

**ROMC MUTUAL FUNDS**

**DECLARATION OF TRUST**

**January 14, 2016**

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## ROMC MUTUAL FUNDS

### DECLARATION OF TRUST

**THIS DECLARATION OF TRUST** made in Toronto, Canada is dated this 14th day of January, 2016.

#### RECITALS

**WHEREAS** McLean Asset Management Ltd., a corporation subsisting under the laws of the Province of Ontario and having an office at 1 Richmond Street West, Suite 800, Toronto, Ontario, M5H 3W4, has established, and intends to establish, trusts from time to time for purposes of investing in accordance with the respective investment objectives of such trusts.

#### DECLARATION

**NOW THEREFORE**, McLean Asset Management Ltd. hereby declares that it holds in trust, as Trustee, all property, real, personal and otherwise, tangible and intangible, of every description and type of the Funds listed in Schedule "A" hereto and will hold all property, real, personal and otherwise, tangible and intangible, of every description and type of such other Funds established, from time to time, under this Declaration of Trust and all such other property of the Funds, which is hereafter transferred, conveyed or paid to it as Trustee and all income, profits and gains therefrom for the benefit of the Unitholders and their heirs, executors, personal representatives, successors and assigns pursuant to and subject to the provisions of this Declaration of Trust, as follows:

#### ARTICLE 1 INTERPRETATION

##### 1.1 Definitions

In this Declaration of Trust:

"**Act**" means the *Income Tax Act* (Canada) and the regulations thereunder as the same may from time to time be amended;

"**Affiliate**", when used in relation to any Person, means an insider, an associate or an affiliated, controlled or subsidiary company of the Person, all such terms having the respective meanings ascribed thereto by the *Securities Act* (Ontario) as the same may from time to time be amended;

"**Business Day**" means any day, other than Saturday, Sunday, any statutory holiday in the Province of Ontario and any other day on which businesses are generally closed in the Province of Ontario;

"**Closing Price**" means the price of a security quoted by broker-dealers, financial reporting services, market makers, the NASD National Market System and other similar external sources, prior to the valuation of the Funds;

"**Closing Sale Price**" means the price of a security traded on a public securities exchange and identified by the Trustee to be a timely and accurate representation of the value of the securities

on that exchange. For greater certainty and without limiting the foregoing, the Closing Sale Price may be a price in respect of a security traded prior to the close of the exchange or an official closing price of the security reported by the exchange;

**"Declaration of Trust", "hereto", "herein", "hereof", "hereby", "hereunder"** and similar expressions refer to this Declaration of Trust, including any schedules to this Declaration of Trust, as it may be amended or supplemented from time to time and not to any particular Article, section or other portion thereof;

**"Directors"** means the Persons, if any, appointed from time to time to comprise a board of directors, trustees or governors, or an advisory committee, independent review committee or other similar body pursuant to Article 6;

**"Fair Value"** means the price, determined solely by the Trustee in good faith, that might reasonably be expected to be received upon the current exchange of an asset or liability;

**"Funds"** means any of the trusts governed by this Declaration of Trust;

**"Management Fee Distribution"** means a distribution pursuant to section 10.7;

**"Manager"** means the Person engaged from time to time as contemplated by section 3.2.13;

**"Net Asset Value of a Fund" or "Net Asset Value of a Series"** means the amount determined from time to time in the manner set out in section 9.2;

**"Net Asset Value per Unit"** means the amount determined from time to time in the manner set out in section 9.2;

**"Net Capital Gains"** means the amount, if any, for a taxation year, by which the excess of the capital gains over the capital losses of a Fund arising from the disposition of assets comprising all or part of the Fund in such taxation year exceeds the amount determined by the Trustee in respect of net capital losses, if any, for prior taxation years, in respect of which an amount may be deductible under the Act in the taxation year;

**"Net Income"** for any taxation year means the net income of a Fund for such taxation year determined in accordance with section 10.1;

**"Person"** means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, whether or not a legal entity, regulatory body or agency, government or governmental agency, authority or entity, however designated or constituted;

**"Property"** means:

(i) all moneys, securities, property, assets, rights and investments, real or personal, tangible or intangible, paid or transferred to and accepted by or in any manner acquired by the Trustee and held by the Trustee for the account of the Funds;

(ii) all income or other accretions which may hereafter be accumulated under the powers herein contained; and

(iii) all moneys, securities, property, assets, investments or reinvestments substituted for or representing all or any part of the foregoing;

**"Proportionate Share"**, when used to describe a Unitholder's share in a Fund or, where the context so requires, in any other amount, means the portion which is determined by multiplying that amount by a fraction, the numerator of which is the current Net Asset Value Per Unit multiplied by the number of Units registered in the name of that Unitholder and the denominator of which is the current Net Asset Value of the Fund subject to such adjustments as may be contained in this Declaration of Trust;

**"Prospectus"** means at a particular time the current prospectus or simplified prospectus and annual information form relating to the Funds or any other offering documents relating to the Funds, together with any and all amendments thereto;

**"Record Date for Voting"** means the date which shall be established from time to time pursuant to section 8.6;

**"Register"** means the register or registers established and maintained pursuant to section 4.8;

**"Securities Authorities"** means the Ontario Securities Commission and equivalent regulatory authorities in each province and territory of Canada in which the Units are qualified for distribution to the public;

**"Securities Legislation"** means the laws and regulations in each province and territory of Canada which are applicable to the Funds and the requirements, instruments, rules and policies of the Securities Authorities which are applicable to the Funds;

**"Series"** means the one or more Series as may be established and designated from time to time by the Trustee pursuant to section 4.5 hereof;

**"Subscriber"** means a Person who has subscribed for Units;

**"Trustee"** means the trustee holding office under this Declaration of Trust from time to time, whether it is the signatory hereto or an additional or successor trustee;

**"Unit"** means a unit of interest in a Fund governed by this Declaration of Trust or a unit of a Series created pursuant to section 4.5 and where appropriate includes fractions of units;

**"Unitholder"** means a Person whose name appears on the Register as a holder of Units;

**"Valuation Date"** means each day on which there is a regular trading session of the Toronto Stock Exchange; and

**"Valuation Time"** means the particular time on a Valuation Date at which the Trustee or an accounting agent appointed by the Trustee determines the Net Asset Value of a Fund or a Series and the Net Asset Value per Unit, as prescribed from time to time by the Trustee.

## **1.2 Interpretation**

In this Declaration of Trust, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

## **1.3 Statute References**

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

## **1.4 Invalidity of Provisions**

Each of the provisions contained in this Declaration of Trust is distinct and severable and a declaration of invalidity or unenforceability of any such provision by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision thereof.

## **1.5 Headings for Reference Only**

The division of this Declaration of Trust into articles, sections and subsections, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Declaration of Trust.

## **1.6 Governing Law**

This Declaration of Trust shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in Ontario.

## **1.7 Currency**

All references herein to currency are to lawful currency of Canada.

## **1.8 References to Acts of a Fund or Trustee**

For greater certainty, where any reference is made in this Declaration of Trust to an act to be performed by a Fund, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by the Trustee for and on behalf of a Fund and where any reference is made in this Declaration of Trust to an act to be performed by the Trustee, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by the Trustee for and on behalf of a Fund.

## **ARTICLE 2 THE FUNDS**

### **2.1 Establishment of Funds**

The Trustee confirms that the Funds listed in Schedule "A" hereto are in existence and subject to the terms hereunder except as provided in Schedule "B". Subject to compliance with Securities



Legislation, one or more additional Funds may be added to this Declaration of Trust, from time to time, by the Trustee executing an amended version of Schedule "A" to incorporate the name of the Fund(s) and, if applicable, by executing an amended version of Schedule "B" to incorporate any investment restrictions, policies or other provisions relating to the new Fund(s) (including any provisions of this Declaration of Trust which do not apply to such new Fund) and any such new Fund shall be a Fund for the purposes of this Declaration of Trust. Notice of any amended version of Schedule "A" or Schedule "B" to add a new Fund shall not be required to be given to Unitholders pursuant to section 11.2.

Each Fund shall consist of all monies delivered to the Trustee from time to time for investment in Units of such Fund and includes the investments and reinvestments made with those monies together with the income and other accretions to such investments less any monies and assets properly disbursed in accordance with this Declaration of Trust in payment of expenses or redemptions of Units or distributions of net income or net capital gains.

This Declaration of Trust shall be applicable to each Fund established from time constitute a separate trust. No Unitholder shall be deemed to have any interest in or claim against a Fund or any assets held therein merely because such Unitholder owns Units in a different Fund. Each Fund shall, for all financial and administrative purposes, be considered separate and distinct from every other Fund and the expenses of any Fund shall not be charged against any other Fund.

Ownership of the assets of each Fund shall be in the Trustee, which assets shall be held by the Trustee separate and apart from the assets of each other and all other accounts. No Unitholder shall have legal ownership of any particular asset of any Fund.

## **2.2 Name**

The Funds shall be known collectively as "ROMC Mutual Funds" and individually as set forth in Schedule "A" hereto, each in the English language.

## **2.3 Use of Name**

2.3.1 If the Trustee determines that the use of the name of a Fund is not practicable, lawful, convenient or desirable, it may use such other designation or it may adopt such other name for the Fund as it considers appropriate, and the Trustee may hold the Property and conduct the business of the Fund under such other designation or name.

2.3.2 The Fund may be legally designated by either the English or French form of its name, or both forms, and any mention of the name of the Fund herein shall refer to both the English and French forms of the name of the Fund.

## **2.4 Change of Name**

The Trustee shall forthwith, upon the written request of McLean Asset Management Ltd.:

- 2.4.1 cease to use the name "ROMC", or any name similar thereto;
- 2.4.2 amend this Declaration of Trust to change the name of any Fund or any Series to one which does not include the name "ROMC" or any name similar thereto; and
- 2.4.3 execute and deliver all instruments necessary to evidence the change of name in each public registry where the name of a Fund or a Series shall have been registered and to disclaim any right, title or interest in or to the name "ROMC".

The Trustee hereby irrevocably appoints McLean Asset Management Ltd. as agent and attorney for the Trustee to do any and all such things, including the execution and delivery of all documentation, necessary to carry out the provisions of this section. The Trustee shall reimburse McLean Asset Management Ltd. for expenses incurred by it in carrying out these provisions.

## **2.5 Places of Business**

The principal office of each Fund shall be at the head office of the Trustee from time to time in the City of Toronto, in the Province of Ontario, unless changed by the Trustee in its discretion. A Fund may have such other offices or places for the conduct of its affairs as the Trustee may determine from time to time.

## **2.6 Business of the Fund and Investment Objective**

Notwithstanding any provision of this Declaration of Trust, the only business of each Fund shall be the investing of its assets. The investment objective of each Fund is set out in Schedule "A" to this Declaration of Trust.

Subject to the investment objective, the Trustee may invest the Property of each Fund in such other assets and securities as the Trustee considers appropriate from time to time, including, but not limited to money market instruments, debt instruments and derivative securities.

The Trustee shall invest and reinvest from time to time, in its discretion, any money at any time held in or for a Fund in accordance with this section 2.6, the investment restrictions described in section 2.7, and Securities Legislation and may hold all or part of the Property in cash or cash equivalents.

