

**MASTER DECLARATION OF TRUST**

**OF THE**

**BRISTOL GATE FUNDS**

**DATED AS OF OCTOBER 9, 2015**

Bristol Gate Capital Partners Inc.  
as trustee and manager

Borden Ladner Gervais LLP  
Scotia Plaza  
40 King Street West  
Toronto, Ontario  
M5H 3Y4

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## BRISTOL GATE FUNDS

### DECLARATION OF TRUST

**Bristol Gate Capital Partners Inc.** (the “**Manager**”), a corporation incorporated under the laws of Ontario, having an office at 45 St. Clair Avenue West, Suite 601, Toronto, Ontario M4V 1K9, hereby declares:

- (a) this declaration of trust (“**Declaration of Trust**”) is being executed by the Manager, as trustee, to facilitate the administration of all of the unit trusts listed from time to time in Schedule “A” hereto (each, a “**Fund**” and, collectively, the “**Funds**”);
- (b) it has deposited \$100 to constitute and settle each Fund;
- (c) this Declaration of Trust and/or Schedule “A” may be amended from time to time to add or delete unit trusts and classes and/or series of units of such unit trusts, and to provide such other information regarding such unit trusts, classes and series as the Manager shall decide, in such manner and for any purpose permitted by the terms of this Declaration of Trust; and
- (d) it is the trustee for the unitholders of each of the Funds on the terms and conditions herein set out.

### ARTICLE 1 - INTERPRETATION

#### 1.1 Definitions

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

- (a) “**Adjusted Cost Base**” means the adjusted cost base of a Unit as computed in accordance with the provisions of the Tax Act as determined by the Manager;
- (b) “**Auditors**” means the auditors appointed pursuant to Section 9.1;
- (c) “**business day**” means any day on which banks in Toronto, Canada are all open for business and such other days as the Manager may in its sole discretion designate;
- (d) “**Common Expenses**” means those expenses of a Fund other than Series Expenses;
- (e) “**this Declaration of Trust**”, “**hereto**”, “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**” and similar expressions refer to this instrument in its entirety, as amended from time to time, and not to any particular Article, Section, Subsection or other portion hereof, and include any and every instrument supplemental or ancillary hereto and any and every Schedule hereto; “**Article**”, “**Section**” and

**“Subsection”** refer to the specified article, section or subsection of this Declaration of Trust;

- (f) **“Disclosure Document”** of a Fund means the offering memorandum, prospectus or other principal disclosure document as may be used by the Manager in connection with the distribution of Units of a Fund;
- (g) **“Funds”** means the trusts listed from time to time in **Schedule “A”** (each, a **“Fund”**);
- (h) **“Fund Property”** with respect to a Fund at any time means any and all securities, property and assets, real and personal, tangible and intangible, transferred, conveyed or paid to the Fund including:
  - (i) the \$100 contributed by the Manager to constitute and settle the Fund;
  - (ii) all proceeds realized from the issuance of Units of the Fund;
  - (iii) all investments, sums or property of any type or description from time to time delivered to the Manager as trustee or held for its account and accepted by the Manager in accordance with this Declaration of Trust for the purposes of the Fund;
  - (iv) all rights to acquire, or to the return of, the foregoing property and assets;
  - (v) any proceeds of disposition of any of the foregoing property and assets; and
  - (vi) all income, interest, profit, gains and accretions and additional rights arising from or accruing to such foregoing property or such proceeds of disposition;
- (i) **“GAAP”** means Canadian generally accepted account accounting principles;
- (j) **“IFRS”** means International Financial Reporting Standards, as they may be amended or replaced from time to time;
- (k) **“Investment Objective”** means the investment objective of each Fund as set forth in Schedule “A”, as the same may be changed from time to time in accordance with the provisions hereof and, if applicable, Securities Legislation;
- (l) **“Management Expense Distribution”** means a distribution pursuant to Section 8.4;
- (m) **“Manager”** means Bristol Gate Capital Partners Inc., in its capacity as trustee and manager of the Funds, or any successor person or corporation from time to time appointed as the trustee and manager of the Funds in accordance with this Declaration of Trust;

- (n) **“Net Asset Value”** at any time means the dollar value of assets less liabilities, and shall be calculated in respect of a Fund, of any series of Units of the Fund, and of any Units of the Fund, in accordance with Section 4.1 or Section 4.2, as applicable;
- (o) **“Net Capital Gains”** with respect to a Fund for any taxation year means the net capital gains of the Fund for such year computed in accordance with Section 8.2;
- (p) **“Net Income”** with respect to a Fund for any taxation year means the net income of the Fund for such year computed in accordance with Section 8.1;
- (q) **“person”** includes an individual, body corporate, corporation, company, partnership, syndicate, trust or any trustee, executor, administrator or other legal representative or any legal entity, including, without limitation, pension and profit share trusts;
- (r) **“Portfolio Manager”** means the Manager and/or any portfolio manager or sub-adviser appointed or approved by the Manager that has been duly authorized, in accordance with Section 13.7, to make investment decisions for and on behalf of a Fund whether in respect of all of the Fund Property of the Fund or any portion thereof;
- (s) **“Proportionate Share”**, when used to describe
  - (i) an amount to be allocated to any one series of Units of a Fund means the total amount to be allocated to all series of Units of the Fund multiplied by a fraction, the numerator of which is the Series Net Asset Value of such series and the denominator of which is the Net Asset Value of the Fund at such time, and
  - (ii) a Unitholder’s interest in or share of any amount means, after an allocation has been made to each series as provided in clause (i), the amount allocated to each series multiplied by a fraction, the numerator of which is the number of Units of that series registered in the name of that Unitholder and the denominator of which is the total number of Units of that series then outstanding (if such Unitholder holds Units of more than one series, then such calculation is made in respect of each series of Units of the Fund and aggregated);
- (t) **“Securities Legislation”** means the laws and regulations in each province and territory of Canada that are applicable to the Funds and the Manager and the requirements, rules, policies, instruments and decisions of the securities regulatory authorities that are applicable to the Funds, subject to any exemptive relief therefrom granted by such securities regulatory authorities to the Funds or the Manager;

- (u) **“Series Expenses”** in respect of any particular series of units of a Fund means the expenses of the Fund (including any management, performance and other fees) that are charged only to that series;
- (v) **“Series Net Asset Value”** in respect of any particular series of Units of a Fund is the portion of the Net Asset Value of the Fund attributed to such series determined in accordance with Section 4.2;
- (w) **“Series Net Asset Value per Unit”** in respect of any particular series of Units of a Fund is the portion of the Net Asset Value of the Fund attributed to each Unit of such series determined in accordance with Section 4.2;
- (x) **“Special Distribution”** means any of the Management Expense Distribution and the allocation and distribution of Net Capital Gains as contemplated by Section 6.6;
- (y) **“Tax Act”** means the *Income Tax Act* (Canada), as the same is presently in force and may hereafter be amended from time to time and includes any statute that may be enacted in substitution therefor, and any reference to a specific provision thereof shall be subject to any subsequent amendment to or replacement of such provision;
- (z) **“Unitholders”** means , in respect of a Fund, the person or persons for the time being entered in the register or registers hereinafter mentioned as the holder or holders of any of the Units of the Fund;
- (aa) **“Units”** means, in respect of a Fund, units of beneficial interest in the Fund issued or to be issued hereunder and for the time being outstanding, having the attributes set out herein;
- (bb) **“Valuation Date”** means any day on which banks in Toronto, Canada are all open for business and such other days as the Manager may prescribe; and
- (cc) **“Valuation Period”** means a period commencing immediately following a Valuation Date to and including the next Valuation Date.

## **1.2 Gender and Number**

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

## **1.3 Headings**

The headings of all of the Articles and Sections hereof and the Table of Contents are inserted for convenience of reference only and shall not affect the construction or interpretation of this Declaration of Trust.



#### **1.4 Governing Law**

This Declaration of Trust, which by common accord has been drawn in the English language, shall be construed in accordance with the laws of the Province of Ontario.

#### **1.5 Rights of Unitholders**

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

#### **1.6 Conflict**

In the event of a conflict between the terms and conditions of this Declaration of Trust and the Disclosure Document of a Fund, the terms and conditions of this Declaration of Trust shall prevail.

### **ARTICLE 2 - THE TRUSTS**

#### **2.1 Name and Office**

Each Fund administered hereunder shall be known by the name for that Fund set out in Schedule "A" or such other name as the Manager may from time to time designate and each Fund may at any time adopt a French version of its name at the sole discretion of the Manager. Each Fund shall have its offices at 45 St. Clair Avenue West, Suite 601, Toronto, Ontario M4V 1K9 or at such place as the Manager may from time to time designate. The Manager shall give notice in writing to the Unitholders of a Fund of any change in the location of the office of the Fund.

#### **2.2 Investment Objective**

Each Fund, for the benefit of its Unitholders, will engage in making investments. The investment objective of each Fund is set forth in the Disclosure Document of the Fund and/or Schedule "A" hereto (the "**Investment Objective**"). The Manager may adopt, approve or amend such investment strategies as it deems appropriate in furtherance of such Investment Objective. The financial instruments available for investment by each Fund and the strategies employed are not hereby limited and shall be within the discretion of the Manager or any other Portfolio Manager engaged by the Manager (subject to any restrictions placed on the Portfolio Manager by the Manager). From time to time, some or all of the Fund Property of each Fund may be invested in cash or other investments as the Manager or other Portfolio Manager may deem prudent in the circumstances. The activities of each Fund shall include all things necessary or advisable to give effect to the Investment Objective.

#### **2.3 Possession of Fund Assets**

The Manager, as trustee, shall stand possessed of the Fund Property of each Fund in trust for the Unitholders of that Fund according and subject to the provisions of this Declaration of Trust and the property and assets comprising the Fund Property of each Fund from time to time shall be dealt with in accordance with the provisions hereof.

