ or engage, and rely and act upon and shall be fully protected in relying upon any statement, report, opinion, information, directions or advice prepared by or received from the Manager, (including its Affiliates or any director, officer, employee or agent thereof, including but not limited to such agents engaged by the Manager to carry out one or more of its duties or powers) distributors, dealers, brokers, depositories, consultants, the Custodian, sub-custodians, electronic data processors, auditors, solicitors or other advisors of a Fund and shall not be responsible or held liable for the acts or omissions of such

persons or any loss or damage resulting from so relying or acting if the Trustee acted in good faith in relying thereon and provided that the Trustee has complied with its standard of care in Section 12.1. The Trustee shall be entitled to assume, without inquiry or investigation or attempt to verify, that all action that the Manager or its agents, representatives, officers, employees, independent contractors or other persons, directs, instructs, requests or recommends the Trustee to take or which the Manager takes under the Trust Agreement, are permitted and not prohibited by any Applicable Laws if the Trustee acted in good faith in relying thereon and adhered with its standard of care in Section 12.1.

- (b) The Trustee, its Affiliates or any director, officer, employee or agent of the Trustee shall in no way be responsible for, nor shall it incur any liability based on, the action or failure to act or acting pursuant to or in reliance on instructions of the Manager (in its capacity as manager, transfer agent or otherwise), the Custodian, any sub-custodian retained or appointed by the Custodian or any person or organization to whom its responsibilities may be delegated, provided the Trustee has acted in good faith in relying thereon and adhered to its standard of care in Section 12.1.
- (c) The Trustee may act on and shall be fully protected in relying upon the opinion or advice of or information obtained from the Manager, it's agent, any investment adviser, any legal counsel, chartered accountant or other expert, whether obtained by the Trustee or otherwise, but shall not be bound to act upon such opinion or advice. The Trustee shall not be under any duty to make any investigation or inquiry as to any statement contained in any writing, statement, report, opinion, information, directions or advice, obtained from such persons but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.
- (d) No provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of its duties or the exercise of any of its rights or powers unless indemnified, other than as a result of its own gross negligence, bad faith or willful misconduct or breach of its standard of care in Section 12.1.
- (e) Notwithstanding anything to the contrary in this Trust Agreement, nothing herein requires the Trustee to exercise any discretion, control or power, unless and until it receives such direction, assurance, indemnity, advice or opinion that it may from time to time require. The Trustee shall not be responsible for any delay or failure to act, where it is seeking any direction, assurance, indemnity, advice or opinion that it determines may be necessary or desirable in the circumstances.

## **12.8 Survival**

This Section 12 shall survive the termination of this Trust Agreement.

## **ARTICLE 13 LIABILITY AND INDEMNIFICATION OF MANAGER**

### **13.1 Standard of Care**

In performing its obligations and duties hereunder, the Manager shall act honestly, in good faith and in the best interests of the Funds and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

### 13.2 Reliance

In exercising its powers and discharging its duties hereunder, the Manager may, but shall not be bound to, with respect to any act done or permitted to be done by it, rely upon:

- (a) financial statements of the Funds stated in a written report prepared by the Auditors of the Funds to present fairly the financial position of the Funds;
- (b) any instrument or document reasonably believed by it to be genuine and to be correct; or
- (c) the advice or opinion of legal counsel, accountants, appraisers or other industry professionals, including, without restricting the generality of the foregoing, any Portfolio Manager, fund administrator, consultant, prime broker or custodian retained by or on behalf of the Manager;

and the Manager shall not, in any event, be liable under this Trust Agreement for any action taken or not taken as a result of so relying or acting if the Manager acted in good faith in relying thereon provided that the Manager has complied with its standard of care in Section 13.1.

### 13.3 General Disclaimer of Liability

The Manager, its Affiliates, subsidiaries and agents, and their respective directors, officers and employees, or any other person retained by the Manager to discharge any of the Manager's responsibilities shall not be liable to a Fund, to any Unitholder or any other person for any loss, damage, cost, charge, judgment or expense (including reasonable legal costs) resulting from any act or omission in connection with the discharge of its duties and obligations under this Trust Agreement except to the extent such loss, damage, cost, charge, judgment or expense is caused by its gross negligence, misfeasance, wilful default or failure to comply with its standard of care in Section 13.1. The liability of the Manager in respect of its actions as manager of a Fund (except liability for breach of Section 13.1 hereof) is limited to the realizable value of the assets of a Fund.

### 13.4 Indemnification of the Manager

- (a) The Manager, its Affiliates, subsidiaries and agents, and their respective directors, officers and employees (the "**Manager Parties**"), shall at all times be indemnified and saved harmless by the Funds from and against all costs, charges and expenses sustained or incurred, including all legal fees, judgments and amounts paid in settlement, in or about any action, suit or proceeding that is brought, commenced or prosecuted against any of the Manager Parties for or in respect of any act, deed, omission, matter or thing whatsoever made, done or permitted by any of the Manager Parties in connection with the affairs of the Funds. The Manager Parties right to the indemnity herein shall not apply if:
  - (i) there has been gross negligence, misfeasance or wilful misconduct on the part of any of the Manager Parties; or
  - (ii) the Manager Parties have failed to fulfill the standard of care set forth in Section 13.1.
- (b) The Manager is hereby authorized from time to time to cause the Funds to give indemnities to any person who has undertaken or is about to undertake any liability on behalf of a Fund

and any action taken by the Manager under this paragraph shall not require confirmation or approval by the Unitholders, provided that such indemnities shall not be prohibited under Securities Legislation and shall be limited to actions properly taken or liabilities properly incurred by such persons on behalf of a Fund. In no event shall such indemnities cover any action or liability arising out of a failure to act in good faith or to satisfy any applicable standard of care similar to that provided for in Section 13.1.

