

*This Confidential Offering Memorandum constitutes an offering of the securities described herein (the “Units”) only in those jurisdictions where they may be lawfully offered for sale and therein only by persons permitted to sell such securities and is not, and under no circumstances is to be construed as, a prospectus or advertisement or public offering of such securities. No securities commission or similar regulatory authority in Canada has in any way passed upon the merits of the securities offered hereunder nor has it reviewed this Confidential Offering Memorandum and any representation to the contrary is an offence. No person is authorized to give any information or make any representation not contained in this Confidential Offering Memorandum in connection with the offering of the securities described herein and, if given or made, any such information or representation may not be relied upon. Under applicable laws, resale of the Units will be subject to indefinite restrictions, other than through a redemption of the Units or another available exemption. As there is no market for these Units, it may be difficult or even impossible for investors to sell their Units.*



**SW8 STRATEGY FUND LP**

**SW8 STRATEGY TRUST**

**CONFIDENTIAL OFFERING MEMORANDUM**

**April 1, 2013**

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## SUMMARY OF THE OFFERING

*Prospective investors are encouraged to consult their own professional advisors as to the tax and legal consequences of investing in the Funds. The following is a summary only and is qualified by the more detailed information contained in this Confidential Offering Memorandum. Capitalized terms used but not defined in this summary shall have the meaning specified in the Glossary of Terms unless otherwise indicated.*

**The Funds:** The two separate funds offered by this Confidential Offering Memorandum are SW8 Strategy Fund LP (the “**LP Fund**”) and SW8 Strategy Trust (the “**Trust Fund**”).

SW8 Strategy Fund LP is an open-end limited partnership and the SW8 Strategy Trust is an open-end trust, in each case established under the laws of the Province of Ontario.

The Funds are managed by SW8 Asset Management Inc.

**The Offering:** The Funds are offering Class A Units, Class B Units, Class C Units, Class F Units, Class I Units, Class X Units and Class Z Units. Units are sold in series on a continuous basis in all provinces and territories of Canada pursuant to the prospectus and registration exemptions in Canadian securities law. Each class of Units invests directly (in the case of the LP Fund) or indirectly (in the case of the Trust Fund) in either the main portfolio of the LP Fund (the “**Main Portfolio**”) or the secondary portfolio of the LP Fund (the “**Secondary Portfolio**”). The Secondary Portfolio has no exposure to restricted securities (including stocks and warrants) that are not traded on a recognized exchange including, for greater certainty, securities issued by non-reporting issuers, securities issued by reporting issuers in private placements that have restricted periods on their resale, OTC warrants and OTC derivatives (collectively, “**Specified Securities**”).

The table below sets out the attributes of each class of Units of the Funds. Notwithstanding anything to the contrary herein, SW8 retains ultimate discretion as to whether an investor may purchase Units of any particular class.

Class	Attributes
A	For investors making investments of \$25,000 or more through a registered dealer with whom they maintain an investment account.
B	Closed to new investors.
C	For investors making investments of \$25,000 or more who are not eligible to purchase Class A, Class F, Class

I, Class X or Class Z Units.

- F For investors making investments of \$25,000 or more through a registered dealer with whom they maintain an investment account and who are subject to a periodic asset-based fee rather than commissions on each transaction.
- I For institutional clients.
- X For institutional and other investors who negotiate a Management Fee directly with SW8.
- Z For institutional and other investors who require exposure to the Secondary Portfolio.

All classes other than Class Z invest directly or indirectly in the Main Portfolio.

See “The Offering” and “Units of the Funds”.

**Subscription Price:** The initial series of a class of Units are offered at a subscription price of \$10.00 per Unit. Units of subsequent series of a class are offered at a subscription price per Unit determined by the General Partner or Trustee, as applicable.

**Terms of the Offering:** The Units of the Funds are being offered for sale on a continuous basis in all provinces and territories of Canada pursuant to the prospectus and registration exemptions contained in NI 45-106.

Prospective investors may subscribe for Units by means of the Subscription Agreement available from SW8 upon request. The subscriber must tender along with the Subscription Agreement full payment of the aggregate subscription price of the Units in the form of a cheque or confirmation of wire instructions or other evidence of payment (as SW8 may otherwise permit or require) for the amount representing the purchase price of the Units subscribed for.

SW8 may, in its discretion, accept or reject any subscription request and/or determine the terms and conditions of the offering and sale of Units or other securities of the Funds. See “The Offering” and “Investing in the Funds”.

The offering of Units is subject to a minimum subscription level of \$25,000 for investors who qualify as an Accredited Investor under the Accredited Investor Exemption or \$150,000 for investors who qualify under the Minimum Amount Investment Exemption. See “Investing in the Funds”.

**Manager and Trustee:** SW8 Asset Management Inc., a corporation incorporated under the *Canada Business Corporations Act* and whose registered office is located at 401-235 Carlaw Avenue, Toronto, Ontario M4M 2S1, is the manager of the Funds. SW8 is also the trustee of the Trust Fund. SW8 is responsible for the day-to-day management of the Funds, management of the Funds' investment portfolios and distribution of Units. See "Management of the Funds".

**General Partner:** SW8 GP Inc., a corporation incorporated under the *Canada Business Corporations Act* and whose registered office is located at 401-235 Carlaw Avenue, Toronto, Ontario M4M 2S1, is the general partner of the LP Fund. See "Management of the Funds – General Partner".

**Investment Objective: *LP Fund***

The investment objective of the LP Fund is to generate consistent positive absolute returns. The Main Portfolio of the LP Fund primarily invests in equity securities of Canadian and U.S. issuers and may also invest in other securities, including, but not limited to:

- a) warrants, rights, options and other derivatives;
- b) preferred shares and convertible debt instruments;
- c) corporate bonds;
- d) depository receipts, including American Depository Receipts;
- e) options on commodities and options on futures;
- f) private placement securities; and
- g) exchange-traded funds, closed-end funds and limited partnership units.

The Secondary Portfolio is identical to the Main Portfolio except the Secondary Portfolio has no exposure to Specified Securities. For greater certainty, once a security is classified as a Specified Security then it will retain that classification even if the nature of the security changes in the future (for example, a privately placed security with a hold period issued by a reporting issuer will remain a Specified Security even after the hold period expires for such security).

***Trust Fund***

The investment objective of the Trust Fund is to provide Trust Unitholders with exposure to the Main Portfolio or Secondary Portfolio of the LP Fund, as applicable, by investing all or substantially all of the Trust Fund's assets in securities of the LP Fund. As such the investment strategies of the LP Fund (described below) are applicable to the Trust Fund to the extent its assets are invested in the LP Fund.

See "Investment Objective, Strategies and Restrictions – Investment Objectives".

**Investment Strategies  
of the LP Fund:**

SW8 uses an active management approach to achieve the LP Fund's investment objective of generating consistent positive absolute returns. The primary strategy of the LP Fund is to focus on long and short investment opportunities in North America. SW8 employs numerous quantitative and qualitative factors to identify and profit from emerging trends and mispriced securities that do not adequately

reflect the underlying value and growth prospects of the issuer.

Secondary strategies of the LP Fund include merger arbitrage, warrant against stock, convertible debt against stock, closed-end fund trading, opportunistic trading and options trading. See “Investment Objective, Strategies and Restrictions – Portfolio Management Strategy” and “Investment Objective, Strategies and Restrictions – Portfolio Management Process”.

**Investment  
Restrictions of the  
Funds:**

***LP Fund***

The following investment restrictions apply to the LP Fund:

- (a) ***Concentration:*** the Portfolios will generally not hold net long or short more than 15% of its gross assets in the securities of any one issuer (as measured at cost), with the exception of Cash Equivalents and Index Participation Units;
- (b) ***Private Equities:*** the Main Portfolio of the LP Fund will not hold equity securities issued by non-public issuers (including those acquired under a private placement) which in the aggregate represent more than 10% of the Net Asset Value of the Main Portfolio (as measured at cost) and the Secondary Portfolio will not hold any equity securities issued by non-public issuers;
- (c) ***Real Property:*** the Portfolios will not invest directly in real property or options, rights or any other interest in respect thereof;
- (d) ***No Guarantees:*** the Portfolios will not assume, guarantee, endorse or otherwise become directly or indirectly liable for or in connection with any obligation or indebtedness of any other Person;
- (e) ***Leverage:*** the Portfolios may borrow up to 100% of the Net Asset Value to invest in accordance with its investment objective or to fund payment of redemption proceeds;
- (f) ***No Material Interests:*** the Portfolios shall not acquire securities from, or sell securities to, SW8 or any of its affiliates or any officer, director or shareholder of them, or any of their respective affiliates or any Person in which any officer, director or shareholder of SW8 may have a material interest (which, for these purposes, includes beneficial ownership of more than 10% of the



voting securities of such Person);

(g) **Position Limits:** the Portfolios shall generally not hold positions in more than 30 issuers in the Long/Short Strategy; and

(h) **Sector Concentration:** the Portfolios shall generally not hold more than 30% of its gross assets concentrated in any one sector in the Long/Short Strategy.

### ***Trust Fund***

The Trust Fund is restricted to holding all or substantially all of its assets in securities of the LP Fund, except for cash and/or Cash Equivalents held on account of subscriptions and redemptions.

See “Investment Objective, Strategies and Restrictions – Investment Restrictions”.

### **Risk Factors:**

An investment in the Funds involves certain risks. Investors should consider the risk factors described in this Confidential Offering Memorandum before investing and should consult their independent financial, tax and legal advisors. See “Risk Factors”.

### **Management Fee:**

The LP Fund pays a Management Fee to SW8 for the portfolio and other management services provided to the Fund. The Management Fee is calculated as one twelfth of the percentage of the Net Asset Value attributed to each series of each class of Units of the LP Fund, except Class X Units, as at the last Valuation Date of each month, plus applicable taxes. The Management Fee applicable to each class of Units pursuant to this Confidential Offering Memorandum is set out in the table below. See “Fees and Expenses”.

<b>Class</b>	<b>Management Fee</b>
A	2.00%
B	1.50%
C	2.00%
F	1.50%
I	1.50%
Z	1.50%

### **Administration Fees and Expenses:**

The LP Fund is responsible for, and the General Partner or SW8, as the case may be, are entitled to reimbursement from the LP Fund for fees and expenses relating to the Funds’ operation including, without limitation, registrar and transfer agent fees, audit, accounting, administration, record keeping and legal or other professional fees, custody and safekeeping charges, taxes, assessments or other charges levied by a governmental body against the Funds, interest charges,

commissions, brokerage, banking and other fees related to the business and administration of the Funds, and fees and expenses relating to providing financial and other reports to Unitholders. The General Partner or SW8, as the case may be, is responsible for any marketing and promotional expenses incurred in connection with distribution of the Units. SW8 will ensure that no expenses incurred by the Trust Fund are duplicative of expenses incurred by the LP Fund.

The LP Fund is responsible for the costs of the initial organization of the Funds and the offering of Units, including, without limitation, fees and expenses of legal counsel and other service providers. Such expenses will be amortized over the first five years of the LP Fund's existence.

See "Fees and Expenses".

**LP Fund Allocations:** Each Fiscal Year, the General Partner will allocate the Net Income or Net Losses of the LP Fund, as the case may be, in the following priority:

- a) first, the Net Income of the Limited Partnership for such period shall be allocated to the General Partner in an amount equal to the aggregate of (i) the Incentive Allocation, if any, the General Partner is entitled to receive for such period and (ii) the Incentive Allocation, if any, the General Partner was entitled to receive in for prior periods (but only to the extent that Net Income equal to such Incentive Allocation that the General Partner was entitled to receive for such prior periods has not been previously allocated to the General Partner pursuant to this paragraph (a));
- b) second, the General Partner in its sole discretion, reasonably exercised, will allocate a portion of the Net Income or Net Losses of the LP Fund to Limited Partners who redeem all of their Units before the end of the Fiscal Year;
- c) third, 0.01% of the remaining unallocated Net Income or Net Losses of the LP Fund will be allocated to the General Partner, in respect of its Class E Units; and
- d) fourth, the remaining unallocated Net Income or Net Losses of the LP Fund will be allocated among the Limited Partners, in accordance with their Units, as determined by the General Partner in its sole discretion, acting reasonably.

In determining the allocation of Net Income or Net Losses among Limited Partners holding different classes of LP Units, the General Partner will, to the extent possible, take into account the assets,

liabilities, income (including realized capital gains), losses and expenses determined by the General Partner to be attributable to each such class.

#### *Incentive Allocation*

In respect of each LP Unit and each Incentive Allocation Period, the General Partner shall be entitled to receive an amount equal to 20% of the Aggregate Overall Appreciation during such Incentive Allocation Period (the “**Incentive Allocation**”).

#### **Distributions:**

Distributions will be made at such times and in such amounts as the General Partner, in its sole discretion, may determine from time to time. The Trust Fund intends to distribute sufficient Net Income (including net realized capital gains, if any) to its Unitholders in each calendar year to ensure that it is not liable for income tax under Part I of the Tax Act, after taking into account any available loss carry forwards and capital gains refunds.

In determining the entitlement of a class to distributions SW8 will, to the extent possible, take into account the assets, liabilities, income (including realized capital gains), losses and expenses determined by SW8 to be attributable to such class.

See “Distributions” and “Canadian Federal Income Tax Considerations”.

#### **Redemptions:**

Unitholders may surrender Units for redemption at any time. Redemption orders must be received by SW8 prior to 2:00 p.m. (Toronto time) 21 days prior to the Redemption Date on which the Unitholder wishes to redeem the Units. SW8 may shorten such notice period on a case by case basis in its sole discretion. Orders received after that time will be effective on the next Redemption Date. Redemption orders must be in writing or in other form acceptable to SW8. If Units are registered in the name of an intermediary such as a registered dealer, redemption orders must be made through such intermediary.

The amount payable to a Unitholder for each Unit redeemed will be an amount equal to the Net Asset Value Per Unit on the Redemption Date, less: (i) the Early Withdrawal Fee, if applicable; (ii) any Incentive Allocation owed for such Unit; and (iii) any taxes required under applicable law to be deducted or withheld. The LP Fund may allocate the Net Income or Net Loss attributable to LP Units being redeemed, if any, to Partners on the redemption of such LP Units.

Redemption proceeds may be paid by cheque or electronic transfer of funds to the Unitholder’s bank account or an account maintained by a Unitholder’s registered dealer, as applicable. Payments will be

made within 15 days following the Redemption Date or such earlier date as may be specified by SW8.

In certain circumstances, the Funds may suspend redemption of Units. Redemptions may also be subject to the Early Withdrawal Fee. See “Redemptions of Units” and “Fees and Expenses – Early Withdrawal Fee”.

**Dealer Compensation:** No sales commission is payable to SW8 for Class B, Class C, Class F and Class I Units purchased by a subscriber.

Registered dealers may, at their discretion, charge a subscriber a front-end sales commission of up to 5% of the Net Asset Value of the Class A or Class I Units purchased. Any such sales commission will be negotiated between the purchaser and his or her registered dealer and will be deducted by SW8 from the subscription price.

SW8 pays a monthly servicing commission to registered dealers whose clients hold Class A Units at a rate equal to one twelfth of 1% of the Net Asset Value of the Class A Units sold by such dealers then outstanding. The payments are calculated as at the last Valuation Date of each month and paid quarterly in arrears by SW8.

The General Partner and SW8 may pay additional compensation from their own account to registered dealers, individuals and companies who refer investors to the Funds on a case-by-case basis. Any such arrangements will be made in accordance with applicable legislation. Such payments may be modified or discontinued by the General Partner and SW8 at any time. See “Dealer Compensation”.

**Canadian Federal Income Tax Considerations:** A prospective Unitholder should consider carefully all of the potential tax consequences of an investment in the Units and should consult with their tax advisor before subscribing for Units. For a discussion of certain income tax consequences of this investment, see “Canadian Federal Income Tax Considerations”.

**Reporting to Unitholders:** Statements for Canadian tax purposes reporting distributions and other relevant information, including financial statements, will be sent to all Unitholders annually on or before the date prescribed by law for such reporting.

**Eligibility for Investment:** Provided that the Trust Fund qualifies at all relevant times as a “mutual fund trust” within the meaning of the Tax Act, Trust Units will be a qualified investment for Tax Deferred Plans.