## **2.4 Title to Fund Assets**

The Manager, as trustee, shall have the sole legal title to all Fund Property of whatsoever kind and wheresoever situate at any time held, acquired or received by it as trustee hereunder or in which the Unitholders shall have any beneficial interest as Unitholders. All the Fund Property of each Fund shall at all times be considered as property held by the Manager or its agents in trust for the Fund. No Unitholder shall have or be deemed to have individual ownership of any property or asset of any Fund and the interest of a Unitholder of a Fund shall consist only of the right to receive payment from the Manager, as trustee, of that Unitholder's interest in the Fund at the time, place, in the manner and subject to the conditions herein expressly provided.

## **2.5 Declaration of Trust Binding on Unitholders**

The terms and conditions of this Declaration of Trust and any deed supplemental hereto shall be binding upon each Unitholder of each Fund and all persons claiming through the Unitholder.

## **2.6 Legal Character of the Funds**

Each Fund is not intended to be and shall not be treated as anything other than a trust of which the Unitholders of the Fund are beneficiaries with the rights ascribed to them hereunder and with no other rights. Each Fund created under this Declaration of Trust is a trust separate and distinct from each other trust created hereunder. Without limitation, none of the Funds constitutes a partnership, joint venture, corporation or joint stock company.

## **2.7 Indemnification of Unitholders**

No Unitholder shall incur or be subject to any liability whatsoever, in tort, contract or otherwise, to any person in connection with the Fund Property of any of the Funds or the obligations or affairs of a Fund or with respect to any agreement relating to any Fund or with respect to any act or omission of the Manager or any other person in the performance or exercise, or purported performance or exercise, of any obligation, power, discretion or authority conferred upon the Manager or such other person, whether under this Declaration of Trust or otherwise. Each Fund shall indemnify and hold each of its Unitholders harmless from and against all claims and liabilities to which any such Unitholder may become subject by reason of being or having been a Unitholder of such Fund and shall reimburse such Unitholder for all legal and other expenses reasonably incurred in connection with any such claim or liability. The rights accruing to a Unitholder under this Section 2.7 shall not exclude any other right to which such Unitholder may be lawfully entitled nor shall anything herein contained restrict the right of a Fund to indemnify or reimburse a Unitholder in any appropriate situation even though not specifically provided for herein; provided, however, that no Fund shall have liability to reimburse Unitholders for taxes assessed against them by reason of their ownership of Units nor for any losses suffered by reason of changes in the value of Units.

## **2.8 Liability under Contracts**

Any written instrument creating an obligation of a Fund shall be conclusively taken to have been executed or done by the Manager or an agent of the Fund, only in their capacity as manager or trustee under this Declaration of Trust or agent (as the case may be). The Manager shall use its

commercially reasonable efforts to ensure that any written instrument creating a material obligation of a Fund refers to the Declaration of Trust and contains a term or other provision to the effect that the obligations created thereunder are not personally binding upon, nor shall resort be had to, nor recourse or satisfaction sought from the private property of any of the Unitholders of the Fund. The omission of such recital, term or other provision shall not impose or have the effect of imposing personal liability on the Manager, or its directors, officers or employees or on any of the Unitholders or agents of any Fund, whether in contract, tort or otherwise.

## **2.9 Liabilities Several**

Each Fund created hereunder shall be a separate and distinct trust, the liabilities of which are several and not joint. No Unitholder or other person shall have recourse to the assets of a Fund in respect of any claims or liabilities relating to another Fund.

## **ARTICLE 3 - DESCRIPTION OF UNITS**

### **3.1 Attributes of Units**

The Manager shall have sole discretion in determining whether the beneficial interests in a Fund are to be divided into one or more classes and/or series of Units, and the attributes that shall attach to each series of Units. The classes and series of Units created and authorized for a Fund shall be as shown from time to time in the Disclosure Document of the Fund. Until changed by the Manager or provided otherwise herein or in the Disclosure Document, Units of each class and series of each Fund shall have the following attributes:

- (a) each Unit shall be without nominal or par value;
- (b) each Unit of a particular class and series shall entitle the holder thereof to one vote at all meetings of Unitholders of the Fund where all classes and series vote together and to one vote at all meetings of Unitholders of the Fund where that particular series votes separately as a series;
- (c) each Unit of a particular class and series shall entitle the holder thereof to participate pro rata, in accordance with the provisions hereof, with respect to all distributions made to that class and series (except with respect to any Special Distribution) and, upon liquidation of the Fund, to participate pro rata with the other Unitholders of that same class and series in the Series Net Asset Value of the Fund remaining after the satisfaction of outstanding liabilities of the Fund and the series as provided in Article 12 hereof;
- (d) distributions shall be allocated among the classes and series of Units in such manner as the Manager considers appropriate and equitable;
- (e) there shall be no pre-emptive rights attaching to the Units;
- (f) there shall be no cancellation or surrender provisions attaching to the Units except as set out herein;

- (g) once the Series Net Asset Value per Unit thereof, determined in accordance with Section 5.2, has been paid, Units shall be non-assessable so that there shall be no liability for future calls or assessments with respect to the Units;
- (h) all Units shall be transferable, but only as contemplated pursuant to Section 3.7;
- (i) subject to limitations and requirements determined from time to time by the Manager and stated in the Disclosure Document of the Fund, each Unit of a particular class and series may be redesignated by the Manager as a Unit of another class and series based on the respective Series Net Asset Value per Unit for each of the two series of Units on the date of the redesignation;
- (j) the number of Units and classes and series of Units of the Fund that may be issued is unlimited; and
- (k) fractional Units of a series may be issued and shall be proportionately entitled to all the same rights as whole Units of that same series, except voting rights which may only be exercised in whole numbers (however fractional Units held by a single Unitholder may be combined for voting purposes).

Each series of Units of a Fund may be further subdivided into sub-series for the purpose of allocations as provided herein, each such sub-series having the same features, other than the date of issue and any reference dates, for the purpose of calculating applicable fees, expenses and allocations for that sub-series. For all purposes in this Declaration of Trust, each such sub-series shall be considered a series. The features and characteristics of each series of Units of a Fund shall be disclosed from time to time in the Disclosure Document of the Fund.

### **3.2 Subdivision of Units**

The Manager may, in respect of a Fund, at any time or times, subdivide Units of any series in a manner that is different than the treatment of Units of another series only if the Net Asset Value per Unit of such series is amended such that the aggregate Net Asset Value of all Units of such series prior to such subdivision is equal to the aggregate Net Asset Value of all Units of such series following such subdivision. The Manager shall take such steps as may be necessary to notify the registrar and transfer agent of the basis of the subdivision so that applicable notification can be made in the register of Unitholders of the applicable series of the Fund.

### **3.3 Consolidation of Units**

The Manager may, in respect of a Fund, at any time or times, and subject to Section 8.3, consolidate Units of any series in a manner that is different than the treatment of Units of another series only if the Net Asset Value per Unit of such series is amended such that the aggregate Net Asset Value of all Units of such series prior to such consolidation is equal to the aggregate Net Asset Value of all Units of such series following such consolidation. The Manager shall take such steps as may be necessary to notify the registrar and transfer agent of the basis of the consolidation so that appropriate notification can be made in the register of Unitholders of the applicable series of the Fund.

### **3.4 Unit Certificates**

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

### **3.5 Registrar and Transfer Agent**

The Manager shall from time to time act as, or appoint a fund administrator to act as, registrar and transfer agent for each Fund. The registrar and transfer agent shall maintain a register for the registration of Units of each class and series of Units of each Fund, which shall include the names and latest known addresses of each Unitholder of each class and series, the number of Units of each class and series held by each Unitholder, the date and details of each issue and redemption of Units of each class and series and each distribution of the Fund with regard to such Units. The registrar and transfer agent may provide for the transfer and the registration of transfers of Units in one or more places and may provide that Units will be interchangeably transferable or otherwise and the registrar and transfer agent shall keep all necessary books and registers of each Fund required by this Declaration of Trust and by Securities Legislation. The register of a Fund referred to in this Section shall at all reasonable times be open for inspection by any Unitholders of that Fund for any proper purpose, subject to privacy laws applicable to the records of other Unitholders.

### **3.6 Manager not Affected by Notice of Trust**

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

### **3.7 Transfer of Units**

Units may not be assigned, encumbered, pledged, hypothecated or otherwise transferred except by operation of law, or with the prior written consent of the Manager, which consent may be withheld in the Manager's sole and absolute discretion. Units shall be transferable only on the register kept pursuant to this Declaration of Trust and only by the registered holder of such Units or by the owner's legal representative or representatives or the owner's attorney duly appointed by an instrument in writing in form and execution satisfactory to the Manager or the transfer agent upon compliance with such reasonable requirements as the Manager or the transfer agent may prescribe.

### **3.8 Transfer by Representative of Unitholder**

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

### **3.9 Closing of Registers**

The Manager may close the register of transfers of a Fund or of a series of Units for a period of time not exceeding two business days, immediately preceding any meeting of the Unitholders or of that series, and notice of every such closing shall be given as set out in Article 10.

### **3.10 Receipts and Payments**

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

## **ARTICLE 4 – NET ASSET VALUE**

### **4.1 Computation of Net Asset Value**

- (a) As at the close of business on each Valuation Date, the Manager shall determine the Net Asset Value of each Fund in consultation with, to the extent the Manager determines it to be desirable to do so, any Portfolio Manager, prime broker or custodian. In calculating the Net Asset Value of a Fund as at any particular time, the valuation principles set out in the Fund's Disclosure Document from time to time shall apply; for certainty, the costs and benefits of a Canadian dollar hedging program associated with a class or classes of Units shall be attributed only to that

class or those classes of Units. The Manager may engage a third party to calculate the Net Asset Value of a Fund in accordance with the provisions of the Fund's Disclosure Document. If there is more than one series of a class of Units of a Fund, the Manager shall determine the Series Net Asset Value of each series of that class in accordance with Section 4.2.

- (b) The Net Asset Value of a Fund as of any date will mean the value of the Fund's investment assets and the Fund's other assets, less all liabilities, costs, and expenses accrued or payable of every kind and nature, including management fees and distributions due but not yet paid or made. In determining the Fund's liabilities, the Manager may estimate expenses of a regular or recurring nature in advance, and may accrue the same into one or more valuation periods, any such accrual to be binding and conclusive on all Unitholders, irrespective of whether such accrual subsequently proves to have been incorrect in amount (in which case any adjustments shall be made in the valuation period when such error is recognized).
- (c) The Manager may from time to time adopt and amend rules and guidelines for the determination of the Net Asset Value of each Fund, which shall be set out in the Fund's Disclosure Document. The calculation of Net Asset Value for the purpose of determining subscription price and redemption proceeds of the Units, and for determining fees payable to the Manager and other service providers, need not comply with GAAP or IFRS for financial statement presentation purposes.