## **2.7 Investment Restrictions**

With respect to investments of each Fund, the Trustee shall adopt the restrictions set out in Schedule "B".

## **2.8 Nature of the Trust**

Each Fund is an open-end unincorporated trust. Each Fund is not and is not intended to be, shall not be deemed to be and shall not be treated as a general partnership, limited partnership, syndicate, association, agency, joint venture, company or corporation, nor shall the Trustee or the Unitholders or any of them for any purpose be, or be deemed to be, or be treated in any way whatsoever as, liable or responsible hereunder as partners or joint venturers. The Trustee shall not be, or be deemed to be, the agent of the Unitholders. The relationship of the Unitholders to the Trustee shall be solely that of beneficiaries of the Fund and the Unitholders shall have no rights other than those rights expressly

provided for Unitholders under this Declaration of Trust and by law.

### **ARTICLE 3 TRUSTEE'S POWERS AND AUTHORITIES**

#### **3.1 General Powers**

The Trustee shall have, without the necessity of authorization by, and free from any power of control on the part of, the Unitholders, all the powers of a natural person, including, without limitation, full, absolute, and exclusive power, control and authority over the Property and over the business and affairs of the Fund, to the same extent as if the Trustee were the sole, beneficial owner thereof in its own right, to do all such acts and things as in its judgment and discretion are necessary or incidental to, or desirable for, the carrying out of any of the terms of this Declaration of Trust or the conduct of the business of the Fund.

The investment powers and authorities contained in this Declaration of Trust are in addition to any powers or authorities conferred by the laws of any jurisdiction with respect to investments permitted to be made by trustees, and the Trustee may make such investments unless specifically prohibited by such laws.

The enumeration of any specific power or authority in this Declaration of Trust shall not be construed as limiting the general powers or authorities, or any other specific power or authority, conferred herein on the Trustee. Every discretion or power hereby conferred on the Trustee shall be an absolute and uncontrolled discretion or power. Any determination made by the Trustee in good faith as to what is in the interests of the Fund shall be conclusive. In construing the provisions of this Declaration of Trust, the presumption shall be in favour of a grant of power to the Trustee.

#### **3.2 Specific Powers**

Subject only to the express limitations contained in this Declaration of Trust and in addition to any other powers and authorities conferred under this Declaration of Trust or which the Trustee may have by virtue of any present or future statute or rule of law, the Trustee shall have and may exercise in its discretion, at any time and from time to time, without any action by or consent of the Unitholders, the following powers and authorities in such manner and upon such terms and conditions as it may from time to time consider proper:

- 3.2.1 to operate and carry on the business of a mutual fund and exercise all the powers necessary and appropriate to the conduct of such operations;
- 3.2.2 to retain any and all Property received by the Trustee in the form in which they are conveyed, transferred or contributed and for such length of time as the Trustee in its discretion may consider advisable;
- 3.2.3 to invest and reinvest any moneys from time to time forming part of the Property in any securities, property, assets, derivatives, mutual fund or pooled funds (including those managed or trustees by the Trustee) or other investments moveable or immovable, of whatsoever nature and situated anywhere in the world or related to any series or kind of industry and whether producing income or not and whether involving liability or not which the Trustee in its discretion may consider advisable, including for greater certainty

any investment permitted by National Instrument 81-102 or any successor Securities Legislation thereto, as amended from time to time, or any investment approved by Securities Authorities, notwithstanding that the securities, property, assets or investments may not be securities, property, assets or investments in which trustees are by law authorized to invest trust funds, to the extent that the Trustee shall have the same full and unrestricted powers of investing and reinvesting in securities, property, assets and investments in all respects as if the Trustee were the beneficial owner of the Property;

- 3.2.4 to increase the capital of a Fund at any time by the issuance of additional Units for such consideration as the Trustee considers appropriate;

- 3.2.5 to sell, repurchase, redeem, cancel, acquire, hold, resell, transfer and otherwise deal in Units; to apply to any such redemption, repurchase, cancellation or acquisition of Units, any of the Property of a Fund whether capital, surplus or otherwise;
- 3.2.6 to sell, assign, convey, transfer, negotiate, dispose of, pledge, hypothecate, mortgage, charge, grant security interests in or encumber any or all of the Property for such consideration and upon such terms and conditions as the Trustee in its discretion considers advisable by deeds, trust deeds, assignments, bills of sale, transfers, security agreements and other instruments for any of such purposes;
- 3.2.7 to enter into leases, contracts, obligations and other agreements for a term extending beyond the term of office of the Trustee or beyond the possible termination of the Fund or for a lesser term;
- 3.2.8 to borrow money and to evidence the borrowing by executing and delivering negotiable or non-negotiable instruments; to guarantee, indemnify or act as surety with respect to the payment by, or performance of obligations of, any Person; to enter into other obligations on behalf of the Fund; and to assign, convey, transfer, negotiate, pledge, hypothecate, mortgage, charge, grant security interests in or encumber any or all of the Property to secure any of the foregoing;
- 3.2.9 to lend the Property (including money and portfolio securities) whether on a secured or unsecured basis;
- 3.2.10 to incur and pay out of the Property any charges, expenses or disbursements which are, in the opinion of the Trustee, necessary or incidental to or desirable for the carrying out of any of the provisions of this Declaration of Trust or the conduct of the business of the Funds including, without limitation, taxes or other governmental levies, charges and assessments of whatever kind or nature, imposed upon or against the Trustee in connection with the Funds or the Property or upon or against the Property or any part thereof;
- 3.2.11 to deposit funds of a Fund in banks, 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 Trustee may determine;
- 3.2.12 to possess and exercise all the rights, powers and privileges pertaining to the ownership of or interest in any of the Property, including, without limitation: the right to vote or to refrain to vote or give any consent, request or notice or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, given to one or more Persons, which proxies and powers of attorney may be for meetings or action generally or for any particular meeting or action, and may include the exercise of discretionary power, the right to exercise any conversion privilege, subscription right, warrant or other right or option available in connection with any Property at any time held by it and to make any payments incidental thereto; the right to consent, or otherwise participate in or dissent from, the reorganization, consolidation, amalgamation, merger or readjustment of the finances of any Person, any of the securities of which may at any time be held by it or to the sale, mortgage or lease of the property of any such Person; 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 consider necessary or advisable in connection therewith;

- 3.2.13 to engage, appoint, employ or contract with any Persons as employees, agents, representatives, independent contractors or otherwise (including, without limitation, investment advisers and sub-advisers, distributors, custodians, administrators, registrars and transfer agents, underwriters, accountants, lawyers, appraisers, brokers or others) provided that the Trustee shall engage a Manager (which may be itself acting its own capacity) and enter into a management agreement with the Manager to manage all of the business and affairs of the Funds and to assign to the Manager any of the powers, authorities and duties of the Trustee hereunder (including the powers of granting, assigning or delegating) without regard to whether such power, authority or duty is normally granted, assigned or delegated by trustees, and to pay compensation from the Funds to such Persons and to indemnify such Persons against liability out of the Property, to such extent as the Trustee may determine subject to applicable Securities Legislation;
- 3.2.14 to collect, sue for and receive all sums of money due to a Fund; to initiate, engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by legal proceedings, arbitration or otherwise, any actions, suits, proceedings, disputes, claims, demands or other litigation relating to a Fund, the Property or the business of a Fund; to enter into agreements therefor, whether or not any suit is commenced or claim accrued or asserted; and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- 3.2.15 to renew, modify, release, compromise, extend, consolidate or cancel, in whole or in part, any obligation to or of a Fund;
- 3.2.16 to purchase and pay for, out of the Property, insurance contracts and policies insuring the Property against any and all risks and insuring the Funds, the Trustee, the Manager, the Directors and the Unitholders or any of them against any and all claims and liabilities of any nature which may be asserted by any Person arising by reason of any action alleged to have been taken or omitted by the Trustee, the Manager, the Directors or the Unitholders;
- 3.2.17 to cause legal title to any of the Property to be held by and in the name of the Trustee or the Manager, or, except as prohibited by law, in the name of a Fund or any other Person, on such terms in such manner and with such powers as the Trustee may determine and with or without disclosure that the Fund, the Trustee or the Manager are interested therein;
- 3.2.18 to determine conclusively the allocation to capital, income or other appropriate accounts of all receipts, expenses, disbursements and Property;
- 3.2.19 to prescribe any instrument provided for or contemplated by this Declaration of Trust; to make, adopt, amend or repeal regulations relating to the business of a Fund, the conduct of its affairs and the rights or powers of the Trustee, the Manager, the Directors and of

the Unitholders not inconsistent with law or with this Declaration of Trust; and to make any decisions, designations, elections, applications or determinations under the Act, under Securities Legislation or otherwise not contrary to this Declaration of Trust which it may determine are necessary or desirable in interpreting, applying or administering this Declaration of Trust or in administering, managing or operating a Fund and any regulations, decisions, designations or determinations so made shall be conclusive and binding upon all Persons affected thereby;

- 3.2.20 to require the signature of any Subscriber or Unitholder on any instrument required to be signed by such Person under or in connection with this Declaration of Trust to be verified or guaranteed by a bank, trust company, self-regulatory organization, or broker or other responsible person or otherwise authenticated to the reasonable satisfaction of the Trustee;
- 3.2.21 to enter into a plan of distribution and any related agreements whereby a Fund may finance directly or indirectly any activity which is primarily intended to result in the sale of Units;
- 3.2.22 to aid by further investment any corporation, company, trust, association or firm, any obligation of or interest in which is included in the Property or in the affairs of which the Trustee has any direct or indirect interest; to do all acts and things designed to protect, preserve, improve or enhance the value of such obligation or interest, and for such purpose to guarantee or become surety on any or all of the contracts, stocks, bonds, notes, debentures and other obligations of any such corporation, company, trust, association or firm;
- 3.2.23 to impose procedures, as shall be disclosed in the Funds' Prospectus from time to time, to restrict frequent trading or transfers between Funds by Unitholders;
- 3.2.24 to restrict purchases of Units, including restrictions which may have the effect of capping the size of a Fund, for such periods as the Trustee may determine; and
- 3.2.25 to do all other such acts and things as are incidental to the foregoing either alone or in association with others; and to exercise all powers which are necessary or useful to carry on the business of the Funds, to promote any of the purposes for which the Funds are formed and to carry out the provisions of this Declaration of Trust.

### **3.3 Additional Powers**

Subject as herein provided, the Trustee may from time to time in its discretion appoint, employ, invest in, contract or deal with any Person including, without limitation, itself, any Affiliate and any Person in which it may be directly or indirectly interested, whether on its own account or for the account of another (in a fiduciary capacity or otherwise) and, without limiting the generality of the foregoing, the Trustee may:

- 3.3.1 purchase, hold, sell, invest in or otherwise deal with securities or other property of the same series and nature as may be held by the Trustee as Property, whether for the Trustee's own account or for the account of another (in a fiduciary capacity or otherwise);
- 3.3.2 use in other capacities knowledge gained in its capacity as the Trustee hereunder, provided that such use does not adversely affect the interests of any Fund and provided further that the Trustee may not make use of any specific confidential information relating to any Fund for its own benefit or advantage that, if generally known, might be expected to affect materially the value of the Property;
- 3.3.3 retain cash balances from time to time on hand in a Fund with the Trustee or any of its Affiliates in such accounts as the Trustee in its discretion determines; and
- 3.3.4 invest in the securities or other property of any Affiliate or any Person in which the Trustee may be directly or indirectly interested, provided that the investment is for the benefit of a Fund and is on terms that compare favourably to the terms of other investments available to the Fund;

without being liable to account therefor and without being in breach of its duties and responsibilities under this Declaration of Trust.

