



# Terms and Conditions

A copy of this Agreement is provided to you with the Account Application. By signing the Account Application you have acknowledged receipt of this Agreement and agree to be bound by it. If this Agreement has been provided to you other than with an Account Application, you acknowledge receipt of this Agreement and agree to be bound by it unless you contact us within 15 calendar days of receiving it. This Agreement is effective upon the opening of your account. You waive notice of our acceptance of this Agreement .

# Terms and Conditions

## Table of Contents

Definitions and Interpretation	1
General Provisions	1
General Terms and Conditions	2
Joint Accounts	8
Online Services	10
Statements and Policies	13
Statement of Policies on Related and Connected Issuers	13
Statement of Registrant Relationships	14
Policy of Fairness in Allocating Investment Opportunities	15
Cross Trade Policy	15
Conflict of Interest Policy	15
Client Privacy Code	16
Investment Services	19
Portfolio Management Services	21
Active Advisory Services	23
Alternative and Higher Risk Investments	24
Risk Warnings	30
Appendix 1: Emerging Markets	31
Appendix 2: High Yield Securities	33
Appendix 3: Alternative Investments and Private Equity	33
Appendix 4: Structured and Synthetic Products	39
Securityholder Communication Instructions – Explanation to Clients	40
Registered Accounts	42
Retirement Savings Plan Declaration of Trust	42
Retirement Income Fund Declaration of Trust	51

## Definitions

In this Agreement and any appendices and any forms pursuant thereto (except for the Retirement Income Fund Declaration of Trust and the Retirement Savings Plan Declaration of Trust), the following words and phrases shall have the following meanings:

“account” refers to the account you are opening or have opened with us.

“Agreement” refers to these Terms and Conditions, the Account Application (as completed by you), our current Services & Fees form, our current Interest Rates form, and all appendices and forms pursuant thereto together with the auxiliary forms completed by you and other documents referred to in any of these documents (as all may be modified from time to time).

“related issuer” refers to UBS AG, and any other company controlled, directly or indirectly, by UBS AG.

“UBS Bank” means UBS Bank (Canada), a wholly-owned subsidiary of UBS AG, created under the laws of Canada.

“UBS Investment Management” means UBS Investment Management Canada Inc., a wholly-owned subsidiary of UBS Bank which provides investment counsel and portfolio management services to clients of UBS Bank.

“we”, “our”, “ours” and “us” means UBS Bank and its subsidiaries, affiliates, successors and assigns, including but not limited to, UBS Investment Management and includes our directors, officers, employees, nominees, representatives and agents where appropriate.

“you”, “your” and “yours” means the account holder(s) named in our records, including any Account Application and includes an individual person, a company/corporation, a partnership, a trust, an estate, a foundation, a charitable organization, an unincorporated association or any other entity and also includes anyone appointed by the account holder(s) as agent or attorney for the purposes of this Agreement.

## Interpretation

Headings are for information purposes only and have no force or effect. The singular includes the plural and vice versa and the masculine, feminine or neutral genders include all genders.

## General Provisions

### English Language

The parties to this Agreement consent to its being in English. Les parties aux présentes s'accordent qu'elles soient rédigées en anglais.

### Amendments

This Agreement is subject to our amendment and may be amended unilaterally by us at any time and we will notify you thereof by publishing the amendments at UBS Bank or by notice to you. We may also supplement this Agreement from time to time with required procedures, rules and forms to be completed by you to facilitate operation of the account, which shall form part of this Agreement when notified to you as aforesaid.

**Binding Effect**

This Agreement as amended or supplemented as aforesaid, shall be binding upon you and shall be our good and sufficient authority for any actions by us. This Agreement shall be binding upon and shall enure to the benefit of your heirs, executors, administrators, successors and assigns provided that no assignment is binding on us without our written consent, not to be unreasonably withheld, and upon our receipt and acceptance of written notice by the assignor.

**Governing Law**

This Agreement shall be exclusively governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and the parties hereby irrevocably attorn to the jurisdiction of that province.

**Termination**

We may terminate this Agreement at any time, with written notice.

**Assignment**

This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. In this regard, you consent to our assignment of this Agreement and waive any right to be notified by us prior to any such assignment being made. You agree that you may not assign the rights and obligations hereunder nor in respect of the services without our prior written consent.

**No Waiver**

Any failure on our part to exercise or enforce any right under this Agreement shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter. No waiver by UBS Bank of any breach of any provision

or condition of this Agreement shall be deemed a waiver of any other breach of such provision or any similar or other provision or condition of this Agreement.

**Invalidity**

If any provision or condition of this Agreement is deemed to be invalid or unenforceable, such invalidity or unenforceability shall attach only to such provision or condition. The validity of the remainder of the Agreement shall not be affected and the Agreement shall be carried out as if such invalid or unenforceable provision were not contained therein.

## General Terms and Conditions

**Communications including Notice**

Where you have indicated your desire to receive communications, we will give reasonable notice to you of matters concerning the account. Any notice, and communications generally, are properly given (whether or not received by you) if mailed to your last known mailing address shown in our records, unless you provide us with a later mailing address by written notice. The new mailing address is only binding on us after we acknowledge receipt of the notice. We may choose any other form of communication or may choose not to communicate at all if in our discretion we consider it to be in your interest, and this right shall always override any request or instructions given now or in the future by you regarding notice or communications. Any reference in this Agreement to information and/or notices to be provided to you is subject to any written instructions from you to retain correspondence with respect

to your account. Any notice delivered, or mailed by you to us shall be sent to the address on our statement for your account and shall be treated as having been given and received by us only upon actual receipt by us.

**Retained Mail**

Where you have elected to have your mail retained in the Account Application, you hereby instruct us to retain your mail, you waive your right to notice and authorize us to debit your account our Retained Mail fee as disclosed in our Services and Fees form until you instruct us otherwise. Uncollected mail may be destroyed after 3 years. We shall not be liable for any loss, damage, or claim that may result from this retained mail service. You understand that any right to object to transactions reflected on account statements may expire under applicable law or under this Agreement due to lapse of time.

**Your instructions**

You undertake to instruct us in writing with an original signature. Any instructions given in any form other than in writing with an original signature, including those given or purporting to be given by means of telephone, facsimile, e-mail or other form of transmission, shall not be binding on us but may be executed at our sole discretion and at your sole risk. Where you have elected to communicate with us via e-mail in the Account Application, you may instruct us by using an e-mail address disclosed in the Account Application provided that we may require telephone confirmation of such instructions prior to acting on such instructions. You may instruct us via facsimile provided that we may require telephone confirmation of such instructions prior to acting on such instructions.

**Interest in Account**

No one other than you, and the individuals identified to us in connection with the

opening of your account, has, or will have an interest in your account unless you have notified us in writing.

**Statements and Confirmations**

We will send you account statements disclosing holdings, fees, transactions and other information that may impact your account monthly or quarterly, as selected by you in the Account Application. You will examine all statements and confirmations provided to you respecting the account and within 30 calendar days of mailing shall notify us of any errors, irregularities or omissions. In default of such notification, it shall be conclusively deemed for all purposes of our liability to you, in contract and in tort or delict and whether arising out of our negligence or otherwise howsoever, that: (i) the statements and confirmations are correct and finally settled; (ii) all fees and changes noted in the statements and confirmations are properly chargeable to the account; and (iii) there are no additional credits to be made to the account.

**Performance Benchmarks**

There are five investment performance benchmarks or "market indicators" provided in the account statements. Two are fixed income benchmarks published by Bloomberg which indicate the return of Canadian government bonds over the long term (terms of greater than or equal to one year) and short term (terms of one to three years). Two are equity indices published by Standard & Poor's ("S&P") that provide the returns of a leading Canadian (S&P/TSX Composite) Index and United States of America (S&P 500) Index. The MSCI World Index is an equity index that provides the returns across 23 developed markets worldwide. Depending on your asset allocation selection and investment strategy, these market indicators may or may not be appropriate performance benchmarks to assess the performance

of your investments. Please see your Client Advisor for further details.

### **Account as Trust Property**

All funds in your account, held separately or together with other clients' funds or our own funds, shall be invested in and loaned upon investments and securities authorized from time to time by applicable legislation, including investments and securities in or upon which we are authorized by that legislation to invest or loan our own funds. Such investments or securities shall be held by us for your benefit and that of other investors with us and may be held in bearer or registered form, in such manner as we may from time to time determine, with the right to vary any such investments or securities at any time in our discretion. Upon repayment of the principal of and interest accrued from time to time on your account, the investments made by us and all money and securities held with respect thereto shall be freed from the terms of this Agreement and any trust and remain our sole property, without the necessity for any assignment, release or other document or any action by you.

### **Set-Off and Combination**

We may at any time set-off against and combine with balances in the account (i) any debit balances in this or any other account of yours with us (whether or not at UBS Bank), (ii) any fees or charges incurred respecting this or any other account, and (iii) any other amount owing to us from time to time which may then be due and unpaid.

### **Custodian and Investment Accounts**

Funds, securities or other property received by us from or for you will, in the absence of other instructions, be held by us for you. We are hereby authorized and directed to execute as agent and on behalf of you, all necessary certificates of

ownership which may be required by the income tax laws or regulations of Canada or any other country without claiming thereon any personal exemption, in order that income from such securities or property may be collected promptly. Withdrawals of funds, securities or other property from your account and orders to purchase funds, securities or other property for your account or to receive the same against payment may usually be made by us only on your written order, otherwise we may decide at our own discretion, and at your sole risk, whether or not to act on instructions given in any other form, including those given or purporting to be given by telephone, cable, telex, facsimile transmission or other means of transmission. We are authorized to collect any monies which may to our knowledge become due and collectible arising from funds, securities or other property in your account, including interest, dividends and the proceeds of any sales, and to credit the same to a cash account of yours. Certificates of Deposit, stocks or other securities or instruments may be registered in the name of UBS Bank or its nominee.

Subject to the section of this Agreement entitled Portfolio Management Services (if applicable), we will buy and sell securities or other property, or otherwise make investments on receipt of adequate written instructions. We may decide at our discretion and at your risk, whether or not to act on instructions given in any other form, including those given or purporting to be given by telephone, cable, telex, facsimile transmission or other means of transmission. Any property other than cash so acquired or held may be held by UBS Bank or its designates. We have the right to deduct from any account or property of yours or income therefrom, our current charges or fees for safekeeping. We may

execute instructions received from you at times which we, in our sole discretion, deem most advantageous to you. Any transaction executed by us for you shall be at your sole risk.

### **Legal Proceedings and Costs**

When in our sole discretion we deem it advisable, we may seek the advice or assistance of counsel in respect of the rights, duties, obligations or claims of ours and of your interests or account or claims with respect thereto by you or others, and on such advice may initiate or defend or participate in any action, suit, or other legal proceeding at your expense. We may debit our costs for legal advice and assistance as described above whether or not any action, suit or proceeding is initiated or defended against from any account or property of yours. Notwithstanding the foregoing, we shall be under no obligation to take advice or to institute, defend or engage in any action, suit or other legal proceeding in connection with any account unless we are satisfied that it is or will be, fully indemnified against any attendant cost or loss.

### **Accounts in Foreign Currencies**

UBS Bank's assets corresponding to your credits in foreign currency are held in the same currency in or outside of the country whose currency is involved. You bear proportionately to your share all the economic and legal consequences, which, as a result of measures taken by such country, affect all of UBS Bank's assets in the country of the currency or in the country where the funds are invested. Our obligations arising from accounts in foreign currencies shall be discharged exclusively at the place of business of the branch carrying the accounts and solely through the establishment of a credit entry in the country of the currency at a correspondent bank or a bank named by you.

### **Lien**

Any cash, securities or other property of yours which we may have in our possession or under our control, and the balance of any cash account of yours, are pledged to us, and are subject to a general lien, security interest and hypothec which you hereby grant in our favour for the discharge of any debt or other obligation of yours to us however and whenever arising, including our charges and expenses. We are entitled to reimburse ourselves from such account, investment or property or the income therefrom for any amount owing to us and in this regard, dispose of the whole of the said investment or property or any part thereof, in any manner whatsoever, for any consideration satisfactory to us. You hereby expressly waive all and every formality prescribed by law in relation to such disposition, and agree to provide any signatures or documents required by us to complete such disposition of such investment or property, the whole without prejudice to our right to recover any unpaid balance of any such debt or other obligation of yours.

### **General Power of Attorney**

You appoint us, or any representative of ours, to be your attorney in accordance with applicable legislation, with full power of substitution, to do any of the matters, acts or things required of you herein whenever and wherever it may be deemed necessary or expedient.

### **Debit Uncollected Items etc.**

If any instrument is credited to you but returned at any time to us unpaid, we may reverse the entry, plus any interest which may have accrued thereon and all charges and expenses which we may have incurred, directly or through any other bank or other agent, in attempting to collect the instrument and you shall repay on demand all such amounts, if the balance in the account is not sufficient. We reserve the

right to defer your right to withdraw funds represented by any instrument until such funds have been received.

### **Waiver of Protest**

We need not make any protest respecting any instrument deposited to the account or delivered to us and not paid, you waiving every requirement of timely presentment (for payment or acceptance), dishonour, notice of dishonour, protest and noting of protest on any instrument.

### **Special Provision Respecting Partnerships**

If you are a partnership, no cause at law for termination of the liability of a partner and no change in the number or constitution of the partnership or amendment of the partnership agreement, whether due to the death, bankruptcy, incompetency or resignation of one or more partners or otherwise, shall terminate or amend all or any part of this Agreement.

### **Presumption of Authority**

If you are not a natural person, we shall be under no obligation to inquire into the trusts, constating documents, constitution, by-laws and other internal authorities of yours or your objects, powers, capacity and authority to open and operate the account.

### **Commission**

You agree to pay us commission on all purchases or sales effected by us for you at the rates established by the exchange or market upon which such purchases or sales take place. We may retain for ourselves any difference between the full amount of commission ordinarily chargeable at such rates and any discount that we may obtain by reason of a privileged status on any exchange or market, or otherwise, and you shall have no right to such discount.

### **Fees and Charges**

Please refer to our Services and Fees form, as amended from time to time, for fees charged in relation to your account. You will be provided with 60 calendar days notice of any fee change. We are entitled to charge interest and to make charges and charge fees for all services performed in accordance with our prevailing practice. We may debit any account or property or income therefrom of yours with the amount of any such interest, charges and fees and reimburse ourselves from such account, property, or income. You are liable for and shall indemnify us and our directors, officers, employees, agents and nominees against all taxes, charges, commissions, expenses, assessments, claims and liabilities, including without limitation, legal fees or costs incurred by or assessed against us or our directors, officers, employees, agents or nominees on your account or incurred in connection with any transactions entered into on your behalf or as otherwise provided for herein. We may debit such taxes, interest, charges, expenses, assessments, claims, and liabilities against any account or property of yours and reimburse ourselves therefrom.

### **Margin**

You shall furnish adequate margin as required by us or any exchange or market to which we are subject. We may, in our discretion, by reason of the insufficiency of margin or security or for any other reason whatsoever, without demand for additional margin or notice to you, sell or offer for sale without advertisement, any securities or other property held for you. Any such sale may be made by public or private sale upon such terms, for such consideration and in such manner as we in our sole discretion may deem advisable. Any demand, advertisement or notice which may be given by us shall not be a waiver of any right to take any action

authorized hereunder without demand, advertisement or notice.

### **Discharge**

We are discharged from all or any liability for decisions left to our discretion. You indemnify us for all claims or liabilities incurred by us by reason of compliance with the terms of this Agreement or any other instructions given by you.

### **Liability and Use of Agents**

We shall not be liable for any losses in your account except those arising out of our own willful misfeasance, bad faith, gross negligence, or reckless disregard of our obligations under this Agreement or our own willful neglect, default or failure to comply with applicable laws with respect to your account. We may use the services of any broker, dealer, bank, agent or other counterparty selected in good faith as we may deem advisable in connection with your account. Such counterparty is deemed to be your agent. We will not in any circumstances be responsible or liable to you by reason of any act or omission or inability to perform on the part of such counterparty, affiliated or unaffiliated, however caused in the performance or failure to perform such services or by reason of the loss, theft, destruction or delayed delivery of any document while in transit to or from or in the possession of such bank or agent. In no event will we be liable for incidental or consequential damages, or for any loss or damage to you resulting from an act or event beyond our control regarding the property in your account.

### **Payments to Third Parties**

You may instruct us in writing to make payments on your behalf to third parties (i.e. credit card companies) based on statements and/or invoices from such third parties. We shall be under no obligation to inquire into the validity of any charges reflected on such statements

and/or invoices. You shall bear all losses arising from errors on such statements and/or invoices regardless of the cause of the error, including fraud or mistake.

### **Errors in Transmission, Forgeries, Identification, Delays, etc.**

Damage resulting from delays, losses or mistakes in transportation or transmission shall be borne by you. You shall bear all losses resulting from our failure to discover forgeries including any forgery of your signature or any other defect or error with respect to identification or capacity to act whatsoever.

### **Cheque Holding Policy**

We may at any time advise you that we are placing a full or partial hold on a particular cheque or other instrument presented by you. That decision will depend on the amount and the issuer of the cheque or other instrument, the institution on which the cheque or other instrument has been drawn, the characteristics of the cheque or other instrument being presented, as well as the amount of funds presently available in your account.

We may also accept cheques or other instruments from you on a "collection" basis only, which means that the funds will be credited to your account only if and when we receive payment from the other financial institution.

For a Canadian dollar cheque drawn on a financial institution branch located in Canada the maximum length of time we hold funds is four business days for cheques not exceeding \$1,500 and seven business days for cheques greater than \$1,500. We will provide immediate access to the first \$100 deposited by cheque in person at one of our offices.

