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## **NEWGEN MINING FUND SPC**

(An exempted company incorporated with limited liability and registered as a segregated portfolio company under the laws of the Cayman Islands)

### **CONFIDENTIAL OFFERING MEMORANDUM FOR PARTICIPATING, NON-VOTING AND REDEEMABLE SHARES**

**Minimum Initial Investment: CAD\$100,000\***

*\*Subject to applicable Cayman Islands statutory minimums*

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NEWGEN MINING FUND SPC IS A REGULATED MUTUAL FUND FOR THE PURPOSES OF THE MUTUAL FUNDS LAW (REVISED) OF THE CAYMAN ISLANDS AND ACCORDINGLY CERTAIN FILINGS HAVE BEEN MADE AND WILL IN THE FUTURE BE MADE IN RELATION TO NEWGEN MINING FUND SPC WITH THE CAYMAN ISLANDS MONETARY AUTHORITY. HOWEVER, NO CAYMAN ISLANDS AUTHORITY AND NO OTHER AUTHORITY, INCLUDING THE U.S. SECURITIES AND EXCHANGE COMMISSION, HAS PASSED UPON OR ENDORSED THE MERITS OF THIS OFFERING OR THE ACCURACY OR ADEQUACY OF THIS CONFIDENTIAL OFFERING MEMORANDUM. THIS IS NOT A PUBLIC OFFERING. NEWGEN MINING FUND SPC IS AN EXEMPTED COMPANY INCORPORATED WITH LIMITED LIABILITY AND REGISTERED AS A SEGREGATED PORTFOLIO COMPANY UNDER THE LAWS OF THE CAYMAN ISLANDS AND IS PROHIBITED FROM UNDERTAKING BUSINESS WITH THE PUBLIC IN THE CAYMAN ISLANDS OTHER THAN SO FAR AS MAY BE NECESSARY FOR THE CARRYING ON OF THE BUSINESS OF NEWGEN MINING FUND SPC OUTSIDE THE CAYMAN ISLANDS.

THE SHARES OFFERED HEREBY HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY NATIONAL, STATE OR LOCAL JURISDICTION AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THOSE LAWS. THE SHARES HAVE NEITHER BEEN APPROVED NOR DISAPPROVED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION OR ANY OTHER SECURITIES COMMISSION OR GOVERNMENTAL AUTHORITY NOR HAVE ANY OF THE FOREGOING PASSED UPON OR ENDORSED THE MERITS OF THE OFFERING OR THE ACCURACY OR ADEQUACY OF THIS CONFIDENTIAL OFFERING MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

THIS CONFIDENTIAL OFFERING MEMORANDUM DOES NOT CONSTITUTE AN OFFER OR SOLICITATION IN ANY JURISDICTION IN WHICH SUCH OFFER OR SOLICITATION IS NOT LAWFUL, OR IN WHICH THE PERSON MAKING SUCH OFFER OR SOLICITATION IS NOT QUALIFIED TO DO SO.

**SEE CFTC DISCLOSURES ON PAGE (iv).**

**Investment Manager:  
NewGen Asset Management Limited**

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**August 2011**

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**Not for use or distribution in the United States unless distributed to U.S. Tax-Exempt Investors and accompanied by the Supplemental Disclosure Statement for U.S. Tax-Exempt Investors.**

## GENERAL INFORMATION

NEWGEN MINING FUND SPC (THE “COMPANY”) IS OFFERING FOR SUBSCRIPTION PARTICIPATING, NON-VOTING AND REDEEMABLE SHARES PAR VALUE CAD\$0.01 PER SHARE (THE “SHARES”) IN THE CAPITAL OF THE COMPANY. THE SHARES HAVE NOT BEEN REGISTERED WITH OR APPROVED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION OR ANY OTHER REGULATORY AUTHORITY OF ANY JURISDICTION, NOR HAS ANY COMMISSION OR REGULATORY AUTHORITY PASSED UPON THE ACCURACY OR ADEQUACY OF THIS CONFIDENTIAL OFFERING MEMORANDUM (THE “MEMORANDUM”).

THE SHARES ARE AVAILABLE ONLY TO PERSONS WILLING AND ABLE TO BEAR THE ECONOMIC RISKS OF THIS INVESTMENT. THE SHARES ARE SPECULATIVE AND INVOLVE A HIGH DEGREE OF RISK. INVESTMENT IN THE COMPANY IS DESIGNED ONLY FOR SOPHISTICATED PERSONS WHO ARE ABLE TO BEAR A SUBSTANTIAL LOSS OF THEIR CAPITAL INVESTMENT IN THE COMPANY. *SEE* “CERTAIN RISK FACTORS.” EACH SUBSCRIBER MUST REPRESENT AND WARRANT IN THE COMPANY’S SUBSCRIPTION DOCUMENTS THAT IT HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS SUCH THAT IT IS CAPABLE OF EVALUATING THE MERITS AND RISKS OF ITS ACQUISITION OF THE SHARES. EACH SUBSCRIBER MUST FURTHER REPRESENT AND WARRANT THAT IT IS ABLE TO BEAR THE ECONOMIC RISK OF ITS INVESTMENT IN THE SHARES, INCLUDING A COMPLETE LOSS OF ITS INVESTMENT IN THE COMPANY.

THE CIRCULATION AND DISTRIBUTION OF THIS MEMORANDUM IN CERTAIN JURISDICTIONS IS RESTRICTED BY LAW. THIS MEMORANDUM CONSTITUTES AN OFFER ONLY IF THE NAME OF AN OFFEREE APPEARS IN THE APPROPRIATE SPACE PROVIDED ON THE COVER PAGE OF THIS MEMORANDUM AND ONLY IF DELIVERY OF THIS MEMORANDUM IS PROPERLY AUTHORIZED BY THE COMPANY AND COMPLIES WITH THE LAW OF THE COUNTRY IN WHICH THE OFFEREE RESIDES. THIS MEMORANDUM HAS BEEN PREPARED BY THE COMPANY SOLELY FOR THE BENEFIT OF PERSONS INTERESTED IN THE PROPOSED SALE OF SHARES, AND ANY REPRODUCTION OF THIS MEMORANDUM, IN WHOLE OR IN PART, OR THE DIVULGENCE OF ANY OF ITS CONTENTS, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMPANY, IS PROHIBITED. NO INVITATION TO SUBSCRIBE FOR SHARES MAY BE MADE TO THE PUBLIC IN THE CAYMAN ISLANDS (AS THAT TERM IS DEFINED IN THE MUTUAL FUNDS LAW (REVISED) OF THE CAYMAN ISLANDS) AND THIS MEMORANDUM DOES NOT REPRESENT ANY SUCH INVITATION. PERSONS IN THE CAYMAN ISLANDS WHO ARE NOT INCLUDED WITHIN THE DEFINITION OF PUBLIC IN THE CAYMAN ISLANDS UNDER THE MUTUAL FUNDS LAW (REVISED) OF THE CAYMAN ISLANDS MAY BE PERMITTED TO ACQUIRE SHARES. ANY SHARES WHICH ARE SOLD OR TRANSFERRED IN VIOLATION OF THIS PROHIBITION WILL BE COMPULSORILY REDEEMED BY THE COMPANY.

NO PERSON HAS BEEN AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY OR PROVIDE ANY INFORMATION WITH RESPECT TO THE SHARES EXCEPT SUCH INFORMATION AS IS CONTAINED IN THIS MEMORANDUM. ANY INFORMATION REQUESTED BY A PROSPECTIVE INVESTOR AND PROVIDED BY THE COMPANY OR ITS PLACEMENT AGENTS IS QUALIFIED IN ITS ENTIRETY BY THE INFORMATION CONTAINED HEREIN. NEITHER THE DELIVERY OF THIS MEMORANDUM NOR ANY SALE MADE HEREUNDER SHALL UNDER ANY CIRCUMSTANCES CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE MATTERS DISCUSSED HEREIN SINCE THE DATE HEREOF.

EACH INVESTOR IN THE SHARES OFFERED HEREBY MUST ACQUIRE SUCH SHARES SOLELY FOR SUCH INVESTOR'S OWN ACCOUNT, FOR INVESTMENT PURPOSES ONLY AND NOT WITH AN INTENTION OF DISTRIBUTION, TRANSFER OR RESALE, EITHER IN WHOLE OR IN PART.

THIS MEMORANDUM DOES NOT CONSTITUTE AN OFFER OR SOLICITATION IN ANY JURISDICTION IN WHICH AN OFFER OR SOLICITATION IS NOT LAWFUL OR AUTHORIZED OR IN WHICH THE PERSON MAKING SUCH OFFER OR SOLICITATION IS NOT QUALIFIED TO DO SO.

THE CONTENTS OF THIS MEMORANDUM SHOULD NOT BE CONSTRUED AS INVESTMENT, LEGAL OR TAX ADVICE. EACH PROSPECTIVE INVESTOR IS URGED TO SEEK INDEPENDENT INVESTMENT, LEGAL AND TAX ADVICE CONCERNING THE CONSEQUENCES OF INVESTING IN THE COMPANY.

IN PREPARING THIS MEMORANDUM, KATTEN MUCHIN ROSENMAN LLP AND OGIER HAVE RELIED UPON INFORMATION PROVIDED TO THEM BY THE INVESTMENT MANAGER AND HAVE NOT INDEPENDENTLY INVESTIGATED OR VERIFIED THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

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THE SHARES OFFERED HEREBY MAY NOT BE TRANSFERRED WITHOUT THE PRIOR CONSENT OF THE COMPANY'S DIRECTORS, WHICH MAY BE WITHHELD FOR ANY REASON OR FOR NO REASON IN THEIR SOLE DISCRETION.

UNLESS THIS MEMORANDUM IS ACCOMPANIED BY A UNITED STATES SUPPLEMENTAL DISCLOSURE STATEMENT FOR U.S. TAX-EXEMPT INVESTORS, THE OFFERING HEREBY OF SHARES OF THE COMPANY IS BEING MADE ONLY OUTSIDE THE UNITED STATES TO INVESTORS WHO ARE NOT UNITED STATES PERSONS. THE SHARES OFFERED HEREBY MAY NOT BE TRANSFERRED IF THE TRANSFER MAY RESULT IN REGULATORY, LEGAL OR TAX DISADVANTAGE FOR THE COMPANY OR ITS SHAREHOLDERS AND WILL NOT BE TRANSFERABLE TO UNITED STATES PERSONS WHO ARE NOT U.S. TAX-EXEMPT INVESTORS.

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ALL SUBSCRIPTIONS FOR SHARES ARE IRREVOCABLE. THE COMPANY, IN ITS SOLE DISCRETION, MAY REJECT ANY SUBSCRIPTION IN WHOLE OR IN PART AT ANY TIME PRIOR TO ACCEPTANCE.

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ALL REFERENCES HEREIN TO "CAD\$" ARE TO CANADIAN DOLLARS AND ALL REFERENCES HEREIN TO "USD\$" ARE TO U.S. DOLLARS.

## CFTC DISCLOSURES

### **REGISTRATION EXEMPTION:**

PURSUANT TO AN EXEMPTION UNDER THE U.S. COMMODITY FUTURES TRADING COMMISSION (“CFTC”) REGULATIONS, THE COMPANY’S INVESTMENT MANAGER IS NOT REQUIRED TO REGISTER AS A COMMODITY POOL OPERATOR (“CPO”). AS A RESULT, THE INVESTMENT MANAGER WILL NOT BE REQUIRED TO DELIVER A DISCLOSURE DOCUMENT (CONTAINING CERTAIN CFTC PRESCRIBED DISCLOSURE) AND A CERTIFIED ANNUAL REPORT TO THE COMPANY’S INVESTORS. A CLAIM OF EXEMPTION HAS BEEN FILED EFFECTUATING THIS EXEMPTION.

THE INVESTMENT MANAGER’S ELIGIBILITY FOR THE CFTC REGISTRATION EXEMPTION WITH RESPECT TO THE COMPANY IS SET FORTH IN RULE 4.13(a)(3) OF THE CFTC’S REGULATIONS, AND IS BASED ON THE FACT THAT: (I) THE OFFER AND SALE OF THE COMPANY’S SHARES ARE EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, AND ARE NOT BEING OFFERED THROUGH A PUBLIC OFFERING IN THE UNITED STATES; (II) EACH PARTICIPANT IN THE COMPANY IS AN “ACCREDITED INVESTOR,” AS THAT TERM IS DEFINED IN SECTION 501 OF REGULATION D UNDER THE 1933 ACT; (III) EITHER (A) THE AGGREGATE NET NOTIONAL VALUE OF THE POOL’S COMMODITY INTEREST POSITIONS DOES NOT EXCEED 100% OF THE LIQUIDATION VALUE OF THE POOL’S PORTFOLIO OR (B) THE AGGREGATE INITIAL FUTURES MARGIN AND OPTIONS PREMIUM REQUIRED TO ESTABLISH THE POOL’S COMMODITY INTEREST POSITIONS DOES NOT EXCEED 5% OF THE LIQUIDATION VALUE OF THE POOL’S PORTFOLIO; AND (IV) SHARES IN THE COMPANY ARE NOT MARKETED AS OR IN A VEHICLE FOR TRADING IN THE COMMODITY FUTURES OR COMMODITY OPTIONS MARKETS.

## DIRECTORY

### COMPANY

NewGen Mining Fund SPC  
Marquee Place  
430 West Bay Road  
Suite 300, P.O. Box 30997  
Grand Cayman KY1-1204  
Cayman Islands

### MASTER FUND

NewGen Mining Master Fund Ltd.  
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430 West Bay Road  
Suite 300, P.O. Box 30997  
Grand Cayman KY1-1204  
Cayman Islands

### INVESTMENT MANAGER

NewGen Asset Management Limited  
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### ADMINISTRATOR

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### DIRECTORS

David Dattels  
Guy Elliot  
Steve Vaughan  
Marshall Auerback  
Roger Murphy

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Written inquiries relating to the Company should be addressed to NewGen Mining Fund SPC c/o the Investment Manager at its address set forth above.

## TABLE OF CONTENTS

	<u>Page</u>
<b>GENERAL INFORMATION .....</b>	<b>ii</b>
<b>DIRECTORY .....</b>	<b>v</b>
<b>SUMMARY OF PRINCIPAL TERMS .....</b>	<b>1</b>
<b>INVESTMENT OBJECTIVE AND INVESTMENT STRATEGY .....</b>	<b>20</b>
<b>INVESTMENT MANAGER.....</b>	<b>21</b>
<b>DIRECTORS.....</b>	<b>24</b>
<b>THE COMPANY AND THE MASTER FUND .....</b>	<b>25</b>
<b>ADMINISTRATOR.....</b>	<b>28</b>
<b>BROKERAGE ARRANGEMENTS .....</b>	<b>29</b>
<b>CERTAIN RISK FACTORS .....</b>	<b>32</b>
<b>CONFLICTS OF INTEREST.....</b>	<b>53</b>
<b>VALUATION OF THE FUND'S ASSETS.....</b>	<b>56</b>
<b>DESIGNATED INVESTMENTS .....</b>	<b>59</b>
<b>TAX CONSIDERATIONS.....</b>	<b>61</b>
<b>MUTUAL FUND REGULATION .....</b>	<b>63</b>
<b>ANTI-MONEY LAUNDERING REGULATIONS; U.S. TAX REPORTING .....</b>	<b>64</b>
<b>DOCUMENTS AVAILABLE FOR INSPECTION.....</b>	<b>65</b>
<b>SUMMARY OF THE COMPANY'S DOCUMENTS .....</b>	<b>66</b>
<b>GENERAL INFORMATION .....</b>	<b>69</b>
<b>ADDITIONAL INFORMATION.....</b>	<b>70</b>

Exhibit A: Form of Subscription Documents for Subscribers other than U.S. Tax-Exempt Investors  
Supplemental Disclosure Statement for U.S. Tax-Exempt Investors (*Separately provided*)  
Subscription Documents for U.S. Tax-Exempt Investors (*Separately provided*)

## SUMMARY OF PRINCIPAL TERMS

The following is a summary of the principal terms of the Company. This Confidential Offering Memorandum (this “**Memorandum**”) contains more detailed information under the captions referred to below and this summary is qualified in its entirety by the information appearing elsewhere in this Memorandum and in the subscription documents relating to the subscription for Shares in the Company attached hereto as Exhibit A (the “**Subscription Documents**”).

### Structure

#### **The Company**

**NewGen Mining Fund SPC** (the “**Company**”) is a company incorporated on October 9, 2009, as an exempted company limited by shares and registered as a segregated portfolio company under the Companies Law (Revised) of the Cayman Islands (as amended or re-enacted from time to time, the “**Companies Law**”). As a segregated portfolio company, the Company can operate segregated portfolios (“**Segregated Portfolios**”) with the benefit of statutory segregation of assets and liabilities between each Segregated Portfolio.

As of the date of this Memorandum, one Segregated Portfolio and one class within such Segregated Portfolio has been designated by the Directors (as defined below): Class A in the Mining Fund Segregated Portfolio. However, the Company may, in its sole discretion, designate any number of additional Segregated Portfolios.

The assets of each Segregated Portfolio will be invested separately in accordance with the investment objective, policies and guidelines for such Segregated Portfolio as specified in this Memorandum (or any applicable supplement thereto).

Each Segregated Portfolio will be administered and maintained separate from each of the other Segregated Portfolio. Under the Companies Law, the debts, liabilities, obligations and expenses incurred by one Segregated Portfolio will only be enforceable against the assets of the same Segregated Portfolio (or, in certain circumstances, against the general assets of the Company) and not against the assets of any other Segregated Portfolio. Notwithstanding the segregation of assets and liabilities within portfolios, the Company is a single legal entity and no Segregated Portfolio constitutes a legal entity separate from the Company itself.

On the introduction of any new Segregated Portfolio, the Directors will prepare a supplement setting out the relevant details of such Segregated Portfolio.

#### **The Master Fund**

The Company generally through a “master-feeder” fund structure invests substantially all of its assets in, NewGen Mining Master Fund Ltd. (the “**Master Fund**”), a company incorporated on July 13, 2011, as an exempted company limited by shares under the Companies Law. (For purposes of this Memorandum each reference to the “**Company**” shall read as a reference to the Company acting for and on behalf of the Segregated Portfolios, and each reference to the “**Fund**” shall read a reference to the Company and the Master Fund, collectively, unless

the context otherwise requires.)

In addition to the Company, one or more other vehicles (together with the Company, the “**Feeder Funds**”) invest in the Master Fund.

### **The Investment Manager**

NewGen Asset Management Limited, the investment manager of the Fund (the “**Investment Manager**”), is a corporation incorporated under the laws of the Province of Ontario, Canada, on September 25, 2009. The Investment Manager is registered with the Ontario Securities Commission as an Investment Fund Manager, Portfolio Manager and Exempt Market Dealer pursuant to National Instrument 31-103 of the Canadian Securities Administration. The Investment Manager is exempt from registration as a commodity pool operator (“**CPO**”) pursuant to U.S. Commodity Futures Trading Commission (“**CFTC**”) regulation 4.13(a)(3) or one or more other exemptions or exclusions from CPO registration (which other exemptions could permit the Fund to engage in a greater amount of futures trading than is currently the case).

The Investment Manager has entered into an investment management agreement (the “**Investment Management Agreement**”) with the Company and the Master Fund and is responsible for investing the assets of the Company and the Master Fund, subject to the ultimate supervision of the Company’s and the Master Fund’s respective Boards of Directors. The Investment Manager may transfer its management responsibilities to any of its qualified affiliates, successors or assignees upon notice to the Company, and may trade directly on behalf of the Fund and/or designate and appoint other persons to make, directly or indirectly, all or any portion of the Fund’s trading and investment decisions, upon notice to the Company and the Master Fund.

### **Investment Objective and Investment Strategy**

The Fund’s principal investment objective is to achieve superior, long-term absolute returns through investing in a diversified portfolio of investments focusing on the global mining sector. The Company will structure the investment strategies of each Segregated Portfolio based upon the specific objectives of each Segregated Portfolio.

The Investment Manager intends to select investments utilizing quantitative and qualitative research, and to conduct ongoing analysis of industry fundamentals and macro-economic factors, seeking to capture commodity exposures that offer superior supply and demand opportunities. The Investment Manager seeks to invest mainly in high-quality advanced explorers, developers and high-youth producers across all market capitalizations with the goal of enhancing returns while maintaining a balanced liquidity profile.

The Investment Manager will implement a number of investment techniques in pursuing its investment objectives. Such techniques may include investing both long and short, engaging in hedging strategies in order to mitigate market exposure, investing in listed and over-the-counter derivative instruments and arbitrage strategies (e.g., establishing simultaneous long and short positions in order to capture

mispricing of assets) and employing leverage in the implementation of the foregoing investment strategies.

The Investment Manager expects to invest primarily in listed equities, focusing on companies operating in the global mining sector; however, in pursuing its investment objectives, the Fund may trade, buy, sell (including sell short), and otherwise acquire, hold, dispose of (using margin and other forms of leverage) and deal in financial instruments and other rights and interests including, without limitation, listed and unlisted, registered and unregistered securities of various international issuers, including, but not limited to, equity and equity-related securities (e.g., common stock, preferred stock, stock warrants and rights, convertible securities, “new issues” and indices related to any of the foregoing), exchange traded funds (“ETFs”), futures contracts and options on futures contracts traded on or subject to the rules of international exchanges or other boards of trade, swap contracts and forward contracts, currencies, debentures, warrants, debt instruments and other fixed income securities (corporate, derivative and governmental, rated and unrated), as well as listed and over-the-counter options and other derivative instruments (including credit derivatives) on all of the above instruments, and rights to acquire the same of public and private issuers throughout the world; other instruments, rights and interests in personal property, and such other instruments or interests as the Investment Manager deems appropriate (hereinafter referred to collectively as “**Financial Instruments**”).

Additionally, the Fund may maintain assets in cash, deposit, call or current accounts or invest in short-term instruments, such as short-term debt instruments, money market funds, government securities, certificates of deposit, bankers’ acceptances or similar temporary investments, to meet the expense needs of the Fund and/or to fund redemptions or for such other purposes as may be determined by the Investment Manager.

The foregoing description of the Fund’s investment strategy represents the Investment Manager’s present intentions in view of current market conditions and other factors. The Investment Manager may vary the foregoing investment objectives and strategy to the extent it determines that doing so will be in the best interest of the Fund.

**There is no assurance that the Fund’s investment objective will be achieved, and results may vary substantially over time. Any investment strategy pursued for the Fund is in the absolute and sole discretion of the Investment Manager. The Fund is under no obligation to advise existing or potential investors of a change in investment styles or strategies.**

## **Leverage**

The Fund may utilize Broker-provided financing in its trading of equities and similar Financial Instruments. In addition, the low margin and collateral deposits required to trade certain Financial Instruments may permit a high degree of leverage. The degree of leverage that the Fund may utilize is not limited to any predetermined level, but will be subject to applicable legal or Broker imposed leverage limitations, to

the extent applicable. See “Credit Facilities,” below.

**Directors**

The Company is managed by its Board of Directors, consisting of David Dattels, Guy Elliot, Steve Vaughan, Marshall Auerback and Roger Murphy (the “**Directors**”), who also serve as the directors of the Master Fund.

**Administrator**

SGGG Fund Services (Cayman) Inc. (the “**Administrator**”) has been retained by the Fund to perform day-to-day administrative and bookkeeping services (including performing anti-money laundering due diligence for and on behalf of the Fund), and to serve as registrar and transfer agent. The Administrator will be responsible for calculating the Net Asset Value of the Company and the Net Asset Value of the Master Fund, subject to the ultimate supervision of the Company’s and the Master Fund’s respective Boards of Directors.

**Brokerage Arrangements**

Currently, the Fund expects to trade Financial Instruments primarily through Scotia Capital Prime Brokerage (“**Scotia**”). The Fund may utilize one or more other prime brokers, U.S. and non-U.S. securities and futures brokers or clearing firms, introducing brokers, executing brokers, dealers, custodians and counterparties in addition to or in place of Scotia (collectively, the “**Brokers**”).

The Investment Manager may select Brokers on the basis that they may provide “soft dollar” benefits to the Fund, the Investment Manager and/or their affiliates, and/or accounts managed by the Investment Manager or its affiliates. The use of such “soft dollars” may not meet the safe harbor of Section 28(e) of the U.S. Securities Exchange Act of 1934, as amended. See “Brokerage Arrangements.”

**Risks**

An investment in the Company is speculative and involves substantial risks, including the risk of loss of an investor’s entire investment. These risks also include, but are not limited to, the speculative nature of trading and investing in Financial Instruments, the speculative nature of short-term buying, “short selling” and otherwise trading in Financial Instruments on margin, the significant leverage embedded in certain Financial Instruments, the substantial charges that the Fund will incur, regardless of whether any profits are earned, and the actual and potential conflicts of interest in the structure and operation of the Fund’s business. See “Certain Risk Factors” and “Conflicts of Interest.”

**The Offering**

**Securities Offered**

The Company is offering for subscription a separate class (or classes) of participating, non-voting and redeemable shares in its capital, par value CAD\$0.01 per share (the “**Shares**”), attributable to Mining Fund Segregated Portfolio upon the terms described in this Memorandum. The Company may, as determined by the Directors, offer one or more additional classes of Shares attributable to the existing Segregated Portfolio or any newly created Segregated Portfolio without notice to or the consent of Shareholders. The Shares may be subscribed for at

an initial issue price of CAD\$100 per Share. There is no minimum aggregate capital requirement for the Company to continue its operations.

Shares generally shall not have the right to vote at general or class meetings of the Company, except on any proposed variation or abrogation of rights affecting Shares as a class.

The Investment Manager holds 100 non-participating, voting and non-redeemable shares in the capital of the Company, par value CAD\$1.00 per share (the “**Management Shares**”). Except as specified above, the Management Shares possess the exclusive voting rights of the Company and will not participate in the Company’s investments.

The Fund may invest in “new issues” (initial public offerings) as defined in Financial Industry Regulatory Authority (“**FINRA**”) Rule 5130. Subscribers who have indicated in their Subscription Documents that they are deemed to be “Restricted Persons” under FINRA Rule 5130 will be issued a class of Shares that may be allocated, in the Fund’s discretion, a maximum of 10% of the value of “new issue” investments allocated to the Fund (the “**De Minimis Amount**”). Subscribers who have indicated in their Subscription Documents that they are not Restricted Persons will be issued a class of Shares that will participate in the profits, losses and expenses associated with “new issue” investments allocated to the Fund, less the De Minimis Amount.

## **The Offering**

The Company is offering Shares for subscription on the first Business Day of each month and at such additional times as the Company, in its sole discretion, may permit (each, a “**Closing Date**”). Accepted subscribers will become shareholders in the Company (the “**Shareholders**”). The Company may decline to accept a subscription by any person for any reason, in its sole discretion.

