

## AGENCY AGREEMENT

February 14, 2012

Marret High Yield Strategies Fund  
200 King Street West, Suite 1902  
Toronto, ON M5H 3T4

- and -

Marret Asset Management Inc.  
200 King Street West, Suite 1902  
Toronto, ON M5H 3T4

Dear Sirs/Mesdames:

**Re: Public Offering of Marret High Yield Strategies Fund**

The undersigned, RBC Dominion Securities Inc. (“**RBC**”), CIBC World Markets Inc., GMP Securities L.P., TD Securities Inc., BMO Nesbitt Burns Inc., National Bank Financial Inc., Scotia Capital Inc., Canaccord Genuity Corp., Macquarie Private Wealth Inc. and Raymond James Ltd. (collectively, the “**Agents**” and each individually, an “**Agent**”) understand that Marret High Yield Strategies Fund (the “**Fund**”) proposes to complete an offering (the “**Offering**”) of a maximum of 19,800,000 Units of the Fund (the “**Offered Units**”) at a price of \$10.65 per Offered Unit. The Offered Units shall have the material attributes described in the Final Prospectus (as defined below).

In addition, the Fund proposes to grant to the Agents an over-allotment option (the “**Over-Allotment Option**”), to offer for sale to the public that number of Units which may aggregate to up to 15% of the total number of Offered Units issued at Closing (as defined below) (the “**Additional Units**”) for the purpose of covering over-allotments upon the terms and conditions set forth herein. The Over-Allotment Option shall be exercisable, in whole or in part, at any time, and from time to time, during the period of 30 days following the Closing on written notice by RBC on behalf of the Agents to the Fund not later than two Business Days prior to an Over-Allotment Option Closing Date (as defined below), specifying the number of Additional Units to be purchased and the date for delivery of the purchase price for the Additional Units. Pursuant to such notice, the Agents shall purchase and the Fund shall sell the number of Additional Units indicated in such notice, in accordance with the provisions of Section 12. The Additional Units shall have attributes identical to the Offered Units.

The Agents propose to offer the Offered Units and the Additional Units for sale, as agents of the Fund, on a best efforts basis, in the manner contemplated by this Agreement.

## ARTICLE 1 DEFINITIONS

In this Agreement,

“**Additional Units**” has the meaning given to it in the second paragraph of this Agreement;

“**affiliate**”, “**material change**”, “**material fact**” and “**misrepresentation**” have the respective meanings given to them in the Securities Act (Ontario);

“**Agency Fee**” has the meaning given to it in Section 10;

“**Agent**” and “**Agents**” have the meanings given to them in the first paragraph of this Agreement;

“**Agreement**” means this agreement as it may be amended, modified or supplemented from time to time in accordance with its terms;

“**Best of Marret Knowledge**” means to the knowledge of the executive officers of Marret after due inquiry;

“**Business Day**” means any day except Saturday, Sunday, a statutory holiday in Toronto, Ontario or any other day on which the TSX is not open for trading;

“**Canadian Securities Laws**” means all applicable securities laws in each of the Qualifying Jurisdictions and the respective regulations and rules under such laws together with applicable published policy statements, notices and orders of the securities regulatory authorities in the Qualifying Jurisdictions;

“**CDS**” means CDS Clearing and Depository Services Limited;

“**Claim**” has the meaning given to it in Section 15;

“**Closing**” means the completion of the issue and sale by the Fund of the Offered Units pursuant to this Agreement;

“**Closing Date**” means February 21, 2012 or such other date or dates as the Fund and the Agents may consent to, but in any event not later than 90 days after a final receipt for the Final Prospectus is issued or as may be changed pursuant to Section 6;

“**Closing Time**” means 8:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Fund and the Agents may agree;

“**Declaration of Trust**” means the declaration of trust governing the Fund dated as of May 28, 2009, as amended and restated as of October 7, 2010, and as it may be further amended from time to time;

“**Distribution**” means “distribution” or “distribution to the public” as those terms are defined under Canadian Securities Laws;

“**Distribution Period**” means the period commencing on the date hereof and ending on the date of the completion of the Distribution of the Offered Units and the Additional Units;

“**Final Prospectus**” means the (final) short form prospectus of the Fund dated February 14, 2012 (in both the English and French languages unless the context indicates otherwise), including all documents incorporated by reference therein;