For a non-Canadian dollar cheque drawn on a financial institution branch located in Canada the maximum length of time

we hold funds is 20 business days.

For a non-Canadian dollar cheque drawn on a financial institution's branch located outside of Canada the maximum length of time we hold funds is 30 business days.

### **Leverage Disclosure Statement**

You acknowledge that using borrowed money to finance the purchase of securities involves greater risk than a purchase using cash resources only. If you borrow money to purchase securities, your responsibility to repay the loan and pay interest as required by its terms remains the same even if the value of the securities purchased declines.

### **Dormant Accounts**

You acknowledge and agree that your account will be designated as inactive if you have not made any contact with us (by way of withdrawal, deposit, or communication) within a 1 year period. If you have not made any withdrawals or deposits or have not communicated with us regarding the account, during the previous 10 years, under federal law your account will be considered abandoned. We will communicate with you within 2 years and 5 years of your last account activity. Reasonable service charges may be charged on accounts which are inactive and which are presumed to be abandoned. If there are insufficient funds in your account to cover the service charges which are payable by you, you authorize us to close the account without notice to you. Accounts which are inactive or presumed to be abandoned will be subject to escheat (this means the deposits become the property of the federal government) in accordance with federal law and transferred to the Bank of Canada. There is a process for reclaiming those deposits by filing a claim with the Bank of Canada.

### **Records**

You agree that our records will have

the same evidence of proof as original documents and constitute sufficient and formal proof of your transactions in the event of any dispute before the courts or arbitration.

### **Recording of Telephone Calls**

You agree and acknowledge that for the mutual protection of all parties, we may record all telephone communications we have with you and with any third parties to whom your instructions are directed. In the event of any disagreement as to the content of any communication given by telephone, our recording will be conclusive and determinative of the contents of such communication.

### **Tax Compliance**

You acknowledge that you are responsible for complying with and fulfill all relevant tax laws applicable to you and that it is your responsibility to obtain independent professional advice with respect to the tax consequences of your account under Canadian law as well as the laws of other countries, including, in particular your home country. You represent that all reporting and tax associated obligations have been and will continue to be fulfilled with respect to any assets deposited in your account.

### **No Tax or Legal Advice**

We do not provide tax or legal advice, and you acknowledge that you have not received such advice from us and that you have not relied upon nor will you rely upon us for such advice.

## **Joint Accounts**

### **Additional Terms for Joint Accounts**

Where you have selected a Joint Account in the Account Application, your account will be carried in the joint name and for the joint benefit of two or more persons

and it will be subject to all of the terms and conditions in this Agreement plus the additional terms and conditions set out below.

### **Survivorship Election**

Except for residents of Quebec, on opening a joint account all owners of the account must select in the Account Application whether the account will be a joint tenancy with rights of survivorship or a tenancy in common. The law of the Province of Quebec requires that all such accounts must be tenancies in common (joint accounts).

Where you have selected a joint tenancy with rights of survivorship in the Account Application, each joint account owner will have an undivided ownership in the joint account and on the death of one joint owner, the account will become entirely the property of the surviving joint owner(s), subject to the requirements of any Succession Duty Act as may be applicable. This selection may be used by a court of law as evidence of the intention of the deceased that his/her interest is automatically extinguished and no longer forms part of his/her estate.

Where you have selected a tenancy in common (joint account in the Province of Quebec) in the Account Application, each joint account owner will have an individual ownership interest in a specific percentage of the joint account as indicated in the Account Application and on the death of one joint owner, that interest will survive and will be disposed of in accordance with the will of the deceased. In such a case we have the right to freeze the deceased's specific percentage of the joint account and to convey it as separate property to the personal administrator of the deceased. The interests of the surviving joint account owners will not be affected at all.

### **Liability and Obligation**

Except for residents of Quebec, each owner of a joint account is jointly and severally responsible for all obligations of the joint account.

For residents of Quebec, each holder of a joint account is liable for the performance of all obligations owed to us in respect of the account and performance of such obligations by one such holder of a joint account releases all other holders from their obligations.

### **Joint Account Direction**

Each owner of a joint account shall have the right to operate the joint account without the concurrence of any other joint account owner and without restricting the generality of the foregoing, each owner of a joint account shall have the right to deposit or withdraw money and any or all types of securities in or from the said account, to give orders for the purchase and sale of securities, to give orders for the exercise of subscription rights, to give orders for the payment of money or for the disposal in any manner of any or all of the securities carried in the said account, to settle any balances, and to sign any and all documents and agreements in the same manner and to the same extent as if he/she were the sole owner of the account.

### **Authorization**

We are hereby authorized to carry out any instructions of any joint account owner in connection with the joint account which instruction of any joint account owner shall be deemed to be instructions for the benefit of all joint account owners. Notwithstanding anything herein to the contrary, we shall not be obliged to act except upon the unanimous instructions of all joint account owners and shall at no time be obliged to enquire as to the concurrence by any joint account owners with any instructions given by any other joint account owner.

If we receive conflicting instructions, we may act on any of them or may refuse to act and request unanimous instructions. We shall not be liable for any loss which may result from any such action or refusal to act.

If we, in our discretion, give notice, we need only give notice to one of the joint account owners and all the others shall be bound by it.

You may deposit and transfer beneficially, certain monies, securities and/or other property to the benefit of the joint names in the joint account, and all monies, securities and/or other property which are now or may hereafter be deposited to the benefit of the joint account, and all interest which may accrue thereon and any increase in the value thereof, are and shall be the joint property of the joint names in the joint account, the whole amount of such monies, securities or property to be subject to withdrawal or other dealings of whatever nature by any one or more of the joint names in the joint account.

#### **Transfer of Ownership**

Any transfer of ownership by survivorship or succession shall not affect any lien, charge, pledge, set-off, counterclaim or otherwise whatsoever and specifically is without prejudice to any step or recourse we may deem desirable to take in the light of any claim made by any person other than a survivor.

Each joint account owner agrees that we are authorized to recognize any transfer of ownership by survivorship and/or succession and that any action taken by us in reliance thereon shall bind each joint account owner and each joint account owner further agrees to indemnify and hold us and our nominee(s) harmless from any costs or losses incurred or which may be incurred by as a result of any claim conflicting with such transfer by any

of the joint account owners, or their heirs, executors, administrators, successors and assigns provided that no assignment is binding on us except on our receipt and acknowledgement of written notice by the assignor.

#### **Additional Terms for Joint Tenancies with Rights of Survivorship**

Where you have selected a joint tenancy with rights of survivorship in the Account Application each joint account owner jointly and severally agree with us that the death of one or more joint account owner shall not affect the right of the survivors or any one of them, or the sole survivor to withdraw all of the said monies and interest from the joint account and to give a valid and effectual discharge or receipt therefor and in order to constitute the intent of the parties herein to benefit each other by way of the said joint ownership with all its attendant legal consequences, each joint account owner hereby transfers beneficially to the other owner(s) of the joint account and to themselves jointly, all their rights, title and interest in the said monies, securities and/or other property now and thereafter deposited by the joint account owner(s). Where you have selected a joint tenancy with rights of survivorship in the Account Application each joint account owner hereby agrees that each of them and their respective estates and/or successors shall, in the event of death, be jointly and severally liable to us for any debit balance remaining at any time in the said account.

## **Online Services**

Where you have selected to receive Online Access in the Account Application, your account information will be made available to you in electronic form, subject to the following terms and conditions.

#### **Access**

Access to our online services shall be restricted to authorized signatories for the account and authorized third parties to whom you have selected to give online access in the Account Application. You will be liable for all acts or omissions of such authorized signatories and authorized third parties in violation of this Agreement.

By using our online services, you are representing to us and our licensors and information providers that you are at least 18 years old (or the minimum legal age in your legal jurisdiction).

#### **Notices**

Any notice pertaining to this section of this Agreement may be given by us to you in any manner acceptable to us, including, but not limited to, prepaid mail, facsimile, account statement message, regular mail, e-mail, an on-screen alert on our online services site, to any address you have provided to us and will be treated as having been given to you when it is mailed, e-mailed, sent or delivered.

#### **Termination**

We reserve the right to suspend or terminate your online services at any time and for any reason. You may terminate online services at any time by notice in writing to us, or by any other means acceptable to us. If this Agreement is terminated or your account is closed, our provision of online services will be terminated automatically.

#### **Security**

To gain access to our online services, you shall be notified of your user ID, password, SecurID token and online services account identifier number by mail marked confidential.

The user ID, password, SecurID token and online services account identifier

number are personal and confidential. You undertake to safeguard and protect such data from being passed onto unauthorized third parties. We shall not be responsible for any breach of security caused by your or an authorized third party's failure to maintain the confidentiality of your user ID, password, SecurID token or online services account identifier number. You shall notify us as soon as you suspect unauthorized access. You shall be liable for all direct or indirect loss suffered by you and us through the use of the userID, password, SecurID token or online services account identifier number by unauthorized third parties. We reserve the right to terminate this Agreement and the provision of online services if it is deemed that your user ID, password, SecurID token or online services account identifier number are being used in an inappropriate manner or without authorization. These obligations relating to user ID, password, SecurID token or online services account identifier number remain in effect after this Agreement ends.

#### **Quotes, Account Information and Research**

We undertake to provide requested information promptly on any day on which banks are officially open in Canada. Quotes, news and research data provided through our online services are obtained from sources we believe to be reliable, but we cannot guarantee the accuracy, timeliness or completeness of such information for any particular purpose. Such information and any research opinions provided do not constitute investment advice, or a solicitation by us for the purchase or sale of any securities, or a representation that any securities are suitable for you. You agree that we will not be responsible for the accuracy, completeness or use of any data, news or research provided through our online services and we do not



make any warranties or representations concerning such information.

Such information is protected by copyright and other intellectual property laws and may only be used for personal and non-commercial use, and not for providing professional investment advice or for providing securities processing services or other similar back office functions. If you download any information from our online services for personal reference, you agree that you will not remove or obscure any copyright or other notices contained in any such information. Except as provided in the preceding sentence, you agree not to copy, reproduce, modify, sell, distribute, transmit, display, perform, circulate, transfer, broadcast, create derivative works from, publish, or use for any commercial or unlawful purpose any quotes, news, research or other information you receive through our online services.

#### Service Interruptions

We shall not be liable for any technical failures or temporary interruptions in data transmission or other occurrences beyond our control. These can include, but are not limited to, connection problems, communication and power failure, extraordinary market activity, natural disasters and equipment or software problems. We shall not be liable for either direct or indirect loss caused by viruses on our or your computer systems.

#### Limitation on our Responsibility and Liability

No representations or warranties express or implied with respect to our online services, including without limitation, any implied warranties of merchantability or fitness for a particular purpose are made by us or any third party vendor. To the extent permitted by law, under no circumstances, including negligence, will

we or any of our affiliates, directors, officers or employees, or any third party vendor be liable or have any responsibility of any kind for any loss or damage that you incur in the event of any failure or interruption of our online services, or resulting from the act or omission of any other party involved in making our online services available to you, or from any other cause relating to your access to or use of our online services, whether or not the circumstances giving rise to such cause may have been within our control or the control of any vendor providing software or services support for our online services.

#### Disclaimer of Warranties and Liability Regarding Information Providers and Market Data

The market data accessible through our online services is provided from market values from the previous day through third party providers and there may be delays, omissions or inaccuracies in such data. We, our information providers, and their respective directors, officers, employees, affiliates and agents cannot and do not guarantee the accuracy, sequence, completeness, currentness, timeliness, merchantability, fitness for a particular purpose, title or noninfringement of the market data made available through this site and hereby disclaim any such express or implied warranties. Neither we, our information providers, nor their respective directors, officers, employees, affiliates and agents shall be liable to you or to anyone else for any loss or injury whether or not caused in whole or in part by our or their negligence or omission in procuring, compiling, interpreting, editing, writing, reporting, or delivering any market data through this site or by any force majeure or any cause beyond our or their reasonable control. In no event will we, our information providers, or their respective directors, officers, employees, affiliates or agents

be liable to you or anyone else for any decision made or action taken by you in reliance upon such market data or for any consequential, indirect, special or similar damages, including, but not limited to, lost profits, trading losses, damages resulting from inconvenience, or loss of use of this site.

## Statements and Policies

#### Statement of Policies on Related and Connected Issuers

**The securities legislation of certain jurisdictions in Canada requires securities dealers and advisors, when they trade in or advise with respect to their own securities or securities of certain other issuers to which they, or certain other parties related to them, are related or connected, to do so only in accordance with particular disclosure and other rules. In certain provinces and territories, these rules require dealers and advisors prior to trading with or advising their clients, to inform them of the relevant relationships and connections with the issuer of the securities. You should refer to the applicable provisions of the relevant securities legislation for the particulars of these rules and your rights or consult with a legal advisor.**

UBS Investment Management is an indirect subsidiary of UBS AG. UBS AG is a related issuer of UBS Investment Management. UBS AG is a public company with its shares listed on the SWX Swiss Exchange, the New York Stock Exchange and the Tokyo Stock Exchange and, while not a reporting issuer in Ontario or any other Canadian jurisdiction, has

distributed its securities on a basis that, had such distribution taken place in Ontario, UBS AG would have become a reporting issuer in Ontario. Certain other affiliates of UBS AG listed below have also issued securities on a similar basis. UBS Investment Management is an affiliate of among other businesses, UBS Global Asset Management (Canada) Co., UBS Global Asset Management (Americas) Inc., UBS Global Asset Management (US) Inc., UBS Global Asset Management (New York) Inc., Quantitative Allocations, LLC, UBS Realty LLC, GAM Limited, UBS O'Connor LLC, UBS Global Asset Management (U.K.) Ltd, Global Asset Management, UBS Financial Services Inc., UBS Investment Bank, UBS Fund Management (Switzerland) AG and UBS Fund Services (Luxembourg) SA.

In addition, some affiliates of UBS Investment Management, including UBS Global Asset Management (Canada) Co., UBS Global Asset Management (Americas) Inc., UBS Global Asset Management (U.K.) Ltd., UBS Fund Services (Luxembourg) SA, UBS Fund Holding (Luxembourg) SA and UBS Fund Management (Switzerland) AG, GAM Limited and UBS O'Connor LLC act as a sponsor and/or portfolio manager (or holding company thereof) of certain proprietary pooled funds and/or mutual funds in which UBS Investment Management's clients may invest or on whose behalf UBS Investment Management may invest.

The following are related reporting issuers of UBS Investment Management, as at January 1st, 2005 for the purpose of the disclosure and other requirements referred to above: UBS AG, S.G.W. Finance plc, UBS Americas Inc., S.G. Warburg Group plc, UBS Finance N.V., UBS Finance (Cayman Islands) Ltd., and UBS Global Asset Management (Canada) Co.

In carrying on business as an investment

counsel, portfolio manager or limited market dealer, UBS Investment Management may from time to time in respect of securities of UBS AG or other related issuers:

- a) act as an advisor or dealer in respect of such securities; and
- b) make recommendations in respect of such securities.

In addition, UBS Investment Management may be involved in transactions where UBS AG or other related parties may be:

- a) acting as principal or agent in respect of securities purchased or sold by or to clients of UBS Investment Management, including without limitation through securities lending and/or securities repurchase arrangements; and
- b) participating in the distribution of securities sold to clients of UBS Investment Management.

It is the policy of UBS Investment Management to comply fully with all applicable securities laws and to make all required disclosure in acting as an advisor in respect of securities of UBS AG and other related or connected issuers of UBS Investment Management. UBS Investment Management has a relationship with the persons, companies and funds listed in this statement. If you wish further information concerning the relationship between UBS Investment Management and those listed persons, companies or funds, please contact us.

### Statement of Registrant Relationships

In accordance with securities legislation provisions, the following disclosures are made for your information:

UBS AG is one of the world's leading financial services organizations providing

directly and through its subsidiaries a comprehensive range of financial services including commercial, retail and investment banking, lease and trade financing, wealth and asset management services, investment management services and trust services. UBS AG and certain of such subsidiaries are registrants in Ontario.

In addition to being the principal shareholder of UBS Bank, UBS AG is the principal shareholder of: UBS Financial Services Inc., UBS Global Asset Management (Canada) Co., UBS Securities Canada Inc., and UBS Securities LLC.

UBS Investment Management may obtain trade execution and certain other services for client accounts from UBS AG, UBS Investment Bank, UBS Securities Canada Inc., UBS Securities LLC and UBS Financial Services Inc. UBS Investment Management may also obtain from or provide to UBS AG and its subsidiaries, other management, administrative, referral and/or other services in connection with its ongoing business activities or the ongoing business activities of these companies or transactions completed by it or by these other companies. These relationships are subject to certain legislative and industry regulatory requirements, which impose restrictions on dealings between related registered companies, intended to minimize the potential for conflicts of interest resulting from these relationships. UBS Investment Management has adopted internal policies and procedures, which supplement these requirements, including its policies on confidentiality of information and will make these available upon request. UBS Investment Management has also adopted a Fairness Policy (see following) to apply in all situations where a securities demand exceeds its supply as well a Cross Trade policy (see following) that articulates the

very narrow preconditions that must be met before a cross trade can be effected between client accounts.

### Policy of Fairness in Allocating Investment Opportunities

In the course of managing a number of discretionary accounts, there arise occasions when the quantity of a security available at the same price is insufficient to satisfy the requirements of every account, or the quantity of a security to be sold is too large to be completed at the same price. Similarly, new issues of a security may be insufficient to satisfy the total requirements of all accounts.

Trade allocation must be determined on a basis that is fair, reasonable and equitable to all clients based on UBS Investment Management's policies and client investment objectives and to avoid the appearance of favouritism or discrimination among clients in favour of a preferred client or group of clients.