Provided that the annuitant or holder of a RRSP, RRIF or TFSA does not hold a “significant interest” (as defined in the Tax Act) in the Trust Fund or any person or partnership that does not deal at arm’s length with the Trust Fund, and provided that such annuitant or

holder deals at arm's length with the Trust Fund, Trust Units will not be a prohibited investment for a trust governed by a RRSP, RRIF or TFSA. On December 21, 2012, the Department of Finance (Canada) released proposed amendments to the Tax Act which, if enacted, would result in Trust Units being a prohibited investment for a trust governed by a RRSP, RRIF or TFSA only if the annuitant or holder of a RRSP, RRIF or TFSA holds a "significant interest" (as defined in the Tax Act) in the Trust Fund or the annuitant or holder does not deal at arm's length with the Trust Fund. Investors should consult their tax advisors with respect to whether Trust Units will be a prohibited investment for their RRSPs, RRIFs or TFSAs under the current rules in the Tax Act or under the proposed amendments.

Units of the LP Fund are not a "qualified investment" under the Tax Act (Canada) for Tax Deferred Plans.

*Capitalized terms used in this Confidential Offering Memorandum have the meaning specified in the Glossary of Terms unless otherwise indicated. All dollar amounts are in Canadian dollars unless otherwise indicated.*

## **GLOSSARY OF TERMS**

**“Accredited Investor”** has the meaning given to such term in NI 45-106 and as described under “Investing in the Funds – Accredited Investors”;

**“Accredited Investor Exemption”** means the exemption from the prospectus and registration requirements for Accredited Investors as set forth in NI 45-106;

**“Aggregate Overall Appreciation”** means, with respect to each LP Unit and any Incentive Allocation Period, the positive difference, if any, between the Net Asset Value per Unit of such LP Unit at the end of such Incentive Allocation Period (prior to the deduction of any Incentive Allocation for such Incentive Allocation Period) and the Highwater Mark for such LP Unit at the start of such Incentive Allocation Period;

**“Business Day”** means any day normally treated as a business day in Toronto, Ontario and on which day there is a regular session on the Toronto Stock Exchange and any other securities market or exchange on which a significant portion of the LP Fund’s investments trade at any time;

**“Capital”** means, with reference to a Limited Partner, the value of money or other property contributed or agreed to be contributed by such Limited Partner or his or her predecessor to the LP Fund upon subscription for his or her Units, and **“Capital”** means, with reference to the LP Fund, the aggregate Capital of the Partners;

**“Cash Equivalents”** has the meaning given to such term in NI 81-102;

**“CCO”** means Chief Compliance Officer of SW8;

**“Confidential Offering Memorandum”** means this confidential offering memorandum of the Funds and includes all schedules, appendices or exhibits hereto;

**“Counterparty”** means a securities dealer, financial institution or other party from or to whom derivative instruments are purchased or sold;

**“Declaration of Trust”** means the amended and restated declaration of trust dated as of April 1, 2013, as amended and/or restated from time to time, pursuant to which the Trust Fund has been established;

**“Early Withdrawal Fee”** means the early withdrawal fee imposed by the Fund on the value of the Units redeemed as described under “Fees and Expenses – Early Withdrawal Fee”.

**“Fiscal Year”** means the fiscal period ending December 31<sup>st</sup> in each calendar year, or such other date as determined by SW8;

**“Fund”** means one of SW8 Strategy Fund LP and SW8 Strategy Trust;

**“Funds”** means SW8 Strategy Fund LP and SW8 Strategy Trust;

**“General Partner”** means SW8 GP Inc., a corporation incorporated under the *Canada Business Corporations Act*, or if it ceases to be the general partner of the Partnership, any successor general partner appointed in accordance with the Partnership Agreement;

**“Highwater Mark”** means, with respect to a LP Unit, initially, the issue price of such LP Unit and, once an Incentive Allocation has been paid with respect to such LP Unit, the highest Net Asset Value per Unit achieved by such LP Unit at the end of any Incentive Allocation Period, in each case adjusted as necessary to reflect any distributions made by the LP Fund;

**“Illiquid Assets”** has the meaning given to such term in NI 81-102;

**“Incentive Allocation”** has the meaning given to such term under “Fees and Expenses – Incentive Allocation”;

**“Incentive Allocation Period”** means, with respect to a LP Unit, the period (A) commencing (i) initially, on the date of issuance of such LP Unit and (ii) thereafter, immediately following the end of the preceding Incentive Allocation Period, and (B) ending on the earlier of (i) the 31st day of December in each Fiscal Year, (ii) the date on which the LP Unit is redeemed, (iii) the effective date that the General Partner ceases to be the general partner of the Partnership, and (iv) the date on which the LP Fund dissolves and/or terminates;

**“Index Participation Units”** has the meaning given to such term in NI 81-102;

**“Limited Partner”** means a Person who is recorded in the Register of the LP Fund as the holder of one or more Units of the LP Fund;

**“Long/Short Strategy”** means the primary strategy employed by the LP Fund, focusing on fundamental long and short investments in publicly-listed Canadian and U.S. issuers, based on a qualitative and quantitative analysis of market, industry and company specific factors;

**“LP Fund”** means SW8 Strategy Fund LP;

**“LP Unit”** means a Unit of the LP Fund;

**“Main Portfolio”** means the primary investment portfolio of the LP Fund, which Portfolio is subject to all provisions described under “Investment Objectives, Strategies and Restrictions”;

**“Management Agreement”** means either the management agreement between the General Partner on behalf of the LP Fund and SW8 dated February 10, 2010 or the management agreement between the Trustee of the Trust Fund and SW8 dated January 1, 2011, in both cases as amended and/or restated from time to time;

**“Management Fee”** means the management fee payable by the LP Fund to SW8 pursuant to the Management Agreement and Declaration of Trust;

**“Minimum Amount Investment Exemption”** means the exemption from the prospectus and registrations requirements for persons who qualify as minimum amount investment investors as set forth in NI 45-106;

**“Minimum Subscription”** means the minimum subscription level described under “The Offering – Initial Minimum Investment”;

**“Misrepresentation”** has the meaning given to such term by securities legislation of the jurisdiction in which the investor resides;

**“Net Asset Value”** means the net asset value of the Funds or of a series or a class of a Fund, as the context indicates, calculated in accordance with the Partnership Agreement or Declaration of Trust, respectively, and described under “Portfolio Valuation and Net Asset Value”;

**“Net Asset Value Per Unit”** means the Net Asset Value per Unit of the relevant series of a class of Units calculated in accordance with the Partnership Agreement, in the case of the Units of the LP Fund, or Declaration of Trust in the case of the Units of the Trust Fund, and described under “Portfolio Valuation and Net Asset Value”;

**“Net Income”** means the net profits and net capital gains applicable to each series of each class of each of the Funds for a Fiscal Year calculated in accordance with the terms of the Partnership Agreement, in the case of the LP Fund, or the Declaration of Trust, in the case of the Trust Fund;

**“Net Losses”** means the net losses and net capital losses applicable to each series of each class of each of the Funds for a Fiscal Year calculated in accordance with the terms of the Partnership Agreement, in the case of the LP Fund, or the Declaration of Trust, in the case of the Trust Fund;

**“NI 45-106”** means National Instrument 45-106 *Prospectus and Registration Exemptions*, as amended or replaced from time to time;

**“NI 81-102”** means National Instrument 81-102 *Mutual Funds*, as amended or replaced from time to time;

**“OTC”** means an over-the-counter or off-exchange transaction;

**“Partners”** refers collectively to the General Partner and the Limited Partners, and a reference to a “Partner” will be to any one of the Partners;

**“Partnership”** means SW8 Strategy Fund LP, a limited partnership formed pursuant to the Partnership Agreement;

**“Partnership Agreement”** means the Amended and Restated Limited Partnership Agreement dated April 1, 2013, as it may from time to time be further supplemented or amended;

**“Person”** means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;



**“Portfolios”** means the Main Portfolio and the Secondary Portfolio;

**“Redemption Date”** means with respect to Unitholders, (i) a Valuation Date, or (ii) such other date as SW8 in its sole discretion may decide from time to time;

**“Register”** means the register of Unitholders of a Fund;

**“Retiring Limited Partner”** means a Limited Partner that redeems all of the Units held by such Limited Partner during a Fiscal Year and prior to the end of that Fiscal Year;

**“RRIF”** means a trust governed by a registered retirement income fund, as defined in the Tax Act;

**“RRSP”** means a trust governed by a registered retirement savings plan, as defined in the Tax Act;

**“Secondary Portfolio”** means the secondary investment portfolio of the LP Fund, which Portfolio has no exposure to Specified Securities;

**“Special Resolution”** means a resolution approved by not less than  $66\frac{2}{3}\%$  of the votes cast by those Unitholders who vote on the resolution in person or by proxy at a duly constituted meeting of the Unitholders called in accordance with the Partnership Agreement or Declaration of Trust, as the case may be, for the purpose of considering such resolution, or an instrument in writing signed by  $66\frac{2}{3}\%$  of the Unitholders;

**“Specified Securities”** means restricted securities (including stocks and warrants) that are not traded on a recognized exchange including, for greater certainty, securities issued by non-reporting issuers, securities issued by reporting issuers in private placements that have restricted periods on their resale, OTC warrants and OTC derivatives;

**“Subscription Agreement”** means the subscription agreement available upon request from SW8;

**“SW8”** means SW8 Asset Management Inc, manager of the Funds and trustee of the Trust Fund;

**“Tax Act”** means the *Income Tax Act* (Canada) and the regulations thereunder, as amended from time to time;

**“Tax Deferred Plans”** means, collectively, RRSPs, RRIFs, TFSAs and trusts governed by registered education savings plans, deferred profit sharing plans and registered disability savings plans, each as defined in the Tax Act;

**“TFSA”** means a trust governed by tax-free savings accounts, as defined in the Tax Act;

**“Trust Fund”** means SW8 Strategy Trust;

**“Trustee”** means SW8 Asset Management Inc. in its capacity as the trustee of the Trust Fund;

**“Trust Unit”** means a Unit of the Trust Fund;

**“Trust Unitholder”** means a Person who is recorded in the Register of the Trust Fund as the holder of one or more Units of the Trust Fund;

**“Unit”** means a unit of a class which represents the interest, rights and obligations of the holder thereof in the Funds as recorded in the Register at any time;

**“Unitholders”** refers collectively to the Limited Partners and Trust Unitholders of the Funds, and a reference to a “Unitholder” will be to any one of the Unitholders; and

**“Valuation Date”** means (a) a date on which the Net Asset Value of each of the Funds is calculated and (b) for purposes of calculating the Management Fee the last Business Day of each calendar month.

## **THE FUNDS**

SW8 Strategy Fund LP is a limited partnership formed under the laws of the Province of Ontario pursuant to the *Limited Partnerships Act* (Ontario). The LP Fund is governed by the Partnership Agreement.

SW8 Strategy Trust is an open-end trust established under the laws of the Province of Ontario by the Declaration of Trust.

The principal office of the Funds, Trustee and General Partner is located at 401-235 Carlaw Avenue, Toronto, Ontario M4M 2S1.

## **THE OFFERING**

### **The Offering**

The Units of the Funds are being offered for sale on a continuous basis in all provinces and territories of Canada pursuant to the prospectus and registration exemptions contained in NI 45-106. See “Investing in the Funds”.

SW8 may, in its discretion, determine the terms and conditions of the offering and sale of Units or other securities of the Funds.

Prospective investors wishing to subscribe for Units of a Fund must deliver a completed Subscription Agreement. The subscriber must tender along with the Subscription Agreement full payment of the aggregate subscription price of the Units in the form of a cheque or confirmation of wire instructions or other evidence of payment (as SW8 may otherwise permit or require) for the amount representing the purchase price of the Units subscribed for.

No Units will be issued without receipt of the subscription proceeds and an acceptable form of subscription. SW8 has the unconditional right to accept or reject any subscription submitted and will promptly give notice thereof to the investor. If a subscription is not accepted by SW8, all subscription proceeds will be returned, without interest, deduction or penalty to the investor. If the subscription is accepted only in part, a cheque representing a portion of the purchase price for that portion of the subscription for the Units which is not accepted will be promptly delivered or mailed to the subscriber without interest. See “Units of the Funds” and “Investing in the Funds”.

### **Minimum and Maximum Offering**

There is no minimum or maximum number of Units of classes offered by either Fund or minimum or maximum proceeds from the sale of such Units; however, SW8 reserves the right to limit the total subscriptions that will be accepted by a Fund in respect of any one or more classes of such Fund.

## **Initial Minimum Investment**

The offering of Units is subject to a minimum subscription amount of \$25,000 for investors who qualify under the Accredited Investor Exemption, \$150,000 for investors who qualify under the Minimum Amount Investment Exemption. Subject to available prospectus and registration exemptions, SW8 may, in its absolute discretion, waive the Minimum Subscription in respect of any Person who wishes to subscribe for Units.

## **Unit Certificates**

No certificate representing Units will be issued by the Funds.

## **Rights of Action**

Investors are entitled to the benefit of certain rights of action which are described in Schedule "A" hereto.

## **INVESTMENT OBJECTIVE, STRATEGIES AND RESTRICTIONS**

### **Investment Objectives**

#### ***LP Fund***

The investment objective of the LP Fund is to generate consistent positive absolute returns. The Main Portfolio of the LP Fund primarily invests in equity securities of Canadian and U.S. issuers and may also invest in other securities, including, but not limited to:

- (a) warrants, rights, options and other public equity derivatives;
- (b) preferred shares and convertible debt instruments;
- (c) corporate bonds;
- (d) depository receipts, including American Depositary Receipts;
- (e) options on commodities and options on futures;
- (f) private placement securities; and
- (g) exchange-traded funds, closed-end funds and limited partnership units.

The Secondary Portfolio is identical to the Main Portfolio except the Secondary Portfolio has no exposure to Specified Securities. For greater certainty, once a security is classified as a Specified Security then it will retain that classification even if the nature of the security changes in the future (for example, a privately placed security with a hold period issued by a reporting issuer will remain a Specified Security even after the hold period expires for such security).

## ***Trust Fund***

The investment objective of the Trust Fund is to provide Trust Unitholders with exposure to the Main Portfolio or Secondary Portfolio of the LP Fund, as applicable, by investing all or substantially all of the Trust Fund's assets in securities of the LP Fund. As such the investment strategies of the LP Fund (described below) are applicable to the Trust Fund to the extent its assets are invested in the LP Fund.

### **Portfolio Management Strategy**

SW8 uses an active management approach to achieve the LP Fund's investment objective of generating consistent positive absolute returns to investors. The primary strategy of the LP Fund is to focus on fundamental long and short investments in Canadian and U.S. issuers, based on a qualitative and quantitative analysis of market, industry and company specific factors. Secondary strategies of the LP Fund include merger arbitrage, warrant against stock, convertible debt against stock, closed-end fund trading, opportunistic trading and options trading.

*The potency of the active management approach is the flexibility it affords SW8 to adjust the volatility of the overall portfolio and to shift capital to strategies representing best risk/return profiles as the market dictates.*

### ***Primary Strategy – Long/Short Investments***

The primary strategy of the LP Fund is to focus on long and short investment opportunities in North America. SW8 employs numerous quantitative and qualitative factors to identify and profit from emerging trends and mispriced securities that do not adequately reflect the underlying value and growth prospects of the issuer.

As volatility has increased in recent years, so have the investment opportunities on both the long and short side of the market. SW8 uses its portfolio management process and investment discipline to identify long or short investment opportunities in individual securities that will either add alpha to the sector call or hedge out some of the directional risk.

Some of the key risk factors with a Long/Short Strategy include: lack of discipline exiting winning and losing positions, misjudging volatility or changes in volatility and underestimating how quickly liquidity can dry up. With extensive experience managing risk through up and down market cycles, SW8 believes it is well positioned to avoid these pitfalls and mitigate risks. For additional risk factors related to an investment in the Units see "Risk Factors".

