
DECLARATION OF TRUST

of

PG GLOBAL PRIVATE EQUITY CANADA ACCESS FUND

made as of March 1, 2023

mcmillan

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DECLARATION OF TRUST

THIS DECLARATION OF TRUST (“**Declaration of Trust**”) is made as of March 1, 2023 by Spartan Fund Management Inc. (the “**Trustee**”), at its principal office in the City of Toronto, Ontario.

WHEREAS the Trustee wishes to establish a trust to be known as “**PG Global Private Equity Canada Access Fund**” (the “**Fund**”) for the purposes of investing the assets of the trust for the benefit of the Unitholders (defined herein) pursuant to the terms and conditions herein.

NOW THEREFORE, the Trustee hereby declares that it holds in trust as trustee the sum of \$100.00 now contributed by the settlor and all property of any nature and kind that it may acquire in its capacity as trustee of the Fund, and all income and capital gains therefrom, to hold, manage, and dispose of same for the benefit of the Unitholders in accordance with and subject to the provisions of this Declaration of Trust.

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions

In this Declaration of Trust the following terms have the following meanings:

- (a) “**Affiliate**” means a Person deemed to be an affiliate of another Person if one of them is an “**associate**” or “**insider**” (as those terms are defined in the Securities Act) of the other, or if they are “**affiliated companies**” or if one of them is “**controlled**” by or a “**subsidiary**” of the other within the meanings ascribed to those terms in the Securities Act.
- (b) “**Agent**” means Westcourt Capital Corporation or such other Person as may be appointed as an agent in connection with distribution of Units of the Fund in accordance with the terms hereof.
- (c) “**Applicable Law**” in respect of any Person, property, transaction, or event means all present and future laws, statutes, regulations, treaties, judgments, and decrees applicable to that Person, property, transaction, or event and, whether or not having the force of law, all applicable requirements, requests, official directives, rules, consents, approvals, authorizations, guidelines, orders, and policies of any Governmental Authority having or purporting to have authority over that Person, property, transaction, or event.
- (d) “**Auditor**” means the firm of chartered accountants holding office at any time pursuant to Section 7.1 hereof.
- (e) “**Business Day**” means any day (other than a Saturday, Sunday, or a statutory holiday in Vancouver, British Columbia) on which the Toronto Stock Exchange is open for trading.
- (f) “**Cash Equivalents**” has the meaning ascribed thereto in National Instrument 81-102 *Investment Funds* of the Canadian Securities Administrators.

- (g) “**Class**” means a particular class of Units.
- (h) “**Class Net Asset Value**” means the net asset value of any Class of Units determined from time to time in accordance with the terms hereof.
- (i) “**Class Net Asset Value per Unit**” means the Net Asset Value attributable to each Unit of the applicable Class determined from time to time in accordance with the terms hereof.
- (j) “**Communications**” has the meaning ascribed thereto in Section 17.2.
- (k) “**Counsel**” means any Person qualified and engaged in the practice of law in the jurisdiction applicable with respect to the matter in question.
- (l) “**Court**” means any court of competent jurisdiction.
- (m) “**CRA**” means the Canada Revenue Agency.
- (n) “**Custodian**” means the custodian of the Fund Property as may be appointed by the Manager from time to time pursuant to Section 6.1, which may be the prime broker of the Fund.
- (o) “**Declaration of Trust**”, “**hereto**”, “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**”, and similar expressions refer to this instrument in its entirety, as may be amended, restated, and/or supplemented from time to time, and not to any particular Article, Section, or portion hereof, and include any and every instrument supplemental or ancillary hereto and any and every Schedule hereto; “**Article**”, “**Schedule**”, “**Section**”, and “**Subsection**” refer to the specified article, schedule, section, or subsection of this Declaration of Trust.
- (p) “**Extraordinary Resolution**” means:
 - (i) a resolution approved by more than 75% of the votes cast in person or by proxy at a duly constituted meeting of Unitholders or Unitholders of a Class (as applicable) called in accordance with this Declaration of Trust or at any adjournment thereof; or
 - (ii) a written resolution in one or more counterparts signed by Unitholders or Unitholders of a Class (as applicable) holding in the aggregate more than 75% of the aggregate number of outstanding Units or Units of the applicable Class, as the case may be.
- (q) “**financial institution**” has the meaning given to such term in section 142.2 of the Tax Act.
- (r) “**Fund**” means PG Global Private Equity Canada Access Fund, an open-ended investment trust established under the laws of the Province of British Columbia, pursuant to this Declaration of Trust.

- (s) **“Fund Property”** at any time, means any and all securities, property, and assets, real and personal, tangible and intangible, transferred, conveyed, or paid to the Fund including:
 - (i) all proceeds realized from the issuance of Units of the Fund;
 - (ii) all investments, sums, or property of any type or description from time to time delivered to the Trustee or held for its account and accepted by the Trustee in accordance with this Declaration of Trust for the purposes of the Fund;
 - (iii) any proceeds of disposition of any of the foregoing property and assets; and
 - (iv) all income, interest, profit, gains and accretions, and additional rights arising from or accruing to such foregoing property or such proceeds of disposition.
- (t) **“Governmental Authority”** means any domestic or foreign government or regulatory authority including, without limitation, any federal, provincial, state, territorial, or municipal government, and any government agency, tribunal, commission, stock exchange, self-regulatory authority, or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory, or administrative authority.
- (u) **“Indemnified Persons”** has the meaning ascribed thereto in Section 16.2(5).
- (v) **“Investment Objective”** means the investment objective of the Fund as set forth in Section 9.2, as the same may be changed from time to time in accordance with the provisions hereof and Applicable Laws.
- (w) **“issuer”** has the meaning ascribed thereto in the Securities Act.
- (x) **“Manager”** shall mean Spartan Fund Management Inc. or such other Person as may be appointed as manager of the Fund in accordance with the terms hereof.
- (y) **“Management Fee”** has the meaning ascribed thereto in Section 8.2.
- (z) **“Master Fund”** means Partners Group Global Value SICAV, a company organized as a société anonyme under the laws of the Grand Duchy of Luxembourg and qualifies as a société d’investissement à capital variable (SICAV).
- (aa) **“Net Asset Value”** or **“NAV”** means the net asset value of the Fund, Class, Series, as applicable, determined from time to time in accordance with the terms hereof.
- (bb) **“Net Asset Value per Unit”** or **“NAV per Unit”** means the Net Asset Value attributable to each Unit of the Fund, Class, Series, as applicable, determined from time to time in accordance with the terms hereof.
- (cc) **“NI 45-106”** means National Instrument 45-106 *Prospectus Exemptions* of the Canadian Securities Administrators.

- (dd) “**NI 81-106**” means National Instrument 81-106 *Investment Fund Continuous Disclosure* of the Canadian Securities Administrators.
- (ee) “**Offering**” means the offering of Units of the Fund on a continuous basis pursuant to exemptions from the prospectus and, where applicable, registration requirements of applicable securities legislation.
- (ff) “**Offering Jurisdictions**” means, collectively, the provinces and territories of Canada, and such other jurisdictions as may be determined by the Trustee.
- (gg) “**Offering Memorandum**” means the offering memorandum or other principal disclosure document as may be used by the Manager in connection with the distribution of Units of the Fund, as the same may be amended, restated, and/or supplemented from time to time.
- (hh) “**Person**” means any natural person, sole proprietorship, partnership, corporation, trust, joint venture, any Governmental Authority, or any incorporated or unincorporated entity or association of any nature.
- (ii) “**Portfolio**” means the Fund’s investment portfolio.
- (jj) “**Redemption Charge**” means an amount that may be deducted by the Fund from any redemption proceeds payable in connection with the redemption of Units equal to the sum of: (i) up to five percent (5%) of the applicable Net Asset Value per Unit for the redeemed Units (or such other amount as may be determined by the Trustee as set out in the Offering Memorandum); and (ii) the amount of any expense, charge, discount, fee, or other amount incurred or borne by the Fund in connection with the disposition of assets to fund a redemption of Units.
- (kk) “**Redemption Date**” means the last Business Day of each month or on such other date as the Manager may permit.
- (ll) “**Register**” means the register or registers established and maintained pursuant to Section 10.9.
- (mm) “**Registered Dealers**” means dealers or brokers that are registered under applicable securities laws of the Offering Jurisdictions to sell securities of investment funds and that are not restricted from selling the Units including, for greater certainty, dealers registered in the category of exempt market dealers.
- (nn) “**Registrar and Transfer Agent**” means any registrar and transfer agent of the Units appointed by the Manager in accordance with Section 10.10.
- (oo) “**Replacement Manager**” means such Person as may be appointed under Section 5.4 to assume some or all of the powers, duties, and responsibilities initially reserved by the Manager under the terms of this Declaration of Trust, or any Person appointed as a replacement for a Replacement Manager in accordance with the provisions hereof.
- (pp) “**Securities Act**” means the *Securities Act* (British Columbia), as now or hereafter amended, or successor statutes, and shall include regulations promulgated thereunder and the rules promulgated by the British Columbia Securities Commission.

- (qq) “**Securities Authorities**” means the securities regulatory authorities in each province and territory of Canada.
- (rr) “**Series**” or “**Series of Units**” means a particular series of a Class of Units.
- (ss) “**Series Net Asset Value**” means the net asset value of any Series of Units determined from time to time in accordance with the terms hereof.
- (tt) “**Series Net Asset Value per Unit**” means the Net Asset Value attributable to each Unit of the applicable Series determined from time to time in accordance with the terms hereof.
- (uu) “**Subscription Agreement**” means the subscription agreement an investor must complete to subscribe for Units.
- (vv) “**Subscription Date**” means any Valuation Date that the Units are available for subscription or such other date as the Manager may permit.
- (ww) “**Tax Act**” means the *Income Tax Act* (Canada) as amended from time to time and all regulations promulgated thereunder.
- (xx) “**Termination Date**” has the meaning ascribed thereto in Section 15.6;
- (yy) “**Trustee**” means Spartan Fund Management Inc. or such other Person as may be appointed as replacement or successor Trustee in accordance with the provisions hereof.
- (zz) “**Unit**” means a unit of the Fund, which evidences the proportionate ownership interest of a Unitholder in the capital of the Fund, and “**Units**” means, collectively, the units of the Fund authorized and issued from time to time.
- (aaa) “**Unitholder**” means a Person whose name appears on the Register of the Fund as a holder of Units.
- (bbb) “**Valuation Agent**” means SGGG Fund Services Inc., the registrar and fund administrator of the Fund, until its replacement is appointed by the Manager.
- (ccc) “**Valuation Date**” means the last Business Day of any month and December 31 or any such other day as determined from time to time by the Manager.
- (ddd) “**Valuation Time**” means 4:00 p.m. (ET) or such other time as the Manager, in its discretion, deems appropriate to determine the Net Asset Value per Unit and the Net Asset Value of the Fund and/or a Class or Series of Units, as applicable.

Section 1.2 Business Day

Unless otherwise specified, if under this Declaration of Trust any payment or calculation is to be made, or any other action is to be taken, on or as of a day that is not a Business Day, that payment or calculation is to be made, and that other action is to be taken, as applicable, on or as of the next day that is a Business Day.

Section 1.3 Headings and Table of Contents

The division of this Declaration of Trust into Articles and Sections, the insertion of headings, and the provision of a table of contents are for convenience of reference only and are not to affect the construction or interpretation of this Declaration of Trust.

Section 1.4 Extended Meanings

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. “Including” means “including without limitation”, and “include” has a corresponding meaning.

Section 1.5 References

Unless otherwise specified, references in this Declaration of Trust to Sections and Schedules are to sections of and schedules to, this Declaration of Trust. References in this Declaration of Trust to “hereto”, “herein”, “hereof”, “hereby”, “hereunder”, and similar expressions shall be deemed to refer to this Declaration of Trust and shall not be limited to the particular text or Section in which such words appear.

Section 1.6 Statutory References

Any reference herein to a statute or regulations thereunder shall be deemed to be a reference to such statute or regulations as amended, re-enacted, or replaced from time to time and reference to specific parts, paragraphs, or sections thereof shall include all amendments, re-enactments, or replacements.

Section 1.7 Time of Day

Unless otherwise specified, references to a time of day or date mean the local time or date in the City of Vancouver in the Province of British Columbia.

Section 1.8 Rights of Unitholders

A Unitholder in a Fund shall have no rights other than those rights expressly provided for Unitholders in this Declaration of Trust.

Section 1.9 Conflict

If there is a conflict between any provision of this Declaration of Trust and any provision of the Offering Memorandum, the relevant provision of this Declaration of Trust shall prevail.

Section 1.10 Currency

Unless otherwise specified, all references herein to currency shall be references to the lawful money of Canada.

ARTICLE 2 THE TRUST

Section 2.1 Acceptance of the Fund

The Trustee hereby declares itself as trustee of the Fund and undertakes to hold as trustee of the Fund all of the Fund Property from time to time in trust for the benefit of the Unitholders, their successors, permitted assigns, and personal representatives and to invest, dispose of, and otherwise deal with the Fund Property upon the trusts, in the manner, and subject to the provisions of this Declaration of Trust.

Section 2.2 Name

The Fund shall be known by the name “PG Global Private Equity Canada Access Fund” and the Fund may at any time adopt a French version of its name at the sole discretion of the Trustee, and, insofar as may be practicable and legal, the affairs of the Fund shall be conducted and transacted under such name, it being the intention that such name shall refer to the Fund and shall not refer to the Trustee, the Manager, the Unitholders, or their respective officers, directors, or employees. Should the Trustee determine that the use of that name is not practicable, legal, or convenient, the Trustee may use any other designation or may adopt any other name for the Fund that it deems appropriate and give thirty (30) days’ prior written notice to the Unitholders thereof of such other name. Following any such notice, the Trustee shall cause to be executed and delivered all instruments and do all things necessary to effect the foregoing.

Section 2.3 Situs and Head Office

The head office and the principal office and situs of the administration of the Fund shall be located at the address of the Manager, being Suite 200 – 150 King Street West, Toronto, Ontario, Canada M5H 1J9 or at such other location as shall be designated by the Trustee from time to time.

Section 2.4 Nature of the Fund

- (1) The Fund is not intended to be, shall not be deemed to be, and shall not be treated as, a general partnership, limited partnership, joint venture, agency, or joint stock company. The Fund is a trust whose beneficiaries are the holders of Units. The relationship of the Unitholders to the Trustee shall be solely in the capacity of beneficiaries, and the rights, liabilities, and obligations of the Unitholders shall be only those conferred or imposed upon Unitholders hereunder. There is no relationship of one Unitholder to another hereunder save that of each being a beneficiary under the same trust.
- (2) The general law of trusts of the Province of British Columbia shall govern the Fund, the Units, and the Fund Property, except as such general law of trusts has been or is from time to time modified, altered, or abridged for investment trusts and for the Fund by:
 - (a) Applicable Law, regulations, or other requirements imposed by applicable regulatory authorities; and
 - (b) the terms, conditions, and trusts set forth in this Declaration of Trust.

Section 2.5 Undertaking of the Fund

- (1) The Fund created hereby is an investment trust. The undertaking of the Fund is restricted to:
 - (a) investing its assets in the manner contemplated hereunder for the benefit of the Unitholders;
 - (b) acquiring and holding the Portfolio in accordance with the Investment Objective, investment strategies, and investment restrictions of the Fund and any description pertaining thereto in the Offering Memorandum; and
 - (c) holding cash and Cash Equivalents.
- (2) For greater certainty, the Fund will not engage in any undertaking other than the investment of the Fund Property in accordance with the provisions of Article 9. In addition, the Trustee has the general and specific powers provided for herein in conducting and carrying out the Fund's undertaking.

Section 2.6 Tax Year End and Financial Year End

The tax year of the Fund shall end on the last day of December in each year and the first tax year of the Fund shall end on December 31, 2023. The Manager shall notify the Unitholders of the Fund of any change in the financial year or tax year of the Fund.

Section 2.7 Duration

The Fund created hereby shall commence on the date of execution of this Declaration of Trust and, subject to the provisions of Section 4.7, Section 5.5, and Section 15.6 hereof, shall be terminated on the Termination Date.

Section 2.8 Mutual Fund Trust Election

In respect of the first taxation year of the Fund, the Fund shall elect pursuant to subsection 132(6.1) of the Tax Act, to the maximum extent permitted by the Tax Act, that the Fund be deemed to be a mutual fund trust for the entire year.

ARTICLE 3 POWERS AND DUTIES OF THE TRUSTEE

Section 3.1 General Powers

- (1) The Trustee, subject only to the specific limitations and reservations contained in this Declaration of Trust, shall have full, absolute, and exclusive power, control, and authority over the Fund Property and over the business and affairs of the Fund to the same extent as if the Trustee were the sole owner thereof 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, the carrying out of any of the purposes of the Fund or the conducting of the business of the Fund. In construing the provisions of this Declaration of Trust, presumption shall be in favour of the grant of powers and authority to the Trustee.

- (2) Except as specifically required by any Applicable Law or by the express provisions hereof, the Trustee shall not be in any way restricted by the provisions of any jurisdiction limiting or purporting to limit investments that may be made by trustees.