### **3.4 Banking Business**

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

### **3.5 Fees and Expenses**

The Trustee may pay out of the Property of a Fund all expenses relating to the operation of such Fund and the carrying on of its business, including, but not limited to, the fees of the Manager, legal, audit, trustee, custodial and safekeeping fees, taxes, brokerage commissions, advertising costs, interest, operating and administrative costs, Unitholder servicing costs and costs of financial and other reports and prospectuses that are used in complying with the laws, regulations and policies regulating the issue or sale of Units of the Fund and the Fund's share of the regulatory fees payable by the Manager which are reasonably and equitably attributable to the Fund.

### **3.6 Standard of Care**

The standard of care required of the Trustee in exercising its powers and authorities and carrying



out its functions under this Declaration of Trust shall be that it exercise its powers and authorities and carry out its functions as Trustee honestly, and in good faith and in the best interests of each Fund and that, in connection therewith, it exercise that degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

## **ARTICLE 4 FUND UNITS**

### **4.1 Units**

The beneficial interest in each Fund shall be divided into equal interests (except with respect to Management Fee Distributions) of one series referred to as whole Units, and fractions thereof. The number of Units which each Fund may issue is unlimited with each whole Unit representing an equal and rateable undivided share of the assets of a Fund, without distinction, preference or priority (except with respect to Management Fee Distributions). Each Unit outstanding from time to time shall participate pro rata in any distributions made by the applicable Fund (except with respect to Management Fee Distributions). In the event of termination of a Fund, each Unit outstanding from time to time shall participate pro rata in the net assets of the Fund. Each whole Unit shall entitle the holder thereof to one vote at all meetings of Unitholders, except that the Trustee may, in conjunction with the establishment of any Series of Units, establish or reserve the right to establish conditions under which the several series shall have separate voting rights or, if a Series would not, in the sole judgment of the Trustee, be materially affected by a proposal, no voting rights. This section 4.1 shall, in its entirety, be subject to the provisions of sections 4.5.

### **4.2 Fractional Units**

Fractions of Units may be issued. Fractional Units shall not, except to the extent that they may represent in the aggregate one or more whole Units, entitle the holders thereof to notice of, or to attend or to vote at, meetings of Unitholders. Subject to the foregoing, a fractional Unit shall have attached thereto the rights, restrictions, conditions and limitations attaching to a whole Unit in the proportion that the fractional Unit bears to a whole Unit.

### **4.3 Units Fully-Paid**

No Units shall be issued other than as fully paid. There shall be no liability to future calls or assessment with respect to the Units.

### **4.4 No Pre-Emptive Rights**

No Person shall be entitled, as a matter of right, to subscribe for or purchase any Units. There are no pre-emptive rights attaching to the Units.

### **4.5 Series Designation**

The Trustee, in its discretion, may authorize the division of the Units of a Fund into one or more Series, and the different Series shall be established and designated, and the variations in the relative rights and preferences as between the different Series shall be fixed and determined by the Trustee; provided that all Units of a Fund shall be identical to all other Units of the Fund except that there may be variations between different Series as to allocation of expenses, right of redemption, special and relative rights as to

distributions and on liquidation, conversion rights, and conditions under which the several Series shall have separate voting rights. All references to Units in this Declaration of Trust shall be deemed to be Units of any or all Series of any or all Funds as the context may require.

If the Trustee shall divide the Units of a Fund into one or more Series, the following provisions shall be applicable:

- 4.5.1 All provisions herein relating to a Fund shall apply equally to each Series of Units of that Fund, except as the context requires otherwise.
- 4.5.2 The number of Units of each Series of a Fund that may be issued shall be unlimited. The Trustee may classify or reclassify any outstanding or unissued Units of a Fund or any Units previously issued and reacquired of any Series of that Fund into one or more Series that may be established and designated from time to time.
- 4.5.3 Liabilities, expenses, costs, charges and reserves related to the distribution of, and other identified expenses that should properly be allocated to, the Units of a particular Series of a Fund may be charged to and borne solely by such Series and the bearing of expenses solely by a Series of Units may be appropriately reflected (in a manner determined by the Trustee) and cause differences in the Net Asset Value attributable to, and the distribution, redemption and liquidation rights of, the Units of different Series. Each allocation of liabilities, expenses, costs, charges and reserves by the Trustee shall be conclusive and binding upon the Unitholders of all Series of a Fund for all purposes.
- 4.5.4 The establishment and designation of any Series of a Fund shall be effective upon the execution by the Trustee of an amended version of Schedule "A". The Trustee may, by written instrument, abolish any Series and the establishment and designation thereof. Notice of any amended version of Schedule "A" to add or abolish a Series of a Fund shall not be required to be given to Unitholders pursuant to section 11.2.
- 4.5.5 The group name and individual name of a Series of a Fund or Funds shall be as designated in the Prospectus of the Series from time to time.

#### **4.6 Legal Ownership of the Property**

The legal ownership of the Property and the right to conduct the business of the Fund are vested exclusively in the Trustee, and the Unitholders shall have no interest therein other than the beneficial interest in the Fund represented by the Units held by them and, subject to section 10.5 and to applicable law, they shall have no right to compel any partition, division, dividend or distribution of the Fund or any of the Property.

#### **4.7 Unit Price**

The price of each whole Unit shall be the Net Asset Value per Unit as of the next subscription or redemption request is in the form and manner prescribed by the Trustee) or following declaration of a distribution plus (or less) a commission or service charge, if any, which may vary according to the aggregate value of Units held by a Unitholder or subscribed for by a Subscriber, determined by the Trustee from time to time and the price of each fractional Unit shall be the proportionate part of such price. The Trustee may establish a day or time of day by which subscriptions and redemption requests

must be received by the Trustee or its approved designate for a Fund or Series in order to be implemented at the Net Asset Value per Unit determined at the next Valuation Time. Subscriptions or redemption requests received after the time established by the Trustee will be implemented at the Net Asset Value per Unit determined at the Valuation Time on the next Valuation Date. The price of each whole Unit of any additional Fund established under this Declaration of Trust which the Trustee may issue to McLean Asset Management Ltd., prior to the issue of a receipt by the Ontario Securities Commission for the first Prospectus relating to the Units, shall be the amount determined by the Trustee in its discretion.

#### **4.8 Register to be Maintained**

The Trustee shall establish and maintain, or cause to be established and maintained by a registrar, a register and shall record or cause to be recorded therein, as the case may be, the names and latest known addresses of the Unitholders, the date and amount of each subscription and redemption, the number of Units held by Unitholders, the price at which each Unit was issued and redeemed and the identifying numbers of the statements or certificates, if any, representing Units. The Trustee or the registrar may also establish branch registers and, in that connection, delegate the functions relating to the branch registers to branch registrars. The Trustee shall provide access to the Register to Unitholders at reasonable times in accordance with Securities Legislation.

#### **4.9 Entry on Register**

Upon any issue of Units, the name of the Subscriber to whom the Units have been issued or such name as the Subscriber may direct shall be promptly entered on the Register as the holder of the number of Units so issued, or if the Subscriber is already a Unitholder, the Register shall be amended to include the Unitholder's additional Units.

#### **4.10 Effect of Registration**

The Trustee shall for all purposes be entitled to treat the Unitholder in whose name any Units are registered as the absolute owner thereof for all purposes hereunder, any notice to the contrary notwithstanding. The Trustee shall not be charged with notice of or be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any Unit and may deal with any Unit on the direction of the registered holder thereof, whether named as trustee or otherwise as though that Person were the beneficial owner thereof. Only Unitholders whose Units are recorded on the Register shall be entitled to vote or to receive distributions or otherwise exercise or enjoy the rights of Unitholders.

#### **4.11 Transfer of Units**

No transfer of Units shall be entered on the Register without the approval of the Trustee. Any transfer of Units permitted by the Trustee must comply with the practices and procedures established from time to time by the Trustee. Any person becoming entitled to any Units in consequence of the death, bankruptcy, or incompetence of any Unitholder, or otherwise by operation of law, shall be recorded on the register of Units as the holder of such Units upon production of the proper evidence thereof to the Trustee or the transfer agent, but until such record is made, the Unitholder of record shall be deemed to be holder of such Units for all purposes hereunder and neither the Trustee nor any transfer agent or registrar nor any director or agent of the Fund shall be affected by any notice of such death, bankruptcy or incompetence, or other operation of law. The Trustee may from time to time close the transfer books for such period, not exceeding 30 days, as the Trustee may determine for the purpose of determining the

Unitholders who are entitled to notice of and to vote at any meeting or to participate in any distribution or for any other purpose.

#### **4.12 Subdivision or Consolidation of Units**

The Trustee may at any time subdivide or consolidate the Units on such basis as the Trustee may in its discretion determine and the Trustee shall credit the increase or decrease in Units resulting from such subdivision or consolidation to the accounts of the Unitholder existing at the time of the subscription or consolidation. After any subdivision or consolidation, the Trustee shall give to each Unitholder such notice thereof as the Trustee may in its discretion consider reasonable in the circumstances.

#### **4.13 Unit Certificates**

No certificates representing Units shall be issued unless the Trustee otherwise permits. Any certificates so issued shall be in such form as the Trustee shall from time to time approve. The Trustee may issue a replacement certificate if it is satisfied that the original certificate has been mutilated, lost or destroyed, upon being furnished with such evidence of loss, indemnity or other document in connection therewith as it may in its discretion consider necessary. The Trustee shall be entitled to charge such fee as it determines is appropriate from time to time in respect of the issue or replacement of certificates. Confirmations of trade will be forwarded to Unitholders in accordance with Securities Legislation.

### **ARTICLE 5 SUBSCRIPTIONS, REDEMPTIONS AND TRANSFERS OF UNITS**

#### **5.1 Distribution of Units**

The Trustee shall have the power and authority to distribute, sell and enter into arrangements regarding the distribution and sale of Units, including the power and authority to charge fees of any nature or kind, including without limitation sales commissions, distribution fees, transfer fees and redemption fees in connection with the distribution, sale or redemption of Units or authorize any arrangements in connection with the payment of such fees. Any such fees may be deducted from the amount of a subscription, redemption proceeds or a distribution if not paid separately.

#### **5.2 Subscription for Units**

Subscriptions shall be made in the form and manner (including a requirement for subscription guarantees) prescribed by the Trustee from time to time. The Trustee may from time to time fix a minimum amount for the subscription for Units by a Subscriber and the minimum amount for subsequent subscriptions by a Unitholder. The Trustee may, in its discretion, waive such minimum amount for any Subscriber. The Trustee may also at any time require a Unitholder to subscribe for Units if authorized to do so pursuant to Securities Legislation.