“**Financial Information**” has the meaning given to it in Section 3;

“**Indemnified Party**” has the meaning given to it in Section 15;

“**Marret**” means Marret Asset Management Inc.;

“**Material Adverse Effect**” means a material adverse effect on the business, affairs, properties and liabilities (contingent or otherwise), operating results, capital or prospects of the Fund or Marret, as applicable, and includes any fact, event, or change that would result in the Preliminary Prospectus, the Final Prospectus and any Prospectus Amendment containing a misrepresentation;

“**Material Contracts**” means each of the agreements referred to in the Prospectus;

“**misrepresentation**” has the meaning given to it under Canadian Securities Laws;

“**Notice**” has the meaning given to it in Section 30;

“**Offered Units**” has the meaning given to it in the first paragraph of this Agreement;

“**Offering**” has the meaning given to it in the first paragraph of this Agreement;

“**OSC**” means the Ontario Securities Commission;

“**Over-Allotment Option**” has the meaning given to it in the second paragraph of this Agreement;

“**Over-Allotment Option Closing Date**” means the date, which shall be a Business Day, as set out in the Over-Allotment Option Notice which shall not be earlier than two Business Days following the delivery of the Over-Allotment Option Notice or such other date as the Fund and the Agents may agree upon in writing;

“**Over-Allotment Option Closing Time**” means 8:00 a.m. (Toronto time) on the Over-Allotment Option Closing Date;

“**Over-Allotment Option Expiry Date**” means the date which is 30 days following the Closing Date;

**“Over-Allotment Option Notice”** has the meaning given to it in Section 12;

**“Passport System”** means the passport system procedures provided for under National Policy 11-202 – *Process for Prospectus Reviews in Multiple Jurisdictions*;

**“Preliminary Prospectus”** means the preliminary short form prospectus of the Fund dated February 3, 2012 (in both the English and French languages unless the context indicates otherwise), including all documents incorporated by reference therein;

**“Prospectus”** means, collectively, the Preliminary Prospectus and the Final Prospectus;

**“Prospectus Amendment”** means any amendment to the Final Prospectus (in both the English and French languages unless the context indicates otherwise);

**“Qualifying Jurisdictions”** means all of the provinces of Canada and the Yukon Territory;

**“Sub Agent”** has the meaning given to it in Section 1;

**“Tax Act”** means the *Income Tax Act* (Canada), as now or hereafter amended, or successor statutes, and includes regulations promulgated thereunder;

**“Trust”** means Marret HYS Trust, a closed-end investment fund established under the laws of the Province of Ontario;

**“Trust Declaration of Trust”** means the declaration of trust governing the trust dated as of May 28, 2009, as it may be amended from time to time;

**“Trustee”** means Equity Financial Trust Company, in its capacity as trustee of the Fund;

**“TSX”** means the Toronto Stock Exchange;

**“Unitholder”** means a holder of Units; and

**“Units”** means redeemable, transferable units of the Fund.

Unless otherwise expressly provided in this Agreement, words importing only the singular number include the plural and vice versa and words importing gender include all genders. References to “paragraph” and “Section” (unless otherwise indicated) are to the appropriate paragraphs and sections of this Agreement.

Where any reference is made in this Agreement to any act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, or a suit or proceeding to be taken by or against the Fund, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, or a suit or proceeding to be taken by or against the Trustee as trustee of the Fund or by Marret as manager of the Fund.

## TERMS AND CONDITIONS

### 1. Appointment of Agents

The Fund hereby appoints the Agents as the Fund's sole and exclusive agents to effect the sale of the Offered Units and the Additional Units to purchasers on a best efforts basis on the terms and conditions hereinafter provided. Each of the Agents agrees to act as the Fund's agent for such purpose and to use its best efforts to effect the sale of the Offered Units and the Additional Units on the Fund's behalf, subject to the terms and conditions hereinafter provided. It is understood that the Agents shall act as agents only and shall not at any time be obligated to purchase or to arrange for the purchase of any Offered Units.