Section 3.2 Specific Powers

- (1) The enumeration of specific powers and authorities herein are in addition to the general powers granted in Section 3.1 and elsewhere in this Declaration of Trust 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.
- (2) Subject to Section 2.5, Article 5, and Article 9, the Trustee, without any action or consent by the Unitholders, shall have and may exercise, at any time and from time to time, the following powers and authorities:
- (a) to hold the Fund Property;
 - (b)
 - (i) to purchase, or otherwise acquire, any securities, currencies, or other property of any kind and to purchase, hold, and retain the same in trust hereunder;
 - (ii) to sell, convey, exchange for other securities or other property, convert, transfer, assign, pledge, encumber, or otherwise create any interest in favour of third parties in or dispose of any securities forming part of the Fund Property or any other Fund Property at any time, by any means considered reasonable by the Trustee, and to receive the consideration and grant discharges therefor;
 - (iii) to exercise any conversion privileges, subscription rights, warrants, and/or other rights or options available in connection with any securities or other Fund Property at any time held by the Trustee, and to make any payments incidental thereto; and
 - (iv) to hold such portion of the Fund Property in cash and Cash Equivalents as the Manager from time to time may deem to be in the best interest of the Fund;
 - (c) to commence, defend, adjust, or settle suits or legal proceedings in connection with the Fund or Fund Property and to represent the Fund in any such suits or legal proceedings; provided, however, that the Trustee shall not be obliged or required to do so unless it has been indemnified to its satisfaction against all expenses and liabilities sustained or anticipated by the Trustee by reason thereof;
 - (d) to maintain such books, records, and accounts of the Fund as are necessary and appropriate to document the Fund Property and transactions of the Fund and as agreed upon between the Trustee and the Manager;
 - (e) to incur and pay out of the Fund Property any charges or expenses and disburse any funds of the Fund, which charges, expenses, or disbursements are, in the opinion of the Trustee, necessary or incidental to or desirable for the carrying out of any of the purposes of the Fund or conducting the business of the Fund including, without

limitation, taxes or other governmental levies, brokerage commissions, charges, and assessments of whatever kind or nature imposed upon or against the Trustee in connection with the Fund or the Fund Property or upon or against the Fund Property or any part thereof and for any of the purposes herein;

- (f) upon the direction of the Manager, to purchase and pay for out of the assets of the Fund insurance contracts and policies insuring the assets of the Fund against any and all risks and insuring the Fund and/or the Trustee, the Manager, any consultant or agent of the Fund (including the directors, officers, and employees of the Fund and/or Trustee, the Manager, and any consultant or agent of the Fund), or the Unitholders;
- (g) subject to the terms of this Declaration of Trust and to the extent permitted by Applicable Law, to indemnify those Persons designated by the Manager pursuant to Section 16.2(5) to be indemnified out of the Fund Property for any claims, costs, charges, and expenses in connection with or related to the affairs of the Fund, provided that in conjunction therewith: (i) the Trustee acknowledges that the Manager shall deal with the trustee for such Person that is entitled to such indemnification and that is not a party to this Declaration of Trust; (ii) nothing in this paragraph shall be deemed to protect such Person against any liability to one or more of the Fund, the Trustee, the Manager, or any Unitholders in any circumstances where such Person would be so liable under the terms of any agreement between such Person and the Manager; and (iii) the Trustee shall in its reasonable discretion and at the expense of the Fund have the right to satisfy itself in accordance with the terms of this Declaration of Trust that any such indemnity is in the best interests of the Fund prior to any payment with respect thereto;
- (h) to register the securities or other Fund Property 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 the Fund to do otherwise; and the Trustee is hereby expressly empowered to keep the same, wholly or partly, in its principal office or at the office of any financial institution, including, if applicable, any domestic or foreign depository or clearing agency that is duly authorized to operate a book-based system (including a transnational book-based system) 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 securities and other Fund Property at all times are kept distinct from its own assets and those of its nominees, other depositories, and any other Person in the registers and other books of account kept by the Trustee;
- (i) upon the direction of the Manager, to make, execute, acknowledge, and deliver any and all 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 the Fund or for a lesser term;
- (j) to employ such counsel, auditors, 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 pay out of the Fund Property their reasonable expenses and compensation;

- (k) to delegate any of the powers and duties of the Trustee under this Declaration of Trust to any one or more agents, representatives, officers, employees, independent contractors, or other Persons, including the Manager (with the power of sub-delegation of any of its powers and duties to another Person), where, in the discretion of the Trustee, it would be in the best interest of the Fund to do so, without liability to the Trustee except as provided in this Declaration of Trust; and
- (l) to do all such acts, take all such proceedings, execute all such documents, and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to administer the Fund and to carry out the purposes of the Fund.

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.

Section 3.3 Dealing with Others and Self

Subject to the other provisions of this Declaration of Trust, the Trustee may, and is hereby expressly authorized from time to time in its discretion to, appoint, employ, invest in, contract, or deal with any Person including, without limitation, itself or any Person with which it may be directly or indirectly 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), and, without limiting the generality of the foregoing (except as set out below), the Trustee 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 Fund, whether on the Trustee'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 the trustee hereunder, provided that such use does not adversely affect the interests of the Fund or Unitholders and provided further that the Trustee may not make use of any specific confidential information for its own benefit or advantage that, if generally known, might be expected to affect the value of the securities or other property of the Fund;
- (d) retain cash balances from time to time on hand in the Fund and pay interest to the Fund on such balances and the Trustee may, in its sole discretion:
 - (i) hold the same on a pooled basis and pay interest thereon at the rate from time to time established by the Trustee and paid with respect to cash balances so held for similar accounts; or
 - (ii) hold such cash balances on deposit with a Canadian chartered bank or such other deposit-taking institution in any jurisdiction, including itself or its affiliates, in such interest bearing account as the Trustee in its discretion may determine;
- (e) invest in the securities or other property of any body corporate with which the Trustee 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.

Section 3.4 Disposition of Fund Property

The Trustee may dispose of any Fund Property on such terms as the Trustee may determine in its sole discretion for the purpose of paying any obligations imposed on the Fund. The Trustee shall give prompt and reasonable notice to the Manager prior to any such proposed disposition of Fund Property.

Section 3.5 Confidentiality

No information obtained by the Trustee with respect to the Fund and its investments shall be disclosed to any person except to the extent that such disclosure is necessary or on a need to know basis for the purposes of the proper administration of the Fund, is otherwise authorized under this Declaration of Trust, or required by Applicable Law.

Section 3.6 Trustee's Accounts

Subject to the appointment of an Auditor of the Fund, the Trustee shall keep or cause to be kept such books, records, and accounts as are necessary and appropriate to document the Fund Property and transactions of the Fund. Upon the appointment of the Auditor to audit the accounts of the Fund for a particular period and provided that:

- (1) the Auditor is a nationally recognized firm of chartered accountants that has an office within the Province of British Columbia; and
- (2) the Auditor's report to the Unitholders is to the effect that the Auditor's examination included a general review of the accounting procedures and such tests of accounting records and other supporting evidence as the Auditor considered necessary in the circumstances and states without qualification that in the opinion of the Auditor the financial statements present fairly the financial position of the Fund as at the end of the period for which the audit was made and the revenues and expenses of the Fund for the period under review are in accordance with Canadian generally accepted accounting principles, consistently applied (after the first fiscal period),

then such audited financial statements shall be a complete accounting of the Trustee's administration for the period included therein and the Trustee shall not be required to give a further or better accounting to any Unitholder or to any other Person.

Section 3.7 Restrictions on Trustee

The Trustee may not:

- (1) commingle funds of the Fund with the Trustee's funds; or
- (2) dissolve the Fund or wind up the Fund's affairs except as otherwise provided for herein.

Section 3.8 Reliance

The Trustee shall be entitled to rely on statements, reports, advice, or opinions (including financial statements and Auditor's reports) of consultants, the Auditor, Counsel, and consultants or agents whose profession gives authority to a statement made by them on the subject in question and who are considered by the Trustee to be competent. The Trustee may rely and act upon any instrument or other document believed by it to be genuine and in force and shall have no liability to any Person as a result of such reliance, except in the case of negligence or wilful misconduct.

Section 3.9 Allocation of Investment Opportunities

The Trustee agrees that it will or, if the Trustee has appointed a Manager, it will cause the Manager to agree that the Manager will allocate opportunities to make and dispose of investments fairly among clients who have similar investment objectives in accordance with the policies of any such Person that are in place from time to time.

ARTICLE 4 REMOVAL AND REPLACEMENT OF THE TRUSTEE

Section 4.1 Removal of Trustee

Subject to Section 4.6(5), the Trustee may be removed on sixty (60) days' written notice in the event the Trustee is in material breach or material default of the provisions of this Declaration of Trust, and, if capable of being cured, such breach or default has not been cured within twenty (20) Business Days' from written notice to the Trustee of such breach or default, if such removal has been approved by Extraordinary Resolution of the Unitholders.

Section 4.2 Resignation of Trustee

- (1) Subject to Section 4.2(2) and Section 4.6(5), the Trustee may resign at any time upon ninety (90) days' written notice to the Unitholders.
- (2) Such resignation shall take effect on the date specified in such notice, unless at or prior to such date a successor trustee is appointed in which case such resignation shall take effect immediately upon the appointment of such successor trustee.

Section 4.3 Deemed Resignation of Trustee

Subject to Section 4.6(5), the Trustee shall be deemed to have resigned without notice if an order is made or a resolution is passed or other proceeding is taken for the dissolution of the Trustee, if the Trustee consents to or makes a general assignment for the benefit of creditors or makes a proposal to creditors under any insolvency laws, if the Trustee is declared bankrupt, or if a liquidator or trustee in bankruptcy, custodian or receiver or receiver and administrator or interim receiver, or other officer with similar powers is appointed in respect of the Trustee, if the Trustee ceases to be resident in Canada for the purposes of the Tax Act, or if, in accordance with the provisions of Applicable Law, the Trustee ceases to be qualified to act as trustee hereunder.

Section 4.4 Appointment of Replacement Trustee

- (1) In the event that the Trustee is removed in accordance with Section 4.1, a replacement trustee to assume the responsibilities of the Trustee hereunder shall be elected by a majority of the

votes cast by Unitholders at the meeting at which the Trustee's removal was approved. In the event that the Trustee resigns or is deemed to resign in accordance with Section 4.2 or Section 4.3, a replacement trustee to assume the responsibilities of the Trustee hereunder shall be nominated by the Manager and shall be elected by a majority of votes cast at a special meeting of the Unitholders called by the Manager for this purpose; provided that, the Trustee may be replaced with an Affiliate of the Manager or a registered trust company nominated by the Manager without requiring such replacement trustee to be elected or otherwise approved or consented to by Unitholders.

- (2) Forthwith following any appointment of a successor trustee, the former trustee shall account to the new trustee for all Fund Property that the former trustee holds as trustee, and shall execute and deliver such documents as the new trustee may reasonably require to evidence the conveyance of any Fund Property held in the trustee's name.

Section 4.5 Amalgamation of Trustee

Any company resulting from any amalgamation or merger to which the Trustee may be party or succeeding to the trust business of the Trustee or to which substantially all of the trust assets of the Trustee may be transferred while the Trustee continues to act as trustee of the Fund shall be the successor to the Trustee hereunder without any further act or formality with like effect as if such replacement trustee had originally been named trustee herein, provided that the Trustee shall not amalgamate, transfer the trust assets, or change residence unless, in the opinion of Counsel to the Fund, to do so would not adversely affect the Fund.

Section 4.6 Effect of Resignation or Removal of Trustee

- (1) The removal or resignation of the Trustee pursuant to Section 4.1, Section 4.2, or Section 4.3 shall become effective only on the acceptance of appointment by a successor trustee in accordance with Section 4.4 and this Section 4.6.
- (2) If, after the resignation or removal of the Trustee, no successor has been appointed in accordance with the terms of this Declaration of Trust within ninety (90) days of the effective date of the notice provided by the Trustee or the Manager, as applicable, with respect to such resignation or removal, or the deemed resignation of the Trustee, the trustee seeking to be removed or the Manager shall call a meeting of Unitholders within thirty (30) days thereafter for the purpose of appointing a successor trustee. If the Manager fails to call a meeting, any Unitholder may call a meeting of Unitholders of the Fund within forty-five (45) days thereafter for the purpose of appointing a successor trustee. In each case, if, upon the expiry of a further thirty (30) days, neither the Manager nor the Unitholders of the Trust have appointed a successor Trustee, the Trust shall be terminated and the Fund Property shall be distributed in accordance with Article 15.
- (3) The liabilities, duties, and obligations of the Trustee shall automatically terminate when it ceases to be the Trustee as herein provided, subject to such predecessor trustee being liable for the exercise of its powers and the discharge of its duties as herein provided while in office.
- (4) The appointment of any Person as the Trustee shall not be effective unless and until such Person shall have accepted such appointment by instrument in writing containing an undertaking to be bound by the terms of this Declaration of Trust. An acceptance shall be deemed to have been validly given by the successor trustee although given in advance of such

Person's appointment provided that such acceptance contains a provision that it shall take effect immediately upon such appointment and provided that it contains an undertaking to be bound by this Declaration of Trust upon such appointment.

- (5) Failure to appoint a successor trustee in accordance with this Declaration of Trust or failure of a Person to accept appointment as the trustee shall result in the Trustee remaining in office until such time as a successor trustee has been appointed and accepted appointment as the trustee or the Fund has been terminated in accordance with the terms of this Declaration of Trust. If the Trustee is deemed to have resigned pursuant to Section 4.3 and a replacement Trustee is not appointed pursuant to Section 4.4, the Manager or any Unitholder may apply to the Court for the appointment of a replacement trustee.
- (6) Any replacement trustee shall be qualified to act as such under Applicable Law and must at all times be resident in Canada for purposes of the Tax Act and shall perform all its duties and responsibilities in respect of the Fund in Canada.

Section 4.7 Automatic Vesting of Fund Property and Obligations, Debts, and Liabilities of the Fund

- (1) Upon a Person being appointed as Trustee, the Fund Property shall automatically vest in such Person (subject to any then existing security interests in such Fund Property granted by any predecessor trustee in its capacity as trustee of the Fund).
- (2) In the event that a Person ceases to be the trustee, the Fund Property shall automatically vest in the successor trustee (subject to any then existing security interests in such Fund Property granted by any predecessor trustee in its capacity as trustee of the Fund) without the necessity of any act of transfer or transmission by the former trustee. Notwithstanding the foregoing, the Trustee hereby covenants to execute such deeds and other documents as Counsel for the Fund may reasonably request to evidence such automatic vesting.
- (3) Upon a Person being appointed as and accepting its role as Trustee, such Person, in such Person's capacity as trustee of the Fund, will automatically assume and be bound by, and will thereafter perform, observe, and comply with, each and every covenant, agreement, term, condition, debt, liability, obligation, security interest, undertaking, and appointment of the predecessor trustee, in such predecessor's capacity as trustee of the Fund, contained in, existing under, or created by each document or instrument executed and delivered or furnished by any predecessor trustee, in such predecessor's capacity as trustee of the Fund. Notwithstanding the foregoing, the Trustee will execute such deeds and other documents as Counsel for the Fund or any counterparty to any such document or instrument may reasonably request to evidence the foregoing.
- (4) If the Trustee ceases to hold office, the same shall not operate to annul or to terminate the Fund or to revoke or invalidate any agreement made by or on behalf of the Fund hereunder.

ARTICLE 5 THE MANAGER

Section 5.1 Reservation of Powers

The Trustee shall be the initial manager of the Fund and hereby reserves and retains the exclusive power to act as investment fund manager and portfolio manager and to manage and direct

the business, operations, and affairs of the Fund, including the management and investment of the Fund Property and to make all decisions regarding the business of the Fund, and the powers necessary to perform its duties, including for greater certainty the authority to bind the Fund and to enter into such transactions on behalf of the Fund as set out in this Section 5.1 and elsewhere in this Declaration of Trust. Unless the Manager resigns or is removed as provided herein, the Manager will continue as manager until the Termination Date.

Section 5.2 Removal of the Manager

If the Manager is in material breach or material default of its obligations under this Declaration of Trust and, if capable of being cured, such breach or default has not been cured within twenty (20) Business Days' notice of such breach or default to the Manager, the Fund shall give notice thereof to the Unitholders and the Unitholders may remove the Manager by an Extraordinary Resolution and appoint a Replacement Manager of the Fund.

Section 5.3 Resignation of Manager

The Manager may resign at any time upon ninety (90) days' written notice to the Trustee and Unitholders.

Section 5.4 Deemed Resignation of Manager

The Manager shall be deemed to have resigned its rights, powers, duties, and responsibilities under this Declaration of Trust without notice if an order is made or a resolution is passed or other proceeding is taken for the dissolution of the Manager, if the Manager consents to or makes a general assignment for the benefit of creditors or makes a proposal to creditors under any insolvency laws, if the Manager is declared bankrupt, or if a liquidator or trustee in bankruptcy, custodian or receiver or receiver and administrator or interim receiver, or other officer with similar powers is appointed in respect of the Manager, or if the Manager ceases to be resident in Canada for the purposes of the Tax Act.

Section 5.5 Appointment of Replacement Manager

- (1) If the Manager resigns or is deemed to resign pursuant to this Article 5, a Replacement Manager shall forthwith be appointed by the Trustee or the resigning Manager and, unless the Replacement Manager is the Trustee or an Affiliate of the Trustee or the resigning Manager, such appointment must be approved by a majority of the votes cast by Unitholders at a meeting called for such purpose. If the Trustee or the resigning Manager fails to appoint a Replacement Manager, the Unitholders may appoint a Replacement Manager by a majority of the votes cast by Unitholders at a meeting called by Unitholders in accordance with this Declaration of Trust for such purpose. If the Manager is removed by the Unitholders in accordance with Section 5.2, a Replacement Manager shall be appointed by a majority of the votes cast by Unitholders at the meeting at which the Manager's removal was approved.
- (2) Any Replacement Manager must: (i) hold such licenses and registrations under the Applicable Law as are necessary to perform the Manager's duties hereunder; (ii) not be a "non-resident" of Canada for purposes of the Tax Act; and (iii) agree to be bound by the terms hereof.

Section 5.6 Effect of Resignation or Removal of Manager

The removal or resignation of the Manager pursuant to this Article 5 shall only become effective upon the appointment of a Replacement Manager in accordance with Section 5.5. In the event that the Manager resigns or is removed and no Replacement Manager is appointed in accordance with the terms of this Declaration of Trust within ninety (90) days of the Manager giving notice to the Trustee of such resignation or the deemed resignation of the Manager, the Fund will automatically terminate on the date that is sixty (60) days following the end of such ninety (90) day period.

Section 5.7 Amalgamation of Manager

Any company resulting from any amalgamation or merger to which the Manager may be party shall be the successor to the Manager hereunder without any further act or formality with like effect as if such successor manager had originally been named Manager herein. The Manager may assign its rights and obligations under this Declaration of Trust to an Affiliate of the Manager and such Person shall be the successor to the Manager hereunder without further act or formality with like effect as if such successor manager had originally been named as Manager herein.

Section 5.8 Capacity of Manager

Where any reference is made in this Declaration of Trust to any act to be performed by or on behalf of the Manager, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by or on behalf of the Manager in its capacity as manager of the Fund.