Specifically, when placing orders, Portfolio Managers must specify a predetermined number of shares or bonds for each identified account, or group of accounts, at the time the order is placed. The executed portion of a transaction(s) (i.e. a partial fill) on the same trading day will be allocated by the appropriate trading desk personnel on a pro rata basis (to the nearest round trading lot) based on the original order.

Combining two or more accounts in one trade regardless of the Portfolio Manager involved, will be allocated by the appropriate trading desk personnel on a pro rata basis (to the nearest round trading lot) for all outstanding orders (for the same security on the same terms) at the time of the fill. Each account involved will receive a percentage of the executed portion of the partially filled order based upon each account's percentage of the

entire order. The allocations will be made at the average execution price where there is more than one fill. For Active Advisory (transaction-based) accounts, commissions will be allocated on a pro-rata basis.

There may be some circumstances where the automatic pro-rata apportionment may appear inappropriate. If an order is unreasonable as measured against the particular account's asset size and target weighting for the security in question, an exception to the order size method of allocation may be appropriate. The reasonableness of the target weighting will be assessed by a review of the investment guidelines of the particular account conducted by the Portfolio Manager and Chief Investment Officer if required.

For IPO's or new bond issues, where demand significantly exceeds supply, allocation based on order size may be inappropriate. Asset size and target weighting will be the allocation method used instead. If an IPO cannot be fairly allocated taking into account asset size and target weighting, it may be necessary to apply a prior IPO ownership pattern.

### Cross Trade Policy

Cross trades can only be undertaken between accounts where evidence of suitability is documented. The security subject to the cross trade must be liquid.

### Conflict of Interest Policy

UBS Investment Management is a subsidiary of UBS Bank which is a member of UBS AG and through affiliates undertakes a range of corporate banking, investment banking, securities underwriting, securities brokerage and trading and investment management activities. In these circumstances, concerns arise as to the conflicts of interest that may occur from the undertaking within the group of such a broad range of activities. In dealing with clients where

these issues arise the guiding policy is that the client's interests are paramount and all dealings with affiliated companies must be on competitive terms.

## Client Privacy Code

We are committed to maintaining the confidentiality of your personal information.

Our Client Privacy Code consists of the following 10 Principles (the "Principles"):

**Accountability:** within UBS Bank for compliance with the Principles;

**Identifying Purposes:** awareness within UBS Bank about why we collect personal information and communication with you about these purposes;

**Consent:** you must consent to our collection, use and disclosure of your personal information;

**Limiting Collection:** only that information necessary for our identified purposes may be collected;

**Limiting Use/Disclosure and Retention:** information may not be used for a new purpose without consent and may be retained only as long as necessary to meet the identified purposes;

**Accuracy:** personal information must be accurate and up-to-date;

**Safeguards:** personal information must be protected by physical, organizational and technological means;

**Openness:** information about our privacy policies must be readily available;

**Individual Access:** you have the right to know what personal information we

have, how it is used, to whom it has been disclosed and you have the right to see your personal information; and

**Challenging Compliance:** you have the right to challenge our adherence to these Principles and there must be a complaint procedure in place for that purpose.

The following Client Privacy Code implements the Principles:

### Personal Information

Personal Information includes your name, address, age and gender, personal financial records, identification numbers including the SIN, personal references, employment records and all of the other Account Application information collected by us to assist in meeting the Identified Purposes.

### Accountability

Every employee of ours is responsible for ensuring that your personal information remains confidential.

### Identified Purposes

Personal information is collected by us for the following purposes:

- to identify you;
- to protect you and us from error and fraud;
- to conduct credit investigations;
- to understand your needs and eligibility for products and services;
- to recommend particular products and services to meet your needs;
- to provide ongoing service;
- to comply with legal and regulatory requirements; and
- otherwise with consent or as permitted or required by law.

We ask you for certain personal information for specific reasons, such as:

- SIN numbers are used to identify you,

match credit bureau information and comply with Income Tax Act (Canada) reporting requirements;

- references are used to verify information on the Account Application;
- credit information may be reported to credit bureaus, credit reporting agencies, credit insurers and other lenders to maintain the integrity of the credit-granting process.

If it is intended to use personal information already in our possession for a new purpose, not identified above and communicated you, your express consent will be obtained.

We may disclose personal information in the following circumstances:

- to carry out banking functions such as data processing, electronic payments and storage;
- to determine eligibility for a product or service;
- to assist with the delivery of a product or service;
- to references you have provided to us for verification purposes;
- to credit bureaus, credit reporting agencies, credit insurers and other lenders to conduct credit investigations;
- to government or regulatory organizations who regulate our business;
- to our affiliates, for internal audit, management or administrative purposes;
- to parties connected with the contemplated or actual financing, securitization, insuring, sale, assignment or other disposal of all or part of our business or assets, for purposes relating to evaluating and performing these transactions;
- as necessary to prevent or detect fraud; and

- as necessary to comply with legal, regulatory, industry self-regulatory, insurance, audit, processing and security requirements, and otherwise with your consent or as permitted or required by law (including as required by applicable Canadian and foreign laws applicable to UBS Bank or our agents and service providers, including lawful requirements to disclose personal information to government authorities in those countries).

UBS Bank may transfer personal information to outside agents or service providers (including affiliates of UBS Bank acting in this capacity) that perform services on our behalf, for example, data hosting, processing or verification services or similar services, or otherwise collect, use, disclose, store or process personal information on our behalf for the purposes described in this Client Privacy Code. Some of these service providers or affiliates are or may be located outside of Canada, including in the United States, Switzerland, the United Kingdom and Luxembourg, and your personal information may be collected, used, disclosed, stored and processed in these jurisdictions for the purposes described in this Client Privacy Code. We take reasonable contractual or other measures to protect your personal information while processed or handled by these service providers. While your personal information is located outside Canada it will be subject to legal requirements in those foreign countries applicable to our service providers, for example, lawful requirements to disclose personal information to government authorities in those countries.

If you would like to obtain more information about our policies and practices regarding service providers outside of Canada, please contact our Chief Privacy Officer (see "Contact Information").

## Consent

Your consent is required for the collection, use or disclosure of personal information and will be obtained at or before the time the information is collected from you. Consent may be express or implied. Consent may also be given through an authorised representative, such as a legal guardian or person having a full power of attorney for someone who is a minor, is seriously ill or is mentally incapacitated. A person named under our Trading Authorization does not have authority to give their consent under this Client Privacy Code on behalf of the account holder.

By signing the Account Application you consent to the collection, use and disclosure of personal information in accordance with the Client Privacy Code.

You will not be required, as a condition of obtaining a product or service from us, to consent to the collection, use or disclosure of information beyond that necessary to meet our Identified Purposes.

If you choose not to give your consent or choose to withdraw your consent, you must be aware that we may not be able to provide you with certain products or services if we are unable to obtain personal information necessary to provide those products or services.

You may withdraw your consent at any time, on reasonable notice to us. Consent cannot be withdrawn in relation to the provision of a credit facility after credit has been granted.

We may collect, use or disclose personal information without your knowledge and consent when legal, security or certain processing reasons make it impossible or impracticable to get this consent. For example, we will not ask for consent when personal information is collected,

used or disclosed to:

- detect and prevent fraud;
- collect overdue accounts; or
- comply with the law.

## Limiting Collection

We may collect only that personal information necessary to achieve the Identified Purposes and to which you have consented. (See “Identified Purposes” and “Consent”). We may collect personal information from external sources, such as credit bureaus, employers and other lenders.

## Limiting Use, Disclosure and Retention

We may use and/or disclose your personal information only in relation to the Identified Purposes. Disclosure without consent may be made when required by law (see “Consent”).

If you purchase or we purchase on your behalf, securities pursuant to prospectus and registration exemptions under National Instrument 45-106, investment information including your name, residential address, telephone number, number and type of securities purchased, total purchase price, date of purchase and exemption relied upon in connection with such purchase may be disclosed to securities regulatory authorities or, where applicable, regulators under the authority granted in securities legislation for the purposes of the administration and enforcement of the securities legislation and you authorize such disclosure of information. If you have any questions about the collection and use of this information, you may contact the securities regulatory authority or, where applicable, the regulator in the jurisdiction where you reside. In Ontario, the public official contact regarding the indirect collection of information is the Administrative

Assistant to the Director of Corporate Finance who is available by phone at (416) 593-8086 or by mail at Ontario Securities Commission, Suite 1903, Box 5520, 20 Queen Street West, Toronto, Ontario M5H 3S8.

All your client records are kept on site for at least 1 year, to facilitate the internal and external audit processes. The information may then be stored offsite.

## Accuracy

Personal information must be accurate, complete and up-to-date. It is essential for our Identified Purposes that your information be regularly updated.

## Safeguards

All of your client records are handled, maintained and stored in a secure manner in accordance with internal policies.

## Openness

Information about our policies and procedures for handling personal information is available from your Client Advisor, our Chief Privacy Officer or our web site.

## Individual Access

You are entitled, on request, to know of the existence, use and disclosure by us of your personal information. You have the right to challenge the accuracy and completeness of your personal information and have it amended as appropriate.

All requests for access to your personal information will be handled in a timely manner. In order to respond to a request, we are entitled to request sufficient personal information to allow us to confirm whether or not we have personal information relating to you, the individual making the request. We reserve the right to charge a minimal fee for copies of documents requested under this Client Privacy Code.

All requests for access to your personal information under this Client Privacy Code should be directed to the Chief Privacy Officer (See “Contact Information”).

There may be circumstances where we are unable to provide the requested access. Those circumstances include if the cost of providing access would be prohibitive, the information contains references to other individuals, disclosure is prohibited for legal, security or commercial proprietary reasons, and/or the information is subject to solicitor client or litigation privilege.

## Challenging Compliance

You have the right to challenge our compliance with the Personal Information Protection and Electronic Documents Act and the Principles. All such complaints should be directed to the Chief Privacy Officer (see “Contact Information”).

## Contact Information

If you would like to contact us for any reason related to this Client Privacy Code, please direct all such inquiries to: Chief Privacy Officer, UBS Bank (Canada) at Suite 800, 154 University Avenue, Toronto M5H 3Z4 Telephone: 416-343-1800; Fax: 416-343-1900.

# Investment Services

## Authorization

You acknowledge and agree that as a client of UBS Bank selecting Investment Services on the Account Application, you will also become a client of UBS Investment Management. Your personal information, including your Investor Profile, will be shared with UBS Investment Management in order to permit UBS Investment Management to offer investment counsel and portfolio management services.

To the extent that any of our obligations under this Investment Services section must be carried out by an entity duly registered for that purpose, those obligations will be performed by an entity so registered, which entity may be a subsidiary or an affiliate of UBS Bank. By signing the Account Application, you authorize UBS Bank to share personal information concerning your account with any such subsidiary or affiliate for that purpose, including information in your Account Application, your Investor Profile and your other account documents with UBS Bank.

### Definitions

In the Investment Services and Portfolio Management Services sections of this Agreement and any appendices and any forms pursuant thereto, the following words shall have the following meanings:

“portfolio” refers to the property held in your account which, from time to time, you place under our supervision and includes the proceeds, dividends, interest and other profits or gains which arise from the property.

“property” includes, but is not limited to, stocks, bonds, notes, derivative products, alternative investments, real estate funds, commodity funds, hedge funds, interests in any common, collective or commingled fund, partnership, limited liability company, or other investment company or trust, registered or unregistered, any other securities, domestic or foreign, cash, cash equivalents and precious metals, whether or not such property is of the kind customarily invested in by fiduciaries under the law of any jurisdiction.

### Transactions with Affiliates

We hereby inform you, and you specifically agree, that we may from time to time purchase, hold, sell or express an opinion on the value or

the advisability of the purchase or the sale of securities issued, underwritten, distributed or dealt in by UBS Securities Canada Inc., UBS Securities LLC, and/or UBS AG or in which any of these parties is a market maker. UBS Securities Canada Inc. and UBS Securities LLC are indirectly or directly owned investment banking subsidiaries of UBS AG.

You specifically agree that we may enter into, effect or execute securities, foreign exchange, options, derivatives, brokerage or any other types of transactions which we execute for your account with or through any broker or dealer of our choice, including UBS AG or any of UBS AG’s or our branches, subsidiaries or affiliates (including, but not limited to, UBS Securities Canada Inc. and/or UBS Securities LLC), acting as principal for its own account or agent of the issuer or your agent or both, or enter into cross transactions with other clients’ accounts. Transactions with UBS Bank branches, subsidiaries or affiliates authorized to effect such transactions may involve transactions in which such branch, subsidiary or affiliate is an underwriter of or a market maker in the security being purchased or sold or is acting for its own account or the account of another client on the other side of the transaction. Each entity will receive its customary commission or other compensation including profit or spread, for each transaction in addition to the compensation to UBS Bank under this Agreement. We need not inform you of these transactions or transactions with investment companies described below, or of such compensation, although you may request confirmation of such transactions showing such compensation at no additional cost.

### Investment Companies

We may recommend or purchase investments for your account in

investment companies in which you are eligible to participate, notwithstanding that UBS Bank or its affiliates may act as an investment advisor, general partner, sponsor or distributor of, or otherwise provided any other service to, such company. We shall be entitled to all fees or other compensation to which we are entitled, including but not limited to distribution fees, which may be paid by the investment companies to UBS Bank, in addition to the compensation permitted under this Agreement.

### Securities Not Deposits

Securities purchased, sold or recommended by us may fluctuate in value, are not deposits, are not guaranteed by the Canada Deposit Insurance Corporation, and are not obligations of or guaranteed by us.

### Trading in Related Securities

We may purchase, hold, sell, or recommend purchasing, holding or selling a company’s securities, even if that company:

- a) has a banking or business relationship with us;
- b) issues securities owned by us or by our directors, officers or employees; or
- c) is an affiliate or related issuer.

Any information we receive because of special business relationships which is material non-public (“inside”) information will not be available to the UBS Bank employee who is responsible for your account.

Where a transaction involving a related issuer is made for your portfolio, we will specifically inform you that the securities purchased or sold, are securities of a related issuer.

### Choosing Brokers and Charging Commissions

We will select the broker(s) to execute your securities and/or portfolio transactions. The broker(s) we retain may include UBS AG or any of its affiliates or subsidiaries, even if such a broker is acting as the agent or broker on the other side of the transaction, or trading for its own account. We need not inform you about these transactions, and the broker we retain will receive its customary fees and commissions for each order execution.

We will select broker(s) in your best interest, using good-faith judgement and considering available prices, commission rates, and all other relevant factors. This includes the broker’s ability to execute orders, its research services, and other factors that will help us make investment recommendations and/or manage your portfolio.

## Portfolio Management Services

### Authorization

Where you have selected to receive Portfolio Management services on the Account Application, you hereby authorize UBS Investment Management to act with unrestricted discretion as your Portfolio Manager, subject to the terms of this Agreement.

### Managing the Account

Initially, we will review with you your investment objectives and complete with you an Investor Profile, which shall constitute an integral part of this Agreement. If you are a trustee in Ontario, the Investor Profile will be accompanied by any investment plan you have put in place with respect to the trust, as prescribed by

Provincial legislation governing trustees. Based on your Investor Profile and/or investment plan in effect from time to time, and without obligation to give you prior notice, we will then hold, buy, sell, convert, exchange and trade the property in your portfolio at our discretion. We have an obligation to assess whether a purchase or sale of a security is suitable for you prior to executing a transaction or at any other time. We are always available to discuss your investments with you and shall assume that your investment objectives remain unchanged until you otherwise notify us in writing.

### **Custody**

You understand and acknowledge that we may make such arrangements with any one or more institutional custodians for the custody or physical control of the portfolio, or securities therein, or change or terminate such custodial arrangements, or substitute different custodial arrangements as we may determine in our discretion.

### **Additions and Withdrawals**

You may make any additions to or withdrawals from your portfolio provided that:

- a) with respect to additions, you provide us with prompt written notice; and
- b) with respect to withdrawals, we must receive at least 7 business days prior written notice however you hereby acknowledge that we may purchase certain securities or investment vehicles for your account that have set redemption periods including, but not limited to, monthly and/or quarterly redemption periods and as such, we may be restricted as to when redemptions may be made. In such an event, we endeavour to return funds to you as soon as they become available.

### **Purchased Securities**

You acknowledge that we may purchase certain securities or investment vehicles that are restricted to fully-managed accounts or that may not be transferable to another firm and, in the event of termination of this Agreement and/or transfer to another firm, the said securities or investment vehicles will have to be liquidated.

### **Management Fee**

All fees are based on the average daily combined market value of the portfolio (cash included), calculated quarterly on the last business day of March, June, September and December. Our compensation will be debited automatically from your account.

### **Allocation of Investment Opportunities**

It is understood that we perform investment advisory services for various clients. You agree that we may give advice and take action with respect to our other clients which may differ from the advice we give you or differ as to the timing or nature of action we take with respect to your portfolio. It is our policy and practice not to intentionally favour or disfavour consistently or consciously any client or class of clients in the allocation of investment opportunities, so that to the greatest extent practical, such opportunities will be allocated among clients over a period of time on a fair and equitable basis (see Policy of Fairness in Allocating Investment Opportunities for more information).

### **Voting of Proxies**

We shall take action with respect to the voting of proxies for securities held in your account, including, without limitation, exercising any conversion privilege or any other right available to the owner of such securities, and the right to participate in or dissent from the reorganization, amalgamation or

merger of any issuer, the securities of which are held in your account. Except as required by applicable law, we will not be obligated to render advice with respect to any legal action or take any legal action on your behalf with respect to assets currently or formerly held in your account. We will not provide you with a prospectus, information circular, annual information form, takeover bid circular, or any other similar document in respect of the issuers of securities that are purchased for your account, unless required by law or as otherwise directed by you. If you would like to receive such proxies, proxy solicitations, and other issuer-related materials (such as annual and quarterly reports) relating to the securities held in your account, you may elect to do so at any time by providing us with written notice.