- (c) The Manager may, at the expense of a Fund, purchase and maintain insurance on behalf of the Fund in respect of any obligation of the Fund to indemnify any person pursuant to Subsection 13.4(a) and (b) hereof.

### **13.5 Survival of Indemnity**

Any termination of this Trust Agreement or the termination or resignation of the Manager shall not affect any obligations of the Funds arising prior to such termination, including without limitation the obligation to indemnify by reason of any matter which has arisen or circumstances which have occurred prior to such termination.

## **ARTICLE 14**

### **RECORDS, ACCOUNTS TO AND INFORMATION FOR UNITHOLDERS**

#### **14.1 Records**

The Manager shall maintain or cause to be maintained appropriate accounting records for each Fund. The accounting records for each Fund for the current year and the preceding four (4) fiscal years shall be open for examination by the Trustee during normal business hours of the Manager on any business day upon three (3) business days notice to the Manager.

#### **14.2 Appointment of Auditors**

The Auditors of the Funds shall be determined and may be replaced from time to time by the Manager and shall be set out in the Disclosure Documents. The Auditors shall continue in office until they have resigned or have been terminated by the Manager. The Manager shall forthwith give written notice to the Trustee and the Unitholders of any change of Auditors, including the reasons for such resignation or termination.

#### **14.3 Duties of Auditors**

The duties of the Auditors shall include reviewing the annual financial statements of the Funds and reporting thereon in accordance with applicable legislation, regulations, policies or guidelines applicable to a unit trust distributing its securities in the Province of Quebec and elsewhere as applicable. Any such report shall be reviewed by the Manager, and if acceptable to the Manager, shall be approved by the Manager (and if required, shall be signed by the Manager to evidence such approval) on behalf of each of Funds. The Auditor shall have access to all records relating to the affairs of the Funds including the relevant records of the Manager, the Trustee and any Custodian and record keeper.

#### **14.4 Remuneration of Auditors**

The Auditors' remuneration shall be fixed by the Manager from time to time and shall be payable by the Manager.

#### **14.5 Reporting to Unitholders and Trustee**

The Manager shall make available and forward, upon request, to each Unitholder, any information required to be distributed to Unitholders in accordance with Securities Legislation. The Manager shall forward a copy of the audited annual financial statements of the Funds to the Trustee within 90 days of each year-end.

#### **14.6 Financial Year**

The financial year-end of the Funds shall be December 31 in each calendar year or such other date as determined by the Manager from time to time. The Manager shall notify the Unitholders and the Trustee of any change in the financial year of the Funds.

#### **14.7 Taxation Year**

The taxation year of the Funds shall be determined from time to time by the Manager, subject to the provisions of the Tax Act.

#### **14.8 Information for Income Tax Purposes**

The Manager shall send, or cause to be sent, to all Unitholders information required by law for income tax purposes within the time prescribed by law. For greater certainty, the Trustee shall not be responsible for providing tax reporting information or slips to Unitholders.

#### **14.9 Tax and Information Returns**

The Manager is authorized to prepare and file, or cause to be prepared and filed, all tax returns and other information returns that the Funds or the Manager is required by law to file. The Manager is empowered to exercise all discretions and make all designations, elections, determinations and applications under the Tax Act or under any other applicable legislation, regulations, policies or guidelines as may, in the opinion of the Manager, be advisable or appropriate in connection with the Funds.

### **ARTICLE 15 MEETING AND NOTICE PROVISIONS**

#### **15.1 Meetings of Unitholders**

- (a) Meetings of Unitholders as a whole or of any class or series of Unitholders of a Fund may be convened by the Manager from time to time as it may deem advisable by giving notice to the Unitholders in accordance with the notice provisions following. Meetings of Unitholders as a whole of a Fund shall be convened to consider and approve:
  - (i) any matter which pursuant to Securities Legislation must be submitted to Unitholders for approval; and
  - (ii) any amendment to this Trust Agreement as may be required by Section 18.2 or otherwise in accordance with the terms of the Trust Agreement.
- (b) The expenses incurred in calling and holding a meeting of Unitholders shall be expenses of the respective Fund.

- (c) If required by Securities Legislation or if the Manager determines that any matter would affect Unitholders of one or more particular class or series of Units of a Fund in a manner materially different from the Unitholders as a whole of the Fund, the Manager shall convene separate meetings of Unitholders of those classes and/or series. The meetings may be held concurrently and Unitholders shall be entitled to vote separately as a class or series, as applicable, with respect to any of these matters.
- (d) The consent of the Manager and the Trustee is required to any amendment to this Trust Agreement approved by the Unitholders, if the amendment restricts any protection provided to the Manager and/or the Trustee or impacts the responsibilities of the Manager and/or the Trustee.

## **15.2 Notice to Unitholders**

A notice convening a meeting of Unitholders shall be given at least 10 days and not more than 21 days prior to the meeting and shall state the time and place where such meeting is to be held and describe in general terms the nature of the matters to be considered by the meeting and any other matter required by Securities Legislation and shall be accompanied by an information circular or other document or documents describing in sufficient detail the matters to be approved so as to enable Unitholders to make an informed decision. Accidental error or omission in giving notice to any Unitholder shall not invalidate any action or proceeding founded on such notice. A meeting of Unitholders may be held at any time and place without notice if all the Unitholders entitled to vote thereat are present in person or represented by proxy, or, if those not present or represented by proxy waive notice of, or otherwise consent to, such meeting being held.

## **15.3 Service on Joint Unitholders**

Service of a notice or document on any one of several joint holders of Units shall be deemed effective service on the other joint holders.