Section 5.9 Powers and Duties of Manager

The Manager has exclusive authority to manage the operations and affairs of the Fund, including the management and investment of the Fund Property, and to make all decisions regarding the business and undertaking of the Fund and has the authority to bind the Fund. The Manager may delegate its powers hereunder to third parties where, in the discretion of the Manager, it would be in the best interests of the Fund to do so. Without limiting the generality of the foregoing, in addition to the duties of the Manager set forth elsewhere herein, the Manager shall have the following rights and shall perform the following duties:

- (a) subject to Section 2.5 and Article 9, be responsible for determining the Investment Objective, investment strategies, and investment restrictions of the Fund and implementing or arranging for the implementation thereof;
- (b) maintaining the accounting records for the Fund;
- (c) appointing the Auditor and changing the Auditor of the Fund;
- (d) appointing the Fund's bankers and establishing banking procedures to be implemented by the Trustee or the Manager;
- (e) appointing an administrator and/or a Valuation Agent to provide administrative services to the Fund;
- (f) appointing a registrar and transfer agent;

- (g) authorizing, negotiating, entering into, and executing all contractual arrangements or other documentation on behalf of the Fund;
- (h) providing services in respect of the Fund's daily operations, including the processing of and the determination of the procedures applicable in respect of subscriptions for or redemptions requests with respect to Units (including the acceptance and rejection of subscriptions and redemption requests), including completing all necessary forms required under the relevant securities legislation and regulations and submitting such subscriptions, redemptions requests, and associated forms for processing, and providing any other services not otherwise specifically contemplated by this Declaration of Trust;
- (i) providing to the Fund all requisite office accommodation, office facilities, personnel, telephone and telecommunication services, stationery, office supplies, statistical and research services, record keeping services, bookkeeping and internal accounting and audit services in respect of the operations of the Fund, and other usual and ordinary office services adequate for carrying on the undertaking and business of the Fund;
- (j) providing to the Fund or arranging for the provision of all other administrative and other services and facilities required by the Fund in relation to the Unitholders including, without limitation, the preparation for and holding of meetings of Unitholders, registry and transfer agency services, dividend and distribution crediting services, and other services for the provision of information to Unitholders;
- (k) determining from time to time the form of certificate representing the Units or other securities of the Fund, if any;
- (l) subject to Article 13, determining when, to what extent, and in what manner distributions shall be made payable to Unitholders;
- (m) appointing a distribution agent to make distributions of income, capital gains, and other distributions in accordance with Article 13 and to pay redemption proceeds in accordance with Article 11 on behalf of the Fund, as deemed necessary;
- (n) reviewing the valuation of the Fund's assets as calculated by the Valuation Agent and, from time to time, the appropriateness of the valuation policies adopted by the Fund;
- (o) be responsible for ensuring that the Fund complies with regulatory requirements, including all applicable securities laws, regulations, and policies relating to the investment of the Fund Property and the distribution of securities of the Fund;
- (p) subject to the terms hereof, be responsible for determining the assets and liabilities attributable to the Classes of Units and the allocation of fees and expenses incurred by the Fund;
- (q) entering into arrangements regarding the distribution, sale, and marketing of Units, including arrangements relating to the right to charge fees of any nature or kind (including, without limitation, sales commissions, distribution fees, and transfer fees) in connection with the distribution or sale of Units;

- (r) have the power and authority to make distributions in Units and/or reinvest distributions made pursuant to Article 13 in additional Units, to authorize the issuance of such additional Units, and to authorize the consolidation of the Units outstanding after such a distribution;
- (s) administering the redemption of Units in accordance with Article 11;
- (t) entering into agreements to indemnify Persons in accordance with this Declaration of Trust and Applicable Law;
- (u) preparing, providing copies to the Trustee for execution, and filing the Fund's tax returns, the Fund's interim financial statements and annual audited financial statements and related information and the Fund's reports to Unitholders and the Securities Authorities, making all designations, elections, determinations, allocations, and applications under the Tax Act as the Manager considers to be reasonable in the circumstances, satisfying, performing, and discharging all obligations and responsibilities of the Manager under the Tax Act (including any obligations of the Fund under Part XIII of the Tax Act) and any other Applicable Law, and preparing any other financial, tax, or accounting information as required by the Trustee or Applicable Law;
- (v) preparing, executing, and filing with the applicable Securities Authorities the Offering Memorandum or such other document, and any amendments thereto, relating to or resulting from the Offering and paying or authorizing the payment of all costs thereof and related thereto on behalf of the Fund out of the Fund Property;
- (w) ensure that Unitholders are provided with financial statements and other reports as are required from time to time by Applicable Law;
- (x) establishing the Fund's operating expense budgets and authorizing the payment of operating expenses incurred;
- (y) providing the Trustee with information and reports that the Trustee considers necessary to fulfil its fiduciary responsibilities;
- (z) to waive any default whether in the performance of any covenant or condition of any security or other 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 and 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;
- (aa) negotiating and entering into on behalf of the Fund any agreement, instrument, or other document relating to the affairs of the Fund or performing any act or deed that it deems necessary or advisable and in the best interests of the Fund;
- (bb) keeping proper records relating to the performance of its duties as manager hereunder;

- (cc) arranging for any payment or disposition of Fund Property required on or about the Termination Date;
- (dd) monitoring the beneficial ownership of Units by non-residents of Canada for the purpose of complying with Section 10.8; and
- (ee) doing all such other acts and things as are incidental to the foregoing, and exercising all powers that are necessary or desirable to carry on the business of the Fund, to promote any of the purposes for which the Fund is formed, and to carry out the provisions of this Declaration of Trust,

and the Manager may delegate any of its powers hereunder to third parties where, in the discretion of the Manager, it would be in the best interests of the Fund to do so.

Section 5.10 Restrictions on Manager

The Manager may not:

- (a) commingle funds of the Fund with the Manager's funds;
- (b) dissolve the Fund or wind up the Fund's affairs except as otherwise provided for herein; or
- (c) manage the affairs of the Fund from outside of Canada.

Section 5.11 Custody of Securities

Nothing in this Declaration of Trust shall be construed as authorizing the Manager to take custody of any of the Fund Property, which shall at all times be held by the Trustee or Custodian, if any, or any third party to which Fund Property shall have been pledged as security.

Section 5.12 Reliance

The Manager shall be entitled to rely on statements, reports, advice, or opinions (including financial statements and Auditor's reports) of consultants, the Auditor, Counsel, and consultants or agents whose profession gives authority to a statement made by them on the subject in question and who are considered by the Manager to be competent. The Manager may rely and act upon any instrument or other document believed by it to be genuine and in force and shall have no liability to any Person as a result of such reliance.

Section 5.13 Powers and Duties of the Manager relating to the Portfolio

- (1) Unless the Manager shall appoint a portfolio sub-adviser to act as the portfolio sub-adviser to the Fund, the Manager shall have responsibility for the investment advisory and portfolio management services for the Fund, to have the following rights and perform the following duties with respect to the Fund Property:
 - (a) subject to Section 2.5 and Article 9, determine and manage the Portfolio and invest cash balances of the Fund in accordance with the Investment Objective, investment strategies, and investment restrictions of the Fund;

- (b) direct the Trustee and the Manager with regard to the investment of the Fund Property in accordance with the Investment Objective, investment strategies, and investment restrictions of the Fund pursuant to the applicable provisions of Section 3.2 and Section 5.8 of this Declaration of Trust;
- (c) structure and negotiate prospective investments;
- (d) arrange for the execution of all portfolio transactions, including the selection of the market, dealer, or broker, and negotiate commissions, in each case as the Manager may determine with notice to the Trustee so as to enable it to carry out its duties, and generally seek to obtain overall services and prompt execution of orders on favourable terms;
- (e) monitor the performance of the Portfolio;
- (f) determine the timing, terms, and method of disposing of investments;
- (g) advise the Valuation Agent promptly of all information that is relevant to the valuation of the Fund Property, including any changes in the holdings of the Fund, any circumstances of which it is or should be aware that would necessitate an adjustment to a valuation, and any adjustments to the valuation of investments that are subject to a hold period, resale restriction, or similar constraint;
- (h) advise the Trustee by written, oral, or electronic communication of all transactions in connection with the management of the Fund Property for the purpose of settling all purchases and sales relating thereto initiated by the Manager;
- (i) issue such orders and directions to the Trustee as may be necessary or appropriate with respect to the disposition and application of monies or securities of the Fund from time to time held by the Trustee;
- (j) research, analyse, present, and make recommendations with respect to the selection of securities for purchase and sale;
- (k) if so requested by the Trustee, act as attorney-in-fact, nominee, or agent of the Trustee in fulfilling the obligations of the Fund in the execution of documents as applicable pursuant to this Declaration of Trust and in the enforcement of rights attaching to the Fund Property (in each case subject to the Investment Objective, investment strategies, and investment restrictions of the Fund; provided, however, that the Manager shall not be obliged to engage Counsel or other agents or professional advisors in protecting or enforcing rights attaching to Fund Property unless and until it shall have been indemnified to its reasonable satisfaction by the Fund with respect to all costs and liabilities relating thereto, and the Manager shall have no liability to the Fund for failing to do so in the absence of such indemnity);
- (l) in connection with its obligations hereunder, open, maintain, conduct, and close such accounts, including margin accounts, with any broker, dealer, or investment concern as may be necessary or appropriate for the performance of the investment advisory and portfolio management services described in this Section 5.13;

- (m) determining (i) whether and in what manner to vote, and execute or cause to be executed proxies respecting the voting of, securities at all meetings of holders of securities or other Fund Property and (ii) the manner of exercise of any right appurtenant to any securities or other Fund Property held at any time, provided in each case that the Trustee has properly delivered or has caused to be delivered to the Manager the proxy materials in connection with such meetings;
- (n) to consent to, or otherwise participate in or dissent from, the reorganization, consolidation, amalgamation, or merger of any corporation, company, trust, or association, or to the sale, mortgage, pledge, or lease of the property of any corporation, company, trust, or association, any of the securities of which may at any time be held by the Fund, and to do any act with reference thereto, including the delegation of discretionary powers, the exercise of options, the making of agreements or subscriptions and the payment of expenses, assessments, or subscriptions that it may deem necessary or advisable in connection therewith and to hold any securities or other property that it may so acquire and generally to exercise any of the powers of an owner with respect to securities or other Fund Property;
- (o) to renew or extend or participate in the renewal or extension of any securities or other Fund Property and to agree to a reduction in the rate of interest on any security or other Fund Property or of any guarantee pertaining thereto;
- (p) to borrow or enter into leveraged transactions in accordance with the terms of this Declaration of Trust;
- (q) to enter into and settle foreign exchange transactions on behalf of the Fund for purposes of (i) facilitating settlement of trades of securities or other Fund Property and (ii) currency hedging or other purposes, and any such transaction may be entered into with such counterparties as the Manager may choose in its sole discretion;
- (r) to enter into securities lending transactions in accordance with the Investment Objective, investment strategies, and investment restrictions of the Fund; and
- (s) perform such other services as may be necessary or desirable from time to time for the day-to-day management of the Portfolio.

ARTICLE 6 CUSTODIAL ARRANGEMENTS AND AGENT

Section 6.1 Appointment of Custodian

The Manager, on behalf of the Fund, may appoint a bank or investment dealer or trust company or an Affiliate of the foregoing, which entity may also be the prime broker of the Fund, to act as custodian of the Fund Property (the “**Custodian**”).

Section 6.2 Appointment of Agent

The Manager, on behalf of the Fund, may appoint an agent of the Fund.

ARTICLE 7 AUDITOR

Section 7.1 Fund Auditor

- (1) The Manager hereby confirms that a firm of qualified chartered accountants has been appointed as the auditor of the Fund (the “**Auditor**”). The Auditor shall have access to all records relating to the affairs of the Fund, including the relevant records of the Manager, the Trustee, and any custodian and record keeper.
- (2) The Manager may, from time to time, with the prior consent of the Trustee, appoint another firm of chartered accountants qualified to practice in the Province of British Columbia to act as the auditor of the Fund. The Auditor shall continue in office until they have resigned or have been terminated by the Manager. The Manager shall forthwith give written notice to the Unitholders of the Fund of any change of Auditor for the Fund, including the reasons for such resignation or termination.
- (3) The duties of the Auditor of the Fund shall include reviewing the annual financial statements of the Fund and reporting thereon in accordance with applicable legislation, regulations, policies, or guidelines applicable to a unit trust distributing its securities in the Province of British Columbia. 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 the Fund. The Auditor shall also fulfill such other responsibilities as it may properly be called upon to assume.
- (4) The remuneration of the Auditor of the Fund shall be fixed by the Manager from time to time and shall be payable by the Fund.

ARTICLE 8 FEES, COMPENSATION, AND EXPENSES

Section 8.1 Trustee’s Fee

As long as the Trustee is the Manager of the Fund or an Affiliate thereof, the Trustee will not receive fees from the Fund in respect of the provision of services as trustee but is entitled to be reimbursed for all out-of-pocket expenses that are properly incurred by the Trustee in connection with the performance of its duties as trustee. For greater certainty, the Trustee shall be entitled to receive fees from the Fund in accordance with this Declaration of Trust in connection with the provision of services to the Fund in its capacity as Manager.

Section 8.2 Management Fee

- (1) Provided that the Manager has not resigned or been removed pursuant to the provisions of this Declaration of Trust, the Manager shall be entitled to be paid from the Fund Property for its services as Manager performed pursuant to this Declaration of Trust an annual management fee (the “**Management Fee**”) from the Fund in an amount equal to:
 - (a) 0.675% of the aggregate Class Net Asset Value of each of the Class W Units and Class USW Units of the Fund, calculated and paid monthly in arrears and as at any other day as the Manager may determine.

- (2) For greater certainty, upon the appointment of a Replacement Manager, any fees that are accrued but not paid in respect of the period between the resignation or removal of the Manager and the appointment of the Replacement Manager shall be immediately paid to the Manager.
- (3) The Manager shall be responsible for payment of any fee payable to any portfolio sub-adviser appointed to act as the portfolio sub-adviser to the Fund, provided that the Manager may direct the Fund that such fee payable to any portfolio sub-adviser be paid directly to such portfolio sub-adviser out of the Management Fee otherwise payable to the Manager pursuant to this Section 8.2.

Section 8.3 Expenses

- (1) Except as otherwise provided herein, the Fund shall be liable for, and the Trustee and the Manager shall be entitled to reimbursement from the Fund for, all costs and operating expenses actually incurred in connection with the business of the Fund, including but not limited to:
 - (a) the costs of establishing the Fund and the offering of Units, including but without limitation, the fees and expenses of legal counsel and the Fund's auditors;
 - (b) the payment of all fees and expenses relating to its operation, including, but not limited to, fees payable to a third party administrator, accounting, audit and legal costs, insurance premiums, fees associated with the Fund's bank accounts, custodial, prime broker and safekeeping fees, registrar and transfer agency fees and expenses, bookkeeping and recordkeeping costs, all Unitholder communication expenses and servicing costs, distribution expenses, promotional expenses, the cost of maintaining the Fund's existence, regulatory fees and expenses, the cost of consulting, organizational costs, distribution costs, regulatory filing fees, all reasonable extraordinary or non-recurring expenses that are directly related to the maintenance and management of the Fund, and all taxes, assessments, or other regulatory and governmental charges levied against the Fund;
 - (c) all fees and expenses as may be set out in the Offering Memorandum; and
 - (d) all fees and expenses relating to the Fund's Portfolio investments, including the cost of securities, interest on borrowings and commitment fees and related expenses payable to lenders and counterparties, brokerage fees, commissions and expenses, banking fees, interest expenses, and taxes of all kinds to which the Fund is subject.
- (2) Each Class of Units is responsible for the expenses specifically related to that Class and a proportionate share of expenses that are common to all Classes.
- (3) Except as otherwise expressly provided herein, normal operating expenses incidental to the day-to-day administrative operations of the Manager, including its own overhead expenses, will be paid by the Manager.

Section 8.4 Dealer Compensation

- (1) The Fund may pay such sales charges, structuring fees, trailing commissions, and other fees in connection with the distribution of Units as may be determined by the Manager at any time and from time to time and set out in the Offering Memorandum.

Section 8.5 Taxes

The Management Fee and any other fee payable by the Fund shall be subject to applicable taxes and fees levied by any applicable government or regulatory authority or agency including, without limitation, goods and services tax.

ARTICLE 9 INVESTMENTS

Section 9.1 General Investment Powers

In pursuit of the Investment Objective of the Fund, the Manager shall, 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 or substitute manager, invest and reinvest any money at any time held in or for the Fund (over which the Manager has been granted discretionary investment authority) in securities of any kind or other assets (including, without limitation, other pooled investment vehicles, whether managed by the Manager, or an associate or Affiliate of the Manager, or otherwise, as well as any other financial instruments), pursue all such other investment strategies (including without limitation the use of derivatives, leverage, securities lending, and short sales), and retain any money at any time held in or for the Fund in cash or Cash Equivalents as shall be determined by the Manager. Without limiting the forgoing, the Manager may, in its discretion, use, write, purchase, hold, sell, exchange, or execute derivatives and enter into derivative transactions of any kind for the Fund, deposit securities and other assets as margin in connection therewith, pledge, grant security interests in or otherwise encumber its assets in connection therewith, and execute on behalf of the Fund all documents required in connection therewith. The Manager may deposit moneys and other Fund assets, including for purposes of posting margin or for investment, with banks, investment dealers, trust companies, and other depositories, whether or not the deposits are interest bearing, the same to be subject to withdrawal on such terms and in such manner and by such persons as the Manager may determine. Notwithstanding the Investment Objective of the 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 Fund provided that, if the Manager is not the Trustee, it first advises the Trustee of its intended course of action.

Section 9.2 Investment Objective

The investment objective of the Fund is to provide Unitholders with superior returns and to achieve capital growth over the medium and long-term by investing in private equity through exposure to the returns of the Master Fund. The Fund may also engage in such activities as are necessary or ancillary with respect thereto.

Section 9.3 Investment Strategies

Subject to Section 9.1, Section 9.2, and any Applicable Laws, the Manager may adopt and amend from time to time, in its sole discretion, additional investment strategies, guidelines, and policies that the Manager intends to apply to the investment and reinvestment of the moneys or assets

of the Fund. All such investment strategies, guidelines, and policies shall be set out in or incorporated by reference in the Offering Memorandum of the Fund.

Section 9.4 Investment Restrictions

The investment activities of the Fund are subject to the following investment restrictions:

- (a) the Fund will not engage in any undertaking other than the investment of the Fund's assets in accordance with the Investment Objective and, subject to the investment restrictions, such activities as are necessary or ancillary with respect thereto; and
- (b) the Fund will not make or hold any investment, undertake any activity or otherwise do (or fail to do) anything that would result in the Fund failing to qualify as a "mutual fund trust" within the meaning of the Tax Act.