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

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

- (iv) plus or minus the increase or decrease in the Net Asset Value of the Fund (calculated before deduction of series-specific fees and expenses) attributable to that series since the last calculation;
  - (v) minus any Series Expenses allocated to that series since the last calculation.
- (c) In respect of each Fund, the Series Net Asset Value per Unit of a class shall be calculated on a Valuation Date before the issuance, redemption or redesignation of Units of that Fund as at or immediately following such Valuation Date for the purpose of calculating issue price, subscription price or redesignation ratio, as the case may be, of such Units.
- (d) On any Valuation Date on which a distribution is paid to Unitholders of a series of Units of a class, a second Series Net Asset Value of that class shall be calculated for that series, which shall be equal to the first Series Net Asset Value calculated on that Valuation Date minus the amount of the distribution. For greater certainty, the second Series Net Asset Value shall, subject to any adjustment arising as a result of a subdivision or consolidation of Units of that series, be used for determining Series Net Asset Value per Unit on such Valuation Date for purposes of determining the purchase price and redemption price for Units on or after such date, as well as the redesignation basis for Units being redesignated into or out of such series, and Units redeemed or redesignated out of that series as at such date shall participate in such distribution while Units subscribed for or redesignated into such series as at such date shall not.
- (e) The Series Net Asset Value per Unit of a series of Units of a class of a Fund as at any particular time is the quotient obtained by dividing the applicable Series Net Asset Value as at such time by the total number of Units of that series of that class outstanding at such time. This calculation shall be made without taking into account any issuance, redesignation or redemption of Units of that series and class to be processed by the Fund immediately after the time of such calculation on that Valuation Date. The Series Net Asset Value per Unit for each series of each class of Units of each Fund for the purpose of the issue of Units or the redemption of Units shall be calculated on each Valuation Date by or under the authority of the Manager as at such time on every Valuation Date as shall be fixed from time to time by the Manager and the Series Net Asset Value per Unit so determined for each series shall remain in effect until the time as of which the Series Net Asset Value per Unit for that series is next determined.

#### **4.3 Suspension of Calculation of Net Asset Value**

- (a) The Manager shall suspend the calculation of Net Asset Value (and the right to redeem Units) for a Fund and for a series of Units of a Fund when required to do so under Securities Legislation.



- (b) The Manager may also suspend the calculation of the Series Net Asset Value per Unit (and the right to redeem Units) for each series of Units of a Fund for any other reason described in the relevant Disclosure Document, provided that the Manager shall not suspend redemptions if, as a result, the Fund ceases to qualify as a “unit trust” for the purposes of the Tax Act and any Unitholders are prejudiced thereby.
- (c) During any period of suspension for a Fund there shall be no calculation of the Series Net Asset Value per Unit of any series of Units, and the Fund shall not be permitted to issue, redesignate or redeem any Units and the Manager may postpone the payment of any redemption proceeds. The right to redeem Units of the Fund and to receive redemption payments, and the calculation of the Series Net Asset Value per Unit for each series of Units of the Fund, shall resume as soon as possible and in compliance with any applicable Securities Legislation or any exemptive relief granted therefrom.
- (d) In the event of such a suspension, a Unitholder of the Fund who has delivered a redemption request for which the redemption price has not yet been calculated may either withdraw such Unitholder’s redemption request within 15 days of receiving notice of such suspension or receive payment based on the Series Net Asset Value per Unit of the applicable series of Units next calculated after the termination of the suspension. A Unitholder of the Fund who has submitted a redesignation request for which the redesignation basis has not yet been calculated may either withdraw such investor’s redesignation request prior to the end of such suspension period or redesignate the Units based on the Series Net Asset Value per Unit of the applicable series of Units next calculated after the termination of the suspension. An investor who has submitted a purchase order for Units of the Fund for which the issue price has not yet been calculated may either withdraw such investor’s purchase order prior to the end of such suspension period or receive Units based on the Series Net Asset Value per Unit of the applicable series of Units next calculated after the termination of the suspension.

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

### **5.1 Minimum Investment**

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

### **5.2 Issue Price of Units**

The issue price for each Unit of a series of Units of a class of each Fund shall be the Series Net Asset Value per Unit of the applicable series and class determined by the Manager, as set forth in the Fund’s Disclosure Document. The Series Net Asset Value per Unit for the purpose of the

initial subscription for Units of each series shall be determined by the Manager in its sole discretion.

### **5.3 Distribution of Units**

Subject to Section 5.2, the Manager may from time to time, at its discretion, determine the terms upon which Units of a Fund will be offered for sale to the public and the nature and amount of any fees or charges to be paid by investors in that Fund, whether at the time of purchase or on such other basis as the Manager shall determine. Such terms, fees or charges as may be so determined shall be described in the Disclosure Document of the Fund or in a notice that is given to Unitholders in accordance with the provisions of Article 10 hereof in order for them to be binding upon the unitholders in the Fund. The person to whom any such fee or charge shall be payable shall be determined by or under the authority of the Manager from time to time.

## **ARTICLE 6 - REDEMPTION OF UNITS**

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

- (a) Subject to Section 4.3 and Subsection 6.1(d), each Unitholder of a Fund shall be entitled at any time and from time to time to require the redemption of all or any part of such Unitholder's Units on a specified Valuation Date at the Series Net Asset Value per Unit for the applicable series of Units calculated in the manner herein provided less, in the discretion of the Manager, any redemption deduction, charge or fee determined pursuant to Section 6.2 hereof. Upon payment to the redeeming Unitholder of the Series Net Asset Value per Unit of the Units redeemed, less any applicable redemption charge or fee, the Fund and the Manager shall be discharged from all liability to the Unitholder in respect of the Units redeemed.
- (b) Redemption requests must be given in writing to the Manager by 4:00 p.m. (Toronto time) on the business day prior to a Valuation Date and are irrevocable except with the consent of the Manager (in its absolute discretion) or following a suspension of redemptions.
- (c) Subject to Section 4.3, the Manager shall be entitled, at any time and from time to time, in its absolute discretion, to compulsorily redeem or cause to be redeemed all or any part of the Units held by any such Unitholder, on such terms and conditions as the Manager may, from time to time, determine, at its discretion, at the applicable Series Net Asset Value per Unit calculated in the manner provided herein, less, in the discretion of the Manager, any redemption charge or other fee determined pursuant to Section 6.2 hereof.
- (d) The Manager may from time to time impose such further conditions on the redemption of Units of a Fund, or of one or more series of Units of a Fund, provided that such conditions are set out in the Disclosure Document of the Fund and provided, if any Unitholders would be prejudiced thereby, that such conditions would not result in the Fund ceasing to be a "unit trust" for the

purposes of the Tax Act. The Manager has the discretion to waive any conditions in respect of one or more redemption conditions from time to time.

## **6.2 Deductions on Redemption**

The Manager may from time to time provide that there will be deducted from redemption proceeds otherwise payable to a Unitholder of a Fund an amount that reflects the costs incurred by the Fund in connection with the redemption of Units, including the costs of liquidation of portfolio assets and all fees payable by the Fund to its service providers as a result of the redemption. The Manager may also from time to time provide that there will be deducted from redemption proceeds otherwise payable to a Unitholder of a Fund an early redemption deduction for Units that are redeemed within a specified period of time. The Manager may fix an absolute amount or a maximum amount which may be deducted (which in either event shall not exceed 5% of the Net Asset Value of the Units redeemed), and the terms of the application thereof, provided that notice of any applicable deduction and the terms of its application shall be given to Unitholders of the Fund either as provided in Article 10 hereof or by stating the same in the Disclosure Document of the Fund prior to the purchase of the affected Units by the Unitholder. The Manager may amend or waive the applicable deduction from time to time.

## **6.3 Method of Redemption**

- (a) The Manager may from time to time prescribe redemption procedures for a Fund that are not inconsistent herewith or with Securities Legislation. Notice of such redemption procedures shall be given to Unitholders of the Fund either as provided in Article 10 hereof or by stating the same in the Disclosure Document of the Fund and as otherwise may be required under Securities Legislation. Such procedures may include, but are not limited to, the establishment of:
  - (i) any applicable notice period as determined in accordance with Subsection 6.1(b);
  - (ii) any rules applicable to the suspension of the right of Unitholders to redeem their Units or deferral thereof;
  - (iii) any required method of transmission of a redemption request, including any required forms for redemption requests;
  - (iv) any procedures to be followed and documents to be delivered by the time of delivery of a redemption request to an order receipt office of the respective Fund or by the time of payment of the redemption proceeds;
  - (v) any required documentation or evidence relating to the authority of any person to submit a redemption request;
  - (vi) the requirements for the surrender of certificates, if any, representing the Units to be redeemed; and
  - (vii) a systematic redemption program.

- (b) Redemption requests for Units of each Fund will be processed in respect of each Valuation Date and, in the event that a Fund has insufficient cash to fund all redemption requests on a Valuation Date, any partial redemption proceeds shall be allocated pro rata (based on respective numbers of Units to be redeemed on such date) amongst all Unitholders requesting redemption of Units of the Fund on such date; provided however that no redemption requests received after the cut-off time for redemptions on such Valuation Date (as set out in the Fund's Disclosure Document) shall be fulfilled in whole or in part until all redemption requests received prior to such cut-off time (and not withdrawn) have been fulfilled in whole.
- (c) The Manager shall advise the Unitholders who have requested a redemption if redemptions will be limited or suspended on a designated Valuation Date.
- (d) Redemption requests specifying the receipt of the price on a forward date or specific price will not be processed and redemption requests will not be processed before payment has been received for the Units that are the subject of the redemption request.
- (e) Redemption requests are irrevocable except with the consent of the Manager (in its absolute discretion), unless they are not honoured on the designated Valuation Date, in which case they may be withdrawn within 2 days following such Valuation Date.