## **15.4 Sufficiency of Service**

Any notice or document sent by ordinary post or electronic delivery to, or left at the address of, a Unitholder pursuant to this Article shall, notwithstanding the death or bankruptcy of such Unitholder, and whether or not the Manager has notice of the death or bankruptcy, be deemed to have been duly served and the service shall be deemed sufficient service on all persons interested in the Units concerned.

## **15.5 Quorum for Meetings of Unitholders**

- (a) Unless otherwise required by the provisions hereof or by Securities Legislation, a quorum for purposes of a meeting of Unitholders of a Fund as a whole or of a class or series of Units of the relevant Fund shall be at least two (2) Unitholders of the Fund, class or series, as the case may be, present in person or represented by proxy. If within 30 minutes from the time appointed for the meeting of Unitholders a quorum is not present, the meeting shall stand adjourned without notice to such day and time, being not less than seven days thereafter, and to such place as may be appointed by the Chairman (as defined in Section 15.6 below), and at such adjourned meeting, the Unitholders present in person or by proxy shall be a quorum.

- (b) Unless otherwise required by the provisions hereof, all questions posed for the consideration of the Unitholders shall be determined by a majority of the votes cast on a show of hands. In the case of an equality of votes, the Chairman presiding at the meeting shall not have a casting vote.

#### **15.6 Chairman**

A person, who need not be a Unitholder, appointed in writing by the Manager shall preside at every meeting of Unitholders and if no such person is appointed or if at any meeting the person appointed shall not be present within 15 minutes after the time appointed for holding the meeting, the Unitholders shall choose one of their number to be Chairman. The Manager may adopt reasonable rules of order for conducting all meetings of Unitholders, failing which the Chairman of any meeting may make such reasonable rulings as he or she may determine appropriate.

#### **15.7 Adjournments**

The Chairman may, with the consent of any meeting of Unitholders at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no matters shall be considered at any adjourned meeting except matters that might lawfully have been considered and approved at the meeting from which the adjournment took place.

#### **15.8 Voting**

- (a) At any meeting of Unitholders, every person shall be entitled to vote who, as at the end of the business day immediately preceding the date of the meeting, is entered in the Register, unless in the notice of meeting and accompanying materials sent to Unitholders in respect of the meeting, a record date is established for persons entitled to vote thereat.
- (b) Unless otherwise provided herein or by Securities Legislation, every question submitted to a meeting of Unitholders shall be decided by a majority of the votes expressed on a show of hands unless a poll is reasonably demanded. If a poll is duly demanded, it shall be taken in such manner as the Chairman may direct and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the Chairman directs. The demand for a poll shall not prevent the continuance of a meeting for the consideration of any matter other than the question on which the poll has been demanded. On a show of hands every Unitholder who, being an individual, is present in person or by proxy or, being other than an individual, is present by proxy shall have one vote. On a poll every Unitholder who is present in person or is represented by proxy shall have such number of votes as provided in Section 3.1. If Units are held jointly by two or more persons, any one of them present as aforesaid or represented by proxy at a meeting of Unitholders may, in the absence of the other or others, vote thereon, but if more than one of them is present or represented by proxy, they shall vote together on the Units jointly held.

#### **15.9 Proxies**

Every Unitholder entitled to vote at meetings of Unitholders may, by means of a proxy, appoint a person, who need not be a Unitholder, as that Unitholder's nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy. A proxy shall be



in written or printed format or a format generated by telephonic or electronic means, shall be executed in writing or electronic signature by the Unitholder or the Unitholder's attorney authorized in writing or by electronic signature or, if the Unitholder is a body corporate, by an officer or attorney thereof duly authorized, and shall cease to be valid one year from its date. A proxy may be in such form as the Manager from time to time may prescribe or in such other form as the Chairman of the meeting may accept as sufficient, and shall be deposited with the secretary of the meeting before any vote is cast under its authority, or at such earlier time and in such manner as the Manager may prescribe.

#### **15.10 Validity of Proxies**

A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or mental incapability or incompetence of the principal or revocation of the proxy or of the authority under which the proxy was executed or the transfer of Units in respect of which the proxy is given, provided that no intimation in writing or by electronic means of such death, mental incapability or incompetency, revocation or transfer shall have been received by the Manager before the commencement of the meeting or adjourned meeting at which the proxy is used.

#### **15.11 Minutes**

Minutes of all proceedings at every meeting of Unitholders shall be made and duly entered in books to be from time to time provided for that purpose by the Manager and any such minutes as aforesaid if purporting to be signed by the Chairman of the meeting shall be conclusive evidence of the matters therein stated and, until the contrary is proved, every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat to have been duly passed.

#### **15.12 Written Resolution**

Notwithstanding any provision of this Trust Agreement, a written resolution signed by the holders of a majority of the Units otherwise entitled to be voted at a meeting shall be effective as if it had been passed at a meeting in accordance with this ARTICLE 15, provided all Unitholders are provided a copy of the proposed resolution (and all such other information they would have otherwise been entitled to pursuant to Section 15.2) as soon as is practicable and in any event prior to the effective date of such resolution.