#### **5.3 Acceptance of Subscription and Issue of Units**

The Trustee reserves the right to accept or reject subscriptions for Units in whole or in part in its sole discretion. The Trustee shall issue to the Subscriber the Units for which a subscription has been accepted promptly after the Valuation Time at which the price of such Units has been determined by the Trustee. Upon rejection of a subscription, the Trustee shall make a prompt refund to the Subscriber of all moneys received in connection with the subscription without interest or deduction.

#### **5.4 Redemption by Unitholder and Timely Settlement**

Each Unitholder shall be entitled at any time to make a redemption request to the Trustee, in the form and manner (including a requirement for signature guarantees) prescribed by the Trustee from time to time, requiring the Trustee to redeem all or any part of the Units held by such Unitholder. Subject to section 5.8, a redemption request shall be implemented at the price per Unit set forth in section 4.7.

#### **5.5 Redemption at the Demand of the Trustee**

- 5.5.1 The Trustee may at any time require a Unitholder to redeem Units if permitted or required to do so pursuant to Securities Legislation.
- 5.5.2 The Trustee may also, in its discretion and at any time, require any Unitholder who holds, or who, following a redemption pursuant to section 5.4, would hold, Units having an aggregate Net Asset Value per Unit of less than the amount specified by the Trustee from time to time to redeem the remaining Units held by the Unitholder. Such redemption shall be implemented at the price per Unit set forth in section 4.7 at the Valuation Time on the Valuation Date applicable to such redemption.
- 5.5.3 The Trustee may also, in its discretion and at any time, require any Unitholder to redeem any Units of a Series held by the Unitholder which the Unitholder is ineligible to hold according to the criteria specified by the Trustee from time to time. Such redemption shall be implemented at the price per Unit set forth in section 4.7 at the Valuation Time on the Valuation Date applicable to such redemption.

#### **5.6 Payment upon Redemption**

The Trustee shall pay to each Unitholder who has requested redemption pursuant to section 5.4 or whose Units are being redeemed pursuant to section 5.5, out of the Property of the applicable Fund, an amount equal to the price per Unit set forth in section 4.7, as the case may be, multiplied by the number of Units to be redeemed, together with the proportionate share attributable to such Units of any distribution of net income and net realized capital gains of the Fund which has been declared and not paid, and any Management Fee Distributions attributable to such Units which have accrued and not yet been paid, at or prior to the relevant Valuation Time and less any redemption or other fees payable by the Unitholder. The payment shall be made promptly after receipt of a redemption request in proper form, provided that a Subscriber's cheque in payment for the purchase of any Units being redeemed has been cleared. The determination of the price per Unit for Units being redeemed shall constitute the redemption of those Units being redeemed and the Unitholder shall thereafter cease to have any further rights with respect to such Units and, upon payment of the redemption proceeds determined in accordance with this section 5.6, the Trustee shall be discharged from all liability to the Unitholder with respect to the Units so redeemed and the amount so paid.

#### **5.7 Manner of Payment**

Payment for redemption shall be made in such currency approved by the Trustee by cheque payable to or to the order of the Unitholder or by such other manner of payment approved by the Trustee from time to time, or by delivery of property provided the Trustee has received the prior written consent of the Unitholder. The payment, if made by cheque, shall be conclusively deemed to have been made upon hand-delivery of a cheque to the Unitholder or to his agent duly authorized in writing or upon the

mailing of a cheque by prepaid first-class mail addressed to the Unitholder at his address as it appears on the Register unless the cheque is not paid on presentation. The Trustee may issue a replacement cheque if it is satisfied that the original cheque has not been received or has been lost or destroyed, upon being furnished with such evidence of loss, indemnity or other document in connection therewith that it in its discretion considers necessary.

#### **5.8 Temporary Suspension of Redemption Right**

Notwithstanding anything herein contained or the giving of any notice provided for in this Declaration of Trust, the Trustee may suspend or postpone, or continue a suspension or postponement of, the right to redeem Units and may postpone the date of payment upon redemption for any period, provided that such suspension or postponement complies with Securities Legislation or is with the consent of Securities Authorities.

#### **5.9 Payment Where Redemption Suspended**

If the Trustee suspends redemption of Units pursuant to section 5.8 and the Net Asset Value per Unit has not yet been determined for the purpose of the implementation of redemption requests received prior to the suspension of redemptions, the Valuation Time for the implementation of such redemptions shall be the next following Valuation Time after the suspension of redemptions has been ceased.

#### **5.10 Partial Redemption Permitted**

The Trustee may redeem some of the Units whose redemption has been requested by Unitholders and postpone or suspend the redemption of the remaining Units of such Unitholders pursuant to the provisions of section 5.8. Any partial redemption shall be pro rata according to the number of Units held by each Unitholder.

### **ARTICLE 6 DIRECTORS**

#### **6.1 Appointment**

In its discretion, the Trustee may appoint, or cause to be appointed, elected or otherwise selected in such manner as required by Securities Legislation, a board of directors, trustees, governors, or an advisory committee, independent review committee or other similar entity of a Fund which shall consist of such number of persons as the Trustee shall determine from time to time or as required by Securities Legislation. The remaining provisions of this Article 6 and of Article 7 are subject to compliance with Securities Legislation.

#### **6.2 Term of Office**

Each Director appointed hereunder shall (except as provided in section 6.3 hereof) hold office until his successor has been appointed and while he is qualified to serve as Director.

#### **6.3 Qualifications of Directors**

The Trustee may impose such qualifications, requirements and limitations on the Directors of a Fund from time to time as it considers appropriate or as required by Securities Legislation which may

include the requirement to be unrelated to or independent of the Fund.

#### **6.4 Appointment of Directors**

The appointment of any Director shall not become effective unless and until such person shall have accepted in writing his appointment.

#### **6.5 Resignation, Removal and Death of Directors**

A Director appointed hereunder may resign at any time by an instrument in writing signed by him and delivered or mailed to the Trustee. Such resignation shall take effect on the date such notice is given or at any later time specified in the notice. A Director may be removed at any time with or without cause by an instrument in writing signed by the Trustee and delivered or mailed to such Director at his latest known address as disclosed by the records of the Trustee, such removal to be effective upon the date specified in the instrument. Upon the resignation or removal of any Director, or his otherwise ceasing to be a Director, he shall execute and deliver such documents as the Trustee shall reasonably require and shall thereupon be discharged as Director. Upon the incapacity or death of any Director, his legal representative shall execute and deliver on his behalf such documents as the Trustee may require as provided in this section.

#### **6.6 Vacancies**

The term of office of a Director appointed hereunder shall terminate and a vacancy shall occur in the event of the death, resignation, bankruptcy, adjudicated incompetence or other incapacity to exercise the duties of the office, or removal of such Director. Until vacancies are filled, the remaining Directors may exercise the powers of the Directors hereunder. In the case of vacancy, the Trustee may fill such vacancy.

#### **6.7 Remuneration**

The Trustee shall determine what, if any, remuneration is payable, by a Fund or a Series, to the Directors from time to time. The remuneration of the Directors may be paid out of the Property of a Fund or the Property of a Series.

#### **6.8 Duties and Responsibilities of Directors**

Subject to the provisions of this Declaration of Trust, the Directors of a Fund, when appointed, shall have such duties and responsibilities as considered appropriate by the Trustee or as required by Securities Legislation, which may include the duties and responsibilities to:

- 6.8.1 advise the Trustee, the Manager and any investment advisers appointed by the Trustee in matters pertaining to the investment policy of the Fund including any restriction on investments which they deem advisable;
- 6.8.2 receive and review periodic reports concerning the investment of the Fund's assets or the issue and redemption of Units and distributions to Unitholders of the Fund;
- 6.8.3 advise, review or consent to, if appropriate, any other matter required by the provisions of this Declaration of Trust or Securities Legislation; and
- 6.8.4 otherwise supervise the management of the business and affairs of the Fund.

## **ARTICLE 7 MEETINGS OF DIRECTORS**

### **7.1 Directors May Act Without Meeting**

The Directors, if any, appointed hereunder may act with or without a meeting. Any action of the Directors may be taken at a meeting by vote or without a meeting by written consent of all of the Directors.

### **7.2 Notice of Meeting**

Meetings of the Directors appointed hereunder may be held from time to time. Directors may be held without call or notice at a time and place fixed by the Directors. Notice of the time and place of any other meetings shall be mailed or otherwise given not less than 48 hours before the meeting but may be waived in writing by any Director either before or after such meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened. A notice or waiver of notice need not specify the purpose of any meeting. Meetings can be held concurrently with other investment trusts or companies having the same Manager. The Trustee or the Manager shall prepare for each meeting of the Directors a report on the affairs of the Fund from the date of the last meeting.

### **7.3 Quorum**

A quorum for all meetings of the Directors shall be at least 50% of the Directors present in person or such other quorum as is prescribed by Securities Legislation. In the absence of a quorum a majority of the Directors present may adjourn the meeting from time to time until a quorum shall be present. Notice of an adjourned meeting need not be given.

### **7.4 Voting at Meetings**

Questions arising at any meeting of the Directors shall be decided by a majority of the votes cast. In the case of any equality of votes, the chairman of the meeting, who shall be a Director appointed for that purpose by the Directors, shall not have a second or casting vote in addition to his original vote.



## **7.5 Meetings by Telephone**

Any Director may participate in a meeting of the Directors by means of a conference telephone or other communications equipment by means of which all Persons participating in the meeting can hear each other and a Director so participating shall be considered for the purposes of this Declaration of Trust to be present in person at that meeting.

## **7.6 Committees**

The Directors, by a vote of a majority of all the Directors, may elect from their own number one or more committees each to consist of not less than two Persons to hold office at the pleasure of the Directors, which shall have such duties and responsibilities as considered appropriate by the Trustee or as required by Securities Legislation. The term of membership on such committees shall be determined by the Trustee. The Directors may designate a chairman of any such committee. In the absence of such designation the committee may elect its own chairman.

The Trustee may provide for stated meetings of any committee, specify the manner of calling and notice required for special meetings of any committee, specify the number of members of a committee required to constitute a quorum and the number of members of a committee required to exercise specified powers delegated to such committee, authorize the making of decisions to exercise specified powers by written assent of the requisite number of members of a committee without a meeting, and authorize the members of a committee to meet by means of a conference telephone or other communications equipment.

# **ARTICLE 8 MEETINGS OF UNITHOLDERS**

## **8.1 Meetings**

The Trustee may at any time and from time to time call meetings of the Unitholders at a time and place determined by the Trustee.

If there is no Trustee and the Manager fails to appoint a successor Trustee pursuant to section 13.4, the Directors, if any, shall or any Unitholder may call a meeting of Unitholders to elect a successor Trustee in accordance with section 13.4.