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

The amount payable on redemption shall be paid by wire transfer, in cash, by cheque or by such other means as the Manager may determine. Payment for Units that are redeemed shall be made within 15 days following the later of the Valuation Date specified for such redemption and the receipt by the Manager of properly completed redemption documents or the waiver by the Manager of all such properly completed documents.

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

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

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

When a Unitholder redeems all or any of his Units of a Fund, there shall be a distribution in cash out of the total amount payable under Section 6.1 of any Special Distribution accrued to such Unitholder to the time immediately prior to redemption as determined by the Manager in its absolute discretion or allocated to such Unitholder pursuant to Subsection 8.4(b). The balance of

the amount paid to such Unitholder at the time of redemption shall be paid as proceeds of redemption.

## **ARTICLE 7 - INVESTMENT OF TRUST PROPERTY**

### **7.1 General Investment Powers**

In pursuit of the Investment Objective of each Fund, the Manager shall from time to time, in its sole discretion but subject to any policies and/or investment restrictions adopted from time to time by the Manager, invest and reinvest any money at any time held in or for the Fund in securities of any kind or other assets (including without limitation other pooled investment vehicles managed by the Manager, or an associate or affiliate of the Manager, or otherwise, as well as derivatives and other financial instruments), pursue all such other investment strategies (including without limitation the use of derivatives, leverage, securities lending and short sales) and retain any money at any time held in or for the Fund in cash or cash equivalents as shall be determined by the Manager. Without limiting the forgoing, the Manager may, in its discretion, use, write, purchase, hold, sell, exchange or execute derivatives and enter into derivative transactions of any kind for the Fund and make any required payments or prepayments in connection therewith, deposit securities and other assets as margin in connection therewith, pledge, grant security interests in or otherwise encumber its assets in connection therewith and execute on behalf of the Fund all documents required in connection therewith. The Manager may deposit moneys and other Fund assets, including for purposes of posting margin or for investment, with banks, investment dealers, trust companies and other depositories, whether or not the deposits are interest-bearing, the same to be subject to withdrawal on such terms and in such manner and by such persons as the Manager may determine. Notwithstanding the Investment Objective of a Fund, the Manager may from time to time, in light of prevailing economic conditions, temporarily invest in any securities or other assets as the Manager deems appropriate to protect the capital of the Fund.

### **7.2 Investment Restrictions and Policies**

Subject to Section 7.1 and Section 7.3 and any applicable Securities Legislation, the Manager may adopt and amend from time to time, in its sole discretion, additional investment strategies, restrictions and policies that the Manager intends to apply to the investment and reinvestment of the moneys or assets of any Fund. All such investment strategies, restrictions and policies shall be set out in or incorporated by reference in the Disclosure Document of the Fund or shall be included in a notice given to Unitholders of the Fund.

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

The Manager may from time to time give notice in writing to Unitholders of any material change in the Investment Objective or the investment strategies or restrictions of a Fund without having to obtain the approval of the Unitholders and written notice will be given to the Unitholders promptly after any such change.

#### **7.4 Not Restricted to Trustee Investments**

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

#### **7.5 Borrowing**

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

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

- (a) Except as provided or required in Securities Legislation, any shares or other securities carrying voting rights held from time to time as part of the assets of any of the Funds may be voted at any and all meetings of shareholders, bondholders, debentureholders, debenture stockholders or holders of other securities (as the case may be) in such manner and by such person or persons as the Manager, or other Portfolio Manager managing such securities, shall from time to time determine, provided that any such delegation of voting power does not have any potential adverse tax consequences to the Fund.
- (b) The Manager, or other Portfolio Manager managing such securities, may also from time to time execute and deliver, or cause to be executed and delivered, proxies for and on behalf of the respective Fund and arrange for the issuance of voting certificates or other evidence of the right to vote in such names as it may from time to time determine. The Manager, or other Portfolio Manager managing such securities, shall be entitled to exercise the foregoing rights in its discretion as it considers to be in the best interests of each Fund and shall not be subject to any liability or responsibility in respect of the management of the investment in question or in respect of any vote, action or consent given or taken, or not given or taken, by the Manager or other Portfolio Manager managing such assets (as the case may be), whether in person or by proxy.
- (c) The provisions of this Section 7.6 shall apply to and govern not only a vote at a meeting but any consent to or approval of any arrangement, scheme or resolution or any alteration in or abandonment of any rights attaching to any part of the assets of such Fund and the right to requisition or join in a requisition to convene any meeting or to give notice of any resolution or to circulate any statement.

## **ARTICLE 8 - DETERMINATION AND DISTRIBUTION OF NET INCOME AND NET CAPITAL GAINS**

### **8.1 Determination of Net Income**

The Manager shall compute the net income of each Fund (the “**Net Income**”) for each taxation year in accordance with the provisions of the Tax Act, other than paragraph 82(1)(b) and subsection 104(6) thereof, taking into account such adjustments thereto determined by the Manager in respect of amounts paid or payable by the Fund to Unitholders, non-capital loss carry forwards, and such other amounts in the absolute discretion of the Manager, but excluding therefrom the Net Capital Gains of the Fund for such taxation year. Such determination shall be made not less frequently than as of the close of business on the last day in each taxation year.

### **8.2 Determination of Net Capital Gains**

The Manager shall compute the net capital gains of each Fund (the “**Net Capital Gains**”) for each taxation year, which shall be the capital gains of the Fund for such taxation year less the capital losses of the Fund for such taxation year computed in accordance with the provisions of the Tax Act, taking into account the application of available non-capital loss carryforwards remaining after application in determining Net Income. Such determination shall be made not less frequently than as of the close of business on the last day in each taxation year of the Fund.

### **8.3 Unitholder Entitlement for Tax Purposes**

- (a) Save and except as hereinafter provided, and subject to Article 12, the Manager shall have the sole discretion to determine if any distribution or distributions of the property or assets of a Fund are to be made, the series of Units such distribution will be paid on (having regard to the distribution methodology set out in Subsection 8.3(c), the time or times of such distributions and the record date or dates for the purposes of determining Unitholders entitled to receive distributions.
- (b) The Manager shall declare and credit as due and payable to Unitholders of each Fund all of the Net Income of the Fund for each taxation year and a sufficient amount of the Net Capital Gains of the Fund for each taxation so that the Fund will not have any obligation to pay tax under Part I of the Tax Act, other than alternative minimum tax, after taking into account any entitlement to a capital gains refund under the Tax Act. To the extent that such declaration is not made prior to 11:59 p.m. on the last day of the taxation year of the Fund (or, where that taxation year ends on December 15, on the December 31st immediately following the taxation year-end), then at 11:59 p.m. on the last day of the taxation year of the Fund (or, where that taxation year ends on December 15, on the December 31st immediately following the taxation year-end) an amount, not less than that amount necessary to ensure that the Fund will not be liable for income tax under Part I of the Tax Act, other than alternative minimum tax, for the taxation year, after taking into account any entitlement to a capital gains refund, shall be considered to have been declared for the Fund by the Manager and to have been payable to persons who are Unitholders of the Fund on that day.

- (c) Distributions to which Unitholders of a series of each Fund are entitled shall be determined by the Manager. For this purpose, the Manager shall determine the entitlement to distributions in a manner that provides, to the extent possible, an equitable distribution of the Net Income and Net Capital Gains among each series of Units having regard to the date of issuance of Units of a series during the taxation year, Special Distributions made in respect of redeemed Units during a taxation year pursuant to Subsection 8.4(b), the dates of realization of items of income and capital gains (or losses) during the taxation year and Series Expenses incurred in respect of each series during the taxation year. In the case where the Manager does not make a declaration on or before the last day of the taxation year and an amount becomes automatically due and payable by the Fund to Unitholders on such day, then allocations of such Net Income and Net Capital Gains shall be made according to the following formula:
- (i) the Proportionate Share of each series of Net Income and Net Capital Gains for each Valuation Period (which shall be computed as if the Valuation Period is a taxation year but shall not, for this purpose, take into account the application of available non-capital loss carry-forwards) in the taxation year shall be calculated and aggregated, provided that:
    - (A) any amount distributed during a Valuation Period pursuant to Subsection 8.4(b) to a Unitholder that has redeemed Units shall be deducted from Net Capital Gains that are to be allocated to all other Unitholders;
    - (B) Series Expenses shall only be reflected in the Net Income and Net Capital Gains allocated to the series of Units to which such expenses relate;
    - (C) at no time shall the aggregate amount so calculated for a series be less than zero and any expense or item of loss, or part thereof, that would otherwise be allocated to a series and cause the aggregate amount allocated to such series to be less than zero shall instead be allocated to all other series in their respective Proportionate Shares;
  - (ii) the amounts of Net Income and Net Capital Gains so allocated to all series shall be proportionately increased or decreased, as required, so that the aggregate of such amounts equals the amount automatically due and payable pursuant to Subsection 8.3(b); and
  - (iii) the distribution payable to the holder of each Unit in such series shall equal such Unit's Proportionate Share of the amount so allocated to such series.

Despite Section 11.2, any change may be made to this Subsection 8.3(c) from time to time without prior Unitholder approval if the Manager determines that



such change is in the best interest of Unitholders generally and that such change would provide, to the extent possible or permitted, the most equitable distribution of the Net Income and Net Capital Gains among each series of Units.

- (d) Unitholders of record on the last day of each taxation year of a Fund (or, where the taxation year ends on December 15, on the December 31st immediately following the taxation year-end) shall be entitled to enforce payment of the amount of the aforesaid distributions to the extent that such distributions have not been paid to Unitholders in such taxation year (or, where that taxation year ends on December 15, on or before the December 31st immediately following the taxation year-end). For these purposes any taxes withheld from, or paid or payable on account of income, shall be considered to have been paid or be payable on behalf of Unitholders to the extent that related income is made payable to such Unitholders for income tax purposes.

