

*This confidential Canadian offering memorandum (this “Offering Memorandum”) pertains to the offering of the securities described in this Offering Memorandum only in those jurisdictions and to those persons where and to whom they may be lawfully offered for sale, and only by persons permitted to sell such securities. This Offering Memorandum is not, and under no circumstances is to be construed as, an advertisement or a public offering of the securities described in this Offering Memorandum in Canada. No securities commission or similar authority in Canada has reviewed or in any way passed upon this document or the merits of the securities described in this Offering Memorandum, and any representation to the contrary is an offence.*

## CONFIDENTIAL OFFERING MEMORANDUM

# PERFORMANCE DIVERSIFIED TRUST

### Continuous Offering of Units (Series A Units and Series F Units)

## SUMMARY OF TERMS

*Potential investors are encouraged to consult their own professional advisors as to the tax and legal consequences of investing in the Trust. This summary is qualified in its entirety by the more detailed information appearing elsewhere in this Offering Memorandum. Capitalized terms used but not defined in this summary are defined elsewhere in this Offering Memorandum, the Trust Agreement and/or the Subscription Agreement.*

## THE TRUST

- The Trust:** Performance Diversified Trust (the “**Trust**”) is a trust established under the laws of the Province of Ontario as of May 26, 2008. The Trust is governed by a trust agreement dated as of May 26, 2008, as amended from time to time (the “**Trust Agreement**”). See “Performance Diversified Trust”.
- Investment Objective of the Trust:** The objective of the Trust is to achieve a superior risk-adjusted rate of return. To achieve its objective, the Trust will invest in the Performance Diversified Fund (the “**Underlying Fund**”). The Underlying Fund is a fund of hedge funds that invests with several different Hedge Fund managers (“**Sub Managers**”) employing various strategies (“**Sub Funds**”) creating a well diversified portfolio of Hedge Funds. See “Investment Objectives, Strategy and Restrictions – The Trust”.
- Manager and Trustee:** Venator Capital Management Ltd. (the “**Manager**”), a corporation incorporated under the laws of the Province of Ontario, is the trustee and manager of the Trust and is responsible for managing the ongoing business, investment and administrative affairs of the Trust.
- Status of the Trust:** Although the Trust is a “mutual fund” as defined in the securities legislation applicable in certain provinces, it does not operate in accordance with the requirements of National Instrument 81-102 – *Mutual Funds* and other policies and regulations of the securities regulatory authorities that are applicable to mutual funds that have offered securities under a prospectus and are reporting issuers.

## PERFORMANCE DIVERSIFIED FUND

The Trust's investments will consist solely of limited partnership units of the Underlying Fund.

**Performance Diversified Fund:** The Underlying Fund is a limited partnership formed under the laws of the Province of Ontario.

**Investment Objective:** The Underlying Fund's objective is to achieve a consistent risk-adjusted rate of return through its investment in externally managed strategies. Composing a portfolio that is diversified across a number of different strategies effectively reduces strategy risk. The weighting of each strategy is reviewed on a monthly basis taking into consideration changing market conditions. Manager risk is reduced through due diligence and by diversifying across a number of Sub Managers. Allocation to each Sub Manager is made on the basis of their expected performance and risk parameters. Sub Managers that diverge from their expected risk-reward parameters are removed. Market risk is reduced by diversifying across strategies that are expected to be profitable in rising and declining markets. Sub Manager allocation is optimized so as to maximize performance and minimize portfolio risk. See "Investment Objectives, Strategy and Restrictions – The Underlying Fund – Performance Diversified Fund".

**Investment Strategy:** The Underlying Fund will attempt to meet its investment objectives by investing in securities of Canadian and foreign Sub Funds. The Sub Funds, in turn, engage primarily in the management of market neutral arbitrage trading strategies. The General Partner will seek to invest in multiple arbitrage, relative value, market neutral and other alternative strategies in an effort to preserve capital, protect investors from substantial market fluctuations and provide diversified participation in alternative investment strategies. The approach is designed to produce non-correlated returns with lower volatility than traditional asset classes. There are no fixed guidelines as to the number of Sub Funds allocated to or as to the degree of Sub Manager diversification and therefore the Underlying Fund's asset allocation will reflect the views of the Manager as to current and prospective market conditions and investment opportunities for various strategies at any given time.

**Manager:** The Manager is also the manager and investment advisor of the Underlying Fund and is responsible for providing or arranging for the provision of investment management and administrative services required by the Underlying Fund, and for the execution of the investment strategy of the Underlying Fund.

**Sponsor:** The Manager has retained Performance Group GenPar Ltd. (the "**Sponsor**") to provide administrative services to the Trust pursuant to an administrative services agreement (the "**Administrative Services Agreement**") made as of December 18, 2009 between the Manager and the Sponsor.

**General Partner:** Performance Group GenPar Ltd. is the General Partner of the Underlying

Fund.

In accordance with the terms of the amended and restated limited partnership agreement between the General Partner and the Limited Partners (as defined therein) dated January 1, 2007 (the “**Limited Partnership Agreement**”), the General Partner may retain such persons or entities as it deems appropriate to manage all or a designated portion of the investment operations of the Underlying Fund. See “Management of the Trust and the Underlying Fund”.

## SUMMARY OF INVESTMENT TERMS

### **The Offering:**

The Trust is offering an unlimited number of retractable, redeemable Series A trust units (the “**Series A Units**”) and an unlimited number of retractable, redeemable Series F trust units (the “**Series F Units**”) and together with the Series A Units, the “**Units**”) of the Trust, issuable on a continuous basis pursuant to this Offering Memorandum (the “**Offering**”).

The Units are offered by the Trust in accordance with exemptions from prospectus and registration requirements contained in National Instrument 45-106—*Prospectus and Registration Exemptions* (“**NI 45-106**”), which has been adopted by the securities regulatory authorities in each of the provinces in which the Units are offered for sale. Unless an investor can establish to the Sponsor’s satisfaction that another exemption is available, an exemption under NI 45-106 will generally require that each investor is investing as principal (and not for or on behalf of any other person) and is either an “accredited investor” or is investing not less than \$150,000. Investors, other than individuals, that are not accredited investors, or are accredited investors solely on the basis that they have net assets of at least \$5,000,000, must also represent to the Trust (and may be required to provide additional evidence at the request of the Sponsor to establish) that such investor was not formed solely in order to make private placement investments which may not have otherwise been available to any persons holding an interest in such investor. Units may be purchased and retained by persons who are residents of Canada for Canadian federal income tax purposes.

Investors who qualify as “accredited investors” will be required to complete the applicable “Certificate of Accredited Investor” in the form attached to the subscription agreement (the “**Subscription Agreement**”) as part of their subscription for Units. The Sponsor is entitled to accept or reject subscriptions in whole or in part.

### **The Units:**

An investment in the Trust is represented by Units, each of which represents an equal undivided beneficial interest in the net assets of the Trust attributable to the relevant series of Units.

**Series A Units:** Series A Units are available to qualified purchasers.

**Series F Units:** Series F Units are intended for investors who have or arrange to have fee-based accounts with a registered dealer, but may be issued to qualified purchasers in the Sponsor’s sole discretion. No Service

Fee is payable to the registered dealer of the holder of the Series F Units. As a result, the Net Asset Value per Series F Unit will be higher than the Net Asset Value per Series A Unit. Distributions per Unit will be the same for Series A Units and Series F Units. If a Unitholder ceases to be eligible to hold Series F Units, the Sponsor may, in its sole discretion, exchange such Unitholder's Series F Units for Series A Units after the holder of such Series F Units is given at least 10 days prior notice.

A Unit of each series is equal to the other Units in its series and has the same rights and obligations attaching to it as other Units in its series. Unitholders are not entitled to vote except for the purposes set out in the Trust Agreement. In such circumstances, each whole Unit is entitled to one vote at meetings of Unitholders. Each whole Unit is entitled to participate equally with respect to any and all distributions made by the Trust, including distributions of net income and net realized capital gains, and distributions upon the termination of the Trust. Units are issued only as fully paid and are non-assessable. See "Description of Units".

**Subscription Price:** Units will be issued at the Net Asset Value per Unit as of the applicable Valuation Date, payable in full at such time, by way of certified cheque or bank draft. See "Purchase of Units" and "Valuation of Assets and Computation of Net Asset Value".

**Purchases:** Units may be purchased as at the close of business on the last business day of each month, or on any other day as the Sponsor, in its discretion, determines (each a "**Valuation Date**"), provided a Subscription Agreement and the required payment has been delivered to and accepted by the Sponsor no later than 4:00 p.m. (Toronto time) on such Valuation Date. Units will be deemed to be issued on the next business day based on the closing Net Asset Value per Unit on such Valuation Date. Subscription Agreements received or accepted after 4:00 p.m. on the Valuation Date will be considered on the following Valuation Date. No certificates for Units will be issued. See "Purchase of Units".

**FundSERV:** Units may also be purchased through the order entry system operated by FundSERV Inc. ("**FundSERV**"). No interest will be paid on account of funds deposited through FundSERV pending investment in the Trust or the return of such funds if subscriptions are rejected. Orders for Units purchased through FundSERV must be placed 5 business days prior to the applicable Valuation Date.

**Redemption at the Option of the Unitholder:** Units may be redeemed by Unitholders at the Net Asset Value per Unit on any Valuation Date, provided that the request for redemption is submitted at least 30 days prior to such Valuation Date. Payment of the redemption price will be made to the withdrawing Unitholder not later than 30 days following the applicable Valuation Date.

The Trust may suspend redemption rights in certain circumstances, including redemptions in excess of 10% of the Net Asset Value of the Trust. The Sponsor also reserves the right to hold back up to 20% of the aggregate redemption price if liquidity issues arise. See "Redemptions."

<b>Redemption at the Option of the Trust:</b>	The Sponsor shall have the right to require a Unitholder to redeem some or all of the Units owned by such Unitholder on a Valuation Date at the Net Asset Value per Unit thereof, by notice in writing to the Unitholder given at least 60 days before the date of redemption, which right may be exercised by the Sponsor in its absolute discretion. See “Redemptions”.
<b>Transfer or Resale:</b>	Unitholders may not transfer any of their Units without the written consent of the Sponsor at its sole discretion and transfers will generally not be permitted. The transfer or resale of Units (which does not include a redemption of Units) is also subject to restrictions under applicable securities legislation. See “Resale Restrictions”.
<b>Distributions:</b>	It is the Trust’s policy to distribute annually to Unitholders sufficient income and capital gains (net of applicable losses) so that it effectively will not pay any Canadian federal income tax under Part I of the <i>Income Tax Act</i> (Canada) (the “ <b>Tax Act</b> ”). The Trust will distribute its annual taxable income and net realized capital gains to Unitholders by December 31 of each year and at such other times as determined by the Trustee. All distributions of the Trust will be automatically reinvested, without charge, in additional Units at the Net Asset Value per Unit and, on the date of each distribution, the Units will be automatically consolidated into that number of Units outstanding immediately prior to the distribution. Accordingly, the effect of distributions will generally be to increase the adjusted cost base of the Units, not the number of Units outstanding.
<b>Year End:</b>	December 31
<b>Financial Reporting:</b>	Financial statements of the Trust will be prepared in accordance with applicable securities law requirements. See “Reports to Unitholders”.
<b>Tax Considerations:</b>	In computing the Unitholder’s income for the year, a Unitholder will generally be required to include the amount of the net income, and the taxable portion of the net realized capital gains of the Trust, that is paid or payable to the Unitholder in the year whether in cash or in Units. Distributions by the Trust to a Unitholder in excess of the Unitholder’s share of the Trust’s net income and net realized capital gains will not result in an inclusion in the Unitholder’s income but will reduce the adjusted cost base of the Unitholder’s Units. To the extent that the adjusted cost base of a Unit held as capital property would otherwise be less than zero, the Unitholder will be deemed to have realized a capital gain equal to the negative amount. A Unitholder who disposes of Units held as capital property (on redemption or otherwise) will realize a capital gain (or loss) to the extent that the proceeds of disposition exceed (or are less than) the adjusted cost base of Units and any reasonable costs of disposition. See “Canadian Federal Income Tax Considerations”. <b>Each Unitholder should satisfy itself, himself or herself as to the federal and applicable provincial tax consequences of an investment in Units by obtaining advice from its, his or her tax advisor.</b>
<b>Eligibility for</b>	The Trust qualifies as a “mutual fund trust” as defined in the Tax Act,

- Investment:** therefore units are qualified investments under the Tax Act for trusts governed by registered retirement savings plans, registered retirement income funds, deferred profit sharing plans and registered education savings plans, or under proposed amendments to the Tax Act, registered disability savings plans.
- Non-Resident Unitholders:** In certain circumstances, non-resident Unitholders and non-Canadian partnerships may be required to sell some or all of their Units to residents of Canada within a specified period of not less than 30 days. See “Unitholder Matters - Non-Resident Unitholders”.
- Liability of Unitholders:** The Unitholders of the Trust do not receive the protection of statutorily mandated limited liability as in the case of shareholders of most Canadian corporations. However, the Trust Agreement, as amended from time to time, seeks to limit the liability of Unitholders. See “Risk Factors”.
- Risk Factors:** Investors should consider a number of factors in assessing the risks associated with investing in Units including those generally associated with the investment strategies used by the Investment Advisors, and certain tax matters. See “Risk Factors”.
- Termination:** The Manager, may, in its discretion, terminate the Trust without the approval of Unitholders if, in the opinion of the Manager and the Sponsor, the Net Asset Value of the Trust is reduced as the result of redemptions or otherwise so that it is no longer economically feasible to continue the Trust and it would be in the best interests of the Unitholders to terminate the Trust. After paying outstanding liabilities, the Trust will distribute its remaining assets *pro rata* to Unitholders. See “Termination of the Trust”.

## SUMMARY OF FEES

- Sales Commission:** No commission will be payable to the Manager, the Sponsor or their respective employees or affiliates in respect of Units purchased directly by an investor. An investor may pay a negotiated fee of up to 6% of the Net Asset Value of the Units if purchasing through a dealer. Any such fee will be negotiated between the dealer and the investor and will be payable by the investor. All minimum subscription amounts are net of such fees. See “Fees and Expenses”
- Service Fee:** The Sponsor intends to pay a service fee (the “**Service Fee**”) to participating registered dealers, agents, or brokers equal to 1.0% annually of the Net Asset Value of the Series A Units held by the clients of such dealers, agents or brokers, plus any applicable taxes. The Service Fee will be calculated and paid at the end of each calendar quarter, provided that the Sponsor reserves the right to change the frequency of payments to a monthly or annual basis in its sole discretion.
- No Service Fee is payable in respect of the Series F Units. See “Fees and Expenses”.
- Expenses:** Each of the Trust and the Underlying Fund is responsible, on a separate basis, for the payment of all fees and expenses relating to its respective

establishment and operation, including audit, accounting, administration, record keeping, registrar and transfer agent fees and expenses and legal fees and expenses, custody and safekeeping charges, all costs and expenses associated with offering securities of the Underlying Fund for sale, providing financial and other reports to Unitholders and convening and conducting meetings of Unitholders, all taxes, assessments or other governmental charges levied against the Underlying Fund, interest and all brokerage and other fees relating to the purchase and sale of the assets of the Underlying Fund. Each of the Trust and the Underlying Fund is generally required to pay GST at the rate of 5% on the fees and expenses which it pays.

**Administration and Management Fees:**

**Series A Units:** The Trust pays the Sponsor a monthly management fee equal to  $1/12^{\text{th}}$  of 1.0% of the Net Asset Value of the Series A Units (determined in accordance with the Trust Agreement) plus an amount equal to the Service Fee payable to registered dealers of 1.0% of the Net Asset Value per Series A Unit, plus applicable taxes, calculated on each Valuation Date based on the Net Asset Value of the Series A Units on that date. Such fee is payable on or before the 10<sup>th</sup> day of the following month.