### **ARTICLE 16 REGISTRAR AND CUSTODIAN**

#### **16.1 Registrar and Transfer Agent**

(a) The Manager shall from time to time appoint a transfer agent and a registrar for the Funds (who may, but need not, be the same individual or company and who may, but need not, be the Manager) and may appoint one or more branch transfer agents and/or registrars (who may, but need not, be the same individual or company and who may, but need not, be the Manager). The transfer agent and/or registrar shall maintain a register (the "**Register**") for the registration of Units of each class and/or series of Units of a Fund, which shall include:

- (i) the names and addresses of each Unitholder;

- (ii) the number of Units of each class and/or series currently held by each Unitholder;
  - (iii) the date of each purchase of Units, the number of Units allotted and the Net Asset Value at which each Unit is allocated;
  - (iv) the date and amount of each redemption of Units in the Fund, the number of Units so redeemed and the Net Asset Value at which each Unit is so redeemed;
  - (v) the date and amount of any distributions allocated and/or paid to such Unitholders; and
  - (vi) each transfer of Units;
- (b) The transfer agent and/or registrar may provide for the transfer and the registration of transfers of Units in one or more places and may provide that Units will be interchangeably transferable or otherwise and such transfer agents and/or branch transfer agents and/or registrars and/or branch registrars shall keep all necessary books and registers of the Funds required by this Trust Agreement and by Securities Legislation. The Registers shall at all reasonable times be open for inspection by any Unitholders of a Fund for any proper purpose.
- (c) The ownership of Units in each Fund shall be evidenced conclusively by the registration thereof in the Register to be kept by or on behalf of the Manager and the Manager and the Trustee shall for all purposes be entitled to treat the person appearing in the Register as the absolute owner of the Units of a Fund, and the Manager and the Trustee shall in no way be affected by any notice to the contrary.
- (d) Neither the Manager nor the Trustee shall be charged with notice of or be bound to see to the execution of any trust in respect of any Unit whether express, implied or constructive and may deal with any Unit on the direction of the registered Unitholder thereof, whether named as trustee or otherwise. The receipt by the Unitholder in whose name the Unit is registered on the books of a Fund shall be a valid and binding discharge to the Fund and to the Manager and the Trustee for any payment made in respect of such Unit and if several persons are registered as joint Unitholders any one of them may give effectual receipt for any such monies. Only Unitholders whose Units are recorded on the Register shall be entitled to vote or to receive distributions or otherwise exercise or enjoy the rights of Unitholders.

## 16.2 Safekeeping of Assets

The Manager shall open one or more separate accounts with respect to the Funds and shall not commingle any Fund Property with its own assets. The Manager shall appoint one or more of a bank, trust company, investment dealer or any other institution that is qualified to act as a custodian of the Funds (the "**Custodian**") to be responsible for the safekeeping of all of the portfolio assets of the Funds and for the purposes of performing the custodial and related responsibilities under this Trust Agreement, or to make such other arrangements, in accordance with industry practice, for the safe custody of some or all of Fund Property as the Manager deems prudent and who shall be paid for those services by the Manager. Such Custodian may be an Affiliate of the Trustee if the Trustee is not also acting as Manager. As directed by the Manager or required by law, the Manager

shall deposit certain assets of the Funds with the Custodian for safekeeping and administration. The Manager shall enter into a written custodian agreement with the Custodian which may include provisions whereby the Manager may give instructions directly to such Custodian concerning the assets of the Funds and the Custodian may act thereon without approval by the Trustee and may provide for the appointment of sub-custodians. The Manager shall have authority to appoint a new custodian of the assets of the Funds and to make contractual arrangements for that purpose. The Trustee shall be under no obligation to supervise and shall have no responsibility or liability for acts of omission or commission of any such Custodian or sub-custodian under such arrangements.

### **16.3 Banking**

The banking activities of the Funds, or any part thereof, shall be transacted with such bank, trust company, investment dealer or other firm or corporation carrying on a banking business as the Manager may designate, appoint or authorize from time to time and all such banking activities, or any part thereof, shall be transacted on the Funds' behalf by such one or more officers of the Manager and/or other persons as the Manager may designate, appoint or authorize from time to time including, but without restricting the generality of the foregoing: the operation of the Funds' accounts; the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for and orders relating to any Fund Property; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such banker to do any act or thing on the Funds' behalf to facilitate such banking activities. The Trustee shall be under no obligation to supervise and shall have no responsibility or liability for acts of omission or commission of any person or of the Manager concerning such banking activities.

## **ARTICLE 17**

### **REPORTS AND EXECUTION OF DOCUMENTS**

#### **17.1 Documents Affecting Trustee**

The Manager will provide to the Trustee, upon the Trustee's request, copies of all agreements, literature, certificates, offering memoranda, advertisements, printed matter and other material which relate to the functions being performed hereunder or which may affect the Trustee, except material which is circulated among or sent to employees of the Manager or Unitholders and correspondence in the ordinary course of business. The Trustee shall not be accountable or liable in connection therewith or have any duty to verify as complete or accurate, or even review, the contents of any such agreements, literature, certificates, offering memoranda, advertisements, printed matter and other material offering document.

#### **17.2 Execution of Documents by Trustee**

The Trustee shall have authority to sign on behalf of each Fund all documents in writing authorized or required hereunder and any documents in writing so signed shall be binding upon the Funds without any further authorization or formality. The Trustee shall have power from time to time to appoint any person or persons on behalf of the Funds either to sign documents in writing generally or to sign specific documents in writing.

### **17.3 Execution of Documents by Manager**

Any approval, consent, direction, order or request required or permitted by this Trust Agreement to be given or made by the Manager shall (except where otherwise expressly provided herein) be sufficiently given or made if expressed in writing signed in the name of the Manager by its duly authorized representative designated from time to time in writing. If at any time, the Manager shall fail to give or make any such approval, consent, direction, order or request as required by this Trust Agreement and no express provision is made for the action to be taken by the Trustee in such event, the Trustee may act herein without any such approval, consent, direction, order or request, in its own discretion.

## **ARTICLE 18 AMENDMENT**

### **18.1 Changes**

The Manager and the Trustee may, without prior notice to or consent from any Unitholder, amend this agreement, by supplemental trust deed or by amending and restating this Trust Agreement or the Schedules hereto:

- (a) in order to create additional classes and/or series of Units;
- (b) in order to protect the interests of the Unitholders, if necessary;
- (c) to cure any ambiguity or clerical error or to correct or supplement any provision contained herein which may be defective or inconsistent with any other provision if such amendment does not and shall not in any manner adversely affect the interests of any Unitholder as a holder of Units;
- (d) to remove any conflicts or other inconsistencies which may exist between any terms of this Trust Agreement and the provisions of any law or regulation applicable to or affecting the Funds;
- (e) to reflect any changes to any Applicable Laws; or
- (f) in any other manner provided that such amendment is not materially adverse to Unitholders' interests.