#### **8.4 Special Distributions**

- (a) In the event that the Manager agrees to accept a reduction in the fee charged to a Fund with respect to the Units held by a Unitholder and/or to provide a rebate in respect of all or any portion of the Unitholder's share of a Fund's operating expenses on condition that an amount equal to such reduction in the fees and/or expenses otherwise payable by that Fund is paid to the Unitholder, the Manager shall distribute an amount equal to such reduction to such Unitholder (a "**Management Expense Distribution**"). Management Expense Distributions shall be calculated on each Valuation Date, shall be distributed at such intervals as prescribed from time to time by the Manager and shall be payable out of Net Income and Net Capital Gains of the Fund for the taxation year ending in the calendar year in which the Management Expense Distributions are made to the extent necessary so that the Fund will not have any obligation to pay tax under Part I of the Tax Act after taking into account any entitlement to a capital gains refund under the Tax Act, and otherwise out of capital.
- (b) The Manager shall have the sole discretion to determine the amount, if any, of a Fund's Net Capital Gains for its taxation year and the sole discretion to distribute pursuant to Section 6.6 all or any portion of such Net Capital Gains to a Unitholder who has redeemed Units of the Fund at any time in that year, provided that the amount of Net Capital Gains allocated to a particular redeeming Unitholder shall not exceed the amount, if any, by which the amount payable on the redemption of the Units exceeds the Adjusted Cost Base of the Units being redeemed.
- (c) If the total of the amounts determined by the Manager under Subsection 8.4(b) for all those redeeming Unitholders in any year exceeds the Net Capital Gains of the Fund for that taxation year, Net Capital Gains shall be allocated rateably to those redeeming Unitholders based on the amounts determined under Subsection 8.4(b) above.

- (d) Such portion, if any, of the amount paid on the redemption of a Unit as is determined pursuant to Subsection 8.4(b) or (c) shall be deemed to be a distribution of the Fund's Net Capital Gains for its taxation year ending in the calendar year.

## **8.5 Use of Capital**

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

## **8.6 Reinvestment of Distributions**

- (a) Each Unitholder of a Fund shall, subject to Sections 8.3 and 8.7 hereof, receive such Unitholder's Proportionate Share of any distribution of the Fund made in respect of the applicable series of Units, other than a Special Distribution contemplated by Section 6.6, by the reinvestment thereof in additional Units of the applicable series of Units of that Fund, as the case may be, at the Series Net Asset Value per Unit computed for the Valuation Date on which such distribution is made unless: (i) the Manager has determined to make the cash distribution option available to Unitholders, this option is described in the Disclosure Document of the respective Fund (including any ability of the Fund to delay payment of distributions), and the Unitholder has requested payment of the Unitholder's distribution in cash; (ii) in the case of Management Expense Distributions, the Manager has agreed that a Management Expense Distribution be paid in cash, or (iii) the Manager has declared that a distribution shall be paid in cash. No sales charge shall be payable with respect to Units issued upon the automatic reinvestment of distributions.
- (b) Immediately following such reinvestment of distributions, the number of Units of the relevant series of Units of the Fund outstanding shall, notwithstanding Section 3.3, be automatically consolidated so that the Series Net Asset Value per Unit after the reinvestment shall be the same as it was immediately before the amount was considered to have been declared as due and payable by a Fund (before any redesignation of Units from one series to another, and subject to withholding tax that may be applicable to a non-resident).

## **8.7 Distribution to Pay Elected Fees**

All or any part of a distribution in respect of which a Unitholder would otherwise receive additional Units of a Fund may be applied to the payment of any fee or charge to which the Unitholder has agreed to be subject, such agreement by the Unitholder to be conclusively evidenced by the purchase of any Unit that gives rise to such fee or charge being levied, provided the nature and amount of such fee or charge was disclosed in the Disclosure Document of the respective Fund or in an agreement between the Unitholder and the Manager at the time of such purchase. Upon payment of such fee or charge, any remaining amount of the distribution shall be reinvested in additional Units of the Fund or, if permitted by the Manager, distributed in cash on the basis provided in Section 8.6.

## **8.8 Recovery of Distributions Improperly Made**

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

## **ARTICLE 9 - ACCOUNTS TO AND INFORMATION FOR UNITHOLDERS**

### **9.1 Appointment of Auditors**

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

### **9.2 Duties of Auditors**

The duties of the Auditors of a Fund shall include reviewing the annual financial statements of the Fund and reporting thereon in accordance with applicable legislation, regulations, policies or guidelines applicable to a unit trust distributing its securities in the Province of Ontario.

### **9.3 Remuneration of Auditors**

The remuneration of the Auditors of each Fund shall be fixed by the Manager from time to time.

### **9.4 Reporting to Unitholders**

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

### **9.5 Financial Year**

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

## **9.6 Taxation Year**

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

## **9.7 Information for Income Tax Purposes**

The Manager shall send, or cause to be sent, to all Unitholders information required by law for income tax purposes within the time prescribed by law.

## **9.8 Tax and Information Returns**

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

# **ARTICLE 10 - MEETING AND NOTICE PROVISIONS**

## **10.1 Meetings of Unitholders**

- (a) Meetings of Unitholders of a Fund as a whole or of any series of Unitholders of a Fund may be convened by the Manager from time to time as it may deem advisable by giving notice to the Unitholders in accordance with the notice provisions following. Meetings of Unitholders of the Fund as a whole shall be convened to consider and approve:
  - (i) any matter which pursuant to Securities Legislation must be submitted to Unitholders for approval;
  - (ii) any amendment to this Declaration of Trust as may be required by Section 11.2; and
  - (iii) the appointment of a substitute investment fund manager (other than an affiliate of the Manager) or a successor trustee (other than a registered trust company) pursuant to Section 12.2 or 12.3.
- (b) Unitholders holding not less than 50% of the votes attaching to all outstanding Units of a Fund may requisition a meeting of Unitholders of the Fund by giving a written notice to the Manager setting out in detail the reason(s) for calling and holding such a meeting.
- (c) The expenses incurred in calling and holding a meeting of Unitholders of a Fund shall be expenses of the Fund.

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

## **10.2 Notice to Unitholders**

Any notice required to be given to a Unitholder under this Declaration of Trust may be effectively given to each Unitholder of record (as at the day of sending) by ordinary post addressed to such Unitholder at that Unitholder's last address appearing on the register of Unitholders or by such other means (including electronic mail) as the Unitholder may consent to from time to time. Any notice so given shall be conclusively deemed to have been received by the Unitholder three business days after the notice is mailed by ordinary post, or the next business day after electronic or other instantaneous means of communication, and, in proving notice, it shall be sufficient for the Manager to prove that the notice was properly addressed and sent. Any notice given by electronic means shall be given in compliance with the provisions of Securities Legislation relating to the delivery of documents by electronic means. A notice convening a meeting of Unitholders shall be given at least 10 days and not more than 21 days prior to the meeting and shall state the time and place where such meeting is to be held and describe in general terms the nature of the matters to be considered by the meeting and any other matter required by Securities Legislation and shall be accompanied by an information circular or other document or documents describing in sufficient detail the matters to be approved so as to enable Unitholders to make an informed decision. Accidental error or omission in giving notice to any Unitholder shall not invalidate any action or proceeding founded on such notice. A meeting of Unitholders may be held at any time and place without notice if all the Unitholders entitled to vote thereat are present in person or represented by proxy, or, if those not present or represented by proxy waive notice of, or otherwise consent to, such meeting being held.

## **10.3 Service on Joint Unitholders**

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

## **10.4 Sufficiency of Service**

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

### **10.5 Quorum for Meetings of Unitholders**

- (a) Unless otherwise required by the provisions hereof or by Securities Legislation, a quorum for purposes of a meeting of Unitholders of a Fund as a whole or of a series of Units of the Fund shall be at least 2 Unitholders of the Fund or series, as the case may be, present in person or represented by proxy representing not less than 5% of the votes attaching to all Units entitled to vote at such meeting. If within 30 minutes from the time appointed for the meeting of Unitholders a quorum is not present, the meeting shall stand adjourned without notice to such day and time, being not less than seven days thereafter, and to such place as may be appointed by the Chairman, and at such adjourned meeting, the Unitholders present in person or by proxy shall be a quorum.
- (b) Notice of any adjourned meeting of Unitholders shall be given in the same manner as for a regular meeting and such notice shall state that the Unitholders present at the adjourned meeting, whatever their number and the number of Units held by them, will form a quorum.
- (c) Unless otherwise required by the provisions hereof, all questions posed for the consideration of the Unitholders shall be determined by a majority of the votes cast on a show of hands. In the case of an equality of votes, the Chairman presiding at the meeting shall not have a casting vote.

### **10.6 Chairman**

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

### **10.7 Adjournments**

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

### **10.8 Voting**

- (a) At any meeting of Unitholders, every person shall be entitled to vote who, as at the end of the business day immediately preceding the date of the meeting, is entered in the register of Unitholders, unless in the notice of meeting and accompanying materials sent to Unitholders in respect of the meeting, a record date is established for persons entitled to vote thereat.

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

## **10.9 Proxies**

Every Unitholder entitled to vote at meetings of Unitholders may, by means of a proxy, appoint a person, who need not be a Unitholder, as that Unitholder's nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy. A proxy shall be in written or printed format or a format generated by telephonic or electronic means, shall be executed in writing or electronic signature by the Unitholder or the Unitholder's attorney authorized in writing or by electronic signature or, if the Unitholder is a body corporate, by an officer or attorney thereof duly authorized, and shall cease to be valid one year from its date. A proxy may be in such form as the Manager from time to time may prescribe or in such other form as the Chairman of the meeting may accept as sufficient, and shall be deposited with the secretary of the meeting before any vote is cast under its authority, or at such earlier time and in such manner as the Manager may prescribe.

## **10.10 Validity of Proxies**

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

## **10.11 Minutes**

Minutes of all proceedings at every meeting of Unitholders shall be made and duly entered in books to be from time to time provided for that purpose by the Manager and any such minutes as

aforesaid if purporting to be signed by the Chairman of the meeting shall be conclusive evidence of the matters therein stated and, until the contrary is proved, every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat to have been duly passed.

#### **10.12 Written Resolution**

A written resolution signed by the holders of a majority of the votes attaching to all Units otherwise entitled to be voted at a meeting shall be effective as if it had been passed at a meeting in accordance with this Article 10, provided all Unitholders are provided a copy of the proposed resolution (and all such other information they would have otherwise been entitled to pursuant to Section 10.2) as soon as is practicable and in any event prior to the effective date of such resolution.