### ***Secondary Strategies***

Secondary strategies of the LP Fund include:

- (a) ***Merger arbitrage***: In its simplest form, this strategy is about trading stocks in companies that are subject to takeovers and mergers;
- (b) ***Warrant against stock***: Like merger arbitrage, this strategy creates a position in a security that de-emphasizes the underlying beta (volatility or systemic risk to the market). This strategy provides an opportunity to take advantage of mispriced

volatility and can be used to create synthetic puts in junior resource stocks when a small-cap or resource market reversal takes place;

- (c) ***Convertible debt against stock:*** Similar to warrant against stock except for the debt-like features of a convertible bond;
- (d) ***Closed-end fund trading:*** Also employing an arbitrage technique, this strategy will look to create trading opportunities unique to the closed-end fund marketplace where the trading price of a fund will fluctuate according to market forces and changing values of the securities in the fund's portfolio;
- (e) ***Options trading:*** Options trading is used to hedge and generate returns; and
- (f) ***Opportunistic trading:*** SW8 seeks to identify discounted underwritings and newsworthy or flow related events on a timely basis. SW8 seeks to capitalize on its competitive advantage (speed and flexibility) over traditional fund managers to react quickly to time-sensitive opportunities.

### **Portfolio Management Process**

Whether SW8 employs a top-down or bottom-up investment approach, long or short securities are not included in the portfolio if they do not pass through SW8's selection process. SW8 employs an integrated portfolio management process that draws from both internal and external expertise.

Potential investments are screened against numerous quantitative and qualitative factors, including:

- (a) ***Overall global/market view:*** Does SW8 believe an up-trend or down-trend is in place?
- (b) ***Sector view:*** Does SW8 believe an up-trend or down-trend in a particular sector is in place?
- (c) ***Fundamentals of individual securities or baskets of securities:*** What does SW8 think of the particular companies (e.g. quality of management, debt levels, cash flows, revenue growth, etc.)?
- (d) ***Valuation and relative valuation:*** Does SW8 believe the issuer is expensive in absolute terms and/or on a relative basis (e.g. price/earnings ratio, price/earnings to growth ratio, etc.)?
- (e) ***Liquidity and volatility:*** Does SW8 believe the position is reasonably easy to exit and is volatility somewhat contained? and
- (f) ***Event driven or near-term catalyst:*** Does SW8 believe there is an event or near-term catalyst that is relevant?

In a perfect world, SW8 would aggressively invest (long or short) in a security or group of securities if all the factors listed above support an aggressive investment. In other words, SW8 would invest in a security that is in a sector that looks ready to move higher in an overall market that seems poised for a bounce. A security would also have strong fundamentals with a modest valuation. The security or securities would also be relatively liquid, with reasonably low volatility. The possibility of a valuation changing catalyst would also exist, whether it has takeover potential, analyst upgrades, positive or negative earnings revisions, restructuring, etc. Lastly, any decision to take a position in a security is subject to the final approval of the lead portfolio manager and weightings are based on volatility and liquidity restraints as well as the internal investment parameter guidelines and risk management measurements.

SW8 conducts regular meetings to discuss factors that have the potential to influence the individual securities or the portfolio as a whole. The portfolio is also monitored throughout the day and positions are increased or closed-out if the situation warrants it. There is also a daily morning meeting to discuss upcoming and previous events that might impact the portfolio.

### **Investment Restrictions**

Each Fund is subject to certain investment restrictions in connection with its investments. All amounts and percentage limitations apply only immediately after a transaction and any subsequent change in any applicable percentage resulting from changing values will not require the disposition of any property held by a Fund.

#### ***LP Fund***

The following investment restrictions apply to the LP Fund:

- (a) ***Concentration:*** the Portfolios will generally not hold net long or short more than 15% of its gross assets in the securities of any one issuer (as measured at cost), with the exception of Cash Equivalents and Index Participation Units;
- (b) ***Private Equities:*** the Main Portfolio of the LP Fund will not hold equity securities issued by non-public issuers (including those acquired under a private placement) which in the aggregate represent more than 10% of the Net Asset Value of the Main Portfolio (as measured at cost) and the Secondary Portfolio will not hold any equity securities issued by non-public issuers;
- (c) ***Real Property:*** the Portfolios will not invest directly in real property or options, rights or any other interest in respect thereof;
- (d) ***No Guarantees:*** the Portfolios will not assume, guarantee, endorse or otherwise become directly or indirectly liable for or in connection with any obligation or indebtedness of any other Person;
- (e) ***Leverage:*** the Portfolios may borrow up to 100% of the Net Asset Value to invest in accordance with its investment objective or to fund payment of redemption proceeds;
- (f) ***No Material Interests:*** the Portfolios will not acquire securities from, or sell securities to, SW8 or any of its affiliates or any officer, director or shareholder of

them, or any of their respective affiliates or any Person in which any officer, director or shareholder of SW8 may have a material interest (which, for these purposes, includes beneficial ownership of more than 10% of the voting securities of such Person);

- (g) **Position Limits:** the Portfolios will generally not hold positions in more than 30 issuers in the Long/Short Strategy; and
- (h) **Sector Concentration:** the Portfolios will generally not hold more than 30% of its gross assets concentrated in any one sector in the Long/Short Strategy.

### ***Trust Fund***

The Trust Fund is restricted to holding all or substantially all of its assets in securities of the LP Fund, except for cash and/or Cash Equivalents held on account of subscriptions and redemptions.

### **Currency Exposure and Hedging Strategy**

Units are denominated in Canadian dollars while the investments of the Funds may be denominated in U.S. dollars and other foreign currencies. From time to time, SW8 may seek to hedge some or all of the LP Fund's U.S. dollar and other foreign currency exposure back to the Canadian dollar. However, there may be circumstances in which SW8 may not be able to, or may determine that it is not advisable to do so. Exchange rate fluctuations could cause the value of the Units to diminish or increase. There is no assurance that SW8 will hedge the currency exposure of the LP Fund back to the Canadian dollar at any time or from time to time. See "Risk Factors – Currency Exposure and Hedging Strategy Risk".

### **Risk Control Measures**

In addition to the ongoing monitoring of the SW8 portfolio management team, the CCO has implemented an internal compliance program that will rely on the reporting capabilities of SW8's prime brokerage and fund administration service providers to ensure regular and rigorous reviews of the portfolio take place. Legal and audit services will also form part of the external controls available to the Funds.

## **MANAGEMENT OF THE FUNDS**

### **Manager**

SW8 Asset Management Inc., a corporation incorporated under the *Canada Business Corporations Act* and whose registered office is located at 401-235 Carlaw Avenue, Toronto, Ontario M4M 2S1, is the manager of the Funds. SW8 is also the trustee of the Trust Fund. SW8 has been retained by the General Partner, in the case of the LP Fund, and by the Trustee, in the case of the Trust Fund, to act as manager of the Funds pursuant to the Management Agreements. SW8 is an affiliate of the General Partner. SW8 manages the business, day-to-day operations and the investment portfolios of the Funds and the distribution of their Units.



## Directors, Officers and Key Personnel of SW8

The following table sets out the name, municipality of residence and current position with SW8, and the principal occupation, of each of the directors and officers of SW8.

<b>Name and Municipality of Residence</b>	<b>Position with SW8</b>	<b>Principal Occupation with SW8</b>
Matthew Skipp Toronto, Ontario	Director President, Chief Executive Officer and Chief Investment Officer	President, Chief Executive Officer and Chief Investment Officer
Danielle Skipp Toronto, Ontario	Director Chief Operating Officer	Chief Operating Officer
Michael McNeil Toronto, Ontario	Chief Financial, Risk and Compliance Officer	Chief Financial, Risk and Compliance Officer
Kyle D'Silva Toronto, Ontario	Associate Portfolio Manager	Associate Portfolio Manager
Wendy Chen Toronto, Ontario	Analyst	Analyst

### ***Matthew Skipp, Director, President, Chief Executive Officer and Chief Investment Officer***

Matt brings more than 20 years of industry trading experience to the Funds. Prior to founding SW8, Matt held senior positions at RBC Capital Markets in Toronto, Vancouver and London, UK and was Managing Director, Head of Trading at Blackmont Capital from 2004 to 2009. In his work at both firms, Matt focused on trading capital from both the long and short sides.

Matt's extensive experience gained from years of deploying large amounts of risk capital allows him to execute multiple trading strategies successfully with an overriding focus on risk management.

Matt has experience with large and small cap equities across all sectors and has supervised trading across a number of business lines, including the merger arbitrage business.

### ***Danielle Skipp, Director, Chief Operating Officer***

Danielle is a lawyer with extensive legal and operational experience within the Canadian securities industry. She was called to the bar in British Columbia in 1995 and practiced with Russell & DuMoulin (now Faskens) before moving to Toronto. In the late 1990s, Danielle chaired the securities regulatory standing committee of the Canadian Bankers Association and provided analysis and input on securities regulatory developments in Ontario and Canada. Prior to becoming a founding partner in SW8, Danielle worked for CIBC and UBS Canada in legal,

compliance and operational roles with retail brokerage, institutional equities and investment banking divisions.

***Michael McNeil, Chief Financial, Risk and Compliance Officer***

Michael is a Certified General Accountant (CGA) and senior executive with over fifteen years of diversified capital markets experience. Prior to joining SW8, Michael was Vice President and Chief Administrative Officer at Commission Direct Inc.(CDi), a wholly-owned RBC subsidiary and a registered dealer. In this role, Michael directed the overall operations of the firm, including responsibility for financial management, administration, information technology, compliance and regulatory issues. From 2005 to 2008, he worked for Polar Securities, a top Canadian hedge fund manager, in the role of Vice President of Marketing and Product Development. Prior to Polar, Michael spent 10 years with RBC in various roles, including Comptroller for both the Alternative Investments and Global Equity Divisions. Michael completed his Bachelor of Commerce (Finance) in 1992 and received his Master of Business Administration in 1995, both from Dalhousie University. In addition to his CGA designation, Michael holds the CAIA Charter and other significant industry designations. In his role at SW8, Michael is a key member of the firm's executive team, bringing his expertise in strategic financial and risk management, accounting, compliance, operations and institutional marketing to the firm.

***Kyle D'Silva, Associate Portfolio Manager***

Kyle is an investment professional with numerous years of experience in the capital markets. Prior to joining SW8, he worked at Stonecap Securities in Institutional Equity Sales covering hedge funds in North America. Prior to that, he worked at Blackmont Capital in Institutional Equities as the Trading Desk Analyst where he specialized in developing hedge fund trading strategies such as long, short, pair trade, warrant arbitrage, and merger arbitrage ideas. In addition, he is an alumnus of The Richard Ivey School of Business where he was President of the Ivey MBA Student Association and graduated with his MBA in 2010. Kyle holds the Chartered Financial Analyst designation.

In his role at SW8, Kyle brings extensive experience in investment research, analysis, trading, portfolio management, and the development and application of hedge fund strategies.

***Wendy Chen, Analyst***

Wendy is an alumna of McGill University, where she obtained a Bachelor of Commerce in Finance and Marketing and graduated with Great Distinction. Wendy is a CFA Level 3 candidate.

Wendy brings a proven talent for financial analysis gained through past employment at NewPoint Capital Partners in Toronto, Ontario, UBS Wealth Management in the United States, The Wilder Companies in Boston, Massachusetts and Cardiogenix in Montreal, Quebec.

**Management Agreements**

The Funds are managed by SW8 pursuant to the Management Agreements. SW8 has exclusive authority to manage the Funds and, in the case of the LP Fund, with the approval of the General Partner, makes all decisions regarding the undertaking of the Funds, including management of

their investments and the selection of third-party service providers. SW8 may, pursuant to the Management Agreements, delegate certain of its powers to third parties where, in its discretion, it would be in the best interests of a Fund to do so. SW8 is required to exercise its powers and perform its duties honestly, in good faith and in the best interests of the Funds and to exercise the care, diligence and skill that a reasonably prudent and qualified manager would exercise in comparable circumstances.

Each Management Agreement may be terminated by the General Partner or Trustee, as the case may be, upon 180 days' prior written notice to SW8. In the event that SW8 is in material breach of a Management Agreement, and SW8 has not taken all reasonable steps to cure such breach within 60 days after written notice of such breach has been given to SW8, the Management Agreement may be terminated immediately by the General Partner or Trustee, as the case may be. A Management Agreement may also be terminated immediately by the General Partner or Trustee, as the case may be, by notice in writing to SW8 in the event that SW8 has committed any fraudulent act or ceases to carry on business, becomes bankrupt or insolvent or makes a general assignment for the benefit of its creditors.

SW8 may assign the Management Agreements to its affiliate at any time, and SW8 may resign, upon 90 days' written notice to the General Partner or Trustee, as the case may be. Other than fees and expenses payable to SW8 pursuant to the Management Agreements up to and including the date of termination, no additional payments will be required to be made to SW8 as a result of any termination.

The services of SW8 under each Management Agreement are not exclusive, and nothing in the Management Agreements will prevent SW8 or any affiliate thereof from providing similar services to other investment funds and other clients (whether or not their investment objectives and policies are similar to those of the Funds) or from engaging in other activities. See "Risk Factors – Conflicts of Interest" and "Broad Authority of SW8".

### **General Partner**

SW8 GP Inc., a corporation incorporated under the *Canada Business Corporations Act* and whose registered office is located at 401-235 Carlaw Avenue, Toronto, Ontario M4M 2S1, is the general partner of the LP Fund. The General Partner is generally responsible for management and control of the activities of the LP Fund in accordance with the terms of the Partnership Agreement. SW8 assists the General Partner in carrying out its duties, including the day-to-day management of the LP Fund, management of the LP Fund's investment portfolio and distribution of the LP Units, but the General Partner remains responsible for supervising SW8's activities on behalf of the LP Fund. In exchange for its services, the General Partner will receive a share of the LP Fund's profits. See "Fees and Expenses – Incentive Allocation".

The General Partner has contributed \$100 to the Capital of the LP Fund in exchange for 100 Class E Units and is not required to make any further contribution to the Capital of the LP Fund.

### ***Resignation and Removal of the General Partner***

The General Partner may sell, assign, or otherwise transfer its interest or rights as the General Partner in the Partnership at any time upon 20 Business Days' prior written notice to the Limited Partners.

The General Partner may be removed as the general partner of the Partnership for cause, such as fraudulent actions or gross negligence, at any time by a Special Resolution of the Limited Partners. Upon the bankruptcy, dissolution or making of an assignment for the benefit of creditors of or by the General Partner or upon the appointment of a receiver of the assets and undertaking of the General Partner, the General Partner will be deemed to have been removed as the General Partner of the Partnership and a new general partner shall in such instance, be appointed by an ordinary resolution of the Limited Partners within 180 days of the bankruptcy, dissolution, assignment or appointment. The removal and replacement of the General Partner will not dissolve the Partnership.

### ***Power of Attorney***

The Partnership Agreement includes an irrevocable power of attorney authorizing the General Partner on behalf of the Limited Partners to execute and deliver the Partnership Agreement, any amendments to the Partnership Agreement and all instruments necessary to give effect to any provision of the Partnership Agreement, as well as any elections, determinations or designations under the Tax Act or taxation legislation of any province or other jurisdiction with respect to the affairs of the LP Fund or a Limited Partner's interest in the LP Fund.

### **Trustee**

As well as being the manager of the Trust Fund, SW8 is also the trustee of all property of the Trust Fund pursuant to the Declaration of Trust. As Trustee, SW8 has authority to execute all agreements on behalf of the Trust Fund and to manage its business and affairs.

The Declaration of Trust provides that the Trustee has a right of indemnification in carrying out its duties under the Declaration of Trust except in cases of wilful misconduct, bad faith, negligence or reckless disregard of duty, or in cases where the Trustee fails to act honestly and in good faith with a view to the best interests of Unitholders of the Trust Fund or to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. In addition, the Declaration of Trust contains provisions limiting the liability of the Trustee and indemnifying the Trustee in respect of certain liabilities incurred by it in carrying out its duties.

### ***Resignation and Removal of the Trustee***

The Trustee may resign upon 90 days' written notice following the day such notices are delivered or mailed to Unitholders. Upon the Trustee ceasing to be the trustee of the Trust Fund, SW8 shall appoint and designate a successor trustee. If a successor trustee has not been appointed within 45 days following the giving of notice by the Trustee of its resignation (or within 45 days following the Trustee's bankruptcy or other incapacity to exercise the duties of the office of a trustee), then Unitholders shall appoint and designate a successor trustee within a further period of 45 days, failing which the Trust Fund will be deemed to have been terminated.