## **Eligible Investors**

An investment in the Company is suitable only for sophisticated persons that have adequate means of providing for their current needs and personal contingencies and have no need for liquidity in their investments. Subscribers should view an investment in the Company within the context of their overall investment strategy and should only commit funds which are earmarked for long-term investment. An investment in the Company should not be made by any person that (i) cannot afford a total loss of principal or (ii) has not (either alone or in conjunction with a financial advisor) carefully read, or does not understand, this Memorandum, including (but not limited to) the portions concerning the risks and the income tax consequences of an investment in the Company. Potential investors who are U.S. Persons (other than U.S. Tax-Exempt Investors) should request information on NewGen Mining Fund LLC (the “**U.S. Fund**”), the Feeder Fund that has been created to permit qualified taxable U.S. investors to invest indirectly in the Master Fund. Potential Investors who are Canadian residents should request information on NewGen Mining Fund LP. The Company will not issue Shares to any person if it determines that

doing so could adversely impact the tax or legal status of the Fund.

Generally, the Company will only accept investments from (i) investors who are Non-Canadian Residents or U.S. Persons (as defined below) or (ii) U.S. Tax-Exempt Investors, as defined in the U.S. Supplement (as defined below).

For this purpose, “**Non-Canadian Resident**” means an investor who is not resident in Canada for purposes of the Income Tax Act (Canada); and “**U.S. Person**” means (i) any natural person who is a citizen or a resident of the United States, (ii) any estate or trust, the executor, trustee or administrator of which is a U.S. Person, or the income of which is subject to United States federal income taxation without regard to the source of its income, and (iii) a corporation, partnership or other entity incorporated or organized in, or under the laws of, or doing business in, the United States or which has a principal place of business in the United States. It also means (u) any agency or branch of a non-U.S. entity located in the United States, or the income of which is subject to U.S. income tax, regardless of source, (w) any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. Person, (x) any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States, (y) any partnership or corporation if: (1) organized or incorporated under the laws of any non-U.S. jurisdiction; and (2) formed by a U.S. Person principally for the purpose of investing in securities not registered under the 1933 Act (as defined below), unless it is organized or incorporated, and owned, by accredited investors (as defined in Rule 501(a) of Regulation D under the 1933 Act) who are not natural persons, estates or trusts, and (z) an entity organized principally for passive investment, such as a pool, investment company or other similar entity, in which units of participation in the entity held by a U.S. Person under clauses (i), (ii) or (iii) above represent in the aggregate 10% or more of the beneficial interest in the entity, or which was formed principally for the purpose of facilitating investment by such persons in a pool with respect to which the commodity pool operator is exempt from certain requirements of Part 4 of the regulations of the CFTC by virtue of its participants being Non-United States persons under the CFTC’s regulations. “**United States**” means the United States of America, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and each territory and possession of the United States of America and places subject to its jurisdiction.

The offering of Shares described in this Memorandum has not been registered under the U.S. Securities Act of 1933, as amended (“**1933 Act**”). U.S. Tax-Exempt Investors must be “accredited investors” under the 1933 Act, and meet other investor suitability requirements set forth herein and in the Supplemental Disclosure Statement for U.S. Tax-Exempt investors provided to prospective U.S. Tax-Exempt investors (the “**U.S. Supplement**”).

Subscribers should inform themselves as to (i) the legal requirements within their own countries for the purchase of Shares, (ii) any foreign exchange restrictions which they might encounter, and (iii) the income and other tax consequences in their jurisdiction of residence of a purchase of Shares.

The Company reserves the right to refuse to accept the subscription of any investor who, in the opinion of the Company, fails to satisfy the investor suitability standards set forth herein, or does not have knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of this investment, or for any other reason. The Company reserves the right to require any prospective subscriber to provide additional information and/or documentation to confirm, among other things, whether the subscriber is or may be subject to applicable anti-money laundering laws, rules or regulations.

**Classes and Series of Shares and Preferential Terms**

The Company may, in its sole discretion, offer any number of classes and/or series of Shares having separate rights, fees, allocations, powers, preferences, obligations, qualifications, limitations, restrictions and/or duties with or without respect to specified property or obligations of the Company or profits and losses associated with specified property or obligations, and any such class and/or series may have a separate business purpose or investment objective, may have more favorable reporting or information rights (i.e., greater transparency), may have different leverage policies, may have preferential liquidity terms (such as the ability to redeem Shares more frequently, upon reduced notice and/or without being subject to other fees or restrictions on liquidity) or preferential subscription rights (i.e., capacity rights) and/or may not be subject to: the same Management Fee or Performance Fee, the same restrictions on redemptions or transfers as other Shares, and/or such other rights, preferences or terms as the Company may specify.

In addition, the Company may, in its sole discretion, grant one or more investors or class of investors (including affiliates of the Investment Manager) preferential terms, including, but not limited to, reduced fees (where such reduction is by way of reduction, waiver or rebate to the relevant investor), preferential liquidity terms (such as the ability to redeem Shares more frequently and/or upon little or no prior notice and/or without being subject to other fees or restrictions on liquidity), preferential subscription rights (i.e., capacity rights) and/or frequency and scope of reporting.

The establishment or existence of a class or series with preferential terms or the granting of preferential terms to one or more investors or class of investors will not entitle any other investor or class of investors to similar terms, and none of the Investment Manager, the Company or the Master Fund, as the case may be, will be required to obtain the consent or approval of, or give notice to, any investor or class of investors in connection therewith, provided that the rights attaching to the existing issued Shares are not varied thereby. *See* “Certain Risk Factors – Different Terms Offered by the Company and

Other Feeder Funds,” “– Preferential Liquidity Rights for Certain Investors” and “– Possible Effects of Substantial Redemptions.”

### **Separate Series of Shares**

The Company will issue a separate series of each class of Shares attributable to a Segregated Portfolio on each Closing Date at an initial price per Share equal to CAD\$100. Therefore, all Shareholders that subscribe for Shares of the same class attributable to that Segregated Portfolio on the same Closing Date will receive Shares from the same series. Each outstanding series will participate ratably with all other outstanding series of the same class attributable to that Segregated Portfolio’s assets and earnings based on the Net Asset Value of each class and series attributable to that Segregated Portfolio. Shares from different series of a class attributable to that Segregated Portfolio will have different Net Asset Values due to the different dates of issue. To keep the number of different series of each class of Shares outstanding at any one time to a minimum, all profitable series of the same class of Shares will be consolidated by way of redemption and reissue into one series of Shares of that class after the last Valuation Date of each year. The Master Fund will also issue separate series of each class of Master Fund Shares and will consolidate such series in the same manner as the Company.

Notwithstanding anything to the contrary set forth herein, at such time as there are any Designated Class Shares (as defined below) in issue, the Directors, in consultation with the Investment Manager, may (i) elect not to roll up a series of Shares; (ii) convert the existing series of Shares of a Shareholder that redeems only a portion of its Shares into a new series of Shares; and/or (iii) convert the existing series of Designated Class Shares of a Shareholder that redeems all of its Shares into a new series of Designated Class Shares.

### **Share Conversions**

The Company may, by notice to the relevant Shareholders, convert Shares of any class (the “**Original Class**”) held by a Shareholder into a number of Shares of another class, having an aggregate Net Asset Value equal to the Net Asset Value of the Shares of the Original Class and having identical rights and being issued on identical terms, if the Company determines, in its sole discretion, that such conversion is necessary or otherwise advisable or desirable. All re-designations and conversions of Shares from one class to any other class shall be effected by the Company by way of redemption of Shares in one class and the issue of new Shares in the other class having the same aggregate Net Asset Value as the Shares so redeemed. The Company shall determine in its sole discretion whether any accrued fees attached to the Shares of the Original Class shall attach to the converted Shares.

### **Minimum Subscription**

The minimum initial subscription for Shares is CAD\$100,000 per subscriber, provided that the Company will in no event accept a minimum initial subscription for Shares in an amount lower than the then-current Cayman Islands statutory minimum (currently USD\$100,000 or its equivalent in any other currency). Such minimum initial subscription amount may be waived by the Directors in their sole discretion, subject to applicable statutory minimums. Existing Shareholders may subscribe for additional amounts with a minimum

subscription of CAD\$10,000, or such lesser amounts as the Directors in their sole discretion may permit. Any subscriptions for Shares may be accepted or rejected, in whole or in part, in the sole discretion of the Company. All subscriptions for Shares are irrevocable.

### **Subscription Procedure**

In order to subscribe for Shares a subscriber must (i) fully complete, execute and deliver to the Administrator the subscription documents attached hereto as Exhibit A (U.S. Tax-Exempt Investors must complete and execute the subscription documents for U.S. Tax-Exempt Investors which are attached to the U.S. Supplement) (collectively, the “**Subscription Documents**”), and (ii) pay the full amount of the subscription by arranging for a wire transfer in accordance with the instructions in the Subscription Documents. If the Company determines, in its sole discretion, that any prospective Shareholder will not be accepted, all monies paid by that prospective Shareholder will be promptly returned without interest. In lieu of clause (i) above, existing Shareholders adding to their investment and whose original Subscription Document information has not changed need to complete and sign the “**Additional Subscription Request Form**” (which is attached to the Subscription Documents) and deliver the Additional Subscription Request Form to the Administrator.

Each subscriber must, among other things, represent and warrant in the Subscription Documents that it: (i) has the knowledge, expertise and experience in financial matters to evaluate the risks of investing in the Company; (ii) is aware of the risks inherent in investing in the Financial Instruments and the method by which the assets of the Fund are held and/or traded; (iii) can bear the risk of loss of its entire investment; (iv) has received and read this Memorandum; (v) is subscribing for Shares for investment purposes only; (vi) has received all requested information about the Company; (vii) is not a U.S. Person, other than a U.S. Tax-Exempt Investor; and (viii) to the extent an Investor is a U.S. Tax-Exempt Investor, has received the U.S. Supplement.

In general, the Administrator must receive the Subscription Documents or an Additional Subscription Request Form, as the case may be, and the subscription amount prior to the close of business on the Business Day that is three (3) Business Days prior to the applicable Closing Date. If the Administrator receives Subscription Documents or the Additional Subscription Request Form, as the case may be, or the subscription amount subsequent to the close of business on the applicable Business Day, such subscription will be held until the next Closing Date that immediately follows the date of receipt of such subscription, at which time such subscription will be considered for acceptance by the Company. In the event of any Subscription Documents or Additional Subscription Request Form or any subscription amount being received after the close of business on the applicable Business Day set forth above, but prior to the close of business on the Closing Date itself, the Directors may, in their sole discretion, waive the untimeliness and permit the subscription as of the Closing Date. Interest earned on subscriptions will be treated as interest earned by the Company on the applicable Closing Date.

The Company may, in its sole discretion, accept in-kind subscriptions.

Upon acceptance by the Company of a Subscriber's Subscription Documents and clearance of funds in an amount equal to or in excess of the required minimum investment, a subscriber will be credited with the appropriate number of Shares of the relevant class upon the register of members maintained by the Administrator. Shares will be maintained in book-entry form at the offices of the Administrator.

The Company may waive or amend any of the foregoing requirements and restrictions with respect to any Shareholder without entitling any other Shareholder to the same or a similar waiver or amendment, and shall not be required to obtain the consent or approval of, or give notice to, any Shareholder in connection therewith.

### **ERISA Considerations**

Investment in the Company generally will be open to employee benefit plans and other funds subject to Title I of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), and/or Section 4975 of the Internal Revenue Code of 1986, as amended (the “**Code**”). Except as described below under “Certain Risk Factors – Compliance with ERISA Restrictions,” the Directors intend to use commercially reasonable efforts to cause “benefit plan investors” not to own a significant portion of any class of equity interests in the Company, so that the assets of the Company should not be considered “plan assets” for purposes of ERISA and Section 4975 of the Code, although there can be no assurance that non “plan asset” status will be obtained or maintained. Prospective investors and subsequent transferees of Shares in the Company may be required to make certain representations regarding compliance with ERISA and Section 4975 of the Code. See “Certain ERISA Considerations” in the U.S. Supplement.

**EACH PROSPECTIVE INVESTOR THAT IS SUBJECT TO ERISA AND/OR SECTION 4975 OF THE CODE IS ADVISED TO CONSULT WITH ITS OWN LEGAL, TAX AND ERISA ADVISERS AS TO THE CONSEQUENCES OF AN INVESTMENT IN THE COMPANY.**

### **Bank Holding Company Act Limits**

The Company limits the voting rights and may limit the percentage of Shares held by persons that are Bank Holding Companies (“**Bank Holding Company Persons**”) within the meaning of the U.S. Bank Holding Company Act of 1956, as amended (“**BHCA**”), or group of Bank Holding Company Persons whose Shares are aggregated for BHCA purposes, in order to avoid being deemed an affiliate of such Bank Holding Company Person(s) for certain purposes under the BHCA.

### **Placement of Shares**

Shares are being offered for subscription directly by the Fund and also may be offered by qualified placement agents (which may include affiliates of the Investment Manager) (the “**Placement Agents**”). The Placement Agents generally will be employed at no additional cost to the Shareholders (except as otherwise agreed with a particular

Shareholder). In addition, the Investment Manager may, on a one-time or continuous basis, compensate one or more Placement Agents.

### **Fees and Expenses**

#### **Management Fee**

Each Segregated Portfolio will pay the Investment Manager an aggregate, monthly fixed management fee equal to 1/12 of 1.8% (1.8% per annum) of the total Net Asset Value of the Shares attributable to such Segregated Portfolio (calculated after adjustment for reduced fees charged to different classes, if any, but before deducting any accrued Performance Fees, any dividends paid during the month and any redemptions paid or payable during the month or at month-end) (the “**Management Fee**”). The Management Fee is payable monthly, in arrears. If there is a subscription for, or redemption of, Shares other than at a month beginning or end (as applicable), the Management Fee for such partial month will be prorated.

No Management Fee will be paid with respect to Designated Class Shares (as defined below). See “Designated Investments.”

Currently, the Management Fee will be paid at the Company level by each Segregated Portfolio and there will be no management fee at the Master Fund level. The Directors may in the future determine to pay the Management Fee at the Master Fund level rather than the Company level.

The Investment Manager may, in its sole discretion, reduce, waive or rebate the Management Fee with respect to any Shareholder, including, without limitation, affiliates of the Investment Manager, in such case without entitling any other Shareholder to the same or similar or identical reduction, waiver or rebate, and shall not be required to obtain the consent or approval of, or give notice to, any Shareholder in connection therewith. For administrative convenience, such investors may be issued Shares of a different class than those issued to other Shareholders.

The Investment Manager may, in its sole discretion, pay all or any portion of the Management Fee, or assign the right to receive payment of all or any portion of the Management Fee, to any affiliate or third party.

#### **Performance Fee**

At the end of each year (and on a Redemption Date (as defined below) falling on any date other than the end of a year, with respect to the Shares redeemed), each Segregated Portfolio will pay to the Investment Manager a performance fee equal to 20% of the New Net Appreciation, if any, attributable to each Share of each series of a class of Shares attributable to such Segregated Portfolio (the “**Performance Fee**”).

Each series of a class of Shares will be subject to a “high water mark” since a Performance Fee was last due with respect to such series. The

Performance Fee will be calculated separately for each series of a class of Shares. No Performance Fee will be paid with respect to Designated Investments (as defined herein), for so long as they remain Designated Investments. *See* “Designated Investments.”

“**New Net Appreciation**” in relation to a Share of a particular class and/or series is any increase in the Net Asset Value of that Share from the beginning to the end of the relevant period over such Share’s Prior High NAV (as defined below). New Net Appreciation includes both realized and unrealized gains and will not be reduced by any distributions paid. “**Prior High NAV**” means, with respect to a Share of the relevant class or series, the Net Asset Value of such Share as of the close of business on the last day of the relevant calculation period on which a Performance Fee was last paid with respect to such Share (after taking into account such Performance Fee) or, if no Performance Fee previously has been paid with respect to such Share, the initial issuance price of such Share.

New Net Appreciation will be calculated by valuing the Fund’s assets pursuant to the methodology described below under “Valuation of the Fund’s Assets.”

Currently, the Performance Fee will be paid at the Company level in respect of each Segregated Portfolio and there will be no performance allocation or fee at the Master Fund level. The Directors may in the future determine to pay the Performance Fee at the Master Fund level rather than the Company level.

The Investment Manager may, in its sole discretion, reduce, waive or rebate the Performance Fee with respect to any Shareholder, including, without limitation, affiliates of the Investment Manager, in such case without entitling any other Shareholder to the same or similar or identical reduction, waiver or rebate, and shall not be required to obtain the consent or approval of, or give notice to, any Shareholder in connection therewith. For administrative convenience, such investors may be issued Shares of a different class than those issued to other Shareholders.

The Investment Manager may, in its sole discretion, pay all or any of its portion of the Performance Fee, or assign the right to receive payment of all or any portion of the Performance Fee, to any affiliate or third party.

#### **Valuation of the Fund’s Assets**

The valuation of the Company’s and the Master Fund’s assets and liabilities has been delegated by the Directors to the Investment Manager. The Investment Manager has in turn delegated certain of its responsibilities to the Administrator, and may delegate certain of its responsibilities to other agents. Subject to the oversight of the Investment Manager, the Administrator generally will calculate the Net Asset Value of each class and series of each Segregated Portfolio of the Company and the Net Asset Value of the Master Fund on the last day of each month or such other day or days as the Directors determine, with information provided by, and in consultation with, the

Investment Manager (each, a “**Valuation Date**”).

The Fund may suspend the determination of Net Asset Value under certain conditions. See “Valuation of the Fund’s Assets – Suspension of Net Asset Value Determination and Redemption Rights.”

### **Organizational and Initial Offering Expenses**

Each Segregated Portfolio will pay all of its, and will (together with the other Feeder Funds) bear a *pro rata* portion of the Master Fund’s, expenses in connection with the restructuring of the Fund and the organizational expenses in connection with the initial offering, including the Company’s, and a *pro rata* portion of the Master Fund’s, incorporation and registration, the preparation of this Memorandum, and the entry into the contracts described in this Memorandum to which the Fund is a party. The initial organizational expenses of the Company (including its *pro rata* portion of such expenses of the Master Fund) are anticipated to be approximately USD\$65,000 and will be amortized over a period of 60 months from the commencement of operations of the Fund. The Company believes that amortizing these expenses is more equitable than requiring the initial Shareholders to bear the entire cost of organizing the Company and restructuring the Fund. However, the amortization of organizational costs is not in accordance with U.S. generally accepted accounting principles. Accordingly, if the organizational costs are deemed material by the Company’s auditors, their amortization could result in the Company receiving a qualified audit report.

### **Other Expenses**

Each Segregated Portfolio will pay all of its, and will (together with the other Feeder Funds) bear a *pro rata* portion of the Master Fund’s, ordinary and extraordinary expenses, which may include, without limitation, filing fees, legal, bookkeeping, accounting, auditing, recordkeeping, administration, computer and clerical expenses (including expenses incurred in preparing reports and tax information to the Shareholders and regulatory authorities and expenses for specialized administrative services); expenses associated with the continued offering of Shares, any future restructuring of the Company or the Master Fund and/or any updates to the Company’s or the Master Fund’s organizational and offering documents; printing and duplication expenses; investment related travel expenses; investment research expenses, market data, newswire and data processing expenses; software and connectivity charges; brokerage commissions, bank charges, custody fees and borrowing costs; exchange, board of trade or other trading or execution facility membership or participation expenses; Cayman Islands annual registration fees; Directors’ fees; directors’ and officers’ liability insurance; investment and operating expenses; and such other expenses necessary to perform the operation of the Fund as determined by the Fund in its sole discretion. Each Segregated Portfolio will also pay its, and its *pro rata* portion of the Master Fund’s, extraordinary expenses incurred and attributable to that Segregated Portfolio (including taxes, indemnification costs, litigation costs, trade errors or damages). All expenses noted above incurred by the Directors or the Investment Manager in connection with the exercise of their duties to the Company and the Master Fund are paid or reimbursed by the Company or the Master Fund, as applicable and

will be borne *pro rata* by the Segregated Portfolios. The Directors may also be paid all reasonable travel, hotel and other related expenses properly incurred by them in attending general meetings or meetings held in connection with the business of the Company or the Master Fund.

#### **Portfolio Specific Expenses**

Company expenses that are directly attributable to a particular Segregated Portfolio, as determined by the Directors in their sole discretion, will be allocated to such Segregated Portfolio. Expenses not allocable to a specific Segregated Portfolio will be allocated among the Segregated Portfolios on an equitable basis, as determined by the Directors in their sole discretion.

### **Liquidity**

#### **Redemption of Shares**

Subject to certain restrictions, a Shareholder may, upon at least thirty (30) days' prior written notice to the Administrator, in a form acceptable to the Administrator (with a copy to the Investment Manager) (a "**Redemption Request**"), and/or upon such other conditions as the Directors, in their sole discretion, shall determine, redeem, in whole or in part, its Shares on the last Business Day of a month, and at such additional times as the Directors, in their sole discretion, may permit (each, a "**Redemption Date**"). The Directors, in their sole discretion, may refuse to permit a partial redemption if the amount of the partial redemption is less than CAD\$10,000 or if, following such redemption, the redeeming Shareholder would own Shares with a Net Asset Value of less than CAD\$100,000. After the Redemption Date, a redeeming Shareholder is a creditor of the Company. The value of redeemed Shares may differ significantly from the value of such Shares at the time the irrevocable notice of redemption must be or is submitted as a result of the market conditions during the notice period. If the Company experiences losses after a Redemption Date, it is possible that the Company may have insufficient assets to pay all or even a portion of the redemption proceeds due to the redeeming Shareholder. Under certain circumstances, the Company and/or the Master Fund may suspend redemptions entirely or delay payment until such time as such circumstances no longer exist. See "Valuation of the Fund's Assets – Suspension of Net Asset Value Determination and Redemption Rights."

Generally, except with respect to certain compulsory redemptions and Designated Investments (as defined below) described below and subject to the creation of any reserves as described herein, Shares will be redeemed at their Net Asset Value as of the close of business on the Redemption Date, after deduction of all expenses of the Fund, including the Performance Fee and the Management Fee (the "**Redemption Price**"). Except with respect to certain compulsory redemptions, Shares will be redeemed on a "first in, first out" basis, unless otherwise requested by a Shareholder and agreed to by the Company.

Redemption Requests are irrevocable and may be withdrawn only with the written consent of the Company, which consent may be granted or withheld in the Directors' sole discretion.

To effect a redemption, a Redemption Request must be received by the Administrator in accordance with the appropriate time frames set forth above. Scanned copies will be sufficient to initiate the redemption process, but such redemption generally will not be effected unless an originally signed Redemption Request is received by the Administrator prior to the requested Redemption Date. Redemption Requests are irrevocable and may be withdrawn only with the written consent of the Company, which consent may be granted or withheld in its sole discretion. The value of redeemed Shares may differ significantly from the value of such Shares at the time the irrevocable notice of redemption must be or is submitted as a result of the market conditions during the notice period.

The Company may waive or reduce any of the foregoing requirements and restrictions with respect to any Shareholder without entitling any other Shareholder to the same or a similar waiver or reduction or may impose additional restrictions in appropriate circumstances. Neither the Company nor the Directors will be required to obtain the consent or approval of, or give notice to, any Shareholder in connection therewith.

### **Compulsory Redemptions**

The Company, in its sole discretion, may compel the redemption of all or a portion of any Shareholder's Shares for any reason and at any time upon prior written notice. The Redemption Date shall be the date specified in such written notice, which date may be the same date as the notice.

In the sole discretion of the Company, if a compulsory redemption results from (i) an unauthorized Transfer (as defined below), the Redemption Price may be the lower of the Net Asset Value per Share of the relevant class or series on the applicable Redemption Date and the Net Asset Value per Share of the relevant class or series on the date of Transfer or (ii) the breach of any representation or warranty made by the Shareholder, the Redemption Price may be the lower of the Net Asset Value per Share of the relevant class and/or series on the applicable Redemption Date and the Net Asset Value at which the redeemed Shares were purchased.

### **Redemption Payments**

Except as described in "Suspension of Redemptions" and "Freezing Redemptions" below, and subject to such reserves, holdbacks or adjustments described herein (whether in connection with Designated Investments or otherwise), the Company will endeavor to distribute the Redemption Price within thirty (30) days following the relevant Redemption Date; provided that the Company may, in its sole discretion, withhold up to 5% of the Redemption Price, which withheld amount will be payable as soon as practicable following the completion of the Company's annual audit with respect to the Fiscal Year in which the applicable Redemption Date occurs, subject to any necessary adjustments to the Redemption Price based on such audit.

The Company will not pay interest on the Redemption Price. Although the Redemption Price generally will be paid in cash, redemptions may also be made in-kind, or partially in-kind, pro rata or non-pro rata, in the sole discretion of the Company. The right to obtain payment on redemptions is contingent upon (i) the Company having assets sufficient to discharge its liabilities and (ii) timely receipt by the Company of a Redemption Request. In addition, under circumstances deemed extraordinary in the Directors' discretion (including, but not limited to, a delay in the determination of the Net Asset Value of the Company or the Master Fund; the inability on the part of the Fund to liquidate investments as of a Redemption Date; a default or delay in payments due the Fund from Brokers, banks and other financial institutions or other persons; a determination by the Investment Manager, in its sole discretion, not to liquidate the investments of the Fund on a disadvantageous basis; or other significant administrative or other hardships), the Company may delay payment of all or any portion of the Redemption Price, in which event payment of the delayed portion of the Redemption Price will be made to Shareholders (or former Shareholders) as soon as practicable after such extraordinary circumstances cease to exist.

The Company may withhold or limit the amount of any Redemption Price or distribution to a Shareholder if the Company determines in its sole discretion that a reserve is required to pay for contingencies or liabilities arising from events occurring during the period of time in which a redeeming Shareholder was a Shareholder of the Company. Redemption proceeds will generally be paid to the same account from which the original subscription was received and may be delayed by anti-money laundering requirements if sent to a different account.

## **Distributions**

Although earnings are normally reinvested, distributions may be made at the sole discretion of the Company.

Any distribution to a Shareholder shall be made in cash to the extent reasonably practicable but may, in the sole discretion of the Company, be made in assets in-kind, or partially in-kind, *pro rata* or *non-pro rata*, in lieu of cash. No Shareholder shall have the right to receive distributions in property other than cash.

## **Transferability of Shares**

A Shareholder may not directly or indirectly sell, transfer, pledge, hypothecate, exchange, assign, otherwise dispose of, or permit the creation of any derivative with respect to, any portion of its Shares (each, a "**Transfer**"), and its intended transferee or assignee (each, a "**Transferee**") will not be admitted as a Shareholder of the Company, without the prior written consent of the Company (which may be granted or withheld in its sole discretion), compliance with the transfer provisions of the Company's memorandum and articles of association (the "**Articles**"), and completion of transfer documentation in form and substance satisfactory to the Company. A Shareholder will bear all costs (including attorneys' and accountants' fees) related to any Transfer of its Shares permitted hereby.