**Series F Units:** The Trust pays the Sponsor a monthly management fee equal to  $1/12^{\text{th}}$  of 1.0% of the Net Asset Value of the Series F Units (determined in accordance with the Trust Agreement), plus applicable taxes, calculated on each Valuation Date based on the Net Asset Value of the Series F Units on that date. Such fee is payable on or before the 10<sup>th</sup> day of the following month.

Performance Group GenPar Ltd., in its capacity as sponsor of the Trust, is responsible for the payment of the management fees of the Manager. The Sponsor pays the Manager out of its management fee and no additional amounts are payable to the Manager by the Trust. See “Fees and Expenses”.

**Profit Allocation:**

The Trust pays the Sponsor an annual profit allocation (the “**Profit Allocation**”) in respect of each of the Series A Units and the Series F Units of the Trust. The Profit Allocation in respect of each series of Units is calculated and accrued by the Trust on each Valuation Date and is payable at the end of each fiscal quarter or as otherwise determined by the Sponsor.

The Profit Allocation on each series of Units is equal to the product of (a) 20% of the increase in the Adjusted Series Net Asset Value per Unit during the relevant period over (b) the previous High Water Mark for such series of Units. The “**Adjusted Series Net Asset Value per Unit**” means the Series Net Asset Value Unit on a Valuation Date plus the aggregate amount of all distributions declared on Units of that series, without giving effect to any Profit Allocation on such Valuation Date. The “**High Water Mark**” for each class of Units means the highest Net Asset Value per Unit for such Unit. Negative returns will thereby be carried forward indefinitely.

The Sponsor pays a portion of the Profit Allocation to the Manager. See “Fees and Expenses”.

## PROFESSIONAL ADVISORS

**Custodian and Prime Broker:** National Bank (NBCN)  
Toronto, Ontario

**Fund Administrator:** SGGG Fund Services Inc.  
Toronto, Ontario

**Auditors:** KPMG LLP  
Toronto, Ontario

**Legal Counsel:** Stikeman Elliott LLP  
Toronto, Ontario

**TABLE OF CONTENTS**

SUMMARY OF TERMS..... 1

PERFORMANCE DIVERSIFIED TRUST ..... 1

INVESTMENT OBJECTIVES, STRATEGY AND RESTRICTIONS ..... 1

MANAGEMENT OF THE TRUST ..... 1

THE UNDERLYING FUND – PERFORMANCE DIVERSIFIED FUND..... 4

FEES AND EXPENSES..... 7

DEALER COMPENSATION..... 9

DESCRIPTION OF UNITS..... 9

PURCHASE OF UNITS..... 10

FUNDSERV..... 11

REDEMPTIONS..... 11

RESALE RESTRICTIONS..... 12

VALUATION OF ASSETS AND COMPUTATION OF NET ASSET VALUE..... 13

DISTRIBUTIONS TO UNITHOLDERS..... 15

MEETINGS OF UNITHOLDERS..... 15

AMENDMENTS TO THE TRUST AGREEMENT..... 15

TERMINATION OF THE TRUST..... 16

AUDITORS..... 16

CUSTODIAN ..... 17

TRANSFER AGENT AND REGISTRAR..... 17

REPORTS TO UNITHOLDERS ..... 17

CERTAIN CANADIAN FEDERAL INCOME TAX CONSIDERATIONS..... 17

ELIGIBILITY FOR INVESTMENT..... 21

RISK FACTORS ..... 21

CONFLICTS OF INTEREST..... 25

MATERIAL CONTRACTS..... 26

CURRENCY ..... 26

PRIVACY POLICY ..... 26

PROCEEDS OF CRIME (MONEY LAUNDERING) LEGISLATION ..... 26

RIGHTS OF ACTION FOR DAMAGES OR RESCISSION ..... 27

LANGUAGE OF DOCUMENTS ..... 35

## PERFORMANCE DIVERSIFIED TRUST

Performance Diversified Trust (the “**Trust**”) is a trust established under the laws of the Province of Ontario as of May 26, 2008. The Trust is governed by a trust agreement dated as of May 26, 2008, as the same may be amended or restated from time to time (the “**Trust Agreement**”). The principal place of business of the Trust is 20 Eglinton Avenue West, Suite 1004, P.O. Box 2073, Toronto, Ontario M4R 1K8.

The fiscal year of the Trust ends on December 31 in each calendar year. The beneficial interests in the Trust are divided into an unlimited number of retractable, redeemable Series A units (the “**Series A Units**”) and an unlimited number of retractable, redeemable Series F units (the “**Series F Units**”) and together with the Series A Units, the “**Units**”), issuable on a continuous basis pursuant to this Offering Memorandum (the “**Offering**”). Each issued and outstanding Unit of a series is equal to each other Unit of the same series with respect to all matters. The respective rights of the holders of Units (the “**Unitholders**”) of each series will be proportionate to the net asset value (the “**Net Asset Value**”) of such series relative to the Net Asset Value of each other series. See “Description of Units” and “Valuation of Assets and Computation of Net Asset Value”.

### INVESTMENT OBJECTIVES, STRATEGY AND RESTRICTIONS

#### The Trust

##### *Investment Objective*

The investment objective of the Trust is to achieve a consistent risk-adjusted rate of return.

##### *Investment Strategy and Restrictions*

To achieve its objective, the Trust will invest in the Performance Diversified Fund (the “**Underlying Fund**”). The Trust may employ leverage from time to time and also hold cash and/or money market instruments. Initially, the Trust’s investments will consist solely of limited partnership units of the Underlying Fund.

### MANAGEMENT OF THE TRUST

Venator Capital Management Ltd. is the manager and trustee of the Trust. Its head office is located at 20 Eglinton Avenue West, Suite 1004, P.O. Box 2073, Toronto, Ontario, M4R 1K8. The Manager is responsible for providing or arranging for the provision of administrative services required by the Trust in its day-to-day operations, including management of the Trust’s investment portfolio and the making of investment decisions relating thereto.

#### Officers and Directors of Venator Capital Management Ltd.

The name, municipality of residence, position with the Manager and principal occupation of each of the directors and officers of the Manager is as follows.

<u>Name and Municipality of Residence</u>	<u>Position with the Manager</u>	<u>Principal Occupation</u>
Brandon Osten ..... Toronto, Ontario	President and Director	President and Director, Venator Capital Management Ltd.
Stephen Andersons ..... Toronto, Ontario	Director	Director, Venator Capital Management Ltd.

## **Brandon Osten**

Brandon Osten, CFA, has primary responsibility for providing investment advice to the Trust. Brandon Osten is a Director, the President and founder of the Manager. Prior to founding the Manager, Brandon Osten was an equity analyst and Director of Sprott Securities Inc., specializing in High Technology, Health Care and U.S. Special Situations. Brandon got his start in the investment business after graduating from the Ivey School of Business at the University of Western Ontario, continuing his education with the completion of the CFA program in 1999.

After spending time as a research associate in the fields of Energy Services and Market Forecasting, Brandon was promoted to Research Analyst in 1999. Brandon quickly made a name for himself with several prominent negative recommendations while discovering several promising companies, offering both long and short opportunities to institutional clients. As an integral member of the group that bought Sprott Securities Inc. from its founder Eric Sprott in 2000, Brandon became a Director of Sprott Securities Inc.

Brandon was the top-ranked software analyst in Canada among non-tier 1 banks in 2001 (#5 overall) and 2002 (#2 overall) according to Brendan Woods International, as well as a Zacks All-Star (top quintile in North America) in those same years. In 2003, Brandon was recognized as “The Best on the Street” by the Wall Street Journal ranking as #1 in software in North America and #5 among all sectors. In 2004, Brandon intensified his research efforts in the United States with coverage of technology and special situations, with a goal of uncovering the “hidden gems” that had become his calling card in Canada. In 2005, Brandon branched out into the healthcare field before leaving Sprott Securities Inc. in June of that year.

## **Stephen Andersons**

Stephen joined the Manager in January 2008 and has been in the investment industry since 1994 in various capacities including trading, analyst and management roles. Most recently, Stephen was the Co-Head of Research and a Director at Cormark Securities Inc., where he followed Healthcare, Aerospace and Special Situations. Stephen started his career at Sceptre Investment Counsel working in various junior positions. In 1997 he moved to Newcrest Capital Inc. (now part of TD Securities Inc.) as part of the trading desk. After a year and a half on the trading desk Stephen moved became an associate analyst covering chemicals and fertilizer companies at Newcrest Capital Inc. In 2000 Stephen was hired by Orion Securities (now a part of Macquarie Capital Markets) as an analyst covering Canadian technology companies and was ranked as the top Canadian hardware technology analyst by StarMine in 2002. That same year Stephen was offered the opportunity to search for undiscovered, undervalued U.S. companies at Sprott Securities Ltd. (now Cormark Securities Inc.), where Stephen and Brandon worked together building the foundation of the current strategies of the Manager. Stephen obtained his CFA designation in 2001.

## **Powers and Duties of the Manager**

The Manager is the trustee of the Trust and will perform the management functions for the Trust pursuant to the Trust Agreement. The Manager is also responsible for providing or arranging for the provision of required administrative services to the Trust.

The Manager shall exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Trust and, in connection therewith, shall exercise the degree of care, diligence and skill that a reasonably prudent manager would exercise in similar circumstances.

The Sponsor may remove the Manager at any time by notice to the Manager not less than 90 days prior to the date that such removal is to take effect provided a successor manager is appointed or the Trust is terminated. The Manager shall be automatically removed if: (a) the Manager has been declared bankrupt or insolvent or has entered into liquidation or winding-up, whether compulsory or voluntary (and not merely a voluntary liquidation for the purposes of amalgamation or reorganization); or (b) the Manager makes a general assignment for the benefit of creditors or otherwise acknowledges its insolvency. Any such resignation or removal will be effective only on the appointment of a successor manager.

The Manager is entitled to fees for its services under the Trust Agreement as described under “Fees and Expenses” and will be reimbursed for all reasonable costs and expenses incurred by the Manager on behalf of the Trust. The annual management fee is payable in cash or Units at the option of the Manager. In addition, the Manager and each of its directors, officers, employees and agents will be indemnified by the Trust for all fees, judgments, and amounts paid in settlement reasonably incurred in connection with the exercise of its duties as manager, except those resulting from the Manager’s wilful misconduct, bad faith, negligence or breach of its standard of care.

The management services of the Manager under the Trust Agreement are not exclusive and nothing in the Trust Agreement prevents the Manager from providing similar management services to other investment funds and other clients (whether or not their investment objectives and policies are similar to those of the Trust) or from engaging in other activities.

### **Trust Sponsor**

The Manager has retained Performance Group GenPar Ltd. (the “**Sponsor**”) to provide administrative services to the Trust pursuant to an administrative services agreement (the “**Administrative Services Agreement**”) made as of September 30, 2008 between the Manager and the Sponsor.

Pursuant to the Administrative Services Agreement, the Sponsor shall: (i) provide all internal accounting, audit and legal services and other usual and ordinary offices services; (ii) provide services in respect of the Trust’s daily operations, including administration services, the acceptance or rejection of subscriptions for Units (subject to the Trustee’s right to reject any subscriptions), the processing of applications for redemption of Units and the suspension of the redemption of Units; (iii) calculate the net asset value of the Trust as well as the income, gains and losses of the Trust; (iv) distribute all Units which the Trust may decide to issue and promote the sale of and subscriptions for Units; (v) furnish to each Unitholder financial statements and periodical commentaries, financial and/or informational statements; (vi) provide all other administrative services and facilities required by the Trust, including, without limitation, the preparation for and holding of meetings of Unitholders; and (vii) provide such other services and carrying out such other duties as the Manager may reasonably require.

Pursuant to the Administrative Services Agreement, Performance Group GenPar Ltd. shall pay the Manager out its management fees such fees as may be determined by the Manager and Sponsor from time to time. The Trust reimburses the Sponsor for all expenses incurred by it in connection with its duties which do not represent administrative costs of the Sponsor necessary for it to carry out its functions as such.

The Administrative Services Agreement provides that the Sponsor will not be liable to the Trust, the Manager or any Unitholder for any loss or damage relating to any matter regarding the Trust which arises out of any action or inaction of the Sponsor if such course of conduct did not constitute

negligence, wilful misconduct or dishonesty and if the Sponsor, in good faith, determined such course of conduct was in the best interests of the Trust.

The Administrative Services Agreement also provides that the Sponsor, and its principals, shareholders, officers, directors, agents and employees shall at all times be indemnified and saved harmless by the Trust from and against all actions, proceedings, claims, costs, demands and expenses (including legal fees, judgments and amounts paid in settlement, provided that the Trustee has approved such settlement) actually and reasonably incurred in connection with the Trust, provided such expenses were not the result of any action or inaction of such party that constituted negligence, wilful misconduct or dishonesty and such action or inaction was done in good faith and in a manner which such partner reasonably believed to be in the best interests of the Trust.

The Sponsor may resign as administrator of the Trust upon 60 days' written notice to the Manager. The Sponsor is deemed to have resigned if the Sponsor becomes bankrupt or insolvent, if the assets of the Sponsor are seized or confiscated by a public or government authority or in the event the Sponsor ceases to be resident in Canada for the purposes of the Tax Act. If the Sponsor resigns, it may appoint its successor but, unless its successor is an affiliate of the Sponsor, its successor must be approved by the Unitholders. If the Sponsor is in material breach or default of its obligations under the Administrative Services Agreement and such breach has not been cured within 30 days after notice of same has been given to the Manager, the Unitholders may remove the Sponsor by an ordinary resolution and appoint a successor administrator.

#### **THE UNDERLYING FUND – PERFORMANCE DIVERSIFIED FUND**

The Underlying Fund is a limited partnership formed under the laws of Ontario on July 27, 2000. The general partner of the Underlying Fund is Performance Group GenPar Ltd. (the “**General Partner**”), a corporation incorporated under the laws of Ontario. The offices of the General Partner are located at 45 St. Clair Avenue West, Suite #200, Toronto, Ontario, M4V 1K6.

#### ***Investment Objective***

The Underlying Fund's objective is to achieve a consistent risk-adjusted rate of return through its investment in externally managed strategies. The Underlying Fund is designed to generate consistent positive annual returns with moderate volatility and moderate correlation to the major equity markets. This is achieved through the Underlying Fund's investments with several different hedge fund managers (“**Sub Managers**”) employing various strategies (“**Sub Funds**”) creating a well diversified portfolio of hedge funds.

Composing a portfolio that is diversified across a number of different strategies effectively reduces strategy risk. The weighting of each strategy will be evaluated on an ongoing basis following the Underlying Fund's initial capital commitment. Management risk is reduced through due diligence and by diversifying across a number of Sub Managers. Allocation to each Sub Manager is made on the basis of their expected performance and risk parameters. Sub Managers that diverge from their expected risk-reward parameters are removed. Market risk is reduced by diversifying across strategies that are expected to be profitable in rising and declining markets. Sub Manager allocation is optimized so as to maximize performance and minimize portfolio risk.

The Underlying Fund's investments may include, but are not limited to, funds managed by the Manager. The Underlying Fund currently invests in Venator Founder's Fund.

### ***Investment Strategy and Restrictions***

For the investment strategy and restrictions of the Underlying Fund, see Appendix “A”.

### **Underlying Fund Manager**

In accordance with the Management Agreement, the Manager has been appointed to manage the Underlying Fund and to provide investment advisory and portfolio management services to the Underlying Fund. The Manager may delegate certain of its powers or assign certain of its obligations to third parties where, in the determination of the Manager, it would be in the best interests of the Underlying Fund to do so. However, a delegation of its powers or assignment of its obligations does not release the Manager from compliance with its obligations to the Underlying Fund under the Management Agreement.

Pursuant to the Management Agreement, the Manager is responsible for making and executing all investment decisions of the Underlying Fund in accordance with the Investment Guidelines. The Manager is also responsible for providing or arranging for the provision of all marketing and administrative services required by the Underlying Fund.

The Manager is required to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Underlying Fund and, in connection therewith, to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in similar circumstances. The Management Agreement provides that the Manager will not be liable in any way for any default, failure or defect in any of the securities held by the Underlying Fund. The Manager will incur liability, however, in cases of wilful misconduct, bad faith, negligence, breach of the Manager’s standard of care or any material breach or default by it of its obligations under the Management Agreement.