### **Standard of Care**

Any exercise of discretion to act or not to act is solely for your account and risk, subject to our obligation to deal with you fairly, honestly and in good faith.

### **Appointment of Sub-Advisor**

We may appoint, without notice to you, a sub-advisor to provide Portfolio Management services under this Agreement. We shall be responsible for any losses that arise out of the failure of such sub-advisor to exercise the powers and discharge the duties of its office honestly, in good faith and in your and our best interests and we shall be responsible for any losses that arise out of the failure of such sub-advisor to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

## **Active Advisory Services**

### **Authorization**

Where you have selected to receive Active Advisory services on the Account Application, you hereby authorize UBS Investment Management to act as your Investment Counsellor, subject to the terms of this Agreement.

### **Investor Profile**

Based upon information you have provided to us in the Account Application as well as your responses to the Risk Compass, we will assist you in determining an Investor Profile suitable for your risk tolerance, objectives and preferences. The Investor Profile is an integral component of this Agreement. You will advise us of any changes in your financial or personal situation which may require an amendment to your Investor Profile.

### **Active Advisory**

Based on your Investor Profile, structure of your current investments and our current Wealth Management investment strategies, we will provide you with suitable investment recommendations. We have an obligation to assess whether a purchase or sale of a security is suitable for you prior to executing a transaction or at any other time. We are not obliged to give advice with regard to investments which are not covered by our research analysts.

You are aware that recommendations and proposals may become outdated quickly owing to market events or market volatility and thus only apply momentarily. Therefore, investment decisions which are based on our recommendations should be made in a timely manner or within the time frame we may recommend.

**Fee-Based Services Fees**

All fees are based on the average daily combined market value of the portfolio (cash included), calculated quarterly on the last business day of March, June, September and December. Our compensation will be debited automatically from your account.

**Communication**

You will provide us with a contact address or fax/telephone number where investment recommendations can be submitted or where you can be reached for messages. We will use only the most recently provided contact address or fax/telephone number.

We act as advisor to other clients, and may give advice and take action with respect to any of those clients or to our own account(s) whose content and timing may differ from the content and/or timing of the advice given to you. We shall have no obligation to recommend the purchase or sale for your account of any security at such times as we may purchase or sell or recommend such transaction or other investment for any other clients or for our own account(s).

**Voting of Proxies**

We shall not take action with respect to the voting of proxies for securities held in your account unless you instruct us otherwise.

**Liability**

We will not be liable for the success of our investment recommendations, or for investments entered into by you without or against our recommendations. We are also not liable for losses occurring due to the fact that you cannot be reached or cannot be reached in time or because you fail to react to our recommendations or messages in time.

**Termination**

If this Agreement is terminated, our compensation will be payable upon

termination and prorated to the date of termination, except as otherwise provided herein.

## Alternative and Higher Risk Investments

Where you take positions in alternative and higher risk investments, the following terms and conditions apply and you agree to be bound by them.

These alternative and higher risk investments may include but are not limited to:

- investments in emerging countries such as bank certificates of deposit, promissory notes and debt or equity securities issued by public or private sector institutions;
- debt securities issued by high-risk corporate borrowers with debt ratings below investment grade (Baa3/BBB-) by major international rating agencies;
- shares in non-traditional or alternative investment funds such as domestic or offshore hedge funds, investments in domestic or offshore partnerships and other funds with special market and/or operational risks and investments in private equity; and
- structured and synthetic products issued by UBS AG.

The above are hereafter collectively referred to herein as "Alternative and Higher Risk Investments".

On each occasion when we act, have acted or will act on your behalf relating to

Alternative and Higher Risk Investments (collectively "Transactions") this section describes the roles and responsibilities of you and us in the context of such Transactions. You recognize that when you request us to carry out a Transaction on your behalf, depending on the type of Transaction, we may not be able to execute such Transactions immediately and that, in certain instances, we will not be able to, or will choose not to, act on your behalf. You agree that we will not be liable to you for any damages whatsoever, whether direct or consequential, in the event that, for any reason, we do not act on your behalf in connection with a Transaction.

**Framework Agreement**

You acknowledge that over and above the terms and conditions contained herein, in undertaking any Transaction you will be bound by the laws, regulations and other provisions pertaining to the specific Alternative and Higher Risk Investment (e.g. restrictions on sale and distribution) and that such specific regulations or laws may require you to sign further documentation to effect the particular Transaction, e.g. a specific subscription agreement or any other additional document for a specific Transaction. However you expressly release us from any obligation to require you to sign, in addition to the Account Application, a subscription agreement or any other additional document for a specific Transaction if and to the extent permitted by applicable law.

**Confirmations**

Any individual Transaction we carry out for you and any confirmation produced in this respect together with this Agreement constitute a single contractual relationship. At our request you will provide a signed confirmation of any transaction. In the event of a discrepancy between a transaction confirmation and this Agreement, the confirmation takes precedence.

**Acting on Your Behalf and for Your Account**

You acknowledge that in any Transaction we (or another authorized third party) will formally be acting in our (or its) name as a subscriber to the Alternative and Higher Risk Investment for your account and pursuant to your instructions.

**Risk Disclosure**

You have read and understood the Risk Warnings which follow this section of this Agreement and acknowledge that it forms a vital component of this section of the Agreement. You agree and acknowledge that participating in these Transactions may involve a high degree of risk. You understand that the value of the Alternative and Higher Risk Investments may decrease and that you may lose any or all of the value of your investment. You agree to exclusively bear any and all investment risks, losses and liabilities associated with any Transaction. You acknowledge and confirm that all Transactions will be undertaken at your own express request and on the basis of your own assessment of the Alternative and Higher Risk Investment and the conditions and developments of the relevant financial markets.

You hereby expressly release us from any monitoring obligations and responsibilities with respect to the Alternative and Higher Risk Investments involved and you acknowledge that we shall have no responsibility for the performance of these Alternative and Higher Risk Investments.

**Representations and Warranties**

You represent and warrant that you are a sophisticated investor and that you are solely responsible for making your own independent appraisal of, and investigations into and relating to, the financial condition, operations, management, creditworthiness and

prospects of any issuer and the merits and profitability of any Transaction.

You represent and warrant that you have sufficient knowledge and experience in financial and business matters generally and in securities investments in particular to be capable of evaluating the merits and risks of the Transaction. You agree that you will conduct such an evaluation of the merits and risks of the Transaction before instructing us to execute the Transaction on your behalf and in giving an order to execute any specific Transaction, you agree to be deemed by us at that time to have read and understood the relevant Alternative and Higher Risk Investment's documents (including specifically but without limitation, all information therein regarding the risks of investing in the particular Alternative and Higher Risk Investment).

You represent and warrant that you, and all entities in which you have a beneficial interest, are entitled to engage in the Transactions and to agree to the terms set forth herein, and that such Transactions will constitute your legal, valid and binding obligations. You represent and warrant that you have the necessary capacity to act and sufficient legal authority to invest in Alternative and Higher Risk Investments.

By participating in such Transactions, you represent and warrant that you, and all entities in which you have a beneficial interest, have not structured the Transactions in order to mislead any person, entity, or governmental authority, and that the Transactions do not and will not:

- (i) violate any provision of applicable law or any order, rule, regulation, decree, writ or injunction of any court or administrative body applicable to you;

- (ii) violate any provision of any agreement you may have with an entity associated with the Transactions or with any other individual or any other entity; or
- (iii) result in any breach of or constitute a default under any agreement by which you or your property may be bound or affected.

You represent that you have not relied on and will not hereafter rely on us to appraise or review on your behalf the financial condition, operations, management, creditworthiness and prospects of any issuer or the merits or profitability of any Transaction. Moreover, we shall not be deemed to have made any representation or warranty as to the financial condition, operations, management, creditworthiness and prospects of the issuer or the merits or profitability of any Transaction.

#### **Alternative and Higher Risk Investment Documents**

Before requesting us to conclude a Transaction you will take note of the Alternative and Higher Risk Investment's documents e.g., the subscription agreement, prospectus, information memorandum, promissory note, and other relevant documents of the Alternative and Higher Risk Investment (the "Alternative and Higher Risk Investment Documents") and in giving an order to conclude any Transaction, you shall be deemed to confirm to us to be in full compliance with all relevant conditions outlined in the Alternative and Higher Risk Investment Documents.

You further agree to periodically reconfirm to us your compliance with the conditions as may be required by us and/or the Alternative and Higher Risk Investment Documents. Further you also agree to inform us immediately if

you no longer comply with any such conditions. You acknowledge that in the event of delayed, incomplete or false information on such conditions, we or the Alternative and Higher Risk Investment may refuse to accept the investment, may cause the redemption of the investment and/or take such other steps as may be described in the Alternative and Higher Risk Investment Documents. As a consequence, you may lose all or part of the investment in the Alternative and Higher Risk Investment. For certain Alternative and Higher Risk Investments, we may have the Alternative and Higher Risk Investment Documents available or other Alternative and Higher Risk Investment-related information whose content materially applies to you. If we are not required by applicable law to have such product-specific information available, you agree to obtain product-specific information from the Alternative and Higher Risk Investment or the Alternative and Higher Risk Investment's representative before requesting us to conclude a Transaction. You expressly release us from any obligation to advise you of the availability of such documents in the context of any Transaction and acknowledge that we will only provide these materials (if available) if specifically requested by you.

You acknowledge that following any Transaction, we shall have no obligation to inform or may even be prevented by applicable laws or regulations from informing you of any changes in the Alternative and Higher Risk Investment Documents or of any other information and communication received from the Alternative and Higher Risk Investment. Further we are not obliged to take note of the Alternative and Higher Risk Investment's ongoing communication or to act upon it.

We shall not be liable for any claims,

damages, demands, losses, costs or expenses of any kind whatsoever which you incur resulting from:

- missing, insufficient or incorrect product specific information issued by the Alternative and Higher Risk Investment or its representative, or
- you not:
  - o consulting the Alternative and Higher Risk Investment Documents before requesting us to conclude a Transaction, or
  - o asking us to have product-specific information available, or, if we are not required by applicable law, asking the Alternative and Higher Risk Investment or the representative of the Alternative and Higher Risk Investment if it or they had the Alternative and Higher Risk Investment Documents available or other Alternative and Higher Risk Investment related information available before issuing an instruction for a Transaction.

You agree and acknowledge that in conjunction with the activities contemplated hereunder, we may require that you sign Alternative and Higher Risk Investment Documents which will be kept for our records. You further agree and acknowledge that once we have acted on your behalf in connection with a specific Alternative and Higher Risk Investment or issuance, if you request us to purchase additional shares of such Alternative and Higher Risk Investment or additional debt or equity of such issuer or obligor, or take other actions regarding these Entities (the "Additional Transactions"), we may, in our discretion, not require you to sign Alternative and Higher Risk Investment Documents related to such Additional



Transactions. Whether or not we require you to sign such additional Alternative and Higher Risk Investment Document, the terms hereof shall apply to such Additional Transactions.

You agree and acknowledge that it is your sole responsibility to assess the adequacy and the legality of all Alternative and Higher Risk Investment Documents (including all documentation for Additional Transactions for the purposes of this agreement); if you instruct us to execute any Transactions on your behalf, such Transactions, including all Additional Transactions, may require us to sign Alternative and Higher Risk Investment Documents on your behalf in order to effectuate such Transactions, and you are bound by the terms of such Alternative and Higher Risk Investment Document as if you had signed as a party thereto; you represent that you have been and will continue to be solely responsible for making your own investigation regarding this Alternative and Higher Risk Investment Document, including all clauses set forth therein, and represent that you have not relied and will not hereafter rely on us to appraise or review on your behalf such Alternative and Higher Risk Investment Document. Moreover, we shall not be deemed to have made any representation or warranty regarding the form or contents of such Alternative and Higher Risk Investment Document. Without limiting the foregoing, each representation, warranty and indemnity made by us on your behalf pursuant to such Alternative and Higher Risk Investment Document shall also be deemed to be made by you for the benefit of us, as well as for the benefit of any other party named therein.

### **Confidentiality and Disclosure**

You acknowledge that for certain Alternative and Higher Risk Investments it is market practice that based on

applicable Know Your Client (“KYC”) provisions, Alternative and Higher Risk Investment Documents may require the Alternative and Higher Risk Investment to obtain information on your identity, any beneficial owner of the Alternative and Higher Risk Investments, the source of funds invested, and other related information.

To the extent the information is not already in our possession, you will provide us upon request with all information necessary to satisfy the Alternative and Higher Risk Investment’s respective requirements. You further authorize us (or another authorized third party) as nominee to disclose such information to the Alternative and Higher Risk Investment as we deem reasonable and necessary. You are aware and accept that the failure to deliver all necessary information to us and to the Alternative and Higher Risk Investment respectively in time may lead to the fact that the Alternative and Higher Risk Investment refuses to accept your investment, may cause the redemption of your investment or other negative consequences for you.

Further, Alternative and Higher Risk Investment may suspend the redemption rights of such investment if the Alternative and Higher Risk Investment reasonably deems it necessary to do so to comply with KYC regulations. You are aware that you may lose all or part of the money invested in the Alternative and Higher Risk Investment if you do not comply with the Alternative and Higher Risk Investment’s requirements in this respect. You release us from any liability in case you did not provide the information the Alternative and Higher Risk Investment has asked for.

Moreover, you acknowledge that in the event there is any regulatory or legal inquiry, action or proceeding (the

“Inquiry”) by any person, entity, or governmental authority regarding a Transaction carried out by us on your behalf, such information may be revealed in response to the Inquiry or produced to issuers, governmental authorities or others, as requested.

### **Potential Conflict of Interest**

We may from time to time, as principal or agent, have positions in, or may buy or sell, or make a market in any securities, currencies, Alternative and Higher Risk Investments or other assets relating to or underlying the Alternative and Higher Risk Investment. We may provide investment banking and other services to and/or have officers who serve as directors of the particular Alternative and Higher Risk Investment. We may pay or receive brokerage, or retrocession fees or distribution channel compensation in connection with the investment.

We may engage in hedging activities that include financial products related to an Alternative and Higher Risk Investment. We may adjust or liquidate these hedge positions if market conditions change during the life of the product or because we otherwise deem appropriate. Depending on a whole series of factors, such transactions by us can have substantial effects on the markets concerned. We accept no liability if you suffer losses as a result of these effects.

### **Payments**

We are authorized to debit your account for all commissions, fees and charges that may arise under a Transaction. We are further authorized to debit your account for recalls of capital and additional capital contributions according to the applicable Alternative and Higher Risk Investment Documents. We will provide notice of any such action to you.

You recognize and agree that we may

obtain remuneration and compensation, such as, for example, brokerage, or retrocession fees or distribution channel compensation from an Alternative and Higher Risk Investment or other third party when we act as your agent in a Transaction and such remuneration/compensation may be retained by us and shall thus represent a supplementary fee.

### **Complaints**

Complaints from you regarding Transactions, transaction confirmations, invoices, account or custody account statements or our other communications in the context of an investment in an Alternative and Higher Risk Investment must be lodged immediately upon you becoming aware of or receiving the communication concerned; otherwise you are deemed to have approved the Transaction or communication concerned.

### **Special Risks in Securities Trading**

You hereby confirm that you have read and understood the brochure “Special Risks in Securities Trading” informing you of the risk factors associated with certain types of securities transactions with higher potential risks or complex risk profiles. You are familiar with the types of transactions described in this brochure and therefore, release us from any obligation to provide you with additional information.

### **Due Diligence**

With regard to Transactions, we shall exercise the customary degree of due diligence.

### **Liability**

For any action executed or omitted under a Transaction, we shall be liable only for gross negligence or bad faith.

### **Indemnity**

You hereby agree to indemnify us and hold us harmless from any and

all liabilities, claims, damages, demands, losses, of any kind whatsoever that we may suffer or incur as a result of carrying out Transactions at your request, including without limitation any liabilities resulting from the failure of any representations and warranties made on your behalf to be true and correct. This indemnification includes all costs and expenses with respect to any Transaction including legal fees in connection with enforcing your or our rights hereunder or under any Alternative and Higher Risk Investment.

### Claims

If any claims regarding any Transaction are made by us or against us, or against third parties or by third parties that are related to a Transaction, you agree to provide us with required assistance.

If you wish to make a claim, demand or cause of action against an Alternative and Higher Risk Investment or against a third party related to a Transaction, such claim, demand or cause of action shall be in your own name and at your own cost and expense.

### Death and Incapacity to Act

In the event of your death or your incapacity to act, these provisions and our position as a subscriber to an Alternative and Higher Risk Investment shall remain in effect.

### UBS AG Products

You acknowledge that UBS Bank does not have any authority to bind UBS AG and that any purchase of a UBS AG product shall not be completed or effective unless and until accepted and approved by UBS AG.

### Fixed Term Deposits

You understand that we must renew fixed term deposits with financial institutions in various countries which you designate several days prior to maturity, in order to

assure continuity of interest (“rollover”). Therefore, you agree that in the event that we have rolled over such deposits at or prior to maturity and we have not received repayment of the original deposit by settlement date for the rollover, we may charge your account for the amount which is due at settlement date.

### General

This agreement shall replace any prior existing agreement with respect to the subject matter hereof.

You represent that you have reviewed all Transactions in which we have acted on your behalf in the past and you specifically ratify and confirm each such act by us as your agent in connection with such Transactions.

## Risk Warnings

This section highlights certain additional risks which may be associated with Alternative and Higher Risk Investments. These types of investments are more fully defined in the Alternative and Higher Risk Investment Services section of this Agreement.