### **Extraordinary Circumstances**

#### **Delay or Suspension of Redemptions; Designated Investments**

Under certain circumstances deemed extraordinary in the Directors' sole discretion (including, but not limited to, a delay in the determination of the Net Asset Value of any or all of the Segregated Portfolios or the Net Asset Value of the Master Fund; the inability on the part of the Fund to liquidate investments as of a Redemption Date; a default or delay in payments due the Fund from Brokers, banks and other financial institutions or other persons; a determination by the Investment Manager, in its sole discretion, not to liquidate the investments of the Fund on a disadvantageous basis; or other significant administrative or other hardships), the Company may delay payment of all or any portion of the Redemption Price, in which event payment of the delayed portion of the Redemption Price will be made to Shareholders (or former Shareholders) as soon as practicable after such extraordinary circumstances cease to exist.

In addition, under certain circumstances, the Directors in consultation with the Investment Manager, at any time, may temporarily suspend redemptions (and/or redemptions of Master Fund Shares) and/or the determination of the Net Asset Value of any or all of the Segregated Portfolios and/or the Net Asset Value of the Master Fund and/or the payment of redemption proceeds. *See* "Valuation of the Fund's Assets – Suspension of Net Asset Value Determination and Redemption Rights." Also, although the Fund expects to invest in highly liquid Financial Instruments, under extraordinary circumstances, the Fund may designate certain of its investments as "Designated Investments," as described herein. *See* "Designated Investments."

#### **Freezing Redemptions**

If the Company reasonably believes that (i) a Shareholder is a "prohibited investor" (as defined in the Subscription Documents) or has otherwise breached its representations and warranties, or (ii) a Shareholder's investment in, or redemption from, the Company would cause the assets of any class of equity interests of the Company to be considered "plan assets" for purposes of ERISA and Section 4975 of the Code (each as defined herein), the Company may freeze such Shareholder's investment in the Company, either by prohibiting additional investments, declining or delaying any requests for redemption and/or segregating the assets constituting the investment in accordance with applicable regulations or such Shareholder's investment may immediately be compulsorily redeemed.

### **Operation of the Company**

#### **Release of Confidential Information**

Applicable anti-money laundering rules provide that the Company, the Investment Manager or the Administrator may voluntarily release confidential information about Shareholders and, if applicable, about the beneficial owners of Shareholders, to regulatory or law enforcement authorities if they determine to do so in their sole discretion. Additionally, upon the Investment Manager's reasonable request, the Company and the Administrator, on behalf of the Company, will release Shareholder information to the Investment

Manager.

<b>Reports</b>	The Company, on behalf of each Segregated Portfolio, will provide Shareholders with monthly Net Asset Value statements and annual audited financial statements.
<b>Taxation</b>	See “Certain Risk Factors – Withholding and Other Taxes” and “Tax Considerations” below.
<b>Fiscal Year</b>	The Company’s fiscal year is the calendar year ending December 31 <sup>st</sup> (“ <b>Fiscal Year</b> ”).
<b>Business Day</b>	A “ <b>Business Day</b> ” is a day (other than a Saturday or Sunday) on which banks and relevant financial markets are open for business in Toronto, Ontario and the Cayman Islands.
<b>Counsel</b>	Ogier is Cayman Islands legal counsel to the Company and the Master Fund, and Katten Muchin Rosenman LLP is U.S. counsel to the Company and is also U.S. counsel to the Master Fund and the Investment Manager and their respective principals and affiliates, and to other investment vehicles managed thereby. Katten Muchin Rosenman LLP and Ogier have prepared this Memorandum based on information provided to them by the Investment Manager without independent verification.
<b>Auditors</b>	The Company and the Master Fund have retained Marcum LLP (Cayman) as their auditors. Marcum LLP (Cayman) has given and has not withdrawn its written consent to the issue of this document.
<b>Additional Information</b>	Interested investors are invited to meet with representatives of the Company for a further explanation of the terms and conditions of this offering of Shares. Upon request, to the extent that the Company possesses such information or can acquire it without unreasonable effort or expense, the Company will provide any additional information related to the offering of Shares, including prior performance information of the Investment Manager. Written requests for such information should be addressed to NewGen Mining Fund SPC at the address of the Investment Manager shown in the Directory.
<b>Amendment of this Memorandum</b>	This Memorandum (including, without limitation, the investment strategy, Financial Instruments, risk factors, conflicts of interest, terms pursuant to which the Investment Manager provides its services, and terms of investment by Shareholders) may be amended or supplemented at any time and from time to time by the Company in its sole discretion, subject to applicable law.
<b>Amendment of Memorandum and Articles of Association</b>	Except in respect of any proposed variation or abrogation of rights affecting the Shares as a class, the Management Shares possess the exclusive voting rights of the Company. As such, the Investment Manager, as the holder of the Management Shares, may amend the Articles without obtaining the consent of, or giving notice to, other Shareholders unless such amendment would constitute a variation or abrogation of rights affecting Shares as a class.

**Use of this Memorandum**

This Memorandum is important and should be read in its entirety, along with the Exhibits, before an investor decides whether to subscribe for Shares in the Company. Each investor should consult with its financial, legal or tax advisors, before making an investment decision.

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## INVESTMENT OBJECTIVE AND INVESTMENT STRATEGY

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### Investment Objective

The Fund's principal investment objective is to achieve superior, long-term absolute returns through investing in a diversified portfolio of investments focusing upon the global mining sector. In pursuing its investment objective, the Investment Manager may also utilize other investment techniques to attempt to enhance Fund returns or manage risk and may invest in a wide range of instruments. The Fund will structure the investment strategies of each Segregated Portfolio based upon the specific objectives of each Segregated Portfolio.

In pursuing its investment objectives, the Fund may trade, buy, sell (including sell short), and otherwise acquire, hold, dispose of (using margin and other forms of leverage) and deal in financial instruments and other rights and interests including, without limitation, listed and unlisted, registered and unregistered securities of various international issuers, including, but not limited to, equity and equity-related securities (e.g., common stock, preferred stock, stock warrants and rights, convertible securities, "new issues" and indices related to any of the foregoing), exchange traded funds ("ETFs"), futures contracts and options on futures contracts traded on or subject to the rules of international exchanges or other boards of trade, swap contracts and forward contracts, currencies, debentures, warrants, debt instruments and other fixed income securities (corporate, derivative and governmental, rated and unrated), as well as listed and over-the-counter options and other derivative instruments (including credit derivatives) on all of the above instruments, and rights to acquire the same of public and private issuers throughout the world; other instruments, rights and interests in personal property, and such other instruments or interests as the Investment Manager deems appropriate (hereinafter referred to collectively as "**Financial Instruments**").

Additionally, the Fund may maintain assets in cash, deposit, call or current accounts or invest in short-term instruments, such as short-term debt instruments, money market funds, government securities, certificates of deposit, bankers' acceptances or similar temporary investments, to meet the expense needs of the Fund and/or to fund redemptions or for such other purposes as may be determined by the Investment Manager. The amount of cash and cash equivalents held by the Fund will fluctuate and may at times be significant.

The Fund may utilize Broker-provided financing in its trading of equities and similar Financial Instruments. In addition, the low margin and collateral deposits required to trade certain Financial Instruments may permit an extremely high degree of leverage. The degree of leverage that the Fund may utilize is not limited to any predetermined level, but will be subject to applicable legal or Broker imposed leverage limitations, to the extent applicable. *See* "Summary of Principal Terms – Credit Facilities."

### Investment Strategy

The Investment Manager intends to select investments utilizing quantitative and qualitative research and to conduct ongoing analysis of industry fundamentals and macro-economic factors, seeking to capture commodity exposures that offer superior supply and demand opportunities. The Investment Manager intends to invest mainly in mid-cap companies, but may also seek out investment opportunities involving small-cap issuers (i.e., companies with market capitalization of less than USD\$250 million) that the Investment Manager believes are undervalued as a means of enhancing returns. The Investment Manager may also seek to complement its other investments through investments in large-cap issuers (i.e., companies with market capitalization of greater than USD\$10 billion) as a means of balancing

liquidity within the Fund's portfolio. The Fund does not anticipate directly investing more than 15% of its Net Asset Value in any individual equity security.

The Investment Manager will implement a number of investment techniques in pursuing its investment objectives. Such techniques may include investing both long and short, engaging in hedging strategies in order to mitigate market exposure, investing in listed and over-the-counter derivative instruments and arbitrage strategies (e.g., establishing simultaneous long and short positions in order to capture mispricing of assets) and employing leverage in the implementation of the foregoing investment strategies. Depending on prevailing market conditions, the Investment Manager may selectively use Broker-provided financing in an effort to increase return on capital.

The Investment Manager expects to invest the Fund's assets primarily in listed equities, focusing on companies operating in the global mining sector. In addition, the Investment Manager intends to trade options on behalf of the Fund in an effort to take advantage of market dislocation, balance the Fund's return profile, monetize periods of extreme volatility and manage systemic risk in the market, although, the Investment Manager does not intend to enter into uncovered option positions. The Investment Manager may also trade in various derivatives, including, but not limited to, interest rate swaps, equity, FX options, FX forwards and cross-currency swaps, currencies, commodities (cash settled), futures (including index futures), options and warrants, primarily for the purpose of hedging risk. In addition, where the Investment Manager believes it is more efficient to do so, the Investment Manager may invest in credit default swaps on behalf of the Fund to gain credit exposure. The Investment Manager expects that the Fund will have a net-long bias in normal market conditions, with the net exposure determined by the Investment Manager's assessment of the market opportunity and the aggregate portfolio upside.

\* \* \*

The foregoing description of the Fund's investment strategy represents the Investment Manager's present intentions in view of current market conditions and other factors. The Investment Manager may, in its sole discretion, vary the foregoing investment objectives and strategy to the extent it determines that doing so will be in the best interest of the Fund.

**The Fund's investment programs are speculative and entail substantial risks. There is no assurance that the Fund's investment objective will be achieved, and results may vary substantially over time. Any investment strategy pursued for the Fund is in the absolute and sole discretion of the Investment Manager. The Fund is under no obligation to advise existing or potential investors of a change in investment styles or strategies.**

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## INVESTMENT MANAGER

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### Investment Manager

NewGen Asset Management Limited, the investment manager of the Fund (the "**Investment Manager**"), is a corporation incorporated under the laws of the Province of Ontario, Canada, on September 25, 2009. The Investment Manager is registered with the Ontario Securities Commission as an Investment Fund Manager, Portfolio Manager and Exempt Market Dealer pursuant to National Instrument 31-103 of the Canadian Securities Administration. The Investment Manager is exempt from registration as a commodity pool operator ("**CPO**") pursuant to U.S. Commodity Futures Trading Commission ("**CFTC**") regulation 4.13(a)(3) or one or more other exemptions or exclusions from CPO registration (which other exemptions could permit the Fund to engage in a greater amount of futures trading than is currently the case). The Investment Manager serves as the investment manager and/or advisor to a

number of other investment funds and to clients that may employ trading and investment strategies similar to those of the Fund.

The Investment Manager was formed to provide asset management services to investors and clients around the world. The Investment Manager may transfer its management responsibilities to any of its qualified affiliates, successors or assignees upon notice to the Fund, and may trade directly on behalf of the Fund and/or designate and appoint other persons to make, directly or indirectly, all or any portion of the Fund's trading and investment decisions, upon notice to the Company and the Master Fund.

The following are the biographies of certain key personnel of the Investment Manager:

**David Dattels**, CFA, is Principal and Portfolio Manager of the Investment Manager. Most recently, Mr. Dattels was co-Manager of the RAB Special Situations Fund, a natural resources fund, at RAB Capital PLC ("**RAB**"), a U.K.-based fund management group. Prior to joining RAB in 2006, Mr. Dattels served as an equity research analyst at Canaccord Adams, an independent Canadian investment dealer. There, Mr. Dattels' research focused on small- and mid-capitalization mining companies with an emphasis on gold and base metals. Mr. Dattels received a Bachelor of Arts degree with honors in Economics from the University of Western Ontario in June 2001 and is a CFA Charterholder.

**Norman Chang**, is Partner and Senior Analyst of the Investment Manager. Mr. Chang has over 12 years of capital market experience. Prior to joining the Investment Manager in 2010, he was a consultant to Victoria Gold, a gold company with projects in Nevada and the Yukon. From 2009 to 2010 he was a portfolio manager and co-founder of SouthShore Capital Management, which managed the Ark Canadian Long/Short fund. Mr. Chang also worked as a senior research analyst at Epic Capital Management, a Canadian hedge fund manager from 2002 to 2009. At Epic, he focused on fundamental mining and resource-related research. Mr. Chang also worked in the precious metals research group at BMO Capital Markets from 1998 to 2002. He graduated from the University of Western Ontario with a Bachelor of Arts degree with honors in Finance and Economics in June 2006.

**Chris Rowan**, is a trader with the Investment Manager. Most recently, from August 2006 to May 2011, Mr. Rowan was a Portfolio Manager in the Global Capital Markets group of CPP Investment Board, a Canadian asset management company, where he co-managed the fund's passive global indices and also managed a proprietary account, which focused on risk arbitrage, index events trading, pair trades and catalyst event-driven opportunities. Mr. Rowan graduated from the University of Western Ontario's Richard Ivey School of Business with honors in Business Administration in May 2006. He is a CFA Charterholder and has completed numerous industry licensing courses.

### **Investment Management Agreement**

The Company and the Master Fund have entered into an investment management agreement with the Investment Manager (the "**Investment Management Agreement**").

The term of the Investment Management Agreement shall continue until terminated. The Investment Management Agreement will terminate automatically if either the Company or the Master Fund is dissolved and wound up in accordance with their respective memorandum and articles of association and may otherwise be terminated by either party upon 30 days' notice, or immediately in the event of the bankruptcy or insolvency of either party thereto. The Investment Manager is responsible for all investment and trading operations of each Segregated Portfolio of the Company and the Master Fund.

The Investment Management Agreement provides that, upon a request by the Investment Manager, the Company and/or the Master Fund, as the case may be, will provide the Investment Manager with accurate information with respect to the then-current net asset value of the Company or the Master Fund and the net asset value per Share or Master Fund Share (as applicable), as well as such other

information as the Investment Manager reasonably may request, including, but not limited to, access to the register of shareholders and/or other books and records of the Company or the Master Fund. Any such information provided to the Investment Manager may be disclosed by the Investment Manager to any persons and authorities for the purpose of satisfying its business obligations under the Investment Management Agreement, fiduciary, reporting, filing or other obligations under the Investment Management Agreement or if it or either the Company or the Master Fund is requested to disclose such information by regulatory officials, or required by judicial process or regulatory action.

The Investment Management Agreement provides that neither the Investment Manager nor any of its affiliates, nor any of its or their respective principals, managers, members, partners, officers, directors, employees, equity holders or other applicable representatives (collectively, the “**Investment Manager and its Affiliates**”), shall be liable to the Company, the Master Fund, their respective shareholders, or any of their respective affiliates, principals, managers, members, officers, directors, employees, equity holders, agents or other applicable representatives, or any of their respective successors, assignees or transferees (collectively, the “**Company and its Related Persons**”), or to third parties under the Investment Management Agreement for, among other things, any error in judgment or any loss sustained by the Company and its Related Persons or by third parties, including any losses suffered due to the action or inaction (whether through negligence, dishonesty or otherwise) of any person retained by the Company and its Related Persons or third parties, except by reason of acts or omissions found by a court of competent jurisdiction upon entry of a final judgment to have been the result of the Investment Manager’s fraud, gross negligence or willful misconduct in the performance or non-performance of its duties under the Investment Management Agreement.

The Investment Management Agreement further provides that the Investment Manager and its Affiliates shall be indemnified and held harmless by the Company and the Master Fund, respectively, against any losses, damages, obligations, penalties, claims, actions, suits, judgments, liabilities, costs and expenses (including, without limitation, reasonable attorneys’ and accountants’ fees, as well as reasonable investigatory expenses) and amounts paid in settlement of any claims (collectively “**Losses**”) sustained by any of the foregoing persons by reason of (i) the fact that the Investment Manager was or is an investment manager to the Company or the Master Fund, as the case may be, including, without limitation, all legal, professional and other expenses incurred by the Investment Manager, or persons designated by it, in the performance of its duties and obligations thereunder, all indemnity obligations owed by the Investment Manager to persons designated by it and any loss as a result of any misdelivery or error in any telexed, telefaxed or e-mailed transmission or as a result of acting upon any forged document or signature, and (ii) any taxes on profits and losses of the Company and its Related Persons, provided that the Investment Manager and its Affiliates acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interest of the Company and the Master Fund, respectively, and such Losses were not found by a court of competent jurisdiction upon entry of a final judgment to have been the result of the Investment Manager’s fraud, gross negligence or willful misconduct in the performance or non-performance by the Investment Manager of its duties to the Company or the Master Fund, respectively, and, in the case of criminal proceedings, that the indemnified person had no reasonable cause to believe that its conduct was unlawful. Such indemnity has been granted on a limited recourse basis such that any indemnification claim will be limited to the assets of the relevant Segregated Portfolio.

### **Fund Service Providers**

The Company may change any of the Company’s or the Master Fund’s service providers, including the Company’s or the Master Fund’s auditors or administrators, without obtaining the consent or approval of, or giving notice to, the Shareholders. In addition, the Investment Manager may engage one or more additional investment advisors (which may be affiliates of the Investment Manager), from time to time in its sole discretion.

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## DIRECTORS

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The Company is managed by its Board of Directors, consisting of five (5) directors (the “**Directors**”), who also serve as the directors of the Master Fund.

The Directors meet at such times as the Directors deem appropriate to review and assess the investment policy and performance of the Company and generally to supervise the conduct of its affairs. The Directors have delegated the valuation of the assets and liabilities of the Fund and the making and approval of any investment decision to the Investment Manager pursuant to the Investment Management Agreement and the day-to-day administrative functions to the Administrator pursuant to the Administration Agreement (each as defined below) in accordance with their powers of delegation as set out in the memorandum and articles of association of the Company (the “**Articles**”). Accordingly, the Directors do not take part in the day-to-day operations and administration of the Company but review, on a periodic basis, the performance of the Investment Manager and the Administrator.

The Directors of the Company and the Master Fund and their business experience are as follows:

**David Dattels** is a Director of the Company and the Master Fund. His biography appears under “Investment Manager” above.

**Steve Vaughan** is a Director of the Company and the Master Fund and a partner at Heenan Blaikie, where his practice focuses on mining and natural resources law. Mr. Vaughan has practiced law for over 40 years, advising and representing Canadian and international companies. He has served on various governmental advisory committees and, in recent years, has been involved in natural resources transactions in various countries. Mr. Vaughan is and has been a member or director of several natural resource and mining companies as well as professional and trade associations, including the Canadian Bar Association; Canadian Institute of Mining, Metallurgy and Petroleum; International Bar Association; Prospectors and Developers Association of Canada and the Law Society of Upper Canada (Ontario). Mr. Vaughan has also written numerous publications on natural resource financing, mining, international due diligence and related securities law issues. Mr. Vaughan received a Bachelor of Science degree in 1959 from the University of New Brunswick, a Master of Science degree from McGill University in 1962 and a Bachelor of Civil Law degree from the University of New Brunswick in 1965.

**Guy Elliott** is a Director of the Company and the Master Fund and the founder of F3 Capital Management, LLC, an independent alternative asset management and advisory firm. Mr. Elliott currently serves as senior non-executive director of Polo Resources, an AIM-listed mining investment company, and is Deputy Chairman of Top Level Domain Holdings. Additionally, Mr. Elliott is a director of Red Dragon Resources, which is listed on the Toronto Venture exchange. Prior to founding F3 Capital Management, LLC, Mr. Elliott was President and co-founder of Croesus Capital Management, a specialist emerging markets hedge fund manager. Mr. Elliott served as President of Rothschild Emerging Markets from January 1996 to December 1996. He was also a manager of proprietary trading at HSBC, New York from 1992 to 1993 and a portfolio manager at EBF & Associates from 1990 to 1992. He worked for Merrill Lynch Capital Markets from 1986 to 1990 and Cargill Inc. from 1980 to 1986 as a portfolio manager. Mr. Elliott received a Bachelor of Science degree in Economics from the London School of Economics in 1980.

**Marshall Auerback** is a Director of the Company and the Master Fund and has 27 years of experience in the investment management business, serving as a global portfolio strategist for RAB and is co-manager of the RAB Gold Fund. He is also an economic consultant to PIMCO, a bond fund management group, and is a non-executive director of Pinetree Capital Toronto. Between 1999 and 2002,

he worked as an international economic strategist for Veneroso Associates, managed the Prudent Global Fixed Income Fund and assisted with the management of the Prudent Bear Fund. Between 1983 and 1995, Mr. Auerback managed Asian and emerging markets hedge funds for GT Management (Asia) Limited, based in Hong Kong and Tokyo from 1983 to 1987 and later for the Tiedemann Investment group in New York from 1992 to 1995. Mr. Auerback graduated magna cum laude from Queen's University in 1981 in English and Philosophy and received a law degree from Corpus Christi College, Oxford University in 1983.

**Roger Murphy** is a Director of the Company and the Master Fund and is the Managing Director of Renaissance Capital. He is a London-based stockbroker with 29 years of experience in mining and finance. Prior to joining Renaissance Capital in early 2010, Roger spent four years with Canaccord Adams as the head of international sales and ten years with Deutsche Bank in various sales and research capacities. At Canaccord Adams, he raised equity financing for various small- and mid-capitalization mining companies based in Canada, the U.S. and the U.K. Prior to joining Canaccord Adams, Mr. Murphy was an exploration and mine geologist. Mr. Murphy received a Bachelor of Science degree in Geology from the University of Wales, a Master of Science degree in Hydrogeology from the University College London and an MBA from the City University Business School in June 1990.

The Articles and the memorandum and articles of association of the Master Fund do not stipulate a retirement age for the Directors and do not provide for retirement of the Directors by rotation. There is no shareholding qualification for the Directors. The Directors are empowered to exercise all of the borrowing powers of the Company or the Master Fund.

The Articles and the memorandum and articles of association of the Master Fund provide certain rights of indemnification in favor of the Directors and officers of the Company or the Master Fund against legal liability and expenses if such person did not, in connection with the matter giving rise to a particular claim, engage in gross negligence, fraud or willful default.

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## THE COMPANY AND THE MASTER FUND

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### The Company

**NewGen Mining Fund SPC** (the "**Company**") was incorporated on October 9, 2009 as an exempted company limited by shares and registered as a segregated portfolio company under the Companies Law (Revised) of the Cayman Islands (as amended or re-enacted from time to time, the "**Companies Law**"). As a segregated portfolio company, the Company can operate segregated portfolios ("**Segregated Portfolios**") with the benefit of statutory segregation of assets and liabilities between each Segregated Portfolio.

The Company generally through a "master-feeder" fund structure invests substantially all of its assets in, the Master Fund (as defined below). (For purposes of this Memorandum each reference to the "**Company**" shall read as a reference to the Company acting for and on behalf of the Segregated Portfolios, and each reference to the "**Fund**" shall read a reference to the Company and the Master Fund, collectively, unless the context otherwise requires.)

As of the date of this Memorandum, one Segregated Portfolio and one class within such Segregated Portfolio has been designated by the Directors: Class A in the Mining Fund Segregated Portfolio. However, the Company may, in its sole discretion, designate any number of additional Segregated Portfolios.

The assets of each Segregated Portfolio will be invested separately in accordance with the investment objective, policies and guidelines for such Segregated Portfolio as specified in this Memorandum or any applicable supplement thereto.

Each Segregated Portfolio will be administered and maintained separate from each of the other Segregated Portfolio. Under the Companies Law, the debts, liabilities, obligations and expenses incurred by one Segregated Portfolio will only be enforceable against the assets of the same Segregated Portfolio (or, in certain circumstances, against the general assets of the Company) and not against the assets of any other Segregated Portfolio. Notwithstanding the segregation of assets and liabilities within portfolios, the Company is a single legal entity and no Segregated Portfolio constitutes a legal entity separate from the Company itself.

On the introduction of any new Segregated Portfolio, the Directors will prepare a supplement setting out the relevant details of such Segregated Portfolio.

### **The Master Fund**

NewGen Mining Master Fund Ltd. (the “**Master Fund**”) is an exempted company incorporated on July 13, 2011, as an exempted company limited by shares under the Companies Law. The Master Fund has elected to be treated as a partnership for U.S. income tax purposes. The Master Fund is expected to commence trading on or about August 1, 2011. The registered office of the Master Fund is maintained at Marquee Place, 430 West Bay Road, Suite 300, P.O. Box 30997, Grand Cayman KY1-1204, Cayman Islands or such other location as may be fixed by the Directors of the Master Fund. The Master Fund will not maintain an office or principal place of business in the United States if, as a consequence thereof, the Master Fund would be subject to U.S. Federal income tax on gains from trading in Financial Instruments or otherwise pursuing the Fund’s investment strategy.

The Master Fund has been created for the purpose of investing pursuant to the investment strategies described herein on behalf of each Segregated Portfolio of the Company and the other vehicles invested in the Master Fund (together with the Company, the “**Feeder Funds**”). The Master Fund’s Directors will exercise broad supervision over the affairs of the Master Fund. The Investment Manager acts as the investment manager of the Master Fund, directing the investment and trading activities of the Master Fund. The Company’s Directors also serve as the Directors of the Master Fund.

The Master Fund is authorized to issue up to 5,000,000 participating redeemable shares of CAD\$0.01 par value each (the “**Master Fund Shares**”), which will be issued to the Company and to other Feeder Funds investing in the Master Fund alongside the Company.

The Master Fund is a “master” fund in a “master-feeder” structure. Through this mechanism, the Master Fund will sell Master Fund Shares to, and act as a central investing mechanism for, the Company and the other Feeder Funds. The Master Fund may issue distinct classes of Master Fund Shares in the event that different fees or other distribution arrangements apply with respect to investment in the Master Fund by such Feeder Funds. Such arrangements will normally be reflected in the net asset value referable to the separate classes of Master Fund Shares, which will otherwise be issued on substantially equivalent terms.

It is not intended that the Master Fund will be registered with the Cayman Islands Monetary Authority under the Mutual Funds Law (Revised) and accordingly investment in the Master Fund is limited to not more than 15 investors.

Except as provided below, the Master Fund does not anticipate paying any dividends or any other distributions on or with respect to the Master Fund Shares. Instead, it is anticipated that all net gains and income, if any, from the Master Fund's investments will be reflected in the Net Asset Value of the Master Fund. Nonetheless, the Master Fund directors, from time to time and at their sole discretion, may declare and pay dividends to the Company which in turn may make distributions to the Shareholders of the Company (the "**Shareholders**") in amounts that the Company, in its sole discretion, deems appropriate. In certain cases the Master Fund may make distributions or dividend payments in order to meet expenses incurred by the Company. The Master Fund does not impose any subscription or redemption fees on the Company.