Section 9.5 Borrowing

The Manager may, on behalf of the Fund, borrow any money to the extent that the Manager, in its discretion deems necessary to pay redemptions and for cash management purposes. For greater certainty, the indirect exposure of the Fund to the returns of the Master Fund will also have the indirect effect of exposing the Fund to the use of leverage by the Master Fund.

Section 9.6 Not Restricted to Trustee Investments

Subject to the requirements of any regulatory body having jurisdiction over the Fund and to the provisions contained herein, the Manager may invest and reinvest moneys and change and vary investments in the Fund's portfolio without being in any way restricted by the provisions of the laws of any jurisdiction purporting to limit investments that may be made by trustees.

Section 9.7 Currency Classes or Series

The Manager may determine to create Classes or Series of Units that are denominated in a currency other than the Canadian dollar or United States dollar and may hedge the foreign exchange risk attributable to each separate currency Class or Series (relative to the Canadian dollar or United States dollar) through the use of derivative instruments or other investment techniques. The income, gains, losses, and expenses arising from such derivative instruments or other investment techniques may be allocated or attributed by the Manager only to those Classes and/or Series of Units designated by the Manager in a manner that is fair and equitable and otherwise consistent with the provisions of this Declaration of Trust.

Section 9.8 Right to Vote Shares and Securities in Investment Portfolio

- (1) Without limiting the rights, power, and authority set out in Section 5.9 and Section 5.13:
 - (a) Except as provided or required in applicable securities laws, any shares or other securities carrying voting rights held from time to time as part of the assets of the Fund 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 shall from time to time determine, provided that any such delegation of voting power does not have any potential adverse tax consequences to the Fund; and

- (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 such Fund 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 shall be entitled to exercise the foregoing rights in its discretion as it considers to be in the best interests of the Fund 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, whether in person or by proxy.
- (2) The provisions of this Section 9.8 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 such Fund 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 10 THE UNITS

Section 10.1 Number and Nature of Units

The Fund is authorized to issue an unlimited number of Classes of Units, an unlimited number of Series of each Class, and an unlimited number of Units of each Class or Series, subject to any determination to the contrary made by the Trustee in its sole discretion.

Section 10.2 Class of Units.

- (1) The Units shall be divided into one or more Classes of Units with each Class having the attributes specified in this Declaration of Trust or an amendment to this Declaration of Trust. Units may be designated by Series, based on Class, date of issue, and Unit subscription price (each a “**Series of Units**” or “**Series**”).
- (2) The Trustee may, in its discretion, determine the designation and attributes of a Class, which may include: the initial closing date and offering price for the first issuance of Units, any minimum initial or subsequent investment thresholds, minimum aggregate Net Asset Value balances to be maintained by Unitholders, and procedures in connection therewith (including a requirement to redeem Units), the Management Fee and/or any other fees payable in connection with such Class, the fees payable to advisors to the Fund, the organization, sales, and redemption charges to be paid upon the acquisition, over time or on redemption of Units, the frequency of subscriptions or redemptions, the period of time Units must be held before they may be redeemed, the period of notice required for redemption of Units, minimum redemption amounts and any other limits on redemption, convertibility among Classes, the maximum number of Units or maximum dollar amount of Units that may be sold, and such additional Class specific attributes as the Trustee may in its discretion specify. The Trustee may prescribe in its discretion the maximum number of Units or maximum dollar amount of Units that may be sold in the Fund.
- (3) Two Classes of Units are hereby designated, as set out in **Schedule “A”**. **Schedule “A”** attached to this Agreement shall be amended by the Trustee from time to time to describe the attributes of any particular Class or Series of Units created subsequent to the date of this Declaration of Trust.

- (4) Units of a Series may be issued at a Net Asset Value per Unit as the Trustee may in its discretion assign, and the Net Asset Value per Unit of any one Series need not be equal to the Net Asset Value per Unit of any other Series. The Trustee may at any time name or rename a Series without otherwise affecting the attributes of such Series.
- (5) Upon the designation of a new Series of Units by the Trustee, the Net Asset Value per Unit for such Series shall initially be as designated by the Trustee and the Net Asset Value of such Series shall initially be such Net Asset Value per Unit multiplied by the number of Units of such Series issued on the first subscription date for such Series. After the initial issue of Units of a Series, the Net Asset Value of such Series on a Valuation Date shall be calculated by the Trustee having regard to the Net Asset Value of such Series relative to the Net Asset Value of the Fund on the previous Valuation Date (following payment of the Management Fee and adjusted for subscriptions, redemptions, conversions and redesignations on the next following subscription date), the increase or decrease in Net Asset Value of the Fund from the previous Valuation Date to the current Valuation Date, and any Management Fee accrued or payable in respect of Units of such Series. The Net Asset Value per Unit for Units of a Class shall be calculated in a similar manner, with necessary adjustments, if there is only one Series (or no Series designated) for such Class. If there is more than one Series in a Class, then the Net Asset Value for such Class shall be the aggregate of the Net Asset Values of all Series in such Class, and Net Asset Value per Unit shall be calculated in respect of each Series only.
- (6) The Trustee and the Manager may amend this Declaration of Trust from time to time to designate additional Classes of Units and to determine the special rights, privileges, restrictions, and conditions attaching thereto without the prior approval of Unitholders, provided that such new Class shall not adversely affect any of the rights or privileges of any existing Units.
- (7) Each Unit will represent an equal, undivided beneficial interest in the net assets of the Fund having the rights set forth in Section 10.4 and will entitle the holder thereof to the rights and benefits of this Declaration of Trust. No Unit of a Class shall have any privilege, preferences, or priorities over any other Unit of such Class.

Section 10.3 Units Fully-Paid and Non-Assessable

Units and fractions thereof shall only be issued as fully-paid and non-assessable upon receipt of the full consideration for which they are to be issued and are not subject to further call or assessment and no pre-emptive rights attach to them. There shall be no limit to the number of Units that may be issued, subject to any determination to the contrary made by the Trustee in its sole discretion. No Unit or fraction thereof of the same Class shall have any rights, preference or priorities over any other Unit of the same Class and each Unit of the same Class will represent an equal undivided interest in the net assets of the Fund attributable to that Class of Unit.

Section 10.4 Unit Attributes

The Units shall have the following rights, privileges and restrictions:

- (a) each Unit shall be without nominal or par value;
- (b) each Unit shall be transferable but only as contemplated pursuant to Section 10.8, Section 10.11, or Section 10.14;

- (c) each Unit shall be identical to all other Units of the same Class in all respects and, accordingly, shall entitle the holder to the same rights and obligations as a holder of any other Unit of the same Class. No Unitholder shall, in respect of any Unit held by any such Unitholder, be entitled to any preference, conversion, exchange, preemptive, priority, or right in any circumstance over any other Unitholder in respect of any Unit of the same Class held by the other Unitholder;
- (d) each Unit of a particular Class or Series shall entitle the holder thereof to participate *pro rata*, in accordance with the provisions hereof, with respect to all distributions made to that Class or Series;
- (e) distributions shall be allocated among the Classes and Series of Units in such manner as the Manager considers appropriate and equitable;
- (f) each Unitholder shall be entitled to one vote for each whole Unit held by such Unitholder:
 - (i) at all meetings where all Unitholders vote together; and
 - (ii) at all meeting where Unitholders of a particular Class vote separately as a Class; but not at meetings at which only the holders of another Class of Units are entitled to vote separately as a Class,

where for greater certainty no holder of a fraction of a Unit, as such, shall be entitled to notice of, or to attend or vote at, meetings of Unitholders or of a Class of Unitholders, except to the extent that such fractional Units may represent in the aggregate one or more whole Units;

- (g) 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 by the Manager as or into a Unit of another Series of the same Class or of another Class based on the respective Net Asset Value per Unit of the applicable Series and/or Classes on the date of the redesignation (in the case of Series or Classes denominated in different currencies, the Manager shall apply the currency conversion rate as it deems appropriate in the circumstances);
- (h) 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 by the holder thereof as or into a Unit of another Series of the same Class or of another Class based on the respective Net Asset Value per Unit of the applicable Series and/or Classes on the date of the redesignation (in the case of Series or Classes denominated in different currencies, the Manager shall apply the currency conversion rate as it deems appropriate in the circumstances);
- (i) upon liquidation or termination of the Fund, each Unit shall entitle the holder thereof to participate *pro rata* with the other Unitholders of the same Class in the assets attributable to such Class remaining after payment of all debts, liabilities and liquidation or termination expenses of the Fund allocable to the Units of that Class. For greater certainty, the remaining assets of the Fund may be distributed *in specie*, it being in the absolute discretion of the Manager which assets are distributed *in specie* (Fund Property need not be distributed *pro rata*); and

- (j) In addition:
 - (i) there shall be no pre-emptive rights attaching to Units;
 - (ii) there shall be no liability for future calls or assessments attaching to Units;
 - (iii) subject to Section 10.4(f), fractional Units of a Class or Series may be issued and shall be proportionately entitled to all the same rights as whole Units of that same series; and
 - (iv) there shall be no cancellation or surrender provisions attaching to the Units except as set out herein.

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 of the Fund 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 Declaration of Trust, each such sub-series shall be considered a Series.

Section 10.5 Consolidation and Subdivision of Units

The Trustee may consolidate or subdivide the Units from time to time in such manner as it considers appropriate. Fractional Units may be issued in connection with any consolidation or subdivision. The Trustee may consolidate or subdivide Units of any Class or Series in a manner that is different to the treatment of Units of another Class or Series only if the Net Asset Value per Unit of such Class or Series is amended such that the aggregate Net Asset Value of all Units of such Class or Series prior to such consolidation or subdivision is equal to the aggregate Net Asset Value of all Units of such Class or Series following such consolidation or subdivision.

Section 10.6 Unit Certificates

Unless and until otherwise determined by the Manager, no certificates in respect of the Units or other securities of the Fund held by a Unitholder shall be issued. In the event that the Manager should authorize 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.

Section 10.7 Allotment and Issue

- (1) Subscriptions will be accepted on any Subscription Date, subject to the Manager's discretion to refuse subscriptions in whole or in part. If a subscription is accepted on a Subscription Date, the applicable Units will be deemed to be issued as of the next Business Day based on the Net Asset Value per Unit of the applicable Class or Series of Units on such Subscription Date.
- (2) Subscribers may purchase Units by delivering to the Manager a completed and executed Subscription Agreement in a form acceptable to the Manager together with funds provided by cheque, bank draft, wire fund transfer, or, in the discretion of the Manager, such other form of payment for the aggregate amount which the subscriber wishes to invest in Units.

- (3) Upon the establishment of the Fund and its division into Units and Classes, the Trustee will determine the price of the original Units of each Class. Thereafter, the subscription price per Unit of Units purchased pursuant to a subscription will be the applicable Net Asset Value per Unit for each Class or Series (as applicable) determined at the Valuation Time on the applicable Valuation Date.
- (4) Subscriptions for Units are subject to acceptance or rejection in whole or in part by the Manager in its sole discretion. The decision to accept or reject any subscription request will be made as soon as possible, and in any event, within two (2) Business Days of receipt of the request. In the event a subscription for Units is rejected, any subscription funds forwarded by the subscriber applicable to the rejected portion of the subscription request will be returned without interest or deduction.
- (5) Subscriptions and payment for Units shall be submitted, received, and processed or rejected in accordance with and subject to the terms and conditions as may be set out from time to time in the Offering Documents or applicable Subscription Agreement, which terms and conditions may be changed by the Manager, in its discretion, from time to time.
- (6) Subscriptions for Units may, at the sole discretion of the Manager, be made through the purchase of interim subscription receipts on such terms and conditions as may be set out from time to time in the Offering Memorandum. Any such subscription receipts: (i) may not be transferred by the holder thereof without the prior written consent of the Manager, at its sole discretion; (ii) are not redeemable; and (iii) do not carry any voting rights.
- (7) Subscription proceeds received by the Fund in respect of a Class of Units shall accrue to the Net Asset Value of such Class.
- (8) The Unitholders shall, upon demand from time to time, disclose to the Manager in writing such information with respect to direct and indirect ownership of Units as the Manager may deem necessary.
- (9) If Units are issued in Series, such Units shall be issued and redesignated in accordance with the following, which provisions may be amended by the Trustee, in its discretion, from time to time, without notice to or consent from Unitholders:
 - (a) In respect of the first issuance of Units of a Class, Units of such Class shall be designated as Series 1 and such Units will be offered at a price equal to the initial offering price of \$100.00 or US\$100.00 per Unit, as applicable. On each successive Valuation Date in respect of which Units are issued, a new Series of Units will be issued at a subscription price per Unit equal to the Net Asset Value per Unit of the Series 1 Units of the same Class; and
 - (b) At the end of the first calendar year and subsequently at the end of each calendar month, and following the payment of all fees and expenses of the Fund, the Manager may determine that some or all Series of the same Class of Units will be redesignated as Series 1 Units (or such other Series, in the discretion of the Manager) in order to reduce the number of outstanding Series of each Class. This will be accomplished by amending the Net Asset Value per Unit of all such Series so that they are the same, and consolidating or subdividing the number of Units of each such Series so the aggregate Net Asset Value of Units held by a Unitholder does not change.

Section 10.8 Transferability and Constraints on Unitholders

- (1) No transfer of Units may be made other than by operation of law or with the consent of the Manager and provided that the Manager has approved the transfer and proposed transferee.
- (2) Subject to the other provisions in this Section 10.8, Section 14.4, and applicable securities laws, a Unitholder shall be entitled to transfer all or, subject to any minimum investment requirements prescribed by the Manager or Trustee, any part of the Units registered in the Unitholder's name at any time by giving written notice to the Manager, which notice shall:
 - (a) contain a clear request that a specified number of Units (or fractions thereof) be transferred;
 - (b) provide the full name and address of the transferee;
 - (c) be irrevocable; and
 - (d) contain a guarantee by a Canadian chartered bank, a trust company, or a registered broker or securities dealer acceptable to the Manager of the signature of the transferor thereon.
- (3) The Manager may prohibit or restrict investment in the Fund by certain classes of Persons in order to avoid disadvantageous tax consequences to the Fund or the Unitholders generally including, without limitation, non-residents and financial institutions, as such terms are defined in the Tax Act, or for any other purpose.
- (4) The Manager will not accept a subscription request from or register as the owner of any Unit an entity that is or would be:
 - (a) a non-resident of Canada or a partnership that is not a Canadian partnership within the meaning of the Tax Act if it would cause the Fund to lose its status as a mutual fund trust under the Tax Act;
 - (b) a financial institution if it would cause the Fund to be subject to the mark-to-market rules in section 142.5 of the Tax Act; or
 - (c) a "designated beneficiary" of the Fund within the meaning of Part XII.2 of the Tax Act if, as a consequence thereof, the Fund may become liable for tax under Part XII.2 of the Tax Act.
- (5) If at any time the Trustee becomes aware that Units are or may become beneficially owned by one or more entities in the circumstances described in Section 10.8(4), the Trustee, or any third party on the direction of the Trustee, may cause the Fund to redeem all or such portion of the Units at the Net Asset Value per Unit of such Class or Series on the date of redemption, or on such other terms as the Trustee in its sole discretion deems equitable in the circumstances.
- (6) Notwithstanding the foregoing, the Trustee may determine not to take any of the actions described above if the Trustee has been advised by Counsel that the failure to take any of such actions would not adversely impact the status of the Fund as a "mutual fund trust" for purposes of the Tax Act or, alternatively, may take such other action or actions as may be necessary to maintain the status of the Fund as a "mutual fund trust" for purposes of the Tax Act.

Section 10.9 Register of Unitholders

- (1) A Register shall be kept by or on behalf of the Fund, which shall contain the names and addresses of Unitholders, the respective number, Classes and Series of all Units held by them,

the certificate numbers of the certificates representing such Units (if any), the dates of such purchases and/or redemptions, a record of all transfers thereof, and the applicable Net Asset Value(s) of all Units held by such Unitholder on each Valuation Date.

- (2) Only Unitholders whose Units are so recorded shall be entitled to receive distributions and to exercise or enjoy the rights of Unitholders hereunder. The Person registered as a Unitholder on the Register shall be treated as the owner of such Unit for all purposes, including without limitation payment of any distribution, giving notice to Unitholders, and determining the right to attend and vote at meetings of Unitholders. Accordingly, neither the Trustee nor the Manager shall be bound to recognize any transfer or attempted transfer, pledge, or other disposition of a Unit, or any equitable or other claim with respect thereto, whether or not the Fund, the Trustee, or the Manager shall have actual or other notice thereof, until such Unit shall have been transferred on the Register as herein provided.

Section 10.10 Registrars and Transfer Agents

The Manager may appoint one or more qualified Persons to act as transfer agents and registrars for the Units of the Fund and may provide for the transfer of Units in one or more places within Canada. Such transfer agents and registrars shall perform those functions and duties usually performed by transfer agents and registrars of shares of corporations having share capital, including maintaining the Register and all other necessary or appropriate books (which may be kept on a computer or similar device) for recording original issues and registering and transferring the Units of the Fund. In the case of an original issue of Units, the transfer agent or registrar may rely and act upon the written instruction of the Manager without inquiry into the receipt by the Fund of, or the sufficiency of, the consideration for such original issue.

The Manager on behalf of the Fund and as Manager will enter into agreements with such registrars and transfer agents, which agreements shall provide that the compensation of the registrars and transfer agents will be paid out of the Fund Property.

Section 10.11 Successors in Interest of Unitholders

Any Person becoming entitled to any Units as a consequence of the death, bankruptcy, or incompetence of any Unitholder, or otherwise by operation of law, shall be recorded as the holder of such Units, subject to Section 10.8(2), Section 10.8(3), Section 10.8(4), and Section 14.4, upon production of evidence thereof, satisfactory to the transfer agent and registrar, but until such record is made, the Unitholder of record shall continue to be and be deemed to be the legal and beneficial holder of such Units for all purposes whether or not the Fund, the Trustee, the Manager, or a transfer agent or registrar of the Fund shall have actual or other notice of such death, bankruptcy, incompetence or other event.

Section 10.12 Units held Jointly or in Fiduciary Capacity

The Manager or any Registrar and Transfer Agent may treat two or more Persons holding any Unit as joint tenants of the entire interest therein unless their ownership is expressly otherwise recorded on the Register of the Fund, but no entry shall be made in the Register that any Person is in any other manner entitled to any future, limited, or contingent interest in any Unit; provided, however, that any Person recorded as a holder of any Unit may, subject to the provisions herein contained, be described in the Register or on any certificate as a fiduciary of any kind and any customary words may be added to the description of the holder to identify the nature of such fiduciary relationship.