This section complements the brochure “Special Risks in Securities Trading”. Please note however that this information is not necessarily a complete statement of every risk that may attach to every Alternative and Higher Risk Investment and each such investment has its own set of risks, which are fully described out in the relevant prospectus, offering memorandum, offering circular or similar document.

## Appendix 1: Emerging Markets

The classification of a country as an “emerging market country”, while frequently based on relative economic, political and social development, is necessarily somewhat subjective. In general, “emerging market countries” are characterized by an underdeveloped or developing infrastructure, with significant potential for economic growth and increased capital market participation by foreign investors. Countries which we consider to be “emerging markets countries” will generally possess some, but not necessarily all, of the following characteristics:

- Per capita GNP of less than \$9,386 (the 1997 World Bank definition of low and middle-income economies);
- Recent or relatively recent economic liberalization (including, but not limited to, a reduction in the state’s role in the economy, privatization of previously state-owned companies, and/or removal of foreign exchange controls and obstacles to foreign investment);
- Debt ratings below investment grade by major international ratings agencies and a recent history of defaulting on, or rescheduling, sovereign debt;
- Recent liberalization of the political system and a move towards greater public participation in the political process; and
- Non-membership in the Organization of Economic Co-operation and Development (OECD).

The instruments of issuers and obligors resident, domiciled, based in or principally engaged in business

in any such countries, together with any derivative products related to the performance of such instruments, are referred to in this statement as “emerging market investments”. This statement cannot disclose all the risks and other significant aspects of trading on markets in emerging market countries or of investing in emerging market investments. Rather, it is intended to highlight some of the risks of which you should be aware.

### Country Risk

Investments or related derivative products entered into via an agent or issuer who is domiciled in a separate country may be subject to value fluctuations as a result of country risk. Country risk is the risk that some major event will occur in a particular country (e.g. a natural disaster) which is beyond the control of the investor or its counterparty, but which affects the financial markets relevant to the transaction which they have entered into. Although this risk is present with respect to any country, it may be greater in an emerging market country as the economic, political and social systems are often less well developed.

### Economic Risk

The economies of emerging market countries tend to be less stable than those of more developed countries. They often experience greater fluctuations in economic factors which may contribute to financial instability, e.g. unpredictable changes in currency, interest rates and inflation rates. In addition, many emerging market countries are indebted to external organizations and to other countries and lack a well developed infrastructure. Such factors can exacerbate such financial instability.

### Political Risk

An unstable political environment can have a significant effect on a country’s

financial stability. Many emerging market countries experience rapid and significant changes in their political environment on a regular basis. Such changes may be due to social, ethnic or religious strife, often coupled with periods of social unrest. They often result in dramatic changes in governmental policy (including changes in exchange controls and market regulation). The result of such instability may make it difficult for investors or their counterparties to predict the effect of such changes on transactions which they enter into.

### Market Risk

The financial markets in emerging market countries are commonly smaller, more volatile, less well-regulated and less liquid than those in more developed countries. Often, there are no organized public markets for the securities of issuers in those countries. These factors may all result in greater price volatility of securities and other instruments issued or traded in emerging market countries.

### Currency Risk

The value of emerging market investments may be affected by fluctuations in currency rates and by exchange control regulations. Whilst it may be possible to hedge against these risks, they cannot be completely eradicated.

### Information Risk

It is often more difficult to obtain reliable information with respect to counterparties, issuers and obligors in emerging market countries than in more developed countries. In addition, the official data and statistics available to investors may be substantially less reliable than that available to investors in certain other countries. This can affect the investor's ability to assess the value of an instrument, the status of an issuer and the overall risk associated with the emerging market investment.

### Settlement Risk

Settlement, custodial and clearing services in emerging market countries are typically not as highly developed as those in certain other countries. It is possible for investors in such countries to lose their registration as owners of an emerging market investment through fraud, negligence or oversight. The investor may also suffer loss as a result of delays and inefficiencies in the provision of such services. This can mean that interest payments and proceeds of redemption will not be made to you by us until we have written confirmation of payment from the respective custodians/agents. Investors should be aware that custodians and agents have the right to reverse payments made if the issuer fails to fulfill their obligations.

### Issuer and Credit Risk

Because emerging market countries are generally not as economically stable as more developed countries, there is a greater risk that issuers and obligors will experience difficulties in meeting their obligations to repay principal or to pay interest or dividends, and may default on such payments. Some countries are currently in default of their sovereign debt obligations. These risks may be enhanced where the market is dominated by a small number of issuers and, therefore, investors may be exposed to greater concentrations of credit risk. Please note that interest payments and proceeds of redemption will not be made to you by us until written confirmation of payment from the respective custodians/agents is received. Investors should be aware that custodians and agents have the right to reverse payments made if the issuer fails to fulfill their obligations.

### Taxation Risk

The tax systems of emerging market countries tend to be subject to rapid and significant change. In addition,

tax collection methods may not be as efficient as in more developed countries. This can result in foreign investors being expected to make up revenue shortfalls. Investors in these jurisdictions should also note that the benefits of double tax treaties may not be available.

### Legal and Regulatory Risk

Although some emerging market countries have mature and reliable legal systems, many have systems of an elementary nature. There is, therefore, considerable uncertainty in many areas of the law in those jurisdictions. The rights and protections available to investors in more developed countries may not be available, may not be capable of enforcement or may be enforced in an unpredictable manner.

## Appendix 2: High Yield Securities

High yield securities of borrowers whose debt is rated below Baa3 by Moody's or below BBB- by S&P are considered high risk investments. Sometimes they are referred to as "junk bonds" as they carry a significantly greater risk of loss of your money than investment grade bonds.

### Principal risks affecting high yield instruments:

#### Interest Rate Risk

When interest rates rise, the prices of fixed income and debt securities generally will decline. The price is also affected by the maturity of the security, with longer maturities usually having greater sensitivity to changes in interest rates.

#### Issuer and Credit Risk

The risk is that the issuer of the security

will fail to make timely payment of interest or principal, or default on its financial obligations. Debt securities rated below investment grade are especially susceptible to such risks, particularly during periods of economic recession, industry adversity or financial turmoil. Lower rated borrowers typically have limited access to capital markets or additional liquidity support and, in many cases, small size or lack of competitive strength may lead to the borrower's incapacity to meet its financial commitments.

### Liquidity and Market Risks

High yield securities may be highly volatile and illiquid. Liquidity conditions can abruptly worsen due to credit deterioration or general market turbulence. Market risk involves the possibility that the value of the security will decline due to drops in the overall high yield bond market, changes in economic climate, investor perceptions and stock market volatility, regardless of the financial condition of the issuer.

## Appendix 3: Alternative Investments and Private Equity

By the term "alternative investments" we refer to alternative investment funds (sometimes referred to in the financial industry as "hedge funds") and private equity. Alternative investment funds use techniques to extract returns from the markets other than through the straightforward purchase of listed securities, involving the use of derivatives, leverage and short sales of stock.

Private equity generally involves investing in unlisted companies, for example in venture capital, buyouts and special situations. These specialist investments carry specific risks and in particular are not regulated by the financial regulatory industry. They do not carry with them the normal investor protection rights afforded to authorized investments. Every investment has its own set of risks, which are laid out in the associated prospectus or offering memorandum in general.

### **General risks with alternative investments:**

#### **Business Risk**

There can be no assurance that the stated investment objectives of alternative investments will be achieved.

#### **Fraud**

Fraud is a more significant risk in the case of unregulated investments, particularly as they do not have the same disclosure requirements as regulated investments. The main protection against fraud is to ensure that there is a proper operating infrastructure in place in terms of auditing and valuing investments. However, it is often for good reason that information is withheld since operating in an environment where inefficiency of the markets is critical to maintain investment returns, alternative investment managers will seek to protect their competitive "edge" or particular insights by deliberately not disclosing full information about their activities, even to their own investor base.

#### **Manager Risk**

Alternative investments rely heavily on manager skill and judgement to generate investment returns. In many cases investors are reliant upon small teams or just one or two individuals. The incapacity or defection of such individuals may have a material effect on performance. This is symptomatic

of the alternative investment industry as a whole, where performance and reputation rests with individuals rather than institutions. Similarly, individual managers with a strong track record in the traditional investment management industry (i.e. involving the 'long-only' purchase of securities) may find that their skill set does not successfully extend to the additional investment techniques associated with the alternative investment industry, in particular the maintenance of short positions. In consequence, many managers will have a limited operating history in the alternative investment environment.

#### **Concentration of Investments**

Alternative investment managers invest only where they have specific insight. As a result they usually hold fewer investments than regulated funds which tend to follow a market benchmark. Although there will usually be risk controls that limit the maximum size of individual positions, portfolios will nevertheless be more concentrated than in the case of regulated investments. In the case of private equity, managers will only invest in a limited number of companies, regions or sectors. Most investment teams will have a hands-on role in their portfolio companies, and are therefore restricted in practice as to the number of investments that they can make. To the extent that portfolios are more concentrated, they become more susceptible to fluctuations in value resulting from adverse business or economic conditions affecting particular companies, regions or sectors.

#### **Potential Conflicts of Interest**

The interests of the investors may be inconsistent in some respects with the interests of the investment manager and/or the investment adviser to the alternative investment. The investment manager and/or the investment adviser may serve as investment manager or

adviser to other clients, including clients whose accounts invest in the same or similar securities as the alternative investment and may provide investment banking or advisory services for other persons or entities. As a result of the foregoing, the investment manager and the investment adviser may have conflicts of interest in allocating their time and activity between the alternative investment and other clients and in allocating investments amongst the alternative investment and other entities. Simultaneous portfolio transactions in the same security by the alternative investment and the other clients of the investment manager and/or investment adviser may tend to decrease the price received, and increase the prices paid, by the alternative investment for its purchases and sales of such securities.

### **Specific risks related to alternative investment funds:**

#### **Use of Leverage**

Leverage is an integral part of the investment strategy of certain types of alternative investment funds. Leverage should be viewed as an overlay used to optimize the trade-off between risk and return. Hence leverage is mainly associated with those styles that have relatively low exposure to market or duration risk, principally involving the use of arbitrage techniques. Leverage cannot be viewed in isolation, but has to be considered in conjunction with all the risks inherent in a transaction. Consequently, in relatively higher risk styles such as "emerging markets" where there may be less opportunity to lay off risk through the futures markets or short selling, leverage, if used, is normally used sparingly. Leverage therefore has to be evaluated relative to the investment style and the steps that a manager is taking to lay off various risks. Excessive leverage relative to the investment style should be avoided. Overall, the leverage of a fund

has to be tightly monitored because of the influence it has on the speed with which changes in market, credit and liquidity risk can feed through to the value of a fund.

#### **Use of Derivatives**

Alternative investment funds may use both exchange-traded and over-the-counter futures, options and contracts for differences. These instruments are highly volatile and expose investors to a high risk of loss. The low initial margin deposits normally required to establish a position in such instruments permit a high degree of leverage. As a result, depending on the type of instrument, a relatively small movement in the price of a contract may result in a profit or a loss which is high in proportion to the amount of funds actually placed as initial margin and may result in unquantifiable further loss exceeding any margin deposited. Transactions in over-the-counter contracts may involve additional risk as there is no exchange market on which to close out an open position. It may be impossible to liquidate an existing position, to assess the value of a position or to assess the exposure to risk.

#### **Use of Short Selling**

Short selling involves the sale of securities that the manager does not own, and therefore have to be borrowed for delivery to the purchaser, with a corresponding obligation to the lender to replace the securities at a later date. Short selling allows investors to profit from declines in market prices to the extent that transaction costs and borrowing costs are exceeded. Alternative investment funds often use short selling to reduce their "net exposure" to the market (this being the sum of their long and short positions) and to profit from the anticipated decline in the price of a security. An appreciation of a short position results in a loss. Purchasing securities to close out short positions can itself cause the price of the securities to rise further,

thereby exacerbating the loss. Critically, the running of a short position normally gives rise to unlimited liability because there is no maximum upside price for a security which has ultimately to be covered. For this reason, managers tend not to disclose their existing book of short positions either to investors or to the market, and tend to manage their short positions with very tight risk controls in place.

#### **Lack of Track Record**

It is often the case with alternative investment funds that reliance has to be placed upon a short or non-existent track record. Managers are often able to attract capital quickly and close to new investors in a short space of time. Individual managers with a strong track record in the traditional investment management industry (i.e. involving the “long-only” purchase of securities) may find that their skill set does not successfully extend to the additional investment techniques associated with the alternative investment industry, in particular the maintenance of short positions.

#### **Information Risk**

The alternative investment fund industry is largely unregulated and the availability, quality and flow of information is significantly less than traditional investment products. It is often for good reason that information is withheld since operating in an environment where inefficiency of the markets is critical to maintain investment returns, alternative investment managers will seek to protect their competitive “edge” or particular insights by deliberately not disclosing full information about their activities, even to their own investor base.

#### **Valuation Risk**

Investments are valued through a process called “mark-to-market”. In the case of liquid instruments for which a ready market exists it is easy to provide accurate

valuations. Alternative investment managers may often invest in less liquid instruments, such as deeply discounted debt, where valuations become more subjective and dependent upon the volume being traded. Consequently portfolios containing less liquid instruments are more subject to valuation risk.

#### **Liquidity Risk**

Many of the investment techniques used in the alternative investment industry involve investment either in illiquid financial instruments, or in investments which are subject to legal or other restrictions on transfer. The market prices, if any, for such instruments may be volatile, and a manager may not be able to sell them or realize fair value when desired. In some cases the “hands-on” or board level involvement by an alternative investment manager in a company (e.g. a company undergoing financial reconstruction) may preclude disposal of such assets while such active involvement is continuing. Moreover, selling an alternative investment fund position may only be possible periodically or on certain dates after a notice period of several weeks, for example on specific dates four times a year. The payment of sales proceeds may be subject to bid/ask spreads compared to the net asset value of the investment.

#### **Funding Risk**

A stable capital base and reliable credit lines are critical for an alternative investment manager to be able to continue trading during times of financial stress. It is at times of stress that opportunities tend to be greatest. If a manager fails to maintain sufficient funding headroom, there is a risk that positions will have to be closed out at a loss.

#### **Counterparty Credit Risk**

An alternative investment manager must establish policies and procedures to track and manage exposure to concentrations of

credit risk with particular counterparties, especially where concentrations exist in particular economic or geographic regions. Management of credit risk includes identifying counterparties as acceptable based on analysis of their creditworthiness and continuous monitoring of their creditworthiness.

#### **Settlement Risks**

Settlement of alternative investment funds is complex and the process is not standardized. Modalities or settlement cycles may be modified at any time. Alternative investment fund documents must be completed and received by the manager or administrator on time, otherwise settlement may be seriously delayed. Many alternative investment funds require an advance payment be made to the alternative investment fund prior to the purchase, a practice which significantly increases settlement risk. Similar risks arise in the redemption process if the delivery of the securities precedes repayment.

#### **Redemption Risks**

**Lock-up periods/early redemption penalties:** Most investments in alternative investment funds are subject either to “lock-up periods” or redemption penalties if redeemed within a certain period of time. This is on account of the relatively illiquid investments undertaken which tend to be subject to a longer-term investment view. Alternative investment managers would be precluded from undertaking such investments without a sufficiently stable capital base.

**Net asset value cannot be determined until after investment decisions are taken:** The net asset value (“NAV”) of a fund is usually not known at the time when an investor commits to invest or redeem their investment. This is because a notice period is normally required prior to investment and redemption. Therefore the

NAV cannot be calculated until after the investment has been made or redeemed.

**Compulsory redemption:** The fund may have powers to compulsorily redeem all or any portion of an investor’s holding of shares at any time and for any reason upon short notice.

**Partial retention of interests until receipt of audited statements:** The complexity of the underlying investments results in a potential need to make adjustments to the NAV following receipt of audited statements. Consequently some alternative investment funds withhold a part of an investor’s interest in a fund if they elect to redeem 100% of their interests. For example, 90% of an investor’s interest might be paid on the relevant redemption date, withholding the remaining 10% on deposit until a fixed period of time after receipt of audited statements following the fiscal year end for the fund. Therefore, if the fiscal year end of a fund were December, and a redemption notice for 100% of an investor’s interest were posted for a redemption date in March, then only 90% of the redemption proceeds might be paid on the March redemption date. The 10% balance of the redemption proceeds would be placed on deposit in March, and not returned to the investor until, say, the following April (i.e. 13 months later), allowing sufficient time for the receipt of audited statements after the December fiscal year end.

#### **Downside Risk**

Many alternative investment funds use investment techniques that effectively de-couple their investment performance from that of the underlying markets, resulting in reasonably stable absolute investment returns with levels of volatility much lower than those achievable using traditional investments with comparable investment returns. However, there

are degrees of economic stress beyond which such investment techniques will no longer deliver consistent performance, resulting in negative performance “outliers”. This may arise because of the asymmetrical risk profile associated with investments using derivatives, which is then magnified through the use of leverage. The economic conditions that give rise to such outliers can come about rapidly, and include widening credit spreads (increased risk premiums demanded by investors in corporate and sub-investment grade bonds over and above government bonds), falling liquidity and rising interest rates.

### Currency Risk

The investment currency of an alternative investment fund may be different from an investor’s home or reference currency, in which case the investor bears a currency risk in addition to the underlying risk of the investment. This may be particularly significant if the investor regards alternative investment funds as a means to achieving investment returns with low volatility as the volatility associated with the currency risk alone may be greater than that of the underlying funds themselves.