In the event of a winding up of the Master Fund, the Master Fund's memorandum and articles of association provide that the liquidator shall apply the assets of the Master Fund in satisfaction of the claims of the Master Fund's creditors in such manner as the liquidator thinks fit. Further, if the Master Fund is wound up, assets available for distribution among the Master Fund shareholders shall be applied in the following priority:

- (i) first, the payment to the holders of the Master Fund Shares of a sum equal to the par value of such Master Fund Shares held by such holders, provided that there are sufficient assets available respect to each class or series (each an "**Account**") to enable such payment to be made;
- (ii) second, the payment to the holders of each class or series of Master Fund Shares of any balance then remaining in the relevant Account, such payment being made in proportion to the number of Master Fund Shares of the relevant class or series held; and
- (iii) third, the payment to the holders of each class or series of Master Fund Shares of any balance then remaining and not comprised within any of the Accounts, such payment being made in proportion to the number of Master Fund Shares of the relevant class or series held.

If the Master Fund is wound up (whether the liquidation is voluntary or by or under the supervision of the Court) the liquidator may, with the authority of a resolution or resolutions passed by the holders of Master Fund Shares (whether as a whole or at separate class meetings), divide among the Master Fund shareholders in kind the whole or any part of the assets of the Master Fund, and whether or not the assets shall consist of property of one kind or shall consist of property of different kinds, and may for such purposes set such value as the liquidator deems fair upon any one or more class or classes of property, and may determine how such division shall be carried out as between the Master Fund shareholders or different classes of Master Fund shareholders. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Master Fund shareholders as the liquidator, with the like authority, shall think fit, and the liquidation of the Master Fund may be closed and the Master Fund dissolved, but so that no Master Fund shareholder shall be compelled to accept any shares or other property in respect of which there is a liability.

Each of the Feeder Funds will be structured to meet the needs of various groups of investors. The Feeder Funds indirectly bear a *pro rata* portion of the administrative, custodial and other expenses of the Master Fund in an amount based on the value of the Master Fund Shares held by each such Feeder Fund. The actual expenses, however, will be paid by the Master Fund. By sharing expenses in this manner, the Investment Manager believes that the Feeder Funds will achieve lower administrative and operational expenses than would otherwise be the case. Further, the Investment Manager may be able to obtain advantageous investment opportunities, due to the size of the Master Fund, that would not be available were the Feeder Funds managed separately.

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## ADMINISTRATOR

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SGGG Fund Services (Cayman) Inc. has been appointed as the administrator of the Company and the Master Fund (the “Administrator”) pursuant to the terms of the Administration Agreement (the “Administration Agreement”).

The Administrator is a Cayman Islands company that is licensed as a Mutual Fund Administrator in the Cayman Islands. The registered office of the Administrator is Regatta Office Park, Windward 3, 4<sup>th</sup> Floor, West Bay Road, P.O. Box 10312, Grand Cayman, Cayman Islands, KY1-1003.

The Administrator will provide the Company and the Master Fund certain administrative services, including processing subscription or redemption requests, communicating with investors, providing periodic reports, remitting subscription proceeds, remitting redemption proceeds, payment of the expenses of the Company and of the Master Fund, and other day-to-day administrative tasks. The Administrator is responsible, subject to the overall supervision of the Directors, for the maintenance of the accounting records of the Company and the Master Fund and for the calculation and the dissemination of the Net Asset Value of the Segregated Portfolios (and all of the Shares attributable thereto) and the Net Asset Value of the Master Fund. The Administrator is also responsible for performing the requisite anti-money laundering procedures on behalf of the Company and the Master Fund.

In calculating the Net Asset Values of the Segregated Portfolios and the Master Fund, the Administrator may rely on information provided by the Directors, the Investment Manager, independent third-party pricing services, and other service providers and will not be liable for any loss suffered by reason of any error in calculation resulting from any inaccuracy in the information provided.

The Administration Agreement is governed by the laws of the Cayman Islands and is subject to termination by the Administrator or the Company or the Master Fund upon 90 days’ written notice or, under certain circumstances, shorter notice. Under the provisions of the Administration Agreement, the Company and the Master Fund have agreed to hold harmless and indemnify the Administrator against all actions, proceedings and claims (including claims of any person purporting to be the beneficial owner of any part of the investments) and against all costs, demands and expenses (including legal and professional expenses) arising therefrom, which may be brought against, suffered or incurred by the Administrator by reason of the performance of the Administrator's duties under the terms of the Administration Agreement save where any such actions, proceedings, claims, costs, demands or expenses arise as a result of the Administrator's willful misfeasance, fraud or, misconduct, bad faith, gross negligence, the disregard of its duties or a breach of the standard of care.

The Administrator will review the Subscription Documents with regard to the qualifications of prospective investors although, in doing so, the Administrator will rely upon the representations of prospective investors.

The Administrator will be paid a fee based upon a percentage of the month-end Net Asset Value of the Master Fund, subject to a monthly minimum, as well as, an agreed monthly fee for the Company. The Administrator is also entitled to other fees for specific services that may be provided, as well as, reimbursement for actual out-of-pocket expenses incurred on behalf of the Company or the Master Fund. All fees owing to the Administrator will be paid by the Master Fund.

The Administrator is not responsible for valuing the Master Fund’s investments, ensuring that the investments by the Master Fund are in accordance with any limits or restrictions set out in this Memorandum, or the adequacy or accuracy of this Memorandum. The Administrator is not responsible

for ensuring that the Company and the Master Fund are marketed and sold in compliance with all applicable securities legislation. The Administrator may delegate certain services to affiliates subject to applicable confidentiality provisions.

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## BROKERAGE ARRANGEMENTS

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The Fund's current prime broker is Scotia Capital (USA) Inc., which is a registered broker-dealer with the Securities and Exchange Commission ("**SEC**") and is a member firm of the Financial Industry Regulatory Authority ("**FINRA**"). The Fund may utilize other prime brokers, U.S. and non-U.S. securities and futures brokers or clearing firms, introducing brokers, executing brokers, dealers, custodians and counterparties (collectively, the "**Brokers**") in connection with the Fund's transactions in Financial Instruments.

The Fund may utilize Broker-provided financing in connection with its trading and, accordingly, the Fund may pledge assets of the Fund held at such Brokers as collateral to secure such financing arrangements.

The Fund's U.S. Brokers for securities transactions (i.e., securities broker-dealers) are not subject to the same segregation requirements as a futures commission merchant ("**FCM**"), as described below. U.S. securities broker-dealers who carry customer accounts are required to maintain possession or control of all securities held for the account of their customers that are fully-paid or "excess margin securities." Such Brokers also are required to make periodic computations (generally weekly) to determine the amount of cash and/or qualified securities that they must maintain on deposit in a special reserve bank account for the exclusive benefit of their customers, which must be segregated from the other accounts of the broker-dealer. However, securities held for customers that are not either fully-paid or excess margin securities may be used by the broker-dealer in the conduct of its business, including by (with the client's consent) loaning or pledging such securities, within the limits of applicable law and regulation. The broker-dealer may select (and reselect) which such securities it will treat as "excess margin securities," generally on a daily basis, and is not required to account to its customers for any profit that the broker-dealer may earn through the use of customer securities not required to be in the broker-dealer's control.

CFTC-registered FCMs generally are required under CFTC regulations to treat and deal with money, securities and other property received from any customer to margin, guarantee or secure such customer's futures and options on futures positions, or which accrue to such customer as a result of such trades (collectively, "customer segregated funds"), as belonging to such customer, and the FCM must separately account for customer segregated funds with respect to each of its customers. The FCM may not commingle customer segregated funds with the FCM's own funds and may not use the customer segregated funds of one customer to margin or guarantee the trades or contracts of, or to secure or extend credit to, any other customer or person. FCMs are permitted to commingle customer segregated funds of their customers for convenience when deposited with a bank, trust company, clearing organization or another FCM, provided that such customer segregated funds are clearly identified as such and are only applied by the FCM with respect to the obligations of the applicable customer as provided above. Customer segregated funds may be invested in certain permitted investments under CFTC rules, although the FCM's customers may not be entitled to any proceeds from such investment of customer segregated funds. *See* "Certain Risk Factors – Brokerage Firms and Custodians May Fail."

A portion of the Fund's trading, including over-the-counter derivative transactions and transactions with or through non-U.S. Brokers, may not be subject to the foregoing protections applicable to U.S. FCMs and securities broker-dealers. Non-U.S. institutions, including non-U.S. Brokers, banks

and other financial institutions may be subject to different bankruptcy or other regulatory regimes than those applicable to U.S. institutions, and in doing business with such non-U.S. institutions, the Fund may not be afforded certain of the protective measures provided by U.S. law. *See* “Certain Risk Factors – Brokerage Firms and Custodians May Fail.” Even with respect to certain transactions through U.S. Brokers (e.g., transactions with a U.S. prime broker under an “enhanced” prime brokerage arrangement), the Fund ultimately may be receiving credit from, or pledge assets to, a non-U.S. Broker, and therefore may receive different or lesser protections than would be applicable if the Fund dealt exclusively with U.S. Brokers.

The Fund’s Financial Instrument transactions can be expected to generate brokerage commissions and other costs, all of which the Fund, not the Investment Manager, will be obligated to pay. The Investment Manager has discretion to select different Brokers to be used for each Financial Instrument transaction for the Fund and to negotiate the rates and commissions the Fund will pay. In selecting (including consent to the selection of) Brokers to execute transactions, the Investment Manager need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. Brokers will be selected generally on the basis of best execution which may be determined by considering products and services, either provided by the Broker or paid for by the Broker to be provided by others, including research and research-related products and services, and other products and services such as special execution capabilities, clearance, settlement, commission rates (and other transaction charges), net price, online pricing, block trading and block positioning capabilities, willingness to execute related or unrelated difficult transactions in the future, order of call, on-line access to computerized data regarding clients’ accounts, consultations, technical data, recommendations, general reports, financial strength and stability, efficiency of execution and error resolution, quotation services, the availability of stock to borrow for short trades, custody, recordkeeping and similar services (“**Products and Services**”). As part of the overall brokerage services that they may offer to clients such as the Fund, certain Brokers may refer potential investors to the Fund or other Feeder Funds, or to other investment programs, entities, pools, vehicles or funds managed by the Investment Manager. Although the commission rates charged by such Brokers are represented as not reflecting such additional service, the commission rates charged by such Brokers may be higher or lower than the commission rates charged by other Brokers, and the Master Fund and, therefore, the Company may be deemed to be paying for other products and services, such as the introduction of potential investors, provided by the Broker which are included in the commission rate.

Products or Services may be in any form (e.g., written, oral or on-line) and may include research Products or Services; clearance; settlement; on-line pricing and financial information; access to computerized data regarding clients’ accounts; performance measurement data and services; consultations; economic and market information; portfolio strategy advice; market, economic and financial data; statistical information; data on pricing and availability of securities; publications (including periodicals, magazines and newspapers); electronic market quotations; charges on borrowed funds; travel (including any related transportation Products or Services such as air, rail, automobile, or boat transportation (regardless of class), and fuel, hotels, taxis, meals, tips, parking, luggage handling, travel agents and entertainment (such as movies), and personal incidentals); internet service; delivery services such as car services, couriers and messengers, U.S. mail, and overnight delivery; secretarial and clerical services; printing and duplicating services; conferences; moving and storage expenses; memberships in professional associations; document retrieval services; marketing services; analyses concerning specific Financial Instruments, companies, governments or sectors; market, economic, political and financial studies and forecasts; industry and company comments; technical data, recommendations and general reports; supplies and stationery; quotation services; exchange memberships; referrals of prospective investors and any related finder’s fees; custody; brokerage; recordkeeping, bookkeeping and similar services; computer databases; equipment and any services and products delivered or deliverable by such equipment, along with any related parts or supplies necessary or convenient for the use of such equipment (regardless of whether the location of use is an office, residence or in transit), including computers, terminals, monitors, servers, copiers, telephones (including cellular, wireless, satellite and land line types) and any related telephone equipment and lines (including DSL lines); remote access devices (such as

personal digital assistants), newswire and data processing equipment; quotation equipment; accounting, auditing and legal services; and, to the extent related in any way to any of the foregoing: service contracts, repairs, replacement parts, consultants, usage fees, postage, connections, filing fees, software, charges (including, subscription, use, access, roaming, local and long distance, installation and removal charges), taxes (such as income, capital gains, profits, gross receipts, payroll, capital stock, franchise, employment, withholding, social security, unemployment, disability, real property, personal property, stamp, excise, occupation, sales, transfer, hotel, value added, investment credit recapture, alternative minimum, environmental, estimated, occupancy, or use), surcharges, fees, cancellation fees, regulatory fees, rent, penalties, imposts, assessments, disbursements and expenses of any kind.

The Investment Manager will not adhere to any rigid formulae in making the selection of Brokers, but will weigh a combination of criteria. Where permitted under applicable laws and regulations, in exchange for the direction of commission dollars to certain Brokers, credits (or soft dollars) may be generated which may be used by the Investment Manager to pay for the Products and Services provided by, or paid by, such Brokers (“Credits”). To the extent that such Credits are generated or such Products and Services are obtained, the Investment Manager will be receiving a benefit by reason of the direction of commissions. Each Shareholder will be required to acknowledge and agree to the use of Products and Services by the Investment Manager as set forth in this Memorandum (even if such use does not meet the “safe harbor” of Section 28(e) under the 1934 Act) by signing the Subscription Documents.

Where a product or service obtained with soft dollars provides both research and non-research assistance to the Investment Manager (e.g., a “mixed use” item), the Investment Manager will make a reasonable allocation of the cost which may be paid for with soft dollars.

In the event that the Investment Manager utilizes Products and Services and its practices do not qualify for the Section 28(e) safe harbor, Credits may be utilized to reimburse expenses, including research-related expenses, payment of all or a portion of the Investment Manager’s costs and expenses of operation, such as office rent, employees’ salaries, newswire and data processing charges, quotation services, periodical subscription fees, office equipment, supplies, telephone charges, accounting fees, legal fees, travel expenses and the like and other reasonable expenses necessary to perform services on behalf of the Company and the Master Fund as determined by the Investment Manager.

The Investment Manager may use Products and Services in servicing some or all of its clients and the clients of its affiliates. In addition, some Products and Services may not necessarily be used by the Fund even though its commission dollars may have provided for the Products and Services. The Fund, therefore, may not, in a particular instance, be the direct or indirect beneficiary of the Products or Services provided. To the extent that the Investment Manager receives the benefits of Products and Services, a potential conflict of interest exists between the Investment Manager’s duty to manage or trade for the Fund in the best interests of the Shareholders and its desire to receive the potential benefits of these Products and Services.

The Investment Manager may derive substantial direct or indirect benefit from these Products and Services, particularly to the extent it uses Credits to pay for expenses which it would otherwise be required to pay. The investment information received from Brokers may be used by the Investment Manager in servicing other accounts, and not all such information may be used by the Investment Manager in connection with the Fund.

The Investment Manager may, but is not required to, aggregate sale and purchase orders of Financial Instruments with similar orders being made simultaneously for other accounts or entities, including affiliates, if, in its reasonable judgment, such aggregation is reasonably likely to result in an overall economic benefit to the specific account under management based on an evaluation that the account will be benefited by relatively better purchase or sale prices, lower commission expenses or

beneficial timing of transactions, or a combination of these and other factors. No assurance can be given that it will be possible to execute such orders regularly at or near the desired buy or sell point or that the orders will be executed successfully. In many instances, the purchase or sale of Financial Instruments will be effected simultaneously with the purchase or sale of like Financial Instruments for other accounts or entities. Such transactions may be made at slightly different prices, due to the volume of Financial Instruments purchased or sold. In such event, the Investment Manager will employ an objective price allocation system that promotes fairness among all accounts or entities, including client and proprietary accounts.

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## CERTAIN RISK FACTORS

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*There is a high degree of risk associated with the purchase of Shares of the Company, and any such purchase should only be made after consultation with independent qualified sources of investment, legal and tax advice. No one should consider subscribing for more than they can comfortably afford to lose.*

An investment in the Company is speculative and involves substantial risk, including the risk of loss of an investor's entire investment. The identification of attractive investment opportunities is difficult and involves a significant degree of uncertainty. Returns generated from the Fund's investments may not adequately compensate Shareholders for the business and financial risks assumed. Although the Investment Manager's methodology seeks to minimize some of the risks and volatility associated with investing in Financial Instruments, there can be no assurance that the Investment Manager will be successful in doing so and, accordingly, the Fund will be subject to those market risks common to investing in all types of Financial Instruments, including market volatility, which could result in a substantial or total loss to the Fund. Subscribers should consider the following risks before subscribing for Shares.

### **General Trading Risks**

**General Investment and Trading Risks.** All Financial Instrument investments present a risk of loss of capital. Such investments are subject to investment-specific price fluctuations as well as to macro-economic, market and industry-specific conditions, including, but not limited to, national and international economic conditions, domestic and international financial policies and performance, conditions affecting particular investments such as the financial viability, sales and product lines of corporate issuers, national and international politics and governmental events, and changes in income tax laws. Moreover, the Fund may have only limited ability to vary its investment portfolio in response to changing economic, financial and investment conditions. The Fund's investment program may utilize a wide variety of investment techniques, including option transactions, limited diversification, margin transactions, short sales, forward contracts and other derivative transactions, which practices can, in certain circumstances, substantially increase the adverse impact to which the Fund may be subject. No guarantee or representation is made that the Fund's program will be successful. The market price of Financial Instruments owned by the Fund may go up or down, sometimes unpredictably.

**Trading Is Speculative and Volatile.** Financial Instrument prices are highly volatile. Price movements for Financial Instruments are influenced by, among other things, changing supply and demand relationships, weather, agricultural, trade, fiscal, monetary, and exchange control programs and policies of governments, U.S. and foreign political and economic events and policies, changes in national and international interest rates and rates of inflation, currency devaluations and revaluations, and sentiments of the marketplace. No assurance can be given that the Fund will be profitable or that it will not incur substantial losses.

**Market Dislocation, Illiquidity and Volatility.** Significant dislocations, illiquidity and volatility in the overall fixed income market and in the wider global financial markets have occurred in the past several years (and may occur again), which had an adverse effect on market liquidity and caused significant market disruption. To the extent that such marketplace events occur again, they may have an adverse impact on the availability of credit to businesses generally and lead to an overall weakening of the U.S. and global economies. Any resulting economic downturn could adversely affect certain of the Fund's investments to greater or lesser extents. Such marketplace events also may restrict the ability of the Fund to sell or liquidate investments at favorable times or for favorable prices (although such marketplace events may not foreclose the Fund's ability to hold such investments until maturity).

The Fund may be adversely affected by a decrease in market liquidity for certain of the Financial Instruments that it trades (which could impair the Investment Manager's ability to adjust the Fund's positions, balance sheets and risk in response to trading losses or other adverse developments). Illiquid investments may have to be held for lengthy periods of time and may have no readily ascertainable market value. As a result, such Financial Instruments may take more time and expense to value and/or sell, and the realizable price upon a disposition of such Financial Instruments may differ materially from their fair value. The illiquidity of positions held by the Fund could cause the Company to suspend calculation of the Net Asset Value of the affected Shares or to suspend redemptions of the affected Shares. In addition, some or all of the Fund's illiquid investments may be deemed Designated Investments, which could require investors in the affected Shares to maintain an interest in such investments for an extended period. *See* "Designated Investments." The size of the Fund's positions may magnify the effect of a decrease in market liquidity for the Financial Instruments it trades. Changes in the overall market leverage (e.g., deleveraging or liquidations by other market participants of the same or similar positions) also may adversely affect the Fund's positions.

**Effectiveness of Risk Reduction Techniques.** The Investment Manager may employ various risk reduction strategies designed to minimize the risk of its trading positions. A substantial risk remains, nonetheless, that such strategies will not always be possible to implement and when possible will not always be effective in limiting losses. If the Investment Manager analyzes market conditions incorrectly, or employs a risk reduction strategy that does not correlate well with the Fund's investments, such risk reduction techniques could result in a loss, regardless of whether the intent was to reduce risk or increase return. These risk reduction techniques may also increase the volatility of the Fund and/or result in a loss if the counterparty to the transaction does not perform as promised.

**Competition.** The investment industry is extremely competitive. In pursuing its investment and trading methods and strategies, the Fund will compete with commodities and futures firms, including many of the larger investment advisory and private investment firms, as well as institutional investors and, in certain circumstances, market-makers and Brokers. In relative terms, the Fund may have little capital and may have difficulty in competing in markets in which its competitors have substantially greater financial resources, larger research staffs and more investment professionals than the Fund has or expects to have in the future. In any given transaction, investment and trading activity by other firms will tend to narrow the spread between the price at which a Financial Instrument may be purchased by the Fund and the price it expects to receive upon consummation of the transaction.

**Trading on Exchanges in Multiple Jurisdictions.** The Fund may engage in trading on exchanges in various jurisdictions. Trading on exchanges in certain jurisdictions may involve certain risks not applicable to trading on exchanges in other jurisdictions. For example, some exchanges are "principals markets" in which performance is the responsibility only of the individual member with whom the trader has entered into a trade and not of an exchange or clearing organization. Trading on certain exchanges may involve the additional risks of expropriation, burdensome or confiscatory taxation, moratoriums and investment controls, or political or diplomatic events that might adversely affect the Fund's trading activities. Trading in various countries is also subject to the risk of changes in the exchange rate between the base currency of a particular Fund and the currencies in which Financial

Instruments traded on such exchanges are settled. Some futures exchanges require margin for open positions to be converted to the “home currency” of the contract. Additionally, some brokerage firms have imposed this requirement for all futures markets traded, whether or not it is required by a particular exchange. Whenever margin is held in a currency other than its base currency, the Fund is exposed to potential gains or losses if exchange rates fluctuate.

**Investments in Emerging Markets.** To the extent that the Fund invests in emerging market Financial Instruments, the Fund will be subject to certain additional risks that are not usually associated with similar investments in the U.S. and other industrialized democracies including fluctuation in currency exchange rates, the imposition of exchange control regulations, the possibility of expropriation decrees, more limited information about issuers and their operations, different accounting standards, and smaller, less liquid markets. Investment in emerging market countries carries a high degree of risk.

**Currency and Exchange Rate Risks.** The Fund may invest in Financial Instruments denominated in currencies other than the Canadian Dollar or in Financial Instruments which are determined with references to currencies other than the Canadian Dollar. The Fund, however, generally will value its assets in Canadian Dollars. To the extent unhedged, the value of the Fund’s assets will fluctuate with Canadian Dollar exchange rates as well as with price changes of its investments in the various local markets and currencies. Thus, an increase in the value of the Canadian Dollar compared to the other currencies in which the Fund may make investments will reduce the effect of increases and magnify the Canadian Dollar equivalent of the effect of decreases in the prices of the Fund’s Financial Instruments in their local markets. Conversely, a decrease in the value of the Canadian Dollar will have the opposite effect of magnifying the effect of increases and reducing the effect of decreases in the prices of the Fund’s non-Canadian Dollar Financial Instruments. The Fund also may utilize forward currency contracts and options to hedge against currency fluctuations, but there can be no assurance that such hedging transactions will be effective.

**Leverage.** The low margin and collateral deposits required to trade certain Financial Instruments may permit an extremely high degree of leverage. See “Certain Risk Factors – Commodities and Futures Trading – Margin” below. The Fund may “leverage” investment returns with options, forwards and other derivative instruments.

In addition, the Fund may utilize Broker-provided financing in its trading of equities and similar Financial Instruments. The degree of leverage that the Fund may utilize is not limited to any predetermined level, but will be subject to applicable legal or Broker imposed leverage limitations, to the extent applicable. The amount of borrowings the Fund may have outstanding at any time may be large in relation to its capital. Consequently, the level of interest rates, generally, and the rates at which the Fund can borrow, in particular, will affect the operating results of the Fund.

As a result of trading with a high degree of leverage, a relatively small price movement in a Financial Instrument may result in immediate and substantial losses to the Fund. Thus, like other leveraged investments, any trade may result in losses in excess of the amount invested. The Fund may lose more than its initial margin deposit on a trade. In addition, if the Fund is in a leveraged position, any losses would be more pronounced than if leverage were not used and, under particularly adverse circumstances, could exceed its capital.

In general, the Fund’s use of Broker-provided financing results in certain additional risks to the Fund. For example, should the Financial Instruments purchased by the Fund on margin or using other borrowings decline in value, the Fund could be subject to a “margin call” or other collateral call, pursuant to which the Fund must either deposit additional funds or assets with the Broker or suffer mandatory liquidation of the relevant Financial Instruments. In the event of a sudden precipitous drop in the value of the Fund’s assets, the Fund might not be able to liquidate assets quickly enough to cover a margin call or other collateral call.

**Brokerage Firms and Custodians May Fail.** The institutions, including the Brokers, banks and other financial institutions with which the Fund does business or at which the Fund's assets are held, may encounter financial difficulties that impair the operational capabilities or the capital position of the Fund. Recent events in the financial markets have challenged the financial stability of a number of established financial institutions, and have led to the bankruptcy of several such institutions, including Lehman Brothers Inc. and its affiliates (collectively, "**Lehman Brothers**"). In the event that one of the Fund's Brokers or banks becomes bankrupt and/or fails to segregate the Fund's assets on deposit as required, the Fund may be subject to a risk of loss. In addition, there can be no guarantee in the event of a Broker's insolvency that the pool of customer property held by the Broker pursuant to applicable law will be sufficient to satisfy all customer claims, including those of the Fund. Further, even if the Fund does not lose the assets on deposit with one or more Brokers (or other financial institutions with which the Fund may deal), the Fund could incur market losses as a result of financial difficulties at such institutions (including, but not limited to, in situations where the Fund may be unable to access its assets and/or execute transactions through its Brokers or other financial institutions in a timely manner). The inability to access Financial Instruments held with Brokers experiencing financial difficulties (e.g., bankruptcy proceedings) may cause the Investment Manager to designate such Financial Instruments as Designated Investments. In addition, non-U.S. institutions, including non-U.S. Brokers, banks and other financial institutions may be subject to different bankruptcy or other regulatory regimes than those applicable to U.S. institutions, and in doing business with such non-U.S. institutions, the Fund may not be afforded certain of the protective measures provided by the SEC, the CFTC and the rules of FINRA and the National Futures Association in the case of certain U.S. Brokers. Although the Investment Manager may attempt to minimize its risk in this area, there is no action that it can take which is completely risk-free. Funds maintained at a Broker as margin to collateralize forward and other over-the-counter derivative positions are not segregated and therefore are subject to the claims of the general creditors of the Broker in the event of its bankruptcy.