Section 10.13 Performance of Trusts

The Trustee, the Manager, the Unitholders, any transfer agent or other agent of the Fund, the Trustee, or the Manager shall not be bound to recognize or see to the performance of any trust, express, implied, or constructive, or of any charge, pledge, or equity to which any of the Units or any interests therein are or may be subject, or to ascertain or inquire whether any sale or transfer of any such Units or interests therein by any such Unitholder or such Unitholder's personal representatives is authorized by such trust, charge, pledge, or equity, or to recognize any Person as having any interest therein, except for the Person recorded as Unitholder.

Section 10.14 Death of Unitholders

The death of a Unitholder during the continuance of the Fund shall not terminate the Fund or any of the mutual or respective rights and obligations created by or arising hereunder nor give such Unitholder's legal representatives a right to an accounting or to take any action in the Courts or otherwise against other Unitholders or the Trustee, the Manager, or the Fund Property, but shall merely entitle the personal representative of the deceased Unitholder to be registered as the holder of such Units pursuant to the provisions of Section 10.11 in place of the deceased Unitholder and upon acceptance thereof such personal representative shall succeed to all rights of the deceased Unitholder hereunder.

Section 10.15 Calculation of Net Asset Value

- (1) The Net Asset Value and Net Asset Value per Unit of each applicable Class and Series, as at the Valuation Time on the relevant Valuation Date, will be calculated by the Valuation Agent on or about the 25th day following the relevant Valuation Date. The Net Asset Value and Net Asset Value per Unit of the Fund and/or any Class or Series may also be calculated as of any such other day or days as determined from time to time by the Manager, or the Trustee in its capacity as Manager.
- (2) The Net Asset Value of the Fund as of any date shall equal the fair market value of the assets of the Fund as of such date, less an amount equal to the total Fund liabilities as of such date.
- (3) The Class Net Asset Value of a Class of Units, as of the applicable date, will be obtained by determining the then fair market value of the assets of the Fund less the aggregate amount of the Fund's accrued liabilities, including any income, net realized capital gains, or other amounts made payable to Unitholders on or before such Valuation Date, in each case attributable to that Class of Units.
- (4) The Series Net Asset Value of a Series of Units of each Class, as of any date, shall equal the fair market value of the assets of the applicable Class as of such date, less an amount equal to the total Class liabilities as of such date, in each case attributable to that Series of Unit.
- (5) The Series Net Asset Value per Unit or Class Net Asset Value per Unit shall be computed by dividing the applicable Series Net Asset Value or Class Net Asset Value by the total number of Units of such Series or Class then outstanding on the applicable Valuation Date, prior to any issuance or redemption of Units of such Series or Class to be processed by the Manager immediately following such calculation.
- (6) The Fund's investment in the Master Fund will generally be valued at the value provided by the Master Fund. The Fund is authorized to make determinations of Net Asset Value on the

basis of estimated numbers provided by the Master Fund and it is expected that the Fund will accept such valuations. Neither the Trustee nor the Manager is expected to review any such valuations in detail. However, if the Manager, in consultation with the Valuation Agent, determines that the valuation of the Master Fund does not fairly represent fair value, the Manager, in consultation with the Valuation Agent, shall value the Fund's interests in the Master Fund as they reasonably determine and will set forth the basis of such valuation in writing in the Fund's records.

Section 10.16 Valuation Policies

- (1) The fair market value of the assets and the amount of the liabilities of the Fund shall be calculated in such manner as the Manager, or the Trustee in its capacity as Manager, in its sole discretion shall determine from time to time and in accordance with any valuation policies of the Fund as set out in **Schedule "B"** attached hereto.

Section 10.17 Suspension of Calculation of Net Asset Value

The Fund may suspend the calculation of Net Asset Value of the Units: (i) for the whole or any part of a period during which normal trading is suspended on any stock exchange, options exchange, or futures exchange within or outside Canada on which a majority of the securities are listed and traded, or on which specified derivatives are traded, if those securities or specified derivatives represent more than 50% by value, or underlying market exposure, of the assets of the Fund or the Master Fund, without allowance for liabilities, and if those securities or specified derivatives are not traded on any other exchange that represents a reasonably practical alternative; (ii) during a period in which the calculation of the value or redemption of the securities of the Master Fund has been fully or partially suspended, postponed or deferred; or (iii) with the approval of the relevant securities regulatory authorities or as otherwise required or permitted under applicable securities laws. In addition, redemption of Units may be limited or suspended in certain circumstances.

ARTICLE 11 REDEMPTION OF UNITS

Section 11.1 Redemptions

- (1) Subject to Section 11.1(5) and Section 11.5, each Unitholder of the Fund 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 on a specified Redemption Date at the Class Net Asset Value per Unit or 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 charge or other fee determined pursuant to Section 11.2 hereof. Upon payment to the redeeming Unitholder of the Class Net Asset Value or 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.
- (2) Redemption requests must be received in writing by the Manager not later than sixty-five (65) days (or such shorter period as the Manager in its absolute discretion may require or permit) prior to a Redemption Date. All redemption requests received after 4:00 p.m. (ET) on the date that is sixty-five (65) days prior to a Redemption Date (or such shorter period as the Manager in its absolute discretion may require or permit) will be processed at the applicable Net Asset Value per Unit calculated as of the next Redemption Date in the following month.

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.

- (3) Subject to Section 11.5, where the holding of Units by a Unitholder of the Fund is deemed by the Manager to be detrimental to the Fund or other Unitholders, or if a Unitholder holds, or following a redemption would hold, Units having an aggregate Net Asset Value of less than some amount as may be specified by the Trustee from time to time, the Manager shall be entitled, at any time and from time to time, at its discretion, to compulsorily redeem or redesignate or cause to be redeemed or redesignated all or any part of the Units held by any such Unitholder, on such terms and conditions as the Manager may, from time to time, determine, at its discretion. Any such redemption shall be effected at the applicable Net Asset Value per Unit calculated in the manner provided herein, less, in the discretion of the Manager, any redemption charge or other fee determined pursuant to Section 11.2 hereof after giving the Unitholder ten (10) days' prior written notice to that effect. Any such redesignation shall be effected at the applicable Net Asset Value per Unit calculated on the next Valuation Date following the issuance of not less than thirty (30) days' prior written notice of the redesignation to the affected Unitholder.
- (4) Redemption requests are irrevocable unless the Manager, in its sole discretion, permits a redemption request to be withdrawn or unless a redemption request is not honoured on a Redemption Date, in which case it may be withdrawn at the option of the holder within thirty (30) days following such Redemption Date. If a redemption request is not honoured on a Redemption Date and is not withdrawn during the required time period, the redemption request will remain in full force and effect and will be carried over to each next subsequent Redemption Date until honoured in full, subject to the Manager's ability to permit a redemption request to be withdrawn in the Manager's sole discretion.
- (5) The Manager may from time to time impose such further conditions on the redemption of Units of the Fund, or of one or more Class or Series of Units of the Fund, provided that such conditions are set out in the Offering Memorandum of the Fund and provided, if any Unitholders would be prejudiced thereby, that such conditions would not result in the Fund ceasing to be a "unit trust" for the purposes of the Tax Act.

Section 11.2 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 the Fund an amount that reflects the costs incurred by the Fund in connection with the redemption of Units, including the costs of liquidation of portfolio assets and all fees payable by the Fund to its service providers as a result of the redemption, including, but not limited to, the Redemption Charge, and as set out in the Offering Memorandum.

Section 11.3 Method of Redemption

- (1) The Manager may from time to time prescribe redemption procedures for the Fund that are not inconsistent herewith or with Applicable Laws. Notice of such redemption procedures shall be given to Unitholders of the Fund either as provided in Article 17 hereof or by stating the same in the Offering Memorandum of the Fund and as otherwise may be required under Applicable Laws. Such procedures may include, but are not limited to, the establishment of:

- (a) any required method of transmission of a redemption request, including any required forms for redemption requests;
 - (b) 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 respective Fund or by the time of payment of the redemption proceeds;
 - (c) any required documentation or evidence relating to the authority of any person to submit a redemption request;
 - (d) the requirements for the surrender of certificates, if any, representing the Units to be redeemed; and
 - (e) a systematic redemption program.
- (2) No redemption requests received after the cut off time for redemptions on such Redemption Date (as set out in the Fund's Offering Memorandum) 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.
- (3) The Manager shall advise the Unitholders who have requested a redemption if redemptions will be limited or suspended on a designated Redemption Date.
- (4) 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.

Section 11.4 Payment for Units Redeemed

- (1) Subject to Section 11.4(2), the Trustee shall pay to each Unitholder who has requested redemption pursuant to Section 11.1 out of the Fund Property, an amount equal to the Net Asset Value per Unit of that Class or Series (as applicable) calculated as of the Redemption Date on which the redemption occurs, calculated in the manner herein provided, multiplied by the number of Units to be redeemed, together with the proportionate share attributable to such Units of any distribution of net income and net realized capital gains of the Fund that has been declared and not paid prior to the relevant Valuation Date, and less any taxes payable by the Unitholder and required to be deducted and less any deductions pursuant to Section 11.2 hereof.
- (2) 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 as soon as is practicable and in any event within thirty (30) days following the relevant Redemption Date. Following a redemption, the Unitholder shall cease to have any further rights with respect to such Units unless the redemption proceeds are not paid.
- (3) Notwithstanding any other provision herein, the Manager may in its absolute discretion decide to satisfy any redemption request in full or in part by instructing the Trustee to transfer *in specie* such securities or other property of the Fund, which together with payments in cash (if any), shall in the aggregate have a value not less than the redemption amount payable to the Unitholder pursuant to this Section 11.4, provided that the value of all securities and other property of the Fund shall be determined as at the relevant Redemption Date.

Section 11.5 Suspension of Redemption Right

- (1) Notwithstanding the provisions of Section 11.1, the Manager may suspend or postpone, or continue a suspension of or postponement of, the right of redemption of Units of the Fund, in full or in part on a *pro rata* basis, during: (i) the whole or any part of any period in which there has been a suspension in the calculation of the Net Asset Value of the Units in accordance with Section 10.17; or (ii) the whole or any part of any period in which there are insufficient liquid assets in the Fund to fund redemptions entirely in cash or in which the liquidation of assets of the Fund would be to the detriment of the Fund generally or is not reasonably practicable as determined by the Manager.
- (2) If the Manager suspends or postpones the right of redemption of Units in part, any partial redemption shall be made *pro rata* according to the aggregate number of Units tendered for redemption by each such Unitholder.
- (3) If the Manager suspends or postpones the right of redemption of Units in full or in part, a Unitholder may either withdraw its redemption request within thirty (30) days following the applicable Redemption Date or receive payment based on the applicable Net Asset Value per Unit for each subsequent Redemption Date on which the redemption request is honoured, in full or in part, where such redemption requests shall take priority over subsequent redemption requests submitted for Redemption Dates following the Redemption Date for which redemptions were suspended or postponed.
- (4) To the extent that it is not inconsistent with official rules and regulations promulgated by any government body having jurisdiction over the Fund, any declaration of suspension made by the Trustee shall be conclusive.

ARTICLE 12 REPRESENTATIONS, WARRANTIES, AND COVENANTS

Section 12.1 Manager's Representations and Warranties

The Manager represents and warrants that:

- (a) it is duly incorporated and existing as a corporation pursuant to its governing legislation;
- (b) it currently holds such licenses and registrations as are necessary to perform its duties hereunder and it is not aware of any reason why such licenses or registrations might be cancelled or not renewed;
- (c) it has the power and capacity to enter into this Declaration of Trust and to perform its duties hereunder;
- (d) this Declaration of Trust has been duly authorized, executed, and delivered by it and is a valid and binding obligation of it, enforceable against it in accordance with its terms;
- (e) the appropriate personnel of the Manager have read and are aware of the Investment Objective, investment strategies, and investment restrictions of the Fund and the

statutory and other restrictions applicable to the Fund, as set out in the Offering Memorandum and all Applicable Law; and

- (f) for the purposes of the Tax Act, it is resident in Canada and is not resident in any other jurisdiction other than a political subdivision of Canada.

Section 12.2 Manager's Covenants

The Manager hereby covenants that:

- (a) it will be responsible for all investment advice provided to the Fund, including investment advice that is received in respect of the Fund from any portfolio sub-advisor appointed as portfolio sub-advisor of the Fund, and is responsible for any loss that arises out of the failure of a portfolio sub-advisor to: (i) exercise the powers and discharge the duties of its office honestly and in good faith and in the best interests of the Fund; and (ii) exercise the degree of care, diligence, and skill that a reasonably prudent Person would exercise in comparable circumstances;
- (b) it will take appropriate steps to properly inform its appropriate personnel of any changes to the Investment Objective, investment strategies, and investment restrictions of the Fund and the statutory and other restrictions applicable to the Fund at regular intervals during the term of this Declaration of Trust;
- (c) it will perform its obligations under this Declaration of Trust so that it and the Fund comply with this Declaration of Trust and all Applicable Law;
- (d) it shall, where feasible, use reasonable means to inform all Persons having dealings with the Fund of the limitations of liability set forth in Article 16 of this Declaration of Trust and shall, where feasible, cause to be inserted in any written agreement, undertaking, or obligation made or issued on behalf of the Fund an appropriate statement of the disavowal and limitations of liability set forth in Article 16, but the omission of such statement from any such instrument shall not render the Trustee, the Manager, or any Unitholder of the Fund liable to any Person, nor shall the Trustee, the Manager, or any Unitholder of the Fund be liable to any Person for such omission; and
- (e) it shall, at all times, manage the affairs of the Fund in Canada.

Section 12.3 Trustee's Representations and Warranties

In entering into this Declaration of Trust, the Trustee acknowledges that:

- (1) it is duly incorporated and validly existing as a corporation pursuant to its governing legislation;
- (2) it has the power and capacity to enter into this Declaration of Trust and to perform its duties hereunder;
- (3) this Declaration of Trust has been duly authorized, executed, and delivered by it and is a valid and binding obligation of it, enforceable against it in accordance with its terms; and

- (4) for the purposes of the Tax Act, it is resident in Canada and is not resident in any other jurisdiction other than a political subdivision of Canada.

ARTICLE 13 DISTRIBUTIONS TO UNITHOLDERS

Section 13.1 Computation of Income and Gains

The net income of the Fund for each taxation year shall be determined pursuant to the provisions of the Tax Act (other than paragraph 82(1)(b) and subsection 104(6) thereof) regarding the calculation of income for the purposes of determining the “taxable income” of the Fund thereunder provided, however, that capital gains and capital losses (other than business investment losses) shall be excluded. The net realized capital gains of the Fund for each taxation year shall be determined as the amount, if any, by which the aggregate of the capital gains of the Fund in the taxation year exceeds the aggregate of the capital losses of the Fund in the year (other than business investment losses).

Section 13.2 Distributions of Income and Capital Gains

- (1) The Fund shall not have a fixed distribution but the Fund shall distribute to Unitholders sufficient net income and net realized capital gains, if any, in each taxation year so that the Fund will generally not be liable for income tax under Part I of the Tax Act (after taking into account any loss carry forwards and all available deductions, credits, and refunds). Distributions, if any, are to be paid as of the last Business Day of the calendar year, and at such other times during the calendar year as may be determined by the Trustee or the Manager, as applicable.
- (2) On the last day of each taxation year, and at such other times during the calendar year as may be determined by the Trustee or the Manager, as applicable, an amount equal to the net income of the Fund (except to the extent that the net income of the Fund would not be subject to tax in the Fund by reason of the carryforward of “non-capital losses” as defined in the Tax Act) for such taxation year not previously made payable in the taxation year, shall be automatically payable to Unitholders of record on such date (determined before giving effect to any subscriptions or redemptions on such day). In addition, on the last day of each taxation year, and at such other times during the calendar year as may be determined by the Trustee or the Manager, as applicable, an amount equal to the net realized capital gains of the Fund for such taxation year not previously made payable in the taxation year shall, except to the extent that net realized capital gains of the Fund would not be subject to tax in the Fund by reason of deductions claimed for non-capital losses and/or the carryforward of “net capital losses” as defined in the Tax Act and to the extent that any tax payable on net realized capital gains retained by the Fund would be recoverable by it, be automatically payable on the last day of the taxation year to Unitholders of record on such date (determined before giving effect to any subscriptions or redemptions on such day). Unitholders shall be entitled as of the last day of the Fund’s taxation year to enforce payment of all amounts payable pursuant to this provision. Subject to the Manager’s discretion to make distributions of cash, all such distributions to Unitholders (less any amounts required by law to be deducted therefrom) will automatically be reinvested for the account of each Unitholder in additional Units at the applicable Net Asset Value per Unit. Following such distributions and reinvestments, Units will be immediately consolidated such that the number of outstanding Units held by each Unitholder on such day following the distribution will equal the number of Units held by the

Unitholder prior to the distribution, except to the extent that tax has to be withheld in respect of the distribution.

- (3) If it deems it appropriate, and having regard to the Investment Objective and strategies of the Fund, the Trustee from time to time may make or cause to be made such additional distributions, including without restriction returns of capital, in such amounts, payable at such time or times, and to Unitholders of record as of the close of business on such date, as from time to time determined by the Trustee. All distributions, if any, made under this Section 13.2(3) shall, unless otherwise determined by the Manager, be automatically reinvested for the account of each Unitholder in additional Units at the applicable Net Asset Value per Unit.
- (4) For greater certainty, the total amount due and payable pursuant to this Section 13.2 shall not be less than that amount necessary to ensure that, to the extent possible, the Fund will not be liable for income tax under Part I of the Tax Act for the taxation year of the Fund, after taking into account any entitlement to a capital gains refund, and such payment shall be considered to have been declared and to have been payable (as of the last day of the taxation year) to Unitholders of record at the close of business on such date.
- (5) Each amount due and payable by the Fund to Unitholders pursuant to this Section 13.2 shall be allocated among the Units and among Unitholders of the Fund in accordance with Section 13.3.