The General Partner may terminate the Manager (a) at any time, on 90 days’ written notice or (b) if the Manager is in material breach or default of its obligations under the Management Agreement and such breach has not been cured within 30 days after notice of same has been given to the Manager. The Manager may resign as manager of the Underlying Fund upon 90 days’ written notice to the General Partner. The Manager is deemed to have resigned if the Manager (a) ceases to carry on business or an order is made or an effective resolution is passed for the winding-up, dissolution or liquidation of the Manager; (b) becomes bankrupt or insolvent or makes a general assignment for the benefit of its creditors or a receiver is appointed in respect of the Manager or a substantial portion of its assets; (c) no longer has all licenses or registrations required to act as contemplated herein; or (d) ceases to be resident in Canada for the purposes of the Tax Act.

The Manager is entitled to fees for its services under the Management Agreement as described under “Fees and Expenses” and will be reimbursed for all reasonable costs and expenses incurred by the Manager on behalf of the Underlying Fund.

In addition, the Manager and each of its directors, officers, employees and agents will be indemnified by the Underlying Fund for all liabilities, costs and expenses incurred in connection with any action, suit or proceeding that is proposed or commenced or other claim that is made against the Manager or any of its officers, directors, employees or agents in the exercise of its duties as Manager, if they do not result from the Manager’s wilful misconduct, bad faith, negligence, breach of its standard of care or material breach or default of its obligations under the Management Agreement.

The services of the Manager under the Management Agreement are not exclusive to the Underlying Fund and nothing in the Management Agreement prevents the Manager from providing similar management services to other investment funds and other clients (whether or not their investment objectives and policies are similar to those of the Underlying Fund) or from engaging in other activities.

**The General Partner**

The General Partner was formed for the purpose of acting as general partner of the Underlying Fund. The General Partner is responsible for the management and control of the business and affairs of the Underlying Fund on a day-to-day basis in accordance with the terms of the limited partnership governing the Underlying Fund. The General Partner has engaged the Manager to provide administrative and investment management services to the Underlying Fund.

**Principals of the General Partner**

The following table sets forth information about the principals of the General Partner as well as the individuals that have been retained by the General Partner to provide consulting and advisory services to the Trust.

<u>Name and Municipality of Residence</u>	<u>Position with the General Partner</u>	<u>Principal Occupation</u>
Rocco A. Marcello ..... <i>Toronto, Ontario</i>	President and Director	Officer of the General Partner
Sharon E. Grossman, CA..... <i>Toronto, Ontario</i>	Director	Partner in SGGG, LLP and co-founder of SGGG Fund Services Inc.
Richard E. Glatt, CA ..... <i>Toronto, Ontario</i>	Director	Partner in SGGG, LLP and co-founder of SGGG Fund Services Inc.

***Rocco A. Marcello***

During Rocco A. Marcello’s fifty year career in the securities industry, and in addition to acting in the capacity as a portfolio manager of investment funds for private clients and institutions, Mr. Marcello has been an active member of various regulatory bodies including serving as Vice-Chairman of the Board of Governors of the Toronto Stock Exchange (TSX) and appointments to the Board of Governors of the TSX, the Toronto Futures Exchange, and as a Director of the National Board of the Investment Dealers Association. In his capacity as principal of the General Partner, Mr. Marcello assists the Underlying Fund in the selection of Sub Funds.

***Sharon E. Grosman***

Sharon Grosman is a partner in the accounting firm SGGG, LLP (established in 1986). Ms. Grosman was also co-founder of SGGG Fund Services Inc., Canada’s largest hedge fund / alternative strategies fund valuation practice. Ms. Grosman’s practice is principally focused on advising hedge funds on business, regulatory and accounting matters.

***Richard E. Glatt***

Richard Glatt is a partner in the accounting firm SGGG, LLP (established in 1986). Mr. Glatt was also co-founder of SGGG Fund Services Inc., Canada's largest hedge fund / alternative strategies fund valuation practice. Mr. Glatt's practice is principally focused on corporate clients on business, tax and organizational matters.

**Functions and Powers of the General Partner**

The General Partner has exclusive authority to manage the operations and affairs of the Underlying Fund, to make all decisions regarding the business of the Underlying Fund and to bind the Underlying Fund. The General Partner may, pursuant to the terms of the Limited Partnership Agreement, delegate any of its powers to other parties where, in the discretion of the General Partner, it would be in the best interests of the Underlying Fund to do so. The General Partner will delegate most of these functions to the Manager pursuant to the Management Agreement. The General Partner is required to exercise its powers and discharge its duties honestly, in good faith and in the best interests of the Underlying Fund and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances. Among other restrictions imposed on the General Partner, it may not dissolve the Underlying Fund nor wind up the Underlying Fund's affairs except in accordance with the provisions of the Limited Partnership Agreement.

While the Underlying Fund has entered into the Management Agreement with the Manager pursuant to which the Manager or persons to which the Manager delegates certain of its responsibilities under the Management Agreement will perform certain of the duties and obligations of the General Partner to the Underlying Fund, such agreement does not in any way release the General Partner from compliance with its obligations to the Underlying Fund under the Limited Partnership Agreement.

The General Partner may resign as general partner of the Underlying Fund on not less than ninety days' written notice thereof to the Limited Partners and such resignation shall become effective upon the earlier of the appointment of a new General Partner by the Limited Partners expressed by a special resolution and the last day of the calendar quarter in which such ninety (90) day period ends

The General Partner will be deemed to have resigned in the event the bankruptcy or the involuntary dissolution, liquidation or winding-up of the General Partner (or other similar event) and new general partner may be appointed by ordinary resolution. The General Partner may be removed by special resolution if it is in default of any obligation or duty the Limited Partnership Agreement and such default has not been rectified within 30 days after receiving notice of such default. Such special resolution shall also appoint a new general partner.

**FEES AND EXPENSES**

**General**

Each of the Trust and the Underlying Fund is responsible, on a separate basis, for the payment of all fees and expenses relating to its respective establishment and operation, including audit, accounting, administration, record keeping, registrar and transfer agent fees and expenses and legal fees and expenses, custody and safekeeping charges, all costs and expenses associated with offering securities of the Underlying Fund for sale, providing financial and other reports to Unitholders and convening and conducting meetings of Unitholders, all taxes, assessments or other governmental charges levied against the Underlying Fund, interest and all brokerage and other fees relating to the purchase and

sale of the assets of the Underlying Fund. Each of the Trust and the Underlying Fund is generally required to pay GST at the rate of 5% on the fees and expenses which it pays.

Each Series of Units is responsible for the expenses specifically related to that Series and a proportionate share of expenses that are common to all Series of Units. The Sponsor shall allocate expenses to each Series of Units in its sole discretion as it deems fair and reasonable in the circumstances.

#### **Administration and Management Fees:**

The Sponsor, in its capacity as sponsor of the Trust, will be entitled to receive management fees from the Trust attributable to each Series of Units.

The Trust pays the Sponsor a monthly management fee equal to  $1/12^{\text{th}}$  of 1.0% of the Net Asset Value of the Series A Units (determined in accordance with the Trust Agreement) plus an amount equal to the Service Fee payable to registered dealers of 1.0% of the Net Asset Value per Series A Unit, plus applicable taxes, calculated on each Valuation Date based on the Net Asset Value of the Series A Units on that date. Such fee is payable on or before the 10<sup>th</sup> day of the following month.

The Trust pays the Sponsor a monthly management fee equal to  $1/12^{\text{th}}$  of 1.0% of the Net Asset Value of the Series F Units (determined in accordance with the Trust Agreement), plus applicable taxes, calculated on each Valuation Date based on the Net Asset Value of the Series F Units on that date. Such fee is payable on or before the 10<sup>th</sup> day of the following month.

The Sponsor, in its capacity as sponsor of the Trust, is responsible for the payment of the management fees of the Manager. The Sponsor pays the Manager out of its management fee and no additional amounts are payable to the Manager by the Trust.

Each series of Units is responsible for the management fees attributable to that series.

#### **Profit Allocation:**

The Trust pays the Sponsor an annual Profit Allocation (the “**Profit Allocation**”) in respect of each of the Series A Units and the Series F Units of the Trust. The Profit Allocation in respect of each series of Units is calculated and accrued by the Trust on each Valuation Date and is payable at the end of each fiscal quarter or as otherwise determined by the Sponsor. Each series of Units is responsible for the Profit Allocation attributable to that series.

The Profit Allocation on each series of Units is equal to the product of (a) 20% of the increase in the Adjusted Series Net Asset Value per Unit during the relevant period over (b) the previous High Water Mark for such series of Units. The “Adjusted Series Net Asset Value per Unit” means the Series Net Asset Value Unit on a Valuation Date plus the aggregate amount of all distributions declared on Units of that series, without giving effect to any Profit Allocation on such Valuation Date. The “High Water Mark” for each class of Units means the highest Net Asset Value per Unit for such Unit. Negative returns will thereby be carried forward indefinitely. Units purchased either in a calendar year in which the Fund realized a negative return (“Negative Year”) or prior to a Negative Year shall be reclassified at the beginning of the year following the Negative Year. The units shall be reclassified from “A” Units (or “F” Units, as the case may be) into “AA” Units (or “FF” Units, as the case may be). “AA” Units (or “FF” Units, as the case may be) shall not be subject to the GP’s profit allocation as described under the Profit Allocation section.

The Sponsor pays a portion of the Profit Allocation to the Manager.

The Sponsor may make such adjustments to the Adjusted Net Asset Value per Series and/or the applicable High Water Mark as are determined by the Sponsor to be necessary to account for the payment of any distributions on Units, any Unit split or consolidations or any other event or matter that would, in the opinion of the Sponsor, impact upon the computation of the Profit Allocation. Any such determination of the Sponsor shall, absent manifest error, be binding on all Unitholders.

## **DEALER COMPENSATION**

### **Sales Commission on Units**

No commission will be payable to the Trustee or the Sponsor in respect of Units purchased directly by an investor. An investor may pay a negotiated fee of up to 3% of the Net Asset Value of the Units if purchasing through a dealer. Any such fee will be negotiated between the dealer and the investor and will be payable by the investor. All minimum subscription amounts are net of such fees.

### **Service Fee**

The Sponsor intends to pay a service fee (the “**Service Fee**”) to participating registered dealers, agents, or brokers of up to 1.0% annually of the Net Asset Value of the Series A Units held by the client of such dealers, agents or brokers, plus applicable taxes. The Service Fee will be calculated and paid at the end of each calendar quarter, provided that the Sponsor reserves the right to change the frequency of payments to a monthly or annual basis in its sole discretion.

No Service Fee is payable in respect of the Series F Units.

## **DESCRIPTION OF UNITS**

The interest of the holders of Units (“**Unitholder**”) in the Trust is divided into an unlimited number of Units. This Offering Memorandum provides for the issuance of trust units of two series, Series A Units and Series F Units of the Trust. A Unit of each series is equal to the other Unit in its series and has the same rights and obligations attaching to it as other Units in its series. Units are issued only as fully paid and are non-assessable. Units will be through the order entry system operated by FundSERV Inc. (“**FundSERV**”).

There are no restrictions as to the maximum number of Units that a Unitholder is entitled to hold in the Trust. The minimum subscription for the Unitholder is \$1,500 of Units.

Series A Units are available to qualified purchasers. Series F Units are intended for investors who have or arrange to have fee-based accounts with a registered dealer, but may be issued to qualified purchasers in the Sponsor’s sole discretion. No Service Fee is payable to the registered dealer of the holder of the Series F Units. As a result, the Net Asset Value per Series F Unit will be higher than the Net Asset Value per Series A Unit. Distributions per Unit will be the same for Series A Units and Series F Units. If a Unitholder ceases to be eligible to hold Series F Units, the Sponsor may, in its sole discretion, exchange such Unitholder’s Series F Units for Series A Units after the holder of such Series F Units is given at least 10 days prior notice.

Each Unitholder is entitled to one vote for each Unit held and is entitled to participate equally with respect to any and all distributions made by the Trust. Fractional Units may be issued. On termination, all Unitholders of record holding outstanding Units are entitled to receive a *pro rata*

portion any assets of the Trust remaining after payment of all debts, liabilities and liquidation expenses of the Trust.

These securities are speculative. Changes in the Net Asset Value of the Trust may be both volatile and rapid with potentially large variations over a short period of time. A subscription for Units should be considered only by persons financially able to maintain their investment and who can bear the risk of loss associated with an investment in the Trust.

## **PURCHASE OF UNITS**

### **General**

Units of the Trust are being offered on a private placement basis in all provinces of Canada pursuant to exemptions from certain requirements contained in the securities legislation in each such jurisdiction.

Closings may occur at the discretion of the Trustee on the last business day of each calendar month and on such other dates as the Trustee may prescribe (each, a “**Valuation Date**”), subject to applicable law. Units subscribed for will be issued for a purchase price equal to the Net Asset Value per Unit on such Valuation Date.

The securities offered hereby are offered exclusively by the Trust by way of a private placement. No person is authorized to provide any information or to make any representation not contained in this Offering Memorandum and any information or representation, other than that contained in this Offering Memorandum, must not be relied upon. This Offering Memorandum is a confidential document furnished solely for the use of investors who, by acceptance hereof, agree that they shall not transmit, reproduce or make available this document or any information contained in it.

### **Subscription Procedure**

Investors who wish to subscribe for Units must complete, execute and deliver a completed Subscription Agreement and the “Certificate of Accredited Investor”, if applicable, in the form attached to the Subscription Agreement which accompanies this Offering Memorandum to the Sponsor together with certified cheque or bank draft, each in the name of the Trust (or other form of funds transfer acceptable to the Trustee) representing payment of the subscription price. Subscription funds will not be accepted prior to a Valuation Date. Subscriptions for Units are subject to acceptance or rejection in whole or in part by the Trustee in its sole discretion. In the event that a subscription for Units is rejected, any subscription funds forwarded by investors will be returned without interest or deduction. In the event that a subscription for Units is acceptable, the investor will be recognized as a purchaser. No certificates for Units will be issued. The Net Asset Value per Unit for subscriptions which are received and accepted by the Trustee prior to 4:00 p.m. (Toronto time) on a Valuation Date will be calculated as of that Valuation Date. Otherwise, the Net Asset Value per Unit will be calculated on the next Valuation Date. See “Valuation of Assets and Computation of Net Asset Value”.

### **Prospectus Exemptions**

The Units are offered by the Trust in accordance with exemptions from prospectus and registration requirements contained in National Instrument 45-106—*Prospectus and Registration Exemptions* (“**NI 45-106**”), which has been adopted by the securities regulatory authorities in each of the provinces in which the Units are offered for sale. Unless an investor can establish to the Trustee’s

satisfaction that another exemption is available, an exemption under NI 45-106 will generally require that each investor is investing as principal (and not for or on behalf of any other persons) and is either an “accredited investor” or is investing not less than \$150,000. Investors, other than individuals, that are not accredited investors, or are accredited investors solely on the basis that they have net assets of at least \$5,000,000, must also represent to the Trustee (and may be required to provide additional evidence at the request of the Trustee to establish) that such investor was not formed solely in order to make private placement investments which may not have otherwise been available to any persons holding an interest in such investor. The so-called “Offering Memorandum Exemption” is not being relied on and investors do not have the benefit of certain additional protections that NI 45-106 provides to investors when an issuer relies on the Offering Memorandum Exemption. See “Rights of Action for Damages or Rescission”.

Investors will be required to make certain representations in the Subscription Agreement and the Trustee will rely on such representations to establish the availability of an exemption from prospectus requirements. No subscription will be accepted unless the Trustee is satisfied that the subscription is in compliance with applicable securities laws.

### **FUNDSERV**

Units may also be purchased through the order entry system operated by FundSERV. No interest will be paid on account of funds deposited through FundSERV pending investment in the Trust or the return of such funds if subscriptions are rejected. Orders for Units purchased through FundSERV must be placed 5 business days prior to the applicable Valuation Date.