### Legal, Tax and Regulatory Risks

Alternative investment funds may be affected by legal, tax and regulatory changes that may be introduced with little or no warning. Alternative investment funds may take advantage of the prevailing regulatory environment by undertaking investments and using techniques that are often not accessible to regulated funds. This can often distort the markets and allow them to take advantage of pricing anomalies that result. A change in the regulatory environment may limit the scope of alternative investment managers to take advantage of pricing inefficiencies. A change in regulations may affect the

ability of a manager to continue trading, and could potentially prevent them from exiting existing investments, thus giving rise to losses. Investors in alternative investment funds should consider their own tax treatment in terms of gains and losses resulting from their investment in such funds.

### Private equity investments typically carry the following risks:

#### No Assurance of Investor Return

Investors in private equity investments must be prepared to accept that they may not recoup their investment in full, and may stand to lose their investment in its entirety. Past investment performance is not an indicator of future investment performance, particularly as the nature of investment environment is constantly changing, resulting in private equity managers having to operate in new geographic areas and fields of expertise, at different stages of the economic cycle. In particular, there is often strong competition to acquire portfolio companies during a cyclical upturn, whilst it may be difficult to make divestitures during a cyclical downturn.

#### Liquidity at the Fund Level

Private equity investment funds in the form of limited partnerships typically have a term of 7 to 15 years. There is no recognized secondary market in such private equity investments. As a result, once the commitment has been made to invest in a private equity investment, the penalty for failure to honour the commitment (which will usually require payments over a number of years) can be extreme, up to and including complete forfeiture to any rights to monies already invested in a private equity investment. Investors should be mindful of the notice period required for drawdowns (which may be as short as 7 days), and should make sure that sufficient liquid funds

are set aside to meet these drawdowns. Venture Capital Trusts, which are specific to the UK, operate differently from limited partnerships as 100% of the commitment is called at the outset, and the vehicles are listed on The London Stock Exchange. Despite being listed, there is less liquidity in these investments than ordinary stocks because the tax concessions only apply in full if they are held for a number of years; accordingly, the bid/offer spread can be very wide.

#### Liquidity of the Underlying Portfolio of Investments

The investments of private equity funds are generally in unlisted companies. Investments will continue to be valued at cost until reason exists to value them otherwise. Private equity investments are realized either through a trade sale to an industrial buyer, or through a listing in the public markets. Divestitures can often be delayed for legal or regulatory reasons, and many stock exchanges impose a lock-up period for strategic investors following a flotation. This may result in the proceeds from a company that has been floated being significantly less than the flotation price should the value of the stock fall in the open market.

#### Competition

Private equity investments will normally have to compete with other similar funds for investments. Such competition is typically less relevant in early stage venture capital investments. However, larger leverage buyouts tend to be managed through investment banks via an auction process. The level of competition experienced by a fund competing for investments will depend upon the type and size of investments undertaken by a fund, the sectors/geographies within which a fund operates, and the general economic climate. There is often no assurance that the managers of a private equity

investment will be able to identify and complete attractive investments, or that it will be able to invest the committed capital.

### Legal, Tax and Regulatory Risks

Private equity investments may be affected by legal, tax and regulatory changes that may be introduced with little or no warning. This may not only potentially limit the scope of their operations, but may also affect their ability to divest portfolio companies and could thus give rise to losses. Investors in private equity investments should consider their own tax treatment in terms of gains and losses resulting from their investment in such funds.

## Appendix 4: Structured and Synthetic Products

Structured products are combinations of two or more financial instruments. At least one of them must be a derivative. Together, they form a new investment product. They have various names (such as GROI, PIP, PEP, IGLU, VIU). Synthetic products are essentially covered options and certificates and are characterised by their identical or similar profit and loss structures when compared with specific traditional financial instruments (equities or bonds). Structured and synthetic products can be traded either on-exchange or over the counter.

### Risk Profile

Each product has its own risk profile since the risks of its individual components may be reduced, eliminated or increased. Hence it is particularly important that you are fully aware of the risks involved before acquiring any such product. Such information can be usually found in the

relevant product literature. For example, the maximum possible loss for the buyer of a structured product with capital protection is the difference between the purchase price and the amount of the capital protection.

### Issuer Risk

With structured and synthetic products, buyers can only assert their rights against the issuer. Hence, alongside the market risk, particular attention needs to be paid to issuer risk. You need therefore to be aware that, as well as any potential loss you may incur due to a fall in the market value of the underlying, a total loss of your investment is possible if the issuer should default.

### Liquidity Risk

Market makers, who in most cases are the issuers themselves, normally guarantee that structured products are tradable. Nonetheless, liquidity risks cannot be excluded.

### Risk of Loss or Decline in Market Value

The market value of a structured product can fall below the level of its capital protection, which can increase the potential loss on a sale prior to expiration. In other words, capital protection is only guaranteed if the investor holds on to the structured product until redemption. The risk associated with the option component is the same as the risk of the corresponding option or option combination. Depending on the underlying's market value, the option component can expire without value. Unlike structured products with capital protection, synthetic covered options do not contain a hedge against losses in the market value of the underlying. However, by writing a call option (traditional covered option) or by calculating the return from the sale of a call option into the product price (synthetic covered option), any loss

in market value of the underlying is lower than it would be in the case of a direct investment. The option premium thereby limits any loss in market value of the underlying.

### Settlement Conditions

Either cash settlement or physical delivery of the underlying takes place on the expiration date: If the market value of the underlying on expiration is higher than the strike price, you are paid a specified cash amount as settlement. If, however, it is lower than the strike price, you receive physical delivery of the underlying asset. In this case, you carry the full risk associated with the underlying.

## Securityholder Communication Instructions – Explanation to Clients

The securities in your account are held in safe custody by us and are not registered in your name but in the name of UBS Bank or our nominee. The Canadian reporting issuers of the securities in your account may not know the identity of the beneficial owner of these securities.

We are required under Canadian securities law to obtain your instructions concerning various matters relating to your holding of securities of Canadian reporting issuers in your account. You also have a right to receive such material as notices of meetings, information circulars, and proxies from the Canadian reporting issuer of the securities, as well as the audited financial statements of the Canadian reporting issuer.

### Disclosure of beneficial ownership information

Canadian securities law permits Canadian reporting issuers and other persons and companies to send materials related to the affairs of the Canadian reporting issuer directly to beneficial owners of the Canadian reporting issuer's securities, if the beneficial owner does not object to having information about them disclosed to the Canadian reporting issuer or other persons and companies. These instructions apply to Canadian reporting issuers, and not to non-Canadian reporting issuers. Part 1 of the Client Response Form in the Securityholder Communication Instructions section of the Account Application allows you to tell us if you object to the disclosure by us to the Canadian reporting issuer or other persons or companies of your beneficial ownership information, consisting of your name, address, e-mail address, securities holdings in that Canadian reporting issuer and preferred language of communication (English or French).

If you **DO NOT OBJECT** to the disclosure of your beneficial ownership information, please mark the first box on Part 1 of the Client Response Form. By choosing this option, you will not be charged any costs associated with sending securityholder materials to you. If you do not object to the disclosure of your beneficial ownership information, the use of this information by a Canadian reporting issuer or any other person or company is restricted by Canadian securities legislation to matters relating to the affairs of the Canadian reporting issuer.

If you **OBJECT** to the disclosure of your beneficial ownership information by us, please mark the second box in Part 1 of the Client Response Form. By choosing this option, all materials to be delivered to you as a beneficial owner

of the securities will be delivered by us. We may charge to your account(s) the costs of delivery of a Canadian reporting issuer's securityholder materials to you if the Canadian reporting issuer refuses to pay those costs. These charges will consist of all costs associated with the delivery of these materials and will not include any additional fees.

### Receiving securityholder materials

For securities that you hold in your account, you have the right to receive proxy-related materials sent by Canadian reporting issuers to registered holders of their securities in connection with meetings of such securityholders. Among other things, this permits you to receive the necessary information to allow you to have your securities voted in accordance with your instructions at a securityholder meeting. In addition, Canadian reporting issuers may choose to send other securityholder materials to beneficial owners, although they are not obliged to do so. Canadian securities law permits you to decline to receive three types of securityholder materials. These include:

- 1) Proxy-related materials, including annual reports and financial statements, that are sent in connection with a securityholder meeting;
- 2) Annual reports and financial statements that are not part of proxy-related materials; and
- 3) Materials that a Canadian reporting issuer or other person or company sends to securityholders that are not required by Canadian corporate law or Canadian securities law to be sent to registered securityholders.

Canadian securities law does not provide for you to decline to receive other types of securityholder materials.

Part 2 of the Client Response Form allows you to receive all materials sent to the beneficial owners of securities of Canadian reporting issuers or to decline to receive the three types of materials referred to above. If you want to receive **ALL** materials that are sent to beneficial owners of securities of Canadian reporting issuers, please mark the first box on Part 2 of the Client Response Form. If you want to **DECLINE** to receive the three types of materials referred to above, please mark the second box in Part 2 of the Client Response Form.

*Note: Even if you decline to receive the three types of materials referred to above, a Canadian reporting issuer or other person or company is entitled to deliver these materials to you, provided that the Canadian reporting issuer or other person or company pays all costs associated with the sending of these materials. These materials would be delivered to you by us, if you have objected to the disclosure of your beneficial ownership information to Canadian reporting issuers.*

If you decline, all materials other than the three types of materials referred to above will be delivered to you by the Canadian reporting issuer or other person or company, if you did not object in Part 1 of the Form, or by us if you objected in Part 1 of the Form (in which case you may be charged the cost of delivery if the Canadian reporting issuer or other person or company refuses to pay the cost).

### Preferred language of communication

You will receive materials in your preferred language of communication as selected in your Account Application, if the materials are available in that language.

### Electronic delivery of documents

Canadian securities law permits us

to deliver some documents to you by electronic means if you consent to this means of delivery. If you would like electronic delivery of some securityholder materials, please indicate this in Part 4 of the Client Response Form and include an e-mail address where you can be contacted in the future by UBS Bank or its agent, with respect to enrolment in an electronic delivery system.

### Additional Questions

If you have any questions or want to change your instructions in the future, please contact your UBS Bank Client Advisor.

## UBS Bank (Canada) Retirement Savings Plan Declaration of Trust

**1. Definitions.** Whenever used in this declaration of trust or on the Application, any capitalized terms shall have the meanings given to them below:

“Agent” means UBS Bank (Canada) and its successors and assigns;

“Annuitant” means the individual who has executed the application to be plan owner for the Plan within the meaning Applicable Laws give to that word;

“Applicable Laws” means the Tax Act, relevant pension legislation and such other laws of Canada and of the provinces and territories applicable hereto;

“Application” means the Annuitant’s application to the Agent for the Plan;

“Contribution” means a contribution of cash or any Qualified Investment under the Plan;

“Estate Documents” means proof of the Annuitant’s death and such other documents including Letters Probate of the Annuitant’s Will as may be required by the Trustee in its sole discretion in connection with the transmission of the Property on the Annuitant’s death;

“Estate Representative” means an executor, an administrator, an administrator with the will annexed, a liquidator, or an estate trustee with a will or without a will, whether one or more than one is so appointed;

“Expenses” means all (i) costs, (ii) charges, (iii) commissions, (iv) investment management fees, brokerage fees and other fees, (v) legal expenses and (vi) out-of-pocket expenses incurred from time to time in relation to the Plan;

“Former Spouse” means the individual who is considered by Applicable Laws to be the Annuitant’s former spouse or common-law partner;

“Maturity Date” means the date the Annuitant selects for the start of a Retirement Income, which must not be after the end of the year in which the Annuitant attains the maximum age for the commencement of a retirement income as prescribed by Applicable Laws from time to time;

“Plan” means the retirement savings plan the Annuitant and the Trustee have opened in the Annuitant’s name pursuant to his or her Application;

“Plan Proceeds” means the Property, less any Expenses and Taxes which may be required under Applicable Laws;

“Prohibited Investment” means Property (other than prescribed excluded Property as that term is defined in the Tax Act) that is:

- (a) a debt of the Annuitant;
- (b) a share of the capital stock of, an interest in or a debt of:
  - (i) a corporation, partnership or trust in which the Annuitant has a significant interest;
  - (ii) a person or partnership that does not deal at arm’s length with the Annuitant or with a person or partnership described in subparagraph (i);
- (c) an interest in, or right to acquire, a share, interest or debt described in paragraph (a) or (b); or
- (d) prescribed property (as that term is defined in the Tax Act);

“Property” means any property, including the income thereon the proceeds thereof and cash, held under the Plan from time to time;

“Qualified Investment” means any investment, which is a qualified investment for a registered retirement savings plan according to Applicable Laws;

“Retirement Income” means a retirement income within the meaning of Applicable Laws;

“Spouse” means the individual who is considered by Applicable Laws to be the Annuitant’s spouse or common-law partner;

“Tax Act” means the Income Tax Act (Canada);

“Taxes” means any and all applicable taxes and assessments, including any penalties and interest, as may be required under Applicable Laws; and



“Trustee” means The Royal Trust Company in its capacity as trustee and issuer of the Plan, and its successors and assigns.

**2. Declaration of Trust.** The Trustee agrees to act as trustee of a Retirement Savings Plan for the Annuitant named in the Application and to administer the Property according to this Declaration of Trust.

**3. Appointment of Agent.** The Trustee has appointed UBS Bank (Canada) (the “Agent”) as its agent to perform certain duties relating to the operation of the Plan. The Trustee acknowledges and confirms that ultimate responsibility for the administration of the Plan remains with the Trustee.

**4. Registration.** The Trustee will apply for registration of the Plan as a retirement savings plan pursuant to the Applicable Laws.

**5. Contributions.** The Annuitant or the Annuitant’s Spouse may make Contributions to the Plan in such amounts as are permitted under Applicable Laws, in cash or such other property as may be permitted in the sole discretion of the Trustee. It shall be the sole responsibility of the Annuitant or the Annuitant’s Spouse, as the case may be, to ensure that the amount of Contributions made to the Plan are within the limits permitted under Applicable Laws.

**6. Refund of Contributions.** The Trustee shall on application by the Annuitant or, where applicable, the Annuitant’s Spouse, in a form satisfactory to the Trustee, pay an amount to the taxpayer in order to reduce the amount of tax payable under Part X.1 of the Tax Act and other Applicable Laws.

**7. Tax Information.** The Trustee shall provide the Annuitant and, where applicable, the Annuitant’s Spouse, with appropriate information slips for income tax purposes for all Contributions made to the Plan and such other information regarding the Plan as may be required under Applicable Laws.

**8. Delegation by Trustee.** The Annuitant expressly authorizes the Trustee to delegate to the Agent the performance of the following duties of the Trustee under the Plan:

- (a) receiving Contributions to the Plan from the Annuitant and/or the Annuitant’s Spouse, as the case may be;
- (b) receiving transfers of property to the Plan;
- (c) investing and reinvesting the Property as directed by the Annuitant;
- (d) registering and holding the Property in the Trustee’s name, the Agent’s name, in the name of their respective nominees or in bearer form as determined by the Agent from time to time;
- (e) maintaining the records of the Plan, including designation of beneficiaries, where applicable;
- (f) providing to the Annuitant statements of account for the Plan at least annually;
- (g) preparing all government filings and forms;
- (h) making payments out of the Plan pursuant to the provisions hereof; and
- (i) such other duties and obligations of the Trustee under the Plan as the Trustee in its sole discretion may from time to time determine.

The Annuitant acknowledges that, to the extent the Trustee delegates any such duties, the Trustee shall thereby be

discharged from performing such duties.

**9. Investment of the Property.** The Property shall be invested and reinvested on the directions of the Annuitant without being limited to investments authorized by law for trustees. The Trustee, in its sole discretion, may require the Annuitant to provide such documentation in respect of any investment or proposed investment, as the Trustee deems necessary in the circumstances. The Trustee reserves the right to decline to make any particular investment if the proposed investment and related documentation do not comply with the Trustee’s requirements at that time.

**10. Segregated Funds.** Segregated fund Property will be held in nominee name. The Annuitant agrees to designate the Trustee as the beneficiary under any segregated fund held under the Plan. Upon the death of the Annuitant, the proceeds of the segregated funds paid shall form part of the Property to be dealt with according to the terms of this Declaration of Trust. For greater certainty, upon the death of the Annuitant, the Trustee shall hold the segregated funds as Plan Proceeds for any beneficiary designated by the Annuitant under the Plan, in accordance with this Declaration of Trust.

**11. Choice of Investments for the Plan.** The Annuitant shall be responsible for selecting the investments of the Plan, ensuring that an investment is and continues to be a Qualified Investment, and determining whether any such investment is not and continues not to be a Prohibited Investment. The Trustee shall exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that the Plan holds a non Qualified Investment. The

Annuitant shall have the right to appoint the Agent as his or her agent for the purpose of giving investment directions as provided in this paragraph 11.

**12. Uninvested Cash.** Uninvested cash will be placed on deposit with the Trustee or an affiliate of the Trustee. The interest on such cash balances payable to the Plan will be determined by the Agent from time to time in their sole discretion with no obligation to pay a minimum amount or rate. The Trustee will pay interest to the Agent for distribution to the Plan and the Agent shall credit the Plan with appropriate interest. The Trustee shall have no liability for such payment of interest once it is paid to the Agent for distribution.

**13. Right of Offset.** The Trustee and the Agent shall have no right of offset with respect to the Property in connection with any obligation or debt owed by the Annuitant to the Trustee or the Agent, other than the Expenses payable by the terms of this Declaration of Trust.

**14. Debit Balances.** If the Plan has a cash deficit, the Annuitant authorizes the Trustee or the Agent, to determine which Property to select and to sell such Property to cover the cash deficit within the Plan.

**15. Withdrawals.** Before the purchase of a Retirement Income, the Annuitant may, upon 60 days’ notice to the Agent, or upon such shorter period of notice as the Agent may in its sole discretion permit, request that the Agent liquidate part or all of the Property and pay to the Annuitant an amount from the Property, not exceeding the value of the Plan immediately before the time of payment, subject to the deduction of all compensation, Expenses and Taxes as provided in paragraph 26.