**Short Sales.** A short sale involves the sale of a Financial Instrument that the Fund does not own in the expectation of purchasing the same Financial Instrument (or a Financial Instrument exchangeable therefor) at a later date at a lower price. To make delivery to the buyer, the Fund often must borrow the Financial Instrument, and the Fund is obligated to return the Financial Instrument to the lender, which is accomplished by a later purchase of the Financial Instrument by the Fund. When the Fund makes a short sale of a Financial Instrument on a U.S. exchange, it must leave the proceeds thereof with a Broker and it must also deposit with a Broker an amount of cash or U.S. Government or other securities sufficient under current margin regulations to collateralize its obligation to replace the borrowed securities that have been sold. If short sales are effected on a non-U.S. exchange, such transactions will be governed by local law. A short sale involves the risk of a theoretically unlimited increase in the market price of the Financial Instrument and a corresponding loss to the Fund. The extent to which the Investment Manager engages in short sales depends upon its investment strategy and perception of market direction; the Fund does not necessarily have a policy limiting the amount of capital it may deposit to collateralize its obligations to replace borrowed Financial Instruments sold short.

**Default and Counterparty Risk.** Some of the markets in which the Fund may effect transactions are "over-the-counter" or "interdealer" markets. The participants in such markets are typically not subject to credit evaluation and regulatory oversight as are members of "exchange based" markets. This exposes the Fund to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem, thus causing the Fund to suffer a loss. In addition, in the case of a default, the Fund could become subject to adverse market movements while replacement transactions are executed. Such "counterparty risk" is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where the Fund has concentrated its transactions with a single or small group of counterparties. The Fund may not have an internal credit function which evaluates the creditworthiness of its counterparties. The ability of the Fund to transact business with any one or number of counterparties, the lack of any meaningful and independent evaluation of such

counterparties' financial capabilities and the absence of a regulated market to facilitate settlement may increase the potential for losses by the Fund.

**The Markets and Financial Instruments Traded by the Fund May be Illiquid.** At various times, the markets for Financial Instruments purchased or sold by the Fund may be “thin” or illiquid, making purchase or sale at desired prices or in desired quantities difficult or impossible. As part of its emergency powers, an exchange or regulatory authority can suspend or limit trading in a particular instrument, order immediate liquidation and settlement of a particular contract, or order that trading in a particular contract be conducted for liquidation only. The possibility also exists that governments may intervene to stabilize or fix exchange rates, restricting or substantially eliminating trading in the affected currencies.

**Turnover.** The Fund's capital may be invested on the basis of short-term market considerations. The portfolio turnover rate of those investments may be significant, potentially involving substantial brokerage commissions, mark-ups and fees. These commissions and fees will, of course, reduce the Fund's profits.

**Concentration of Investments.** There generally is no limit on the amount of assets that the Fund can invest in any particular position or strategy. Accordingly, a loss in any single position or strategy could have a material adverse impact on the Fund's capital.

### **Financial Instrument Specific Risks**

**Equity Securities.** The Fund will trade in equity securities. Common stock and similar equity securities generally represent the most junior position in an issuer's capital structure and, as such, generally entitled holders to an interest in the assets of the issuer, if any, remaining after all more senior claims to such assets have been satisfied. Holders of common stock generally are entitled to dividends only if and to the extent declared by the governing body of the issuer out of income or other assets available after making interest, dividend and any other required payments on more senior securities of the issuer. The value of equity securities may fluctuate in response to specific situations for each company, industry market conditions and general economic environments. The Fund may acquire long and short positions in listed and unlisted common equities, preferred equities and convertible securities of issuers domiciled in developed or in emerging countries. The Fund may invest in equity securities regardless of market capitalization, including micro- and small-cap companies. The securities of smaller companies may involve more risk and their prices may be subject to more volatility. The Fund may also invest in distressed equity securities, which are generally considered to be riskier, speculative and relatively illiquid.

**Trading in Options.** Among the Financial Instruments that the Fund may trade are options. An option is a right, purchased for a certain price, to buy or sell the underlying instrument or product during or at the end of a certain period of time for a fixed price. The risks in trading options are different from the risks in trading the underlying instruments or products, and trading in options can provide a greater potential for profit or loss than an equivalent investment in the underlying asset. For example, if the Fund buys an option, it will be required to pay a “premium” representing the market value of the option. The value of an option may decline because of a decline in the value of the underlying asset relative to the strike price, the passage of time, changes in the market's perception as to the future price behavior of the underlying asset or any combination thereof. Unless the price of the underlying instrument or product changes and it becomes profitable to exercise or offset the option before it expires, the Fund may lose the entire amount of the premium. Conversely, if the Fund sells an option, it will be credited with the premium, but will have to deposit margin due to its contingent liability to deliver or accept the underlying instrument or product in the event that the option is exercised. Sellers of options are subject to unlimited risk of loss, as the seller will be obligated to deliver or take delivery of an asset at a predetermined price which may, upon exercise of the option, be significantly different from the then-market value. The ability

to trade in or exercise options may become restricted in the event that trading in the underlying asset becomes restricted.

**Trading in Currencies.** The Fund is expected to trade currencies and Financial Instruments in interbank and forward contract markets which the Investment Manager believes to be well-established and of recognized standing. Nonetheless, the Fund may be exposed in the interbank market to risks associated with any government or market action that might suspend or restrict trading or otherwise render illiquid, in whole or in part, the Fund's position. Although certain currency trades may be effected through exchange-traded Financial Instruments, the foreign currency market remains predominantly an over-the-counter market, and is therefore subject to the risks typical to over-the-counter trading. See "Certain Risk Factors – Over-the-Counter and Other Derivatives Trading in General" and "– Forward Trading" below. The Investment Manager may effect such trades with Brokers, banks and other market participants which it believes to be creditworthy.

**Over-the-Counter and Other Derivative Instruments in General.** The Fund may use various derivative instruments, including options, forward contracts, swaps and other derivatives which may be volatile and speculative. Certain positions may be subject to wide and sudden fluctuations in market-value, with a resulting fluctuation in the amount of profits and losses. Use of derivative instruments presents various risks, including the following:

- (i) *Tracking* – When used for hedging purposes, an imperfect or variable degree of correlation between price movements of the derivative instrument and the underlying investment sought to be hedged may prevent the Fund from achieving the intended hedging effect or expose the Fund to the risk of loss.
- (ii) *Liquidity* – Derivative instruments, especially when traded in large amounts, may not be liquid in all circumstances, so that in volatile markets the Fund may not be able to close out a position without incurring a loss.
- (iii) *Leverage* – Trading in derivative instruments can result in large amounts of leverage. Thus, the leverage offered by trading in derivative instruments may magnify the gains and losses experienced by the Fund and could cause its Net Asset Value to be subject to wider fluctuations than would be the case if the Fund did not use the leverage feature in derivative instruments. See "Certain Risk Factors – Leverage," above.
- (iv) *Over-the-Counter Trading* — Certain derivative instruments may not be traded on an exchange. Over-the-counter Financial Instruments that may be purchased or sold by the Fund may include swap transactions, forward foreign currency transactions and bonds and other fixed income securities. Over-the-counter Financial Instruments, unlike exchange traded Financial Instruments, are two-party contracts with price and other terms negotiated by the buyer and the seller. The risk of nonperformance by the obligor on such an instrument may be greater and the ease with which the Fund can dispose of or enter into closing transactions with respect to such an instrument may be less than in the case of an exchange traded instrument. Because performance of over-the-counter Financial Instruments is not guaranteed by any exchange or clearinghouse, the Fund will be subject to the risk of the inability or refusal to perform with respect to such Financial Instruments on the part of the counterparties with which it trades. Any such failure or refusal, whether due to insolvency, bankruptcy or other causes, could subject the Fund to substantial losses.
- (v) *Lack of Regulation* — Financial Instruments not traded on exchanges are also not subject to the same type of government regulation as exchange traded instruments, and many of

the protections afforded to participants in a regulated environment may not be available in connection with such transactions. The counterparty to an over-the-counter Financial Instrument entered into by the Fund may not be subject to the same credit evaluation and regulatory oversight as are members of exchange-based markets. The same may be true with respect to Financial Instruments traded on certain types of alternative exchanges (e.g., exempt commercial markets) that are less regulated than traditional securities, commodities and futures exchanges.

- (vi) *Market Conditions* — Recent events in the financial markets resulting in the failure of large institutions that serve as counterparties to many over-the-counter Financial Instruments have resulted in greater illiquidity of such instruments and heightened concern for counterparty risk.

**Forward Trading.** Forward contracts and options thereon, unlike exchange traded futures contracts and options on futures contracts), are not traded on exchanges and are not standardized; rather banks and dealers act as principals in these markets, negotiating each transaction on an individual basis. Forward and “cash” trading is substantially unregulated; there is no limitation on daily price movements and speculative position limits are not applicable. The principals that deal in the forward markets are not required to continue to make markets in the commodities they trade and these markets can experience periods of illiquidity, sometimes of significant duration. There have been periods during which certain participants in these markets have refused to quote prices for certain commodities or have quoted prices with an unusually wide spread between the price at which they were prepared to buy and that at which they were prepared to sell.

**Credit Default Swaps.** The Fund may enter into credit default swaps. In general, a credit default swap is a type of over-the-counter credit derivative between two counterparties whereby one counterparty (the “purchaser”) is obligated to pay the other counterparty (the “seller”) a periodic stream of payments (“premiums”) over the term of the contract, in return for the seller’s obligation to pay the purchaser upon the occurrence of a credit event (e.g., bankruptcy, failure to pay, obligation acceleration or restructuring) with respect to an underlying reference obligation or reference obligor. The Fund may stand on either side of a credit default swap (i.e., either as the purchaser or the seller). Credit default swaps are non-standardized, privately negotiated transactions and the payment by the seller to the purchaser is contingent upon the occurrence of a credit event as defined in the swap transaction documents, which definition may be more expansive or narrow than what would normally be viewed as a default by the reference obligor, whether under the reference obligation or otherwise. In addition to the risk of non-performance of the counterparty, there is an inherent risk in being able to predict the likelihood of a credit event under a credit default swap. Also, credit default swaps generally are traded over-the-counter and not on an organized market, which may make them illiquid and difficult to value. If the Fund is the purchaser under the swap agreement and no credit event occurs, the Fund will not recoup the premiums it paid to the seller. Likewise, if the Fund is the seller under the swap agreement, it may be required to pay an amount upon the occurrence of a credit event that far exceeds the periodic premium payments received by the Fund under the swap agreement. The Fund may rely on the use of credit default swap transactions to hedge its exposure to the debt of underlying issuers. The recent dislocation in the financial markets may make it more difficult for the Fund to enter these transactions and, therefore, may increase the costs to the Fund of entering into credit default swaps (or prevent it from doing so entirely).

**Commodities and Futures Trading.** The Fund may invest in commodities and futures contracts. Substantially all trading in commodities and futures has as its basis a contract to purchase or sell a specified quantity of a particular asset for delivery at a specified time, although certain Financial Instruments, such as market index futures contracts, may be settled only in cash based on the value of the underlying composite index. Futures trading involves trading in contracts for future delivery of standardized, rather than specific, lots of particular assets.

- (i) *Volatility:* Futures prices are highly volatile. Price movements for the futures contracts and options on futures contracts which the Fund may trade are influenced by, among other things, changes in supply and demand relationships, weather, agricultural, trade, fiscal, and monetary programs and policies of governments, political and economic events and policies, changes in national and international interest rates and rates of inflation, currency controls, devaluations and revaluations, and sentiments of the marketplace. Governments from time to time intervene, directly and by regulation, in certain markets, often with the intent to influence prices directly. No assurance can be given that the Fund will be profitable or that it will not incur substantial losses.
- (ii) *Position Limits:* Certain regulatory agencies and exchanges have established limits referred to as “speculative position limits” on the maximum net long or net short positions that any person may hold or control in particular commodities. All commodity accounts owned, held, controlled or managed by the Investment Manager and its principals and affiliates, including accounts of other clients for which the Investment Manager acts as commodity trading advisor, will be combined for position limit purposes with the Fund’s positions. While the Investment Manager presently believes that established position limits would not adversely affect the Investment Manager’s trading decisions, it is possible that trading decisions of the Investment Manager may have to be modified and that positions held by the Fund could have to be liquidated to avoid exceeding such limits.
- (iii) *Price Limits:* Certain commodity exchanges may limit fluctuations in futures contracts prices during a single day by regulations referred to as “daily price fluctuation limits” or “daily limits.” In addition, even if futures prices have not moved beyond the daily limit, the Investment Manager may not be able to execute futures trades at favorable prices if little trading in such contracts is taking place (i.e., there is a “thin” market).
- (iv) *Margin:* Futures are typically traded on “margin.” The “margin” is the amount of escrow or performance bond deposit that the Fund will have to make and maintain with its futures broker to secure its future obligation to close out open positions. The initial margin requirements may be satisfied by the deposit of cash (or, in some markets, certain government obligations). The open positions must be “marked to market” daily, requiring additional margin deposits if the position reflects a loss that reduces the Fund’s equity below the level required to be maintained and permitting release of a portion of the deposit if the position reflects a gain that results in excess margin equity. The level of margin that must be maintained for a given position is sometimes subject to increase, requiring additional cash outlays. In the futures markets, margin deposits are typically low relative to the value of the futures contracts purchased or sold. Such low margin deposits result in a high degree of leverage. Because margin requirements normally range upward from as little as 2% or less of the total value of the contract, a comparatively small commitment of cash or its equivalent may permit trading in futures contracts of substantially greater value. As a result, price fluctuations may result in a contract profit or loss that is disproportionate to the amount of funds deposited as margin. Such a profit or loss may materialize suddenly, since the prices of futures frequently fluctuate rapidly and over wide ranges, reflecting both supply and demand changes and changes in market sentiment.
- (v) *Size of the Fund’s Account:* Depending upon the size of the Fund’s account, it may be difficult or impossible for the Investment Manager to take or liquidate a position in a particular commodity, method or strategy due to the size of the accounts which may be managed by the Investment Manager.

**Security Futures Contracts.** Security futures contracts include both futures contracts on single stocks and futures contracts on narrow-based securities indices. They are treated as both futures and securities and, therefore, may be subject to the joint jurisdiction of commodities and securities governmental agencies (to the extent applicable). Security futures contracts are subject to the same risks as other securities, as well as to the greater volatility and risks of futures trading. Since they are relatively new products, security futures contracts have relatively low liquidity and limited trading history.

**Exchanges of Futures for Physicals.** The Fund may engage in exchanges of futures for physicals (“EFPs”). An EFP is a transaction permitted under the rules of many futures exchanges in which two parties may exchange futures positions without making an open, competitive trade on the exchange. In general, the buyer of the physical commodity buys the corresponding futures contract, while the seller of the physical commodity sells that futures contract. The prices at which such transactions are executed are negotiated between the parties. If the Fund were prevented from such trading as a result of regulatory changes, the Fund’s performance could be adversely affected.

**Illiquid Investments.** The Financial Instruments and other assets in which the Fund may invest include assets that are subject to legal or contractual restrictions on their resale (e.g., Financial Instruments issued by privately-held entities) or for which there is a relatively inactive trading market, making purchases or sales at desired prices or in desired quantities difficult or impossible. Further, as part of its emergency powers, an exchange or regulatory authority can suspend or limit trading in a particular instrument, order immediate liquidation and settlement of a particular contract, or order that trading in a particular contract be conducted for liquidation only. The possibility also exists that governments may intervene to stabilize or fix exchange rates, restricting or substantially eliminating trading in the affected currencies. Illiquid Financial Instruments may be required to be held for a lengthy period of time and often require more time to sell and result in higher brokerage charges or dealer discounts and other selling expenses than does the sale of Financial Instruments eligible for trading on national securities exchanges or for which there is an active over-the-counter market. In addition, due to thin trading in certain Financial Instruments or assets, investments in such Financial Instruments or assets may be less liquid than alternative investments for which there is a more active trading market, which could cause the Fund to suspend Net Asset Value calculations and/or redemptions and/or to designate such illiquid Financial Instruments as “Designated Investments.” Therefore, the Fund’s investments in illiquid or thinly-traded Financial Instruments or assets may reduce the returns of the Fund because it may be unable to sell the illiquid or thinly-traded Financial Instruments or assets at an advantageous time or price.

**Designated Investments.** Generally, the Fund expects to invest in highly-liquid Financial Instruments. However, under certain extraordinary circumstances, including, but not limited to, the failure of one of the Fund’s Brokers, a suspension of trading on one or more of the exchanges on which Financial Instruments held by the Fund are traded, or other unusual market circumstances, certain of the Fund’s investments may become illiquid or cease to have a readily-ascertainable market value. Such Designated Investments may be less liquid positions and/or positions without a readily ascertainable market value, which therefore may be subject to the same risks as other types of illiquid investments, including the risk that the Fund will be unable to sell such Designated Investments at a favorable time or price. The fair value of a Designated Investment may differ materially from its actual or realizable value. As a result, there can be no assurance that Shareholders will not experience substantial or complete losses upon the Disposition (as defined below) of Designated Investments. In addition, Shareholders generally may not redeem their Shares participating in Designated Investments prior to Disposition of the underlying Designated Investments, and therefore may have to retain their interests in such investments for years after they have otherwise entirely redeemed from the Fund and irrespective of changes in their own or general economic conditions. See “Redemptions – Designated Investments.” Further, in cases where Shares participating in Designated Investments are redeemed for cash prior to the Disposition of the underlying Designated Investments, this may increase the illiquidity of the remaining Shareholders’ investments by increasing their proportional participation in the Designated Investments owned by the

Fund, and may result in the redeeming Shareholder receiving a Redemption Price that is less than the full value that may be realizable over time by the Fund from the applicable Designated Investments.

**Fixed-Income Investments.** The Fund is expected to invest in fixed-income Financial Instruments. The value of fixed-income Financial Instruments will change as the general levels of volatility and interest rates fluctuate. When interest rates decline, the value of fixed-income Financial Instruments can be expected to rise. Conversely, when interest rates rise, the value of such Financial Instruments can be expected to decline. Investments in lower rated or unrated fixed-income Financial Instruments, while generally providing greater opportunity for gain and income than investments in higher rated Financial Instruments, usually entail greater risk (including the possibility of default or bankruptcy of the issuers of such Financial Instruments).

**High Yield Securities.** The Fund may invest in “high yield” bonds and preferred securities which are rated in the lower rating categories by the various credit rating agencies (or in comparable non-rated securities). Financial Instruments in the lower rating categories are subject to greater risk of loss of principal and interest than higher-rated Financial Instruments and are generally considered to be predominately speculative with respect to the issuer’s capacity to pay interest and repay principal. They also are generally considered to be subject to greater risk than Financial Instruments with higher ratings in the case of deterioration of general economic conditions. Because investors generally perceive that there are greater risks associated with the lower-rated Financial Instruments, the yields and prices of such Financial Instruments may tend to fluctuate more than those of higher-rated Financial Instruments. The market for lower-rated Financial Instruments is thinner and less active than that for higher-rated Financial Instruments, which can adversely affect the prices at which these Financial Instruments can be sold. In addition, adverse publicity and investor perceptions about lower rated Financial Instruments, whether or not based on fundamental analysis, may be a contributing factor in a decrease in the value and liquidity of such lower-rated Financial Instruments. Investments in sovereign debt involve special risks in that in the event of default, the Fund’s recourse against the issuer may be limited.

**New Issues.** The purchase of “new issues” (defined as any initial public offering of an equity security) involves greater risk than securities trading in general. The prices of new issues may not increase as expected and, in fact, may decline more rapidly. While most people assume that new issues will trade at a premium to their issue price until they are liquidated, there is no guarantee that this will occur. In order for the Fund to trade “new issues,” or invest in Investment Vehicles that trade “new issues,” each investor must represent and warrant in the Subscription Documents that it either is or is not a “Restricted Person” within the meaning of FINRA Rule 5130, and the Fund will be relying on such representations and warranties in engaging in its business activities. Those Shareholders who are “Restricted Persons” may not participate in some or all of the gains, losses or expenses of the Company related to new issues in compliance with FINRA rules.

**Small- to Micro-Cap Stocks.** At any given time, the Fund may have significant investments in small- to micro-cap companies. While smaller companies generally have potential for rapid growth, they often involve higher risks because they lack the management experience, financial resources, product diversification and competitive strength of larger corporations. In addition, the Company may be unable to sell certain small- or micro-cap stocks at an advantageous time or price. In most cases, the frequency and volume of their trading is in substantially less than is typical of larger companies. As a result, the securities of smaller companies may be subject to wider price fluctuations. Also, due to thin trading in some of these stocks, an investment in these stocks may be considered less liquid than an investment in many larger-capitalization stocks, making purchases or sales at desired prices or in desired quantities more difficult. When making sales of large blocks of securities (if possible at all), the Fund may have to sell the securities at discounts from quoted prices or may have to make a series of small sales over an extended period of time due to the trading volume of the securities of smaller companies. Accordingly, such stocks may be required to be held for a lengthy period of time and often require more time to sell and result in higher selling expenses than does the sale of securities for which there is an active market.

In some cases, the Fund's disposition of the securities may be dependant upon a major issuer liquidity event (i.e., a sale of the issuer).

**Non-Reporting Stocks.** The Fund may make investments in public companies whose shares are quoted in the over-the-counter markets rather than the major stock exchanges due to their limited capitalization, the limited number of shares outstanding, their non-reporting status and/or other factors. Over-the-counter stocks are small, thinly-traded issues that often carry a great deal of risk. For instance, over-the-counter stocks are generally not very liquid, and as such, bid/ask spreads are wide. In addition, online quotes for these securities are not firm, but rather merely provide indications of price. Accurate information about over-the-counter stocks is often difficult to obtain because many issuers of such securities may not be required to file their financial reports with applicable regulatory agencies. While many are legitimate businesses, the lack of reliable data and readily available public information makes them susceptible to fraud and manipulation.

**Trading in ETFs.** The Fund may invest in ETFs both long and short. ETFs are funds that track a particular basket or index of securities traded on a public exchange. In this manner, ETFs are similar to open-ended index mutual funds. However, ETFs are traded like stocks on stock exchanges such as the American Stock Exchange. Accordingly, although investments in mutual funds and ETFs are subject to similar risks, ETFs have certain unique risks not shared by mutual funds. Some of the risks of investments in ETFs include the following:

- (i) *General Risks* – An investment in ETFs comprised of publicly traded stocks are subject to the risks that impact the portfolio of underlying stock, including market risks resulting from such factors as economic and political developments, changes in interest rates and perceived trends in stock prices. In addition, investments techniques such as short selling and margin debt may be used with ETFs which would expose the Fund to the risks associated with those investment techniques.
- (ii) *ETF Trading* – It is possible for the value of ETFs to fall or to rise more slowly than the stock market as a whole even when stock prices in general are rising. Risk is also involved in ETF selection. Unlike open-ended mutual funds, ETFs may potentially trade above or below the value of their underlying portfolios. While most ordinary mutual funds can only be bought or sold at the end of the day at the calculated net asset value of the fund, ETFs may be purchased or sold throughout the day at prices that are not guaranteed to match the underlying value of the stocks in the portfolio. Accordingly, the Fund could be exposed to corrective forces if it inadvertently purchases an ETF at a premium to the underlying value of the stocks in the ETF.
- (iii) *Layering of Fees* – With respect to the Fund's investment in ETFs, the Fund's direct fees and expenses, coupled with its indirect fees and expenses, results in at least two levels of fees and greater expense than would be associated with direct investment. The Fund's expenses related to its investment in ETFs thus may constitute a higher percentage of net assets than expenses associated with other investment entities.
- (iv) *Trading in Specialty or Sector ETFs* – The Fund may invest a portion of its assets in ETFs that are industry, sector or capitalization specific, and thereby may be subject to the volatility attendant with such a specialized focus.
- (v) *International ETFs* – ETFs comprised of foreign securities may be highly volatile in nature. In general, foreign markets are not as liquid and do not have pertinent information disseminated as efficiently as United States markets. International investments may also involve risk of capital loss from unfavorable fluctuations in

currency values, differences in generally accepted accounting principles, or economic, political instability in other nations.

- (vi) *Distributions from ETFs* – The tax regulations pertaining to ETFs generally cause them to distribute their taxable gains in the form of a dividend near year-end. The share price of the ETF would generally drop by a corresponding amount on the ex-dividend date of the distribution. Such distributions are made on a *pro rata* basis without regard to the actual gains or losses an individual ETF shareholder may have sustained. Accordingly, investors who have real economic gain less than the amount of the dividend may then have a motivation to sell those ETF shares to claim the drop in share price as a capital loss and thereby offset the income distribution. However, wash sale rules require that the investor not re-invest for 31 days in order to claim the capital loss deduction. Accordingly, tax strategies employed by other investors may increase the price volatility of ETF shares and of securities owned by such ETFs at times near to the distribution of such a dividend. Similarly, the Fund may elect to manage its taxable income by avoiding certain ETFs during their income distributions, thereby introducing an additional element of risk into its timing models.

### **Strategy Risks**

**Price Volatility of Precious and Base Metals.** Since a large majority of the Fund's activities are expected to involve investing in companies operating in the precious and base metals sectors, the value of its securities will be highly sensitive to fluctuations in the prices of such metals. Any increase or decrease in the price of precious and base metals may have an impact on the revenues, profits, cash flows, and stock prices of the companies operating in the precious and base metals sectors in which the Fund invests. Historically, the fluctuations in these prices have been, and will continue to be, affected by numerous factors beyond the Fund's control. Factors tending to put downward pressure on the prices of precious and base metals include: (i) sales or leasing of such metals (particularly gold) by governments and central banks; (ii) a strong U.S. Dollar; (iii) global and regional recession or reduced economic activity; (iv) speculative trading; (v) decreased demand for industrial uses, use in jewelry, and investment; (vi) high supply from production, disinvestment, and scrap; (vii) sales by producers in forward transactions and other hedging transactions; and (viii) devaluing local currencies (relative to metals priced in Canadian Dollars) leading to lower production costs and higher production in certain regions. In addition, sustained low precious or base metals prices can: (a) reduce revenues further through production cutbacks due to cessation of the mining of deposits or portions of deposits that have become uneconomic at the then-prevailing price; (b) halt or delay the development of new projects; (c) reduce funds available for exploration, with the result that depleted reserves are not replaced; and/or (d) reduce existing reserves, by removing ores from reserves that cannot be economically mined or treated at prevailing prices.

**Metal Exploration is Inherently Risky and Exploration Efforts May be Unsuccessful.** Metal exploration is highly speculative and is often unsuccessful. The ability to produce precious or base metals depends on the success of a given company's exploration program. The exploration for metal deposits involves significant financial risks, which even experience and knowledge may not eliminate regardless of the amount of careful evaluation applied to the process. While the discovery of an ore deposit may result in substantial rewards, very few properties are ultimately developed into producing mines and the vast majority of such properties do not contain economically viable ore deposits. Whether a deposit will be commercially viable depends on a number of factors, including: financing costs, proximity to infrastructure, the particular attributes of the deposit, (such as its size and grade), timing, and governmental regulations, including regulations relating to prices, taxes, royalties, infrastructure, land use, importing and exporting of metals and environmental protection. The effect of these factors cannot be accurately predicted, and the combination of any of these factors may prevent companies operating in the precious and base metals sectors, and consequently the Fund through its investment in such companies, from receiving an adequate return on invested capital.