The Trustee may be removed and a successor trustee appointed by a Special Resolution of Unitholders and such removal of the Trustee and appointment of successor trustee shall take effect on the date specified in such Special Resolution or if no date is specified, upon the expiration of 120 days following the date on which such Special Resolution is effective.

## **Compliance Program**

SW8's risk management and compliance functions are overseen by the CCO, who among other things is responsible for:

- (a) ensuring that well drafted, written procedures are created and disseminated to all staff;
- (b) reviewing and approving all client related documentation;
- (c) conducting trade reviews;
- (d) ensuring that the firm and its representatives and agents maintain a complete set of records as required under securities legislation;
- (e) reviewing and approving all sales communications;
- (f) maintaining a comprehensive complaint file and ensuring that all complaints are dealt with in a timely and appropriate manner;
- (g) ensuring proper registration of employees;
- (h) handling required filings with the appropriate securities commissions and regulatory authorities; and
- (i) ensuring procedures are in place for compliance with anti-money laundering, privacy and other applicable federal and provincial legislation.

The CCO prepares an Annual Compliance Report for the purpose of assessing compliance by SW8 with securities legislation.

## **RISK FACTORS**

There are certain risks associated with an investment in Units of the Funds. An investment in the Funds should be viewed as a means of diversification within the context of an overall investment portfolio, and an investment should be made only after consulting with independent and qualified sources of investment and tax advice. To the extent that the Trust Fund is invested in the LP Fund, the same risk factors will apply to an investment in Units of the Trust Fund. Prospective investors should carefully consider the following risk factors before investing.

### **General Risk**

An investment in the Funds may be considered to be speculative. It is not intended as a complete investment program and is designed only for investors who can afford the loss of their investment. All potential investors in the Funds should review closely the information set out in this Confidential Offering Memorandum and understand the associated risks. Prospective investors should consult their own investment, tax and legal advisors for advice relating to their specific situations.

## **No Guaranteed Return**

Although SW8 uses its best efforts to achieve the investment objectives of the Funds, there can be no guarantee against losses resulting from an investment in Units and there can be no assurance that the Funds' investment approach will be successful or that its investment objective will be attained. No assurance can be given that the Funds' investment portfolios will generate any income or will appreciate in value. The Funds could realize substantial losses, rather than gains, from some or all of the investments described herein. The value of Units of the Funds may increase or decrease depending on market, economic, political, regulatory and other conditions affecting the LP Fund's portfolio .

## **Limited Ability to Liquidate Investment or Transfer Units**

There is no formal market for the Units and none is expected to develop. Units may not be transferred without the prior written consent of SW8 and any transfer not consented to by SW8 will not be registered by the Funds. Accordingly, it is possible that Unitholders will not be able to resell their Units other than by way of redemption of their Units. Redemptions are permitted only with prior notice and there are circumstances in which the Funds may suspend redemptions. See "Redemption of Units". The offering of Units is not qualified by way of prospectus and consequently the resale of Units is subject to restrictions under applicable securities legislation. Accordingly, Units of the Funds may not be appropriate for investors seeking greater liquidity.

## **Possible Effect of Redemptions**

Substantial redemptions of Units could require the Funds to liquidate positions more rapidly than otherwise desirable to raise the necessary cash to fund redemptions. Redemptions may also reduce the size of the LP Fund's portfolio, making it more difficult for the Funds to achieve their investment objectives with a smaller asset base. Such factors could adversely affect the value of Units redeemed and of the Units remaining outstanding. Alternatively, SW8 could be forced to suspend or postpone redemptions.

## **Charges to the Funds**

The LP Fund is obligated to pay management fees, administrative fees, brokerage commissions, and legal, accounting, filing and other expenses including potential borrowing costs to fund redemptions, regardless of whether the LP Fund realizes a profit.

## **Potential Indemnification Obligations**

Under certain circumstances, the Funds may be subject to significant indemnification obligations in respect of SW8. The Funds will not carry any insurance to cover such potential obligations and none of the foregoing parties will be insured for losses for which the Funds have agreed to indemnify them. Any indemnification paid by the Funds will reduce the Net Asset Value of each of the Funds and by extension, the value of the Units.

## **Broad Authority of SW8**

The Management Agreements give SW8 broad discretion over the conduct of the Funds' business, selection of the specific securities in which the LP Fund invests and over the types of

transactions in which the Funds engage. The operations and the success of the Funds are substantially dependent upon the skill, judgment and expertise of SW8 and its lead portfolio manager. In the event of the loss of the services of SW8, the business of the Funds may be adversely affected.

### **Changes in Trading Approach**

SW8 may alter its trading approach without prior approval by or notice to Unitholders if SW8 determines that such change is in the best interest of the Funds.

### **Valuation of the Funds' Investments**

Valuation of the securities and other investments made by the LP Fund may involve uncertainties and judgmental determinations, and if such valuations should prove to be incorrect, the Net Asset Value Per Unit of each of the Funds could be adversely affected. Independent pricing information may not at times be available regarding certain of the LP Fund's securities and other investments. Valuation determinations will be made in good faith in accordance with the Funds' constitutive documents.

The LP Fund may have some of its assets in investments, which by their very nature may be difficult to accurately value. To the extent that the value assigned by the LP Fund to any such investment differs from the actual value, the Net Asset Value Per Unit of the LP Fund may be understated or overstated, as the case may be. In light of the foregoing, there is a risk that a Unitholder who redeems all or part of its Units while the LP Fund holds such investments will be paid an amount less than it would otherwise be paid if the actual value of such investments is higher than the value designated by the LP Fund. Similarly, there is a risk that such Unitholder might, in effect, be overpaid if the actual value of such investments is lower than the value designated by the LP Fund. There is a risk that a new LP Fund Unitholder (or an existing Unitholder that makes an additional investment), including the Trust Fund, could pay more or less than it might otherwise if the actual value of such investment is greater or lower than the Net Asset Value Per Unit on the date of subscription price paid by the new LP Fund Unitholder (or an existing Unitholder that makes an additional investment). If a new investment in the LP Fund is made at a lower subscription price than the actual Net Asset Value Per Unit at which such investment should have been valued, it could dilute the value of the investments already held by Unitholders. The Funds do not intend to adjust their Net Asset Values retroactively.

### **Net Asset Value**

The Net Asset Value of the Funds will fluctuate with changes in the market value of the LP Fund's investments. Such changes in market value may occur as a result of various factors, including those factors identified below with respect to international investments and material changes in the intrinsic value of an issuer whose securities are held by the LP Fund.

### **Small Capitalization Risk**

The LP Fund may invest in securities issued by companies with small capitalization. Small capitalization companies tend to be less stable than large capitalization companies as a result of such factors as limited financial resources, newer product lines and markets, smaller trading volumes and activity and being more susceptible to loss of key employees. The securities of

small capitalization companies are also more likely to have larger changes in value relative to securities of large capitalization companies.

### **Fixed Income Securities**

The Funds, to the extent that they hold fixed income securities, will be influenced by financial market conditions and the general level of interest rates in North America. In particular, if fixed income investments are not held to maturity, the Funds may suffer a loss at the time of sale of such securities.

### **Equity Securities**

To the extent that the LP Fund holds equity portfolio investments, it will be influenced by stock market conditions in those jurisdictions where the securities held by the LP Fund are listed for trading and by changes in the circumstances of the issuers whose securities are held by the LP Fund. Additionally, to the extent that the LP Fund holds any foreign investments, it will be influenced by world economic factors and by the value of the Canadian dollar as measured against foreign currencies which will be used in valuing the foreign investment positions held by the LP Fund.

### **International Investment Generally**

The LP Fund may invest in securities of foreign issuers either directly or through the use of equity related or derivative instruments and investments denominated or traded in currencies other than Canadian dollars. These investments involve certain considerations not typically associated with investments in Canadian issuers or securities denominated or traded in Canadian dollars. These considerations include (a) the potential effect of foreign exchange controls (including suspension of the ability to transfer currency from a given country or to realize on the LP Fund's investments) and changes in the rate of exchange between the Canadian dollar (the currency in which the Funds calculate their Net Asset Value and distributions) and other currencies in which the LP Fund's investments are denominated, which changes will affect the Canadian dollar value of the LP Fund; (b) the application of foreign tax law, changes in governmental administration or economic or monetary policy or changed circumstances in dealings between nations; (c) the effect of local market conditions on the availability of public information, the liquidity of securities traded on local exchanges and transaction costs and administrative practices of local markets; (d) the fact that the LP Fund's assets may be held in accounts by custodians, or pledged to creditors of the LP Fund, in jurisdictions outside of Canada so that there can be no assurance that judgments obtained in Canadian courts will be enforceable in any of those jurisdictions; and (e) in some countries, political or social instability or diplomatic developments could adversely affect, or result in the complete loss of, such investments.

The possibility of expropriation, confiscatory taxation or nationalization of foreign bank deposits or other assets, lack of comprehensive tax, legal and regulatory systems, which may result in the LP Fund being unable to enforce its legal rights or protect its investments and the imposition of foreign governmental laws or restrictions could affect investments in securities of issuers in foreign jurisdictions. Restrictions and controls on investment in the securities markets of some countries may have an adverse effect on the availability and costs to the LP Fund of investments



in those countries. Costs may be incurred in connection with the conversions between various currencies. In addition, the income and gains of the LP Fund may be subject to withholding taxes imposed by foreign governments for which investors may not receive a full foreign tax credit.

### **Currency Exposure and Hedging Strategy Risk**

Changes in foreign currency rates may affect the Net Asset Value of the Funds since the LP Fund will have direct and indirect investments denominated in currencies other than the Canadian dollar. The value of the currency of the countries in which the LP Fund has invested (directly or indirectly) could decline relative to the value of the Canadian dollar.

SW8 may, from time to time and at any time, hedge some or all of the exposure of the LP Fund to certain foreign currencies by entering into currency forward, currency swap or spot transactions with financial institutions. There is, however, no assurance that SW8 will employ a currency hedging strategy. There is likewise no assurance that any currency risk hedging strategy used by SW8 will be effective. In fact, hedging arrangements may have the effect of limiting or reducing the total returns to the Funds if SW8's expectations concerning future events or market conditions prove to be incorrect. Moreover, the fees and expenses of such transactions will be borne by the LP Fund, whether or not SW8's hedging strategy, if any, is successful.

The effectiveness of the LP Fund's currency hedging strategy will in general be affected by the volatility of both the foreign securities held by that Fund and the volatility of the Canadian dollar relative to the currencies to be hedged. Increased volatility will generally reduce the effectiveness of the LP Fund's currency hedging strategy. The effectiveness of the LP Fund's currency hedging strategy will in general be affected by interest rates. Significant differences between Canadian dollar interest rates and foreign currency interest rates may affect the effectiveness of the currency hedging strategy employed by the LP Fund.

The Funds may not be fully hedged against their exposure to U.S. dollars and other foreign currencies and accordingly no assurance can be given that the Funds will not be adversely impacted by changes in foreign exchange rates or other factors. Hedging, if used, involves special risks, including the possible default by the other party to the transaction, illiquidity and, to the extent SW8's assessment of certain market movements is incorrect, the risk that the use of hedges could result in losses greater than if the hedging had not been used. In addition, the costs associated with a hedging program may outweigh the benefits of the arrangements in such circumstances.

### **Potential Lack of Diversification**

Although the LP Fund's portfolio will generally be diversified, this may not be the case at all times if SW8 deems it advantageous for the LP Fund to be less diversified. Accordingly, the investment portfolio of the LP Fund may be more susceptible to fluctuations in value resulting from adverse economic conditions affecting a particular country, industry or issuer than would be the case if the LP Fund were required to maintain a wider diversification.

### **Illiquid Assets**

A portion of the Main Portfolio may from time to time be invested in Illiquid Assets, such as securities and other financial instruments or obligations for which no market exists, or which

cease to be traded after the LP Fund invests and/or which are restricted as to their transferability under local governmental securities laws or practices. The sale of any such investments may be subject to delays and additional costs and may be possible only at substantial discounts that could affect materially and adversely the amount of gain or loss the Main Portfolio may realize.

### **Short Selling**

The LP Fund may take short sale positions without maintaining an equivalent quantity, or a right to acquire an equivalent quantity, of the underlying securities in its portfolio. While SW8 will engage in these transactions only in circumstances where it has concluded that a particular security is overvalued in its principal markets, there can be no assurance that the security will experience declines in market value and this could result in the LP Fund incurring losses if it has agreed to deliver securities at a price which is lower than the market price at which such securities may be acquired at the time the transaction is to be completed. SW8 may selectively engage in transactions which limit the potential liability of the LP Fund for unanticipated shifts in the market value of these securities. The possible losses to the LP Fund from a short sale of a security differ from losses that could be incurred from a cash investment in the security. The former may be unlimited, whereas the latter is limited to the total amount of the cash investment.

### **Use of Leverage**

The LP Fund employs leverage (i.e., the use of borrowed funds or securities) as an inherent tool in its investment strategy. While the use of leverage can increase the rate of return, it can also increase the magnitude of loss in unprofitable positions beyond the loss which would have occurred if there had been no borrowings. The interest expense and other costs incurred in connection with such borrowing may not be recovered by appreciation in the value of the securities purchased. In the event of a decline in the market value of such securities (or an increase in the market value when leverage is used in connection with short selling activities), leveraging will magnify the losses from investment activities that use leverage. SW8 will limit the use of leverage to 100% of the LP Fund's Net Asset Value (at the time of investment) of the Net Asset Value of the LP Fund.

The LP Fund's anticipated use of short-term margin borrowings subjects the LP Fund to additional risks, including the possibility of a "margin call" pursuant to which the LP Fund must either deposit additional funds with the broker or suffer mandatory liquidation of the pledged securities to compensate for the decline in value. In the event of a sudden, precipitous drop in the value of the LP Fund's assets, the LP Fund may not be able to liquidate assets quickly enough to pay off its margin debt.

### **Use of Options**

The LP Fund may purchase and write exchange-traded and OTC put and call options on debt and equity securities and indices (both narrow-based and broad-based), and exchange-traded put and call options on currencies. A put option on securities or currencies gives the purchaser of the option, upon payment of premium, the right to deliver a specified amount of the securities or currencies to the writer of the option on or before a fixed date at a predetermined price. A put option on a securities index gives the purchaser of the option, upon payment of a premium, the right to a cash payment from the writer of the option if the index drops below a predetermined

level on or before a fixed date. A call option on securities or currencies gives the purchaser of the option, upon payment of a premium, the right to call upon the writer to deliver a specified amount of the securities or currencies on or before a fixed date at a predetermined price. A call option on a securities index gives the purchaser of the option, upon payment of a premium, the right to a cash payment from the writer of the option if the index rises above a predetermined level on or before a fixed date.

The LP Fund's ability to close out its position as a purchaser or seller of a listed put or call option is dependent, in part, upon the liquidity of the option market. OTC options are purchased from or sold to securities dealers, financial institutions or other parties (the Counterparty) through direct bilateral agreements with the Counterparty. In contrast to exchange listed options, which generally have standardized terms and performance mechanics, all the terms of an OTC option, including such terms as method of settlement, term, exercise price, premium, guarantees and security, are set by the negotiation of the parties. Unless the parties provide for it, there is no central clearing or guarantee function in an OTC option. As a result, if the Counterparty fails to make or take delivery of the security, currency or other instrument underlying an OTC option it has entered into with the LP Fund or fails to make a cash settlement payment due in accordance with the terms of that option, the LP Fund will lose any premium it paid for the option as well as any anticipated benefit of the transaction.

Call options may be purchased for speculative purposes, for example to provide exposure to increases in the market (e.g., with respect to temporary cash positions) or to hedge against an increase in the price of securities or other investments that the LP Fund intends to purchase. Similarly, put options may be purchased for speculative purposes or to hedge against a decrease in the market generally or in the price of securities or other investments held by the LP Fund. Buying options may reduce the LP Fund's returns, but by no more than the amount of the premiums paid for the options. Writing covered call options (i.e., where the LP Fund owns the security or other investment that is subject to the call) may limit the LP Fund's gain on portfolio investments if the option is exercised because the LP Fund will have to sell the underlying investments below the current market price. Also, writing put options may require the LP Fund to buy the underlying investment at a disadvantageous price above the current market price. Writing uncovered call options (i.e., where the LP Fund does not own the security or other investment that is subject to the call) entails the risk that the price of the underlying investment at the time the option is exercised theoretically could have risen without limit. The risk of loss of uncovered put options written by the LP Fund is limited in the exercise price of the option less the premium received.