Section 13.3 Allocation of Distributions of Income and Gains of the Fund per Class

- (1) If distributions are payable by the Fund pursuant to Section 13.2, holders of Units of any particular Class that are outstanding at the close of business on the date established for the payment of any such distributions shall, subject to Section 13.2, be entitled to receive and the Fund shall pay thereon such portion of the amount computed in accordance with Section 13.2 attributable to the Units of such Class.
- (2) Where it is intended to make distributions of net income, net capital gains, or capital of the Fund to the Unitholders, the Trustee, or any third party appointed by the Trustee, shall allocate the distributions among the Classes of Units in a manner considered by the Trustee, or any third party appointed by the Trustee, to be appropriate and equitable to all Unitholders, in its sole discretion. Subject to Section 13.3(3), all distributions in respect of a Class of Units shall be credited to Unitholders of that Class *pro rata* in accordance with the number of Units of the Class held by them on the distribution date.
- (3) The amount of any net realized capital gains of the Fund for a taxation year realized by the Fund as a result of any disposition of property of the Fund undertaken to permit or facilitate the redemption of Units of the Fund may, for purposes of computing the net realized capital gains under the Tax Act or other tax legislation, be treated as having been paid in the year by the Fund to the Unitholders redeeming Units in such year and may be allocated and designated by the Fund as a taxable capital gain to such Unitholders in the manner and proportions determined by the Trustee to be reasonable. In addition, the Fund has the authority to distribute, allocate, and designate net income and net realized capital gains of the Fund to a Unitholder who has redeemed Units during the year in an amount equal to the Unitholder's share, at the time of redemption, of the Fund's net income and net realized capital gains for the year or such other amount that is determined by the Trustee to be reasonable.

Section 13.4 Manner of Payment / Automatic Reinvestment

- (1) Subject to the Manager's discretion to make distributions of cash or as otherwise provided herein, including but not limited to Section 13.2(3), all amounts payable at any particular time to a Unitholder pursuant to, or as contemplated by, this Article 13 (less any tax required by law to be deducted therefrom) shall, except to the extent that the Unitholder, or the Unitholder's authorized agent, is redeeming Units, and in that event only in respect of a number of Units equal to the number of Units being redeemed, or otherwise notifies the Trustee, or any third party appointed by the Trustee, in writing and complies with any other conditions prescribed by the Trustee, or any third party appointed by the Trustee, for cash distributions, be reinvested in the Fund by way of the acquisition of additional Units, including fractional Units of the same Class, at the Net Asset Value per Unit of such Class next determined after declaration of the distribution. The Trustee, or any third party appointed by the Trustee, shall credit each Unitholder with the additional Units of the same Class so acquired *in lieu* of making a cash distribution. The acquisition of Units as a result of reinvestment shall not be subject to Section 10.7.
- (2) Subject to Section 13.3(3), all distributions shall be credited to Unitholders of a Class *pro rata* in accordance with the number of Units of such Class held by them on the distribution date. The amounts so credited to each Unitholder (including any tax required by law to be deducted therefrom) shall not be included in the assets of the Fund for the purpose of determining the Net Asset Value per Unit of a Class at any time after the declaration of the distribution. Notwithstanding the foregoing, the Trustee, or any third party appointed by the Trustee, may apply any amounts payable hereunder to a Unitholder towards the amount of any fees or charges owing by the Unitholder and deduct such amounts from the amount otherwise to be credited to each Unitholder. Distributions may be paid in any currency at the discretion of the Trustee, or any third party appointed by the Trustee, from time to time.

Section 13.5 Designation of Taxable Dividends, Taxable Capital Gains, and Foreign Source Income

The Trustee may, on such date or dates it deems appropriate, make such designations, determinations, and allocations for tax purposes of amounts or portions of amounts that the Fund has received, paid, declared payable, or allocated to Unitholders as distributions or redemption proceeds. Such designations are intended to provide for an equitable distribution of the Fund's taxable income for a taxation year among Unitholders.

Section 13.6 Entitlement Default

Where the Trustee, or any third party appointed by the Trustee, 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 securities of the Fund, to collect any amount that has been included in determining any amount paid or payable to any Unitholder, the Trustee, or any third party appointed by the Trustee, shall have the right, where such amount has been paid to such Unitholder, to recover such amount from such Unitholder. Notwithstanding the foregoing, the Trustee, or any third party appointed by the Trustee, shall not be required to exercise such right with respect to any particular amount or class of amounts where, in the judgment of the Trustee, or any third party appointed by the Trustee, the anticipated costs and likelihood of recovery outweigh the anticipated benefit of such recovery.

Section 13.7 Tax Definitions

Unless the context otherwise requires, any term in this Article 13 that is defined for the purposes of the Tax Act shall have the meaning that it has for the purposes of the Tax Act.

Section 13.8 Tax Statements

The Fund shall provide Unitholders with such annual information respecting the Fund's income, net taxable capital gains, and returns of capital and distributions to Unitholders as is required, and within the time prescribed, under the Tax Act.

Section 13.9 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 the Fund, to collect any amount that has been included in determining any amount paid or payable to any Unitholder of the Fund (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 14 MEETINGS OF UNITHOLDERS

Section 14.1 Meetings of Unitholders

- (1) The Manager may, at any time as it considers appropriate or advisable, convene a meeting of Unitholders (or a Class of Unitholders). The Trustee must also call a meeting of Unitholders or of a Class of Unitholders on the written request of Unitholders holding not less than 40% of the outstanding Units of the Fund (or of a Class with respect to a Class meeting), which request must specify the purpose or purposes for which such meeting is to be called. In the event of a request to call a meeting of Unitholders made by Unitholders, the Trustee shall not be obliged to call any such meeting until it has been satisfactorily indemnified (as determined by the Trustee) by such Unitholders against all costs of calling and holding such meeting. Meetings of Unitholders shall be held at the head office of the Fund, or such other place within the Province of Ontario as the Manager shall determine and designate.
- (2) Meetings of Unitholders of the Fund may be held at any place in Canada or virtually, in which case such meeting shall be deemed to take place in Vancouver, British Columbia.
- (3) Meetings of Unitholders of the Fund (or a Class of Unitholders) shall be convened to consider and approve:
 - (a) any matter that pursuant to Applicable Laws must be submitted to Unitholders for approval;

- (b) any amendment to this Declaration of Trust as may be required by Section 15.1 or Section 15.2; and
 - (c) the appointment of a substitute manager for the Fund (other than an affiliate of the Manager) or a successor trustee (other than an affiliate of the Trustee or a registered trust company) for the Fund pursuant to Section 4.4 or Section 5.5.
- (4) If required under Applicable Laws or if the Manager determines that any matter would affect Unitholders of one or more particular Class of Units of the 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 of Units of the Fund. The meetings may be held concurrently and Unitholders shall be entitled to vote separately as a Class, as applicable, with respect to any of these matters.

Section 14.2 Notice of Meetings and Quorum

Notice of all meetings of Unitholders (or a Class of Unitholders) shall be given in writing by mail or by email or other electronic methods of communication to each Unitholder (or each Unitholder of the applicable Class) at the Unitholder's last address of record, not less than twenty-one (21) days before the meeting. Such notice shall set the time when and the place where the meeting is to be held and shall specify, in general terms, the nature of the business to be transacted thereat, and shall specify in the notice the text of any resolution to be approved, confirmed, or passed. The accidental omission to give notice to or the non-receipt of notice by a Unitholder shall not invalidate any meeting of Unitholders or any action taken by Unitholders at such meeting. Notwithstanding the foregoing, a meeting of Unitholders (or a Class of Unitholders) may be held at any time without notice if all the Unitholders (or all Unitholders of the applicable Class) are present or represented thereat or those not so present or represented have waived notice. Any Unitholder (or a duly appointed proxy of a Unitholder) may waive any notice required to be given under the provisions of this Section, and such waiver, whether given before, at, or after the meeting, shall cure any default in the giving of such notice. A quorum at any meeting of Unitholders or Class of Unitholders, as the case may be, will consist of two or more Unitholders, or Unitholders of the Class to which the meeting pertains, present in person or by proxy holding at least 20% of the outstanding Units, or Units of the Class to which the meeting pertains, except that for the purposes of passing a special resolution, Unitholders or Unitholders of a Class present in person or by proxy holding at least 33 $\frac{1}{3}$ % of the Units, or Units of the Class to which the meeting pertains, outstanding and entitled to vote thereon must be present. If no quorum is present at such meeting when called, the meeting will be adjourned by the Manager to a date and time not more than ten (10) days later, selected by the Manager, and at the adjourned meeting the Unitholders then present in person or represented by proxy will form the necessary quorum, if notice of the adjourned meeting is given.

Section 14.3 Chair

Any officer or director of the Manager shall be the chair of a meeting of Unitholders (or a Class of Unitholders) unless the Unitholders present in person or by proxy at the meeting choose, by resolution, some other individual present at such meeting to be the chair. If no officer or director of the Manager is present at a meeting of Unitholders (or a Class of Unitholders), the Unitholders present in person or by proxy at the meeting shall by resolution appoint a chair of such meeting.

Section 14.4 Record Dates

For the purpose of determining the Unitholders who are entitled to receive notice of and vote at any meeting or any adjournment thereof, or for the purpose of any other action, the Trustee may from time to time, without notice to Unitholders, close the transfer books for such period, not exceeding thirty (30) days, as the Trustee may determine; or subject to the provisions of this Declaration of Trust without closing the transfer books the Trustee may fix a date not more than sixty (60) days nor fewer than thirty-five (35) days prior to the date of any meeting of Unitholders (or a Class of Unitholders) as a record date for the determination of Unitholders entitled to receive notice of and vote at such meeting or any adjournment thereof and any Unitholder who was a Unitholder (or a Unitholder of the applicable Class) at the time so fixed shall be entitled to receive notice of and vote at such meeting or any adjournment thereof, even though the Unitholder has since that date disposed of his, her, their, or its Units (or Units of the applicable Class) and no Unitholder (or Unitholder of the applicable Class) becoming such after that date shall be entitled to receive notice of and vote at such meeting or any adjournment thereof or to be treated as a Unitholder (or Unitholder of the applicable Class) of record for purposes of such other action.

Section 14.5 Proxies

At any meeting of Unitholders (or a Class of Unitholders), any Unitholder entitled to vote thereat may vote by proxy and a proxy need not be a Unitholder, provided that no proxy shall be voted at any meeting unless it shall have been placed on file with the Manager, or with such other agent of the Fund as the Manager may direct, prior to the commencement of such meeting. If approved by the Manager, proxies may be solicited by the Manager naming the Manager as proxy and the cost of such solicitation shall be paid out of the Fund Property. The instrument appointing any proxy shall be in such form and executed in such manner as the Manager may from time to time determine.

Section 14.6 Validity of Proxies

An instrument appointing a proxy purporting to be executed by or on behalf of a Unitholder shall be valid unless challenged at the time of or prior to its exercise and the Person challenging such instrument shall have the burden of proving to the satisfaction of the chair of the meeting of Unitholders (or a Class of Unitholders) at which such instrument is proposed to be used that such instrument is invalid and any decision of the chair of the meeting in respect of the validity of such instrument shall be final. Proxies shall be valid only at the meeting with respect to which they were solicited, or any adjournment thereof, but in any event shall cease to be valid one year from their date.

Section 14.7 Revocation of Proxy

A vote cast in accordance with the terms of a proxy shall be valid notwithstanding the previous death, incapacity, insolvency, or bankruptcy of the Unitholder giving the proxy or the revocation of the proxy unless written notice of such death, incapacity, insolvency, bankruptcy, or revocation shall have been received by the chair of the meeting prior to the time such vote is cast.

Section 14.8 Solicitation of Proxies

No Person shall solicit proxies in respect of a meeting of Unitholders (or a Class of Unitholders) unless the Person making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each Unitholder whose proxy is solicited. Subject to the provisions of this Declaration of Trust and to Applicable Law, the information circular required hereunder shall

conform, insofar as is applicable, to the form and content prescribed for information circulars by or pursuant to applicable securities laws and regulations.

Section 14.9 Form of Proxy Solicitation

Subject to Applicable Law, where there is a solicitation of proxies (other than with respect to the exception set forth in Section 14.8 above):

- (a) the form of proxy sent to a Unitholder by a Person soliciting proxies shall indicate in bold-faced type by whom the proxy is being solicited and the form of proxy or the information circular shall state the name, address, and principal occupation or employment within the preceding five years of each Person soliciting proxies and shall disclose the beneficial ownership of Units of each such Person;
- (b) the form of proxy shall provide means whereby the Unitholder whose proxy is solicited is afforded an opportunity to specify that the Unitholder's votes shall be cast by the nominees in favour of or against, in accordance with such Unitholder's choice, each matter or group of related matters identified therein or in the information circular as intended to be acted upon;
- (c) no proxy shall confer authority to vote at any meeting other than the meeting specified in the notice of meeting or any adjournment thereof;
- (d) the information circular or form of proxy shall state that the votes represented by the proxy shall be cast and that, where the Unitholder whose proxy is solicited specifies a choice with respect to any matter to be acted upon pursuant to subsection (b) above, the votes shall be cast in accordance with the specifications so made; and
- (e) the information circular or form of proxy shall indicate in bold-faced type that the Unitholder has the right to appoint a Person, who need not be a Unitholder, to attend and act for the Unitholder and on the Unitholder's behalf at the meeting other than the Person, if any, designated in the form of proxy, and shall contain instructions as to the manner in which the Unitholder may exercise such right.

Section 14.10 Corporations

If a Unitholder is a corporation or body corporate, it may appoint an officer, director, or other authorized Person as its representative to attend, vote, and act on its behalf at a meeting of Unitholders.

Section 14.11 Persons Entitled to be Present

The only Persons entitled to be present at a meeting of Unitholders (or a Class of Unitholders) shall be those Unitholders entitled to vote thereat (or their proxies), and representatives of the Auditor, the Trustee, and the Manager. Any other individuals may be present at a meeting of Unitholders (or a Class of Unitholders) with the consent of the chair.

Section 14.12 Manner of Voting

Any action to be taken by the Unitholders (or a Class of Unitholders) shall, except as otherwise required by this Declaration of Trust or by Applicable Law, be authorized when approved

by a majority of the votes cast by those entitled to vote at the meeting of Unitholders (or a Class of Unitholders).

Every question submitted to a meeting shall be decided in the first instance by a show of hands unless a poll is demanded, in which case a poll shall be taken. If a poll is demanded, it shall be taken immediately upon request in the case of a poll requested concerning the election of a chair or an adjournment and, in any other case, it shall be taken in such manner as the chair of the meeting may direct and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded. On a show of hands, every Unitholder who is entitled to vote and is present in person or represented by proxy shall have one vote. On a poll, every Unitholder who is entitled to vote and present in person or represented by proxy shall have one vote for each Unit which he holds. If Units are held jointly by two or more Persons, any one of them present or represented by proxy at a meeting of the Unitholders may, in the absence of the other or others, vote thereon, but if more than one of them are present or represented by proxy, they shall vote together on the Units held jointly and, if they do not agree which of them is to exercise any vote to which they are jointly entitled, they shall for the purposes of the voting be deemed not to be present. The chair of a meeting shall be entitled to vote in respect of Units held by the chair or presented by the chair by proxy, but in the case of an equality of votes, the chair shall not have a casting vote and the resolution shall be deemed to be defeated.

Section 14.13 Conduct of Meetings

The rules and procedures for the conduct of a meeting of Unitholders not prescribed herein shall be such reasonable rules and procedures as are determined by the chair of the meeting, provided that the Unitholders represented at the meeting may, by resolution, resolve that such other rules specified in the said resolution apply.

Section 14.14 Resolutions Binding

Any resolution passed in accordance with the provisions hereof shall be binding on all Unitholders and their respective heirs, executors, administrators, other legal representatives, successors, and assigns, whether or not such Unitholder was present or represented by proxy at the meeting at which such resolution was passed and whether or not such Unitholder voted against such resolution.

Section 14.15 Minutes of Meetings

Minutes of the meeting shall be made by the corporate secretary of the Manager (who shall act as secretary of the meeting) or such other Person appointed by the Manager and duly entered in minute books to be kept by the Manager. Notwithstanding the foregoing, at any meeting at which the Manager's removal is considered by the Unitholders in accordance with Section 5.2, minutes of the meeting may be made by a professional minute taker appointed at such meeting. Any such minutes signed by the chair 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.

Section 14.16 Resolutions in Writing

A resolution in writing forwarded to all Unitholders (or all Unitholders of the applicable Class) entitled to vote on such resolution at a meeting of Unitholders (or a Class of Unitholders) and signed by the holders of the requisite number of Units (or Units of the applicable Class) to obtain approval of the matter addressed in such resolution is as valid as if it had been passed at a meeting of Unitholders (or a Class of Unitholders).

Section 14.17 Reporting to Unitholders

- (1) The Trustee, or any third party appointed by the Trustee, shall arrange to have sent to each Unitholder an annual statement showing the Units held and any transactions for the preceding period. Such statements will contain any amounts reinvested for the Unitholder during the preceding period, the number of additional Units purchased or redeemed on behalf of the Unitholder, and the Net Asset Value of the Units determined on the Valuation Date immediately preceding the date of the statement.
- (2) The Fund intends to make available and, where requested, to deliver audited financial statements to Unitholders after the end of each fiscal year end commencing for the fiscal year ending in 2023. Unitholders shall be given the option to receive or not receive annual financial statements and have the ability to change their selection at any time by contacting the Manager.
- (3) Any information required to be sent to Unitholders for income tax purposes with respect to the Fund not otherwise contained in the statement and reports mentioned in Section 13.8 shall also be sent by the Trustee, or any third party appointed by the Trustee, or the record keeper to Unitholders no later than March 31 in each year with respect to the calendar year then last ended.
- (4) No Unitholder shall be entitled to any other accounting with respect to the Fund or his holding of Units, except as may be required by Applicable Law.
- (5) The Trustee, or any third party appointed by the Trustee, will prepare and file on behalf of the Fund all tax returns and other information returns that the Fund is required by law to prepare and file. The Trustee, or any third party appointed by the Trustee, will and is empowered to make all designations, elections, filings, determinations, and applications under the Tax Act or under any other applicable legislation, regulations, policies, or guidelines on behalf of the Fund as the Trustee, or any third party appointed by the Trustee, considers reasonable in all of the circumstances, including the designations referred to in Section 13.5.

ARTICLE 15

AMENDMENT AND TERMINATION OF TRUST AGREEMENT

Section 15.1 Amendments Generally

- (1) Subject to Section 15.1(2) and Section 15.2, any provision of this Declaration of Trust may be amended by the Manager, with the approval of the Trustee, upon notice to Unitholders, but no such amendment may be made to the terms applicable to Classes or Series of Units under this Declaration of Trust that would materially adversely affect the interest of the Unitholders of the Fund as a whole and/or of a Class or Series of the Fund without the approval of not less than 66 2/3% of the votes cast at a meeting of Unitholders of the 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 14.16). The notice to be provided to Unitholders must be given in writing not less than thirty (30) days in advance of the effective date of the amendment unless the Manager and Trustee agree to an earlier effective date.