### **REDEMPTIONS**

#### **Redemption at the Option of the Unitholder**

A Unitholder may redeem Units on any Valuation Date. Redemption requests must be made to the Sponsor on behalf of the Trust (if the Unitholder originally subscribed for Units directly from the Trust) or to the Unitholder’s investment advisor or broker who is a participant in FundSERV (if the Unitholder originally subscribed for Units through a FundSERV participant) at least 30 days prior to the Valuation Date on which the redemption is to be made (the “Redemption Date”). Upon redemption the Unitholder will be entitled to receive proceeds of redemption equal to the Net Asset Value of such Units as of the Valuation Date together with any unpaid distribution payable on or before a Valuation Date in respect of Units tendered for redemption on such Valuation Date, less any applicable deductions, including brokerage fees, commissions and all other transaction costs relating such sale and the deduction of accrued Profit Allocation payable to the Manager in respect of each Unit redeemed (the “Redemption Price”).

A Unitholder who has purchased Units through a FundSERV participant should obtain further information from his or her investment advisor or broker to determine the timing and other procedural requirements of such investment advisor or broker in connection with the redemption of Units.

If the Sponsor has received requests to redeem Units representing 10% or more of the Net Asset Value of the Trust on any redemption date, the Sponsor will redeem a pro-rated amount of each such redemption request up to a total of 10% of the Net Asset Value of the Trust (the “Initial Redemption”). After the Initial Redemption, the redemption of any Units which have been surrendered for redemption but not redeemed, if any, will be deferred to the following Valuation Date in order to permit an orderly liquidation of the Underlying Fund’s assets in connection with such

redemption. The Redemption Price for any such deferred redemptions shall be calculated as of the Valuation Date upon which such redemption actually takes place.

If a redeeming Unitholder owns Units of more than one series, Units will be redeemed on a “first in, first out” basis. Accordingly, Units of the earliest series owned by the Unitholder will be redeemed first, at the redemption price for Units of such series, until such Unitholder no longer owns Units of such series.

The Sponsor will not permit redemptions (either in whole or in part) at any time the Manager is of the opinion in its sole discretion that there are insufficient liquid assets in the Trust to fund such redemptions or that the liquidation of assets would be to the detriment of the Trust generally. Generally, the Manager will suspend the redemption of Units or payment of redemption proceeds for the whole or any part of a period during which normal trading is suspended on a stock exchange, options exchange or futures exchange or other market within or outside Canada on which securities held by the Trust or the Fund are listed and traded, or on which specified derivatives are traded, if those securities or specified derivatives represent more than 50% by value, or underlying market exposure, of the total assets of the Canadian Securities Portfolio or the Fund without allowance for liabilities and if those securities or specified derivatives are not traded on any other exchange or market that represents a reasonably practical alternative for the Trust. Redemption requests which are rejected as at a Valuation Date will be accepted on the next Valuation Date on which redemption requests are honoured. Redemption requests are irrevocable unless they are not honoured on a Valuation Date, in which case they may be withdrawn within 15 days following such Valuation Date.

#### **Redemption at the Option of the Trust**

The Trustee shall have the right to require a Unitholder to redeem some or all of the Units owned by such Unitholder on a Valuation Date at the Net Asset Value per Unit thereof, by notice in writing to the Unitholder given at least 60 days before the date of redemption, which right may be exercised by the Trustee in its absolute discretion.

Net Asset Value (and Net Asset Value per Unit) determined for the purposes of a redemption which takes place other than at year-end will reflect a reduction to take into account the Trustee’s share of net profits based on the returns of the Trust in the year to the date of the redemption.

#### **RESALE RESTRICTIONS**

The distribution of Units in Canada is being made pursuant to this Offering Memorandum only on a private placement basis and is exempt from the requirement that the Trust prepare and file a prospectus with the relevant Canadian securities regulatory authorities. Accordingly, any resale of the Units which is permitted pursuant to the Trust Agreement must be in accordance with applicable securities laws, which will vary depending on the applicable jurisdiction, and which may require resales to be made in accordance with, or pursuant to exemptions from, prospectus requirements.

Furthermore, no transfers of Units may be effected unless the Sponsor, in its sole discretion, approves in writing of both the transfer and the proposed transferee. There is no market for these Units and no market is expected to develop, therefore it may be difficult or even impossible for the Unitholder to sell the Units.

Investors are advised to consult with their advisors concerning restrictions on resale and are further advised against reselling their Units until they have determined that any such resale is in compliance with the requirements of applicable legislation and the Trust Agreement.

## VALUATION OF ASSETS AND COMPUTATION OF NET ASSET VALUE

### Valuation of Assets

Performance Group GenPar Ltd. has retained SGGG Fund Services Inc. as fund administrator (the “**Fund Administrator**”).

The Fund Administrator will, on a Valuation Date, calculate the value of the Trust’s assets as set forth below.

The Net Asset Value consists of the aggregate value of the assets and liabilities of the Trust. The Sponsor will review and approve the valuation and will, from time to time, consider the appropriateness of the valuation policies adopted by the Trust, as such policies are modified from time to time in the discretion of the Sponsor and the Manager, acting reasonably, and in the best interests of the Unitholders.

### Net Asset Value

Net Asset Value will be calculated by the Fund Administrator on each Valuation Date by subtracting the aggregate amount of the liabilities of the Trust from the total assets of the Trust. The total assets of the Trust will be valued as follows:

- (a) the value of any cash on hand or on deposit, bills and demand notes and accounts receivable, prepaid expenses, cash received (or declared to holders of record on or before the date of valuation and to be received) and interest accrued and not yet received, shall be deemed to be the full amount thereof, provided that: (i) the value of any security which is a debt obligation which, at the time of acquisition, had a remaining term to maturity of one year or less shall be the amount paid to acquire the obligation plus the amount of any interest accrued on such obligation since the time of acquisition (for this purpose, interest accrued will include amortization over the remaining term to maturity of any discount or premium from the face value of an obligation at the time of its acquisition); (ii) any interest or other amount due in respect of an obligation in respect of which the issuer has ceased paying interest or has otherwise defaulted shall be excluded from such calculation; and (iii) if the Sponsor has determined that any such deposit, bill, demand note or account receivable is not otherwise worth the full amount thereof, the value thereof shall be deemed to be such value as the Sponsor determines to be the fair value thereof;
- (b) the value of any security which is listed or traded upon a stock exchange shall be determined by taking the last “bid” price of the day for investments owned and the last “ask” price of the day for investments sold short or lacking any recent sales or any record thereof, the simple average of the latest available offer price and the latest available “bid” price and the latest available “ask” price (unless in the opinion of the Sponsor such value does not reflect the value thereof and in which case the latest offer price or “bid” or “ask” price should be used), as at the date of valuation all as reported by any means in common use;
- (c) the value of any security which is traded over-the-counter will be priced at the average of the last bid and ask prices quoted by a major dealer in such securities, unless the Sponsor determines that the bid price or ask price more accurately reflects the value of the security;

- (d) the value of any security which is not listed or traded on a stock exchange or the resale of which is restricted by reason of a representation, undertaking or agreement by the Trust or by the Trust's predecessor in title shall be determined on the basis of such price or yield equivalent quotations (which may be public quotations or may be obtained from major market makers) as the Sponsor determines best reflects its fair value;
- (e) any market price reported in currency other than Canadian dollars shall be translated into Canadian currency at the prevailing rate of exchange, as determined by the Sponsor, on the date of valuation;
- (f) long positions in clearing corporation options, options on futures, options on indices, options on individual securities, over-the-counter options, debt-like securities and listed warrants shall be valued at the average of the last bid and ask prices thereof, unless the Sponsor determines that the bid price or the ask price more accurately reflects the value thereof;
- (g) where a clearing corporation option, option on futures, option on an index, option on an individual security, or over-the-counter option is written by the Trust, the premium received by the Trust will be reflected as a deferred credit which will be valued at an amount equal to the current market value of the clearing corporation option, option on futures, option on an index, option on an individual security, or over-the-counter option which would have the effect of closing the position; any difference resulting from revaluation shall be treated as an unrealized gain or loss on investment; the deferred credit shall be deducted in arriving at the Net Asset Value; the securities, if any, which are the subject of a written clearing corporation option or over-the-counter option will be valued in the manner described above for listed securities;
- (h) the value of listed securities subject to a hold period will be valued as described in (a), (b), (c), (d) and (e) above with an appropriate discount as determined by the Sponsor. Investments in private companies and other assets for which no published market exists will be valued at the lesser of cost and the most recent value at which such securities have been exchanged in an arm's length transaction which approximates a trade effected in a published market, unless a different fair market value is otherwise determined to be appropriate by the Sponsor; and
- (i) the value of any security or property to which, in the opinion of the Sponsor, the above principles cannot be applied (whether because no price or yield equivalent quotations are available as above provided, or for any other reason) shall be the fair value thereof determined in good faith in such manner as the Sponsor from time to time adopts.

The process of valuing investments for which no published market exists is based on inherent uncertainties and the resulting values may differ from values that would have been used had a ready market existed for the investments and may differ from the prices at which the investments may be sold.

The Net Asset Value per Unit is the amount obtained by dividing the Net Asset Value of each series as of a particular date by the total number of Units of such series outstanding on that date.

## **DISTRIBUTIONS TO UNITHOLDERS**

It is the Trust's policy to distribute annually to Unitholders sufficient income and capital gains (net of applicable losses) so that it effectively will not pay any Canadian federal income tax under Part I of the Tax Act. The Trust will distribute its annual taxable income and net realized capital gains to Unitholders by December 31 of each year and at such other times as determined by the Trustee. All distributions of the Trust will be automatically reinvested, without charge, in additional Units at the Net Asset Value per Unit and on the date of each distribution the Units will be automatically consolidated into that number of Units outstanding immediately prior to the distribution. Accordingly, the effect of distributions will generally be to increase the adjusted cost base of the Units, not the number of Units outstanding. See "Canadian Federal Income Tax Considerations".

## **MEETINGS OF UNITHOLDERS**

The Trust does not intend to hold annual meetings of Unitholders.

The Trustee may, at any time, convene a meeting of the Unitholders and will be required to convene a meeting on receipt of a request in writing of Unitholders holding 10% or more of Units outstanding. Each Unitholder is entitled to one vote for each Unit held. A quorum for meetings of Unitholders will consist of two or more Unitholders present in person or by proxy.

## **AMENDMENTS TO THE TRUST AGREEMENT**

Pursuant to the Trust Agreement, the following matters require the approval by not less than a majority of the votes cast at a meeting called to consider the change (either in person or by proxy):

- (a) any change in the basis of calculating fees or other expenses that are charged to the Trust which could result in an increase in charges to the Trust other than a fee or expense charged by a person that is at arm's length to the Trust;
- (b) a change in the Trustee, other than a change resulting in an affiliate of such person assuming such position;
- (c) a change of the fundamental investment objective of the Trust;
- (d) certain material reorganizations involving the Trust;
- (e) an amendment, modification or variation in the provisions or rights attaching to the Units; and
- (f) a reduction in the frequency of calculating the Net Asset Value per Unit.

Notwithstanding the foregoing, the Trustee is entitled, without the consent of Unitholders, to amend the Trust Agreement without prior approval of or notice to Unitholders in the Trust if the Trustee reasonably believe that the proposed amendment does not have the potential to adversely affect Unitholders or

- (a) to ensure compliance with applicable laws, regulations or policies, including conforming the Trust Agreement with current administrative practice;
- (b) to provide additional protection to Unitholders;

- (c) to remove conflicts or inconsistencies;
- (d) to correct typographical, clerical or other errors; or
- (e) to facilitate the administration of the Trust or to respond to amendments to the Tax Act which might adversely affect the tax status of the Trust or Unitholders if no change is made.

The Trustee may also amend the Trust Agreement to change the investment policies and restrictions of the Trust without Unitholder approval, provided that such provided that such investment policies and restrictions are consistent with the investment objective of the Trust. Additionally, the Trustee may amend the Trust Agreement from time to time without the consent of the Unitholders for the purpose of changing the Trust's taxation year-end as permitted under the Tax Act.

Generally, the Trustee may amend the Trust Agreement upon not less than 30 days' notice to Unitholders if the Trustee reasonably believes it is in the best interest of the Trust, even if the change could potentially adversely affect Unitholders. Unitholders will receive at least 30 days prior notice of any material changes to your Trust. However, in order to reduce the Trust's costs, Unitholders will not receive notice of routine administrative or compliance changes that would not have an adverse monetary impact on their investment.

#### **TERMINATION OF THE TRUST**

The Trust will continue until the removal or resignation of the Manager (in its capacity as Trustee) as described under "Management of the Trust" or the Manager determines to terminate the Trust. The Manager, may, in its discretion, terminate the Trust without the approval of Unitholders if, in the opinion of the Sponsor and the Manager, the Net Asset Value of the Trust is reduced as the result of redemptions or otherwise so that it is no longer economically feasible to continue the Trust and it would be in the best interests of the Unitholders to terminate the Trust. The Trust will provide Unitholders with notice in writing no less than 30 days and no more than 60 days prior to such termination. The Trust may also be terminated by an extraordinary resolution to this effect at a duly convened meeting of Unitholders and upon the Trust providing Unitholders of notice in writing of such resolution no less than 90 days notice prior to the date of termination.

Upon any termination the Manager will sell or redeem or cause to be sold or redeemed all investments which then form part of the property of the Trust and, after paying outstanding liabilities (including any payments owing to the Manager), the Trust will distribute its remaining assets pro rata to Unitholders.

#### **AUDITORS**

The auditors of the Trust are KPMG, LLP, Toronto, Ontario.

## CUSTODIAN

The custodian of the Trust is National Bank (NBCN), Toronto, Ontario.

## TRANSFER AGENT AND REGISTRAR

Trust accounting and record keeping will be the responsibility of the Sponsor, who may engage third party service providers in this regard. The fees of such service provided will be paid by the Trust.

## REPORTS TO UNITHOLDERS

The financial statements of the Trust will be prepared and sent to Unitholders who elect to receive the financial statements in conformity with applicable securities law requirements, as these may be amended from time to time. The annual financial statements of the Trust shall be audited by the Trust's auditors in accordance with Canadian generally accepted accounting principles.

## CERTAIN CANADIAN FEDERAL INCOME TAX CONSIDERATIONS

The following is, as of the date hereof, a summary of the principal Canadian federal income tax considerations generally applicable to the acquisition, holding and disposition of Units by a Unitholder who acquires Units pursuant to this Offering. This summary is applicable to a Unitholder who is an individual (other than a trust) and who, for the purposes of the Tax Act, is resident in Canada, deals at arm's length and is not affiliated with the Trust and holds Units as capital property. Generally, Units will be considered to be capital property to a Unitholder provided that the Unitholder does not hold such securities in the course of carrying on a business of buying and selling securities and has not acquired them in one or more transactions considered to be an adventure in the nature of trade. Certain Unitholders who might not otherwise be considered to hold their Units as capital property may, in certain circumstances, be entitled to have them treated as capital property by making the election permitted by subsection 39(4) of the Tax Act.

This summary is based on the current provisions of the Tax Act and the regulations thereunder, counsel's understanding of the current administrative and assessing practices of the Canada Revenue Agency (the "CRA") and all specific proposals to amend the Tax Act and regulations thereunder publicly announced by the Finance (Canada) prior to the date hereof (the "Tax Proposals"). On October 31, 2003, the Department of Finance released, for public consultation, draft proposed amendments (the "October 31 Proposals") to the Tax Act that would require, for taxation years commencing after 2004, that there be a reasonable expectation of profit from a business or property for a taxpayer to realize a loss from such business or property, and that make it clear that profit in this sense does not include capital gains. The October 31 Proposals could, among other things, adversely affect a Unitholder who has borrowed funds in connection with the acquisition of Units. On February 23, 2005 the Department of Finance announced that it is developing an alternative proposal to the October 31 Proposals which it intends to release for comment. To date, no such alternative proposal has been released. This summary does not address any special considerations for such Unitholders and any such Unitholders should consult their own tax advisors. This summary assumes that the Tax Proposals will be enacted as proposed, although there is no assurance in this regard. This summary does not otherwise take into account or anticipate any changes in law, whether by legislative, governmental or judicial action, nor does it take into account provincial or foreign income tax legislation or considerations.