The Agents may form a sub-agency group including other qualified investment dealers (the "**Sub Agents**"), and may determine the fee payable to the members of such group, which fee will be paid by the Agents out of the Agency Fee. Each of the Agents will effect sales of the Offered Units and the Additional Units only in those jurisdictions where they may be lawfully offered for sale or sold and upon the terms and conditions set forth in the Final Prospectus and this Agreement. The Agents will not solicit offers to purchase or sell the Offered Units and the Additional Units so as to require registration thereof or the filing of a Final Prospectus with respect thereto under the laws of any jurisdiction other than the Qualifying Jurisdictions.

Each of the Agents understands that the Offered Units and the Additional Units are not being registered under the United States *Securities Act of 1933*, as amended, and represents that it has not offered or sold, and agrees that it will not offer, sell or deliver at any time, directly or indirectly, in the United States (which term, as used herein, includes its territories or possessions) or to or for the account of any person who it knows or has reason to believe is a national or resident thereof, any of the Offered Units or the Additional Units. Each of the Agents further agrees that it will require any dealer who purchases from it any of the Offered Units or the Additional Units (whether as a Sub Agent or otherwise) to comply with this requirement.

The Agents agree to sell the Offered Units and the Additional Units only in the Qualifying Jurisdictions and in accordance with, and in a manner permitted by, the laws of each jurisdiction in which such Units are sold and to require each Sub Agent to agree with the Agents to so sell such Units. The Agents further agree, subject to receipt of the same from the Fund, to send a copy of the Final Prospectus to all purchasers of the Units and all Prospectus Amendments to all persons to whom copies of the Final Prospectus are sent and to require each Sub Agent to agree with the Agents to distribute the same documents in the manner stipulated.

For the purposes of this Section, the Agents shall be entitled to assume that the Offered Units and the Additional Units are qualified for Distribution in any Qualifying Jurisdiction where a receipt or similar document (including the deemed receipt from the other Qualifying Jurisdictions pursuant to the Passport System) for the Final Prospectus shall have been obtained from the applicable regulatory authority following the filing of the Final Prospectus.

The obligations of the Agents set out herein are several and not joint. An Agent will not be liable hereunder with respect to any act, omission or conduct of any other Agent under this Agreement.

The Agents will, after the Closing Date, use their best efforts to promptly complete the distribution of the Offered Units, and if applicable, the Additional Units and the Agents will notify the Fund and Marret if and when, in their opinion, the distribution of Offered Units and, if applicable, Additional Units has been completed and shall, as soon as is practicable thereafter (and in any event within 30 days following completion of the Distribution), provide the Fund and Marret with a breakdown of the number of Offered Units and, if applicable, Additional Units distributed in each of the Qualifying Jurisdictions where such breakdown is required for the purpose of calculating fees payable to securities commissions.

The Fund shall co-operate in all respects with the Agents to allow and assist the Agents to participate fully in the preparation of the Final Prospectus and any Prospectus Amendment (as further described in Section 7) and shall at all times allow the Agents and their counsel to conduct all “due diligence” investigations and examinations which the Agents may reasonably require in that connection. It shall be a condition precedent to the Agent’s execution of any certificate relating to the Offering that the Agents be satisfied, acting reasonably, as to the form and content of such document.

## **2. Compliance with Canadian Securities Laws**

Each of the Agents shall, when effecting sales of the Offered Units and the Additional Units comply with the provisions of Canadian Securities Laws and the terms and conditions set forth in this Agreement. The Fund shall fulfil and comply, to the satisfaction of the Agents, with the Canadian Securities Laws required to be fulfilled or complied with by the Fund to qualify the Offered Units and the Additional Units for Distribution in the Qualifying Jurisdictions through the Agents or any Sub Agents who comply with applicable Canadian Securities Laws. All legal requirements to enable the Distribution of the Offered Units and the Additional Units shall be fulfilled as soon as practicable. Without limiting the generality of the foregoing, the Fund shall, as soon as possible after any regulatory deficiencies have been satisfied with respect to the Preliminary Prospectus on a basis acceptable to the Agents, acting reasonably, sign, as required by Canadian Securities Laws, and file the Final Prospectus in each of the Qualifying Jurisdictions and use reasonable efforts to obtain and deliver to the Agents and to the Agents’ counsel a final receipt issued by the OSC (including the deemed receipt from the other Qualifying Jurisdictions pursuant to the Passport System) (the “**Final Receipt**”) for the Final Prospectus with each of the securities regulatory authorities of the Qualifying Jurisdictions on or prior to 5:00 p.m. (Toronto time) on February 16, 2012 (or such later date as may be agreed to in writing by the Fund and RBC on behalf of the Agents).