- (2) Notwithstanding Section 15.1(1) and subject to Section 15.2, any provision of this Declaration of Trust may be amended by the Manager, with the approval of the Trustee, without any prior notice to, or approval of, Unitholders if the amendment:
- (a) is not reasonably expected to materially adversely affect the interests of the Unitholders; or
 - (b) is intended to ensure compliance with applicable laws, regulations, or policies; or
 - (c) is intended to provide additional protection to Unitholders or enhance the rights of Unitholders; or
 - (d) is intended to remove conflicts or inconsistencies or correct typographical, clerical, or other errors; or
 - (e) is intended to maintain the Fund's status as a "mutual fund trust" for purposes of the Tax Act; or
 - (f) is intended to facilitate the administration of the Fund; or
 - (g) is to create one or more new Class or Classes or one or more new Series of additional Units and to make consequential amendments to this Declaration of Trust related thereto; or
 - (h) is intended to respond to amendments to the Tax Act, or the interpretation or administration thereof, which might otherwise adversely affect the interests of the Fund or Unitholders,

provided that Unitholders are given notice of the amendments as soon as reasonably possible following the effective date of the amendments.

Section 15.2 Amendments Requiring Unitholder Approval

- (1) Notwithstanding Section 15.1, this Declaration of Trust may only be amended, deleted, expanded or varied in accordance with Section 15.2(2) for the following purposes:
- (a) this Article 15 is changed;
 - (b) the basis of the calculation of a fee or expense that is charged to the Fund is changed in a way that could result in an increase in charges to the Fund paid to the Manager or a substitute manager;
 - (c) the Investment Objective of the Fund is changed;
 - (d) a decrease in the frequency of calculating Net Asset Value; and
 - (e) the Fund undertakes a reorganization with, or transfers its assets to, another fund, if

- (i) the Fund ceases to continue after the reorganization or transfer of assets, and
 - (ii) the transaction results in the Unitholders of the Fund becoming unitholders in the other fund; and
 - (iii) there is, in the opinion of the Manager, a material difference in the fundamental investment objective of the Fund and the other fund.
- (2) Any proposed change to this Declaration of Trust for the purposes contemplated by Section 15.2(1), may only take effect upon either:
 - (a) the consent of not less than 66 2/3% of the votes cast at a meeting of Unitholders of the 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 accordance with Section 14.16); or
 - (b) Unitholders affected by such change having been given not less than sixty (60) days' prior written notice of the proposed change, in accordance with Section 14.2, 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).
- (3) No change or amendment to the redemption rights attaching to a Class or Series of Units may be made without the prior written consent of a majority of Unitholders of such Class or Series if such change or amendment will result in the Fund ceasing to qualify as a "mutual fund trust" for purposes of the Tax Act (including changes to the frequency of redemptions, any minimum holding period before which Units may be redeemed, minimum redemption amounts, the implementation of other deductions applicable to redemption proceeds payable, deferral of payment of redemption proceeds, suspension of redemptions, or any other matter that could limit, penalize or impair the redemption of such Units).

Section 15.3 Amendments Affecting the Manager or the Trustee

- (1) Notwithstanding Section 15.1 and Section 15.2:
 - (a) No amendment may be made to this Declaration of Trust that would have the effect of reducing the fees payable to the Manager unless the Manager, in its sole discretion, first consents;
 - (b) No amendment may be made to this Declaration of Trust that would restrict any protection provided to the Trustee or impacts the responsibilities of the Trustee hereunder, unless the Trustee, in its sole discretion, first consents; and
 - (c) No amendment may be made to this Declaration of Trust that would restrict any protection provided to the Manager or impacts the responsibilities of the Manager hereunder, unless the Manager, in its sole discretion, first consents.

Section 15.4 Amendments in Writing

Except as expressly provided in this Declaration of Trust, no amendment, supplement, restatement, or termination of any provision of this Declaration of Trust is binding unless it is in writing and signed by each Person that is a party to this Declaration of Trust at the time of the amendment, supplement, restatement, or termination.

Section 15.5 Restatements

A restated declaration of trust 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 declaration of trust shall be deemed to constitute a termination and/or resettlement of the trust created hereby.

Section 15.6 Termination of the Fund

The Manager may, at any time, in its discretion, terminate the Fund by giving notice to the Trustee and each then Unitholder of the Fund and fixing the date of termination not earlier than ninety (90) days following the mailing or other delivery of notice (the “**Termination Date**”). No Units affected by such termination may be redeemed at the option of the Unitholder from the date that such notice of termination is given until the date that is fixed for termination (for greater certainty, if termination does not occur on the date fixed for termination, Units may thereafter be redeemed in accordance with and subject to Article 11 unless a new date of termination is fixed by the Manager prior thereto).

Section 15.7 Procedure on Termination

- (1) On or about the effective date of termination of the Fund, the Manager or temporary trustee shall terminate all agreements, close all portfolio positions, and sell all non-cash assets of the Fund, unless the Manager or temporary trustee determines that it would be in the best interests of the Unitholders of the Fund to distribute some or all of such assets *in specie*. The Manager or temporary trustee shall be entitled to retain out of any moneys in its hands full provision for all costs, charges, expenses, claims, and demands incurred, made, or reasonably anticipated by the Manager or temporary trustee in connection with or arising out of the termination of the Fund and the distribution of the Fund Property to Unitholders and out of the moneys so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims, and demands.
- (2) Upon the Fund being terminated the Manager shall sell or redeem or cause to be sold or redeemed all investments that then form part of the Fund Property, such sale shall to be carried out and completed in such manner and within such period after the Termination Date as the Manager in its absolute discretion determines to be advisable, and all Fund Property remaining after paying or providing for all liabilities and obligations of the Fund shall be distributed *pro rata* among the Unitholders of each Class registered as such at the close of business on the date fixed as the Termination Date. If required by the Manager or temporary trustee, a form of release satisfactory to the Manager or temporary trustee shall be provided by each Unitholder of the Fund prior to the distribution of the Unitholder’s proportionate share of the Fund Property attributable to the applicable Class of Units.
- (3) If, after a period of six (6) months from the date of termination of the Fund, any Unitholder as shown on the Register cannot be located, such Unitholder’s share of the Fund Property shall

be deposited in an account in a chartered bank or similar institution in Canada in the name of such Unitholder and the Fund, the Trustee, the Manager, and any representative thereof (including any Custodian or sub-custodian of assets of the Fund) shall thereupon be released from any and all further liability with respect to such property and thereafter the Unitholder shall have no rights as against the Fund, the Trustee, the Manager, or any representative thereof (including any Custodian or sub-custodian of the assets of the Fund) in respect of such property or an accounting therefor.

Section 15.8 Manager's Duties on Termination

Upon termination of this Declaration of Trust, the Manager shall forthwith deliver to the Fund:

- (a) all records, documents, and books of account of the Fund; and
- (b) all materials and supplies for which the Manager has been paid by the Fund,

that are in the possession or control of the Manager and relate directly or indirectly to the performance by the Manager of its obligations under this Declaration of Trust, provided, however, that the Manager may retain notarial or other copies of such records, documents, and books of account and the Fund shall provide at its head office the originals of such records, documents, and books of account whenever reasonably required to do so by the Manager for the purpose of legal proceedings or dealings with any Governmental Authority.

ARTICLE 16

LIABILITY OF TRUSTEE, MANAGER, AND UNITHOLDERS AND OTHER MATTERS

Section 16.1 Liability and Indemnification of Trustee

(1) Standard of Care

The Trustee shall exercise the powers and discharge the duties of its office honestly and in good faith, with a view to the best interests of Unitholders and in connection therewith shall exercise the degree of care, diligence, and skill that a reasonably prudent trustee would exercise in comparable circumstances. Subject to the foregoing, the Trustee in its capacity as Trustee shall not be required to devote its full time and attention to the affairs of the Fund but need only devote such time as it may deem appropriate or necessary to discharge its duties hereunder in a responsible manner.

(2) Reliance

The Manager shall from time to time furnish the Trustee with a certificate signed by its authorized officers setting the name(s) and title(s) of the authorized officer(s) of the Manager and of any other Person(s) or representative(s) including any sub-advisor appointed by the Manager and authorized to act on behalf of the Manager at the time specified in such certificate, together with specimen signatures of all such officers, Persons, or representatives, and the Trustee shall be entitled to rely upon the identification of such Persons as specified in such certificate as the Person(s) entitled to act on behalf of the Manager for the purposes of this Declaration of Trust until a later certificate respecting the same is delivered to the Trustee.

The Trustee shall:

- (a) be fully protected in acting upon any instrument, certificate, or other writing believed by it to be genuine and to be signed or presented by the proper Person or Persons;
- (b) be under no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained;
- (c) not be responsible for:
 - (i) the proper application by any Unitholder of any part of its interests in the Fund if payments are made in accordance with written directions of such Unitholder as herein provided; nor
 - (ii) the adequacy of the Fund Property to meet and discharge any and all payments and liabilities in respect of a Unitholder; nor
 - (iii) the compliance by any Unitholder with the Tax Act, rules under the Tax Act, or any Applicable Law; nor
 - (iv) the authenticity or the validity of title of any Fund Property (including, without limitation, the amount, weight, purity, contents, or any other aspect of Fund Property consisting of commodities, including without limitation, precious metals) or assaying any Fund Property consisting of commodities, including without limitation, precious metals; nor
 - (v) any act or omission required or demanded by any governmental, taxing, regulatory, or other competent authority in any country in which all or part of the Fund Property is held or which has jurisdiction over the Trustee or the Manager; nor
 - (vi) loss or damage of any nature whatsoever resulting from official action, war, or threat of war, insurrection or civil disturbances, interruption in postal, telephone, telegraph, telex, or other electromechanical communication systems or power supply, the failure of any third party to fulfil its obligations under any agreement with the Fund or the Manager, or any other factor beyond the Trustee's control that obstructs, affects, prohibits, or delays the Trustee, its directors, officers, employees, or agents in carrying out the responsibilities provided for herein, in whole or in part; nor
 - (vii) any Fund Property that it does not hold or that is not directly controlled by it or its appointed agents (including sub-custodians).

The Trustee may rely and act upon any statement, report, or opinion prepared by or any advice received from the Auditor, counsel, or other professional advisors of the Fund and shall not be responsible nor held liable for any loss or damage resulting from so relying or acting if the advice was within the area of professional competence of the Person from whom it was received, the Trustee acted in good faith in relying thereon, and the professional advisor was aware that the Trustee was receiving the advice in its capacity as trustee of the Fund and the Trustee acted in good faith in relying thereon.

The Trustee shall in no way be responsible for, nor incur any liability based on, the action or failure to act or for acting pursuant to or in reliance on instructions of the Manager, the Custodian (if not the Trustee), record keeper (if not the Trustee), any registrar or transfer agent of the Fund (unless the Trustee is acting in such capacity), or any Person or organization to whom its responsibilities are delegated. The Trustee shall have no responsibility or liability in connection with any transaction entered into by the Manager on behalf of the Fund as authorized pursuant to this Declaration of Trust or otherwise.

(3) General Disclaimer of Liability

The Trustee shall not be liable in carrying out its duties hereunder to the Fund or to any Unitholder for any loss or damage relating to any matter regarding the Fund, including any loss or diminution in the value of any of the Fund Property except in cases where the Trustee fails to act honestly and in good faith and in the best interests of Unitholders to the extent required by laws applicable to trustees, or fails to meet the standard of care set out in Section 16.1(1). The Trustee shall not be liable to the Fund or to any Unitholder for the acts, omissions, receipts, neglects, or defaults of any Person, firm, or corporation 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 Fund through the insufficiency or deficiency of any security in or upon which any of the monies of or belonging to the Fund shall be paid out or invested, or for any loss or damage arising from the bankruptcy, insolvency, or tortious act of any Person, firm, or corporation with whom or which any such monies or Fund Property shall 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 that the Trustee does not meet the standard of care set out in Section 16.1(1).

(4) Indemnification of Trustee

Subject to any Applicable Law, the Trustee, and its Affiliates and each of their respective officers, directors, employees, and agents shall at all times be indemnified and saved harmless out of the Fund Property from and against:

- (a) all claims whatsoever, (including costs, judgments, charges, and expenses including legal fees 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 its duties as Trustee; and
- (b) all other liabilities, costs, charges, and expenses that it sustains or incurs in or about or in relation to the affairs of the Fund.

This indemnity shall survive the resignation or removal of the Trustee.

(5) Exception

Section 16.1(4) does not apply to the extent that any such claim, cost, charge, or expense has been caused by a breach of the standard of care or the wilful misconduct, bad faith, negligence of the Trustee, or material breach or material default by the Trustee of its obligations under this Declaration of Trust.

Section 16.2 Liability and Indemnification of Manager

(1) Standard of Care of Manager

The Manager shall exercise its powers and discharge its duties honestly and in good faith and in the best interests of the Fund and shall exercise the degree of care, diligence, and skill that a reasonably prudent Person would exercise in comparable circumstances.

(2) Default

The Manager shall be deemed to be in default under this Declaration of Trust in the case of, among other things, wilful misconduct, bad faith, negligence, disregard of the Manager's standard of care set forth in Section 16.2(1), or by any material breach or material default by the Manager of its obligations under this Declaration of Trust.

(3) Limitation of Liability

The Manager and its directors, officers, partners, employees, and agents shall not be liable to the Fund for any loss or damage relating to any matter regarding the Fund, including any loss or diminution of the value of the assets of the Fund. The Manager will incur liability, however, in cases of wilful misconduct, bad faith, negligence, disregard of the Manager's standard of care set forth in Section 16.2(1), or by any material breach or material default by the Manager of its obligations under this Declaration of Trust.

The Manager may employ or engage, and rely and act on information or advice received from, dealers, distributors, brokers, depositories, custodians, electronic data processors, advisors, counsel, and others and, provided the Manager exercised reasonable care in selecting such Persons or such Persons were selected by the Trustee, shall not be responsible or liable for any loss or damage resulting from so relying or acting if the advice was within the area of professional competence of the Person from whom it was received, and the Manager acted in good faith in relying thereon.

(4) Engaging in Competition

The Manager may from time to time deal with securities of the same class and nature as may constitute the whole or part of the Fund Property on its own behalf or on behalf of other accounts it manages or engage in activities similar to those to be performed by it for the Fund for its other clients. Except to the extent prohibited by Applicable Law, the Manager is hereby expressly permitted (notwithstanding any liability that might otherwise be imposed by law or in equity upon the Manager) to derive direct or indirect benefit, profit, or advantage from time to time as a result of the relationships, matters, contracts, transactions, affiliations, or other activities and interests permitted under this Section 16.2 and the Manager shall not be liable in law or in equity to pay or account to the Fund or to any Unitholder for any such direct or indirect benefit, profit, or advantage nor shall any such contract or transaction be void or voidable at the instance of the Fund or any Unitholder.

(5) Indemnification of Manager

Subject to any Applicable Law, the Manager, its directors, officers, partners, employees, and agents shall be indemnified (collectively, the "**Indemnified Persons**") and saved harmless by the Fund to the fullest extent permitted by law out of the Fund Property from and against all

claims, costs, charges, liabilities, and expenses reasonably incurred in connection with such Indemnified Person being or having been such Manager, director, officer, partner, employee, or agent of the Manager; with the exception of liabilities and expenses resulting from the Indemnified Person's wilful misconduct, bad faith, negligence, or breach of its standard of care, or failure to fulfill its duties or obligations pursuant to this Declaration of Trust, and, in connection therewith, to exercise the degree of care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances.

If any claim contemplated in this Section 16.2(5) shall be asserted against the Manager, the Manager shall notify the Trustee as soon as possible of the nature of such claim and the Trustee shall be entitled (but not required) to assume the defence of any suit brought to enforce such claim, provided, however, that the defence shall be through legal counsel acceptable to the Manager, and that no settlement may be made by the Trustee or the Manager, without the prior written consent of the other, such consent not to be unreasonably withheld. If the Trustee does not assume such defence, the Manager, may do so and the fees and expenses of its counsel shall be paid from the Fund Property as provided in this Section 16.2(5), but shall be reimbursed to the Fund if a Court has rendered a decision, for which no further appeal can be made or the time for such appeal has elapsed, that the Manager is not entitled to indemnity in respect thereof pursuant to this Section 16.2(5).

The Manager shall have the right to employ separate counsel in any proceeding described above and participate in the defence thereof but the fees and expenses of such counsel shall be at the expense of the Manager unless: (i) the employment of such counsel has been authorized by the Trustee; or (ii) the named parties to any such proceeding include the Trustee and the Manager, and representation of all of the parties by the same counsel would be inappropriate due to actual or potential differing interests between them, in which event the fees and expenses of such counsel shall be paid from the Fund Property as provided in this Section 16.2(5), but shall be reimbursed to the Fund if a Court has rendered a decision, for which no further appeal can be made or the time for such appeal has elapsed, that the Manager is not entitled to indemnity in respect thereof pursuant to this Section 16.2(5). The Fund shall not be liable under this Section 16.2 to pay the fees and expenses of more than one law firm in any one jurisdiction acting as counsel on behalf of one or more Indemnified Person.

Section 16.3 Limitation on Liability of Unitholders

- (1) No Unitholder shall be subject to any personal liability whatsoever, in tort, contract, or otherwise to any Person in connection with Fund Property or the obligations or the affairs of the Fund and all such Persons shall look solely to the Fund Property for satisfaction of claims of any nature arising out of or in connection therewith and the Fund Property only shall be subject to levy or execution. Each of the Trustee and the Manager hereby waives to the maximum extent possible any right to indemnification that it may have against any Unitholder under any Applicable Law.
- (2) If, notwithstanding the provisions of this Declaration of Trust, any Unitholder shall be held personally liable as such to any other Person in respect of any debt, liability, or obligation incurred by or on behalf of the Fund, or for any action taken or omitted to be taken or in connection with the affairs of the Fund, such Unitholder shall be entitled to indemnity and reimbursement out of the Fund Property to the full extent of such liability and the costs of any litigation or other proceedings in which such liability shall have been determined, including without limitation, the fees and disbursements of counsel.