**Companies Operating in the Precious and Base Metals Sectors are Subject to Extensive Environmental Laws and Regulations.** Metal exploration, mining and processing operations are regulated in all countries in which companies operating in the precious and base metals sectors are located. These companies must comply with various federal, state, provincial and local laws governing exploration, development, production, labor standards, occupational health, waste disposal, use of toxic substances, environmental regulations, mine safety and other matters. Additionally, the regulatory environment in which these companies operate could change in ways that would substantially increase their costs to achieve compliance, or otherwise could have a material adverse effect on their operations or financial position. Compliance with these changing laws and regulations could require increased capital and operating expenditures and could prevent or delay some or all of these companies' future operations.

**Companies Operating in the Precious and Base Metals Sectors are Required to Obtain Government Approvals and Permits in Order to Conduct Mining Operations.** Companies operating in the precious and base metals sectors in which the Fund invests are required to seek governmental approvals and permits in order to conduct mining operations. Obtaining the necessary permits is a complex and time-consuming process involving multiple jurisdictions, and the duration and success of these companies' efforts to obtain permits are contingent upon many variables outside of their control and may increase the costs of or cause delay to their mining endeavors. There can be no assurance that all necessary approvals and permits will be obtained, and if they are obtained, that the costs involved will make it economically feasible to begin or continue the exploration, development or production of some or all of such mines.

**Metal Exploration is Extremely Competitive.** There is a limited supply of desirable metal producing properties available for claim staking, lease or other acquisition. The companies operating in the precious and base metals sectors in which the Fund invests therefore must compete with numerous other companies and individuals, including some that may have greater financial, technical and other resources than the companies in which the Fund invests, to dedicate to the search for and the acquisition of attractive metal properties. The ability of the companies in which the Fund invests to lease or acquire properties in the future will depend not only on their ability to develop their present properties, but also on their ability to select and acquire suitable producing properties or prospects for future metal exploration. These companies may not be able to compete successfully with their competitors in acquiring such properties or prospects.

**Companies Operating in the Precious and Base Metals Sectors Must Continually Obtain Additional Reserves.** Companies operating in the precious and base metals sectors in which the Fund invests must continually replace reserves depleted by production. Depleted reserves must be replaced by expanding known ore bodies or by locating new deposits in order for companies operating in the precious and base metals sectors to maintain production levels over the long term. Exploration is highly speculative in nature, involves many risks and frequently is unproductive. No assurances can be given that any new or ongoing exploration programs will result in new metal producing operations. Once metal ores are discovered, it may take many years from the initial phases of drilling until production is possible, during which time the economic feasibility of production may change.

**Estimates of the Content of Metal Deposits May be Incorrect.** The companies operating in the precious and base metals sectors in which the Fund invests estimate the content of mineral deposits in their mines. Such figures may be incorrect and may prove unreliable because these estimates are inherently imprecise and depend to some extent on statistical inferences drawn from limited drilling. Further, these companies may utilize different testing and assaying methods, some of which may be experimental or uncommon, because of the nature of the sample material, and the results from such testing and assaying methods may be varied, inconsistent or incorrect, or prove to be unreliable. No assurances can be given that inferences from such testing and assaying results will be accurate or that minerals will be realized.

**Title to Properties Owned by Companies Operating in the Precious and Base Metals Sectors May Be Defective or Challenged.** The properties owned by companies operating in the precious and base metals sectors in which the Fund invests may be defective or challenged. In instances where these companies have conducted title reviews, a title review does not necessarily preclude third parties from challenging their title. Additionally, in accordance with the mining industry practice, these companies generally do not obtain title opinions until they have decided to develop a property and, as such, it is possible that title to some of these companies' undeveloped properties may be defective. There can be no assurance that the title to any of these companies' properties may not be defective.

**Mining Risks and Limits of Insurance Coverage.** Metal exploratory, mining, milling, producing, smelting and refining operations involve a number of risks and hazards, including environmental hazards, industrial accidents, labor disputes, unusual and unexpected rock formations, ground or slope failures, cave-ins, flooding and periodic interruptions due to inclement or hazardous weather conditions or other acts of God. Such risks could result in damage to, or destruction of, metal properties or production facilities, personal injury or death, environmental damage, delays in mining, monetary losses and possible legal liability. There can be no assurance that industrial accidents will not have a material adverse effect on the business and operations of the companies operating in the precious and base metals sectors in which the Fund invests. There can be no assurance that the insurance carried by these companies will cover the risks associated with mining or that these companies will be able to maintain insurance to cover these risks at economically feasible premiums. These companies might also become subject to liability for pollution or other hazards which they cannot insure against or which they may elect not to insure against because of premium costs or other reasons. Losses from such events could have a material adverse effect on these companies.

**Companies Operating in the Precious and Base Metals Sectors Are Subject to Political and Economic Risks of Doing Business Outside of the United States.** Many companies operating in the precious and base metals sectors in which the Fund invests conduct exploration, development and production activities outside of the United States and are subject to the following risks: (i) disadvantages of competing against companies from countries that are not subject to U.S. laws and regulations, including the Foreign Corrupt Practices Act; (ii) changes in foreign laws or regulations; (iii) royalty and tax increases or claims by governmental entities, including retroactive claims; (iv) expropriation or nationalization of property; (v) currency fluctuations (particularly in countries with high inflation); (vi) foreign exchange controls; (vii) restrictions on the ability of local operating companies to hold Canadian Dollars or other foreign currencies in offshore bank accounts; (viii) import and export regulations, including restrictions on the export of metals; (ix) restrictions on the ability to pay dividends offshore; (x) risks of loss due to civil strife, acts of war, guerrilla activities, insurrection and terrorism; (xi) risk of loss due to disease and other potential endemic health issues; and (xii) other risks arising out of foreign sovereignty over the areas in which our operations are conducted. Consequently, the exploration, development, and production activities outside of the United States may be substantially affected by factors beyond these companies' control, any of which could materially adversely affect their financial position or results of operations. Furthermore, in the event of a dispute arising from such activities, these companies may be subject to the exclusive jurisdiction of courts outside of the United States, which could adversely affect the outcome of a dispute.

**General Risks of Arbitrage Transactions.** A portion of the Fund's investments may be based on arbitrage strategies. The success of arbitrage strategies depends often on the ability to execute two or more simultaneous transactions at desired prices. Should such transactions not be executed simultaneously at the desired prices, losses may be incurred on both sides of the transaction. Additionally, separate costs are incurred on both sides of an arbitrage transaction, and substantial favorable price moves may be required before a profit can be realized. There can be no assurances that the hedging and arbitrage strategies used by the Fund will be successful. The market values of related Financial Instruments may not move in correlation with each other or in ways anticipated by the

Investment Manager, and intervening events may cause hedged positions not to perform as anticipated. A hedged position may perform less favorably in generally rising markets than an unhedged position.

**Spread Trading.** The Fund's strategy may involve spread positions between two or more Financial Instrument positions. To the extent the price relationships between such positions remain constant, no gain or loss on the positions will occur. Such positions, however, do entail a substantial risk that the price differential could change unfavorably causing a loss to the spread position (including, under unfavorable conditions, losses to both sides of the spread position). The Fund's strategy also may involve arbitraging among two or more Financial Instruments. This means, for example, that the Fund may purchase (or sell) Financial Instruments (on a current basis) and take offsetting positions in the same or related Financial Instruments. To the extent the price relationships between such positions remain constant, no gain or loss on the positions will occur. These offsetting positions entail substantial risk that the price differential could change unfavorably causing a loss to the position. Moreover, the arbitrage business is extremely competitive, and many of the major participants in the business are large investment banking firms with substantially greater financial resources, larger research staffs and more investment professionals than will be available to the Fund. Arbitrage activity by other larger firms may tend to narrow the spread between the price at which a Financial Instrument may be purchased by the Fund and the price the Investment Manager expects to receive upon consummation of a transaction.

**Straddles.** The Fund may engage in straddle writing or buying, whereby it either writes or buys both a put and a call on the same underlying Financial Instrument at the same exercise price. In straddle writing, the potential risk of loss is unlimited. To the extent the price of the underlying Financial Instrument is either above or below the exercise price by more than the combined premium received on the two writing transactions, the writer of a straddle will incur a loss when one of the options is exercised. If the writer is assigned an exercise on one option position in the straddle and fails to close out the other position, subsequent fluctuations in the price of the underlying Financial Instrument could cause the other option to be exercised as well, causing a loss on both writing positions. In straddle buying, the buyer seeks to profit from changes or volatility in the price of the underlying Financial Instrument. However, there can be no guarantee that such price changes or volatility will occur, which could cause any options purchased as part of a long straddle position to expire worthless. In addition, the overall profitability of the buyer's straddle position may depend on its ability to close out an unprofitable leg of the straddle at an advantageous time to maximize gains on the other leg, which cannot be guaranteed. Further, even if the buyer closes out one leg of the straddle when such position is unprofitable, subsequent fluctuations in the price of the underlying Financial Instrument could cause the other position to become unprofitable as well, resulting in a loss on the trade.

**Reliance on Fundamental Analysis.** The Investment Manager may base its trading decisions, in whole or in part, on fundamental analysis. Fundamental trading systems consider factors, such as inflation, trade balances, inventories and interest rates, which do not have an impact on traditional technical trading systems, in an attempt to identify investment opportunities. To the extent that such factors provide mixed or conflicting signals, a fundamental trading system may not be able to detect and/or accurately predict price trends. There can be no guarantee that the Investment Manager's fundamental trading systems will enable the Investment Manager to accurately value the Financial Instruments in which the Fund invests or that any anticipated price trends will materialize with respect to such investments.

**Changes in Trading Approach.** The Investment Manager may not follow one specific investment strategy, but rather, may employ different trading strategies which the Investment Manager feels are consistent with the Fund's investment objective. Because the Investment Manager may change the Fund's allocation of assets among a variety of diverse investments and strategies at any time, investors in the Fund will be exposed to the risks associated with each of those investments and strategies but will not know at the time of investment, or over the duration of their investment, the precise nature of

such exposure. An investment in the Fund therefore involves a high degree of uncertainty and investors will be exposed to a significant degree of risk.

### **Company Risks**

**Limited Operating History.** As of the date of this Memorandum, the Company and the Master Fund have a limited operating history. Moreover, the past performance of the Investment Manager or its principals or affiliates should not be construed as an indication of the future results of the Fund.

**Dependence on the Investment Manager.** The Investment Manager will make all decisions with respect to the investment and trading activities of the Fund and the Shareholders will not have the opportunity to evaluate fully for themselves the relevant economic, financial and other information regarding the Fund's investments. The Shareholders will be dependent on the judgment and abilities of the Investment Manager. There is no assurance that the Investment Manager will be successful. Accordingly, no person should purchase Shares unless it is willing to entrust all aspects of the trading activities of each Segregated Portfolio to the Investment Manager.

**Business Dependent Upon Key Individuals.** The success of the Fund is significantly dependent upon the expertise of certain employees of the Investment Manager. These include, particularly, David Dattels, Norman Chang and Chris Rowan.

**Shares Are Illiquid.** Because of the limitations on redemptions and the fact that Shares are not tradable, an investment in the Company is relatively illiquid and involves a high degree of risk. Subscriptions for Shares should be considered only by sophisticated investors financially able to maintain their investments, and pay the taxes with respect thereto from other sources, and that can afford to lose all or a substantial part of such investments. **SHARES MAY NOT BE TRANSFERRED OR ASSIGNED WITHOUT THE CONSENT OF THE DIRECTORS.**

**Possible Adverse Effects of Increasing the Assets Managed by the Investment Manager.** The Investment Manager is limited in the amount of assets which it can successfully manage by both the difficulty of executing substantially larger trades in order to reflect larger equity under management and the restrictive effects of speculative position limits and possible market illiquidity. The rates of return recognized on the trading of a limited amount of assets may have little relationship to those an advisor can reasonably expect to achieve trading larger amounts of funds. The Investment Manager has not agreed to limit its assets under management, even if doing so might be in the best interests of the Fund. There can be no assurance that the strategies of the Investment Manager will not be adversely affected by the additional equity represented by additions to the Company's and/or the Master Fund's account.

**Limitations on Redemptions by Shareholders.** There are significant restrictions and limitations on redemptions of Shares. For instance, subject to certain restrictions, a Shareholder may, upon at least 30 days' prior written notice to the Administrator, in a form acceptable to the Administrator (with a copy to the Investment Manager), or at such other times and upon such conditions as the Company, in its sole discretion, shall determine, redeem, in whole or in part, its Shares as of any Redemption Date. Except with respect to certain compulsory redemptions, Shares will be redeemed on a "first in, first out" basis, unless requested otherwise by a Shareholder and agreed by the Company. The Company, in its sole discretion, may refuse to permit a partial redemption if the amount of the partial redemption is less than CAD\$10,000 or if, following such redemption, the redeeming Shareholder would own Shares with a Net Asset Value of less than CAD\$100,000. Under certain circumstances deemed extraordinary in the Directors' sole discretion (e.g., a delay in payments from one or more investments, or significant administrative hardship), the Company and/or the Master Fund may delay payment of all or a portion of the Redemption Price until such time as such circumstances no longer exist, or, in the Company's sole discretion, may suspend redemption rights or redemption payments entirely. Finally, a Shareholder may

not redeem its Designated Class Shares without the consent of the Company, which consent may be withheld in the Company's sole discretion.

After the Redemption Date, a redeeming Shareholder is a creditor of the Company. If the Company experiences losses after a Redemption Date, it is possible that the Company may have insufficient assets to pay all or even a portion of the redemption proceeds due to the redeeming Shareholder. *See* "Redemptions."

**Compulsory Redemptions.** The Company, in its sole discretion, may compel the redemption of all or a portion of any Shareholder's Shares for any reason and at any time upon prior written notice. The Redemption Date shall be the date specified in such written notice, which date may be the same date as the notice. Under such circumstances, the Company will have the irrevocable power to act in the name of such Shareholder to redeem its Shares. In the sole discretion of the Company, if a compulsory redemption results from (i) an unauthorized Transfer (as defined below), the Redemption Price may be the lower of the Net Asset Value per Share of the relevant class or series on the applicable Redemption Date and the Net Asset Value per Share of the relevant class or series on the date of Transfer or (ii) the breach of any representation or warranty made by the Shareholder, the Redemption Price may be the lower of the Net Asset Value per Share of the relevant class or series on the applicable Redemption Date and the Net Asset Value at which the redeemed Shares were purchased.

**Different Terms Offered by the Company and Other Feeder Funds.** The Master Fund and/or the Company may from time to time permit certain investors (including affiliates of the Investment Manager) to invest in the Master Fund, the Company or other Feeder Funds on different terms than other investors, including with respect to liquidity (as described below), subscriptions, fees and reporting. For example, certain investors (including affiliates of the Investment Manager) may have more favorable reporting rights with respect to the Fund's investments (i.e., greater transparency) while other investors will not have access to this information and/or other confidential information relating to the Fund. This may give an advantage to certain investors (including affiliates of the Investment Manager) that is not available to investors who do not have the same transparency rights when making decisions regarding their investment in the Master Fund, the Company or other Feeder Funds. Similarly, investors with preferential subscription rights may have an advantage over other investors in that they may have a right to increase their investment in the Master Fund, the Company or other Feeder Funds at times when other investors are not able to do so. Additionally, certain investors (including affiliates of the Investment Manager) may be subject to no fees or lower fees, which may give such investors a better rate of return on their investment in the Master Fund, the Company or other Feeder Funds. Likewise, certain investors (including affiliates of the Investment Manager) may have the right to withdraw their investments more frequently than other investors and/or upon reduced notice. *See* "Preferential Liquidity Rights for Certain Investors" below.

**Preferential Liquidity Rights for Certain Investors.** The Master Fund, the Company and/or other Feeder Funds may permit certain investors (including affiliates of the Investment Manager) to make withdrawals or redemptions on significantly shorter prior notice and without being subject to any restrictions and may pay withdrawal or redemption proceeds on a more timely basis than other investors. This may increase the likelihood that (i) investments will be leveraged (or more leveraged) until liquidated to fund such withdrawals or redemptions and (ii) the Company and the Master Fund will be unable to liquidate investments to fund such withdrawals or redemptions in an orderly fashion. The inability of the Fund to liquidate investments in an orderly fashion in order to fund withdrawals or redemptions by investors with preferential liquidity terms could have an adverse impact upon the Company (and its investors) and the Master Fund, including: (w) negatively impacting the investment performance of the Fund, (x) negatively impacting the ability of investors without preferential liquidity terms to redeem their Shares, (y) increasing portfolio turnover and related transaction costs, and (z) necessitating additional leverage to fund such preferential withdrawal or redemption requests. In those

cases where the Fund is unable to liquidate investments in an orderly fashion to fund such withdrawals or redemptions, the Investment Manager may need to modify its trading strategy to provide for such additional liquidity, which may also have a negative impact on the performance of the Fund. In addition, substantial withdrawals or redemptions by investors with preferential liquidity terms could impair the operating capital of the Company or the Master Fund and, accordingly, result in material losses to the Company and the Master Fund. See “Possible Effects of Substantial Redemptions” below.

**Possible Effects of Substantial Redemptions.** The Fund generally intends to maintain a highly liquid portfolio that could be readily liquidated to fund redemption requests. However, under certain circumstances, substantial redemptions of Shares on a particular Redemption Date or substantial redemptions by investors in another Feeder Fund could (i) require the Company to liquidate its interest in the Master Fund, and, accordingly, require liquidation of the positions held by the Master Fund more rapidly than would otherwise be desirable; (ii) result in the impairment or termination of the Company and/or the Master Fund; (iii) cause the liquidation of investments at a time that could adversely affect the value of the Fund or the risk profile of the remaining investments of the Fund; and/or (iv) result in redemptions from the Fund being temporarily suspended. The Investment Manager does not intend to impose a “gate” or certain other similar restrictions on the amount that may be redeemed as of any particular Redemption Date with respect to the Company. In addition to rapid liquidation of positions (potentially resulting in less favorable pricing), it is possible that redemptions by multiple large investors could leave the Fund with less capital than is necessary to fully diversify its positions, impairing the operations, or potentially resulting in the termination of the Fund.

**Substantial Fees and Expenses Payable Regardless of Profits.** The Company will (directly or indirectly) incur obligations to pay its proportional share of brokerage commissions, option premiums and other transaction costs to the Brokers. The Company will incur obligations to pay operating, legal, accounting, auditing, research and due diligence expenses related to Company and Master Fund investments, marketing, travel, background investigations, legal and consulting fees, presentations and other related expenses and fees, including the costs of the offering of Shares and its *pro rata* portion of the Master Fund’s operating expenses. The foregoing expenses are payable regardless of whether any profits are realized. In addition, a Performance Fee may be paid to the Investment Manager, generally at the end of each year and upon a redemption of Shares. See “Fees and Expenses – Performance Fee” in the Summary of Principal Terms.

**Lack of Management Control by Shareholders; Limited Voting Rights; No Ability to Replace or Remove the Investment Manager.** Shareholders have limited voting rights and do not participate in the management of the Company or in the conduct of its business. Moreover, Shareholders have no right to remove or replace the Investment Manager. Except in respect of any proposed variation or abrogation of rights affecting the Shares as a class, the Management Shares (as defined below) possess the exclusive voting rights of the Company. As such, the Investment Manager, as the holder of the Management Shares, may amend the Articles without obtaining the consent of, or providing notice to, other Shareholders, unless such amendment would constitute a variation or abrogation of rights affecting Shares as a class.

**Liability and Indemnification of the Investment Manager.** See “Investment Manager - Investment Management Agreement.”

**Pricing Information.** While pricing information is generally available for many of the Financial Instruments in which the Fund invests, observable pricing inputs may not always be available from any source. See “Valuation of the Fund’s Assets.” For purposes of calculating the Net Asset Value of the Company and the Net Asset Value of the Master Fund and valuing Financial Instruments, valuations of Financial Instruments for which observable pricing information cannot be obtained will be made based upon unobservable data that reflect the Investment Manager’s own assumptions about the factors that a market participant would use in pricing the Financial Instruments. Prices quoted by different sources are

subject to material variation. While the Investment Manager will make reasonable efforts in good faith to evaluate such information, there can be no assurance that the value of an asset owned by the Fund will be realized upon its disposition. The Investment Manager, and by delegation, the Administrator, may rely upon pricing services reasonably selected by either of them and will not, in the absence of fraud or willful misconduct, be liable for any loss suffered by the Fund or any Shareholder by reason of any error in calculation resulting from any inaccuracy in the information provided by any pricing service.

**Portfolio Valuation.** The Fund's investments in illiquid, restricted or other Financial Instruments without observable pricing inputs may be difficult to value accurately and may be valued based upon unobservable data that reflect the Fund's own assumptions about the factors that a market participant would use in pricing the Financial Instruments. The Fund may elect not to engage an independent valuation agent to value the Fund's Financial Instruments, and in any event, the valuation of such Financial Instruments may be subjective and may fail to reflect the actual value of the Financial Instruments. In light of the foregoing, there is a risk that a Shareholder who redeems all or part of its Shares while the Fund holds such investments will be paid an amount less than such Shareholder would otherwise be paid if the actual value of such investments is higher than the value designated by the Fund. Similarly, there is a risk that such Shareholder might, in effect, be overpaid, and accordingly the value of the Shares of the other Shareholders might be diluted, if the actual value of the investments in illiquid, restricted or otherwise hard to value Financial Instruments is lower than the value designated by the Fund. Likewise, an investor who subscribes while the Fund holds illiquid, restricted or otherwise hard to value Financial Instruments may underpay for the Shares purchased if the actual value of such Financial Instruments is higher than the value designated by the Fund as of the applicable Closing Date, or, conversely, may overpay for the Shares if the actual value of such Financial Instruments is lower than the value designated by the Fund.

**Trade Errors.** The Fund (and not the Investment Manager) will be responsible for any losses resulting from portfolio management, trading or administrative errors in connection with the Fund's investment activities, in the absence of fraud or willful misconduct by the Investment Manager or its affiliates or personnel. Any gains or benefits that result from trade errors will also accrue to the Fund. Such errors might include, for example, incorrect entry of a trade into an electronic trading system, errors when reconciling trade activity, or drafting errors related to derivatives contracts or confirmations. Given the volume of transactions executed by the Investment Manager on behalf of the Fund, investors should assume that any such errors might occur, although the Investment Manager does not expect them to occur frequently, and that the Fund will be responsible for any resulting losses, even if such losses result from the negligence of the Investment Manager or its affiliates or personnel.

**Side Letter Agreements.** The Company may enter into agreements ("side letters") with certain prospective or existing Shareholders whereby such Shareholders may be subject to terms and conditions that are more advantageous than those set forth in this Memorandum. For example, such terms and conditions may provide for special rights to make future investments in the Company, other Feeder Funds or managed accounts; special redemption rights, relating to frequency or notice; a reduction or rebate in fees to be paid by the Shareholder and/or other terms; rights to receive reports from the Company on a more frequent basis or that include information not provided to other Shareholders (including, without limitation, more detailed information regarding portfolio positions) and such other rights as may be negotiated by the Company and such Shareholders. The modifications are solely at the discretion of the Company and may, among other things, be based on the size of the Shareholder's investment in the Company or affiliated investment entity, an agreement by a Shareholder to maintain such investment in the Company for a significant period of time, or other similar commitment by a Shareholder to the Company.

**Potential Conflicts of Interest.** The Investment Manager has several actual and potential conflicts of interest relating to the Company and the Master Fund. See "Conflicts of Interest."

## **Segregated Portfolio Risks**

**Segregation of Assets in a Segregated Portfolio Structure.** The Company is registered as a segregated portfolio company. As a matter of Cayman Islands law, the assets of one Segregated Portfolio will not be available to meet the liabilities of another Segregated Portfolio. However, the Fund may operate or have assets held on their behalf or be subject to claims in other jurisdictions which may not necessarily recognize such segregation. There is no guarantee that the courts of any jurisdiction will respect the limitations on liability associated with a segregated portfolio company. Further, individual classes of Shares issued within each Segregated Portfolio are not segregated. Accordingly, if the assets attributable to one class of Shares in a Segregated Portfolio were completely depleted by losses and a deficit remained, a creditor could enforce a claim against the assets of the other classes of the same Segregated Portfolio. As at the date of this document, the Directors are not aware of any such claim or contingent liability.

**Cross Liability.** The Company has the power to issue Shares attributable to a particular Segregated Portfolio in classes. The Articles provide for the manner in which liabilities are to be attributed across the various classes attributable to the same Segregated Portfolio (liabilities are to be attributed to the specific class in respect of which the liability was incurred). However, Shareholders of one or more classes of a particular Segregated Portfolio may be compelled to bear the liabilities incurred in respect of other classes of the same Segregated Portfolio which such Shareholders do not themselves own if there are insufficient assets in that other class to satisfy those liabilities. Accordingly, there is a risk in respect of each Segregated Portfolio that liabilities of one class may not be limited to that particular class and may be required to be paid out of one or more other classes.

## **Regulation**

**Lack of Government Regulation.** The offering of Shares has not been registered or qualified under the U.S. securities laws, including the 1933 Act, or the laws of any applicable jurisdiction. Furthermore, the Company will not register as an investment company under the Investment Company Act of 1940, as amended (the “**Investment Company Act**”), in reliance upon the exclusion from the definition of an “investment company” provided by Section 3(c)(1) of the Investment Company Act (requiring beneficial ownership by not more than one-hundred (100) persons) or one or more other exemptions or exclusions from registration as an investment company pursuant to the Investment Company Act. In addition, the Investment Manager is not registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the “**Advisers Act**”), although the Investment Manager is registered with the Ontario Securities Commission as an Investment Fund Manager, Portfolio Manager and Exempt Market Dealer pursuant to National Instrument 31-103 of the Canadian Securities Administration. The Investment Manager also will not register as a CPO pursuant to CFTC Regulation 4.13(a)(3) or one or more other exemptions or exclusions from CPO registration (which other exemptions could permit the Fund to engage in a greater amount of futures trading than is currently the case), and therefore is not required to adhere to certain disclosure, reporting and recordkeeping requirements under the CEA. Accordingly, the Company is not required to file a copy of this Memorandum with the CFTC. Shareholders therefore do not have the benefit of all of the protections afforded by the 1933 Act (which, among other things, requires specified disclosure in connection with the offering of securities), the Investment Company Act (which, among other things, would require that a fund’s board of directors, including a majority of disinterested directors, approve certain of the Fund’s activities and contractual relationships, prohibit certain trading and investment activities, and prohibit the Fund from engaging in certain transactions with its affiliates), or the Advisers Act (which, among other things, would regulate the activities of the Investment Manager, including its method of compensation from the Fund). Furthermore the CFTC has not reviewed or approved the offering of Shares or this Memorandum.