This summary is also based on the assumption that the Trust will at no time be a "SIFT trust" as defined in the SIFT Rules (as defined below). Provided that units of, or other investments in, the

Trust are not listed or traded on a stock exchange or other public market, the Trust will not be a SIFT trust under the SIFT Rules. “**SIFT Rules**” means, collectively, the “Tax Fairness Plan” released by the Minister of Finance (Canada) on October 31, 2006, the guidelines released by the Minister of Finance (Canada) on December 15, 2006 with respect to the “normal growth” of certain trusts and partnerships that were publicly listed as of October 31, 2006 and Bill C-52, an Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007, which received Royal Assent on June 22, 2007.

This summary is not exhaustive of all possible Canadian federal tax considerations applicable to an investment in Units. Moreover, the income and other tax consequences of acquiring, holding or disposing of Units will vary depending on the investor’s particular circumstances including the province or provinces in which the investor resides or carries on business. Accordingly, this summary is of a general nature only and is not intended to be legal or tax advice to any investor. Investors should consult their own tax advisors for advice with respect to the income tax consequences of an investment in Units, based on their particular circumstances.

### **Status of the Trust**

This summary is based on the assumption that the Trust will qualify at all times as a “unit trust” and a “mutual fund trust” within the meaning of the Tax Act. In order to so qualify, the Trust must comply on a continuous basis with certain investment criteria referred to under “Investment Objectives, Strategy and Restrictions — Investment Restrictions” and certain minimum distribution requirements relating to the Units. In addition, the Trust may not reasonably be considered to be established or maintained primarily for the benefit of non-resident persons unless all or substantially all of its property is property other than “taxable Canadian property” as defined in the Tax Act. On September 16, 2004, the Minister of Finance (Canada) released draft amendments to the Tax Act providing that a trust will cease to qualify as a mutual fund trust at the time trust units representing more than 50% of the fair market value of all issued trust units are held by one or more non-residents of Canada or partnerships that are not “Canadian partnerships”, as defined in the Tax Act, where more than 10% (based on fair market value) of the trust’s property is taxable Canadian property or certain other types of property. On December 6, 2004, the Minister of Finance (Canada) tabled a Notice of Ways and Means Motion to implement certain measures proposed in the September 16, 2004 draft amendments, which Notice did not include this particular draft amendment, and the Department of Finance has indicated that further discussions will be pursued with the private sector in this respect. This summary also assumes that the Trust will elect within the prescribed time to be treated as a “mutual fund trust” from the date it was established. **In the event the Trust were not to qualify as a mutual fund trust at all times, the income tax consequences described below would in some respects be materially and adversely different.**

### **Taxation of the Trust**

The Trust will be subject to tax in each taxation year under Part I of the Tax Act on the amount of its income for the year, including net realized taxable capital gains, computed as if it were an individual resident in Canada. The Trust will be entitled to deduct, in computing its income in each taxation year reasonable administrative expenses incurred to earn income. The Trust will be entitled to deduct the costs incurred by it in connection with the issuance of Units on a five-year, straight-line basis, subject to proration for short taxation years. The Trust is also entitled to deduct in computing its income for the taxation year the portion thereof that it claims in respect of the amount paid or payable to Unitholders in the year. Provided the Trust makes distributions in each year of its net income and net realized capital gains as described under “Distributions”, it will generally not be liable in such year for income tax under Part I of the Tax Act.

The Trust will be subject in each taxation year to tax under Part I of the Tax Act on the amount of its income for the year, including net realized taxable capital gains, less the portion thereof that it claims in respect of the amounts paid or payable to Unitholders in the year.

The Trust will generally be required to include in computing its income for a particular taxation year of the Trust the portion of the net income of the Underlying Fund, including taxable dividends and net realized taxable capital gains, that is allocated to the Trust by the Underlying Fund in that particular taxation year. The Trust will also be required to include in its income for a taxation year all dividends received in the year on shares of corporations. The Trust will be required to include in its income for each taxation year, all interest that accrues to it to the end of the year, or becomes receivable or is received by it before the end of the year, except to the extent that such interest was included in computing its income for a preceding taxation year.

The Trust's adjusted cost base of a unit of the Underlying Fund for income tax purposes will generally consist of the subscription price of the unit, increased by any share of income allocated to the Trust (including the full amount of any capital gains realized by the Underlying Fund) for fiscal periods ending before that time and reduced by any share of losses (including the full amount of any capital losses realized by the Underlying Fund) allocated to the Trust for fiscal periods ending before that time and the amount of any distributions made to the Trust by the Underlying Fund before that time. Where, at the end of a fiscal period of the Underlying Fund, the adjusted cost base to the Trust of a unit of the Underlying Fund becomes a negative amount, the negative amount is deemed to be a gain from the disposition of the unit at the end of the fiscal period and the adjusted cost base of the unit will be increased by the amount of such gain.

On a disposition of an investment held by the Trust that is capital property, the Trust will realize a capital gain (or capital loss) to the extent that the proceeds of disposition exceed (or are exceeded by) the adjusted cost base of such investment and any reasonable costs of disposition.

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

The Tax Act provides for a special tax on designated income of certain trusts which have designated beneficiaries. This special tax does not apply to a trust for a taxation year if the trust is a mutual fund trust throughout such year. Accordingly, provided that the Trust qualifies as a mutual fund trust throughout a taxation year, it will not be subject to the special tax for such taxation year. In any taxation year of the Trust in which the Trust is not a mutual fund trust throughout the year, because the income of the Trust is not expected to be "designated income" within the meaning of the Tax Act and the Trust Agreement prohibits an investment in Units by designated beneficiaries, it is not expected that Part XII.2 tax will be payable by the Trust.

### **Taxation of the Underlying Fund**

The Underlying Fund is not subject to tax under the Tax Act. Each partner of the Underlying Fund, including the Trust, is required to include in computing the partner's income the partner's share of the income or loss of the Underlying Fund for its fiscal year ending in the partner's taxation year and, subject to the application of the "at risk" rules referred to below, whether or not any such income is distributed to the partner in the taxation year. The fiscal year of the Underlying Fund will end on

December 31st of each year. For this purpose, the income or loss of the Underlying Fund will be computed for each fiscal year as if the Underlying Fund was a separate person resident in Canada. The income or loss of the Underlying Fund for a fiscal year will be allocated to the partners of the Underlying Fund, including the Trust, on the basis of their respective share of such income or loss.

If the Underlying Fund does incur losses for tax purposes, the Trust will be entitled to deduct in the computation of its income for tax purposes its *pro rata* share of any net losses for tax purposes of the Underlying Fund for its fiscal year to the extent that the Trust's investment is "at risk" within the meaning of the Tax Act. In general, the amount "at risk" for an investor in a limited partnership for any taxation year will be the adjusted cost base of the investor's partnership interest at the end of the year (such adjusted cost base to be computed excluding any unpaid portion of the purchase price payable by the investor for such partnership interest), plus any undistributed income allocated to the limited partner for the year, less any amount owing by the limited partner (or a person with whom the limited partner does not deal at arm's length) to the partnership (or a person with whom it does not deal at arm's length) and less the amount of any guarantee or indemnity provided to a limited partner against the loss of the limited partner's investment.

### **Taxation of Unitholders**

A Unitholder will generally be required to include in computing income for a taxation year the amount of the Trust's net income for the taxation year, including net realized taxable capital gains, paid or payable to the Unitholder in the taxation year. The non-taxable portion of the Trust's net realized capital gains paid or payable to a Unitholder in a taxation year will not be included in the Unitholder's income for the year. Any other amount in excess of the Trust's net income for a taxation year paid or payable to the Unitholder in the year will not generally be included in the Unitholder's income. Such amount, however, will generally reduce the adjusted cost base of the Unitholder's Units, except to the extent such amount is the non-taxable portion of a capital gain of the Trust the taxable portion of which was designated to the Unitholder.

Provided that appropriate designations are made by the Trust, such portion of (a) the net realized taxable capital gains of the Trust, and (b) the taxable dividends received by the Trust on shares of taxable Canadian corporations or allocated to the Trust by the Underlying Fund, as is paid or payable to a Unitholder will effectively retain its character and be treated as such in the hands of the Unitholder for purposes of the Tax Act. To the extent that amounts are designated as taxable dividends from taxable Canadian corporations, the normal gross-up and dividend tax credit rules will apply. Tax Proposals provide an enhanced dividend tax credit in respect of "eligible dividends" paid by Canadian Corporations.

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

The Net Asset Value per Unit will reflect any income and gains of the Trust that have accrued at the time Units are acquired. Accordingly, a Unitholder who acquires Units may become taxable on the Unitholder's share of income and gains of the Trust that accrued before the Units were acquired.

On the disposition or deemed disposition of a Unit, a Unitholder will generally realize a capital gain (or capital loss) to the extent that the Unitholder's proceeds of disposition exceed (or are exceeded

by) the aggregate of the adjusted cost base of Units and any reasonable costs of disposition. If the Trust distributes property *in specie* on the termination of the Trust, a Unitholder's proceeds of disposition would generally be equal to the aggregate of the fair market value of the distributed property and the amount of any cash received, less any capital gain realized by the Trust on the disposition. For the purpose of determining the adjusted cost base to a Unitholder, when a Unit is acquired, the cost of the newly-acquired Units will be averaged with the adjusted cost base of all Units owned by the Unitholder as capital property before that time. For this purpose the cost of Units that have been issued as a distribution or on the automatic reinvestment of income or distributions (as contemplated under "Distributions to Unitholders") will generally be equal to the amount of the capital gain distributed to the Unitholder that has been reinvested in Units.

One-half of any capital gain ("**taxable capital gain**") realized on the disposition of Units will be included in the Unitholder's income and one-half of any capital loss ("**allowable capital loss**") realized may be deducted from taxable capital gains in accordance with the provisions of the Tax Act.

In general terms, net income of the Trust paid or payable to a Unitholder that is designated as net realized taxable capital gains may increase the Unitholder's liability for alternative minimum tax.

### **ELIGIBILITY FOR INVESTMENT**

The Trust qualifies as a "mutual fund trust" as defined in the Tax Act, therefore units are qualified investments under the Tax Act for trusts governed by registered retirement savings plans, registered retirement income funds, deferred profit sharing plans and registered education savings plans, or under proposed amendments to the Tax Act, registered disability savings plans.

### **RISK FACTORS**

There is high risk associated with an investment in the Fund, and such an investment should only be made after consultation with independent qualified sources of investment and tax advice. An investment in the Fund is speculative and is not intended as a complete investment program. There is a risk that an investment in the Fund will be lost entirely or in part. The purchase of Units should be considered only by investors who do not require immediate liquidity of their investment and who can reasonably afford a substantial impairment or loss of their entire investment. The following risks of the Fund should be carefully evaluated by potential investors.

For additional risk factors associated with the Underlying Fund, see "Risks Associated with Investment in the Underlying Fund" in Appendix "B".

#### **Risks Associated with an Investment in the Trust**

##### ***Limited Operating History***

Although the person(s) involved in the management of the Trust and the Underlying Fund, and the service providers to the Trust and the Underlying Fund, as the case may be, have had long experience in their respective fields of specialization, the Trust and the Underlying Fund have a limited operating and performing history upon which potential investors can evaluate the Trust's performance.

##### ***Limited Ability to Liquidate Investment***

There is no formal market for the Units and one is not expected to develop. Accordingly, it is possible that Unitholders may not be able to resell their Units other than by way of redemption of their Units at

any Valuation Date which is subject to the limitations described under “Redemption of Units”. Unitholders may not be able to liquidate their investment in a timely manner and the Units may not be readily accepted as collateral for a loan. This Offering of Units is not qualified by way of prospectus, and consequently the resale of Units is subject to restrictions under applicable securities legislation. See “Resale Restrictions”.

### ***Reliance on the Trustee***

The Trust relies on the ability of the Trustee to manage the assets of the Trust. The Trustee will make investment decisions upon which the success of the Trust will depend significantly. No assurance can be given that the investment strategies employed by the Trustee will prove successful. There can be no assurance that satisfactory replacements for the Trustee will be available, if needed. Removal of the Trustee will not automatically terminate the Trust, but will expose Unitholders to the risks involved in whatever new investment management arrangements the replacement advisor is able to negotiate. In addition, the liquidation of positions held for the Trust as a result of the resignation or removal of the Trustee may cause substantial losses to the Trust.

### ***Potential Liability***

The Trust is a unit trust and, as such, the Unitholders do not receive the protection of statutorily mandated limited liability as in the case of shareholders of most Canadian corporations. There is no guarantee, therefore, that Unitholders could not be made party to legal action in connection with the Trust. However, the Trust Agreement will provide that no Unitholder, in its capacity as such, will be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the Trust’s property or the obligations or the affairs of the Trust and all such persons shall look solely to the Trust’s property for satisfaction of claims of any nature arising out of or in connection therewith and the Trust’s property only shall be subject to levy or execution. Pursuant to the Trust Agreement, the Trust will indemnify and hold harmless out of the Trust’s assets each Unitholder from any costs, damages, liabilities, expenses, charges and losses suffered by a Unitholder resulting from or arising out of such Unitholder not having limited liability.

The Trust Agreement provides that the Trustee shall use reasonable means to cause the Trust’s operations to be conducted in such a way as to minimize any such risk and, in particular, where feasible, to cause every written contract or commitment of the Trust to contain an express disavowal of liability of Unitholders.

In any event, it is considered that the risk of any personal liability of Unitholders is minimal in view of the anticipated equity of the Trust, and the nature of its activities. In the event that a Unitholder should be required to satisfy any obligation of the Trust, such Unitholder will be entitled to reimbursement from any available assets of the Trust.

### ***Unitholder Liability***

The Trust Agreement provides that no Unitholder will be subject to any liability whatsoever to any person in connection with the investment obligations, affairs or assets of the Trust other than the obligation to pay fees as described above. There is a risk, considered by the Trustee to be remote in the circumstances, that a Unitholder could be held personally liable, notwithstanding the foregoing statement in the Trust Agreement, for obligations of the Trust to the extent that claims are not satisfied out of the assets of the Trust. It is intended that the operations of the Trust will be conducted so as to minimize such risk.

### ***Mutual Fund Trust Status***

The Trust intends to qualify as a “mutual fund trust” for the purposes of the Tax Act. There can be no assurance that federal income tax laws or the judicial interpretation thereof or the administrative and assessing practices of the CRA will not be changed in a manner which adversely affects the holders of Units. If the Trust fails or ceases to qualify as a “mutual fund trust” for the purposes of the Tax Act (see “Canadian Federal Income Tax Considerations — Status of the Trust”), the income tax considerations described above under the headings “Canadian Federal Income Tax Considerations” and “Eligibility for Investment” would be materially and adversely different in certain respects.

### ***Not a Public Mutual Fund***

The Trust is not a trust company and, accordingly, is not registered under the trust company legislation of any jurisdiction. Although the Trust is a “mutual fund” as defined in the securities legislation applicable in certain provinces, it does not operate in accordance with the requirements of National Instrument 81-102– *Mutual Funds* and other policies and regulations of the securities regulatory authorities that are applicable to mutual funds that have offered securities under a prospectus and are reporting issuers. As a result, the Trust is not subject to the restrictions placed on public mutual funds to ensure diversification and liquidity of the Trust’s portfolio. Units are not “deposits” within the meaning of the *Canada Deposit Insurance Corporation Act* (Canada) and are not insured under provisions of that Act or any other legislation.

### ***Tax Related Risks***

In determining its income for tax purposes, the Underlying Fund will treat gains or losses on the disposition of securities as capital gains and losses. The CRA’s practice is not to grant advance income tax rulings on the characterization of items as capital gains or income and no advance income tax ruling has been requested or obtained.