## **8.2 Notice of Meetings of Unitholders**

Notice of all meetings of Unitholders of a Fund shall be given by the Trustee (or by the Directors or Unitholders calling a meeting pursuant to section 8.1) to each Unitholder of the Fund not less than 21 nor more than 60 days before the meeting or such other time period as is prescribed by Securities Legislation. Notice of any meeting of Unitholders shall state the time and place where the meeting is to be held and shall state briefly the general nature of the business to be transacted at the meeting, but it shall not be necessary for the notice to set out the terms of any resolution to be proposed at the meeting. A Unitholder or any other Person entitled to notice of a meeting of Unitholders may in any manner waive notice of the meeting. No notice need be given to any Unitholder who has failed to inform the Trustee of the Unitholder's current address. Attendance at a meeting of Unitholders shall constitute a waiver of notice unless the Unitholder or other Person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not properly called. Notwithstanding the

above, where Series of a Fund have been created, only those Unitholders entitled to vote pursuant to section 8.7 on the transaction of any business of the Fund shall be entitled to receive notice of a meeting of Unitholders.

### **8.3 Record Date for Notice of Meeting**

The Trustee may fix in advance a time and date, preceding the date of any meeting of Unitholders, as the record date for the determination of the Unitholders entitled to notice of the meeting. If no record date is fixed by the Trustee, the record date for notice shall be at the close of business on the Business Day immediately preceding the day on which notice is given.

### **8.4 Quorum**

At any meeting of Unitholders, two Unitholders present in person or by proxy, or one Unitholder present in person or by proxy representing a majority of the Units entitled to vote, shall constitute a quorum. If a quorum of Unitholders is not constituted within 30 minutes from the time fixed for holding any meeting of Unitholders, the meeting shall be adjourned by the chairman to a day not later than 14 days after the date of the meeting. It is not necessary to give notice of the adjourned meeting, other than by an announcement at the earlier meeting that is adjourned. If a quorum is present at the opening of a meeting, the Unitholders may proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting.

The chairman of any meeting at which a quorum of Unitholders is present may, with the consent of a majority of the Unitholders present in person or by proxy, adjourn any such meeting and no notice of any such adjournment need be given.

### **8.5 Chairman, Secretary, Scrutineers**

Any officer of the Trustee or of the Manager, or any member of the board of Directors, shall be the chairman of any meeting of Unitholders. The chairman shall appoint some Person, who need not be a Unitholder, to act as secretary of the meeting. If desired, one or more scrutineers, who need not be Unitholders, may be appointed by the chairman.

### **8.6 Record Date for Voting**

The Trustee may fix in advance a time and date as the record date for the determination of the Unitholders entitled to vote at the meeting. If a Record Date for Voting is fixed, such date shall be specified in the notice calling the meeting. If no Record Date for Voting is fixed by the Trustee the Record Date for Voting shall be 12:01 a.m. on the day of the meeting.

### **8.7 Voting**

Subject to section 4.9, holders of whole Units on the Register on the Record Date for Voting may attend and vote at all meetings of Unitholders either in person or by proxy. Any action to be taken by the Unitholders shall, except as otherwise required by this Declaration of Trust or by law, be authorized when approved by a majority of the votes cast at a meeting of Unitholders. Where Series of a Fund have been created and the general nature of the business to be transacted at a meeting concerns an issue relevant to all Unitholders of the Fund, Units of all Series shall be voted together and no Units of a particular Series shall be entitled to vote separately as a Series, otherwise only Units of those Series to which such business

is relevant shall be entitled to vote and such Units shall be voted separately as a Series.

Every question submitted to a meeting of Unitholders shall be decided in the first place by a majority of the votes cast on a poll. The poll shall be taken in such manner as the chairman may direct.

On a poll, each Unitholder present in person or represented by a duly appointed proxy shall have one vote for each whole Unit held on the Record Date for Voting. If whole Units are held jointly by two or more Persons, any one of them present in person or by a proxy at the meeting may vote in the absence of the other or others; but if more than one of them is present in person or by a proxy, they shall vote together with respect to the whole Units held jointly, provided if they do not agree how to exercise any vote to which they are jointly entitled, they shall for the purposes of the voting be deemed not to be present. The chairman of a meeting shall be entitled to vote in respect of Units held by the chairman or represented by the chairman by proxy. In the case of an equality of votes, the chairman shall not have a casting vote and the resolution shall be deemed to be defeated.

## **8.8 Proxies**

Any Unitholder entitled to vote at a meeting of Unitholders may vote in person or by proxy. The instrument appointing a proxy must be in writing and either substantially in a form which may be approved by the Trustee (or the Manager if there is no Trustee) acting reasonably or as may be satisfactory to the chairman of the meeting at which it is sought to be exercised. The instrument of proxy must be executed by the Unitholder giving the proxy or his agent duly authorized in writing and, if given on behalf of joint holders, must be executed by all of them and may be revoked by any of them, and, if given by a Unitholder which is a body corporate, must be executed on its behalf by a Person duly authorized in writing. Any Person may be appointed a proxy, whether or not that Person is a Unitholder. The Trustee may solicit instruments of proxy from the Unitholders or any of them in respect of any matter requiring or permitting the Unitholders' vote or consent. An instrument of proxy shall be deposited with the chairman of the meeting for verification before any vote is cast under its authority or at such earlier time and in such manner as the Trustee may prescribe from time to time.

An instrument of proxy executed in compliance with the foregoing shall be valid unless challenged at the time of or prior to its exercise and the Person challenging the instrument shall have the burden of proving, to the satisfaction of the chairman of the meeting at which the instrument is proposed to be used, that the instrument of proxy is invalid. Any decision of the chairman of the meeting in respect of the validity of an instrument of proxy shall be final and binding upon all Persons. An instrument of proxy shall be valid only at the meeting with respect to which it was solicited, or any adjournment thereof.

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

## **8.9 Personal Representatives**

If a Unitholder is deceased, his personal representative, upon filing with the secretary of the meeting sufficient proof of his appointment, shall be entitled to exercise the same voting rights at any meeting of Unitholders as the Unitholder would have been entitled to exercise if he were living and for the purpose of the meeting shall be considered a Unitholder. If there is more than one personal

representative the provisions of sections 8.7 and 8.8 relating to joint holders shall apply.

#### **8.10 Attendance by Others**

Any officer or director of the Trustee or the Manager, any member of the board of Directors, representative of the auditors of the Fund and other individual approved by the Trustee may attend and speak at any meeting of Unitholders.

#### **8.11 Conduct of Meetings**

To the extent that the rules and procedures for the conduct of a meeting of Unitholders are not prescribed in this Declaration of Trust, the rules and procedures shall be the rules and procedures as are determined by the chairman of the meeting and such rules and procedures shall be binding on all parties participating in the meeting.

#### **8.12 Matters on which Unitholders may Vote**

None of the following shall occur unless duly approved by at least a majority, or such greater or lesser percentage as may be required or permitted by Securities Legislation, of the votes cast by the Unitholders present in person or by proxy at a meeting of Unitholders which has been duly called and held for that purpose:

- 8.12.1 (a) an amendment to this Declaration of Trust;
- (b) a change to the Fund; or
- (c) any matter relating to the administration of the Fund,

for which the approval of the Unitholders is required by Securities Legislation, except as otherwise approved by Securities Authorities;

- 8.12.2 any other matter stated in this Declaration of Trust to be required to be consented to or approved by the Unitholders.

#### **8.13 Signed Instruments**

Except as may be required by Securities Legislation, any action which may be taken or any powers which may be exercised by the Unitholders at a meeting may also be taken and exercised by a resolution in writing signed by Unitholders who hold not less than a majority of the Units. Notice of any written resolution passed in accordance with this section 8.13 shall be given by the Trustee to the Unitholders within 30 days of the date on which the resolution was passed.

#### **8.14 Binding Effect of Resolutions**

Every resolution passed at a meeting in accordance with the provisions of this Article 8 shall be binding upon all the Unitholders, whether present at or absent from the meeting, and every resolution signed by Unitholders in accordance with section 8.13 shall be binding upon all Unitholders, whether signatories thereto or not. Subject to section 8.12, no action taken by Unitholders at any meeting of Unitholders or by a written resolution shall in any way bind the Fund or the Trustee without the approval

of the Trustee.

### **8.15 Fund-on-Fund Investments**

The Trustee shall determine procedures, in accordance with Securities Legislation the Funds from time to time, to facilitate the passing of voting rights to unitholders of a top fund on matters relating to an underlying fund in circumstances in which a Fund invests in another mutual fund or another mutual fund invests in a Fund.

## **ARTICLE 9 VALUATION OF THE FUNDS**

### **9.1 Valuation**

The Trustee shall determine, or cause to be determined, the Net Asset Value of each Fund or Series and the Net Asset Value per Unit of such Fund or Series, as applicable, as of the close of business on the day on which the Fund first issues Units to Persons other than itself and thereafter at the Valuation Time on each Valuation Date, provided that the Trustee shall not be required to determine the Net Asset Value of the Fund or Series and the Net Asset Value per Unit during any period in which the right of redemption has been suspended pursuant to Article 5. The Net Asset Value per Unit determined at a Valuation Time shall remain in effect until the next time the Net Asset Value per Unit is determined.

### **9.2 Net Asset Value**

The "Net Asset Value of a Fund" or the "Net Asset Value of a Series" of a Fund, as of any Valuation Time, shall be equal to the Fair Value of the Property of the Fund or Series, as applicable, as of that Valuation Time, less an amount equal to the Fair Value of the total expenses and liabilities of the Fund or Series, as applicable, as of the Valuation Time. The "Net Asset Value per Unit" of a Fund or Series shall be determined by dividing the Net Asset Value of such Fund or Series, as applicable, by the total number of outstanding Units of such Fund or Series, as applicable, at that Valuation Time and adjusting to the nearest cent.

Subject to section 9.3, the Fair Value of the Property and liabilities of a Fund or Series shall be determined according to the valuation practices outlined in Schedule "C" hereto.

### **9.3 Fair Value**

Despite the valuation practices outlined in this Article 9 and Schedule "C" hereto, the Trustee may determine the Fair Value of any asset or liability of a Fund if, in the sole opinion of the Trustee, the Fair Value more accurately reflects the underlying value of the asset or liability at the time of valuation. The factors contributing to whether and how the Fair Value may be established include, but are not limited to:

- 9.3.1 the type of investment and its features;
- 9.3.2 the size of the investment holdings;
- 9.3.3 the initial cost of the investment;

- 9.3.4 any restrictions on trading the investment;
- 9.3.5 the liquidity of the investment;
- 9.3.6 the last price for that investment;
- 9.3.7 the trade prices for that investment on other exchanges and markets;
- 9.3.8 the price of transactions or quotations for comparable investments;
- 9.3.9 price quotations received from brokerage firms, analysts and/or pricing services;
- 9.3.10 public information obtained from the issuer or the stock exchange where the security trades;
- 9.3.11 fundamental analytical data on the issuer;
- 9.3.12 the relationship with other investments;
- 9.3.13 market or issuer activity such as merger proposals, tender offers, debt restructuring, conversions or public offerings that may affect the value of the investment;
- 9.3.14 a review of the market where the investment is traded;
- 9.3.15 analyst's reports on that market, that issuer, or that particular investment; and
- 9.3.16 prices from trades in off-market transactions.

#### **9.4 Timing of Information for Valuation**

In calculating the Net Asset Value of a Fund, or a Series, the Trustee shall use current reported information obtained at a reasonable time prior to valuation, which information is deemed relevant by the Trustee and applicable to the valuation of such Fund or Series.