### **ARTICLE 11 - AMENDMENT**

#### **11.1 Changes**

Subject to Section 11.2 and any approvals required under Securities Legislation, the Manager, as trustee, shall be entitled, in its discretion from time to time, by supplemental trust deed or by amending and restating this Declaration of Trust or the Schedule hereto to amend, delete, expand or vary any provision of this Declaration of Trust and in any other appropriate fashion to consent or agree to any change in any management agreement, advisory agreement or other agreement to which the Fund is a party, to any change of the investment fund manager or to any change in any other agreement or matter relating to a Fund. Unitholders of the affected Fund shall be provided notice of such amendments as soon as is practicable if, in the opinion of the Manager, such amendments are material and/or potentially adverse to the interests of one or more Unitholders of the Fund.

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

Except as provided in Sub-section 8.3(c), any proposed change to this Declaration of Trust, or any change to the terms applicable to series of Units as set out in the Disclosure Document of a Fund, that would materially adversely affect the interest of the Unitholders of the Fund as a whole and/or of a series of a Fund, may only take effect upon either:

- (a) the approval of not less than a majority of the votes cast at a meeting of Unitholders of that Fund or of the affected series, as the case may be, duly called for the purpose of considering the proposed change (or by written resolution in accordance with Section 10.12); or
- (b) Unitholders affected by such change having been given not less than 60 days' written notice of the proposed change, in accordance with Section 10.2, and the opportunity to redeem all of such Unitholder's Units prior to the effective date of the change (in such event the Manager shall be deemed to have waived, to the extent necessary, any redemption deductions for Units that are redeemed in the specified period).



All persons remaining or becoming Unitholders after the effective date of any change shall be bound by such change. No amendment to this Declaration of Trust may be made without the consent of the Manager as trustee.

### **11.3 Changes to Fees**

Any change to the amount and method of calculation of the fees payable by a Fund to the Manager, substitute investment fund manager and/or Portfolio Manager(s) in accordance with Section 13.13 which could result in an increase in the aggregate fees or an increase in frequency of payment of fees payable by the Fund to the Manager, substitute investment fund manager and Portfolio Managers in respect of one or more series of Units outstanding at that time, may only take effect upon either:

- (a) the approval of not less than a majority of the votes cast at a meeting of Unitholders of that Fund or of the affected series, as the case may be, duly called for the purpose of considering the proposed change (or by written resolution in accordance with Section 10.12); or
- (b) Unitholders affected by such change having been given not less than 90 days' written notice of the proposed change, in accordance with Section 10.2.

All persons remaining or becoming Unitholders after the effective date of any change shall be bound by such change.

## **ARTICLE 12 - TERMINATION**

### **12.1 Termination by the Manager**

The Manager may, in its discretion, terminate a Fund by giving notice to Unitholders of the Fund and fixing the date of termination not earlier than 60 days following the mailing or other delivery of notice. No Units affected by such termination may be redeemed at the option of the Unitholder from the date that such notice of termination is given until the date that is fixed for termination (for greater certainty, if termination does not occur on the date fixed for termination, Units may thereafter be redeemed in accordance with and subject to Article 6 unless a new date of termination is fixed by the Manager prior thereto).

### **12.2 Failure to Appoint Successor Trustee**

In the event that the Manager becomes incapable of acting as trustee of a Fund or if, for any cause other than pursuant to Section 13.14, a vacancy shall occur in the office of the trustee of a Fund, the Manager shall, or should the Manager fail to do so any Unitholder of the affected Fund may, call a meeting of Unitholders of that Fund within 30 days thereafter for the purpose of appointing a successor trustee. If the Unitholders of the Fund do not appoint a permanent successor trustee at such meeting, the Fund shall terminate and the Manager or, should the Manager fail to do so, a person appointed by the Unitholders of the Fund at such meeting as a temporary trustee shall wind up the Fund and distribute its assets in accordance with the provisions hereof.

### **12.3 Failure to Appoint Successor Investment Fund Manager**

In the event that the Manager or a substitute investment fund manager resigns or is otherwise terminated as investment fund manager of a Fund and no successor investment fund manager is appointed on or prior to the date of resignation or termination, the Fund shall terminate and the Manager or, should the Manager fail to do so, a person appointed by the Unitholders of the Fund at a meeting duly called for such purpose shall wind up the Fund and distribute its assets in accordance with the provisions hereof.

### **12.4 Automatic Termination**

A Fund shall be terminated immediately following the occurrence of a Termination Event. On such termination, the Manager (or should the Manager fail to do so, the Unitholders of the Fund at a meeting duly called for such purpose) shall appoint a person or company, which may be an affiliate of the Manager, to distribute the Fund Property of the Fund in accordance with the provisions of Section 12.5, as if such person were the Manager or temporary trustee for the purposes of that Section, and may agree to indemnify and pay fees to such person or company, out of the Fund Property, as the Manager (or Unitholders, as the case may be) determines in its absolute discretion is reasonable or necessary in the circumstances. For the purposes of this Section 12.4, each of the following events shall be a “**Termination Event**”:

- (a) the Manager is in material default of its obligations under this Declaration of Trust and such default continues for 120 days from the date that the Manager receives notice of such material default from a Unitholder or a successor trustee or substitute investment fund manager;
- (b) the Manager, or any successor trustee or substitute investment fund manager, has been declared bankrupt or insolvent or has entered into liquidation or winding up, whether compulsory or voluntary (and not merely a voluntary liquidation for the purposes of amalgamation or reconstruction);
- (c) the Manager, or any successor trustee or substitute investment fund manager, makes a general assignment for the benefit of creditors or otherwise acknowledges its insolvency; or
- (d) the assets of the Manager, or of any successor trustee or substitute investment fund manager, have become subject to seizure or confiscation by any public or governmental authority.

### **12.5 Procedure on Termination**

On or about the effective date of termination of a Fund, the Manager or temporary trustee shall terminate all agreements, close all portfolio positions and sell all non-cash assets of the Fund, unless the Manager or temporary trustee determines that it would be in the best interests of the Unitholders of the Fund to distribute some or all of such assets in specie. The Manager or temporary trustee shall be entitled to retain out of any moneys in its hands full provision for all costs, charges, expenses, claims and demands incurred, made or reasonably anticipated by the Manager or temporary trustee in connection with or arising out of the termination of the Fund

and the distribution of the Fund Property to Unitholders and out of the moneys so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands. The Manager or temporary trustee shall distribute from time to time to Unitholders of record of the Fund as of the effective date of termination their Proportionate Share of all Fund Property attributable to the applicable series of Units and available at that time for the purpose of such distribution. If required by the Manager or temporary trustee, a form of release satisfactory to the Manager or temporary trustee shall be provided by each Unitholder of the Fund prior to the distribution of the Unitholder's Proportionate Share of the Fund Property attributable to the applicable series of Units.

## **12.6 No Further Activities**

Following the effective date of termination of a Fund, the Manager shall carry on no further activities with respect to the Fund save for the winding-up of the Fund.

# **ARTICLE 13 - RIGHTS, POWERS AND AUTHORITY**

## **13.1 Rights and Powers of the Manager as Trustee**

By way of supplement to (and, where permitted, notwithstanding) the provisions of any Act of any province or territory of Canada for the time being relating to trustees and in addition to any other provisions of this Declaration of Trust, it is expressly declared as follows:

- (a) the Manager as trustee shall have and shall be entitled to exercise, in its discretion, all of the rights and powers that an owner of the Fund Property would be entitled to have and exercise, including the right and power to enter into any and all agreements that it deems necessary for the operation of each Fund;
- (b) the Manager may employ such assistants, including agents, attorneys, bankers, chartered accountants, counsel, managers, investment advisers, portfolio managers, notaries, officers and servants, as it may reasonably require for the proper discharge of its duties hereunder and shall not be responsible for any misconduct, neglect or default on the part of any such assistant unless such assistant shall be the Manager or an associate or affiliate of the Manager or any of their respective directors, officers or employees and, subject to Section 13.13, may pay reasonable remuneration for all services performed for it in the discharge of the trusts hereof without taxation of any costs or fees of such counsel, solicitor or attorney and shall be entitled to receive reimbursement for all disbursements, costs, liabilities and expenses made or incurred by it in the discharge of its duties hereunder;
- (c) the Manager shall, except as herein otherwise provided, as regards all the trusts, powers, authorities and discretions vested in it, have absolute and uncontrolled discretion as to the exercise thereof, whether in relation to the manner or as to the mode of and time for the exercise thereof and, in the absence of wilful neglect or default, it shall not be responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise thereof;

- (d) the Manager may delegate to any company or person the performance of any of the trusts, authorities and powers vested in it hereunder without regard to whether such trusts, authorities or powers are normally delegated by trustees and any such delegation may be made upon such terms and conditions and subject to such regulations, including limitations as to sub-delegation, as the Manager may consider to be in the interests of the Unitholders;
- (e) the Manager may dispose of any Fund Property of a Fund on such terms as the Manager may in its sole discretion determine for the purpose of paying any obligations imposed on the Fund or for repaying any loan hereby authorized; and
- (f) except as hereinafter provided with respect to affiliates of the Manager and to obtaining any required approval of Unitholders, the Manager may appoint any person, including an affiliate of the Manager, to assume the duties and responsibilities of the Manager hereunder in respect of a Fund in accordance with this Article 13.