### **18.2 Amendments Upon Unitholder Notice or Approval**

- (a) Except as provided in Sub-section 7.3(c), any proposed change to this Trust Agreement that would be materially adverse to Unitholders' interests and any change to the fees payable by the Funds to the Manager and/or Portfolio Manager in accordance with Section 11.3 which could result in an increase in the aggregate fees payable by the Funds to the Manager and/or the Portfolio Manager in respect of one or more classes or series of Units outstanding at that time, may only take effect upon either:
  - (i) the approval of not less than a majority of the votes cast at a meeting of Unitholders of a Fund or of the affected class or series, as the case may be, duly called for the purpose of considering the proposed change (or by written resolution in accordance with Section 15.12); or

- (ii) Unitholders affected by such change having been given not less than 60 days' written notice of the proposed change, in accordance with Section 15.2, and the opportunity to redeem all of such Unitholder's Units prior to the effective date of the change (in such event the Manager shall be deemed to have waived, to the extent necessary, any redemption deductions for Units that are redeemed in the specified period).
- (b) All persons remaining or becoming Unitholders after the effective date of any change shall be bound by such change. No amendment to this Trust Agreement may be made without the consent of the Manager and the Trustee. The Trustee and the Manager shall be entitled to receive the opinion of legal counsel as to the effect any such amendment may have on Unitholders.

### **18.3 Restatements**

A restated trust agreement, setting forth the terms hereof, as amended to the time of execution, may be executed at any time and from time to time by the parties hereto. No such execution of a restated trust agreement shall be deemed to constitute a termination and/or resettlement of the Funds. Any accidental or inadvertent omission of any amendment hereto from any such restated trust agreement shall not affect the validity thereof but such omission shall be deemed to form a part of such restated Trust Agreement.

## **ARTICLE 19 TERMINATION OF MANAGER**

### **19.1 Resignation, Insolvency or Bankruptcy of Manager**

- (a) The Manager shall have the right to resign as Manager of a Fund by giving notice in writing to the Trustee and to the Unitholders not less than sixty (60) days prior to the date on which such resignation is to take effect. Such resignation shall take effect on the date specified in such notice (which date shall be specified in the notice), and provided that, on or prior to the intended date of resignation, (i) the manager appoints a successor manager of the Fund, and, (ii) unless the successor manager is an affiliate of the Manager, the Unitholders approve, by a majority of votes cast, such successor manager at a meeting of Unitholders held for such purpose. The Manager shall at all times be a resident of Canada for income tax purposes. Should the Manager or any successor manager appointed in accordance with the provisions of this ARTICLE 19 become a non-resident of Canada for income tax purposes, it shall, as soon as practicable, appoint a successor manager who is a resident of Canada and resign in accordance with the provisions of this ARTICLE 19. If the Manager resigns and a successor manager is not appointed in accordance with the foregoing, the Fund shall terminate in accordance with ARTICLE 21. Notwithstanding the foregoing, the resignation of the Manager shall take effect only upon the appointment of a successor manager or the termination of the Fund, whichever comes first.
- (b) If the Manager shall at any time become insolvent or bankrupt or go into liquidation either voluntarily or under an order of a court of competent jurisdiction, make a general assignment for the benefit of its creditors or otherwise acknowledge its insolvency, this Trust Agreement and the Funds hereby established shall terminate and all of the assets of the Funds shall be distributed according to Section 21.3.

## **19.2 Successor Manager**

- (a) Upon resignation of the Manager or the termination of a Fund, the Manager shall deliver to, or to the order of, the successor Manager in the case of resignation of the Manager, all records or other documents with respect to the Fund which it has in its possession or which the Manager has placed in the possession of others.
- (b) Any successor manager shall execute an amendment, restatement or novation of this Trust Agreement agreeing to act as manager of a Fund and shall thereupon be vested with the same powers, rights, duties and liabilities as if it had originally been named herein as Manager.
- (c) Notwithstanding the foregoing, any company into which the Manager may be merged or with which it may be consolidated or amalgamated or any company resulting from any merger, consolidation or amalgamation to which the Manager shall be a party and any company which succeeds to substantially all of the business of the Manager shall thereupon become the successor to the Manager under this Trust Agreement without the execution of any instrument or any further act or formality.

## **ARTICLE 20 TERMINATION OF TRUSTEE**

### **20.1 Resignation of Trustee**

- (a) The Trustee or any successor trustee may resign as Trustee of any one or more trusts created by this Trust Agreement by giving notice to the Manager, not less than ninety (90) days prior to the date when such resignation shall take effect. Notwithstanding the foregoing, the Manager may require the Trustee to resign immediately or upon a lesser period of notice (i) if an order is made or a resolution passed or other proceedings taken for the dissolution of the Trustee, (ii) if the Trustee consents to or makes a general assignment for the benefit of creditors, or makes a proposal to creditors under any insolvency law, or is declared bankrupt or if a liquidator trustee in bankruptcy, custodian or receiver and administrator or interim receiver or other officer with similar powers is appointed of the Trustee, or (iii) if according to the provisions of Applicable Laws, the Trustee ceases to be qualified to act as Trustee hereunder. The Manager shall provide notice to Unitholders of the Trustee's resignation.
- (b) Such resignation shall take effect on the date specified in such notice, unless at or prior to such date a successor trustee is appointed by the Manager in accordance with Section 20.3 in which case such resignation shall take effect immediately upon the appointment of such successor trustee.