#### **9.5 Inclusion of Liabilities for Valuation Purposes**

In calculating the Net Asset Value of a Fund, or a Series of Units of a Fund, the following shall be included in the expenses and liabilities of such Fund:

- 9.5.1 all bills, notes and accounts payable of which the Fund is an obligor;
- 9.5.2 all administrative or operating expenses payable or accrued or both (including management fees);
- 9.5.3 all contractual obligations for the payment of money or property, including the amount of any unpaid distribution credited to Unitholders of the Fund on or before that Valuation Date;

- 9.5.4 all allowances authorized or approved by the Trustee for taxes (if any) or contingencies; and
- 9.5.5 all other liabilities of the Fund of whatsoever kind and nature, except liabilities represented by outstanding units of the Fund.

Where the Units of a Fund are divided into more than one Series, the Trustee in its sole discretion shall determine whether such liabilities should be allocated to a Series or to the Fund as a whole.

## **9.6 Inclusion of Assets for Valuation Purposes**

In calculating the Net Asset Value of a Fund or a Series of Units of a Fund, the following shall be included in the assets of such Fund:

- 9.6.1 all cash or its equivalent on hand, on call or on deposit, including any interest accrued;
- 9.6.2 all bills, notes and accounts receivable owned by the Fund;
- 9.6.3 all shares, debt obligations, subscription rights and other securities owned or contracted for by the Fund;
- 9.6.4 all stock and cash dividends and cash distributions to be received by the Fund and not yet received by it but declared payable to security holders of record on a date on or before that Valuation Date;
- 9.6.5 all interest accrued on any fixed interest-bearing securities owned by the Fund which is not included in the quoted price; and
- 9.6.6 all other property of the Fund of every kind and nature including prepaid expenses.

Where the Units of a Fund are divided into more than one Series, assets of the Fund are allocated to each Series of Units rateably based on that Series' proportionate share of the Fund.

## **9.7 Valuation Assumptions**

For the purposes of this Article 9:

- 9.7.1 Units of a Fund subscribed for shall be deemed to be outstanding as of the time a subscription for Units is received by or on behalf of the Fund and the amount received or receivable by the Fund shall thereafter be deemed to be an asset of the Fund; and
- 9.7.2 Units of a Fund for which a request for redemption has been received by or on behalf of the Fund are deemed to be outstanding until (and not after) the close of business on the day on which the Net Asset Value thereof is determined and thereafter, until paid, the Net Asset Value of such Units is deemed to be a liability of the Fund and the total number of Units outstanding shall be adjusted accordingly.

## **9.8 Valuation Binding**

The Net Asset Value per Unit established in accordance with the provisions of this Article shall be conclusive and binding on all Unitholders, former Unitholders and persons subscribing for Units.

#### **9.9 Power to Modify Foregoing Procedures**

Notwithstanding any of the foregoing provisions of this Article 9, the Trustee may prescribe in its absolute discretion, such other bases and times for determining the Net Asset Value per Unit for the purposes of subscriptions, redemptions and for the declaration and payment of distributions as it may deem necessary or desirable.

### **ARTICLE 10 DISTRIBUTIONS OF INCOME AND CAPITAL GAINS**

#### **10.1 Determination of Net Income and Net Capital Gains of a Fund**

The Net Income of each Fund shall be computed in accordance with the provisions of the Act regarding the calculation of income of a trust, subject to such adjustments thereto as are determined by the Trustee in respect of dividends from taxable Canadian corporations, amounts paid or payable to Unitholders and such other amounts as the Trustee in its discretion may determine, but shall not include the Net Capital Gains.

The Net Capital Gains of a Fund may be adjusted, as determined by the Trustee, for the Fund's entitlement to a capital gains refund under the Act and such other amounts as the Trustee, in its discretion, may determine.

#### **10.2 Determination of Net Income and Net Capital Gains of a Series**

Where the Units of a Fund are divided into more than one Series, the Net Income and Net Capital Gains of the Fund will be recalculated by the Trustee for each Series as though each Series was a Fund, provided that the Net Income of the Fund, before the deduction of expenses and distributions, and the Net Capital Gains of the Fund, before the deduction of distributions, will be allocated by the Trustee rateably among the Series from time to time based on the relative Net Asset Value of the Series and provided that no Series of the Fund may have Net Income or Net Capital Gains which is less than zero for a taxation year of the Fund when another Series of the Fund has Net Income or Net Capital Gains that is greater than zero.

#### **10.3 Annual Distributions of Net Income and Capital Gains**

As of the close of business on the last Business Day in a calendar year, the Trustee shall determine, and declare and credit as due and payable to Unitholders, the Proportionate Share of the Net Income of each Fund or Series, as applicable, for the taxation year of the Fund ending in that calendar year, after reducing such amounts by any amounts paid or payable in the calendar year to the Unitholders pursuant to section 10.7, for each person who was a Unitholder on the Register on the last Business Day in that calendar year.

Each Unitholder entitled to such share of the Net Income of a Fund or Series as aforesaid shall be entitled, as of the last Business Day in each calendar year, to receive cash payment by cheque of such share of the Net Income of the Fund or Series for the taxation year ending in that calendar year in such currency as the Trustee shall determine provided that the Unitholder notifies the Manager or the transfer



agent in writing at least five Business Days prior to the day on which such distributions are to be paid. Failing such notice, the obligation of a Fund to pay a Unitholder its share of such Net Income of the Fund or Series shall be satisfied as of the last Business Day in each calendar year by the reinvestment of the share of such Net Income in additional Units at the Net Asset Value Per Unit determined for that Business Day and those additional Units shall be credited, as of that Business Day, to each Unitholder. The minimum investment requirement of section 5.2 does not apply to such automatic reinvestment.

For the purposes of this section 10.3, the meaning of the term "Proportionate Share" shall exclude Units which are acquired pursuant to section 10.4 or this section 10.3 as of that Business Day and the Unitholders holding such Units shall not in respect thereof be entitled to a Proportionate Share of the Net Income for that day.

#### **10.4 Annual Distribution of Net Capital Gains**

As of the close of business on the last Business Day in a calendar year, the Trustee shall determine, and declare and credit as due and payable to Unitholders, the Proportionate Share of the Net Capital Gains of each Fund or Series, as applicable, for the taxation year of the Fund ending in that calendar year, after reducing such amounts by any amounts paid or payable in the calendar year to the Unitholder pursuant to section 10.7, for each person who was a Unitholder on the Register on the last Business Day in that calendar year.

Each Unitholder entitled to such share of the Net Capital Gains of a Fund or Series as aforesaid shall be entitled, as of the last Business Day in the calendar year, to receive cash payment by cheque of such share of the Net Capital Gains of the Fund or Series for such calendar year in such currency as the Trustee shall determine provided that the Unitholder notifies the Manager or the transfer agent in writing at least five Business Days prior to the day on which such distributions are to be paid. Failing such notice, the obligation of a Fund to pay a Unitholder its share of such Net Capital Gains shall be satisfied as of the last Business Day of each calendar year by the reinvestment of the share of such Net Capital Gains in additional Units at the Net Asset Value Per Unit determined for that Business Day and those additional Units shall be credited, as of that Business Day, to each Unitholder who has not so notified the Manager or the transfer agent. The minimum investment requirement of section 5.2 does not apply to such automatic reinvestment.

For the purposes of this section 10.4, the meaning of the term "Proportionate Share" shall exclude Units which are acquired pursuant to section 10.3 or this section 10.4 as of that Business Day and the Unitholders holding such Units shall not in respect thereof be entitled to a Proportionate Share of the Net Capital Gains for that day.

#### **10.5 Enforcement of Payment**

For greater certainty, each Unitholder entitled to receive a Proportionate Share pursuant to section 10.3, 10.4 or 10.7 shall be entitled to enforce payment thereof.

#### **10.6 Amount Due and Payable**

Notwithstanding the foregoing, the total amount due and payable pursuant to sections 10.3 and 10.4 within a calendar year calculated on the last Business Day of any calendar year shall not be less than that amount necessary to ensure that the Fund will not be liable for income tax under Part I of the Act for the taxation year of the Fund ending in that calendar year, after taking into account any entitlement to a

capital gains refund and distributions already paid during such calendar year to Unitholders, and such payment shall be considered to have been declared by the Trustee and credited as due and payable to Unitholders on the Register as of the close of business on the last Business Day of such calendar year.

#### **10.7 Other Distributions**

In addition to the distributions made to Unitholders pursuant to sections 10.3 and 10.4, the Trustee may declare and make distributions from time to time out of the Net Income or the Net Capital Gains of a Fund or a Series for any year or otherwise, including distributions of capital, in such amounts per Unit, payable at such time or times in that year and to Unitholders on the Register at the record date for distribution in respect of such distribution, as the Trustee from time to time may determine. All such distributions made as aforementioned shall be paid to Unitholders in the proportions and manner set forth in sections 10.3 and 10.4 hereof. In the event that the Manager agrees to accept a management fee with respect to the Units held by a Unitholder which is less than that otherwise payable by a Fund, the Trustee may distribute an amount equal to such reduction in the management fee to such Unitholder (a "Management Fee Distribution"). Management Fee Distributions shall be calculated on each Business Day and distributed at such intervals as determined from time to time by the Trustee 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 Fee Distributions are made to the extent required so that the Fund will not have any obligation under Part I of the Act after taking into consideration any entitlement to a capital gains refund under the Act and otherwise out of capital. The Trustee may fix in advance a time and date, preceding the date on which it declares any distribution, other than a Management Fee Distribution, as the record date for the determination of the Unitholders entitled to receive the distribution. If no record date for distribution is fixed by the Trustee, the record date for distribution, other than a Management Fee Distribution, shall be 12:01 a.m. on the day on which the distribution is declared. The record date for a Management Fee Distribution shall be the date on which it is determined to pay such Management Fee Distribution.

#### **10.8 Designation of Taxable Dividends, Taxable Capital Gains and Foreign Source Income**

In accordance with and to the extent permitted by the Act, the Trustee in each year shall make designations in respect of the amounts payable to Unitholders for such amounts that the Trustee considers to be reasonable in all of the circumstances, including designations in respect of a Fund relating to taxable dividends received in the year on shares of taxable Canadian corporations, Net Capital Gains realized in the year and foreign source income in the year.

#### **10.9 Discontinuance of Entitlement to Net Income or Net Capital Gains**

If there is any change in the tax treatment accorded to income or capital gains received or realized by a Fund the Trustee may in its discretion alter the method of distributing or discontinue the distribution of the Net Income or Net Capital Gains.

#### **10.10 Income Tax Information**

The Trustee shall provide each Unitholder with all information for income tax purposes with respect to a Fund that is required by law to be supplied to Unitholders.

### **10.11 Alternate Distribution Methodology**

Notwithstanding anything to the contrary in this Article 10, the Trustee may, from time to time, adopt a distribution policy containing an alternate distribution methodology for determining the amounts to be credited, allocated, made payable or distributed, as the case may be, to one or more Unitholders of any Series of a Fund who has redeemed Units of such Series. Where the Trustee has adopted such a distribution policy, the Trustee shall have the power to make allocations, credit amounts and pay distributions in cash, Units or fractions thereof, or otherwise, to Unitholders of such Series or to any Unitholders designated by the Trustee in its discretion, whether out of income, capital, earnings, profits, capital gains or surplus, and to make allocations to such Unitholders of costs, expenses, losses and deficits in respect of or to any Unitholder designated by the Trustee in its discretion, as may be determined in accordance with such distribution policy.