### **13.2 Enumerated Powers**

Without limiting the generality of the authority and powers granted in Section 13.1, and in addition to all other powers specifically granted under this Declaration of Trust, the Manager shall have and may exercise, on behalf of each Fund, at any time and from time to time, the following powers, in such manner and upon such terms and conditions as it may from time to time deem proper:

- (a) to hold legal title to the Fund Property exercising the same degree of care which it gives to its own property of a similar kind under its own custody;
- (b) with any cash at any time held by it to purchase, or otherwise acquire, any securities, currencies or other property of a kind permitted as aforesaid and to purchase, hold and retain the same in trust hereunder;
- (c) to enter into and settle foreign exchange transactions on behalf of the Fund for purposes of facilitating settlement of trades of Fund Property of that Fund;
- (d) to sell, convey, exchange for other securities or other property, convert, transfer, assign, pledge, encumber or otherwise dispose of any Fund Property held by it at any time, by any means considered reasonable by the Manager and to receive the consideration and grant discharges therefor;
- (e) to commence, defend, adjust or settle suits or legal proceedings in connection with the Fund and to represent the Fund in any such suits or legal proceedings; provided, however, that the Manager shall not be obliged or required to do so unless it has been funded and indemnified to its satisfaction against all expenses and liabilities sustained or anticipated by the Manager by reason thereof;
- (f) subject to Securities Legislation, to lend money whether secured or unsecured;

- (g) to exercise any conversion privileges, subscription rights, warrants and/or other rights or options available in connection with any Fund Property at any time held by the Manager, and to make any payments incidental thereto; to consent to, or otherwise participate in or dissent from, the reorganization, consolidation, amalgamation or merger of any corporation, company or association, or to the sale, mortgage, pledge or lease of the property of any corporation, company or association, or of any of the securities of which may at any time be held by it, and to do any act with reference thereto, including the delegation of discretionary powers, the exercise of options, the making of agreements or subscriptions and the payment of expenses, assessments or subscriptions which it may deem necessary or advisable in connection therewith; to hold any Fund Property which it may so acquire and generally to exercise any of the powers of any owner with respect to Fund Property;
- (h) to vote personally, or by general or by limited proxy, any Fund Property which may be held by it at any time, and similarly to exercise personally or by general or by limited power of attorney any right appurtenant to any Fund Property held by it at any time;
- (i) to incur and pay out of the Fund Property any charges or expenses and disburse any assets of the Fund, which charges, expenses or disbursements are, in the opinion of the Manager, necessary or incidental to or desirable for the carrying out of any of the purposes of the Fund or conducting the affairs of the Fund including, without limitation, taxes or other governmental levies, charges and assessments of whatever kind or nature, imposed upon or against the Manager in connection with the Fund or the Fund Property or upon or against the Fund Property or any part thereof and for any of the purposes herein;
- (j) to renew or extend or participate in the renewal or extension of any Fund Property, upon such terms as it may deem advisable, and to agree to a reduction in the rate of interest on any Fund Property or of any guarantee pertaining thereto, in any manner and to any extent that it may deem advisable; to waive any default whether in the performance of any covenant or condition of any Fund Property, or in the performance of any guarantee, or to enforce rights in respect of any such default in such manner and to such extent as it may deem advisable; to exercise and enforce any and all rights of foreclosure, to bid on property on sale or foreclosure with or without paying a consideration therefore and in connection therewith to release the obligation on the covenant secured by such security and to exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies in respect of any such security or guarantee pertaining thereto;
- (k) to make, execute, acknowledge and deliver any and all deeds, leases, mortgages, conveyances, contracts, waivers, releases of other documents of transfer and any and all other instruments in writing that may be necessary or proper for the accomplishment of any of the powers herein granted, whether for a term extending beyond the office of the Manager or beyond the possible termination of the Fund or for a lesser term;

- (l) in its sole discretion, advance monies to the Fund for the purposes of settlement of transactions and overdrafts against the Fund Property of that Fund or as a temporary measure to accommodate requests for the redemption of Units, on such terms and conditions as the Manager may in its sole discretion determine, provided that, in order to secure the obligations of the Fund to repay such borrowings, the principal of and interest charged on such borrowing shall be paid out of the Fund Property of that Fund and shall constitute a charge against the said Fund Property until paid (such borrowings of the Fund shall not exceed 5% of the net assets of the Fund taken at market value at the time of borrowing);
- (m) to purchase, hold, sell or exercise call or put options on securities, indices of shares or other securities, financial and stock index futures contracts, securities or currency futures or forward contracts or other financial or derivative instruments, all whether or not any such options, indices, contracts or instruments are traded on a recognized exchange or on an over-the-counter basis;
- (n) to purchase, hold and sell gold, silver and other precious metals;
- (o) to deposit any Fund Property, including securities and documents of title held by it hereunder, with any bank or other depository, including the Manager or any of its affiliates;
- (p) to employ such counsel, auditors, advisers, agents or other person as the Manager may deem necessary from time to time for the purpose of discharging its duties hereunder and to pay out of Fund Property their reasonable expenses and compensation;
- (q) to delegate any of the powers and duties of the Manager to any one or more agents, representatives, officers, employees, independent contractors or other persons without liability to the Manager except as specifically provided in this Declaration of Trust;
- (r) to participate on behalf of the Fund in a securities lending program, in any jurisdiction in which securities are held hereunder, administered by the Manager (the “**Program**”) and in connection therewith to release and deliver securities and return collateral received as security for the return of securities on loan in accordance with the provisions of the Program;
- (s) to borrow securities on behalf of the Fund pursuant to an agreement with a financial institution, including the Manager, and in connection therewith to accept securities and deliver collateral in accordance with such agreement;
- (t) to enter into derivatives and securities lending contracts;
- (u) to secure the Fund’s obligations under securities lending contracts and derivative instruments, on such terms and conditions as the Manager may determine and to arrange for the settlement of the Fund’s obligations under such securities lending contracts and derivative instruments and for the receipt by the Fund of the amount

it is entitled to receive on the settlement or partial settlement of such securities lending contracts and derivative instruments and for the distribution of any amount received pursuant to such securities lending contracts and derivative instruments to Unitholders;

- (v) to hold such portion of the Fund in cash as the Manager, from time to time, may deem to be in the best interests of the trust and to retain the cash balances on deposit with the Manager or any of its affiliates or with a chartered bank or other depository, in such account as the Manager in its sole discretion determines, whether or not such deposits will draw interest, or to invest such cash balances in the guaranteed investment certificates of the Manager or any of its affiliates or to invest such cash balances in units of such short term investment funds as may be established by the Manager or its affiliates by declaration of trust or otherwise provided a copy of the applicable declaration of trust or other documentation is provided to the Manager;
- (w) to register the securities or other property of the Fund in its own name or in the names of nominees including The Canadian Depository for Securities Limited, or the Depository Trust Company, or in bearer form if the investment is not registerable or it would not be in the best interest of the Fund to do otherwise; and the Manager is hereby expressly empowered to keep the same, wholly or partly, in its principal office or in any one or more of its branches in any Province of Canada or in any other jurisdiction or at the office of any financial institution including itself and its affiliates (“other depository”) that is authorized to act as a custodian of securities by the laws of any country, province, state or any other political subdivision of any country in which such financial institution is located, all as the Manager may determine so long as the securities and other property of the Fund at all times are kept distinct from its own assets and those of its nominees, other depositories and any other person in the registers and other books of account kept by the Manager; and
- (x) to do all such acts, take all such proceedings and exercise all such rights and privileges, although not specifically mentioned herein, as the Manager, may deem necessary to administer the Fund, and to carry out the purposes of this trust.

### **13.3 Dealing with Others and Self**

The Manager’s services to the Funds are not exclusive and, subject to the limitations otherwise provided in this Declaration of Trust on the power and authorities of the Manager and the Manager’s standard of care as set out in Section 13.9, the Manager may for any purpose, and is hereby expressly authorized from time to time in its discretion to, appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, including without limitation, itself and any partnership, trust or body corporate with which it may directly or indirectly be affiliated or in which it may be directly or indirectly interested, whether on its own account or for the account of another (in a fiduciary capacity or otherwise), without being liable to account therefor and without being in breach of this Declaration of Trust, subject

only to the requirements of Securities Legislation. Without limiting the generality of the foregoing, the Manager may, in respect of any Fund:

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

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

#### **13.4 Banking**

The banking activities of each Fund, or any part thereof, shall be transacted with such bank, trust company, investment dealer or other firm or corporation carrying on a banking business as the Manager may designate, appoint or authorize from time to time and all such banking activities, or any part thereof, shall be transacted on the Fund's behalf by such one or more officers of the Manager and/or other persons as the Manager may designate, appoint or authorize from time to time including, but without restricting the generality of the foregoing: the operation of the Fund's accounts; the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for and orders relating to any Fund Property; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such banker to do any act or thing on the Fund's behalf to facilitate such banking activities.

#### **13.5 Management and Investment Services**

The Manager may appoint a substitute investment fund manager and/or others to provide management and/or administration services to each Fund including, when considered appropriate by the Manager:

- (a) managing the day-to-day undertaking and affairs of the Fund;



- (b) the preparation and filing of the Disclosure Document of the Fund, as and when required, to permit offering of the Units of the Fund in those jurisdictions specified from time to time by the Manager,
- (c) the preparation of all written and printed material for distribution to investors,
- (d) ensuring compliance with the registration and filing, reporting and similar requirements of all regulatory bodies having jurisdiction over the sale of Units of the Fund, and
- (e) performing all general managerial, supervisory and administrative functions or any other tasks on behalf of the Fund as may be set out in the agreement(s) appointing the substitute investment fund manager and/or others, as may be required from time to time.

If a substitute investment fund manager is appointed the Manager as trustee shall, and if the Manager acts as investment fund manager the Manager as trustee may, on behalf of the Fund, enter into a fund management agreement that provides greater detail of the authority, powers and duties of the investment fund manager. In addition to any other authority or power that the Manager may delegate, the Manager may delegate to any substitute investment fund manager appointed by it the authority to sign on its behalf any Disclosure Document and other documents or instruments that the Manager is or may be required to sign in its capacity as trustee of the Funds, provided such delegation is not prohibited by any applicable legislation, regulations, policies or guidelines. If deemed appropriate, the Manager and/or the substitute investment fund manager may confer certain powers and authority on an independent review committee.

### **13.6 Appointment of Principal Distributor**

The Manager or any substitute investment fund manager may appoint, upon such terms and conditions as it may determine, one or more agents (who may, but need not be, the same individual or company and who may, but need not be, the substitute investment fund manager) to act as principal distributor of the Units of a Fund.