### **20.2 Removal of Trustee**

The Trustee may be removed by the Manager at any time by notice to the Trustee and to Unitholders not less than sixty (60) days prior to the date that such removal is to take effect; provided a successor trustee is appointed or the Funds are terminated in accordance with ARTICLE 21.

### **20.3 Appointment of Successor Trustee**

- (a) In the event that the Trustee resigns or is removed or becomes incapable of acting or if for any cause a vacancy shall occur in the office of trustee, a successor trustee shall forthwith be appointed by the Manager to fill such vacancy as of the effective date of the resignation or removal or other incapacity of the Trustee and the Manager shall notify the Trustee and the Unitholders in writing of the appointment of such a successor to the Trustee. In the event the Manager fails to appoint a successor to the Trustee within ninety (90) days of the date of the notice of the Trustee's resignation, or such other length of time as may be agreed to by the parties hereto, this Trust Agreement and the Funds hereby established shall terminate and all of the assets of the Funds shall be distributed according to Section 21.3.
- (b) The Trustee shall at all times be a resident of Canada for income tax purposes. Should the Trustee or any successor trustee appointed in accordance with the provisions of this Section 20.3 become a non-resident of Canada for income tax purposes, it shall automatically be removed and replaced by the Manager in accordance with the provisions of this Section 20.3.
- (c) Forthwith following the appointment of a successor trustee, the Trustee shall execute and deliver such documents as the Manager may reasonably require for the conveyance of any Fund Property of the Funds held in the Trustee's name to the successor trustee provided that the Trustee has been paid in full for all of its outstanding fees owed to it by the Funds. The Trustee, upon the effective date of removal or resignation, shall provide the Manager or the successor to the Trustee with any information from its records that the Manager or the successor to the Trustee may reasonably require for the purposes of this Trust Agreement and shall be reimbursed for the reasonable costs and expenses thereof.
- (d) Notwithstanding the foregoing, any company into which the Trustee may be merged or with which it may be consolidated or amalgamated or any company resulting from any merger, consolidation or amalgamation to which the Trustee shall be a party and any company which succeeds to substantially all of the corporate trust business of the Trustee shall thereupon become the successor to the Trustee under this Trust Agreement without the execution of any instrument or any further act or formality.

## **ARTICLE 21 TERMINATION OF FUND**

### **21.1 Termination**

The Funds shall be terminated in accordance with the provisions of this ARTICLE 21 and ARTICLE 19 and ARTICLE 20.

### **21.2 Notice of Termination Date**

The Manager may terminate and dissolve a Fund at any time by giving to the Trustee and each then Unitholder of such Fund written notice of its intention to terminate at least sixty (60) days before the date on which the relevant Fund is to be terminated (herein called the "**Fund Termination Date**").

### **21.3 Effect of Termination**

During the period after the giving of such termination notice, if any, the right of Unitholders of a Fund to require payment for all or any of their Units shall be suspended. On or about the effective date of termination of a Fund, the Manager shall make appropriate arrangements for terminating all agreements pertaining to the Fund and converting the relevant Fund Property into cash, unless the Manager determines that it would be in the best interests of the Unitholders to distribute some or all of Fund Property in specie. The Manager shall be entitled to retain out of Fund Property full provision for all costs, charges, expenses, claims and demands incurred, made or reasonably anticipated by the Manager to arise in connection with the termination of the Fund and the distribution of Fund Property to Unitholders and out of Fund Property so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands. Each Unitholder registered as such at the close of business on the date fixed as the Fund Termination Date shall be entitled to receive from the Fund such Unitholder's Proportionate Share of all Fund Property attributable to the applicable class or series of Units and available at that time for the purpose of such distribution. If required by the Manager, a form of release satisfactory to the Manager shall be provided by each Unitholder prior to the distribution of the Unitholder's Proportionate Share of Fund Property attributable to the applicable class or series of Units. The Trustee shall continue to act as trustee of the Fund until all of Fund Property has been distributed subject to the Trustee's right to resign pursuant to Section 20.1 of this Trust Agreement.

### **21.4 Unclaimed Payments**

If, six (6) months after a Fund Termination Date, the Manager is unable to locate any Unitholder as shown on the Register, the amount that would be distributed to such Unitholder shall be deposited by the Manager with the Custodian or with any Canadian chartered bank in the name of the Unitholder and the Trustee and the Manager shall thereupon be released from any and all further liability with respect to the monies and thereafter the Unitholder shall have no rights as against the Trustee or the Manager to the monies or an accounting therefor other than the right to demand payment from the account of the Custodian or such Canadian chartered bank, as applicable.

### **21.5 Termination of Trust Agreement**

Should a Fund be terminated and dissolved pursuant to this ARTICLE 21, then this Trust Agreement shall terminate and all of the assets of the Fund shall be distributed according to Section 21.3.

### **21.6 Action Upon Termination**

- (a) From and after the effective date of termination of this Trust Agreement or a Fund, the Manager shall carry on no further activities with respect to the Fund save for the winding-up of the Fund and shall not be entitled to any further fees in respect of the Fund, except those which have accrued prior to the date of such termination, but the Manager's entitlement to reimbursement of expenses shall not be affected by such termination.
- (b) The Manager shall forthwith upon termination of any Fund:
  - (i) pay over to the relevant Fund all monies which may be held by it for the account of such Fund pursuant to this Trust Agreement after deducting any accrued management fees and reimbursement for its expenses to which it is entitled;



- (ii) deliver to the Fund a full accounting, including a statement of all monies collected, held or paid by it on the Fund's behalf, covering the period following the date of the last accounting furnished to the Trustee; and
- (iii) deliver to, and where applicable, transfer into the name of the Fund (or as the Fund may direct in writing) all documents of the Fund, including financial and accounting records, held in the name of or custody of the Manager. The Manager may retain records required in accordance with its document retention policies and Applicable Laws.