**16. Retirement Income.** The Annuitant shall, upon at least 90 days' notice to the Agent on behalf of the Trustee, or upon such shorter period of notice as the Trustee may in its sole discretion permit, specify the form of Retirement Income to be provided under Applicable Laws. Upon receiving such instructions, the Agent shall purchase such Retirement Income for the Annuitant and, where the Annuitant so elects in writing, for the Annuitant's Spouse after the death of the Annuitant (whereupon references to the Annuitant herein shall include the Annuitant's Spouse). The Plan shall mature on the Maturity Date. Except as otherwise permitted under Applicable Laws from time to time, any annuity purchased as a Retirement Income by the Annuitant must:

- (a) be payable in equal annual or more frequent periodic payments during its term until such time as there is a payment in full or partial commutation of the Retirement Income and, where such commutation is partial, equal, annual or more frequent periodic payments thereafter;
- (b) not be capable of assignment in whole or in part;
- (c) require the commutation of each annuity payable under the arrangement that would otherwise become payable to a person other than the Annuitant or the Annuitant's Spouse under that arrangement;
- (d) if the Annuitant selects an annuity with a guaranteed term, the term cannot exceed a term of years equal to 90 minus the Annuitant's age in whole years at the Maturity Date or if the Annuitant so elects and the Annuitant's Spouse is younger than the Annuitant, the age in whole years of the Annuitant's Spouse at the Maturity Date; and

- (e) not provide for the aggregate of the periodic payments made in a year after the death of the first Annuitant to exceed the aggregate of the payments made in a year before that Annuitant's death.

**17. Annuitant's Failure To Give Instructions Regarding Maturity Date.**

If the Annuitant fails to instruct the Agent in writing at least 90 days (or within such shorter period as the Trustee may permit in its sole discretion) prior to December 31 of the year in which the Annuitant attains the maximum age for the commencement of a retirement income under the Applicable Laws with respect to the form of Retirement Income to be provided, the Trustee and Agent may in their sole discretion and on reasonable notice to the Annuitant either:

- (a) transfer the Property to a UBS Bank (Canada) Retirement Income Fund ("RIF") opened and registered for such purpose in the name of the Annuitant. Upon the transfer of all such Property to the RIF, the Annuitant shall be:
  - (i) deemed to have elected to use his or her age (and not the age of the Annuitant's Spouse, if any) to determine the minimum amount under Applicable Laws;
  - (ii) deemed to have not elected to designate his or her Spouse to become the annuitant on the Annuitant's death and to have not designated any beneficiary upon death of the Annuitant; and
  - (iii) bound by all the terms and conditions of the RIF as stated in the documents pertaining thereto as if the Annuitant had signed the appropriate documents to effect such transfer, and had made or refrained from making

the elections and designations as referred to herein.

- or
- (b) on or after December 1 but before December 31 of that year, the Agent shall liquidate the Property and close the Plan and pay the Plan Proceeds to the Annuitant.

**18. Designation of Beneficiary.**

Subject to Applicable Laws, the Annuitant may designate a beneficiary to receive the Plan Proceeds on the Annuitant's death prior to the purchase of a Retirement Income. A beneficiary designation may only be made, changed or revoked under the Plan by the Annuitant in a format required by the Agent for this purpose. Such designation must adequately identify the Plan and be delivered to the Agent prior to any payment by the Agent. The Annuitant acknowledges that it is his or her sole responsibility to ensure the designation or revocation is valid under the laws of Canada, its provinces or territories.

**19. Death of Annuitant.** If the Annuitant dies before the purchase of a Retirement Income, upon the receipt of Estate Documents by the Agent, which are satisfactory to the Trustee:

- (a) if the Annuitant has a designated beneficiary, the Plan Proceeds will be paid or transferred to the designated beneficiary, subject to the Applicable Laws. The Trustee and the Agent will be fully discharged by such payment or transfer, even though any beneficiary designation made by the Annuitant may be invalid as a testamentary instrument; and
- (b) if the Annuitant's designated beneficiary has died before the Annuitant or if the Annuitant has not designated a beneficiary, the Trustee will pay the Plan Proceeds to

the Annuitant's estate.

**20. Release of Information.** The Trustee and the Agent each are authorized to release any information about the Plan and the Plan Proceeds, after the Annuitant's death, to either the Annuitant's Estate Representative or the designated beneficiary, or both, as the Trustee deems advisable.

**21. Payment into Court.** If there is a dispute about:

- (a) a payout from the Plan or equalization of Property or other dispute arising from a breakdown of the Annuitant's marriage or common law partnership;
- (b) the validity or enforceability of any legal demand or claim against the Property; or
- (c) the authority of a person or personal representative to apply for and accept receipt of the Plan Proceeds on death of the Annuitant;

the Trustee and the Agent are entitled to either apply to the court for directions or pay the Plan Proceeds into court and, in either case, fully recover any legal costs it incurs in this regard as Expenses from the Plan.

**22. Account.** The Agent shall maintain an account for the Annuitant which will record particulars of all Contributions, investments, and transactions in the Plan, and shall mail to the Annuitant, at least annually, a statement of account.

**23. Limitation of Liability.** The Trustee shall not be liable for any loss suffered by the Plan, by the Annuitant or by any beneficiary under the Plan as a result of the purchase, sale or retention of any investment including any loss resulting from the Trustee acting on the direction

of the agent appointed by the Annuitant to provide investment direction.

**24. Indemnity.** The Annuitant agrees to indemnify the Trustee for all compensation, Expenses and Taxes, other than those Taxes for which the Trustee is liable and that cannot be charged against or deducted from the Property in accordance with the Tax Act, incurred or owing in connection with the Plan to the extent that such compensation, Expenses and Taxes cannot be paid out of the Property.

**25. Self-Dealing.** The Trustee's services are not exclusive and, subject to the limitations otherwise provided in this Declaration of Trust on the powers of the Trustee, the Trustee may, for any purpose, and is hereby expressly authorized from time to time in its sole discretion to, appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, with which it may be directly or indirectly interested or affiliated with, whether on its own account or on the account of another (in a fiduciary capacity or otherwise), and to profit therefrom, without being liable to account therefore and without being in breach of this Declaration of Trust.

**26. Compensation, Expenses and Taxes.** The Trustee and Agent will be entitled to such reasonable fees as each may establish from time to time for services rendered in connection with the Plan. All such fees will, unless first paid directly to the Agent, be charged against and deducted from the Property in such manner as the Agent determines.

All Expenses incurred shall be paid from the Plan, including Expenses with respect to the execution of third party demands or claims against the Plan.

All Taxes, other than those Taxes for which the Trustee is liable and that cannot be charged against or deducted from the Property in accordance with the Tax Act, will be charged against and deducted from the Property in such manner as the Agent determines.

**27. Sale of Property.** The Trustee and Agent may sell Property, in their respective sole discretion, for the purposes of paying compensation, Expenses, and Taxes, other than those Taxes for which the Trustee is liable in accordance with the Tax Act and that cannot be charged against or deducted from the Property in accordance with the Tax Act.

**28. Transfers into the Plan.** Amounts may be transferred to the Plan from registered pension plans, other registered retirement savings plans and such other sources as may be permitted from time to time under Applicable Laws. In the case of such transfers, the Plan may be subject to additional terms and conditions, including the "locking-in" of amounts transferred from registered pension plans in order to complete the transfer in accordance with Applicable Laws. If there is any inconsistency between the terms and conditions of the Plan and any such additional terms and conditions which may apply as a result of transfer to the Plan of amounts from another source, the additional terms and conditions shall govern the manner in which funds so transferred are dealt with.

**29. Transfers out of the Plan.** Upon delivery to the Agent of a direction from the Annuitant in a form satisfactory to the Trustee, the Agent shall transfer, in the form and manner prescribed by Applicable Laws, to another registered retirement income fund, registered

retirement savings plan or registered pension plan of the Annuitant, all or such portion of the Property as is specified in the direction, together with all necessary information for the continuance of the Plan to the trustee designated by the Annuitant in such direction except such transfer may be to a registered retirement savings plan or registered retirement income fund of the Annuitant's Spouse or Former Spouse, if under a decree, order or judgement of a competent tribunal or under a written separation agreement, relating to a division of property between the Annuitant and the Annuitant's Spouse or Former Spouse in settlement of rights arising out of, or on the breakdown of their marriage or common law partnership.

Such transfer shall take effect in accordance with Applicable Laws after all forms required by law and by the Trustee to be completed in respect of such transfer have been completed and forwarded to the Agent. Upon such transfer, the Trustee shall be subject to no further liability or duty with respect to the Plan, or the portion thereof, so transferred, as the case may be.

**30. Changes to Declaration of Trust.** The Trustee may change this Declaration of Trust periodically. The Annuitant will be notified on how to obtain an amended copy of the Declaration of Trust reflecting any such change and will be deemed to have accepted such changes. No change to this Declaration of Trust (including a change calling for the Trustee's resignation as trustee or the termination of the trust created by this Declaration of Trust) will be retroactive or result in the Plan not being acceptable as a registered retirement savings plan under Applicable Laws.

### **31. Replacement of Trustee.**

(a) The Trustee may resign by giving such written notice to the Agent as may be required from time to time under the terms of an agreement entered into between the Agent and the Trustee. The Annuitant will be given at least 30 days prior notice of such resignation. On the effective date of such resignation, the Trustee will be discharged from all further duties, responsibilities, and liabilities under this Declaration of Trust, except those incurred before the effective date.

The Trustee will transfer all Property, together with all information required to continue the administration of the Property as a registered retirement savings plan under the Applicable Laws, to a successor trustee.

(b) The Trustee has agreed to resign upon it being provided with notice in writing by the Agent if the Trustee is satisfied that the successor nominated by the Agent will properly assume and fulfill the Trustee's duties and liabilities hereunder in respect of the administration of the Plan.

(c) In either event, the Agent shall forthwith nominate a person to replace the Trustee and the resignation of the Trustee shall not take effect until its replacement has been so nominated by the Agent and appointed as successor by the Trustee and approved by Canada Revenue Agency or its successor. Failing the nomination of a replacement by the Agent within 30 days after receipt by it of a notice of resignation, the Trustee shall be entitled to appoint a person as its own replacement.

(d) Upon any such appointment and resignation of the Trustee, the person so appointed as replacement trustee shall, without further act or formality, be and become the Trustee hereunder.

Such replacement trustee shall, without any conveyance or transfer, be vested with the same power, rights, duties and responsibilities as the Trustee and with the assets of the Plan as if the replacement trustee had been the original Trustee. The Trustee shall execute and deliver to the replacement trustee all such conveyances, transfers and further assurances as may be necessary or advisable to give effect to the appointment of the replacement trustee.

- (e) Any person appointed as a replacement trustee shall be a corporation resident in Canada that is licensed or otherwise authorized under the laws of Canada or a province or territory to carry on in Canada the business of offering to the public its services as trustee.

Any trust company resulting from the merger or amalgamation of the Trustee with one or more trust companies and any trust company that succeeds to substantially all of the trust business of the Trustee shall thereupon become the successor to the Trustee without further act or formality. In all such cases, Canada Revenue Agency or its successor shall be notified.

**32. Assignment by Agent.** The Agent may assign its rights and obligations hereunder to any other corporation resident in Canada authorized to assume and discharge the obligations of the Agent under the Plan and under Applicable Laws.

**33. Notice.** Any notice given by the Annuitant to the Agent shall be sufficiently given if delivered electronically to the Agent upon the Annuitant's receipt of an acknowledgement and response to same or personally to the office of the

Agent where the Plan is administered, or if mailed, postage prepaid and addressed to the Agent at such office, and shall be considered to have been given on the day that the notice is actually delivered or received by the Agent.

Any notice, statement, receipt or other communication given by the Trustee or the Agent to the Annuitant shall be sufficiently given if delivered electronically or personally to the Annuitant, or if mailed, postage prepaid and addressed to the Annuitant at the address shown on the Application or at the Annuitant's last address given to the Trustee or the Agent, and any such notice, statement, receipt or other communication shall be considered to have been given at the time of delivery to the Annuitant electronically or personally or, if mailed, on the fifth day after mailing to the Annuitant.

**34. Date of Birth.** The Annuitant's statement of his or her date of birth in the Annuitant's Application shall be deemed to be a certification as to the Annuitant's age and an undertaking to provide any further evidence of proof of age as may be required by the Agent.

**35. Address of Annuitant.** The Trustee shall be entitled to rely upon the Agent's records as to the current address of the Annuitant as establishing his or her residency and domicile for the operation of the Plan and its devolution on the death of the Annuitant, subject to any notice to the contrary respecting the Annuitant's domicile on death.

**36. Heirs, Representatives and Assigns.** The terms of this Declaration of Trust shall be binding upon the heirs, Estate Representatives, attorneys, committees, guardians of property, other legal and personal representatives,

and assigns of the Annuitant and upon the respective successors and assigns of the Trustee and the Agent and their directors, officers, employees, and agents, as well as their respective estates, Estate Representatives, heirs, attorneys, committees, guardians of property, other legal and personal representatives, and assigns.

**37. Language.** The Annuitant has expressly requested that this Declaration of Trust and all related documents, including notices, be in the English language. Le rentier a expressément demandé que cette Déclaration de fiducie et tous documents y afférents, y compris tout avis, soient rédigés en langue anglaise. (Quebec only/Québec seulement)

**38. Governing Law.** This Declaration of Trust and the Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**39.** The Annuitant expressly agrees that any action arising out of or relating to this Declaration of Trust or the Plan shall be filed only in a court located in Canada and the Annuitant irrevocably consents and submits to the personal jurisdiction of such court for the purposes of litigating of any such action.

## RSP Declaration of Trust September 2012

# UBS Bank (Canada) Retirement Income Fund Declaration of Trust

**1. Definitions.** Whenever used in this declaration of trust or on the Application, any capitalized terms shall have the meanings given to them below

"Agent" means UBS Bank (Canada) and its successors and assigns;

"Annuitant" means the individual who has executed the Application to be the fund owner of the Fund within the meaning of Applicable Laws given to that word;

"Applicable Laws" means the Tax Act, relevant pension legislation and such other laws of Canada and of the provinces and territories applicable hereto;

"Application" means the Annuitant's application to the Agent for the Fund;

"Estate Documents" means proof of the Annuitant's death and such other documents including Letters Probate of the Annuitant's Will as may be required by the Trustee in its sole discretion in connection with the transmission of the Property on the Annuitant's death;

"Estate Representative" means an executor, an administrator, an administrator with the will annexed, a liquidator, or an estate trustee with a will or without a will, whether one or more than one is so appointed;

"Expenses" means all (i) costs, (ii) charges, (iii) commissions, (iv) investment

management fees, brokerage fees and other fees, (v) legal expenses and (vi) out-of-pocket expenses incurred from time to time in relation to the Fund;

“Former Spouse” means the individual who is considered by Applicable Laws to be the Annuitant’s former spouse or common-law partner;

“Fund” means the retirement income fund the Annuitant and the Trustee have opened in the Annuitant’s name pursuant to his or her Application;

“Fund Proceeds” means the Property, less any Expenses and Taxes which may be required under Applicable Laws;

“Minimum Amount” means the minimum amount that, according to subsection 146.3(1) of the Tax Act, must be paid from the Fund in each year, subsequent to the year in which the Fund was opened;

“Prohibited Investment” means Property (other than prescribed excluded Property as that term is defined in the Tax Act) that is:

- (a) a debt of the Annuitant;
- (b) a share of the capital stock of, an interest in or a debt of:
  - (i) a corporation, partnership or trust in which the Annuitant has a significant interest;
  - (ii) a person or partnership that does not deal at arm’s length with the Annuitant or with a person or partnership described in subparagraph (i);
- (c) an interest in, or right to acquire, a share, interest or debt described in paragraph (a) or (b); or
- (d) prescribed property (as that term is defined in the Tax Act);

“Property” means any property,

including the income thereon the proceeds thereof and cash, held under the Fund from time to time;

“Qualified Investment” means any investment, which is a qualified investment for a registered retirement income fund according to Applicable Laws;

“Spouse” means the individual who is considered by Applicable Laws to be the Annuitant’s spouse or common-law partner;

“Tax Act” means the Income Tax Act (Canada);

“Taxes” means any and all applicable taxes and assessments, including any penalties and interest, as may be required under Applicable Laws;

and

“Trustee” means The Royal Trust Company in its capacity as trustee and carrier of the Fund, and its successors and assigns.

**2. Declaration of Trust.** The Trustee agrees to act as trustee of a Retirement Income Fund for the Annuitant named in the Application and to administer the Property according to this Declaration of Trust.

**3. Appointment of Agent** The Trustee has appointed UBS Bank (Canada) (the “Agent”) as its agent to perform certain duties relating to the operation of the Fund. The Trustee acknowledges and confirms that ultimate responsibility for the administration of the Fund remains with the Trustee.

**4. Registration.** The Trustee will apply for registration of the Fund as a retirement income fund pursuant to the Applicable Laws.

**5. Tax information.** The Trustee shall provide the Annuitant with appropriate information slips for income tax purposes each year showing the total of the payments made from the Fund during the preceding calendar year and such other information regarding the Fund as may be required under Applicable Laws.

**6. Delegation by Trustee.** The Annuitant expressly authorizes the Trustee to delegate to the Agent the performance of the following duties and obligations of the Trustee under the Fund:

- (a) receiving transfers of property to the Fund;
- (b) investing and reinvesting the Property as directed by the Annuitant;
- (c) registering and holding the Property in the Trustee’s name, the Agent’s name, in the name of their respective nominees or in bearer form as determined by the Agent from time to time;
- (d) maintaining the records of the Fund, including designation of beneficiaries, where applicable;
- (e) providing to the Annuitant statements of account for the Fund at least annually;
- (f) preparing all government filings and forms;
- (g) paying all amounts to be paid out of the Fund in accordance with the terms hereof; and
- (h) such other duties and obligations of the Trustee under the Fund as the Trustee in its absolute discretion may from time to time determine.