Under the October 31 Proposals, for taxation years beginning after 2004 a taxpayer will be considered to have a loss from a business or property for a taxation year only if, in that year, it is reasonable to assume that the taxpayer will realize a cumulative profit from the business or property during the time that the taxpayer has carried on, and can reasonably be expected to carry on, the business or has held, and can reasonably be expected to hold, the property. Profit, for this purpose, does not include capital gains or capital losses. The October 31 Proposals, if enacted in the form proposed, could limit losses or adversely affect the deduction of expenses of the Trust from a particular source that is a business or property, thereby reducing after tax returns to Unitholders. On February 23, 2005 the Department of Finance announced that it has developed an alternative proposal to the October 31 Proposals which it intends to release for comment. No assurances can be given that this alternative proposal will not adversely affect the Trust or Unitholders.

Under the SIFT Rule, trusts (defined as “**SIFT trusts**”) investments in which are listed or traded on a prescribed stock exchange or other public market and that hold one or more “non-portfolio properties” (as defined) would effectively be taxed on income and capital gains in respect of such non-portfolio properties at combined rates comparable to the rates that apply to income earned and distributed by Canadian corporations. Distributions of such income received by unit holders of SIFT trusts would be treated as dividends from a taxable Canadian corporation. Provided that units of, or other investments in, the Trust are not listed or traded on a stock exchange or other public market, the Trust will not be a SIFT trust under the SIFT Rules.

### ***Possible Effect of Redemption***

Substantial redemptions of Units could require the Trust to liquidate positions more rapidly than otherwise intended to raise the necessary cash to fund redemptions and achieve a market position appropriately reflecting a smaller asset base. Such factors could adversely affect the value of the Units redeemed and of the Units that remain outstanding.

### ***Charges to the Trust***

The Trust is obligated to pay all fees, brokerage commissions and legal, accounting, filing and other expenses regardless of whether the Trust realizes profits.

### ***Potential Indemnification Obligations***

Under certain circumstances, the Trust may be subject to significant indemnification obligations in respect of the Trustee, any Investment Advisor or other related parties. The Trust will not carry any insurance to cover such potential obligations and none of the foregoing parties will be insured for losses for which the Trust has agreed to indemnify them. Any indemnification paid by the Trust would reduce the Trust's Net Asset Value and, by extension, the value of the Units.

### ***Lack of Independent Experts Representing Unitholders***

Each of the Trust and the Trustee has consulted with a single legal counsel regarding the formation and terms of the Trust and the offering of Units. The Unitholders have not, however, been independently represented. Therefore, to the extent that the Trust, the Unitholders or this Offering could benefit by further independent reviews, such benefit will not be available. Each potential investor should consult his or her own legal, tax and financial advisors regarding the desirability of purchasing Units and the suitability of investing in the Trust. See Appendix "B" – Risks Associated with Investment in the Underlying Fund.

### ***Reliance on the Performance of the Underlying Fund***

The Trust's initial investment will be in securities of the Underlying Fund and the performance of the Trust will, to the extent that it does not engage in other investment strategies, depend wholly on the performance of the Underlying Fund and will be subject to all of the risks involved with an investment in the Underlying Fund.

### ***Changes in Investment Strategy***

The Trustee may alter its strategy without prior approval by the Unitholders if the Trustee determines that such change in strategy is consistent with the Trust's investment objectives and in the best interest of Unitholders. There is no guarantee that such a change in investment strategy will be profitable or will not cause losses for Unitholders.

### ***Valuation of the Trust's Investments***

While the Trust is independently audited by its auditors on an annual basis in order to ensure as fair and accurate a pricing as possible, valuation of the Trust's securities and other investments may involve uncertainties and judgmental determinations and, if such valuations should prove to be incorrect, the Net Asset Value of the Trust could be adversely affected. Independent pricing information may not at times be available regarding certain of the Trust's securities and other

investments. Valuation determinations will be made in good faith in accordance with the Trust Agreement.

The Trust may have some of its assets in investments which by their very nature may be extremely difficult to value accurately. To the extent that the value assigned by the Trust to any such investment differs from the actual value, the Net Asset Value per Unit may be understated or overstated, as the case may be. In light of the foregoing, there is a risk that a Unitholder who redeems all or part of its Units while the Trust holds such investments will be paid an amount less than such Unitholder would otherwise be paid if the actual value of such investments is higher than the value designated by the Trust. Similarly, there is a risk that such Unitholder might, in effect, be overpaid if the actual value of such investments is lower than the value designated by the auditors of the Trust. In addition, there is risk that an investment in the Trust by a new Unitholder (or an additional investment by an existing Unitholder) could dilute the value of such investments for the other Unitholders if the designated value of such investments is higher than the value designated by the auditors of Trust. Further, there is risk that a new Unitholder (or an existing Unitholder that makes an additional investment) could pay more than it might otherwise have paid if the actual value of such investments is lower than the value designated by the auditors of the Trust. The Trust does not intend to adjust the Net Asset Value of the Trust retroactively.

#### ***No Involvement of Unaffiliated Selling Agent***

No outside selling agent unaffiliated with the Trustee has made any review or investigation of the terms of this Offering, the structure of the Trust or the background of the Trustee.

#### ***Expenses Ultimately Borne by the Unitholders***

Fees and expenses borne by the Trust will directly or indirectly impact the Net Asset Value of the Units.

#### ***Securities Lending***

The Trust may engage in securities lending. Although the Trust will receive collateral for the loans and such collateral is marked to market, the Trust will be exposed to the risk of loss should the borrower default on its obligation to return the borrowed securities and the collateral is insufficient to reconstitute the portfolio of loaned securities.

#### ***Speculative Investment***

AN INVESTMENT IN THE TRUST MAY BE DEEMED SPECULATIVE AND IS NOT INTENDED AS A COMPLETE INVESTMENT PROGRAM. A SUBSCRIPTION FOR UNITS SHOULD BE CONSIDERED ONLY BY PERSONS FINANCIALLY ABLE TO MAINTAIN THEIR INVESTMENT AND WHO CAN BEAR THE RISK OF LOSS ASSOCIATED WITH AN INVESTMENT IN THE TRUST. INVESTORS SHOULD REVIEW CLOSELY THE INVESTMENT OBJECTIVE AND INVESTMENT STRATEGIES TO BE UTILIZED BY THE TRUST AS OUTLINED HEREIN TO FAMILIARIZE THEMSELVES WITH THE RISKS ASSOCIATED WITH AN INVESTMENT IN THE TRUST.

### **CONFLICTS OF INTEREST**

Various potential conflicts of interest exist between the Trust, the Underlying Fund, the General Partner and the Trustee. The potential conflicts of interests may arise as a result of common

ownership and certain common principals, directors, officers and personnel and, accordingly, will not be resolved through arm's length negotiations but through the exercise of judgment consistent with fiduciary responsibilities to Unitholders generally.

The Trustee manages, and may in the future manage, the trading for other trusts, limited partnerships or other investment funds or accounts in addition to the Trust. In the event that the Trustee elects to undertake such activities and other business activities in the future, the Trustee and its principals may be subject to conflicting demands in respect of allocating management time, services and other functions. The Trustee and its principals and affiliates will endeavour to treat each investment pool and managed account fairly and will not to favour one account or pool over another.

In executing its duties on behalf of the Trust, the Trustee will be subject to the provisions of the Trust Agreement, which provide that the Trustee will execute its duties in good faith and with a view to the best interests of the Trust and its Unitholders.

**Securities laws of some of the jurisdictions in which the Units will be sold require 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. These rules require dealers and advisors, prior to trading with or advising their customers or clients, to inform them of the relevant relationships and connections with the issuer of the securities. Clients and customers should refer to the applicable provisions of these securities laws for the particulars of these rules and their rights or consult with a legal advisor.**

#### **MATERIAL CONTRACTS**

The only material contract of the Trust is the Trust Agreement. Copies of the Trust Agreement, as well as material contracts of the Underlying Fund, may be inspected by Unitholders at the principal office of the Trustee located at 20 Eglinton Avenue West, Suite 1004, P.O. Box 2073, Toronto, Ontario M4R 1K8, Toronto, Ontario during normal business hours.

#### **CURRENCY**

All references herein to "\$" are references to Canadian dollars.

#### **PRIVACY POLICY**

In connection with the offering and sale of Units, personal information (such as address, telephone number, social insurance number, birth date, assets and/or income information, employment history and credit history, if applicable) about investors is collected and maintained. Such personal information is collected to enable the Trustee (or any Investment Advisor that may be appointed by the Trustee) and any third-party service providers to provide Unitholders with services in connection with their investment in the Trust, to meet legal and regulatory requirements and for any other purpose to which Unitholders may consent in the future. Investors are encouraged to review the privacy policy of the Trust at the principal office of the Trustee during normal business hours.

#### **PROCEEDS OF CRIME (MONEY LAUNDERING) LEGISLATION**

In order to comply with Canadian legislation aimed at the prevention of money laundering, the Trustee may require additional information concerning Unitholders. If, as a result of any information or other matter which comes to the attention of the Trustee, or any principal, director, officer or

employee of the Trustee, or its professional advisors, knows or suspects that a Unitholder is engaged in money laundering, such person is required to report such information or other matter to the Financial Transactions and Reports Analysis Centre of Canada and such report shall not be treated as a breach of any restriction upon the disclosure of information imposed by law or otherwise.

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

### **Rights of Action for Damages or Rescission**

Securities legislation in certain of the provinces of Canada and in certain situations provides purchasers or requires purchasers to be provided with a remedy for rescission or damages where an offering memorandum (as defined in the respective provincial securities legislation) and any amendment thereto contains a Misrepresentation. As used herein, except where otherwise specifically defined, “**Misrepresentation**” means an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement in an offering memorandum not misleading in light of the circumstances in which it was made, but is qualified in its entirety by the applicable definition of “misrepresentation” in the applicable provincial securities legislation. These remedies, or notice with respect thereto, must be exercised, or delivered, as the case may be, by the purchaser within the time limit prescribed by the applicable securities legislation.

The information set forth below is not intended to be a comprehensive summary of the rights of each purchaser, and may be subject to change and is qualified in its entirety by the provisions of the applicable provincial securities legislation. Each purchaser should refer to their legal adviser for more details.

### **Rescission of Purchase**

Pursuant to securities legislation in Ontario, British Columbia, Saskatchewan, New Brunswick and Nova Scotia (where the amount of a purchase does not exceed the sum of \$50,000) and Manitoba (where there is no financial limitation), purchasers of mutual funds may rescind their purchase within 48 hours after receipt of the sale confirmation. Investors of mutual funds under a regular investment plan may have longer to cancel an order. Investors must exercise these rights within the prescribed time limits. Investors should refer to applicable provisions of the securities legislation or consult with their legal advisor for more details.

### **Ontario**

Section 130.1 of the *Securities Act* (Ontario) (the “**Ontario Act**”) provides that every purchaser of securities pursuant to an offering memorandum such as this Offering Memorandum shall have a statutory right of action for damages or rescission against the issuer and any selling security holder in the event that the offering memorandum contains a Misrepresentation. A purchaser who purchases securities offered by such an offering memorandum during the period of distribution has, without regard to whether the purchaser relied upon the Misrepresentation, a right of action for damages or, alternatively, while still the owner of the securities, for rescission against the issuer and any selling security holder provided that:

- (a) if the purchaser exercises its right of rescission, it shall cease to have a right of action for damages as against the issuer and the selling security holders, if any;
- (b) the issuer and the selling security holders, if any, will not be liable if they prove that the purchaser purchased the securities with knowledge of the Misrepresentation;

- (c) the issuer and the selling security holders, if any, will not be liable for all or any portion of damages that it proves do not represent the depreciation in value of the securities as a result of the Misrepresentation relied upon; and
- (d) in no case shall the amount recoverable exceed the price at which the securities were offered.

Section 138 of the Ontario Act provides that no action shall be commenced to enforce these rights more than:

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

This Offering Memorandum may be delivered in reliance on the exemption from the prospectus requirements contained under section 2.3 of NI 45-106 (the “**accredited investor exemption**”). The rights referred to in section 130.1 of the Ontario Act do not apply in respect of an offering memorandum such as this Offering Memorandum delivered to an investor in connection with a distribution made in reliance on the accredited investor exemption if the investor is:

- (a) a Canadian financial institution or a Schedule III bank (each as defined in NI 45-106);
- (b) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada); or
- (c) a subsidiary of any person referred to in paragraphs (a) and (b), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of that subsidiary.

### **Manitoba and Prince Edward Island**

In Manitoba, *The Securities Act* (Manitoba) and in Prince Edward Island, the *Securities Act* (PEI) provides a statutory right of action for damages or rescission to purchasers resident in Manitoba and Prince Edward Island, respectively, in circumstances where an offering memorandum, such as this Offering Memorandum, or any amendment thereto contains a Misrepresentation, which rights are similar to the rights available to Ontario purchasers.

### **New Brunswick**

Section 150 of the *Securities Act* (New Brunswick) provides that where an offering memorandum contains a Misrepresentation, a purchaser who purchases securities shall be deemed to have relied on the Misrepresentation if it was a Misrepresentation at the time of purchase and:

- (a) the purchaser has a right of action for damages against the issuer and any selling security holder(s) on whose behalf the distribution is made, or
- (b) where the purchaser purchased the securities from a person referred to in paragraph (a), the purchaser may elect to exercise a right of rescission against the person, in which case the purchaser shall have no right of action for damages against the person.

This statutory right of action is available to New Brunswick purchasers whether or not such purchaser relied on the Misrepresentation. However, there are various defences available to the issuer and the selling security holder(s). In particular, no person will be liable for a Misrepresentation if such person proves that the purchaser purchased the securities with knowledge of the Misrepresentation when the purchaser purchased the securities. Moreover, in an action for damages, the amount recoverable will not exceed the price at which the securities were offered under the offering memorandum and any defendant will not be liable for all or any part of the damages that the defendant proves do not represent the depreciation in value of the security as a result of the Misrepresentation.

If the purchaser intends to rely on the rights described in (a) or (b) above, such purchaser must do so within strict time limitations. The purchaser must commence its action to cancel the agreement within 180 days after the date of the transaction that gave rise to the cause of action. The purchaser must commence its action for damages within the earlier of:

- (a) one year after the purchaser first had knowledge of the facts giving rise to the cause of action; or
- (b) six years after the date of the transaction that gave rise to the cause of action.

### **Newfoundland and Labrador**

Securities legislation in Newfoundland and Labrador provides that every purchaser of securities pursuant to an offering memorandum, such as this Offering Memorandum, shall have a contractual right of action for damages or rescission against the issuer, any selling security holder and any underwriter of the securities who is required to sign the certificate required by section 60 of the *Securities Act* (Newfoundland and Labrador) (the “**Newfoundland Act**”) in the event such offering memorandum contains a Misrepresentation as defined in the Newfoundland Act. Newfoundland and Labrador purchasers who purchase a security offered by such offering memorandum during the period of distribution are deemed to have relied on the Misrepresentation if it was a Misrepresentation at the time of purchase. Newfoundland and Labrador purchasers who elect to exercise a right of rescission against the issuer, any selling security holder on whose behalf the distribution is made or any underwriter of the securities who is required to sign the certificate required by section 60 of the Newfoundland Act shall have no right of action for damages against the issuer, said persons or the underwriters.