Purchasing and writing put and call options are highly specialized activities and entail greater than ordinary market risks.

### **Derivative Hedge Risks**

Although a derivative hedge reduces risk, it does not eliminate risk entirely. A derivative hedge can result in a loss in the case of an extraordinary event. There are several such possible cases including, but not limited to: (i) a cease trade order being issued in respect of the underlying security; (ii) the inability to maintain a short position, due to the repurchase or redemption of shares by the issuing company; (iii) disappearance of any conversion premium due to premature redemptions, changes in conversion terms or changes in an issuer's dividend policy; (iv) credit

quality considerations, such as bond defaults; and (v) lack of liquidity during market panics. To protect the LP Fund's investments against the occurrence of such extraordinary events, SW8 will generally attempt to maintain a properly diversified portfolio.

### **OTC Transactions**

The Main Portfolio may engage in OTC transactions. Such transactions involve additional risks including the following. Off-exchange contracts are not regulated nor are they guaranteed by an exchange or clearinghouse. Rather, participants in such markets act as principals and, accordingly the risks stated in this section under "Counterparty and Settlement Risk" are particularly applicable. There is no limitation on the daily price movements of such contracts and speculative position limits are not applicable. Such transactions are also subject to legal risks, such as the legal incapacity of a counterparty to enter into a particular contract or the declaration of a class of contracts as being illegal or unenforceable.

### **Portfolio Turnover**

The operation of the LP Fund may result in a high annual portfolio turnover rate. The LP Fund has not placed any limit on the rate of portfolio turnover and portfolio securities may be sold without regard to the time they have been held when, in the opinion of SW8, investment considerations warrant such action. A high rate of portfolio turnover involves correspondingly greater expenses than a lower rate (e.g., greater transaction costs such as brokerage fees) and may involve different tax consequences.

### **Interest Rate Fluctuations**

In the case of interest rate sensitive securities, the value of a security may change as the general level of interest rates fluctuates. Increases in interest rates will also increase the LP Fund's cost of borrowing.

### **Depository Receipts**

In some cases, rather than directly holding securities of non-Canadian and non-U.S. companies, the LP Fund may hold these securities through an American Depositary Receipt (an "ADR") or a similar instrument called an American Depositary Share. An ADR is issued by a U.S. bank or trust company to evidence its ownership of securities of a non-U.S. corporation. The currency of an ADR may be U.S. dollars rather than the currency of the non-U.S. corporation to which it relates. The value of an ADR will not be equal to the value of the underlying non-U.S. securities to which the ADR relates as a result of a number of factors. These factors include the fees and expenses associated with holding an ADR, the currency exchange rate relating to the conversion of foreign dividends and other foreign cash distributions into U.S. dollars, and tax considerations such as withholding tax and different tax rates between the jurisdictions. In addition, the rights of the LP Fund, as a holder of an ADR, may be different than the rights of holders of the underlying securities to which the ADR relates, and the market for an ADR may be less liquid than that of the underlying securities. The foreign exchange risk will also affect the value of the ADR and, as a consequence, the performance of the LP Fund if it holds the ADR.

### **Fund on Fund Risk**

The Trust Fund invests all or substantially all of its assets in the LP Fund and the LP Fund may invest all or a portion of its assets in other underlying funds. The proportions and types of underlying funds held by the LP Fund will be selected and varied by SW8, in its sole discretion, in the interest of achieving the investment objectives of the LP Fund. Underlying funds typically bear their own management fees and expenses. To the extent that the Trust Fund invests in the LP Fund, it has the same risks as the LP Fund. Likewise, to the extent that the LP Fund invests in another underlying fund, it has the same risks as the underlying fund.

### **Counterparty and Settlement Risk**

Due to the nature of some of the investments that the LP Fund may undertake, the LP Fund relies on the ability of the Counterparty to the transaction to perform its obligations. In the event that a Counterparty fails to complete its obligations, the LP Fund bears the risk of loss of the amount expected to be received under options, forward contracts or securities lending agreements in the event of the default or bankruptcy of a Counterparty. The LP Fund will also bear the risk of settlement default by clearing houses and exchanges. Any default by a counterparty or on settlement could have a material adverse affect on the LP Fund.

### **Legal, Tax and Regulatory Risks**

Legal, tax, administrative practice and regulatory changes could occur during the term of the Funds which may adversely affect the Funds. For example, the regulatory or tax environment for derivative instruments is evolving, and changes in the regulation or taxation of derivative instruments may adversely affect the value of derivative instruments held by the LP Fund and its ability to pursue its investment strategies. Interpretation of the law or administrative practice may affect the characterization of the Funds' earnings as capital gains or income which may increase the level of tax borne by investors as a result of increased taxable distributions from the Funds. There can be no assurance that Canadian federal income tax laws and administrative policies and assessing practices of the Canada Revenue Agency (the "CRA") will not be changed in a manner that adversely affects Unitholders.

### **Taxation of the Funds**

Although SW8 expects that the proposals to amend the Tax Act announced by the Department of Finance (Canada) on October 31, 2003 relating to the deductibility of losses under the Tax Act (the "**October 31 Proposals**"), even if enacted as proposed, should not adversely affect the deduction by the Funds of interest and other expenses incurred by it, it is possible that they could do so, thereby increasing the net income of the Funds for tax purposes and the taxable component of distributions to Unitholders. In the Canadian federal budget of February 23, 2005, it was announced that the Department of Finance (Canada) would replace the October 31 Proposals with a more modest legislative initiative which is to be released for public comment.

While the Trust Fund has been structured so that it generally will not be liable to pay income tax, the information available to the Trust Fund and SW8 relating to the characterization, for tax purposes, of the distributions received by the Trust Fund in any year from issuers of the Trust Fund's investments may be insufficient as at December 31 of that year to ensure that the Trust Fund will make sufficient distributions in order that the Trust Fund will not be liable to pay income tax in respect of that year.

In order for the Trust Fund to maintain its status as a mutual fund trust under the Tax Act, the Trust Fund must not be established or maintained primarily for the benefit of non-residents of Canada unless all or substantially all of its property is property other than taxable Canadian property as defined in the Tax Act. On September 16, 2004, the Minister of Finance (Canada) released draft amendments to the Tax Act. Under the draft amendments, a trust would lose its status as a mutual fund trust if the aggregate fair market value of all units issued by the trust held by one or more non-resident persons or partnerships that are not Canadian partnerships, as defined in the Tax Act, (or any combination thereof) is more than 50% of the aggregate fair market value of all the units issued by the trust where more than 10% (based on fair market value) of the trust's property is taxable Canadian property or certain other types of property. If the draft amendments are enacted as proposed, and if, at any time, more than 50% of the aggregate fair market value of Trust Units were held by non-residents and partnerships other than Canadian partnerships (or any combination thereof), the Trust Fund would thereafter cease to be a mutual fund trust. The draft amendments do not currently provide any means of rectifying a loss of mutual fund trust status. On December 6, 2004, the Department of Finance (Canada) tabled a Notice of Ways and Means Motion which did not include these proposed changes. It is SW8's understanding that the Department of Finance (Canada) has suspended implementation of the proposed changes pending further consultation with interested parties.

In determining the Funds' income for tax purposes, the Funds will treat option premiums received on the writing of covered call options and cash covered put options and any losses sustained on closing out options as capital gains or capital losses, as the case may be, in accordance with SW8's understanding of the CRA's published administrative and assessing practices. Gains or losses realized upon the disposition of securities upon exercise of a call option will be treated as capital gains or losses. If, contrary to the CRA's published administrative practice, some or all of the transactions undertaken by the Funds in respect of options and securities were treated as income rather than capital gains, the Funds could be liable to pay income tax on such amounts and after-tax returns to holders of Units could be reduced.

### **Low Rated or Unrated Debt Obligations**

A portion of the LP Fund's portfolio may consist of instruments that have a credit quality rated below investment grade by internationally recognized credit rating organizations or may be unrated. Low rated and unrated debt instruments generally offer a higher current yield than that available from higher grade issuers, but typically involve greater risk. These securities involve significant risk exposure as there is uncertainty regarding the issuer's capacity to pay interest and repay principal in accordance with the terms of the obligations.

### **Conflicts of Interest**

SW8 may manage other investment funds or accounts in addition to the Funds. To the extent that SW8 undertakes such activities and other business activities in the future, SW8 and its principals may be subject to conflicting demands in respect of allocating management time, services and other functions. SW8 and its principals and affiliates will endeavour to treat each client fairly and not to favour one client over another.

## **Use of a Prime Broker to Hold Assets**

Some or all of the LP Fund's assets may be held in one or more margin accounts due to the fact that the LP Fund will use leverage and engage in short selling. The margin accounts may provide less segregation of customer assets than would be the case with a more conventional custody arrangement. The prime broker may also lend, pledge or hypothecate the LP Fund's assets in such accounts, which may result in a potential loss of such assets. As a result, the LP Fund's assets could be frozen and inaccessible for withdrawal or subsequent trading for an extended period of time if the prime broker experiences financial difficulty. In such case, the LP Fund may experience losses due to insufficient assets at the prime broker to satisfy the claims of its creditors, and adverse market movements while its positions cannot be traded. In addition, the prime broker is unlikely to be able to provide leverage to the LP Fund, which would adversely affect the Funds' returns.

## **Trading Errors**

In the process of trading and investing the LP Fund's portfolio it is possible that employees of SW8 may make trading errors, such as (i) buying or selling an asset at a price or quantity that is inconsistent with the specified trading instructions generated by a particular strategy, or (ii) executing trades to buy instead of sell a particular asset (and vice versa). SW8 has adopted policies and procedures to prevent trading errors. In particular, SW8's electronic trade execution system has been configured to limit the size of any single order by dollar amount and number of securities. Nonetheless, there remains the possibility that occasionally unintended trades may occur resulting in gains or losses. Trading errors are, therefore, distinguishable from errors in judgment, due diligence or other factors leading to a specific trading instruction being generated, as well as from unauthorized trading or other improper conduct by employees of SW8.

All trading errors are recorded in a trading error log which is reviewed at least monthly by the CCO and the Chief Investment Officer in order to identify any patterns or systemic errors. Because trading errors are an intrinsic cost of an actively managed investment process, SW8 will (unless it determines otherwise) treat all trading errors (including those which result in losses and those which result in gains) as for the account of the Funds, unless SW8 determines that the trading error occurred as a result of conduct by SW8 inconsistent with its standard of care.

## **U.S. Withholding Tax Risk**

Effective January 1, 2014, pursuant to recently enacted U.S. tax legislation (including proposed U.S. Treasury Regulations that have yet to be finalized) generally referred to as the "Foreign Account Tax Compliance Act" ("FATCA"), mutual funds such as the Funds will be required to comply with certain reporting requirements in order not to be subject to a 30% U.S. withholding tax on certain payments of U.S. source income made (as well as payments attributable to dispositions of property which produce or could produce certain U.S. source income) to the mutual funds or on certain amounts (including distributions and dividends) paid by the mutual funds to certain investors. Complying with such requirements will require the Funds to request and obtain certain information from Unitholders and (where applicable) their beneficial owners, including information regarding their citizenship, and to furnish such information and documentation to the U.S. Internal Revenue Service. If a Fund is unable to comply with these requirements, the imposition of the 30% U.S. withholding tax will affect the Net Asset Value of

the Fund and will result in reduced investment returns to all Unitholders (even if such Unitholders are not U.S. residents or citizens). If a Unitholder does not provide the information necessary for a Fund to comply with these requirements, SW8 may redeem the Units held by such Unitholder. In addition, the administrative costs arising from compliance with FATCA may also cause an increase in the operating expenses of the LP Fund.

### **Class Risk**

Each class of LP Units shares in the common expenses of the LP Fund. However, expenses applicable to a particular portfolio investment, such as brokerage and interest expenses, and other obligations, are allocated to the relevant classes and paid out of the investments and other assets attributable to those classes. The LP Fund as a whole is legally responsible for all the expenses and other obligations of all of the classes. If there are not enough assets attributable to a class to pay its expenses and obligations, assets attributable to other classes will be used to pay such expenses and other obligations. In such circumstances, the Net Asset Value Per Unit of the other classes will decline by their proportionate share of the shortfall.

The foregoing risk factors do not purport to be a complete explanation of all risks involved in purchasing Units. Potential investors should read this entire Confidential Offering Memorandum and consult with their legal and other professional advisors before deciding to invest in a Fund.

## **FEES AND EXPENSES**

### **Management Fee**

The LP Fund pays SW8 a monthly Management Fee per series of each class (except Class X Units) equal to  $\frac{1}{12}$  of the percentage specified in the table below multiplied by the Net Asset Value attributable to such series of such class, plus any applicable taxes. The Management Fee is calculated each Valuation Date and payable monthly in arrears. Unitholders holding Class X Units negotiate and pay a fee directly to SW8. No Management Fee is payable in respect of the Class E Unit held by the General Partner.

<b>Class</b>	<b>Management Fee</b>
A	2.00%
B	1.50%
C	2.00%
F	1.50%
I	1.50%
Z	1.50%

Although no Management Fee is charged to the Trust Units, the Net Asset Value of the Trust Units will decrease as a result of the Management Fee charged to the LP Units that are held by the Trust. As such, holders of Trust Units will indirectly bear their *pro rata* portion of such Management Fees.



## **Incentive Allocation**

In respect of each LP Unit and each Incentive Allocation Period, the General Partner shall be entitled to receive an amount equal to 20% of the Aggregate Overall Appreciation during such Incentive Allocation Period (the “**Incentive Allocation**”).

The General Partner may, in its sole discretion, waive all or any part of its Incentive Allocation for any Incentive Allocation Period and/or direct that all or any part of its Incentive Allocation for that particular Incentive Allocation Period be allocated to one or more particular Limited Partners in any amount that it considers appropriate or as it has otherwise agreed with any particular Limited Partner (to the exclusion of every other Limited Partner). Any such waiver or direction of the General Partner in respect of a particular period will apply in respect of that period only.

The General Partner may pay a portion of any distributions it receives from the LP Fund in respect of its Incentive Allocation, if any, to certain registered dealers whose clients hold Units of the Funds.

Although no Incentive Allocation is charged to the Trust Units, the Net Asset Value of the Trust Units will decrease as a result of the Incentive Allocation charged to the LP Units that are held by the Trust. As such, holders of Trust Units will indirectly bear their *pro rata* portion of such Incentive Allocation.

## **Administration Fees and Expenses**

The LP Fund is responsible for, and the General Partner or SW8, as the case may be, is entitled to, reimbursement from the LP Fund for fees and expenses relating to the Funds’ operation including, without limitation, registrar and transfer agent fees, audit, accounting, administration, record keeping and legal or other professional fees, custody and safekeeping charges, taxes, assessments or other charges levied by a governmental body against the Funds, interest charges, hedging costs, commissions, brokerage, banking and other fees related to the business and administration of the Funds, and fees and expenses relating to providing financial and other reports to Unitholders. The General Partner or SW8, as the case may be, is responsible for any marketing and promotional expenses incurred in connection with distribution of the Units. SW8 will ensure that no expenses incurred by the Trust Fund are duplicative of expenses incurred by the LP Fund.

The LP Fund is responsible for the costs of the initial organization of the Funds and the offering of Units, including, without limitation, fees and expenses of legal counsel and other service providers. Such expenses will be amortized over the first five years of the LP Fund’s existence.

Although no expenses are charged to the Trust Units, the Net Asset Value of the Trust Units will decrease as a result of the expenses charged to the LP Units that are held by the Trust. As such, holders of Trust Units will indirectly bear their *pro rata* portion of such expenses.

## **Early Withdrawal Fee**

A redemption of Units will be subject to an Early Withdrawal Fee equal to 2% of the value of the Units redeemed if such redemption occurs less than six months from the date of subscription for such Units. The Early Withdrawal Fee is paid to the LP Fund.