## **ARTICLE 11 AMENDMENTS TO THE DECLARATION OF TRUST**

### **11.1 Amendments by the Trustee without Notice**

The Trustee, with the approval of the Directors, may, without the approval of, or any notice to, the Unitholders, amend this Declaration of Trust for the following purposes:

- 11.1.1 ensuring continuing compliance with Securities Legislation, the Act and other applicable laws in effect from time to time;
- 11.1.2 providing additional protection for Unitholders;
- 11.1.3 dealing with minor or clerical matters or correcting typographical mistakes, ambiguities or omissions or errors;
- 11.1.4 facilitating the administration of the Fund as a mutual fund trust or making amendments or adjustments in response to any existing or proposed amendments to the Act which might otherwise adversely affect the tax status of the Fund or its unitholders; or
- 11.1.5 amending the provisions of the Declaration of Trust, if the Trustee is of the opinion that the amendment is not prejudicial to Unitholders and is necessary or desirable;

but the Trustee shall not be liable for failing to do so.

### **11.2 Amendments by the Trustee with Notice**

In addition to the amending powers in section 11.1 and subject to sections 2.1 and 8.12, the Trustee in its discretion may amend the provisions of the Declaration of Trust after giving the Unitholders of the Series affected by the amendment at least 30 days' prior notice of the proposed amendment.

### **11.3 Supplemental Declarations of Trust**

The Trustee is authorized to execute any supplemental declarations of trust to give effect to amendments to the Declaration of Trust made pursuant to this Article 11.

**ARTICLE 12**  
**TERMINATION OF THE TRUST**

**12.1 Term of the Trust**

Each Fund shall continue in force unless otherwise terminated in accordance with the provisions of the Declaration of Trust. Notwithstanding the above, the Fund shall be terminated not later than twenty-one years after the death of the last survivor of the descendants of Her Majesty Queen Elizabeth II of the United Kingdom of Great Britain living at the date of the Declaration of Trust.

**12.2 Termination of the Trust**

The Trustee may, at any time, in its discretion determine to terminate a Fund or Series and is empowered to take all steps necessary to effect the termination of such Fund or Series, including, without limitation, ceasing the distribution or redemption of Units and liquidating the assets of such Fund or those attributable to such Series. The Trustee shall give notice to Unitholders of the Fund or Series not less than 30 days prior to the date when such termination shall take effect, unless Securities Legislation or an order of the Securities Authorities prescribes a lesser notice or eliminates the requirement for notice. Subject to the consent of the Ontario Securities Commission during such notice period, the right of Unitholders of the Fund or Series to require payment for their Units is suspended. Prior to the termination of the Fund, the Trustee shall discharge the liabilities of the Fund or those attributable to the Series and distribute the net assets of the Fund or those attributable to the Series to Unitholders, which distribution may be made at such time or times and in cash or in kind or partly in both, all as the Trustee in its discretion may determine and all of the powers of the Trustee under the Declaration of Trust shall continue until the affairs of the Fund have been wound up including the power to fulfil or discharge the contracts of the Fund, collect its assets, sell, convey, assign, exchange, transfer or otherwise dispose of all or any part of the remaining Property to one or more persons at public or private sale for consideration which may consist in whole or in part of cash, securities or other property of any kind, discharge or pay its liabilities, and do all other acts appropriate to liquidate its business. After all liabilities of the Fund or those attributable to the Series have been discharged, upon receipt of such releases, indemnities as the Trustee deems necessary for its protection, and after all distributions have been made to Unitholders, the Fund or Series shall be deemed to be terminated. The Trustee shall be under no obligation to invest the proceeds of any sale of securities, investments or other assets or cash forming part of the Fund or attributable to the Series after the Business Day on which termination occurs and, after such sale, the sole obligation of the Trustee under the Declaration of Trust shall be to distribute such proceeds in accordance with this section.

**ARTICLE 13**  
**RESIGNATION AND REMOVAL OF THE TRUSTEE**  
**AND SUCCESSOR TRUSTEES**

**13.1 Resignation of the Trustee**

The Trustee may resign from the Funds by giving notice to the Unitholders and to the Manager not less than 60 days prior to the date when such resignation shall take effect. Subject to section 13.4, the resignation shall take effect on the date specified in the notice, unless prior to that date a successor Trustee has been appointed in accordance with this Article in which case the resignation shall take effect immediately upon the appointment of the successor Trustee or upon a date otherwise agreed to by the Manager and the successor Trustee. Upon the appointment of a successor Trustee, the previous Trustee, at its own expense, will immediately transfer and assign the Declaration of Trust and transfer all assets of

the Fund together with all records that the Trustee is required to maintain to the successor Trustee.

### **13.2 Removal of the Trustee**

The Trustee may be removed by the Manager, with or without cause, with the consent of the Directors, if any, at any time by notice to the Trustee not less than 60 days prior to the date that the removal is to take effect, provided that a successor Trustee is appointed in accordance with this Article or the Fund is terminated in accordance with Article 12.

### **13.3 Vacancy**

The term of office of the Trustee shall automatically terminate and a vacancy shall occur in the event of the bankruptcy of the Trustee or other incapacity of the Trustee to exercise its duties under the Declaration of Trust. During such vacancy, the Manager, or failing a Manager, the Directors, if any, shall have all the powers and authorities of the Trustee hereunder which are necessary to carry out the terms of the Declaration of Trust. Subject to section 13.4, no vacancy shall operate to annul the Declaration of Trust or affect the continuity of the Funds.

### **13.4 Appointment of Successor**

If pursuant to this Article the Trustee gives notice of its intention to resign or is given notice that it is to be removed or becomes incapable of acting or if, for any reason, a vacancy occurs in the office of Trustee, a successor Trustee shall forthwith be appointed by the Manager with the consent of the Directors, if any, to fill such vacancy. If the Manager shall fail to appoint a successor Trustee within 60 days after the notice is given or the vacancy occurs, the Directors, or if there are no Directors or if the Directors shall fail to call a meeting within 30 days of such failure, any Unitholder shall call a meeting of Unitholders within 60 days thereafter for the purpose of appointing a successor Trustee. If, upon the expiry of a further 90-day period, the Directors or the Unitholders have not appointed a successor Trustee, the Funds shall be terminated forthwith and the Property shall be distributed in accordance with the provisions of Article 12. The Trustee shall continue to act as Trustee until all of the Property has been so distributed unless there is a vacancy in the office of Trustee pursuant to section 13.3, in which event the Manager shall distribute all of the Property in accordance with the provisions of Article 12.

### **13.5 Successor Trustees**

The right, title and interest of the Trustee in and to the Property shall vest automatically in any Person who may hereafter become Trustee upon its due appointment without any further act. Upon the termination, resignation or removal of a Trustee, it shall automatically cease to have any right, title or interest in any of the Property and the authorities, rights, title, privileges, powers, duties, immunities and interest of such Trustee in the Property shall vest automatically in the successor Trustee. Such right, title and interest shall vest in the successor Trustee whether or not conveyancing documents have been executed and delivered in connection therewith.

**ARTICLE 14**  
**LIABILITY AND INDEMNIFICATION OF THE**  
**TRUSTEE AND OTHERS**

**14.1 Liability**

All investments of a Fund made by or upon the direction of the Trustee shall be for the benefit and at the sole risk of such Fund and its Unitholders.

The Trustee, its officers, directors or employees shall not be liable to any Fund or to any Unitholder or other Person for any loss or damage relating to any matter regarding a Fund, including any loss or diminution in the value of the Property, arising from the exercise by the Trustee of any powers or authorities conferred by the Declaration of Trust. Further, the Trustee shall not be liable to any Fund or to any Unitholder or other Person for joining in any receipt, or for any loss or damage caused to a Fund through the insufficiency or deficiency of any security in or upon which any of the Property shall be laid out or invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any Person with whom or which any of the Property shall be lodged or deposited, or for any other loss or damage which may happen in the execution by the Trustee of its duties hereunder. If the Trustee or any of its officers, directors or employees is made a party to any suit, it or they shall not be held to any personal liability. This section 14.1 shall not apply if the loss or damage is as a result of the failure of the Trustee to meet its standard of care set out in section 3.6 hereof.

**14.2 Indemnification of the Trustee**

The Trustee, its officers, directors and employees shall at all times be indemnified and saved harmless out of the Property from and against all claims whatsoever, including costs (including legal costs on a solicitor and his own client basis), charges and expenses in connection therewith, brought, commenced or prosecuted against it for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to a Fund and also from and against all other costs (including legal costs on a solicitor and client basis), charges, and expenses which it sustains or incurs in or about or in relation to the affairs of a Fund, provided such claims, costs, charges and expenses were not incurred as a result of the failure of the Trustee to meet its standard of care set out in section 3.6 hereof and the Trustee has reasonable grounds to believe that the action or inaction that caused the payment was in the best interests of the Fund.

**14.3 Reliance upon Advice**

The Trustee, its officers, directors and employees may rely and act upon any statement, report or opinion prepared by or any advice received from the Manager, investment advisers, auditors, solicitors or other Persons and shall not be responsible or held liable for any loss or damage resulting from so relying or acting except as may be incurred as a result of the failure of the Trustee to meet its standard of care set out in section 3.6 hereof. The Trustee, its officers, directors, and employees shall not be bound to act upon such statement, report, opinion or advice and shall not be responsible for any loss or damage resulting from not so acting, except as may be incurred as a result of the failure of the Trustee to meet its standard of care set out in section 3.6 hereof.

**14.4 No Liability of Unitholders**

No Unitholder shall be held to have any personal liability as such to any Person, and no resort

shall be had to his private property, for satisfaction of any obligation in respect of, or claim arising out of or in connection with the Property or the acts, contracts, obligations or affairs of a Fund or of the Trustee or any obligation in respect of which a Unitholder would otherwise have to indemnify the Trustee for any liability incurred by the Trustee, but rather the Property only is intended to be liable and subject to levy or execution for satisfaction of any obligation or claim.

#### **14.5 Indemnification of Unitholders**

If, contrary to the provisions of section 14.4, any Unitholder shall be held personally liable as such to any other person in respect of any debt, liability or obligation incurred by or on behalf of a Fund, or any action taken on behalf of a Fund, such Unitholder shall be entitled to indemnity and reimbursement out of such Fund to the full extent of such liability and to the costs of any litigation or other proceedings in which such liability shall have been determined, including without limitation the fees and disbursements of counsel. The rights accruing to a Unitholder under this section 14.5 shall not impair 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 circumstance even though not specifically provided herein.

#### **14.6 Indemnification of Others**

Subject to compliance with Securities Legislation, the Trustee may indemnify and save harmless any Person (including any Director) out of the Property of a Fund from and against all claims whatsoever, including costs, charges and expenses in connection therewith, brought, commenced or prosecuted against it for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of its duties to the Fund and also from and against all other costs, charges and expenses which it sustains or incurs in or about or in relation to the affairs of the Fund.