## ARTICLE 22 COMMUNICATIONS

### 22.1 Notice to Unitholders

Any notice to be given or any document or instrument in writing to be sent to a Unitholder under this Trust Agreement may be effectively given to each Unitholder of record (as at the day of sending) by ordinary post addressed to such Unitholder at that Unitholder's last address appearing on the Register or by such other means (including electronic mail or other instantaneous means of communication) as the Unitholder may consent to from time to time. Notwithstanding the forgoing and even if the Unitholder has consented to receiving notice by other means, notice given by ordinary post to the last address appearing on the Register shall not require further notice by such other means. Any notice so given shall be conclusively deemed to have been received by the Unitholder three (3) business days after the notice is mailed by ordinary post, or the next business day after electronic or other instantaneous means of communication, and, in proving notice, it shall be sufficient for the Manager or the Trustee to prove that the notice was properly addressed and sent. Any notice given by electronic means shall be given in compliance with the provisions of Securities Legislation relating to the delivery of documents by electronic means. Notwithstanding the foregoing, the failure by the Trustee or the Manager, by accident or omission or otherwise unintentionally, to give any Unitholder any notice provided for in this Trust Agreement shall not affect the validity, effect, taking effect or time of taking effect of any action referred to in such notice, and neither the Trustee nor the Manager shall be liable to any Unitholder for this failure.

### 22.2 Notices and Directions

- (a) Except as otherwise provided in this Trust Agreement, any notice, direction, demand, request or document required or permitted to be given by either party to the other pursuant to any provision of this Trust Agreement shall be in writing and deemed to have been sufficiently given if signed by or on behalf of the party giving the notice and delivered or sent by prepaid ordinary mail (or by electronic means) addressed to the other party's address as shown below:

- (i) in the case of the Trustee:

TSX Trust Company  
200 University Avenue, Suite 300  
Toronto Ontario  
M5H 4H1

Attention: Manager, Corporate Trust  
Telephone: 416-607-7870  
Facsimile: 416-361-0470

(ii) in the case of the Manager:

Tactex Asset Management Inc.  
481 Viger West, Suite 200  
Montreal, Quebec H2Z 1G6

Attention: Liam Cheung  
Telephone: 514-710-7736  
E-mail: lcheung@tactico.ca

or at such other address and number as the party to whom such communication is to be given shall have last notified the party giving the same in the manner provided in this Section.

- (b) Any such notice, direction, request or document shall conclusively be deemed to have been received by either party, on the date of sending the notice if sent by electronic or other means of instantaneous communication or, if sent by prepaid ordinary mail, on the fifth business day following the mailing thereof to the party or to an officer of the party to whom it is addressed. For such purposes, no day during which there is an actual or imminent strike or slowdown, or other occurrence which shall interfere with normal mail service shall be considered a day of delivery but, it shall be deemed to have been given when it would be delivered in the ordinary course of the mail allowing for such strike or slowdown.

## ARTICLE 23 GENERAL

### 23.1 Confidentiality and Sharing of Information

- (a) Subject to Section 8.5(b)(ii) and 9.5(c) of this Trust Agreement, each party shall hold in confidence all information relating to Fund Property and this Trust Agreement (collectively, the "**Confidential Information**"), and may only release any such Confidential Information to others where required by law, where such Confidential Information was within such party's possession on a non-confidential basis prior to it being provided to such party, where such Confidential Information is or becomes available to the public, pursuant to directions (if applicable), or as otherwise agreed between the parties.
- (b) Without limiting the foregoing paragraph, the Trustee may share, with its legal counsel, advisors, agents, service providers, affiliates, related companies, subsidiaries, parent companies and their respective parent company's affiliates, related companies and subsidiaries, the Manager's or the Funds' information, including but not limited to Confidential Information, for administration and client services. The Trustee may also provide the Manager's or the Funds' information, including Confidential Information, to any federal or provincial legal or regulatory body if required by applicable law to do so.

### **23.2 Compliance with Law and Policy**

The Manager shall be responsible for ensuring that this Trust Agreement, any Disclosure Documents or regulatory filing of the Funds, and any distribution of Units complies with all Securities Legislation. To this end, the Manager, on behalf of the Funds, shall take such action and execute such deeds and documents as may be necessary or desirable to be filed with appropriate regulatory authorities on behalf of the Funds.

### **23.3 Assignment**

- (a) Neither party may assign any rights or benefits under this Trust Agreement to any person without the prior written consent of the other party, provided that the Manager may assign its rights to a portion of the fees and expenses payable to it pursuant to this Trust Agreement to a third party service provider engaged to provide services to the Funds as contemplated by ARTICLE 9.
- (b) Subject thereto, this Trust Agreement shall enure to the benefit of and be binding upon the parties and their respective successors (including any successor by reason of amalgamation or statutory arrangement of any party) and permitted assigns.

### **23.4 Further Assurances**

Each party shall do such acts and shall execute all such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of all such acts and will cause the execution of all such further documents as are within its power to cause the doing or execution of, as any other party may from time to time reasonably request be done and/or executed as may be required in order to give effect to the provisions of this Trust Agreement.

### **23.5 Severability**

The provisions of this Trust Agreement are severable and if any provisions are in conflict with any Applicable Laws, the conflicting provisions shall be deemed never to have constituted a part of the Trust Agreement and shall not affect or impair any of the remaining provisions thereof.

### **23.6 Anti-Money Laundering and Anti-Terrorist Financing**

- (a) The Manager hereby represents to the Trustee that any account to be opened by, or interest to be held by the Trustee in connection with this Trust Agreement, either (i) is not intended to be used by or on behalf of any third party.
- (b) The Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Trustee, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Trustee, in its sole judgment, determine at any time that its acting under this Trust Agreement has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on ten (10) days written notice to Manager, provided (i) that the Trustee's written notice shall describe the circumstances of such non-compliance; (ii) that if such circumstances are rectified to the Trustee's satisfaction within such 10 day period, then such resignation shall not be effective.