## **UNITS OF THE FUNDS**

An investment in the Funds is represented by Units. Each Unit of a particular class of a Fund represents a share of the aggregate interests in the assets of the Fund attributable to that class. Each Fund is authorized to issue an unlimited number of Units in one or more classes. Units are issued in series of each class. The General Partner or SW8, as the case may be, may consolidate, subdivide or designate by name and series the Units from time to time in such manner as each considers appropriate.

The rights of the Limited Partners and Trust Unitholders are contained in the Partnership Agreement and Declaration of Trust, respectively. The provisions or rights attaching to the LP Units and Trust Units and the other terms of the Partnership Agreement or Declaration of Trust, as applicable, may be modified, amended or varied but only for the purposes and in the manner described therein.

The Limited Partners and Trust Unitholders can terminate their investment in the Funds by redeeming each Unit at its Net Asset Value Per Unit, subject to the right of General Partner or SW8, as the case may be, to suspend the right of redemption in certain circumstances. See “Redemptions of Units”.

### **Voting Rights**

Each Limited Partner may exercise one vote for each dollar in aggregate Net Asset Value Per Unit attributed to the LP Units (or of a class or series of the LP Fund) held by such Limited Partner. SW8 will not vote the LP Units held by the Trust Fund but SW8 may, if it chooses, arrange for the LP Units held by the Trust Fund to be voted by the Trust Unitholders.

Each Trust Unitholder may exercise one vote for each dollar in aggregate Net Asset Value Per Unit attributed to the Trust Units (or of a class or series of the Trust Fund) held by such Trust Unitholder.

Subject to the sentence that follows, every Unit of a Fund is entitled to participate in distributions made by such Fund and, on liquidation, the net assets. In determining the entitlement of a class to distributions and liquidation payments, SW8 will, to the extent possible, take into account the assets, liabilities, income (including realized capital gains), losses and expenses determined by SW8 to be attributable to such class.

### **Class Attributes**

Pursuant to this Confidential Offering Memorandum, each Fund currently offers Class A, Class B, Class C, Class F, Class I, Class X and Class Z Units, each issuable in series. Each class of Units invests directly (in the case of the LP Fund) or indirectly (in the case of the Trust Fund) in either the Main Portfolio or the Secondary Portfolio. The Secondary Portfolio has no exposure to Specified Securities. Each Fund may issue additional classes of Units in the future. When

creating a new class of Units, SW8 will determine whether such new class will invest in the Main Portfolio or the Secondary Portfolio. Notwithstanding anything to the contrary herein, SW8 retains ultimate discretion as to whether an investor may purchase Units of any particular class.

<b>Class</b>	<b>Attributes</b>
A	For investors making investments of \$25,000 or more through a registered dealer with whom they maintain an investment account.
B	Closed to new investors.
C	For investors making investments of \$25,000 or more who are not eligible to purchase Class A, Class F, Class I, Class X or Class Z Units.
F	For investors making investments of \$25,000 or more through a registered dealer with whom they maintain an investment account and who are subject to a periodic asset-based fee rather than commissions on each transaction.
I	For institutional clients.
X	For institutional and other investors who negotiate a Management Fee directly with SW8.
Z	For institutional and other investors who require exposure to the Secondary Portfolio.

All classes other than Class Z invest directly or indirectly in the Main Portfolio.

Fractions of Units may be issued. Fractional Units carry the rights and privileges and are subject to the restrictions and conditions applicable to whole Units in the proportions which they bear to one Unit.

The Funds maintain a book-based system of Unit registration and, accordingly, do not issue certificates.

Units may not be transferred without the prior written consent of SW8 and any transfer not consented to by SW8 will not be registered by the Funds.

### **Series Attributes**

Units of a class are issued in series at the Net Asset Value Per Unit of the initial series of that class. At the end of each Fiscal Year, SW8 will consolidate any series of units of the same class in respect of which an Incentive Allocation was paid.

## **INVESTING IN THE FUNDS**

The Units are being offered for sale on a continuous basis to qualified investors resident in all provinces and territories of Canada pursuant to applicable prospectus and registration exemptions. SW8 may, in its discretion, vary the terms and conditions of the offering and sale of Units or other securities of the Funds.

### **Investors**

SW8 reserves the right to refuse subscriptions for Units from, or any transfer of Units to, any Person:

- (a) that is a “financial institution” or “specified financial institution” (as such terms are defined in the Tax Act) where, after the issuance or transfer of Units to such Person, a Fund would be a financial institution or specified financial institution for purposes of the Tax Act;
- (b) an interest in which is a “tax shelter investment” for purposes of the Tax Act; or
- (c) that is (or is deemed to be) a non-resident of Canada for purposes of the Tax Act or, if a partnership, is not a “Canadian partnership” (within the meaning of the Tax Act).

### **Purchase of Units**

Any investor acceptable to SW8 may subscribe for and purchase Units in a Fund. Investors must purchase as principal (or be deemed under applicable securities legislation to be purchasing as principal), both in respect of initial investments and additional investments.

Investors wishing to become Unitholders or wishing to subscribe for additional Units of a Fund may subscribe by means of the Subscription Agreement available upon request from SW8. The subscriber must tender with the form of subscription full payment of the aggregate subscription price of the Units or confirmation of wire instructions or other evidence of payment (as SW8 may otherwise permit or require) for the amount representing the purchase price of the Units subscribed for.

No Units will be issued without receipt of the subscription proceeds and acceptable form of subscription. SW8 has the unconditional right to accept or reject any subscription submitted and will promptly give notice thereof to the investor. If a subscription is not accepted by SW8, all subscription proceeds will be returned, without interest, deduction or penalty to the investor. If the subscription is accepted only in part, a cheque representing a portion of the purchase price for that portion of the subscription for the Units which is not accepted will be promptly delivered or mailed to the subscriber without interest.

The Net Asset Value Per Unit for subscriptions which are received and accepted by SW8 prior to 4:00 p.m. (Toronto time) on the last Business Day of a month will be calculated as of the Valuation Date for that month. Subscriptions which are received and accepted by SW8 after 4:00 p.m. (Toronto time) on the last Business Day of a month will be calculated and processed as of the Valuation Date for the following month unless SW8, at its sole discretion, determines that

extenuating circumstances favour applying the Valuation Date for the preceding month. In no event and under no circumstances shall SW8 or its officers, directors or employees incur any liability or responsibility for any determination made or other action taken or omitted by any of them in good faith.

### **Subscription Price**

The initial series of a class of Units are offered at a subscription price of \$10.00 per Unit. Units of subsequent series of a class are offered at a subscription price per Unit determined by the General Partner or Trustee, as applicable.

### **Initial Minimum Investment**

The offering of Units is subject to a minimum subscription level of \$25,000 for investors who qualify as an Accredited Investor and \$150,000 for investors who qualify under the Minimum Amount Investment Exemption. Subject to available prospectus and registration exemptions, SW8 may, in its absolute discretion, waive the Minimum Subscription in respect of any Person who wishes to subscribe for Units.

### **Accredited Investors**

An investor resident in any province or territory in Canada will qualify as an Accredited Investor if he or she satisfies certain criteria as defined in NI 45-106. Each investor should refer to the more detailed representations, warranties and certifications contained in the Subscription Agreement to determine whether the investor qualifies as an Accredited Investor.

### **Additional Investments**

At the discretion of SW8, each additional investment by an investor must be not less than the amount specified by SW8 (which is currently \$5,000). For Accredited Investors, in addition to any requirement that each additional investment be for a specified amount, SW8 requires that immediately following the additional investment the Accredited Investor will hold in respect of each Fund, Units with an aggregate acquisition cost or Net Asset Value of not less than the amount specified by SW8 (which currently is \$25,000).

For investors who qualify under the Minimum Amount Exemption as defined in NI 45-106, in addition to the requirement that each additional investment be for an amount not less than \$5,000, the investor must have previously purchased and continue to hold Units with an aggregate acquisition cost or current Net Asset Value of not less than \$150,000. Otherwise, the additional investment will be subject to the requirements described above for initial investments.

At the time of making each additional investment in Units, each investor will be deemed to have repeated to the Fund certain representations contained in the subscription agreement delivered by the investor to the Fund at the time of the initial purchase. SW8 reserves the right to change the minimum amounts for additional investments in the Fund at any time, from time to time, and on a case-by-case basis, subject to regulatory requirements.

## **DEALER COMPENSATION**

No sales commission is payable to SW8 for Class B, Class C or Class F Units purchased by a subscriber.

Registered dealers may, at their discretion, charge a subscriber a front-end sales commission of up to 5% of the Net Asset Value of the Class A or Class I Units purchased. Any such sales commission will be negotiated between by the purchaser and his or her registered dealer and will be deducted by SW8 from the subscription price.

SW8 pays a monthly servicing commission to registered dealers whose clients hold Class A Units at a rate equal to one twelfth of 1% of the Net Asset Value of the Class A Units sold by such dealers then outstanding. The payments are calculated as at the last Valuation Date of each month and paid quarterly in arrears by SW8.

The General Partner and SW8 may pay additional compensation from their own account to registered dealers, individuals and companies who refer investors to the Funds on a case-by-case basis. Any such arrangements will be made in accordance with applicable legislation. Such payments may be modified or discontinued by the General Partner and SW8 at any time.

## **ALLOCATION OF PROFITS AND LOSSES**

The following section applies to Limited Partners, including the Trust Fund as holder of LP Units.

### **Allocation**

Each Fiscal Year, the General Partner will allocate the Net Income or Net Losses of the LP Fund, as the case may be, in the following priority:

- (a) first, the Net Income of the Limited Partnership for such period shall be allocated to the General Partner in an amount equal to the aggregate of (i) the Incentive Allocation, if any, the General Partner is entitled to receive for such period and (ii) the Incentive Allocation, if any, the General Partner was entitled to receive in for prior periods (but only to the extent that Net Income equal to such Incentive Allocation that the General Partner was entitled to receive for such prior periods has not been previously allocated to the General Partner pursuant to this paragraph (a));
- (b) second, the General Partner in its sole discretion, reasonably exercised, will allocate a portion of the Net Income or Net Losses of the LP Fund to Limited Partners who redeem all of their Units before the end of the Fiscal Year;
- (c) third, 0.01% of the remaining unallocated Net Income or Net Losses of the LP Fund will be allocated to the General Partner, in respect of its Class E Units; and

- (d) fourth, the remaining unallocated Net Income or Net Losses of the LP Fund will be allocated among the Limited Partners, in accordance with their Units, as determined by the General Partner in its sole discretion, acting reasonably.

In determining the allocation of Net Income or Net Losses among Limited Partners holding different classes of LP Units, the General Partner will, to the extent possible, take into account the assets, liabilities, income (including realized capital gains), losses and expenses determined by the General Partner to be attributable to each such class.

## **DISTRIBUTIONS**

Distributions will be made at such times and in such amounts as the General Partner in its sole discretion, may determine from time to time. The General Partner may determine that distributions, if any, be made in cash or may be reinvested in additional Units of each of the Funds at the Net Asset Value Per Unit attributable to each class of Units, calculated on the date of the distribution. The Trust Fund intends to distribute sufficient Net Income (including net realized capital gains, if any) to its Unitholders in each calendar year to ensure that it is not liable for income tax under Part I of the Tax Act, after taking into account any available loss carry forwards and capital gains refunds. See “Canadian Federal Income Tax Considerations”.

In determining the entitlement of a class to distributions SW8 will, to the extent possible, take into account the assets, liabilities, income (including realized capital gains), losses and expenses determined by SW8 to be attributable to such class.

The General Partner may, in its sole discretion, make such designations, determinations and allocations for tax purposes of amounts or portions of amounts which a Fund has received, paid, declared payable or allocated to Unitholders as distributions or redemption proceeds.

The costs of distributions, if any, will be paid by the Fund making the distributions.

## **PORTFOLIO VALUATION AND NET ASSET VALUE**

The Net Asset Value of each of the Funds is equivalent to the assets less the liabilities applicable to each series of each class as at each Valuation Date. On each Valuation Date, the Net Asset Value will be calculated by crediting or debiting, as the case may be, the profits and gains or losses (realized and unrealized) and expenses and liabilities of each of the Funds, applicable to each series of each class, including, in the case of the LP Fund, the Management Fee then accruing, any distributions made to Unitholders and any subscriptions and redemptions.

The Net Asset Value of each Fund on any Valuation Date will be determined in Canadian dollars on an accrual basis of accounting in accordance with the following principles:

- (a) the value of any cash on hand, on deposit or on call, prepaid expenses, cash dividends declared and interest accrued and not yet received, will be deemed to be the face amount thereof, unless SW8 determines that any such deposit or call loan is not worth the face amount thereof, in which event the value thereof will be deemed to be such value as SW8 determines to be the reasonable value thereof;

- (b) the value of any bonds, debentures, and other debt obligations will be valued by taking the average of the bid and ask prices on a Valuation Date at such times as SW8 in its discretion, deems appropriate;
- (c) short-term investments including notes and money market instruments will be valued at cost plus accrued interest;
- (d) the value of any security which is traded OTC will be priced at the average of the last bid and ask prices quoted by a major dealer or recognized information provider in such securities;
- (e) the value of any security, index futures or index options thereon which is listed on any recognized exchange will be determined as the closing price of such instrument on the relevant Valuation Date, or if there was no trade on the Valuation Date, at the average of the last quoted bid and ask price;
- (f) the value of any securities and instruments that do not have a readily ascertainable market or trading value, and in respect of which no ascertainable market or trading value is expected to develop within a reasonable period of time, and any other security or other asset for which a market quotation is not readily available will be its fair market value, determined in such manner as SW8 from time to time determines;
- (g) the value of any security, the resale of which is restricted or limited, including listed securities subject to a hold period, will be valued as described above with an appropriate discount if deemed appropriate as determined by SW8;
- (h) purchased or written clearing corporation option, option on futures, OTC options, debt-like securities and listed warrants will be valued at the current market value thereof as SW8 in its discretion determines;
- (i) where a covered clearing corporation options, options on futures or over-the-counter option is written, the premium received by a Fund will be reflected as a deferred credit which will be valued at an amount equal to the current market value of the clearing corporation option, option on futures or OTC option that would have the effect of closing the position. Any difference resulting from revaluation will be treated as an unrealized gain or loss on investment. The deferred credit will be deducted in arriving at the Net Asset Value of the Funds. The securities, if any, which are the subject of a written clearing corporation option, or OTC option will be valued at their current market value;
- (j) the value of a futures contract, or a forward contract, will be the gain or loss with respect thereto that would be realized if, at the close of business on the Valuation Date, the position in the futures contract, or the forward contract, as the case may be, were to be closed out unless daily limits are in effect in which case the fair market value will be based on the current market value of the underlying interest;



- (k) margin paid or deposited in respect of futures contracts and forward contracts will be reflected as an account receivable and margin consisting of assets other than cash will be noted as held as margin; and
- (l) all property of the Funds valued in a foreign currency and all liabilities and obligations of the Funds payable by the Funds in foreign currency will be converted into Canadian dollars by applying the rate of exchange obtained from the best available sources to SW8.

In no event and under no circumstances shall SW8 or its directors, officers or employees incur any individual liability or responsibility for any determination made or other action taken or omitted by any of them in good faith.

The Net Asset Value of a class is determined by subtracting the aggregate amount of liabilities attributable to the class from the aggregate value of the assets attributable to the class. As at any Valuation Date, Net Asset Value Per Unit of a series of a class means the amount obtained by dividing Net Asset Value applicable to such series of a class and as at such Valuation Date by the total number of Units of that series of a class outstanding as at such Valuation Date.

## **REDEMPTION OF UNITS**

Unitholders may surrender Units for redemption at any time. Redemption orders must be received by SW8 prior to 2:00 p.m. (Toronto time) 21 days prior to the Redemption Date on which the Unitholder wishes to redeem the Units. SW8 may shorten such notice period on a case by case basis in its sole discretion. Orders received after that time will be effective on the next Redemption Date. Redemption orders must be in writing or in other form acceptable to SW8. If Units are registered in the name of an intermediary such as a registered dealer, redemption orders must be made through such intermediary.

The amount payable to a Unitholder for each Unit redeemed will be an amount equal to the Net Asset Value Per Unit on the Redemption Date, less: (i) the Early Withdrawal Fee, if applicable; (ii) any Incentive Allocation owed for such Unit; and (iii) any taxes required under applicable law to be deducted or withheld. The LP Fund may allocate the Net Income or Net Loss attributable to LP Units being redeemed, if any, to Partners on the redemption of such LP Units.