### **Nova Scotia**

The right of action for damages or rescission described herein is conferred by section 138 of the *Securities Act* (Nova Scotia). Section 138 of the *Securities Act* (Nova Scotia) provides, in relevant part, that in the event that an offering memorandum, such as this Offering Memorandum together with any amendment thereto, or any advertising or sales literature (as defined in the *Securities Act* (Nova Scotia)) contains a Misrepresentation, the purchaser will be deemed to have relied upon such Misrepresentation if it was a Misrepresentation at the time of purchase and has, subject to certain limitations and defences, a statutory right of action for damages against the issuer and, subject to

certain additional defences, every director of the issuer at the date of the offering memorandum and every person who signed the offering memorandum or, alternatively, while still the owner of the securities purchased by the purchaser, may elect instead to exercise a statutory right of rescission against the issuer, in which case the purchaser shall have no right of action for damages against the issuer, directors of the issuer or persons who have signed the offering memorandum, provided that, among other limitations:

- (a) no action shall be commenced to enforce the right of action for rescission or damages by a purchaser resident in Nova Scotia later than 120 days after the date on which the initial payment was made for the securities;
- (b) no person will be liable if it proves that the purchaser purchased the securities with knowledge of the Misrepresentation;
- (c) in the case of an action for damages, no person will be liable for all or any portion of the damages that it proves do not represent the depreciation in value of the securities as a result of the Misrepresentation relied upon; and
- (d) in no case will the amount recoverable in any action exceed the price at which the securities were offered to the purchaser.

In addition, a person or company, other than the issuer, will not be liable if that person or company proves that:

- (a) the offering memorandum or amendment to the offering memorandum was sent or delivered to the purchaser without the person's or company's knowledge or consent and that, on becoming aware of its delivery, the person or company gave reasonable general notice that it was delivered without the person's or company's knowledge or consent;
- (b) after delivery of the offering memorandum or amendment to the offering memorandum and before the purchase of the securities by the purchaser, on becoming aware of any Misrepresentation in the offering memorandum or amendment to the offering memorandum the person or company withdrew the person's or company's consent to the offering memorandum or amendment to the offering memorandum, and gave reasonable general notice of the withdrawal and the reason for it; or
- (c) with respect to any part of the offering memorandum or amendment to the offering memorandum purporting (i) to be made on the authority of an expert, or (ii) to be a copy of, or an extract from, a report, an opinion or a statement of an expert, the person or company had no reasonable grounds to believe and did not believe that (A) there had been a Misrepresentation, or (B) the relevant part of the offering memorandum or amendment to offering memorandum did not fairly represent the report, opinion or statement of the expert, or was not a fair copy of, or an extract from, the report, opinion or statement of the expert.

Furthermore, no person or company, other than the issuer, will be liable with respect to any part of the offering memorandum or amendment to the offering memorandum not purporting (a) to be made on the authority of an expert or (b) to be a copy of, or an extract from, a report, opinion or statement of an expert, unless the person or company (i) failed to conduct a reasonable investigation to provide

reasonable grounds for a belief that there had been no Misrepresentation or (ii) believed that there had been a Misrepresentation.

If a Misrepresentation is contained in a document or record incorporated by reference into, or deemed incorporated by reference into, the offering memorandum or amendment to the offering memorandum, the Misrepresentation is deemed to be contained in the offering memorandum or an amendment to the offering memorandum.

### **Saskatchewan**

Section 138 of *The Securities Act, 1988* (Saskatchewan), as amended (the “**Saskatchewan Act**”) provides that where an offering memorandum such as this Offering Memorandum or any amendment to it is sent or delivered to a purchaser and it contains a Misrepresentation (as defined in the Saskatchewan Act), a purchaser who purchases a security covered by the offering memorandum or any amendment to it, is deemed to have relied upon that Misrepresentation, if it was a Misrepresentation at the time of purchase, and has a right of action for rescission against the issuer or a selling security holder on whose behalf the distribution is made or has a right of action for damages against:

- (a) the issuer or a selling security holder on whose behalf the distribution is made;
- (b) every promoter and director of the issuer or the selling security holder, as the case may be, at the time the offering memorandum or any amendment to it was sent or delivered;
- (c) every person or company whose consent has been filed respecting the offering, but only with respect to reports, opinions or statements that have been made by them;
- (d) every person who or company that, in addition to the persons or companies mentioned in (a) to (c) above, signed the offering memorandum or the amendment to the offering memorandum; and
- (e) every person who or company that sells securities on behalf of the issuer or selling security holder under the offering memorandum or an amendment to the offering memorandum.

Such rights of rescission and damages are subject to certain limitations including the following:

- (a) if the purchaser elects to exercise its right of rescission against the issuer or selling security holder, it shall have no right of action for damages against that party;
- (b) in an action for damages, a defendant will not be liable for all or any portion of the damages that he, she or it proves do not represent the depreciation in value of the securities resulting from the Misrepresentation relied on;
- (c) no person or company, other than the issuer or a selling security holder, will be liable for any part of the offering memorandum or amendment to it not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, opinion or statement of an expert, unless the person or company failed to conduct a reasonable investigation sufficient to provide reasonable grounds for a

belief that there had been no Misrepresentation or believed that there had been a Misrepresentation;

- (d) in no case shall the amount recoverable exceed the price at which the securities were offered; and
- (e) no person or company is liable in an action for rescission or damages if that person or company proves that the purchaser purchased the securities with knowledge of the Misrepresentation.

In addition, no person or company, other than the issuer or selling security holder, will be liable if the person or company proves that:

- (a) the offering memorandum or any amendment to it was sent or delivered without the person's or company's knowledge or consent and that, on becoming aware of it being sent or delivered, that person or company gave reasonable general notice that it was so sent or delivered; or
- (b) with respect to any part of the offering memorandum or any amendment to it purporting to be made on the authority of an expert, or purporting to be a copy of, or an extract from, a report, an opinion or a statement of an expert, that person or company had no reasonable grounds to believe and did not believe that there had been a Misrepresentation, the part of the offering memorandum or any amendment to it did not fairly represent the report, opinion or statement of the expert, or was not a fair copy of, or an extract from, the report, opinion or statement of the expert.

Not all defences upon which we or others may rely are described herein. Please refer to the full text of the Saskatchewan Act for a complete listing.

Similar rights of action for damages and rescission are provided in section 138.1 of the Saskatchewan Act in respect of a Misrepresentation in advertising and sales literature disseminated in connection with an offering of securities.

Section 138.2 of the Saskatchewan Act also provides that where an individual makes a verbal statement to a prospective purchaser that contains a Misrepresentation relating to the security purchased and the verbal statement is made either before or contemporaneously with the purchase of the security, the purchaser is deemed to have relied on the Misrepresentation, if it was a Misrepresentation at the time of purchase, and has a right of action for damages against the individual who made the verbal statement.

Section 141(1) of the Saskatchewan Act provides a purchaser with the right to void the purchase agreement and to recover all money and other consideration paid by the purchaser for the securities if the securities are sold in contravention of the Saskatchewan Act, the regulations to the Saskatchewan Act or a decision of the Saskatchewan Financial Services Commission.

Section 141(2) of the Saskatchewan Act also provides a right of action for rescission or damages to a purchaser of securities to whom an offering memorandum or any amendment to it was not sent or delivered prior to or at the same time as the purchaser enters into an agreement to purchase the securities, as required by Section 80.1 of the Saskatchewan Act.

The rights of action for damages or rescission under the Saskatchewan Act are in addition to and do not derogate from any other right which a purchaser may have at law.

Section 147 of the Saskatchewan Act provides that no action shall be commenced to enforce any of the foregoing rights more than:

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

The Saskatchewan Act also provides a purchaser who has received an amended offering memorandum delivered in accordance with subsection 80.1(3) of the Saskatchewan Act has a right to withdraw from the agreement to purchase the securities by delivering a notice to the person who or company that is selling the securities, indicating the purchaser's intention not to be bound by the purchase agreement, provided such notice is delivered by the purchaser within two business days of receiving the amended offering memorandum.

## **Alberta**

This Offering Memorandum may be delivered in reliance on the exemption from the prospectus requirements contained under section 2.10 of NI 45-106 (the “**minimum amount invested exemption**”). Section 204 of the *Securities Act* (Alberta) provides that if such an offering memorandum, such as an offering memorandum that relies on the minimum amount invested exemption, contains a Misrepresentation, a purchaser who purchases a security offered by such an offering memorandum is deemed to have relied on the representation, if it was a Misrepresentation at the time of the purchase, and has a right of action (a) for damages against (i) the issuer, (ii) every director of the issuer at the date of such an offering memorandum, and (iii) every person or company who signed such offering memorandum, and (b) for rescission against the issuer, provided that:

- (a) if the purchaser elects to exercise its right of rescission, it shall cease to have a right of action for damages against the person or company referred to above;
- (b) no person or company referred to above will be liable if it proves that the purchaser had knowledge of the Misrepresentation;
- (c) no person or company (other than the issuer) referred to above will be liable if it proves that such an offering memorandum was sent to the purchaser without the person's or company's knowledge or consent and that, on becoming aware of its being sent, the person or company promptly gave reasonable notice to the issuer that it was sent without the knowledge and consent of the person or company;
- (d) no person or company (other than the issuer) referred to above will be liable if it proves that the person or company, on becoming aware of the Misrepresentation in such an offering memorandum, withdrew the person's or company's consent to such

an offering memorandum and gave reasonable notice to the issuer of the withdrawal and the reason for it;

- (e) no person or company (other than the issuer) referred to above will be liable if, with respect to any part of such an offering memorandum purporting to be made on the authority of an expert or purporting to be a copy of, or an extract from, a report, opinion or statement of an expert, the person or company proves that the person or company did not have any reasonable grounds to believe and did not believe that:
  - (i) there had been a Misrepresentation; or
  - (ii) the relevant part of such an offering memorandum
    - (A) did not fairly represent the report, opinion or statement of the expert, or
    - (B) was not a fair copy of, or an extract from, the report, opinion or statement of the expert;
- (f) the person or company (other than the issuer) will not be liable if with respect to any part of such an offering memorandum not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, opinion or statement of an expert, unless the person or company
  - (i) did not conduct an investigation sufficient to provide reasonable grounds for a belief that there had been no Misrepresentation, or
  - (ii) believed there had been a Misrepresentation;
- (g) in no case shall the amount recoverable exceed the price at which the securities were offered under such an offering memorandum;
- (h) the defendant will not be liable for all or any part of the damages that the defendant proves do not represent the depreciation in value of the security as a result of the Misrepresentation;

Section 211 of the *Securities Act* (Alberta) provides that no action may be commenced to enforce these rights more than:

- (a) in the case of an action for rescission, 180 days from the day of the transaction that gave rise to the cause of action, or
- (b) in the case of any action, other than an action for rescission, the earlier of
  - (i) 180 days from the day that the plaintiff first had knowledge of the facts giving rise to the cause of action, or
  - (ii) 3 years from the day of the transaction that gave rise to the cause of action.

## **Rights for Investors in British Columbia, Québec, Northwest Territories, Nunavut and Yukon**

Notwithstanding that the *Securities Act* (British Columbia), the *Securities Act* (Québec), the *Securities Act* (Northwest Territories) and the *Securities Act* (Nunavut) do not provide or require the Trust to provide to investors resident in these jurisdictions any rights of action in circumstances where this Offering Memorandum or any amendment hereto contains a Misrepresentation, subject to the circumstance as described above in which such rights are accorded to investors purchasing securities under the minimum amount invested exemption in Alberta, the Trust hereby grants to such investors the equivalent rights of action as are set forth above with respect to purchasers resident in Ontario.

**A PERSON CONSIDERING AN INVESTMENT IN THE TRUST SHOULD CONSULT THEIR OWN ADVISORS IN ORDER TO FULLY UNDERSTAND THE CONSEQUENCES OF AN INVESTMENT IN THE TRUST WITH RESPECT TO SUCH PERSON'S PARTICULAR SITUATION.**

### ***General***

The foregoing summary is subject to the express provisions of the applicable securities legislation and the regulations, rules and policy statements thereunder and reference is made thereto for the complete text of such provisions. The rights of action described herein are in addition to and without derogation from any other right or remedy that the investor may have at law.

## **LANGUAGE OF DOCUMENTS**

(Québec Only)

By accepting this Offering Memorandum, the investor acknowledges that it is its express wish that all documents evidencing or relating in any way to the sale of Units be drawn up in the English language only. Par son acceptation de ce document, l'acheteur reconnaît par les présentes qu'il est de sa volonté expresse que tous les documents faisant foi ou se rapportant de quelque manière à la vente des parts soient rédigés en anglais seulement.

**CERTIFICATE**

**ALBERTA RESIDENTS PURCHASING UNITS IN RELIANCE ON THE  
EXEMPTION IN SECTION 2.10 (\$150,000 MINIMUM AMOUNT EXEMPTION) OF  
NATIONAL INSTRUMENT 45-106**

**CERTIFICATE OF PERFORMANCE DIVERSIFIED TRUST**

TO: Each Applicable Alberta Purchaser of trust units (“Units”) issued by Performance Diversified Trust (the “Trust”)

The foregoing contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or omit to state a material fact that is necessary to be stated in order for the statement not to be misleading. This Certificate is provided solely to those purchasers purchasing Units of the Trust pursuant to the exemption contained in section 2.10 of National Instrument 45-106 - Prospectus and Registration Exemptions.

**Dated** as of this 8th day of October, 2008.

**PERFORMANCE DIVERSIFIED TRUST  
By VENATOR CAPITAL MANAGEMENT LTD.  
(as Trustee and Manager)**

(Signed) BRANDON OSTEN  
President and Director

(Signed) STEPHEN ANDERSONS  
Director

## APPENDIX “A”

### Investment Strategies of the Underlying Fund Performance Diversified Fund

#### *Investment Strategy and Restrictions*

The Underlying Fund’s investment strategy is based on the following four principles:

- preserve and enhance investors’ capital across varied market conditions;
- focus on absolute return investment strategies;
- generate an attractive risk/return profile with low correlation to major markets; and
- pursue a risk averse, research-intensive portfolio construction and monitoring process.

#### *Fund of Hedge Funds Approach*

The Underlying Fund seeks to generate attractive risk-adjusted returns through a multi-manager or fund of hedge funds approach. The aim of the Underlying Fund is to generate consistent returns with low correlation to major stock and fixed income market indices. The Underlying Fund is expected to consist of between twelve and twenty-five Sub Funds. It is anticipated that the majority of the Sub Funds will be independently market neutral.

By investing in a “fund of funds”, Unitholders can enjoy diversification among various strategies, and financial instruments, which reduce market correlation and risk, as compared to funds that utilize a single strategy. The Underlying Fund will invest in a diverse group of Sub Funds employing a variety of strategies, which may include hedged equity investing, fixed income arbitrage, merger arbitrage, sector investing, macro investing, capital structure arbitrage, distressed securities, opportunistic investing, statistical arbitrage, market neutral strategies, event-driven strategies, and short selling. The goal is to build a portfolio employing strategies that have demonstrated the ability to generate positive returns in all types of market conditions, with low correlation to traditional asset series.

The Fund will utilize an asset allocation structure designed to take advantage of low volatility and consistent performance. Each strategy is evaluated in the context of the entire portfolio, to establish a relationship between different Sub Funds. In order to maximize each Sub Manager’s specialized skills, the Manager will select those Sub Managers for the Underlying Fund which operate autonomously with regard to the investment decision making process; however, each Sub Manager’s individual investment strategy must complement the Underlying Fund’s overall portfolio and investment objectives. With the objective of achieving low volatility relative to the publicly traded markets, the Sponsor believes that the Fund is best suited for investors who seek balanced returns over the long term.

#### *Sub Manager Selection*

The Sponsor believes that prudent Sub Manager selection is the cornerstone of a successful portfolio. Each year, the General Partner will meet with numerous prospective Sub Managers within Canada and internationally to identify Sub Managers who meet the Underlying Fund’s strict criteria. The General Partner’s extensive industry contacts will allow the General Partner to be selective in the

commitment process to individual investment funds. Instead of identifying Sub Managers based only on their past performance, the General Partner will evaluate prospective Sub Managers by analyzing their strategy, including an assessment of the investment process, management team, and other factors including the use of derivatives and leverage. The General Partner shall conduct background checks on all prospective Sub Managers by reviewing their capital commitment, internal organization, clearing agent, past trading records, reputation for integrity, and risk management procedures. To appraise different investment partnerships and strategies, the General Partner will review Sub Manager to Sub Manager correlation in the Underlying Fund to determine correlation to each of the other strategies. The General Partner will analyze prospective Sub Managers for investment styles and strategies that compliment each other.