### **23.7 Language**

The parties acknowledge that it is their express wish that this Trust Agreement, as well as all documents, notices and legal proceedings entered into, given or instituted pursuant hereto or relating directly or indirectly hereto, be drawn up in English. Les parties reconnaissent avoir exigé la rédaction en anglais de la présente convention, ainsi que de tous documents exécutés, avis donnés et procédures judiciaires intentées, directement ou indirectement, relativement à ou suite à la présente convention.

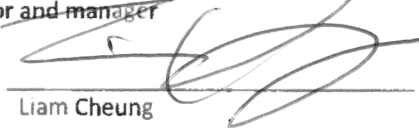
### **23.8 Counterparts**

This Trust Agreement (and each amendment in respect of it) may be executed in any number of counterpart copies, and may be executed and delivered by facsimile, portable document format (PDF) or other electronic means, each of which shall be deemed an original, but all of which shall be considered the same instrument.


**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF this Trust Agreement has been executed by the proper signing authorities as of the date first set forth above.

**TACTEX ASSET MANAGEMENT INC.,** as  
settlor and manager

Per:   
Liam Cheung  
Chief Executive Officer

**TSX TRUST COMPANY,** as trustee

Per:   
Name: **CAROL MIKOS**

Per:   
Name: **Kathy Thorpe**

**SCHEDULE "A"**

**OFFICER'S CERTIFICATE**

**TO: TSX TRUST COMPANY**

Reference is made to Section 9.4(t) of the Trust Agreement dated April 21, 2017, (the "**Agreement**") between Tactex Asset Management Inc. (the "**Manager**") and Trust Company (the "**Trustee**").

For ease of reference, all capitalized terms not defined herein shall have the meaning ascribed thereto in the Agreement, unless the context otherwise requires.

The undersigned hereby certifies, on behalf of the Funds and without any personal liability whatsoever, that:

1. the undersigned is a duly appointed officer of the Manager and is duly authorized to provide this Officers' Certificate on behalf of the Manager and the Funds;
2. the undersigned has made or caused to be made such examinations or investigations as is, in his opinion, necessary to make the statements in this Officers' Certificate true;
3. this Officers' Certificate is executed and delivered with the intent that it may be relied upon by the Trustee;
4. the Funds have duly complied with all of the covenants and satisfied all conditions and requirements under the Agreement;
5. the Funds have complied with all applicable Securities Legislation, regulations and policies relating to the investment of Fund Property and the distribution of Units;
6. the Manager has complied with all of its duties and obligations under the Management Agreement and the Agreement; and
7. the undersigned is not aware of any plans of the Funds or any facts or circumstances that would cause any of the facts or statements set out hereinabove to no longer be correct if this Certificate were given in the future.

DATED this \_\_\_\_ day of ●

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

**SCHEDULE "B"**

MYLO FUNDS ESTABLISHED APRIL 21, 2017

<b>Name</b>	Mylo Equity ETF Fund
<b>Investment Objective</b>	The Mylo Equity ETF Fund's investment objective is to track, to the extent reasonably possible after Exchange Traded Funds management fees and expenses, a composite index of equity indexes.
<b>Strategies</b>	To achieve its investment objectives, the Fund will invest in ETFs selected to provide a risk/return profile tracking the following composite index: <ul style="list-style-type: none"> <li>• 60% S&amp;P/TSX 60 Index</li> <li>• 30% S&amp;P 500 Index (CAD-Hedged)</li> <li>• 10% MSCI EAFE (CAD-Hedged)</li> </ul>
<b>Investment Restrictions</b>	The financial instruments available for purchase and sale are limited to highly liquid ETFs that track broad indexes and money market securities that are dominated in or are hedged to Canadian dollars. The fund will not make use of leverage or derivatives.
<b>Name</b>	Mylo Fixed Income ETF Fund
<b>Investment Objective</b>	The Mylo Fixed Income ETF Fund's investment objective is to track, to the extent reasonably possible after Exchange Traded Funds management fees and expenses, a composite index of fixed income indexes.
<b>Strategies</b>	To achieve its investment objectives, the Fund will invest in ETFs selected to provide a risk/return profile tracking the following composite index: <ul style="list-style-type: none"> <li>• 60% Bloomberg Barclays Global Aggregate Canadian Float Adjusted Bond Index</li> <li>• 30% Bloomberg Barclays U.S. Aggregate Float Adjusted Bond Index (CAD Hedged)</li> <li>• 10% Barclays Global Aggregate ex-USD Float Adjusted RIC Capped Index (CAD Hedged)</li> </ul>

<b>Investment Restrictions</b>	The financial instruments available for purchase and sale are limited to highly liquid ETFs that track broad indexes and money market securities that are dominated in or are hedged to Canadian dollars. The fund will not make use of leverage or derivatives.
<b>Name</b>	Mylo Money Market Fund
<b>Investment Objective</b>	The Mylo Fixed Income ETF Fund's investment objective is to track, to the extent reasonably possible after Exchange Traded Funds management fees and expenses, a composite index of money market indexes.
<b>Strategies</b>	To achieve its investment objectives, the Fund will invest in ETFs selected to provide a risk/return profile tracking the following composite index:  100% FTSE TMX Canada 91 Day T-Bill Index
<b>Investment Restrictions</b>	The financial instruments available for purchase and sale are limited to highly liquid ETFs that track broad indexes and money market securities/deposits that are dominated in or are hedged to Canadian dollars. The fund will not make use of leverage or derivatives.