Redemption proceeds may be paid by cheque or electronic transfer of funds to the Unitholder's bank account or an account maintained by a Unitholder's registered dealer, as applicable. Payments will be made within 15 days following the Redemption Date or such earlier date as may be specified by SW8.

### **Early Withdrawal Fee**

A redemption of Units will be subject to an Early Withdrawal Fee equal to 2% of the value of the Units redeemed if such redemption occurs less than six months from the date of subscription for such Units. The Early Withdrawal Fee is paid to the LP Fund.

## **Compulsory Redemption**

SW8 may at any time and for any reason upon not less than five days' prior written notice to a Unitholder compel redemption of any or all of such Unitholder's Units.

## **Suspension of Redemption**

The Funds may suspend redemption of the Units for any period when normal trading is suspended on any security or exchange which represents more than 5% by value or underlying market exposure of the Net Asset Value of each of the Funds, and at such other times as SW8 is of the opinion that the Net Asset Value cannot reasonably be determined. In the event of a suspension of redemption, SW8 will give notice to Unitholders of such suspension.

During the suspension period, requests for redemption of Units may be withdrawn. To the extent that a request for redemption is not withdrawn, the redemption will be effected as of the first Redemption Date following the recommencement of redemptions. Where possible, all reasonable efforts will be made to bring any period of suspension to an end as soon as possible.

## **CANADIAN FEDERAL INCOME TAX CONSIDERATIONS**

The following is a fair summary of the principal Canadian federal income tax considerations under the Tax Act to an investor acquiring, holding and disposing of Units. This summary only applies to an investor who acquires Units pursuant to this Confidential Offering Memorandum, and who, for the purposes of the Tax Act and at all relevant times:

- (a) is or is deemed to be a resident of Canada;
- (b) deals at arm's length and is not affiliated with a Fund, the General Partner or SW8;
- (c) is the initial investor in the Units
- (d) acquires and holds Units as capital property; and
- (e) is not exempt from tax under Part I of the Tax Act.

Generally, Units will be considered to be capital property to a holder if acquired for investment purposes and not acquired or held in the course of carrying on a business of trading or dealing in securities or as part of an adventure or concern in the nature of trade. Limited Partners and Trust Unitholders should consult their tax advisors as to whether they will hold their Units as capital property for purposes of the Tax Act. Trust Unitholders may be eligible to make an irrevocable election under subsection 39(4) of the Tax Act to deem their Trust Units and every other "Canadian security" (as defined in the Tax Act) owned by them in the taxation year the election is made, and in all subsequent taxation years, to be capital property.

This summary does not apply to a taxpayer that is a "financial institution", a "specified financial institution" or a "restricted financial institution" as defined in the Tax Act or to a person or partnership an interest in which would be a "tax shelter investment" for purposes of the Tax Act.

This summary also does not apply to a taxpayer that makes a functional currency reporting election pursuant to the Tax Act.

This summary is based upon the current provisions of the Tax Act and the regulations thereunder (the “**Regulations**”), all specific proposals to amend the Tax Act or the Regulations publicly announced by the federal Minister of Finance prior to the date hereof (the “**Proposals**”) and the current published administrative policies and assessing practices of the CRA. Except for the Proposals, this summary does not take into account or anticipate any changes in the law whether by judicial, regulatory, governmental or legislative action, nor does it take into account tax laws of any province or territory of Canada, or of any jurisdiction outside Canada. Provisions of provincial income tax legislation vary from province to province in Canada and may differ from federal income tax legislation. No assurance can be given that the Proposals will be implemented in their current form, or at all.

**This summary is of a general nature only and is not intended to constitute, nor should it be relied upon or construed as, tax advice to any particular Limited Partner or Trust Unitholder, nor is it exhaustive of all possible Canadian federal income tax considerations. This summary does not describe the income tax considerations relating to the deductibility of interest on money borrowed by a Limited Partner to acquire Units. Limited Partners or Trust Unitholders should consult their own tax advisors as to the overall consequences of their acquisition, ownership and disposition of Units having regard to their particular circumstances.**

## **Taxation of the LP Fund**

The LP Fund is not subject to income tax under the Tax Act. However, the LP Fund is required to compute its income (or loss) in accordance with the provisions of the Tax Act as if it were a separate person resident in Canada. The fiscal period of the LP Fund for purposes of the Tax Act ends on the 31<sup>st</sup> day of December in each year, and a fiscal period of the LP Fund will end on the dissolution of the LP Fund.

## **Taxation of Limited Partners**

### ***Computation of Income and Loss***

Each Limited Partner will generally be required to include in computing their income or loss for tax purposes in a taxation year, the share of the income or loss (including taxable capital gains and allowable capital losses) of the LP Fund allocated to such Limited Partner for each fiscal period of the LP Fund that ends in the taxation year of the Limited Partner, whether or not the Limited Partner has received or will receive a distribution from the LP Fund (see “Allocation of Profits and Losses”). A Limited Partner’s share of any income or loss of the LP Fund from any source or from sources in a particular place will be treated as if it were income or loss of the Limited Partner from that source or from sources in that particular place and any provisions of the Tax Act applicable to that type of income or loss will apply to the Limited Partner.

A Limited Partner’s share of the dividends received by the LP Fund from taxable Canadian corporations will be subject to the usual gross-up and dividend tax credit rules in the Tax Act, (including the enhanced dividend gross-up and tax credit for dividends designated as “eligible dividends” for purposes of the Tax Act) in the case of a Limited Partner that is an individual

(other than certain trusts), and may be subject to a refundable tax under Part IV of the Tax Act in the case of a Limited Partner that is a “private corporation” or a “subject corporation” (each as defined in the Tax Act).

Subject to the “at-risk rules” discussed below, a Limited Partner’s share of a loss of the LP Fund from a business or property for any fiscal period of the LP Fund may be deducted from income of the Limited Partner from any source to reduce the Limited Partner’s net income for the relevant taxation year and, to the extent such loss exceeds net income for that year, carried back three years and forward twenty years and applied against taxable income in such other years, subject to and in accordance with detailed rules in the Tax Act. A Limited Partner’s share of a capital loss of the LP Fund may be applied against taxable capital gains and may be carried back three years or forward indefinitely, subject to and in accordance with detailed rules in the Tax Act.

Notwithstanding the income or loss allocation provisions of the Partnership Agreement, any losses of the LP Fund from a business or property allocated to a Limited Partner in respect of a fiscal period of the LP Fund ending in a taxation year of the Limited Partner will be deductible by such Limited Partner in computing income for such taxation year only to the extent that, in general terms, the Limited Partner’s share of the loss does not exceed the Limited Partner’s “at-risk amount” in respect of the LP Fund at the end of the fiscal period of the LP Fund ending in the taxation year. In general terms, the “at-risk amount” of a Limited Partner in respect of the LP Fund at a particular time is the total of: (i) the adjusted cost base to the Limited Partner of the LP Units at that time, plus (ii) if the particular time is at the end of a fiscal period of the LP Fund, the Limited Partner’s share of the income of the LP Fund for that fiscal period, less the total of (iii) all amounts owing by the Limited Partner or by a person or partnership not dealing at arm’s length with the Limited Partner to the LP Fund or to a person or partnership with whom the LP Fund does not deal at arm’s length and (iv) subject to certain exceptions, any amount or benefit which the Limited Partner is entitled to receive where the amount or benefit is intended to protect the Limited Partner from any loss the Limited Partner may sustain by virtue of being a member of the LP Fund or holding or disposing of LP Units.

A Limited Partner’s share of any loss of the LP Fund that is not deductible in the year because of the “at-risk rules” is deemed to be the Limited Partner’s “limited partnership loss” in respect of the LP Fund for that year. In general terms, such “limited partnership loss” may be deducted in any subsequent taxation year against any income of the Limited Partner for that year to the extent that the Limited Partner’s “at-risk amount” at the end of the LP Fund’s fiscal period ending in that year exceeds the Limited Partner’s share of any loss of the LP Fund for that fiscal period.

The LP Fund will provide each Limited Partner with such information as is required by the CRA to assist in determining the Limited Partner’s share of the LP Fund’s income or loss. However, the responsibility for filing any required tax returns and reporting the Limited Partner’s share of the income or loss of the LP Fund falls solely upon the Limited Partner.

In general, every member of a partnership must, in accordance with the Regulations, file an information return in prescribed form which contains specified information for each taxation year of the partnership. The General Partner has agreed to file the necessary information return, which will be deemed to have been made by each member of the LP Fund.

Limited Partners should obtain tax advice regarding the potential application of the alternative minimum tax to income from the LP Fund, including where the Limited Partner has previously been allocated losses from the LP Fund.

### ***Disposition of LP Units***

Generally, a Limited Partner that disposes or is deemed to dispose of LP Units (including on the redemption of a LP Unit) will realize a capital gain (or capital loss) on the disposition. The capital gain or capital loss will generally be the amount, if any, by which the proceeds of disposition of the LP Units, net of any reasonable costs of disposition, exceed (or are less than) the adjusted cost base to the Limited Partner of the LP Units immediately before the disposition. The treatment under the Tax Act of capital gains and capital losses is described below under the heading “Taxation of Capital Gains and Capital Losses”.

Subject to the detailed rules of the Tax Act, the adjusted cost base of a LP Unit to a Limited Partner is the subscription price of the LP Unit plus the Limited Partner’s share of any income of the LP Fund (including the full amount of any capital gains) for any previously completed fiscal periods, less: (i) the Limited Partner’s share of the losses of the LP Fund (including the full amount of any capital losses) for any fiscal period ending before that time (except where any portion of such losses were included in the Limited Partner’s “limited partnership loss” in respect of the LP Fund as such losses will reduce the adjusted cost base of the LP Units only to the extent they have been previously deducted) and (ii) any distributions made at any time to the Limited Partner by the LP Fund. The adjusted cost base of each LP Unit will be the average of the adjusted cost base of all identical LP Units held by a Limited Partner. If the adjusted cost base of a Limited Partner’s LP Units would otherwise become a negative amount, the negative amount is deemed to be a capital gain realized by the Limited Partner and the adjusted cost base will be increased by the amount of such deemed capital gain.

As described under “Allocation of Profits and Losses”, where LP Units are redeemed by a Limited Partner during the course of the year, the General Partner may, in its sole discretion, reasonably exercised, allocate a portion of the income or loss of the LP Fund for the year in which the redemption occurs to such Limited Partner.

A Limited Partner who is considering disposing of LP Units should obtain tax advice before doing so because ceasing to be a limited partner before the end of the LP Fund’s fiscal period may result in certain adjustments to the Limited Partner’s adjusted cost base of the LP Units, and may adversely affect the Limited Partner’s entitlement to a share of the LP Fund’s income or losses. Further, the disposition of a LP Unit to a person exempt from tax under Part I of the Tax Act may give rise to adverse consequences to the transferor.

### **Taxation of the Trust Fund**

This summary is based on the assumption that the Trust Fund qualifies and will at all relevant times continue to qualify as a mutual fund trust for purposes of the Tax Act. SW8 expects that the Trust Fund will qualify as a mutual fund trust under the Tax Act at all material times.

The Declaration of Trust which governs the Trust Fund requires that the Trust Fund distribute or make payable to Trust Unitholders its net income and net realized capital gains, (excluding capital gains in respect of which the Trust Fund is entitled to a capital gains refund (defined

below)), if any, for each taxation year of the Trust Fund. As a result, taking into account the deduction to the Trust Fund in respect of amounts distributed to or made payable to Trust Unitholders, the Trust Fund should not be liable in any year for income tax under Part I of the Tax Act. However, the Trust Fund has the ability to elect to be taxed on amounts distributed to Trust Unitholders. It is anticipated that this election would only be made to utilize losses available to the Trust Fund in respect of previous fiscal periods.

The Trust Fund will be entitled for each taxation year throughout which it is a mutual fund trust to reduce (or receive a refund in respect of) its liability, if any, for tax on its net realized capital gains by an amount determined under the Tax Act based on the redemptions of Trust Units during the year (“**capital gains refund**”). In certain circumstances, the capital gains refund in a particular taxation year may not completely offset the tax liability of the Trust Fund for such taxation year which may arise upon the sale of securities in connection with redemption of Trust Units.

The tax consequences to the Trust Fund of holding and disposing of LP Units will generally be the same as those for Limited Partners, as described above under the heading “Taxation of Limited Partners”.

## **Taxation of Trust Unitholders**

### ***Computation of Income and Loss***

Trust Unitholders will generally be required to include in computing their income for a particular taxation year all net income and the taxable portion of net realized capital gains of the Trust Fund, if any, paid or payable to them in the taxation year, and deducted by the Trust Fund in computing its income for tax purposes, whether or not reinvested in additional Trust Units. To the extent applicable, the Trust Fund intends to make designations to ensure that such portion of: (i) the taxable capital gains of the Trust Fund (net of applicable losses), (ii) income of the Trust Fund from foreign sources, and (iii) dividends (including eligible dividends) received on shares of taxable Canadian corporations, as is paid or payable to a Trust Unitholder will effectively retain its character and be treated as such in the hands of the Trust Unitholder for purposes of the Tax Act. To the extent that amounts are designated as taxable dividends from taxable Canadian corporations, the normal gross-up and dividend tax credit rules will apply, including the enhanced dividend gross-up and tax credit for dividends designated as “eligible dividends” for purposes of the Tax Act.

Any amount in excess of the Trust Fund’s net income and the non-taxable portion of capital gains designated to the Trust Unitholder for a taxation year that is paid or payable to the Trust Unitholder in such year will generally not be included in the Trust Unitholder’s income, but will reduce the adjusted cost base of the Trust Unitholder’s Trust Units. To the extent that the adjusted cost base of a Trust Unit would otherwise be less than zero, the negative amount will be deemed to be a capital gain realized by the Trust Unitholder from the disposition of the Trust Unit and the Trust Unitholder’s adjusted cost base of such Trust Unit will be increased by the amount of such deemed capital gain.

The reclassification of Trust Units as Trust Units of another class of the Trust Fund will not be considered to be a disposition for tax purposes and accordingly the Trust Unitholder will realize

neither a gain nor a loss as a result of a reclassification. The Trust Unitholder's adjusted cost base of the Trust Units received for the Trust Units of another class will equal the adjusted cost base of the latter Units.

Under the Tax Act, the Trust Fund is permitted to deduct in computing its income for a taxation year an amount that is less than the amount of its distributions for the year. This will enable the Trust Fund to utilize, in a taxation year, losses from prior years without affecting the ability of the Trust Fund to distribute its income annually. The amount distributed to a Trust Unitholder but not deducted by the Trust Fund will not be included in the Trust Unitholder's income. However, the adjusted cost base of the Trust Unitholder's Trust Units will be reduced by such amount.

### ***Disposition of Trust Units***

Generally, a Trust Unitholder that disposes or is deemed to dispose of Trust Units (including on the redemption of a Trust Unit) will realize a capital gain or capital loss on the disposition. The capital gain or capital loss will generally be the amount, if any, by which the proceeds of disposition of the Trust Units, net of any reasonable costs of disposition, exceed or are less than the adjusted cost base to the Trust Unitholder of the Trust Units immediately before the disposition. The treatment under the Tax Act of capital gains and capital losses is described below under the heading "Taxation of Capital Gains and Capital Losses".

The adjusted cost base of a Trust Unit to a Trust Unitholder will include all amounts paid or payable by the Trust Unitholder for the Trust Unit, with certain adjustments. For the purpose of determining the adjusted cost base to a Trust Unitholder of Trust Units, when a Trust Unit is acquired, the cost of the newly-acquired Trust Unit will be averaged with the adjusted cost base of all the Trust Units owned by the Trust Unitholder as capital property immediately before that time. The cost to a Trust Unitholder of Trust Units received on the reinvestment of distribution of the Trust Fund will be equal to the amount reinvested.

### ***Taxation of Capital Gains and Capital Losses***

Generally, Unitholders will be required to include in computing their income for a taxation year one-half of any capital gain (a "taxable capital gain") realized in the year. Subject to and in accordance with the provisions of the Tax Act, a Unitholder is required to deduct one-half of any capital loss (the "allowable capital loss") realized in a taxation year from taxable capital gains realized in the year by such Unitholder. Allowable capital losses in excess of taxable capital gains may be carried back and deducted in any of the three preceding years or carried forward indefinitely and deducted against taxable capital gains realized in a subsequent year to the extent and under the circumstances described in the Tax Act.