The Annuitant acknowledges that, to the extent the Trustee delegates any such duties, the Trustee shall thereby be discharged from performing such duties.

**7. Investment of the Property.** The Property shall be invested and reinvested on the directions of the Annuitant without being limited to investments authorized by law for trustees. The Trustee, in its sole discretion, may require the Annuitant to provide such documentation in respect of any investment or proposed investment, as the Trustee deems necessary in the circumstances. The Trustee reserves the right to decline to make any particular investment if the proposed investment and related documentation do not comply with the Trustee’s requirements at that time.

**8. Segregated Funds.** Segregated fund Property will be held in nominee name. The Annuitant agrees to designate the Trustee as the beneficiary under any segregated fund held under the Fund. Upon the death of the Annuitant, the proceeds of the segregated funds paid shall form part of the Property to be dealt with according to the terms of this Declaration of Trust. For greater certainty, upon the death of the Annuitant, the Trustee shall hold the segregated funds as Fund Proceeds for any beneficiary designated by the Annuitant under the Fund, in accordance with this Declaration of Trust.

**9. Choice of Investments for the Fund.** The Annuitant shall be responsible for selecting the investments of the Fund, ensuring that an investment is and continues to be a Qualified Investment, and determining whether any such investment is not and continues not to be a Prohibited Investment. The Trustee shall exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that the Fund holds a non Qualified Investment. The Annuitant shall have the right to appoint the Agent as his or her agent for the purpose of giving investment directions as provided in this paragraph 9.

**10. Uninvested Cash.** Uninvested cash will be placed on deposit with the Trustee or an affiliate of the Trustee. The interest on such cash balances payable to the Fund will be determined by the Agent from time to time in their sole discretion with no obligation to pay a minimum amount or rate. The Trustee will pay interest to the Agent for distribution to the Fund and the Agent shall credit the Fund with appropriate interest. The Trustee shall have no liability for such payment of interest once it is paid to the Agent for distribution.

**11. Right of Offset.** The Trustee and the Agent shall have no right of offset with respect to the Property in connection with any obligation or debt owed by the Annuitant to the Trustee or the Agent, other than the Expenses payable by the terms of this Declaration of Trust.

**12. Debit Balances.** If the Fund has a cash deficit, the Annuitant authorizes the Trustee or the Agent, to determine which Property to select and to sell such Property to cover the cash deficit within the Fund.

**13. Payments from the Fund.** The Agent shall make the following payments to the Annuitant and, where the Annuitant has so elected as provided in paragraph 17, to the Annuitant's Spouse after the death of the Annuitant, each year, commencing not later than the first calendar year after the year in which the Fund is established, one or more payments the aggregate of which is not less than the Minimum Amount for the year, but not exceeding the value of the Fund immediately before the time of payment. The Annuitant shall instruct the Agent which investments of the Fund should be sold to provide any required cash.

The amount and frequency of the payment or payments referred to in this paragraph in respect of any year shall be as specified in writing by the Annuitant on the Application Form or on such other form as the Agent may provide for this purpose. The Annuitant may change the amount and frequency of the said payment or payments or request additional payments by instructing the Agent in writing on such form as may be provided for this purpose, such change to be effective in the next calendar year.

If the Annuitant does not specify the payment or payments to be made in a year or if the payment or payments specified are less than the Minimum Amount for a year, the Agent shall make such payment or payments out of the Property as it deems necessary so that the Minimum Amount for that year is paid to the Annuitant. In the event that the Property does not contain sufficient cash to make such payment or payments, the Annuitant authorizes the Trustee or Agent to determine which Property shall be sold in order to effect such payment or payments.

The Agent shall withhold from any payment any income tax or other amount required to be withheld by Applicable Laws. Payments to the Annuitant shall be made pursuant to the Annuitant's direction. Where no such direction is provided, the Agent shall make payment by cheque to the Annuitant at the Annuitant's last address on file.

**14. Calculation of Minimum Amount.** The Minimum Amount under the Fund for the year in which the Fund is established is nil. The Minimum Amount for a year after the year in which the Fund was opened will vary, depending on the year in which the Fund was opened and the Annuitant's age (or the

age of the Annuitant's Spouse if elected to use the Annuitant Spouse's age on the Application form before any payment from the Fund has been made), and will be calculated as required by subsection 146.3(1) of the Tax Act.

An election made by the Annuitant to base the Minimum Amount on the age of the Annuitant's Spouse as provided above is thereafter binding and cannot be changed, revoked or amended after the first payment has been made from the Fund even if the Spouse dies or if the Annuitant and the Spouse cease to be married.

**15. No Assignment.** No payment under this Declaration of Trust may be assigned, either in whole or in part.

**16. Valuation of the Fund.** For the purposes of calculating the Minimum Amount for a year, the value of the Fund at the beginning of a year will be equal to the value of the Fund as at the close of business on the last business day of the Trustee in the immediately preceding year.

**17. Election of Successor Annuitant.** Subject to Applicable Laws, the Annuitant may elect that the Annuitant's Spouse become the Annuitant under the Fund after the Annuitant's death if the Spouse survives the Annuitant.

**18. Designation of Beneficiary.** Subject to Applicable Laws, and if the Annuitant has not elected a successor annuitant or the successor annuitant has predeceased the Annuitant, the Annuitant may designate a beneficiary to receive the Fund Proceeds on the Annuitant's death. A beneficiary designation may only be made, changed or revoked under the Fund by the Annuitant in a format required by the Agent for this purpose. Such designation must adequately identify the Fund and be delivered to

the Agent prior to any payment by the Agent. The Annuitant acknowledges that it is his or her sole responsibility to ensure the designation or revocation is valid under the laws of Canada, its provinces or territories.

**19. Death of Annuitant (Where Spouse Becomes the Annuitant).** On the death of the Annuitant, where there has been an election of the Annuitant's Spouse as successor annuitant under the Fund, the Agent, upon receipt of Estate Documents, shall continue to make the payments, in accordance with this Declaration of Trust, to the Annuitant's Spouse after the death of the Annuitant. The Trustee and Agent shall be fully discharged upon making those payments to the Annuitant's Spouse, even though any election or designation made by the Annuitant may be invalid as a testamentary instrument.

**20. Death of Annuitant (all other cases).** If the Annuitant dies and the Annuitant's Spouse does not become the successor annuitant of the Fund, upon the receipt of Estate Documents by the Agent, which are satisfactory to the Trustee:

- (a) if the Annuitant has a designated beneficiary, the Fund Proceeds will be paid or transferred to the designated beneficiary, subject to the Applicable Laws. The Trustee and the Agent will be fully discharged by such payment or transfer, even though any beneficiary designation made by the Annuitant may be invalid as a testamentary instrument.
- (b) if the Annuitant's designated beneficiary has died before the Annuitant or if the Annuitant has not designated a beneficiary, the Trustee will pay the Fund Proceeds to the Annuitant's estate.

**21. Release of Information.** The Trustee and the Agent each are authorized to release any information about the Fund and the Fund Proceeds, after the Annuitant's death, to either the Annuitant's Estate Representative or the designated beneficiary, or both, as the Trustee deems advisable.

**22. Payment into Court.** If there is a dispute about:

- (a) a payout from the Fund or equalization of Property or other dispute arising from a breakdown of the Annuitant's marriage or common law partnership;
- (b) the validity or enforceability of any legal demand or claim against the Property; or
- (c) the authority of a person or personal representative to apply for and accept receipt of the Fund Proceeds on death of the Annuitant;

the Trustee and the Agent are entitled to either apply to the court for directions or pay the Fund Proceeds into court and, in either case, fully recover any legal costs they incur in this regard as Expenses from the Fund.

**23. Account.** The Agent shall maintain an account for the Annuitant which will record particulars of all investments, and transactions in the Fund and shall mail to the Annuitant, at least annually, a statement of account. The Agent shall also mail to the Annuitant, at least annually, a statement of the value of the Fund as at December 31 in each year and the Minimum Amount of the payments to be made to the Annuitant during the next calendar year.

**24. Limitation on Liability.** The Trustee shall not be liable for any loss suffered by the Fund, by the Annuitant or by any

beneficiary under the Fund as a result of the purchase, sale or retention of any investment including any loss resulting from the Trustee acting on the direction of the agent appointed by the Annuitant to provide investment direction.

**25. Indemnity.** The Annuitant agrees to indemnify the Trustee for all compensation, Expenses and Taxes, other than those Taxes for which the Trustee is liable and that cannot be charged against or deducted from the Property in accordance with the Tax Act, incurred or owing in connection with the Fund to the extent that such compensation, Expenses and Taxes cannot be paid out of the Property.

**26. Self-Dealing.** The Trustee's services are not exclusive and, subject to the limitations otherwise provided in this Declaration of Trust on the powers of the Trustee, the Trustee may, for any purpose, and is hereby expressly authorized from time to time in its sole discretion to, appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, with which it may be directly or indirectly interested or affiliated with, whether on its own account or on the account of another (in a fiduciary capacity or otherwise), and to profit therefrom, without being liable to account therefore and without being in breach of this Declaration of Trust.

**27. Compensation, Expenses and Taxes.** The Trustee and Agent will be entitled to such reasonable fees as each may establish from time to time for services rendered in connection with the Fund. All such fees will, unless first paid directly to the Agent, be charged against and deducted from the Property in such manner as the Agent determines.

All Expenses incurred shall be paid from the Fund, including Expenses with respect to the execution of third party demands or claims against the Fund.

All Taxes, other than those Taxes for which the Trustee is liable and that cannot be charged against or deducted from the Property in accordance with the Tax Act, will be charged against and deducted from the Property in such manner as the Agent determines.

**28. Sale of Property.** The Trustee and Agent may sell Property in their respective sole discretion, for the purposes of paying compensation, Expenses and Taxes, other than those Taxes for which the Trustee is liable in accordance with the Tax Act and that cannot be charged against or deducted from the Property in accordance with the Tax Act.

**29. Transfers into the Fund.** Amounts may be transferred to the Fund from registered pension plans, other registered retirement income funds or registered retirement savings plans and such other sources as may be permitted from time to time under the Tax Act. In the case of such transfers, the Fund may be subject to additional terms and conditions, including the "locking-in" of amounts transferred from registered pension plans in order to complete the transfer in accordance with Applicable Laws. If there is any inconsistency between the terms and conditions of the Fund and any such additional terms and conditions which may apply as a result of transfer to the Fund of amounts from another source, the additional terms and conditions shall govern the manner in which funds so transferred are dealt with. The Annuitant acknowledges and expressly agrees to be bound by any such additional terms and conditions to which the Fund may be subject from time to time.

**30. Transfers out of the Plan.** Upon delivery to the Agent of a direction from the Annuitant in a form satisfactory to the Trustee, the Agent shall transfer, in the form and manner prescribed by Applicable Laws, to another registered retirement income fund, registered retirement savings plan or registered pension plan of the Annuitant, all or such portion of the Property as is specified in the directions, together with all necessary information for the continuance of the Fund to the trustee designated by the Annuitant in such direction except such transfer may be to a registered retirement savings plan or registered retirement income fund of the Annuitant's Spouse or Former Spouse, if under a decree, order or judgement of a competent tribunal or under a written separation agreement, relating to a division of property between the Annuitant and the Annuitant's Spouse or Former Spouse in settlement of rights arising out of, or on the breakdown of their marriage or common law partnership.

For greater certainty, the Agent shall retain sufficient Property in order that the Minimum Amount for the year, as per paragraph 146.3(2)(e.1) or (e.2) of the Tax Act, may be retained and paid to the Annuitant. The Agent may, in its sole discretion, deduct applicable Expenses, including any transfer fee from the Property or the portion thereof being transferred. If only a portion of the property or value of the Fund is transferred, the Annuitant may instruct the Agent in the said notice as to which investments he or she wishes to be sold or transferred for the purpose of effecting the said transfer. If the Annuitant fails to so instruct the Agent, the Agent shall sell or transfer such investments as it in its sole discretion deems appropriate.

Such transfer shall take effect in accordance with Applicable Laws after all forms required by law and by the Trustee to be completed in respect of such transfer have been completed and forwarded to the Agent. Upon such transfer, the Trustee shall be subject to no further liability or duty with respect to the Fund, or the portion thereof so transferred, as the case may be.

### 31. Changes to Declaration of Trust

The Trustee may change this Declaration of Trust periodically. The Annuitant will be notified on how to obtain an amended copy of the Declaration of Trust reflecting any such change and will be deemed to have accepted such changes. No change to this Declaration of Trust (including a change calling for the Trustee's resignation as trustee or the termination of the trust created by this Declaration of Trust) will be retroactive or result in the Fund not being acceptable as a registered retirement income fund under Applicable Laws.

### 32. Replacement of Trustee

(a) The Trustee may resign by giving such written notice to the Agent as may be required from time to time under the terms of an agreement entered into between the Agent and the Trustee. The Annuitant will be given at least 30 days prior notice of such resignation. On the effective date of such resignation, the Trustee will be discharged from all further duties, responsibilities, and liabilities under this Declaration of Trust, except those incurred before the effective date.

The Trustee will transfer all Property, together with all information required to continue the administration of the Property as a registered retirement income fund under the Applicable

Laws, to a successor trustee.

- (b) The Trustee has agreed to resign upon it being provided with notice in writing by the Agent if the Trustee is satisfied that the successor nominated by the Agent will properly assume and fulfill the Trustee's duties and liabilities hereunder in respect of the administration of the Fund.
- (c) In either event, the Agent shall forthwith nominate a person to replace the Trustee and the resignation of the Trustee shall not take effect until its replacement has been so nominated by the Agent and appointed as successor by the Trustee and approved by Canada Revenue Agency or its successor. Failing the nomination of a replacement by the Agent within 30 days after receipt by it of a notice of resignation, the Trustee shall be entitled to appoint a person as its own replacement.
- (d) Upon any such appointment and resignation of the Trustee, the person so appointed as replacement trustee shall, without further act or formality, be and become the Trustee hereunder. Such replacement trustee shall, without any conveyance or transfer, be vested with the same power, rights, duties and responsibilities as the Trustee and with the Property as if the replacement trustee had been the original Trustee. The Trustee shall execute and deliver to the replacement trustee all such conveyances, transfers and further assurances as may be necessary or advisable to give effect to the appointment of the replacement trustee.
- (e) Any person appointed as a replacement trustee shall be a corporation resident in Canada that is licensed or otherwise authorized under the laws of Canada or a province or territory to carry on in Canada the business of offering to the public its services as trustee.

Any trust company resulting from the merger or amalgamation of the Trustee with one or more trust companies and any trust company that succeeds to substantially all of the trust business of the Trustee shall thereupon become the successor to the Trustee without further act or formality. In all such cases, Canada Revenue Agency or its successor shall be notified.

**33. Assignment by Agent.** The Agent may assign its rights and obligations hereunder to any other corporation resident in Canada authorized to assume and discharge the obligations of the Agent under the Fund and Applicable Laws.

**34. Notice.** Any notice given by the Annuitant to the Agent shall be sufficiently given if delivered electronically to the Agent upon the Annuitant's receipt of an acknowledgement and response to same or personally to the office of the Agent where the Fund is administered, or if mailed, postage prepaid and addressed to the Agent at such office, and shall be considered to have been given on the day that the notice is actually delivered or received by the Agent.

Any notice, statement, receipt or other communication given by the Trustee or the Agent to the Annuitant shall be sufficiently given if delivered electronically or personally to the Annuitant, or if mailed, postage prepaid and addressed to the Annuitant at the address shown on the Application or at the Annuitant's last address given to the Trustee or the Agent, and any such notice, statement, receipt or other communication shall be considered to have been given at the time of delivery to the Annuitant electronically or personally or, if mailed, on the fifth day after mailing to the Annuitant.

**35. Date of Birth.** The Annuitant's statement of his or her date of birth in the Annuitant's application and, where applicable, that of his or her Spouse, shall be deemed to be a certification as to the Annuitant's age and his or her Spouse's age and an undertaking to provide any further evidence of proof of age as may be required by the Trustee.

**36. Address of Annuitant.** The Trustee shall be entitled to rely upon the Agent's records as to the current address of the Annuitant as establishing his or her residency and domicile for the operation of the Fund and its devolution on the death of the Annuitant subject to any notice to the contrary respecting the Annuitant's domicile on death.

**37. Heirs, Representatives and Assigns.** The terms of this Declaration of Trust shall be binding upon the heirs, Estate Representatives, attorneys, committees, guardians of property, other legal and personal representatives and assigns of the Annuitant and upon the respective successors and assigns of the Trustee and the Agent and their directors, officers, employees and agents, as well as their respective estates, Estate Representatives, heirs, attorneys, committees, guardians of property, other legal and personal representatives and assigns.

**38. Language.** The Annuitant has expressly requested that this Declaration of Trust and all related documents, including notices, be in the English language. Le rentier a expressément demandé que cette Déclaration de fiducie et tous documents y afférents, y compris tout avis, soient rédigés en langue anglaise. (Quebec only/Québec seulement)



**39. Governing Law.** This Declaration of Trust and the Fund shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

The Annuitant expressly agrees that any action arising out of or relating to this Declaration of Trust or the Fund shall be filed only in a court located in Canada and the Annuitant irrevocably consents and submits to the personal jurisdiction of such court for the purposes of litigating any such action.

**RIF Declaration of Trust  
September 2012**

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