Section 16.4 Exculpatory Clauses in Instruments

The Trustee or the Manager, as applicable, shall, where feasible, use reasonable means to inform all Persons having dealings with the Fund of the limitation of liability set forth in Section 16.1, Section 16.2, and Section 16.3 and shall, where feasible, cause to be inserted in any written agreement, undertaking, or obligation made or issued on behalf of the Fund an appropriate statement of the disavowal and limitation of liability set forth in Section 16.1, Section 16.2, and Section 16.3, but the omission of such statement from any such instrument shall not render the Trustee, the Manager, or any Unitholder liable to any Person, nor shall the Trustee, the Manager, or any Unitholder be liable to any Person for such omission. If, notwithstanding this provision, the Trustee, the Manager, or any Unitholder shall be held liable to any other Person by reason of the omission of such statement from any such agreement, undertaking, or obligation, such Trustee, Manager, or Unitholder shall be entitled to indemnity and reimbursement out of the Fund Property to the full extent of such liability and the costs of any litigation or other proceedings in which such liability shall have been determined, including without limitation, the reasonable fees and disbursements of counsel.

Section 16.5 No Waiver

Notwithstanding anything in this Article 16, nothing herein will act as a waiver of any rights that the Fund may have against the Manager by virtue of any federal or provincial securities laws.

Section 16.6 No Liability for Tax Obligations

None of the Manager or the Trustee shall be liable for any taxes, assessments, or other governmental charges levied with respect to the Fund or the Units or upon the Fund Property or any part thereof, or upon the income thereof or any interest of any Unitholder therein or thereunder except to the extent the same is properly payable from Fund Property. In the event that the Trustee at any time shall make any disbursements from the Trustee's own property for any such tax, assessment, or other governmental charge that is payable from the Fund Property, the Trustee shall be entitled to be reimbursed therefor out of the Fund Property.

Notwithstanding any other provisions of this Declaration of Trust, the Fund shall have no liability to reimburse any Person for transfer or other taxes or fees payable on the transfer of Units or any income or other taxes assessed against any Person by reason of ownership or disposition of Units, or for any losses suffered by reason of changes in the market value or Net Asset Value of the Fund.

Section 16.7 Trustee's Other Interests

Without affecting or limiting the duties and responsibilities or the limitations, exculpations, and indemnities provided in this Declaration of Trust, the Trustee is hereby expressly permitted:

- (a) to be an Affiliate of a Person from whom any Fund Property has been or is to be purchased or to whom any Fund Property has been or is to be sold, subject to Applicable Law;
- (b) to use, in other capacities, knowledge gained in its capacity as the Trustee, provided that it may not make use of any specific confidential information for its own benefit or advantage or for the benefit or advantage of any other Person that, if generally known, might reasonably be expected to affect the value of any of the Units;

- (c) to be, or to be an Affiliate of, any Person with whom the Fund contracts or deals, or that supplies services to the Fund, including without limitation underwriters, agents, and bankers;
- (d) to acquire, hold, and sell Units as an Affiliate of or fiduciary for any other Person, or as an Affiliate of any Person who acquires, holds, or sells Units, and to exercise all rights of a holder thereof as if it were not the Trustee;
- (e) to acquire, hold, and dispose of, for its own account, any property, real or personal, even if such property is of a character that could be held by the Fund and to exercise all rights of an owner of such property as if it were not the Trustee; and
- (f) to have business interests of any nature and to continue such business interests with the Fund, including the rendering of professional or other services and advice to other Persons for gain.

Section 16.8 Interests of Consultants and Agents

Any consultant or agent of the Fund may, while so engaged and so long as it complies with this Declaration of Trust and any other applicable agreements:

- (a) acquire, hold, and dispose of any property, real or personal, for its account even if such property is of a character that could be held by the Fund, and may exercise all rights of an owner of such property as if it were not a consultant or agent, as the case may be;
- (b) have business interests of any nature and may continue such business interests for its own account including the rendering of professional or other services and advice to other Persons for gain; and
- (c) acquire, hold, and sell Units in its own capacity or as an Affiliate of or fiduciary for any other Person, or as an Affiliate of any Person who acquires, holds, or sells Units, and may exercise all rights of a holder thereof as if it were not a consultant or agent of the Fund, provided that it may not make use of any specific confidential information for its own benefit or advantage that, if generally known, might reasonably be expected to affect the value of any of the Units,

and such activities shall be deemed not to conflict with its duties as a consultant or agent of or to the Fund. Except as otherwise specifically agreed with the Fund, no consultant or agent of the Fund shall have any duty to present to the Fund any investment opportunity that it may receive in any capacity other than as consultant or agent of the Fund, and its failure to present to the Fund any such investment opportunity shall not make such consultant or agent liable in law or in equity, to pay, or account to the Fund, or to any Unitholder whether acting individually or on behalf of himself and other Unitholders as a class, for any benefit, profit or advantage derived therefrom.

Section 16.9 Services Not Exclusive

The Trustee acknowledges and agrees that the services of the Manager and its officers and directors are not exclusive to the Fund, and nothing herein shall prevent the Manager or any Affiliate of the Manager from engaging in the promotion, management, or investment management of any other fund or trust with similar investment objectives, policies, and criteria, including, without

limitation, investing in securities, or from providing similar services to other investment funds and other clients (whether or not their investment objective, policies, and criteria are similar to those of the Fund) or from engaging in other activities. The Manager agrees that it will allocate investment opportunities to make and dispose of investments on an equitable basis among clients who have similar objectives in accordance with the policies of the Manager that are in place from time to time. The Manager may make or dispose of the same investment for the Fund and one or more of its clients, but the timing of transactions for other clients may not coincide with those carried out for the Fund because of different investment policies.

Section 16.10 Execution of Documents

Each of the Trustee and the Manager shall have authority to sign on behalf of the Fund all documents that are consistent with its respective powers and duties hereunder, and any documents so signed shall be binding upon the Fund without any further authorization or formality. Each of the Trustee and the Manager shall have the power from time to time to appoint any Person or Persons on behalf of the Fund either to sign documents generally or to sign specific documents.

Section 16.11 Execution of Documents by Manager

Any approval, consent, direction, order, or request required or permitted by this Declaration of Trust 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 Declaration of Trust and no express provision is made for the action to be taken by the Trustee, the Trustee may, but shall not be required to, act herein without any such approval, consent, direction, order, or request, in its own discretion.

Section 16.12 Availability of Funds

The obligation of the Trustee to commence or continue any act, action, suit, or proceeding or to represent the Fund in any action, suit, or proceeding shall be conditional upon sufficient funds being available to the Trustee from the Fund Property to commence or continue such act, action, suit, or proceeding or to represent the Fund in any action, suit, or proceeding and an indemnity reasonably satisfactory to the Trustee to protect and hold harmless the Trustee against the costs, charges and expenses, and liabilities to be incurred therein and any loss and damage it may suffer by reason thereof. None of the provisions contained in this Declaration of Trust shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of its duties or in the exercise of any of its rights or powers unless it is given an indemnity and funding satisfactory to the Trustee, acting reasonably.

ARTICLE 17 NOTICE

Section 17.1 Notice to Unitholders

Any notice required to be given or any document or instrument in writing to be sent to a Unitholder under this Declaration of Trust may be effectively given or sent to the Unitholder by ordinary post or electronic transmission addressed to the Unitholder at its last address appearing on the record of Unitholders. Any notice so given shall be conclusively deemed to have been received by the Unitholder three (3) Business Days after the notice is mailed, if given by ordinary post, or on the

next Business Day following the day of electronic transmission provided confirmation of electronic transmission can be produced by the sender, and, in proving notice, it shall be sufficient for the Trustee to prove that the notice was properly addressed, stamped, mailed, delivered, and/or sent, as applicable.

Section 17.2 Notice to Trustee and Manager

All directions, notices, and communications (“**Communications**”) required or permitted to be given hereunder to the Trustee or Manager shall be validly given if given through:

- (a) personal or courier delivery;
- (b) pre-paid ordinary mail; or
- (c) directly by electronic transmission.

Communications should be addressed, as applicable, as follows:

in the case of the Trustee and Manager:

Spartan Fund Management Inc.
150 King Street West
Suite 200
Toronto, Ontario
Canada M5H 1J9

Attention: Chief Executive Officer
E-mail: admin@spartanfunds.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.

Section 17.3 Deemed Delivery

Any Communication delivered personally shall be deemed to have been given and received on the day it is so delivered (or if that day is not a Business Day, on the next succeeding Business Day). Subject to disruptions in the postal service, any Communication mailed shall be deemed to have been given and received on the fifth (5th) Business Day following the date of mailing. Any Communication delivered by electronic transmission shall be deemed to have been given and received on the next Business Day following the day of electronic transmission provided confirmation of electronic transmission can be produced by the sender. In proving a Communication given and received, it shall be sufficient for the applicable sender to prove that the Communication was properly addressed, stamped, mailed, delivered, and/or sent, as applicable.

ARTICLE 18 MISCELLANEOUS

Section 18.1 Confidentiality

Each party to this Declaration of Trust hereto covenants that it shall keep strictly confidential any information relating to the Fund or the other party’s business, finances, and operations to which it

obtains access and that it will take all reasonable precautions to protect such confidential information or any part thereof from any use, disclosure, or copying except as expressly authorized by this Declaration of Trust or such party or the Fund, as applicable, or by Applicable Law. Confidential information of a party or the Fund shall not include information that has been previously disclosed to the public, becomes available to the public through no fault of the other party, or that is disclosed to the other party by a third party who had lawfully obtained such information and without a breach of the third party's confidentiality obligations

Section 18.2 Compliance with Law and Policy

It shall be the responsibility of the Trustee to ensure that this Declaration of Trust, the Offering Memorandum or like document or regulatory filing of the Fund, and any distribution of Units complies with all Applicable Laws. To this end, the Manager on behalf of the Fund 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 Fund.

Section 18.3 Consent to Use of Name

For as long as this Declaration of Trust is in force, the Trustee and the Manager shall permit the Fund to use the Trustee's, the Manager's corporate names and trade names, if any, in the Offering Memorandum, any other offering memorandum in connection with the distribution of Units and in promotional and marketing materials for the Fund.

Section 18.4 Assignment and Enurement

Except as expressly provided in this Declaration of Trust, and subject to any approvals required by Applicable Law, each of the Trustee and the Manager may assign its rights and duties under this Declaration of Trust to an Affiliate or to a successor in the business of the Trustee or the Manager, as the case may be, with which the Trustee or the Manager may amalgamate or merge or a corporation resulting from any reorganization of the Trustee or the Manager. Otherwise, this Declaration of Trust may not be assigned by the Trustee or the Manager without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed. This Declaration of Trust enures to the benefit of and binds the parties and their respective successors and permitted assigns.

Section 18.5 Governing Law

This Declaration and the trust hereby created shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein. The responsibilities of the Trustee shall be principally performed from its office at Toronto, Ontario unless otherwise agreed by the Manager and the Trustee.

Section 18.6 Counterparts

This Declaration of Trust may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.

Section 18.7 Further Assurances

Each party shall from time to time promptly execute and deliver all further documents and take all further action reasonably necessary to give effect to the provisions and intent of this Declaration of Trust.

Section 18.8 Time of Essence

For every provision of this Declaration of Trust, time is of the essence.

Section 18.9 Waivers

No waiver of any provision of this Declaration of Trust is binding unless it is in writing and signed by all the parties to this Declaration of Trust entitled to grant the waiver.

No failure to exercise, and no delay in exercising, any right or remedy under this Declaration of Trust will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Declaration of Trust will be deemed to be a waiver of any subsequent breach of that provision.

Section 18.10 Inspection of Documents

This Declaration of Trust shall be open to inspection by Unitholders, the Manager, and any agent, consultant, or creditor of the Fund and, upon written request from any Unitholder, the Manager shall as quickly as reasonably possible furnish such Unitholder with a copy hereof. A Unitholder or the Unitholder's authorized representative will have the right to examine the books and records of the Fund during normal business hours at the offices of the Manager, provided that a Unitholder shall not have access to any information which, in the opinion of the Manager, should be kept confidential in the interests of the Fund.

Section 18.11 Severability

If any provision of this Declaration of Trust is or becomes illegal, invalid, or unenforceable in any jurisdiction, the illegality, invalidity, or unenforceability of that provision will not affect: (i) the legality, validity, or enforceability of the remaining provisions of this Declaration of Trust; or (ii) the legality, validity, or enforceability of that provision in any other jurisdiction.


Section 18.12 Choice of Language

The parties confirm that it is their wish that this Declaration of Trust, as well as any other documents relating to this Declaration of Trust, including notices, schedules and authorizations, have been and shall be drawn up in the English language only. *Les parties aux presentes confirment leur volonté que cette convention, de même que tous les documents, y compris tous avis, cédules et autorisations s'y rattachant, soient rédigés en langue anglaise seulement.*

[signature page follows]

IN WITNESS WHEREOF the Trustee and Manager has caused this Declaration of Trust to be executed on the date first above written.

**SPARTAN FUND MANAGEMENT INC.,
Trustee and Manager of the PG Global Private
Equity Canada Access Fund**

By: 
Name: Gary Ostoich
Title: President

Schedule "A" – Classes Of Units

- Class W Units Available to all investors, including investors enrolled in fee-based programs. The minimum initial investment amount for Class W Units is \$10,000, subject to the Manager's discretion to accept subscriptions for lesser amounts subject to compliance with applicable securities legislation. A Unitholder may make an additional investment in Class W Units of not less than \$5,000 provided that at such time the Unitholder is an accredited investor, subject to the Manager's discretion to accept subscriptions for lesser amounts subject to compliance with applicable securities legislation. Class W Units are denominated in Canadian dollars.
- Class USW Units Available to all investors, including investors enrolled in fee-based programs. The minimum initial investment amount for Class USW Units is US\$10,000, subject to the Manager's discretion to accept subscriptions for lesser amounts subject to compliance with applicable securities legislation. A Unitholder may make an additional investment in Class USW Units of not less than US\$5,000 provided that at such time the Unitholder is an accredited investor, subject to the Manager's discretion to accept subscriptions for lesser amounts subject to compliance with applicable securities legislation. Class USW Units are denominated in U.S. dollars.

Schedule “B” – Valuation Principles

The value of the assets and the amount of the liabilities of the Fund (the net result of which is the Net Asset Value of the Fund) will be calculated in such manner as the Valuation Agent, in consultation with the Manager, shall determine from time to time, subject to the following:

- (a) the value of any cash on hand or on deposit, bills, demand notes, accounts receivable, prepaid expenses, dividends receivable (if such dividends are declared and the date of record is before the date as of which the net asset value is being determined) and interest accrued and not yet received, shall be deemed to be the full amount thereof, unless the Manager determines that any such deposit, bill, demand note, account receivable, prepaid expense, dividend receivable or interest accrued and not yet received is not worth the full amount thereof, in which event the value thereof shall be deemed to be such value as the Manager determines to be the reasonable value thereof;
- (b) short-term investments including notes and money market instruments shall be valued at cost plus accrued interest (for this purpose, interest accrued will include amortization over the remaining term to maturity of any discount or premium from the face value of such an investment at the time of its acquisition);
- (c) the value of any security which is listed or dealt in upon a public securities exchange will be valued at the last available trade price on the Valuation Date or, if the Valuation Date is not a Business Day, on the last Business Day preceding the Valuation Date. If no sales are reported on such day, such security will be valued at the average of the current bid and asked prices. If the closing price is outside of the closing bid-ask range, then the closest bid or ask to the last trade will be used. Securities that are listed or traded on more than one public securities exchange or that are actively traded on over-the-counter markets while being listed or traded on such securities exchanges or over-the-counter markets will be valued on the basis of the market quotation which, in the opinion of the Manager, most closely reflects their fair value;
- (d) any securities which are not listed or traded upon any public securities exchange will be valued at the simple average of the latest available offer price and the latest available bid price (unless in the opinion of the Manager such value does not reflect the value thereof and in which case, the latest offer price or bid price as best reflects the value thereof should be used), as at the Valuation Date;
- (e) all Fund property valued in a foreign currency and all liabilities and obligations of the Fund payable by the Fund in foreign currency shall be converted into U.S. funds by applying the rate of exchange obtained from the best available sources to the Manager or to the third party engaged by the Manager to calculate Net Asset Value;
- (f) the value of a forward contract shall be the gain or loss, if any, that would arise as a result of closing the position in the forward contract on the date of valuation unless daily limits are in effect, in which case fair market value may be based on the current value of the underlying interest;
- (g) the value of any security or other asset for which no published market exists, including securities of private issuers, will be determined by the Manager in accordance with the following:

- (i) such securities or other assets will normally be carried at cost unless:
 - (A) there is an arm's length transaction which in the Manager's reasonable opinion establishes a different value, or
 - (B) a material change in the value of an issuer occurs, including as a result of a write-down of its assets on its audited balance sheet or the preparation of a valuation of the issuer or of a substantial portion of its assets by a qualified independent person, in which event the value will be increased or decreased, as appropriate, to the resulting fair value; and
- (ii) if there is an arm's length bona fide enforceable offer to purchase all or a substantial portion of an issuer's outstanding securities or its assets, the Fund's securities may be valued based upon the proposed transaction price;
- (h) each transaction of purchase or sale of portfolio securities effected by the Fund will be reflected in the computation of the Net Asset Value of the Fund on the trade date;
- (i) the value of any security or property to which, in the opinion of the Manager, the above principles cannot be applied (whether because no price or yield equivalent quotations are available or for any other reason), shall be the fair value thereof determined in such manner as the Manager may from time to time determine based on standard industry practice;
- (j) short positions will be marked-to-market, i.e., carried as a liability equal to the cost of repurchasing the securities sold short applying the same valuation techniques described above; and
- (k) all other liabilities shall include only those expenses paid or payable by the Fund, including accrued contingent liabilities; however expenses and fees allocable only to a Class or Series of Units shall not be deducted from the Net Asset Value of the Fund prior to determining the Net Asset Value of each Class and Series, and shall thereafter be deducted from the Net Asset Value so determined for each such Class or Series.

The Manager may determine such other rules as it deems necessary from time to time, which rules may deviate from Canadian generally accepted accounting principles (“GAAP”) and from International Financial Reporting Standards (“IFRS”).

Net Asset Value calculated in this manner will be used for the purpose of calculating the Manager's (and other service providers') fees and will be published net of all paid and payable fees and distributions. Such Net Asset Value will be used to determine the subscription price and redemption value of Units. To the extent that such calculations are not in accordance with GAAP or IFRS, the financial statements of the Fund will include a reconciliation note explaining any difference between such published Net Asset Value and Net Asset Value for financial statement reporting purposes (which must be calculated in accordance with GAAP).