**Legal and Regulatory Developments.** Legal and regulatory changes could occur during the term of the Fund that may adversely affect the Fund. The securities, commodities, futures and other

derivatives markets are subject (in varying degrees) to comprehensive statutes, regulations and margin requirements. A number of events in the past several years, including market disruptions, financial distress and failures on the part of various brokers, banks and other financial institutions, and increases in the amount of capital allocated to alternative investment strategies, have caused lawmakers and regulators to promulgate new laws and regulations and to consider additional oversight of financial markets, including heightened oversight of advisors to private investment funds and new or increased restrictions with respect to certain trading techniques and related Financial Instruments (e.g., short sale restrictions, clearing of over-the-counter derivatives and enhanced speculative position limits), potential changes to the tax treatment of U.S. and non-U.S. investment vehicles and their advisors and other substantial changes to the broader legal and regulatory framework in which such funds operate. In particular, the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “**Dodd-Frank Act**”) addresses certain of these issues, including through its elimination of the so-called “private adviser” exemption from federal investment adviser registration, upon which many private fund advisors previously relied, and increases to the asset threshold above which such advisors may register with the SEC. These changes may have the effect of subjecting an increased number of private fund advisors to state (rather than federal) regulation, which may result in the application of varying legal and regulatory requirements and standards from state to state. The full impact of the Dodd-Frank Act is not yet clear, as Congress left to the SEC and the CFTC broad discretion in promulgating rules and regulations to implement the particulars of the legislation. Even beyond these recent changes, the SEC and the CFTC as well as other regulators, self-regulatory organizations and exchanges around the world continue to have the authority to implement additional regulations that could affect the Fund’s operations to varying degrees, including the authority to take extraordinary actions in the event of market emergencies (which authority may be used more frequently if market conditions are or remain unusually turbulent). The regulation of private investment vehicles and their transactions also is subject to future modification by further legislative, regulatory as well as judicial action. The duration, severity, and ultimate effect of the worldwide financial crisis of the past few years and both recent and proposed governmental actions with respect to private investment vehicles cannot be predicted, and any resulting changes in the treatment of such vehicles and their investments could have a material adverse impact on the returns of the Fund and/or the Fund’s ability to conduct its business as currently conducted or even to continue doing business at all.

In the event that the Investment Manager is required to respond to any legal or regulatory investigation or proceeding, the Fund will bear its share of the cost of any legal fees and expenses, which may be substantial, that are incurred by the Investment Manager to the extent that it did not breach its duty of care owed to the Fund.

### **Compliance with ERISA Restrictions**

The Company intends to use commercially reasonable efforts to cause employee benefit plans subject to Title I of the U.S. Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), and/or Section 4975 of the U.S. Internal Revenue Code of 1986, as amended (the “**Code**”) and other “benefit plan investors,” as defined in 29 C.F.R. Section 2510.3-101 of the U.S. Code of Federal Regulations (the “**Plan Asset Regulation**”) and modified by the U.S. Pension Protection Act of 2006, in the aggregate to hold less than 25% of the Shares and of any other class of equity interests in the Company. The Company will use commercially reasonable efforts to restrict transfers or purchases of any equity interest in the Company so that ownership of each class of equity interests in the Company by benefit plan investors will remain below the 25% threshold contained in the Plan Asset Regulation. In the event that a redemption would cause the Company to exceed the 25% threshold, the Company may require one or more benefit plan investors to redeem or otherwise dispose of all or part of their Shares in the Company so that the Company will remain below the 25% threshold. *See* “Summary of Principal Terms – Freezing Redemptions,” above. Although there can be no assurance that such will be the case, the assets of the Company should not constitute “plan assets” for purposes of ERISA and Section 4975 of the Code.

If the assets of the Company were to become “plan assets” subject to ERISA and Section 4975 of the Code, certain investments made or to be made by the Company in the normal course of its operations might result in non-exempt prohibited transactions and might have to be rescinded. *See* “Certain ERISA Considerations” in the U.S. Supplement. If at any time the Company determines that assets of the Company may be deemed to be “plan assets” subject to ERISA and Section 4975 of the Code, the Company may take certain actions it may determine to be necessary or appropriate, including requiring one or more investors to redeem or otherwise dispose of all or part of their Shares in the Company or terminating and liquidating the Company.

### **Withholding and Other Taxes**

Dividends and certain income and gain from the Fund’s investments may be subject to capital gains and/or withholding taxes in various jurisdictions. Also, the Fund’s investments may generate income or gain that will subject the Company to U.S. corporate income tax and possibly branch profits tax. All such taxes, which may be substantial, will reduce Net Asset Value of the Shares. *See* “Tax Considerations” below.

As a result of recent changes in U.S. tax laws, in order to avoid becoming subject to 30% U.S. withholding tax on its capital gain from U.S. securities, the Fund will be required to request and obtain certain information as to each Shareholder and, where applicable, its beneficial owners, and may be required to provide such information to the U.S. Internal Revenue Service. Shareholders which fail to provide any requested information may be subject to mandatory redemption and/or monetary charges. *See* “Tax Considerations – United States” and “Anti-Money Laundering Regulations; U.S. Tax Reporting” below.

**THE FOREGOING RISK FACTORS DO NOT PURPORT TO BE A COMPLETE EXPLANATION OF ALL OF THE RISKS INVOLVED IN THE OFFERING. POTENTIAL INVESTORS SHOULD READ THIS MEMORANDUM IN ITS ENTIRETY AND THE MEMORANDUM AND ARTICLES OF ASSOCIATION OF THE COMPANY AND THE MASTER FUND BEFORE DETERMINING WHETHER TO SUBSCRIBE FOR SHARES.**

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### **CONFLICTS OF INTEREST**

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**Selection of Investment Manager.** The Investment Manager has an economic interest in acting as the Fund’s investment manager because the Investment Manager benefits from the Performance Fee and the Management Fee.

The Fund’s investment and trading activities will not be subject to review or oversight by an independent company. As a result of the Fund selecting the Investment Manager as the Fund’s investment manager, the terms upon which the Investment Manager will render investment services to the Fund may not have been negotiated at arm’s length. In addition, the Fund will not have available an independent investment manager to monitor investment and trading conducted for its account by the Investment Manager and may not engage an independent valuation agent to value the Fund’s Financial Instruments. The Investment Manager could also in the future have a conflict between its interest in directing investment and trading for the Fund and the discharge of its responsibility to the Fund regarding oversight of investment and trading conducted for the Fund, when such oversight could, in certain circumstances, indicate that the engagement of an independent investment managers would be in the best interest of the Fund.

**Management Fee to the Investment Manager.** There is a potential conflict of interest between the responsibility of the Investment Manager to maximize profits from investment and trading and the possible desire of the Investment Manager to avoid taking risks which might reduce the Net Asset Value of the Shares and, consequently, reduce the Management Fee payable to the Investment Manager.

**Performance Fee to the Investment Manager.** The Performance Fee may create an incentive for the Investment Manager to cause the Fund to make investments that are riskier or more speculative than would be the case if the Investment Manager was paid only a fixed amount. Since the Performance Fee is calculated on a basis that includes unrealized appreciation as well as realized appreciation, the Performance Fee may be greater than if it was based solely on realized gains.

**Valuation of the Fund by the Investment Manager.** The Investment Manager is responsible for valuation of the Fund's assets and liabilities and has an inherent conflict of interest in performing this function. It is in the Investment Manager's interest to value the assets of the Fund at as high a level as possible, as both the Management Fee and the Performance Fee to be received by the Investment Manager, are calculated based on the Net Asset Value of the Fund. In addition, the Investment Manager's performance records used in marketing their services to actual and prospective clients and investors will be in part dependent on the performance of the Fund. The Fund may not engage an independent valuation agent to value the Fund's Financial Instruments and other assets, and may therefore be entirely reliant upon the Investment Manager and its delegates for the valuation of such Financial Instruments and other assets.

**Management of Other Client Accounts by the Investment Manager.** The Investment Manager and its principals and affiliates may manage the accounts of clients other than the Fund. The investment methods and strategies that the Investment Manager and its principals and affiliates may utilize in managing the accounts of the Fund may be utilized in managing investments for other client accounts. The Investment Manager and its principals and affiliates have established, and may in the future establish, sponsor, or be affiliated with, other investment pools which may engage in the same or similar businesses as the Fund, using the same or similar investment strategies.

Although the Investment Manager and its principals and affiliates may manage investments on behalf of a number of other client accounts, investment decisions and allocations will not necessarily be made in parallel among the Fund's accounts and the other client accounts. Investments made by the Fund may not, and are not intended in all cases to, replicate the investments, or the investment methods and strategies, of other accounts managed by Investment Manager and its principals and affiliates. Nevertheless, the Investment Manager and its principals and affiliates at times and from time to time may elect to apportion major or minor portions of the investments made by the Fund among other accounts they manage; however, that apportionment may not be made in parallel and may not be based on the capital in each account. Rather, such investments may be allocated among accounts based on the Investment Manager's perception of the appropriate risk and reward ratio for each account, the intended sector strategy of each account, the liquidity of the account at the time of the investment and on a going-forward basis, and the overall portfolio composition and performance of the account. Moreover, other accounts managed by the Investment Manager and its principals and affiliates may make investments and utilize investment strategies that may not be made or utilized by the Fund, and may take positions that are opposite those of the Fund. Accordingly, the other accounts managed by the Investment Manager and its principals and affiliates may produce results that are materially different from those experienced by the Fund.

The records of any investment management activities that the Investment Manager and its principals and affiliates may engage in on behalf of the accounts of clients other than the Fund will not be available for inspection by the Shareholders.

**Other Activities of the Investment Manager/Proprietary Trading.** The Investment Manager and its principals and affiliates will devote only so much time and attention to the business and affairs of the Company and the Master Fund as they, in their sole discretion, may deem reasonably necessary.

The Investment Manager and its principals and affiliates are not required to devote a specific amount of time to the business and affairs of the Fund, and they are entitled to engage in various other activities. The Investment Manager and its principals and affiliates may engage in, invest in, participate in or otherwise enter into other business ventures of any kind, nature or description, alone or with others, including, without limitation, the management of or investment in other investment or trading entities or vehicles, and neither the Company, the Master Fund nor any Shareholder shall have any right in or to any such activities or the income or profits derived therefrom. The Investment Manager and its principals and affiliates may have a conflict of interest in rendering advice to a client because the financial benefit from managing some other client's account may be greater, which could provide an incentive to favor such other account.

The Investment Manager and its principals and affiliates may invest and trade for their own accounts, including in Financial Instruments which are the same as or different or opposite from those traded or held by the Fund. As a result, the Investment Manager and its principals and affiliates may from time to time have proprietary investments in Financial Instruments in which the Fund takes a position, may trade and invest simultaneously with the Fund and may take investment positions that are different or opposite from the positions taken by the Fund. As a result, conflicts of interest may arise between the Fund and the Investment Manager and its principals and affiliates with respect to matters such as the allocation of investment opportunities, purchases and sales of Financial Instruments in connection with particular trading situations and allocation of personnel, resources and expenses. The records of trading by the members of the Investment Manager and its principals and affiliates will not be made available to the Shareholders, except to the extent required by law.

**The Investment Manager May Benefit from "Soft Dollar" Arrangements.** The Investment Manager may enter into "soft dollar" or similar arrangements with respect to the Fund. In connection therewith, the Fund may pay any Broker which provides research services or benefits a commission for executing a transaction for the Fund which is in excess of the amount of commission another broker would have charged for effecting that transaction if the Investment Manager determines in good faith that such amount of commission is reasonable in relation to the value of the brokerage, research and other services provided by such Broker. This creates a potential conflict of interest between the duties of the Investment Manager to operate the Fund in the best interests of the Shareholders and the Investment Manager's desire to receive or direct these "soft dollar" benefits. See "Brokerage Arrangements" above.

**Potential Introduction of Certain Investors by Brokers.** As part of the overall brokerage services that they offer to the Fund, certain Brokers may refer potential investors to the Fund or other Feeder Funds, or to other investment programs, entities, pools, vehicles or funds managed by the Investment Manager and/or its principals or affiliates. This creates a potential conflict of interest between the judgment of the Investment Manager in allocating brokerage business to Brokers to execute the Fund's brokerage transactions and the possible receipt of future referrals.

**Investments by Affiliated Investors.** The Fund from time to time may grant affiliates of the Investment Manager (including other Feeder Funds managed or advised by the Investment Manager) the right to withdraw or redeem all or a portion of their investment in the Fund upon reduced notice and without being subject to any restrictions, and may pay the withdrawal or redemption proceeds to such affiliates of the Investment Manager on a more timely basis than other investors. The granting of more favorable liquidity terms to affiliates of the Investment Manager creates a conflict of interest between the Investment Manager's obligations to the investors in the Company and its affiliates' desire to liquidate their positions in the Fund. See "Certain Risk Factors – Preferential Liquidity Rights for Certain Investors."

**Counsel.** Ogier is Cayman Islands legal counsel to the Company and the Master Fund, and Katten Muchin Rosenman LLP is U.S. counsel to the Company and is also U.S. counsel to the Master Fund, the Investment Manager and their respective principals and affiliates, and to other investment vehicles managed thereby (collectively, the “**NewGen Parties**”). Because Katten Muchin Rosenman LLP acts as counsel to both the Company and the NewGen Parties, certain conflicts of interest exist and may arise. To the extent that an irreconcilable conflict develops between the Company and any of the NewGen Parties, Katten Muchin Rosenman LLP may represent the NewGen Parties and not the Company. Ogier and Katten Muchin Rosenman LLP may, in the future, render services to the Company and/or the NewGen Parties with respect to activities relating to the Company as well as other unrelated activities. Ogier and Katten Muchin Rosenman LLP are not representing any prospective investors in connection with this offering and will not be representing the Shareholders. Prospective investors and Shareholders are advised to consult their own independent counsel (and not Ogier or Katten Muchin Rosenman LLP) with respect to the legal and tax implications of an investment in the Shares.

**No Independent Verification.** Neither Katten Muchin Rosenman LLP nor Ogier is responsible for any acts or omissions of the parties (including their compliance with any guidelines, policies, restrictions or applicable law or the selection, suitability or advisability of their investment activities) or any administrator, accountant, custodian/prime broker or other service provider to the parties. This Memorandum was prepared based on information furnished by the Investment Manager; neither Katten Muchin Rosenman LLP nor Ogier has independently verified such information.

**Directors and Administrator.** The Directors and the Administrator also act as directors and administrator, respectively, for other companies and investment funds. The foregoing activities and relationships may cause certain conflicts of interest. The Directors, however, owe a fiduciary duty to the Company and the Master Fund, as well as such other entities for which they act as directors and will endeavor to ensure that any such conflict is resolved fairly. The officers and employees of the Administrator are or may be involved in other business activities, and are not required to devote any specific amount of time to managing the Company and the Master Fund.

**NONE OF THE INVESTMENT MANAGER, THE DIRECTORS, OR ITS OR THEIR SHAREHOLDERS, DIRECTORS, MEMBERS, OFFICERS OR EMPLOYEES ARE OBLIGATED TO RESOLVE ANY CONFLICTS IN FAVOR OF THE COMPANY OR THE MASTER FUND.**

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## VALUATION OF THE FUND’S ASSETS

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### Determination of Net Asset Value

The valuation of the Company’s and the Master Fund’s assets and liabilities has been delegated by the Directors to the Investment Manager. The Investment Manager has in turn delegated certain of its responsibilities to the Administrator and may delegate certain of its responsibilities to other agents. Subject to the oversight of the Investment Manager, the Administrator will calculate the Net Asset Value of each class and series of each Segregated Portfolio of the Company and the Net Asset Value of the Master Fund on the last day of each month or such other day or days as the Directors determine, with information provided by, and in consultation with, the Investment Manager (each, a “**Valuation Date**”).

“**Net Asset Value of a Segregated Portfolio**” means the total assets of the Company attributable to the relevant Segregated Portfolio, including all cash and cash equivalents, accrued interest and the market value of the of the relevant Segregated Portfolio’s interest in the Master Fund and any Financial

Instruments in which the Segregated Portfolio invests directly (if any), less all liabilities and any accrued but unpaid expenses of the Company attributable to the relevant Segregated Portfolio (including any accrued Management Fees) determined on the accrual basis of accounting in accordance with U.S. generally accepted accounting principles (“**U.S. GAAP**”), consistently applied.

“**Net Asset Value of the Master Fund**” means at any date the total assets of the Master Fund, including all cash and cash equivalents, accrued interest and the market value of all assets of the Master Fund, less all liabilities and any accrued but unpaid expenses of the Master Fund, determined on the accrual basis of accounting in accordance with U.S. GAAP, consistently applied.

The initial Net Asset Value of the Shares and the Master Fund Shares will equal CAD\$100 per Share or Master Fund Share. Thereafter, on each Valuation Date, the “**Net Asset Value per Share**” of a class and/or series shall be equal to that portion of the Net Asset Value of the Segregated Portfolio attributable to the respective class and/or series, divided by the number of issued Shares of the respective class and/or series.

The “**Net Asset Value per Master Fund Share**” of a class or series of the Master Fund shall be equal to the Net Asset Value of the Master Fund attributable to the respective class and/or series, divided by the number of issued Master Fund Shares of the respective class or series.

The assets of the Company and the Master Fund will be valued at their fair value, and the Net Asset Value of the Company and the Master Fund will be calculated, in accordance with U.S. GAAP. U.S. GAAP defines fair value as the market price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants in the principal or most advantageous market at a Valuation Date (the “exit” price in the marketplace and not the entry price to the valuing entity).

U.S. GAAP states that fair value should be determined based on the assumptions that market participants would use in valuing an asset. U.S. GAAP focuses on the use of all appropriate valuation techniques, not on determining a preferred technique. As a result, companies are expected to use a combination of valuation techniques, weight the measurements, and then estimate fair value. Three valuation techniques are acceptable: (i) market, which typically uses multiples derived from a set of comparables; (ii) income, which looks to convert future amounts to a single present amount (discounted); and (iii) cost, which focuses on the cost to replace the asset at today’s price (current replacement cost).

Using U.S. GAAP as a guideline, in order to determine the Net Asset Value of the Segregated Portfolios and the Net Asset Value of the Master Fund and the value of all other Financial Instruments and assets of the Fund, the Fund will generally apply the following guidelines:

- (i) With respect to the Company’s ownership of Master Fund Shares, the value of such shares shall be the value reported to the Company by the Administrator, as calculated by the Administrator in accordance with its Memorandum and Articles of Association.
- (ii) Financial Instruments listed or traded on any recognized exchange or other board of trade (other than Designated Investments) shall be valued at the closing settlement price at the close of business at the relevant Valuation Date in the principal market on which such Financial Instrument is traded, or if there is no settlement price in the principal market for the Financial Instrument, in the most advantageous market for such Financial Instrument. If no settlement price of such Financial Instrument was reported on the applicable date, the market value shall be the most recent quoted average bid and ask prices on that day in the principal or most advantageous market, as applicable.

- (iii) Financial Instruments not traded on a recognized exchange or other board of trade (other than Designated Investments) are valued by obtaining the values from at least two Brokers who are knowledgeable about and have experience in trading the Financial Instrument in question, and if the Fund's position is a long position then the Investment Manager will value such Financial Instrument by taking the highest bid price and if the Fund's position is a short position then the Investment Manager will value such Financial Instrument by taking the lowest ask price.
- (iv) Cash, deposits and similar investments (other than Designated Investments) together with all accrued interest thereon to the end of the relevant Valuation Date shall be valued at face value.
- (v) Other Financial Instruments and assets and liabilities for which inputs derived from observable market data are not readily available (other than Designated Investments) will be valued in good faith based upon unobservable data that reflect the Investment Manager's own assumptions about the factors that a market participant would use in pricing the asset or liability.
- (vi) Designated Investments shall be valued at their fair value as determined in good faith and in the sole discretion of the Investment Manager using the techniques as described above.

The Investment Manager may adjust the valuation of any Financial Instrument or permit some other method of valuation to be used if it considers that such adjustment is required to reflect more fairly the value of such Financial Instrument, keeping in mind the guidelines of U.S. GAAP.

The accounts of the Fund are maintained in Canadian Dollars. Assets and liabilities denominated in other currencies are translated at the rates of exchange in effect at the relevant Valuation Date and translation adjustments are reflected in the results of operations. Portfolio transactions and income and expenses are translated at the rates of exchange in effect at the time of each transaction. Certain amounts accrued under the various agreements with service providers are deducted from the Net Asset Value of the class of Shares or the Net Asset Value of the class of Master Fund Shares to which such amounts are attributable.

**Prospective subscribers should understand that these and other special situations involving uncertainties as to the valuation of portfolio positions could have an impact on the Net Asset Value of a Segregated Portfolio and/or the Net Asset Value of the Master Fund if the judgments regarding the appropriate valuation should prove to be incorrect. All valuations are final, binding and conclusive on the Master Fund, the Company, the Segregated Portfolios and the Shareholders.**

### **Adjustments**

The Investment Manager intends to value the Fund's assets and calculate the Net Asset Values of the Segregated Portfolios and the Master Fund in accordance with U.S. GAAP, based on the information available at the time of such calculations. However, additional information may later become available, including in connection with the preparation of the Company's audited annual financial statements, indicating that certain valuation assumptions utilized in prior periods would no longer be deemed consistent with U.S. GAAP. Under such circumstances, the Investment Manager intends to appropriately adjust the affected Net Asset Values on a prospective basis. Among other things, this may result in a divergence between the Net Asset Value reported in prior periods and the adjusted net asset value later reported in the financial statements for the same periods. Notwithstanding any such prospective adjustments to the Segregated Portfolios or the Master Fund's Net Asset Values, the Investment Manager will not make any adjustment to such Net Asset Value reported for prior periods, or to any subscriptions

or redemption proceeds attributable to such prior periods, except to the extent required by applicable law or the constituent documents of the Company or the Master Fund.

### **Temporary Suspension of Dealings**

At any time, the Directors of the Master Fund and/or the Company, in consultation with the Investment Manager may declare that the issue or redemption of Shares is temporarily suspended. Also, in either case, they may (but need not) declare that the determination of the Net Asset Value of a Segregated Portfolio is simultaneously suspended. The Directors of the Master Fund and/or the Company may declare any of these suspensions in such circumstances as they think fit. These circumstances include, but are not limited to, any of the following: (i) during any period when any exchange, other board of trade or over-the-counter market on which a substantial portion of the Fund's investments is quoted is closed, other than for ordinary holidays and weekends, or during periods in which dealings are restricted or suspended; (ii) during the existence of any state of affairs which, in the discretion of the Directors, constitutes an emergency as a result of which disposal of investments by the Fund would not be reasonably practicable or would be seriously prejudicial to investors in the Fund; (iii) during any breakdown in the means of communication normally employed in determining the price or value of any portion of the Fund's investments, or when for any other reason the prices or values of any of the investments owned by the Fund cannot reasonably be promptly and accurately ascertained; (iv) during any period when the transfer of funds involved in the realization or acquisition of any investments cannot, in the discretion of the Directors, be effected at normal rates of exchange; (v) during any period when, in the discretion of the Directors, the effect of redemptions, including redemptions for which Redemption Requests have been received, would materially impair the ability of the Master Fund or any Feeder Fund to operate in pursuit of its objectives, or any of the remaining investors in the Fund would be unfairly and materially disadvantaged or the effect of redemptions would otherwise jeopardize the tax status of the Master Fund or any Feeder Fund; or (vi) during any other such period when, in the discretion of the Directors, disposal of part or all of the Fund's assets, or determination of the Net Asset Value of a Segregated Portfolio or the Net Asset Value of the Master Fund, would not be reasonable or practicable or would be prejudicial to the investors in the Fund. The Company may suspend the valuation of the assets and liabilities and any distributions or redemptions of any amounts for any Segregated Portfolio, for any period during which the Master Fund has suspended the valuation of its assets and liabilities.

The Company will promptly notify Shareholders of any such suspension, and the termination of any such suspension, by means of a written notice. To the extent that a request for redemption is not revoked, the redemption shall be effected as of the first Redemption Date following the recommencement of redemptions.

Where possible, all reasonable steps will be taken to bring any period of suspension to an end as soon as possible.

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## **DESIGNATED INVESTMENTS**

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Generally, the Fund expects to invest in highly-liquid Financial Instruments. However, under certain extraordinary circumstances, including, but not limited to, the failure of one of the Fund's Brokers, a suspension of trading on one or more of the exchanges on which Financial Instruments held by the Fund are traded, or other unusual market circumstances, certain of the Fund's investments may become illiquid or cease to have a readily-ascertainable market value. Accordingly, the Investment Manager may designate some or all of the Financial Instruments of the Fund (together with any cash or other reserve established by the Investment Manager from time to time, in its sole discretion, for estimated expenses attributable to such Financial Instruments for the period ending on the anticipated date

of their Disposition (including, but not limited to, legal, audit and accounting expenses) and such other uses determined by the Investment Manager in its sole discretion) as “**Designated Investments**” if such investments, in the judgment of the Investment Manager, are or become, either individually or as a whole, illiquid and/or without a readily ascertainable market value.

Upon identifying a Designated Investment, a pro-rata portion of a Shareholder’s Shares (except other Designated Class Shares) will be converted or exchanged by way of a compulsory redemption and reissue to a new series of a separate class of Shares representing the Company’s interest in such Designated Investment (each, a “**Designated Class Share**”). Likewise, upon the Disposition of such Designated Investment, the associated Designated Class Shares held by such Shareholders will be converted to Shares of the original class and series from which they were initially converted by way of a compulsory redemption and reissue or otherwise directly redeemed, in each case, as further described below.

Shares issued after the designation of an investment as a Designated Investment are not entitled to participate in the gain, loss or income of such Designated Investment. Such Shares will, however, participate in the gains and losses attributable to any additional Designated Investments acquired or designated as such by the Investment Manager after such acquisition.

Designated Class Shares are not redeemable at the option of the holder thereof. The Company may, in its sole discretion, redeem Designated Class Shares in cash, in-kind or partially in-kind prior to the Disposition of the relevant Designated Investment (including through the in-kind distribution of equity interests in one or more special purpose vehicles created to hold such Designated Investment). In the event Designated Class Shares are redeemed for cash prior to the Disposition of the relevant Designated Investment, the Redemption Price for such Designated Class Shares shall be the Net Asset Value for such Designated Class Shares based on the valuation of the applicable Designated Investment determined by the Investment Manager pursuant to the valuation methodology described above under “Valuation of the Fund’s Assets,” and upon such redemption a pro rata portion of non-Designated Class Shares held by on-going Shareholders that hold the same Class of Designated Class Shares will be converted into Designated Class Shares by way of redemption and reissue without the requirement for any notice to be served on such Shareholders. This will increase the illiquidity of the remaining Shareholders’ investments by increasing their proportional participation in the associated Designated Investment. *See* “Certain Risk Factors – Designated Investments.”