A Unitholder that is a "Canadian-controlled private corporation" (as defined in the Tax Act) throughout a taxation year may be liable to pay, in addition to tax otherwise payable under the Tax Act, a refundable tax on certain investment income including taxable capital gains.

If a Unitholder disposes of LP Units or Trust Units, and the Unitholder, the Unitholder's spouse or another person affiliated with the Unitholder (including a corporation controlled by the Unitholder) has acquired LP Units or Trust Units, respectively, of any class within 30 days

before or after the Unitholder disposes of its Units, a capital loss that would otherwise be realized by the Unitholder may be suspended or denied.

Capital gains realized by a Unitholder that is an individual (including certain trusts) on the disposition of Units and capital gains of a Fund allocated, paid or made payable to such Unitholder may give rise to alternative minimum tax.

### **Eligibility for Investment By Deferred Income Plans**

#### ***LP Fund***

A LP Unit is not a “qualified investment” within the meaning of the Tax Act for Tax Deferred Plans.

#### ***Trust Fund***

Provided that the Trust qualifies at all relevant times as a “mutual fund trust” within the meaning of the Tax Act, Trust Units will be a “qualified investment” for Tax Deferred Plans.

Provided that the annuitant or holder of a RRSP, RRIF or TFSA does not hold a “significant interest” (as defined in the Tax Act) in the Trust Fund or any person or partnership that does not deal at arm’s length with the Trust Fund, and provided that such annuitant or holder deals at arm’s length with the Trust Fund, Trust Units will not be a prohibited investment for a trust governed by a RRSP, RRIF or TFSA. On December 21, 2012, the Department of Finance (Canada) released proposed amendments to the Tax Act which, if enacted, would result in Trust Units being a prohibited investment for a trust governed by a RRSP, RRIF or TFSA only if the annuitant or holder of a RRSP, RRIF or TFSA holds a “significant interest” (as defined in the Tax Act) in the Trust Fund or the annuitant or holder does not deal at arm’s length with the Trust Fund. Investors should consult their tax advisors with respect to whether Trust Units will be a prohibited investment for their RRSPs, RRIFs or TFSAs under the current rules in the Tax Act or under the proposed amendments.

### **REPORTING TO LIMITED PARTNERS AND TRUST UNITHOLDERS**

The Fiscal Year of the Funds ends on the 31<sup>st</sup> day of December in each year or such other date as SW8 may determine from time to time. SW8 will notify the Unitholders of any change in the fiscal period of the Funds.

Within 90 days after the end of each Fiscal Year, with the exception of the initial Fiscal Year of the Funds where only a “notice to reader” will be provided to the Unitholders, SW8 will forward to each Unitholder an annual report for such Fiscal Year consisting of:

- (a) audited financial statements of the Funds as at the end of such Fiscal Year and for the immediately preceding Fiscal Year;
- (b) any information required to be sent to Unitholders pursuant to the Tax Act; and
- (c) tax information to enable each Unitholder to properly complete and file its tax returns in Canada in relation to its investment in Units.



SW8 will forward to each Unitholder unaudited financial information respecting the Net Asset Value Per Unit at each fiscal quarter. SW8 will also provide a quarterly review detailing the investment activities of the Funds.

## **AMENDMENTS AND TERMINATION OF THE FUNDS**

### **Amendments to the Partnership Agreement and Declaration of Trust**

In general, the Partnership Agreement and Declaration of Trust may be amended by the General Partner and the Trustee, respectively, without prior notice to or consent from Unitholders: (i) in order to protect or enhance the interests of Unitholders; (ii) to cure any ambiguity or to correct or supplement any provision which may be defective or inconsistent with any other provision, or (iii) if the amendment does not adversely affect the interests of Unitholders or is necessary to bring a Fund into compliance with applicable law.

Any amendment which cannot be made in accordance with the above may be made, at any time, by the General Partner or Trustee, as the case may be, if the affected Unitholders provide their consent in accordance with the provisions of the Partnership Agreement or Declaration of Trust, as the case may be. SW8 will not vote the LP Units held by the Trust Fund but SW8 may, if it chooses, arrange for the LP Units held by the Trust Fund to be voted by the Trust Unitholders.

### **Termination of the Funds**

#### ***LP Fund***

The term of the LP Fund will end on the earlier of: (i) 60 days following the delivery by the General Partner of a notice of termination to all Limited Partners; (ii) 180 days after the bankruptcy, dissolution, resignation or winding-up of the General Partner, unless within 180 days after such bankruptcy, dissolution, resignation or winding-up the General Partner is replaced; or (iii) the passage of a Special Resolution by the Limited Partners approving the dissolution. The LP Fund will begin to liquidate and distribute its remaining assets after the end of the term of the LP Fund in accordance with the Partnership Agreement.

Upon completion of the liquidation of the LP Fund and the distribution of all Partnership funds, the LP Fund shall terminate and the General Partner shall have the authority to execute and record any and all documents required to effect the dissolution and termination of the Partnership under the *Limited Partnerships Act* (Ontario) or any other applicable legislation.

#### ***Trust Fund***

The Trust Fund may be terminated on the occurrence of certain events stipulated in the Declaration of Trust. SW8 may resign as manager of the Trust Fund, and if no successor is appointed, the Trust Fund will be terminated. On termination of the Trust Fund, the Trustee will distribute the assets of the Trust Fund in cash or in kind in accordance with the Declaration of Trust.

### **ADMINISTRATOR**

The Funds will appoint an independent administrator in order to calculate the Net Asset Value of each Fund and perform registrar and transfer agency services.

### **PRIME BROKER**

The securities and cash from time to time owned by the Funds are held by CIBC World Markets Inc., 161 Bay Street, 5th Floor, Toronto, Ontario M5J 2S8 at its principal office in Toronto, Ontario.

### **AUDITORS**

The auditor of the Funds is KPMG LLP located at Bay Adelaide Centre, 333 Bay Street Suite 4600, Toronto, Ontario M5H 2S5.

### **RIGHTS OF ACTION**

Securities legislation in certain provinces of Canada provides purchasers of Units under this Confidential Offering Memorandum with, in addition to any other right they may have at law, rights of action for rescission or damages, or both, where this Confidential Offering Memorandum, any amendment thereto and, in some cases, advertising, and sales literature used in connection with the offering of Units, contains a misrepresentation. These remedies must be exercised within the prescribed time limits and are described in the attached Schedule "A".

## CERTIFICATE

Dated: April 1, 2013

This Confidential Offering Memorandum does not contain a Misrepresentation.

**SW8 STRATEGY TRUST**  
By its Trustee and manager,  
**SW8 ASSET MANAGEMENT INC.**

*“Matthew Skipp”*

Matthew Skipp  
Director and Chief Executive Officer

*“Danielle Skipp”*

Danielle Skipp  
Director and Chief Operating Officer

*“Michael McNeil”*

Michael McNeil  
Director and Chief Financial Officer

**SW8 STRATEGY FUND LP**  
By its General Partner,  
**SW8 GP Inc.**

*“Matthew Skipp”*

Matthew Skipp  
Director and President

*“Danielle Skipp”*

Danielle Skipp  
Secretary

## **SCHEDULE "A"**

### **PURCHASERS' RIGHTS OF ACTION FOR DAMAGES OR RESCISSION**

Securities legislation in certain of the provinces of Canada provide purchasers with rights of rescission or damages, or both, where an offering memorandum or any amendment thereto contains a misrepresentation.

For the purposes of this section, "misrepresentation" means: (a) an untrue statement of a fact that significantly affects, or would reasonably be expected to have a significant effect, on the market price or the value of securities (a "material fact"); or (b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

The following is a summary of the statutory rights of rescission or damages, or both, under securities legislation in certain of the provinces of Canada, and as such, is subject to the express provisions of the legislation and the related regulations and rules. **Purchasers should refer to the applicable provisions of the securities legislation of their province for the particulars of these rights or consult with a legal advisor.**

#### **Ontario and New Brunswick**

If an offering memorandum, together with any amendment thereto, is delivered to a prospective purchaser and the offering memorandum, or any amendment thereto, contains a misrepresentation which was a misrepresentation at the time the securities were purchased, the purchaser will be deemed to have relied upon the misrepresentation and will have a statutory right of action against the issuer for damages or, may elect to exercise the right of rescission against the issuer (in which case, the purchaser will have no right of action for damages against the issuer).

Securities legislation in each of these provinces provides a number of limitations and defences, including:

- (a) no person or company will be liable if it proves that the purchaser purchased the securities with knowledge of the misrepresentation;
- (b) in a case of an action for damages, the defendant will not be liable for all or any portion of the damages that it proves do not represent the depreciation in value of the securities as a result of the misrepresentation relied upon; and
- (c) in no case will the amount recoverable in any action exceed the price at which the securities were offered under the offering memorandum, or any amendment thereto.

The statutory right of action described above does not apply to the following purchasers of securities in Ontario:

- (a) a Canadian financial institution, as defined in *Ontario Securities Commission Rule 45-501 – Ontario Prospectus and Registration Exemptions*, or an authorized foreign bank named in Schedule III of the *Bank Act* (Canada);
- (b) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada); or

- (c) a subsidiary of any person referred to in paragraphs (a) and (b), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of that subsidiary.

In New Brunswick, (a) if advertising or sales literature is relied upon by a purchaser in connection with a purchase of the securities, the purchaser shall also have a similar right of action for damages or rescission against the issuer, every promoter or director of the issuer and every person who, at the time of dissemination of the advertising or sales literature sells securities on behalf of the issuer; (b) if an individual makes a verbal statement to a prospective purchaser that contains a misrepresentation relating to the securities and the verbal statement is made either before or contemporaneously with the purchase of securities, the purchaser has a right of action for damages against the individual who made the verbal statement subject to certain defences available to such person.

No action shall be commenced to enforce the right of action described above unless the right is exercised within:

- (a) in case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or
- (b) in the case of any action for damages, the earlier of:
  - (i) 180 days, in the case of Ontario purchasers, and one year, in the case of New Brunswick purchasers, after the date the purchasers first had knowledge of the facts giving rise to the course of action; and
  - (ii) three years, in the case of Ontario purchasers, and six years, in the case of New Brunswick purchasers, after the date of the transaction that gave rise to the cause of action.

**Alberta (when relying on the minimum amount exemption), Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and the Yukon Territory**

If the offering memorandum, together with any amendment thereto is delivered to a purchaser, or any advertising or sales literature in the case of purchasers of securities who are resident in Alberta (when relying on the minimum amount exemption), Nova Scotia, contains a misrepresentation, a purchaser to whom the offering memorandum has been delivered and who purchases securities shall be deemed to have relied upon such misrepresentation if it was a misrepresentation at the time of purchase and the purchaser has the right of action for damages against (a) the issuer (or seller in Nova Scotia), (b) subject to certain additional defences, against every director of the issuer (or seller in Nova Scotia) at the date of the offering memorandum and (c) every person or company who signed the offering memorandum, but may elect to exercise the right of rescission against the issuer (in which case the purchaser shall have no right of action for damages against the aforementioned persons or company).

Securities legislation in each of these provinces provides a number of limitations and defences, including:

- (a) no person or company will be liable if it proves that the purchaser purchased the securities with knowledge of the misrepresentation;

- (b) in an action for damages, the defendant is not liable for all or any portion of the damages that it proves do not represent the depreciation in value of the securities as a result of the misrepresentation relied upon; and
- (c) in no case shall the amount recoverable under the right of action described herein exceed the price at which the securities were offered under the offering memorandum, or any amendment thereto.

No action shall be commenced to enforce the right of action discussed above more than:

- (a) in case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or
- (b) in the case of any action for damages, the earlier of:
  - (i) 180 days after the purchaser first had knowledge of the facts giving rise to the cause of action; or
  - (ii) three years after the date of the transaction that gave rise to the cause of action.

Furthermore, in Nova Scotia, no action shall be commenced to enforce the right of action discussed above unless an action is commenced to enforce that right not later than 120 days after the date on which payment was made for the security or after the date on which the initial payment for the security was made where payments subsequent to the initial payment are made pursuant to a contractual commitment assumed prior to, or concurrently with, the initial payment.

### **Saskatchewan and Manitoba**

If an offering memorandum or any amendment thereto, sent or delivered to a purchaser contains a misrepresentation, a purchaser who purchases a security has, without regard to whether the purchaser relied on the misrepresentation, a right of action for damages,

- (a) in Saskatchewan, against, the (i) issuer, (ii) every promoter or director of the issuer at the time the offering memorandum or any amendment thereto was sent or delivered, (iii) every person or company whose consent has been filed respecting the offering but only with respect to reports, opinions or statements that have been made by them, (iv) every person who or company that, in addition to the person or companies mentioned in (i) to (iii) above, signed the offering memorandum or any amendments thereto, and (v) every person or company that sells securities on behalf of the issuer under the offering memorandum or amendment thereto;
- (b) in Manitoba, against the issuer, every director of the issuer at the date of the offering memorandum, and every person or company who signed the offering memorandum

or, may elect a right to exercise the right of rescission against the issuer (in which case the purchaser will have no right of action for damages against the aforementioned persons).

Similar rights of action for damages and rescission are provided under the securities legislation of Saskatchewan in respect of a misrepresentation in advertising and sales literature disseminated or in case of a verbal misrepresentation made in connection with an offering of securities.

The Saskatchewan and Manitoba securities legislation provides a number of limitations and defences, including: (a) no person or company will be liable if the person or company proves that the purchaser purchased the securities with knowledge of the misrepresentation; (b) in the case of an action for damages, no person or company will be liable for all or any portion of the damages that it proves do not represent the depreciation in value of the securities as a result of the misrepresentation; (c) in no case will the amount recoverable in any action exceed the price at which the securities were offered to the purchaser.

No action shall be commenced to enforce any of the foregoing rights more than: (a) in the case of an action for rescission, 180 days from the date of the transaction that gave rise to the cause of action, or (b) in the case of an action for damages, the earlier of (i) one year in the case of Saskatchewan purchasers, and 180 days in the case of Manitoba purchasers, after the plaintiff first had knowledge of the facts giving rise to the cause of action, or (ii) six years in the case of Saskatchewan purchasers, and two years in the case of Manitoba purchasers, after the date of the transaction that gave rise to the cause of action.

### **Other Rescission Rights**

In certain provinces, a purchaser of a security of a mutual fund may (where the amount of the purchase does not exceed an amount as prescribed by legislation), rescind the purchase by notice given to the registered dealer from whom the purchase was made within 48 hours after receipt of the confirmation for a lump sum purchase or within 60 days after receipt of confirmation for the initial payment under a contractual plan for the purchase.

### **General**

The rights described above are in addition to and without derogation from any other right or remedy which purchasers may have at law and are intended to correspond to the provisions of the relevant securities legislation and are subject to the defenses contained therein. Each purchaser should refer to provisions of the applicable securities legislation for the particulars of these rights or consult a legal advisor.

The foregoing summaries are subject to the express provisions of the *Securities Act* (Ontario), *Securities Act* (Alberta), *Securities Act* (Newfoundland and Labrador), *Securities Act* (Northwest Territories), *Securities Act* (Nunavut), *Securities Act* (Nova Scotia), *Securities Act* (Saskatchewan), *Securities Act* (Yukon), *Securities Act* (Manitoba), *Securities Act* (New Brunswick), *Securities Act* (Prince Edward Island), and the regulations, rules and policy statements thereunder and reference is made thereto for the complete text of such provisions. These rights must be exercised by purchasers of securities within the prescribed time limits under applicable securities legislation.

### **Rights for Purchasers in Alberta (when relying on the accredited investor exemption), British Columbia and Québec**

Purchasers of securities pursuant to this Confidential Offering Memorandum who are resident in Alberta (when relying on the accredited investor exemption), British Columbia or Québec shall be granted a contractual right of action for damages or rescission if this Confidential Offering Memorandum, together with any amendments to it, contains a misrepresentation. The contractual

right of action shall be granted on the same terms and conditions as the statutory rights of action for purchasers of securities who are resident in Ontario as described above.