### ***Portfolio Construction***

The General Partner will evaluate investment trends that are being driven by social, economic, technological and global capital changes. The General Partner believes that the capital markets will be impacted by these forces, and will have an impact on specific sectors of the market, or the overall level of performance for some significant period of time. After the General Partner has identified specific market trends or imbalances, the General Partner will evaluate those prospective Sub Funds able to capitalize on such opportunities. Each prospective Sub Fund reviewed will have a specific focus and investment mandate. Each Sub Manager and strategy will be balanced to achieve the Underlying Fund's overall investment goals. Construction of the Underlying Fund's investment portfolio is a comprehensive process to achieve the desired investment returns and reduce market volatility. Critical components are as follows:

- Identifying Sub Managers who provide a risk/reward profile consistent with the Underlying Fund's objective;
- Conducting extensive due diligence, including statistical analysis and obtaining third-party validation of prospective Sub Manager's personal integrity and strategy;
- Reviewing each Sub Manager's management team, infrastructure, reporting capabilities, risk profile and historical returns; and
- Determining composite result, and appropriate weighting, of each Sub Manager in the Underlying Fund's total portfolio.

The Sub Manager review and due diligence process will concentrate on both quantitative and qualitative resources to determine the suitability of a prospective Sub Manager for the Underlying Fund. The responsibility of the Manager will be to assess the risk of each Sub Manager and strategy in the due diligence process, and to evaluate the Sub Funds on an on-going basis after the Underlying Fund's initial capital commitment. The Manager will carefully evaluate: the Sub Managers and Sub Funds, the investment process, the historic performance results, consistency of returns, and the methodology of portfolio construction to insure that the Sub Manager's interests are aligned with the Underlying Fund. In addition, details of each Sub Fund's partnership agreements or other organizational and operating documents will also be closely inspected. By conducting interviews with each Sub Manager and other industry contacts, the Manager will be able to evaluate the Sub Manager's infrastructure, their investment process and operations to determine if their systems are adequate and to evaluate the risk management controls that are in place.

## **Underlying Fund Objectives**

The investment objectives of the Underlying Fund are:

- to achieve capital appreciation over the long term with a target of 10% to 12% annually (net of fees and expenses) in both rising and declining markets;
- to generate targeted returns at volatility levels similar to mid-term bond indices;
- to minimize the frequency and extent of losses under hostile market conditions;
- to have low correlation with the major equity and fixed income markets; and
- to generate targeted returns with limited and restricted use of leverage by the Underlying Fund.

There can be no assurances that the Underlying Fund's objectives will be achieved.

## **Underlying Fund Investment Guidelines**

The General Partner seeks, within the investment strategy and liquidity constraints of the Sub Funds, to:

- diversify the Underlying Fund's portfolio across primarily market neutral arbitrage trading strategies and conservative low market correlation trading strategies;
- diversify the Underlying Fund's portfolio across Sub Funds meeting, among others, the following criteria:
  - performance through hostile market conditions which is consistent with that Sub Fund's stated market neutral arbitrage trading strategy and conservative portfolio management;
  - substantial personal investments of the key personnel of the Sub Manager in their Sub Fund;
- balance the portfolio allocations across countervailing strategies to minimize the Underlying Fund's exposure to loss under extreme market conditions, reduce the volatility of the Underlying Fund, and improve the Underlying Fund's liquidity.

## ***Leverage***

The total indebtedness of the Underlying Fund may not, at any time, exceed 25% of its net asset value. Borrowing by the Underlying Fund will generally be incurred to pay the fees and expenses of the Underlying Fund, for redemption liquidity and to facilitate re-balancing of the Underlying Fund's portfolio.

## ***Concentration***

Notwithstanding the Underlying Fund's objective of generating significant capital appreciation primarily through investments in a diversified portfolio of funds, the Sponsor and Manager may concentrate the Underlying Fund's investment in one or more of its underlying funds or in cash or

cash equivalents if the Sponsor and Manager feel that such concentration is in the best interests of the Fund and its limited partners given the prevailing market conditions.

## APPENDIX “B”

### **Risks Associated with Investment in the Underlying Fund Performance Diversified Fund**

The Trust is not limited to holding Units of the Underlying Fund. However, an investment in the Trust is presently an investment in the Underlying Fund. There is high risk associated with an investment in the Underlying Fund, and such an investment should only be made after consultation with independent qualified sources of investment and tax advice. An investment in the Underlying Fund is speculative and is not intended as a complete investment program. There is a risk that an investment in the Underlying Fund will be lost entirely or in part. The purchase of Units should be considered only by investors who do not require immediate liquidity of their investment and who can reasonably afford a substantial impairment or loss of their entire investment.

#### ***General Market Risk***

As with any investment, there is a risk that the price of a security or future held by a Sub Manager in which the Underlying Fund invests will rise or fall. There could be many reasons for a decline or increase in the price of a future or security. These include, but are not limited to, changing economic, political or market conditions and changes in interest rates.

#### ***Market Risk***

Market risk refers to the risks inherent in traditional asset classes such as stocks and bonds. The Manager seeks to mitigate direct first order market (or beta) risk by allocating assets to market neutral strategy variations where such risks are substantially hedged. Investors should also note that at times of heightened market risk, the major non-directional trading risks to which the Underlying Fund is exposed tend to increase and may give rise to unanticipated market exposure. These trading risks generally relate to (i) spreads or price differentials between related securities and/or their derivatives, (ii) the volatility of security prices or spreads and (iii) the level of market liquidity.

#### ***Underlying Fund’s Investment Activities***

The Underlying Fund’s investment activities will involve risk. The performance of any investment is subject to numerous factors which are neither within the control of nor predictable by the Manager. These factors include a wide range of economic, political, competitive and other conditions (including acts of war and terrorism), which may affect investments in general or specific industries or companies. In recent years, the securities markets have become increasingly volatile, which may adversely affect the ability of the Underlying Fund to realize profits. As a result of the nature of the Underlying Fund’s investing activities, it is possible that the Underlying Fund’s financial performance may fluctuate substantially from period to period.

#### ***Broad Discretionary Power to Choose Investments and Strategies***

The Limited Partnership Agreement provides the Manager with broad discretionary power to decide what investments the Underlying Fund will make and what strategies it will use. While the Manager currently intends to use the strategies described herein, it is not obligated to do so, and it may choose any other investments and strategies that it believes are advisable.

### ***Concentration of Investments***

Although the Manager seeks to obtain diversification by investing with a number of different Sub Managers, it is possible that several Sub Managers may take substantial positions in the same security or group of securities at the same time. Also, the Manager may choose to concentrate investments with one or more Sub Managers. This possible lack of diversification may subject the investments of the Underlying Fund to more rapid changes in value than would be the case if multiple Sub Managers were not used. While the Manager intends to allocate the Underlying Fund's equity among a number of Sub Managers with differing strategies and techniques and various securities, there is the risk that one of the strategies or techniques may have a disproportionate share of the Underlying Fund's assets and any negative performance of such strategy or technique may adversely affect the Underlying Fund's performance.

### ***Credit***

The Sub Funds may invest in securities that are either not rated or are rated in the lower rating categories by various credit rating agencies. Securities in the lower rated categories are subject to greater risk of loss of principal and interest than higher-rated securities, particularly in the case of a deterioration in general economic conditions. Sub Funds may invest in swaps, derivative or synthetic instruments, repurchase agreements or other over-the-counter transactions. Consequently, the Underlying Fund may indirectly take a credit risk with regard to parties within whom the Sub Funds trade.

### ***Duration of Investment***

Investments in the Sub Funds may experience periods of drawdown or loss. For this reason potential investors should plan to commit funds to the Underlying Fund for at least two years to three years, although this is not an obligation.

### ***Effect of Substantial Redemptions***

Substantial redemptions of Units of the Trust could require the Underlying Fund to liquidate positions more rapidly than would otherwise be desirable, which could adversely affect the value of the Units. Substantial redemptions might cause liquidation of the Underlying Fund. Substantial redemptions may also affect the ability of Unitholders to redeem their Units on the desired date of redemption.

### ***Illiquidity***

Because of limitations on trading Units, and furthermore, due to the fact that the Underlying Fund invests in Sub Funds in which liquidity is also restricted, an investment in the Underlying Fund is a relatively illiquid investment and involves a high degree of risk. The success or failure of the Underlying Fund will depend upon the selection of successful Sub Managers and in turn upon the ability of the Sub Managers to trade profitably. The level of overall market liquidity is an important factor that contributes to the profitability of many alternative investment strategies. In some circumstances the markets may become illiquid, making it difficult to acquire or dispose of contracts at the prices quoted on the various exchanges or at normal bid/offer spreads quoted off exchange. These and other factors mean that, as with other investments, there can be no assurance that trading in the markets will be profitable.

### ***Reliance on General Partner and Sponsor***

Investors must rely on the General Partner and the Sponsor for the day to day management of the Underlying Fund. Limited Partners have no right or power to take part in the management of the Underlying Fund. Accordingly, investors in the Underlying Fund must be willing to entrust all aspects of the management of the Underlying Fund to the General Partner, the Sponsor and their officers, employees and agents from time to time.

### ***Reliance on the Manager***

The Underlying Fund relies on the ability of the Manager to manage the assets of the Underlying Fund. The Manager will make investment decisions upon which the success of the Underlying Fund will depend significantly. No assurance can be given that the investment strategies employed by the Manager will prove successful. There can be no assurance that satisfactory replacements for the Manager will be available, if needed. Removal of the Manager will not automatically terminate the Underlying Fund, but will expose Limited Partners to the risks involved in whatever new investment management arrangements the replacement advisor is able to negotiate. In addition, the liquidation of positions held for the Underlying Fund as a result of the resignation or removal of the Manager may cause substantial losses to the Underlying Fund.

### ***Incentive Fees***

Incentive fees to be paid to the Sponsor and Manager will be based on realized and unrealized gains and losses as of the end of the applicable payment period. As a result, incentive fees could be paid on gains that may never be realized. Furthermore, the remuneration of Sub Managers will be calculated on an individual basis. Thus a Sub Manager whose performance has been positive during a particular payment period may earn an incentive fee, although the performance of the Underlying Fund's investment portfolio as a whole may be negative during that payment period.

### ***Portfolio Turnover***

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

### ***Strategy Specific Risks***

Each strategy and strategy variation employed by the Sub Managers with whom the Underlying Fund invests will involve a different set of complex risks, many of which are not described in this Offering Memorandum. Potential investors should make such investigation and evaluation of such risks as he or she concludes is appropriate.

### ***Lack of Insurance***

Neither the assets of the Underlying Fund nor any of the Sub Funds are not insured by any government or private insurer except to the extent portions may be deposited in bank accounts insured by a government agency such as the Canada Deposit Insurance Corporation or the Federal Deposit

Insurance Corporation (United States) or with brokers insured by the Canadian Investor Protection Fund, or the Securities Investor Protection Corporation (United States) and such deposits and securities are subject to such insurance coverage (which, in any event, is limited in amount). Therefore, in the event of the insolvency of a depository or custodian, an Underlying Fund or any of the Sub Funds may be unable to recover all of its funds or the value of its securities so deposited.

### ***Competition***

The securities industry, and the varied strategies and techniques to be engaged in by the Sub Managers selected by the Manager, are extremely competitive. The Underlying Fund will compete with firms, including many of the larger securities and investment banking firms, which have substantially greater financial resources and research staffs.

### ***Leverage***

The Sub Managers selected by the Manager as well as the Underlying Fund itself may use leverage in their investment program. "Leverage" can be obtained two ways. Money may be borrowed to purchase securities or futures. This would be the case if the Underlying Fund borrows money pursuant to a credit facility to finance its investment operations. Another alternative would be to notionalize investments in the futures and currency categories, investing less than the fully funded amounts with various Sub Managers in individual accounts. Leverage increases the opportunity to achieve higher returns on the amounts invested, but it also increases the risk of loss. If a fund purchases securities or futures on margin (that is, by depositing a portion of the price with its broker, who in effect lends the rest of the price to the fund), then a small change in price may result in a loss for the fund that exceeds the margin deposited with the broker. Because margin deposits typically required for futures contracts are substantially lower than for investments in securities, the effects of leverage can be especially dramatic when a Sub Manager invests in futures, whether through a credit facility or through notional funding, rather than fully funding the accounts. Moreover, the use of leverage will increase the effect on the Underlying Fund of changes in interest rates, because the Underlying Fund will have to pay interest if it borrows money, typically at a floating rate. In addition, the use of leverage either through a credit facility or through other sources will increase the volatility of the returns of the Underlying Fund.

### ***Foreign Exchange***

The Underlying Fund, and any of the Sub Funds, may have significant exposure to different foreign currencies, of which the exposure may or may not be "hedged". Accordingly, significant fluctuations or events with respect to global currencies, markets or economies may result in significant losses to the Underlying Fund, or any of the Sub Fund.

### ***Short Sales***

The Sub Managers selected by the Manager may sell securities short as part of their strategy. Short selling involves the sale of a security that the fund does not own and must borrow in order to make delivery in the hope of purchasing the same security at a later date at a lower price. Selling securities short risks losing an amount greater than the proceeds received. Theoretically, securities sold short suffer from an unlimited risk of loss because there is no limit on how high the price of security may rise before the short position is closed. In addition, the supply of securities that can be borrowed fluctuates from time to time. The Sub Managers and the Underlying Fund may have losses if a security lender demands return of the lent securities and an alternative lending source cannot be found.

### ***Options and Other Derivative Instruments***

The Sub Managers selected by the Manager may invest in derivative instruments. The prices of many derivative instruments are highly volatile. Price movements of options contracts and payments pursuant to swap agreements are influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. The value of options and swap agreements also depends upon the price of the securities or currencies underlying them. The Underlying Fund is also subject to the risk of the failure of any of the exchanges on which its positions trade or of their clearinghouses or of counterparties. The cost of options is related, in part, to the degree of volatility of the underlying securities. Accordingly, options on highly volatile securities may be more expensive than options on other securities. Put options and call options typically have similar structural characteristics and operational mechanics regardless of the underlying instrument on which they are purchased or sold. A put option gives the purchaser of the option, upon payment of a premium, the right to sell, and the writer the obligation to buy, the underlying security, commodity, index, currency or other instrument at the exercise price. A call option, upon payment of a premium, gives the purchaser of the option the right to buy, and the seller the obligation to sell, the underlying instrument at the exercise price. If a put or call option purchased by the Sub Fund were permitted to expire without being sold or exercised, the Sub Fund would lose the entire premium it paid for the option. The risk involved in writing a put option is that there could be a decrease in the market value of the underlying security caused by rising interest rates or other factors. If this occurred, the option could be exercised and the underlying security would then be sold to the Sub Fund at a higher price than its current market value. The risk involved in writing a call option is that there could be an increase in the market value of the underlying security caused by declining interest rates or other factors. If this occurred, the option could be exercised and the underlying security would then be sold by the Sub Fund at a lower price than its current market value. Purchasing and writing put and call options and, in particular, writing “uncovered” options are highly specialized activities and entail greater than ordinary investment risks. In particular, the writer of an uncovered call option assumes the risk of a theoretically unlimited increase in the market price of the underlying security or currency above the exercise price of the option. This risk is enhanced if the security being sold short is highly volatile and there is a significant outstanding short interest. These conditions exist in the stocks of many companies. The securities necessary to satisfy the exercise of the call option may be unavailable for purchase except at much higher prices. Purchasing securities to satisfy the exercise of the call option can itself cause the price of the securities to rise further, sometimes by a significant amount, thereby exacerbating the loss. Accordingly, the sale of an uncovered call option could result in a loss by the Sub Fund of all or a substantial portion of its assets. Swaps and certain options and other custom instruments are subject to the risk of non-performance by the counterparty, including risks relating to the financial soundness and creditworthiness of the counterparty.

**The foregoing list of Risk Factors may not describe all of the risks and conflicts of interests relating to the Underlying Fund. Potential investors should read this entire Offering Memorandum and consult with their own legal and financial advisors before investing in Units.**