#### **14.7 Indemnification by Series**

Where Series have been created, any indemnification or reimbursement required by this Article 14 shall be made first out of the assets of the one or more Series in respect of which a claim arose. If such assets shall become exhausted, such remaining amounts required for indemnification or reimbursement shall be made proportionately out of the assets of the other Series.

### **ARTICLE 15 GENERAL**

#### **15.1 Execution of Instruments**

The Trustee shall have authority to sign on behalf of the Fund all instruments and any instruments so signed shall be binding upon the Fund without any further authorization or formality. The Trustee shall have power from time to time to appoint any Person on behalf of the Fund either to sign instruments generally or to sign specific instruments.

#### **15.2 Manner of Giving Notice**

Any notice or other communication required or permitted to be given to a Unitholder or the Trustee hereunder shall be in writing and shall be given by mail, facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any notice or other communication, if

mailed at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, shall be deemed to have been received on the fifth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at that address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of name or address shall also be governed by this section. In the event of a general discontinuance of postal service due to strike, lockout or otherwise, notices or other communications shall be delivered by hand or sent by facsimile or other means of electronic communication and shall be deemed to have been received in accordance with this section. Notwithstanding the foregoing, notices respecting subscriptions for Units and redemption requests shall be given in the manner determined pursuant to Article 5 hereof and shall be deemed to be received as of the day on which they are actually received by the Trustee. Notices and other communications shall be addressed as follows:

15.2.1 if to a Unitholder to his address as shown on the Register; and

15.2.2 if to the Trustee:

McLean Asset Management Ltd.  
as trustee of the ROMC Mutual Funds  
1 Richmond Street West, Suite 701  
Toronto, Ontario M5H 3W4

Attention: President

E-mail: davidmclean@mamgmt.com

### **15.3 Failure to Give Notice**

The failure by the Trustee, by accident or omission or otherwise unintentionally, to give any Unitholder any notice provided for herein shall not affect the validity, effect, taking effect or time of taking effect of any action referred to in the notice, and the Trustee shall not be liable to any Unitholder for any such failure to give notice.

### **15.4 Undelivered Notices**

If the Trustee sends a notice or other document to a Unitholder in accordance with section 15.2 and the notice or document is returned on three consecutive occasions, the Trustee is not required to send any further notices or documents to the Unitholder until the Unitholder informs the Trustee in writing of his new address.

### **15.5 Auditors**

The auditors of the Funds shall be as specified in the Prospectus. If at any time a vacancy occurs in the position of auditors of the Funds, the Trustee shall appoint a firm of chartered accountants to act as the auditors of the Funds. The auditors of the Funds shall report to the Trustee and the Unitholders on the annual financial statements of the Funds and shall fulfil such other responsibilities as they may properly be called upon by the Trustee to assume. The auditors shall have access to all records relating to the



affairs of the Funds which are reasonable and necessary for them to fulfil their responsibilities and are entitled to attend meetings of Unitholders. The auditors' remuneration shall be fixed by the Trustee from time to time.

#### **15.6 Fiscal Year**

The fiscal year of each Fund shall from time to time be determined by the Trustee.

#### **15.7 Taxation Year**

The taxation year of each Fund shall be determined by the Trustee, subject to the provisions of the Act.

#### **15.8 Reports to Unitholders and Statements of Units Held**

The Trustee shall annually provide the Unitholders with information which may be required by them in connection with their obligations under the Act. The Trustee may send Unitholders such other more frequent reports regarding a Fund as it considers desirable.

#### **15.9 Legal Title**

The Trustee shall register the securities or other Property in its own name, the name of the Fund or in the names of nominees, including sub-custodians or any domestic or foreign depository for securities or clearing agency, or may hold such securities or other Property in bearer form, all on such terms as the Trustee may determine provided that the interest of the Fund therein is deemed appropriately protected. The Trustee is hereby expressly empowered to keep the same, wholly or partly, at its offices or at the offices of any custodian or sub-custodian appointed by or on behalf of the Trustee on behalf of the Fund on such terms as the Trustee authorizes so long as records are kept or required to be kept to identify the Property as part of the Fund.

#### **15.10 Trustee or Manager May Hold Units**

Except as otherwise provided herein, the Trustee, the Manager or any Affiliate of the Trustee or the Manager may be a Unitholder.

#### **15.11 Consolidations and Restatements**

The Trustee may prepare consolidated copies or restatements of the Declaration of Trust and may certify the same to be a true consolidated copy or restatement of the Declaration of Trust. Such consolidated copy or restatement of the Declaration of Trust may include any amendment which the Trustee is empowered to adopt, whether or not such amendment has been adopted prior to such consolidation or restatement.

#### **15.12 Reliance upon the Trustee**

Any Person dealing with a Fund in respect of any matters pertaining to the Property and any right, title or interest therein or to the Fund shall be entitled to rely on a certificate, statutory declaration or resolution executed or certified by the Trustee as to the (a) capacity, power and authority of the Trustee or any other Person to act for and on behalf and in the name of the Fund, (b) the due authorization of the

execution of any instrument or writing, (c) the form of any vote passed at a meeting of Directors or Unitholders, (d) the fact that the number of Directors or Unitholders present at any meeting or executing any written instrument satisfies the requirements of the Declaration of Trust, or (e) the existence of any fact or facts which in any manner relate to the affairs of the Fund. No Person dealing with the Trustee shall be bound to see to the application of any funds or property passing into the hands or control of the Trustee. The receipt of the Trustee for monies or other consideration shall be binding upon a Fund.

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

**McLEAN ASSET MANAGEMENT LTD.**, as  
Trustee

By: "David McLean"  
Name: David McLean  
Title: President

**SCHEDULE "A"**

**LIST OF FUNDS, INVESTMENT OBJECTIVES AND SERIES**

(March 29, 2016)

<b>FUND</b>	<b>INVESTMENT OBJECTIVE</b>	<b>SERIES OF UNITS</b>
ROMC Fund	The Fund's investment objective is to provide long-term growth in capital by investing primarily in equity securities of business and the world considered by the Manager to be undervalued. Investments may include common and preferred shares, convertible debentures, government and corporate bonds and short-term indebtedness.	Salary series Performance-fee series
ROMC Trust	The Fund's investment objective is to provide long-term growth in capital by investing primarily in equity securities of business and the world considered by the Manager to be undervalued. Investments may include common and preferred shares, convertible debentures, government and corporate bonds and short-term indebtedness.	Series A Series F

**IN WITNESS WHEREOF** the Trustee has caused this Schedule "A" to the Declaration of Trust to be executed on the date first above written.

**McLEAN ASSET MANAGEMENT LTD.**, as  
Trustee

By:           "David McLean"            
Name: David McLean  
Title: President

**SCHEDULE "B"**

**INVESTMENT RESTRICTIONS AND OTHER PROVISIONS**

(March 29, 2016)

With respect to investments of each Fund, except as otherwise approved by Securities Authorities, the Trustee shall adopt the standard investment restrictions and practices prescribed by Securities Authorities as set out in National Instrument 81-102 or any successor Securities Legislation thereto, as amended from time to time.

**IN WITNESS WHEREOF** the Trustee has caused this Schedule "B" to the Declaration of Trust to be executed on the date first above written.

**McLEAN ASSET MANAGEMENT LTD.,** as  
Trustee

By:           "David McLean"          

Name: David McLean

Title: President

## SCHEDULE "C"

### CALCULATION OF NET ASSET VALUE

1. Valuation of Cash, Bills and Notes: cash on hand or on deposit, bills and notes and accounts receivable, prepaid expenses, cash dividends and interest declared or accrued and not yet received shall be valued at their full amount, unless the Trustee determines that any such asset is not worth the full amount. In which case the value shall be deemed to be the value which the Trustee reasonably believes is the Fair Value;
2. Valuation of Securities:
  - (a) securities listed on a public securities exchange shall be valued at their Closing Sale Price as reported to the Trustee, on that Valuation Date or, if no sale is reported to have taken place on that Valuation Date, at a recent bid price prior to valuation on that Valuation Date;
  - (b) unlisted securities of the Fund traded on an over-the-counter market shall be valued at the Closing Price as reported to the Trustee, on that Valuation Date;
  - (c) money market instruments shall be valued according to the amortized cost method or on a mark-to-market basis using recent bid market quotations from independent brokers or other reputable sources;
  - (d) securities and other assets for which market quotations are not readily available shall be valued at their Fair Value as determined by the Trustee;
3. Valuation of Derivative Securities:
  - (a) long positions in options or debt-like securities shall be valued at the current market value of the position;
  - (b) for options written by the Fund:
    - (i) the premium received by the Fund for these options shall be reflected as a deferred credit that shall be valued at an amount equal to the current market value of the option that would have the effect of closing the position;
    - (ii) any difference resulting from the revaluation shall be treated as an unrealized gain or loss on investments;
    - (iii) the deferred credit shall be deducted in calculating the Net Asset Value of the Fund or Series;
    - (iv) any securities that are the subject of a written option shall be valued at their current market value;
  - (c) the value of a forward contract or swap shall be the gain or loss on the contract that would be realized if, on the Valuation Date, the position in the forward contract or swap were to be closed out;
  - (d) the value of a futures contract shall be:

- (i) if daily limits imposed by the futures exchange through which the futures contract was issued are not in effect, the gain or loss on the futures contract that would be realized if, on the Valuation Date, the position in the futures contract were to be closed out; or
    - (ii) if daily limits imposed by the futures exchange through which the futures contract was issued are in effect, based on the current market value of the underlying interest of the futures contract;
  - (e) margin paid or deposited on futures or forward contracts shall be reflected as an account receivable and if not in the form of cash, shall be noted as held for margin;
4. Valuation of Securities and Derivatives - General:
- (a) any asset or liability quoted in foreign currencies shall be translated to Canadian dollars based on the rate of exchange existing on that Valuation Date as quoted by a reliable bank or other agent, determined by the Trustee;
  - (b) securities, other than certain derivatives, the resale of which is restricted or limited by means of a representation, undertaking or agreement by the Fund or its predecessor in title or by law ("restricted securities") shall be valued at the lesser of:
    - (i) the value based upon reported quotations of that restricted security in common use; and
    - (ii) that percentage of the market value of the securities of the class or series of a class of which the restricted security forms part that are not restricted securities, equal to the percentage that the Fund's acquisition cost was of the market value of the securities at the time of acquisition, but taking into account, if the Trustee determines it appropriate, the amount of time remaining until the restricted securities will cease to be restricted securities;
5. Notwithstanding the provisions of this Schedule "C":
- (a) if securities are interlisted or traded on more than one exchange or market, the Trustee shall use the Closing Sale Price or Closing Price or a recent bid price prior to valuation, as the case may be, reported on the exchange or market determined by the Trustee to be the principal exchange or market for such securities; and
  - (b) if in respect of any securities a Closing Sale Price or Closing Price or a recent bid price is unavailable on Valuation Date, the securities shall be valued at their Fair Value as determined by the Trustee; and
6. Valuation of Commodities: Any commodities permitted for investment by the Fund shall be generally valued at a recent bid price on the Valuation Date where the Trustee determines the commodities are commonly priced. In certain circumstances, the Trustee may use Fair Value to determine the price of commodities.