The value of Designated Investments will be determined by the Investment Manager in its discretion as described above (*See* “Valuation of the Fund’s Assets”). Upon Disposition, Designated Investments will be valued at an amount equal to the net sale or Disposition proceeds received by the Fund in respect of such Designated Investments or, when the Disposition occurs as a result of a determination by the Investment Manager that the Designated Investment is no longer illiquid or has a readily ascertainable market value, the fair value thereof determined pursuant to the valuation methodology described under “Valuation of the Fund’s Assets.” Therefore, upon the redemption of a Shareholder’s Designated Class Shares, the Redemption Price of such Designated Class Shares may not reflect the full value that may be realizable over time by the Fund from the Designated Investments underlying such Designated Class Shares. No Management Fee or Performance Fee will be paid with respect to the applicable Designated Class Shares.

In the event that a Shareholder requests the redemption of all or some of its non-Designated Class Shares, the expenses of the Company and the Master Fund, as estimated by the Investment Manager, which would otherwise have been attributable to such Shareholder’s Designated Class Shares participating in a Designated Investment for the period ending on the anticipated date of Disposition of such Designated Investment, may, in the discretion of the Directors, be reserved from the redemption proceeds in respect of such Shareholder’s non-Designated Class Shares. To the extent that a reserve is created in respect of a Shareholder’s non-Designated Class Shares, the Company shall attribute thereto

and deduct therefrom the portion of the expenses attributable to the relevant Shareholder's Designated Class Shares as if such retained amount constituted share capital paid in respect of the corresponding non-Designated Class Shares. In the event that a Shareholder has received redemption proceeds in respect of all or such portion of its non-Designated Class Shares without the retention of any reserve as previously provided or any such reserve so retained has been exhausted, the portion of the expenses that would otherwise be charged to the non-Designated Class Shares held by such Shareholder generally will be accrued and upon the Disposition of the Designated Investment such amounts will be deducted and paid to the Investment Manager out of such Shareholder's portion of the redemption proceeds.

For so long as the Fund continues to own or hold a Designated Investment, a Shareholder owning Designated Class Shares participating in such Designated Investment (A) will continue to receive its allocable share of the gains, losses and expenses related thereto, (B) will remain a Shareholder in the Company to the extent of its Designated Class Shares held in respect of such Designated Investment, even if such Shareholder has otherwise fully redeemed from the Company, and (C) upon the Disposition of any Designated Investment, will be entitled to receive its allocable portion of the proceeds (if any) from the Disposition, less any expenses and any applicable fees relating to such Designated Investment. Except where a Shareholder has redeemed all of its non-Designated Class Shares prior to the Disposition of the relevant Designated Investment and unless otherwise determined by the Company, each Shareholder will receive its proceeds by way of the issue of additional non-Designated Class Shares out of the original class and series from which they were initially converted, without the requirement for any notice to be served on such Shareholders. If a Shareholder has redeemed all of its non-Designated Class Shares, then, unless otherwise determined by the Company, upon Disposition of the relevant Designated Investment such Shareholder's Designated Class Shares will be redeemed automatically, without notice, and the Redemption Price (being a pro rata portion of the proceeds from the Disposition, if any, less expenses and any applicable fees) will be paid in accordance with the redemption terms of the Shares of the applicable class and series from which such Designated Class Shares were initially converted. To the extent that any reserve maintained out of the proceeds of redemption of a Shareholder's non-Designated Class Shares is not applied in full in settlement of the relevant portion of expenses and fees attributable to the Shareholder's corresponding Designated Class Shares, such excess shall be paid to the Shareholder as soon as practicable following the Disposition of the relevant Designated Investment.

A "**Disposition**" includes a complete or partial disposition of a Designated Investment or an earlier determination by the Investment Manager in its sole discretion that the Designated Investment will no longer be deemed a Designated Investment. Unless the context otherwise requires, the term "Shares" includes Designated Class Shares.

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## TAX CONSIDERATIONS

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The tax discussions below are based on the facts set forth in this Memorandum as of the date hereof. However, these disclosures are for the purpose of providing general assistance only, are not intended to be a substitute for the advice of an investor's own tax and legal advisors, and should not be interpreted as legal or tax advice. **Investors must consult their own tax advisors and counsel with respect to their particular tax position before subscribing for Shares. No advance tax ruling has been sought in connection with the operations of the Company or the investment in Shares of the Company and there is no assurance that Cayman Islands or other tax authorities will agree with the statements described herein.**

## Cayman Islands

There are no income, withholding or capital gains taxes in effect in the Cayman Islands on the basis of the present legislation. As exempted companies, the Company and the Master Fund have applied for and expects to obtain undertakings from the Governor-in-Cabinet of the Cayman Islands that, in accordance with section 6 of the Tax Concessions Law (1999 Revision) of the Cayman Islands, for a period of twenty years from the date of such undertakings:

- (a) no law which subsequently enacted in the Cayman Islands that imposes any tax to be levied on profits, income, gains or appreciations will apply to the Company and the Master Fund or its operations; and
- (b) in addition, that no tax to be levied on profits, income, gains or appreciations or that is in the nature of estate duty or inheritance tax will be payable by the Company and the Master Fund:
  - (i) on or in respect of the shares, debentures or other obligations of the Company and the Master Fund; or
  - (ii) by way of the withholding in whole or in part of any relevant payment as defined in section 6(3) of the Tax Concessions Law (Revised).

Shareholders holding Shares will not be subject to any income, withholding or capital gains taxes in the Cayman Islands, with respect to their Shares and dividends received on those shares, nor will they be subject to any estate or inheritance taxes in the Cayman Islands.

An annual registration fee is payable by the Company and the Master Fund to the Cayman Islands Government which is calculated by reference to the nominal amount of their respective authorized capital. In addition, a mutual fund fee is payable by the Company on an annual basis.

## United States

**THIS DISCUSSION IS NOT INTENDED TO BE AND CANNOT BE USED FOR THE PURPOSE OF AVOIDING PENALTIES. THIS DISCUSSION WAS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF THE SHARES. INVESTORS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.**

**Taxation of the Company.** The Company is treated as a corporation for U.S. federal income tax purposes. The Manager generally intends to invest the Fund's assets so as not to generate income of a type that would cause the Company to be subject to U.S. corporate income and branch profits taxes on such income. The Company nevertheless expects to be allocated or otherwise earn income from time to time that is "effectively connected" with a U.S. trade or business. In that event, the Company will be required to file U.S. federal income tax returns, and will be subject to U.S. corporate income tax (at a rate of, generally, 35%) and possibly branch profits tax (at a rate of 30% on the Company's after-tax income) on such income. Any such taxes will reduce the Net Asset Value of the Shares.

The Company expects to earn U.S.-source income, such as dividends, that will be subject to 30% U.S. withholding tax. Such taxes are not recoverable by the Company and will reduce the Net Asset Value of the Shares.

Beginning in 2013, the Company will be subject to U.S. withholding tax of 30% on its allocable share of the Fund's capital gains from U.S. securities unless it complies with certain newly-enacted

reporting requirements, the details of which have yet to be determined and announced by the U.S. Internal Revenue Service. Complying with such requirements will require the Company to request and obtain certain information from all Shareholders and (if applicable) their beneficial owners. The Company intends to comply with these requirements. Any Shareholder that fails to provide the information and documentation requested will be subject to compulsory redemption and/or monetary charges which may include 30% (or greater) withholding on all payments (including redemption payments) made to such Shareholder depending on the withholding taxes imposed on the Company due to such Shareholder's non-compliance. See "Anti-Money Laundering Regulations; U.S. Tax Reporting" below.

The foregoing summary is based on the U.S. Internal Revenue Code, as amended, and existing laws, judicial decisions and administrative regulations, rulings and practice in the United States, all of which are subject to change.

### **Other Jurisdictions**

The Fund may be subject to foreign withholding and/or capital gains taxation on interest, dividends or capital gains derived from its investments in securities of non-U.S. issuers. Any such taxes will reduce the Net Asset Value of the Shares.

**Prospective subscribers should consult their professional advisors on the possible tax consequences of subscribing for, buying, holding, selling, transferring or redeeming Shares under the laws of their country of citizenship, residence or domicile.**

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## **MUTUAL FUND REGULATION**

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The Company falls within the definition of a "mutual fund" under Mutual Funds Law (Revised) of the Cayman Islands (the "**Law**") and accordingly is regulated under that Law. The Company, however, is not required to be licensed or to employ a licensed mutual fund administrator since the minimum interest purchasable by a prospective investor in the Company exceeds USD\$100,000 or its equivalent in any other currency. The Company has filed with the Cayman Islands Monetary Authority (the "**Monetary Authority**") a copy of this Memorandum together with certain details about this Memorandum as required by the Law. It has also paid the prescribed initial registration fee. These are matters required in connection with its initial registration under the Law. The Company has ongoing obligations under the Law to (i) file with the Monetary Authority prescribed details of any changes to this Memorandum, (ii) file annually with the Monetary Authority accounts audited by an approved auditor, (iii) to file annually with the Monetary Authority a fund annual return and (iv) pay a prescribed registration fee, which is currently approximately USD\$3,659.

As a regulated mutual fund in the Cayman Islands the Company is subject to the supervision of the Monetary Authority and the Monetary Authority may at any time instruct the Company to have its accounts audited and to submit them to the Monetary Authority within such time as the Monetary Authority specifies. In addition, the Monetary Authority may ask the Directors to give the Monetary Authority such information or such explanation in respect of the Company as the Monetary Authority may reasonably require to enable it to carry out its duty under the Law.

The Monetary Authority, however, accepts no responsibility for the financial soundness of the Company nor the correctness of any statements made or opinions expressed herein. The Company is not subject to supervision in respect of its investment activities or the constitution of the Company's portfolio by the Monetary Authority or any other governmental authority in the Cayman Islands, although the Monetary Authority does have the power to investigate the activities of the Company in certain

circumstances. Neither the Monetary Authority nor any other governmental authority in the Cayman Islands has passed judgment upon or approved the terms or merits of this document. There is no investment compensation scheme available to investors in the Cayman Islands.

The Directors must give the Monetary Authority access to or provide at any reasonable time all records relating to the Company and the Monetary Authority may copy or take an extract of a record it is given access to. Failure to comply with these requests by the Monetary Authority may result in substantial fines being imposed on the Directors and may result in the Monetary Authority applying to the court to have the Company wound up.

The Monetary Authority is prohibited by the Law from disclosing any information relating to the affairs of a mutual fund other than disclosure required for the effective regulation of a mutual fund or when required to by law or by the court.

The Monetary Authority may take certain actions if it is satisfied that a regulated mutual fund (i) is or is likely to become unable to meet its obligations as they fall due, (ii) is carrying on or is attempting to carry on business or is winding up its business voluntarily in a manner that is prejudicial to its investors or creditors, (iii) has not been carried on in a fit and proper manner, or (iv) has a person holding a position as a director, manager or other officer who is not a fit and proper person to hold their respective position. The powers of the Monetary Authority include inter alia the power to require the substitution of Directors, to appoint a person to advise the Company on the proper conduct of its affairs or to appoint a person to assume control of the affairs of the Company. There are other remedies available to the Monetary Authority including the ability to apply to the court for approval of other actions.

The Master Fund is exempt from the registration requirements of the Law on the basis that its equity interests are held by fifteen or fewer investors, a majority of whom have power to appoint or remove the directors of the Master Fund. As such, the Master Fund is not required to file registration particulars or audited accounts with the Monetary Authority or pay any registration fees pursuant to the Law.

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## ANTI-MONEY LAUNDERING REGULATIONS; U.S. TAX REPORTING

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The Company and/or the Administrator has statutory obligations, under Cayman Islands law, to comply with regulations aimed at the prevention of money laundering. Subscribers will be required to make certain representations and warranties in the Subscription Documents in connection with these laws.

In order to comply with regulations aimed at the prevention of money laundering, the Company (or the Administrator on the Company's behalf) will require verification of identity from all Shareholders and ascertainment of the source of each Shareholder's funds to the extent required under the Money Laundering Regulations (Revised) of the Cayman Islands, as amended (the "**Regulations**"). Depending on the circumstances of each subscription, a detailed verification might not be required if:

- (i) the subscriber is a licensed entity or financial institution regulated in a country recognised as having an adequate anti-money laundering regime;
- (ii) the subscriber is an entity or financial institution listed on the Cayman Islands or other approved stock exchange; or
- (iii) the subscription funds have been paid from an account held in the name of the subscriber from a financial institution based in a country recognised as having an adequate anti-money laundering regime.

The Company and the Administrator reserve the right to request such information concerning each Shareholder and, if applicable, its beneficial owners, together with properly completed and signed documentation, as may be necessary for the Company to verify the identity of a Shareholder and ascertain the source of the Shareholder's funds and to comply with U.S. tax reporting requirements (and thereby avoid becoming subject to broad-based U.S. withholding tax rules). The Company (and the Administrator for itself and on behalf of the Company) also reserves the right to request such identification evidence, information and documentation in respect of a Transferee (as defined below) of Shares and the source of the Transferee's funds.

In the event of delay or failure by the Shareholder, prospective investor or Transferee to produce any information or documentation required for verification or U.S. tax reporting purposes, the Company may refuse to accept the application or (as the case may be) to register the relevant Transfer and (in the case of a subscription of Shares) any funds received will be returned without interest to the account from which the monies were originally debited.

The Company (and the Administrator for itself and on behalf of the Company) also reserves the right to refuse to make any withdrawal, payment, or distribution to a Shareholder otherwise than to the account from which the corresponding subscription funds were paid if any of the Directors or the Administrator suspects or is advised that the payment of any redemption or distribution proceeds to such Shareholder could abet or result in money laundering, a violation of any applicable anti-money laundering law or regulation or other unlawful activity or the Company (or the Administrator on its behalf) considers such procedure necessary or appropriate to ensure compliance by the Company or the Administrator with anti-money laundering and/or U.S. tax reporting laws or regulations. If any person resident in the Cayman Islands (including the Company, the Directors and the Administrator) knows or suspects, or has reasonable grounds for knowing or suspecting, that another person is engaged in criminal conduct or is involved with terrorism or terrorist property, and the information for that knowledge or suspicion came to their attention in the course of business in the regulated sector, the person will be required to report such knowledge or suspicion to (i) the Financial Reporting Authority of the Cayman Islands, pursuant to the Proceeds of Crime Law, 2008, of the Cayman Islands, if the disclosure relates to criminal conduct or money laundering, or (ii) to a police officer of the rank of constable or higher, pursuant to the Terrorism Law, 2003, of the Cayman Islands, if the disclosure relates to involvement with terrorism or terrorist financing and property. Such a report shall not be treated as a breach of confidence or of any restriction upon the disclosure of information imposed by any enactment or otherwise.

By subscribing, Shareholders consent to the disclosure by the Company and the Administrator of any information about them to regulators upon request in order to comply with applicable U.S. tax reporting requirements and/or in connection with money laundering and similar matters both in the Cayman Islands and in other jurisdictions.

The Company and/or the Administrator may develop additional procedures to comply with applicable anti-money laundering laws and regulations.

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## **DOCUMENTS AVAILABLE FOR INSPECTION**

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Copies of the following documents are available for inspection during normal business hours on any weekday at the registered office of the Fund:

- (i) the memorandum and articles of association of the Company and the Master Fund;

- (ii) the material contracts referred to herein; and
- (iii) the Companies Law (Revised) of the Cayman Islands and the Mutual Funds Law (Revised) of the Cayman Islands.

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## SUMMARY OF THE COMPANY'S DOCUMENTS

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### **The Memorandum and Articles of Association**

The following description is a summary only of certain principal provisions of the Articles, copies of which are available from the Company and incorporated herein by this reference.

**Objects.** The Company's objects are set out in Clause 3 of its memorandum of association and are unrestricted.

**Capital Structure of the Company.** The Company has an authorized share capital of CAD\$50,000 comprised of 4,990,000 participating, non-voting and redeemable shares in its capital, par value CAD\$0.01 per share (the "**Shares**") and 100 non-participating, voting and non-redeemable shares in its capital, par value CAD\$1.00 per share (the "**Management Shares**"), and is authorized to issue the Shares in one or more class or classes, as the Company determines in its sole discretion. The Shares may be subscribed for at an issue price of CAD\$100 per Share. There is no minimum aggregate capital requirement for the Company to continue its operations.

The Investment Manager holds the Management Shares, and except as specified below, the Management Shares possess the exclusive voting rights of the Company and will not participate in the Company's investments. Shares generally shall not have the right to vote at general or class meetings of the Company, provided, however, that in the event of any proposed variation or abrogation of rights affecting Shares as a class, each holder of Shares of such class will receive notice of the proposed change and, as the Directors in their sole discretion determine to be in the best interests of the Company as a whole, either or both of (i) an opportunity to redeem its Shares prior to the change taking effect, or (ii) an entitlement to vote at a general meeting of Shareholders convened to consider the proposed variation or abrogation.

Each Share will have equal rights and privileges with every other Share of the same class, but Shares of different classes may vary in terms of the applicable Performance Fee, Management Fee, redemption rights and other terms. Shares, when issued, will be fully paid and non-assessable and will have no pre-emptive, conversion or exchange rights. All Shares will be in registered form and recorded on the register of members of the Company. Share certificates may be issued upon request, under the circumstances set forth in the Articles.

The Directors may allot, issue, grant options or warrants over, or otherwise dispose of, Shares in separate classes and/or series with different terms, preferences, privileges or special rights including, without limitation, with respect to investment strategy and/or policy, participation in assets, profits and losses of the Company, voting, fees charged (including management, performance and incentive fees), redemption privileges, allocation of costs and expenses (including, without limitation, the costs and expenses incurred in any hedging activities and any profits and losses arising therefrom) as the Directors may, in their absolute discretion, determine. The special rights conferred upon the holders of any Shares or class of Shares issued with preferred or special rights shall not (unless otherwise expressly provided by the conditions of issue of such Shares) be deemed to be varied by the creation, allotment or issue of further Shares ranking *pari passu* therewith or subsequent thereto.

In the event of a liquidation or dissolution of the Company, the Articles provide that the liquidator shall apply the assets of each Segregated Portfolio in satisfaction of the claims of that Segregated Portfolio's creditors and unless agreed with a particular creditor otherwise, the general assets of the Company in satisfaction of the general creditors of the Company in such manner as the liquidator thinks fit. Further, if the Company is wound up, assets of a particular Segregated Portfolio attributable to the Shares of a particular class and series within that class that are available for distribution amongst the Shareholders shall be distributed to Shareholders *pro rata* to the number of Shares of that series within that class held by them.

The Company may, from time to time, designate certain classes of Shares as non-voting shares in such circumstances as the Company may determine, including, without limitation, in order to accommodate Shares being held by persons that are Bank Holding Companies ("**Bank Holding Company Persons**") within the meaning of the U.S. Bank Holding Company Act of 1956, as amended ("**BHCA**"), in order to avoid being deemed an affiliate of such Bank Holding Company Person for certain purposes under the BHCA.

**Segregated Portfolios.** The Directors will establish a separate Segregated Portfolio with its own distinct name or designation for certain classes of Shares, and the following provisions shall apply thereto:

- (i) the proceeds from the allotment and issue of each such class of Shares shall be applied in the books of the Company to the relevant Segregated Portfolio and the assets, profits, gains, income and liabilities, losses and expenses attributable thereto shall be applied in the books of the Company to such Segregated Portfolio and assets required to satisfy any redemption of Shares of any such class or paid as dividends, shall be accounted for out of the relevant Segregated Portfolio;
- (ii) subject to the consent of the auditors, where any subsequent event takes place that may affect the previous allocation of assets or liabilities to a Segregated Portfolio, the Directors may make such adjustment to the allocation as they deem appropriate to ensure any gain or loss of the Company and all liabilities and expenses are attributable to the Segregated Portfolios properly and fairly;
- (iii) where any asset is derived from another asset (whether cash or otherwise) such derivative asset shall be applied in the books of the Company to the same Segregated Portfolio as the asset from which it was derived. On each revaluation of an asset, the increase or diminution in value shall be applied to the relevant Segregated Portfolio;
- (iv) the assets of each Segregated Portfolio shall be kept separate and separately identifiable from assets attributable to other Segregated Portfolios and from the Company's general assets; and
- (v) where any costs or expenses or any liabilities incurred by the Company are specifically attributable to a particular Segregated Portfolio, they shall be borne only by such Segregated Portfolio, and where they are not specifically attributable to a Segregated Portfolio, such costs, expenses, or liabilities shall be allocated among the Segregated Portfolios on an equitable basis as determined by the Directors in their discretion.

**Allotment of Shares.** The Directors are authorized to allot and issue Shares, or delegate to others the authority to allot and issue Shares, at any time and upon such terms and conditions as the Directors may determine. Unless the Directors otherwise determine, the Company may issue only registered Shares. Registered Share ownership is recorded by entry into the Company's register of members.

**Amendment to the Articles.** Except in respect of any proposed variation or abrogation of rights affecting the Shares as a class, the Management Shares possess the exclusive voting rights of the Company. As such, the Investment Manager, as the holder of the Management Shares, may amend the Articles without obtaining the consent of, or providing notice to, other Shareholders, unless such amendment would constitute a variation or abrogation of rights affecting Shares as a class.

**Transfers of Shares.** A Shareholder may not directly or indirectly sell, transfer, pledge, hypothecate, exchange, assign, otherwise dispose of, or permit the creation of any derivative with respect to, any portion of its Share(s) (each, a “**Transfer**”), and its intended transferee or assignee (each, a “**Transferee**”) will not be admitted as a Shareholder of the Company, in each case, without the prior written consent of the Company (which may be granted or withheld in its sole discretion), compliance with the transfer provisions of the Articles, and completion of transfer documentation in form and substance satisfactory to the Company. A Shareholder will bear all costs (including attorneys’ and accountants’ fees) related to any Transfer of its Share(s) permitted hereby, and all transfer documentation must be completed and returned to the Company at least ten (10) Business Days prior to the requested transfer date.

**Rights of Shareholders.** All Shareholders are entitled to the benefit of, are bound by, and are deemed to have notice of the provisions of, the Articles.

Under the terms of the Articles, the liability of the Shareholders is limited to any amount unpaid on their Shares. As the Shares can only be issued if they are fully paid, the Shareholders will not be liable for any debt, obligation or default of the Company beyond their interest in the Company.

The Articles have been drafted in broad and flexible terms to allow the Directors the authority to, in their discretion, determine a number of issues, including the period of notice to be given for redemptions and whether or not to charge subscription or redemption fees, generally or in any particular case. In approving the offering of Shares on the terms set out in this Memorandum, the Directors have exercised a number of these discretions in accordance with the Articles.

Shares will be registered in the name of the Shareholder and held in book form and no share certificates will be issued.

**Dividends.** To the extent that any distributions may be paid, they will be paid at the sole discretion of the Company in accordance with any applicable laws.

**Directors.** The Company currently has five (5) Directors. Each Director shall hold office for the term, if any, of his or her appointment or until a successor takes office or until such Director’s earlier death, resignation or removal. The Directors may, by a resolution of Directors, appoint additional or replacement Directors, and fix the emoluments of Directors with respect to services to be rendered in any capacity to the Company. Notice of any appointment of an additional or replacement Director will be given to Shareholders.

**Borrowing Powers.** The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and may issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or any third party, except as may be restricted at law or otherwise by regulation.

**Indemnification.** Neither the Directors, the Investment Manager, nor any of their respective affiliates, members, officers, employees, shareholders, or other applicable representatives (each an “**Indemnified Party**”) will be liable to the Company or any Shareholder, their respective members, officers, directors, employees, shareholders, agents or other applicable representatives, or any of their

respective successors, assignees or transferees, or to third parties for (i) any act or omission performed or omitted by them on behalf of the Company and in a manner reasonably believed by them to be within the scope of authority granted to them under the Articles or for any costs, damages or liabilities arising therefrom or by law, including any losses suffered due to the action or inaction (whether through negligence, dishonesty or otherwise) of any person retained by the Company, unless that act or omission is found by a court of competent jurisdiction upon entry of a final judgment to have been the result of fraud, gross negligence or willful misconduct.

In addition, the Company will indemnify and hold harmless, to the extent of the Company's assets, each Indemnified Party against any and all claims, losses, damages or expenses, arising in connection with any of its activities on behalf of the Company if the Indemnified Party in good faith acted or failed to act in a manner it reasonably believed to be in, or not opposed to, the best interest of the Company, as determined by such legal counsel as agreed to by the parties, and such Indemnified Party is not adjudged to be liable for gross negligence, fraud or willful misconduct. The Directors may, if so determined in their sole discretion, advance funds to the Indemnified Party for legal and other expenses incurred by such Indemnified Party in connection with any of the activities on behalf of the Company or in furtherance of its interest; provided, however that such advances shall be repaid if it shall be ultimately determined that the Indemnified Party was not entitled to indemnification pursuant to the Articles.

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## GENERAL INFORMATION

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- (i) The audited annual financial statements of the Company and the Master Fund will be sent to the Shareholders within six months of the end of the period to which they relate. Shareholders also may receive unaudited Net Asset Value statements of the Company on a periodic basis.
- (ii) Neither the Directors, nor any connected person, the existence of which is known to or could with reasonable diligence be ascertained by that Director, whether or not through another party, have any interest in the Shares of the Company, nor have they been granted any options in respect of the Shares of the Company.
- (iii) None of the Directors has any interest, direct or indirect, in any transactions which are unusual in their nature or significant to the business of the Company during the current or immediately preceding financial year.
- (iv) None of the Directors has a service contract, existing or proposed, with the Company.
- (v) The Directors may vote on any transaction in which they have a material interest if they first disclose the nature of their interest to the Company.
- (vi) The Directors may fix the emoluments of the Directors with respect to services to be rendered in any capacity to the Fund.
- (vii) The Articles contain no provision requiring the Directors to retire on attaining a particular age.
- (viii) None of the Shares are under option or agreed, conditionally or unconditionally, to be put under option.

- (ix) There are no legal, arbitration or other proceedings pending or threatened against the Fund, nor have there been since its incorporation.
- (x) As of the date of this Memorandum, neither the Company nor the Master Fund have any loan capital (including term loans) outstanding or created but unissued, and no outstanding mortgages, charges, debentures or other borrowings, including bank overdrafts and liabilities under acceptances or acceptance credits, hire purchase or finance lease commitments, guarantees or other contingent liabilities.
- (xi) As of the date of this Memorandum, the Investment Manager does not have any interest in the issued Shares.

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### **ADDITIONAL INFORMATION**

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This Memorandum is intended solely to provide qualified offerees with an introduction to this offering and to the Company and its proposed business. The Company will make available to any offeree any information deemed necessary or appropriate by such offeree to the extent such information can be obtained without unreasonable effort or expense. Information concerning this offering may be obtained by writing or telephoning to the Investment Manager or the Administrator at the address or telephone number shown in the Directory.