### **13.7 Appointment of Portfolio Manager or Sub-Adviser**

- (a) The Manager or substitute investment fund manager may appoint or retain a portfolio manager other than the Manager, who may in turn appoint one or more sub-advisers with the consent of the Manager or substitute investment fund manager, (in any such case referred to as the “**Portfolio Manager**”) for any Fund to make investment decisions with respect to the Fund Property of the Fund, or any portion thereof, in accordance with the Investment Objective, policies and investment restrictions of the Fund as set forth in this Declaration of Trust and the Disclosure Document of the Fund, which appointment shall be on such terms and conditions as the Manager or substitute investment fund manager shall determine or consent to. All fees of the Portfolio Manager, if any, shall be borne by the Manager or substitute investment fund manager, as may be agreed between them, out of the fees payable by the Fund to the Manager or substitute investment fund manager unless the Disclosure Document of the Fund provide otherwise (and, if

required by Section 11.2, existing Unitholders provide the necessary approval or are given necessary notice). Such costs and expenses of the Portfolio Manager, if any, as shall be agreed between the Manager or substitute investment fund manager and the Portfolio Manager as being the responsibility of the Fund shall be borne by the Fund.

- (b) To the extent required under Securities Legislation, a Portfolio Manager shall be responsible for the advice received from any sub-adviser appointed by such Portfolio Manager.
- (c) Any Portfolio Manager appointed pursuant to Subsection 13.7(a) shall have responsibility for making investment decisions with respect to the Fund, or the portion of the Fund Property over which the Portfolio Manager has been duly granted authority, that are in accordance with the Investment Objective and any policies and/or restrictions adopted by the Manager or substitute investment fund manager. The Portfolio Manager shall select brokers and dealers to execute portfolio transactions on behalf of the Fund and shall transmit purchase and sale orders to such brokers and dealers.

### **13.8 Safekeeping of Assets**

The Manager shall open one or more separate accounts with respect to each Fund, and shall not co-mingle any Fund Property of any Fund with its own assets. The Manager shall appoint one or more of a bank, trust company, investment dealer or any other institution that is qualified to act as a custodian to be responsible for the safekeeping of all of the portfolio assets of each Fund and who shall be paid for those services out of the Fund Property of the Fund, or to make such other arrangements, in accordance with industry practice, for the safe custody of some or all of the Fund Property as the Manager deems prudent.

### **13.9 Standard of Care of the Manager**

The Manager shall exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of each Fund and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The Manager shall adopt policies and procedures to identify and avoid, or address and disclose, conflicts between its own interests and the interests of the Fund and/or the Unitholders, in accordance with Securities Legislation, but shall not be prohibited from, or be required to account to the Fund for, providing services to and receiving fees from any person or entity, including other pooled investment vehicles, similar to those services provided to the Fund.

### **13.10 Reliance**

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

- (a) financial statements of each Fund stated in a written report prepared by the Auditors of the Fund to present fairly the financial position of that Fund;

- (b) any instrument or document reasonably believed by it to be genuine and to be correct; or
- (c) the advice or opinion of legal counsel, accountants, appraisers or other industry professionals, including, without restricting the generality of the foregoing, any substitute investment fund manager, Portfolio Manager, fund administrator, consultant, prime broker or custodian retained by or on behalf of the Manager;

and the Manager shall not, in any event, be liable under this Declaration of Trust for any action taken or not taken as a result of so relying in good faith.

### **13.11 General Disclaimer of Liability**

The Manager or any other person retained by the Manager to discharge any of the Manager's responsibilities shall not be liable to any Fund, to any Unitholder or to any other person for any loss, damage, cost, charge, judgment or expense (including reasonable legal costs) resulting from any act or omission in connection with the discharge of its duties and obligations under this Declaration of Trust except to the extent such loss, damage, cost, charge, judgment or expense is caused by its negligence, misfeasance, wilful default or failure to comply with its standard of care set out in Section 13.9. The liability of the Manager in respect of its actions as manager and/or trustee of the Fund (except liability for breach of Section 13.9 hereof) is limited to the realizable value of the assets of the Fund.

### **13.12 Indemnification of the Manager**

- (a) The Manager, its affiliates, subsidiaries and agents, and their respective directors, officers and employees, shall at all times be indemnified and saved harmless by each Fund from and against all costs, charges and expenses sustained or incurred, including all legal fees, judgments and amounts paid in settlement, in or about any action, suit or proceeding that is brought, commenced or prosecuted against it for or in respect of any act, deed, omission, matter or thing whatsoever made, done or permitted by it in or about the proper execution of services provided hereunder, provided that the act, deed, omission, matter or thing that caused the payment of the costs, charges, expenses, fees, judgments or amounts paid in settlement was in good faith believed to be in the best interest of the Fund and provided that such person or companies shall not be indemnified by the Fund where:
  - (i) there has been negligence, misfeasance or wilful misconduct on the part of the Manager or such other person; or
  - (ii) the Manager has failed to fulfil its standard of care as set forth in Section 13.9,

unless in an action brought against such persons or companies they have achieved complete or substantial success as a defendant or, in the case of a criminal suit or administrative action or proceeding, such person or company had reasonable grounds for believing that its conduct was lawful.

- (b) The Manager is hereby authorized from time to time to cause a Fund to give indemnities to any person, including any member of any independent review committee or person providing similar fund governance services, who has undertaken or is about to undertake any liability on behalf of the Fund and any action taken by the Manager under this Section shall not require confirmation or approval by the Unitholders, provided that such indemnities shall not be prohibited under Securities Legislation and shall be limited to actions properly taken or liabilities properly incurred by such persons on behalf of the Fund. In no event shall such indemnities cover any action or liability arising out of a failure to satisfy any applicable standard of care.
- (c) The Manager may, at the expense of a Fund, purchase and maintain insurance on behalf of the Fund in respect of any obligation of the Fund to indemnify any person pursuant to Subsection 13.12(a) hereof.

### **13.13 Compensation and Expenses**

- (a) The Manager or any successor trustee or substitute investment fund manager may be compensated for its services as investment fund manager and/or trustee of a Fund and shall be paid such fees as may be established by the Manager or substitute investment fund manager from time to time (subject to existing Unitholders providing any necessary approval or being given necessary notice for any change to such compensation if so required by Section 11.2).
- (b) For services performed as Portfolio Manager hereunder, the Manager or its agents are entitled to receive the management fees and/or performance fees payable by a Fund as may be set out in the Disclosure Document of the Fund from time to time (subject to existing Unitholders of the Fund providing any necessary approval or being given necessary notice for any change thereto if so required by Section 11.2).
- (c) Each Fund shall be responsible for payment of all expenses relating to the operation of that Fund and the carrying on of its activities, including, but not limited to:
  - (i) administrative fees and expenses of the Fund, which include fees payable to the Manager (as described in the Disclosure Document), fees of any independent review committee members appointed by the Manager, accounting, audit and legal costs, registrar and transfer agency fees and expenses, bookkeeping costs, fees, costs and expenses relating to the issue, redesignation and redemption of Units, all Unitholder communication expenses, all costs incurred in the preparation of the Disclosure Document and all amendments to or renewals hereto and of all other documents as may be required to comply with applicable laws, regulations and policies or as may be deemed beneficial to the Unitholders by the Manager; all other promotional expenses, organizational expenses, the cost of

- maintaining the Fund's existence and regulatory fees and expenses, and all reasonable extraordinary or non-recurring expenses;
- (ii) fees and expenses relating to the Fund's portfolio investments, including the cost of securities, interest on borrowings and commitment fees and related expenses payable to lenders and counterparties, brokerage fees, commissions and expenses, and banking fees; and
  - (iii) all reasonable extraordinary or non-recurring expenses, including litigation expenses.
- (d) The expenses listed above shall be allocated by the Manager to each series of Units of a Fund as follows:
- (i) all Series Expenses shall be allocated only to the series of Units of the Fund in respect of which the Series Expenses were incurred; and
  - (ii) each type of Common Expense shall be allocated among the series of Units of the Fund as determined by the Manager, in its sole discretion.
- (e) The Manager or another party may at its discretion from time to time agree to pay certain expenses of a Fund.

#### **13.14 Resignation of the Manager as Trustee**

The Manager may resign as trustee of a Fund by giving notice in writing to the Unitholders of the Fund not less than 60 days prior to the date on which such resignation is to take effect. Such resignation shall take effect on the date specified in such notice. The Manager may appoint a successor trustee, including an affiliate of the Manager and upon such person agreeing to act as trustee of the Fund, and assuming the duties and responsibilities of trustee hereunder, the Manager shall cease to be trustee of the Fund and shall be relieved from its duties and responsibilities with respect to the Fund under this Declaration of Trust, provided however that Unitholders of the Fund must be given not less than 30 days' written notice prior to the appointment of a successor trustee. If, after the resignation of the Manager as trustee, no successor trustee has been appointed within 45 days, any Unitholder of the Fund may apply to a court of competent jurisdiction for the appointment of a successor trustee. The successor trustee must not be a "non-resident" of Canada for the purposes of the Tax Act.

#### **13.15 Successor Trustees**

The right, title and interest of the Manager as trustee in and to the Fund Property of a Fund shall vest automatically in any person who may hereafter become trustee of the Fund upon its appointment by the Manager without any further act and it shall thereupon have all the rights, privileges, powers, obligations and immunities of the Manager as trustee hereunder. Such right, title and interest shall vest in the successor trustee whether or not conveyancing documents have been executed and delivered in connection therewith.



**SCHEDULE "A"**  
**dated as of October 9, 2015**

**to the Master Declaration of Trust of the Bristol Gate Funds  
executed by Bristol Gate Capital Partners Inc.  
dated as of October 9, 2015**

**BRISTOL GATE US EQUITY FUND TRUST**

**Date Settled:**

October 9, 2015

**Investment Objective:**

The investment objective of the Bristol Gate US Equity Fund Trust is to achieve long-term growth of income and capital.

**Investment Strategies, Policies and Restrictions:**

As set out in the Disclosure Document of the Bristol Gate US Equity Fund Trust.

**Series and Features of the Series:**

There are two classes of Units designated – Class A Units and Class H Units – having the features as set out in the Disclosure Document of the Bristol Gate US Equity Fund Trust.

There are seven series of Units designated within each class – Series A Units, Series A2 Units, Series F Units, Series F2 Units, Series C Units, Series D Units and Series I Units – having the features as set out in the Disclosure Document of the Bristol Gate US Equity Fund Trust.