## **3. Deliveries on Filing**

Concurrently with the execution and delivery of this Agreement or as soon as possible thereafter, the Fund shall deliver to each of the Agents:

- (a) a copy of the Final Prospectus in the English language signed;
- (b) a copy of the Final Prospectus in the French language signed;
- (c) a copy of any other document required to be filed by the Fund under the laws of each of the Qualifying Jurisdictions in compliance with the Passport System and Canadian Securities Laws;
- (d) legal opinions dated the date of the Preliminary Prospectus and the Final Prospectus, in form and substance satisfactory to the Agents, addressed to the Agents, the Fund, counsel to the Agents and counsel to the Fund, from counsel to the Fund, Stikeman Elliott LLP, to the effect that the French language version of each of the Preliminary Prospectus and the Final Prospectus, except for (i) the annual audited financial statements of the Fund for the fiscal year ended December 31, 2010, together with the accompanying report of the auditors dated March 28, 2011, (ii) the unaudited financial statements of the fund for the six months ended June 30, 2011, (iii) the management report of fund performance of the Fund for the fiscal year ended December 31, 2010, and (iv) the interim management report of fund performance of the Fund for the six months ended June 30, 2011 (collectively, the “**Financial Information**”), as to which no opinion need be expressed by such counsel, is, in all material respects, a complete and proper translation of the English language version thereof;
- (e) opinions dated the date of the Preliminary Prospectus and the Final Prospectus, in form and substance satisfactory to the Agents, addressed to the Agents, the Fund and their respective counsel, from the auditors of the Fund, PricewaterhouseCoopers LLP, to the effect that the French language version of the Financial Information contained in the Preliminary Prospectus and the Final Prospectus, respectively is, in all material respects, a complete and proper translation of the English language version thereof;
- (f) a comfort letter dated the date of the Final Prospectus, including specified procedures, in form and substance satisfactory to the Agents, addressed to the Agents and the Fund, from the auditors of the Fund, PricewaterhouseCoopers LLP, and based on a review completed not more than two Business Days prior to the date of the letter, with respect to certain financial and accounting information relating to the Fund in the Final Prospectus which letter shall be in addition to the auditors’ report contained in the Final Prospectus and any auditors’ comfort letter addressed to the securities regulatory authorities in the Qualifying Jurisdictions; and
- (g) a copy of the letter from the TSX advising the Fund that approval to the conditional listing of the Offered Units and the Additional Units has

been granted by the TSX, subject to the satisfaction of certain usual conditions set out therein.

#### **4. Representations as to Prospectus and Prospectus Amendments**

Delivery of the Prospectus and any Prospectus Amendment to the Agents shall constitute a joint and several representation and warranty to the Agents by Marret and the Fund that, as at the date of such documents, as the case may be, (i) all information and statements (except information and statements relating solely to the Agents and/or provided by the Agents) contained therein are true and correct in all material respects and contain no misrepresentation and constitute full, true and plain disclosure of all material facts relating to the Fund, the Offered Units and the Additional Units; (ii) no material fact or information has been omitted from such disclosure (except facts or information relating solely to the Agents and provided by the Agents) which is required to be stated in such disclosure or is necessary to make the information contained in such disclosure not misleading in light of the circumstances under which it was made; and (iii) such documents comply in all material respects with the requirements of applicable Canadian Securities Laws. Such deliveries shall also constitute the Fund's consent to the use by the Agents and any Sub Agent of such documents in connection with the Distribution of the Offered Units and the Additional Units in the Qualifying Jurisdictions in compliance with this Agreement and Canadian Securities Laws.

#### **5. Commercial Copies**

The Fund shall cause commercial copies of the Final Prospectus in the English and French languages to be delivered to the Agents without charge, in such numbers and in such cities as the Agents may reasonably request by oral instructions to the printer of such documents given forthwith after a receipt has been issued therefor. Such delivery shall be effected as soon as possible and, in any event, with respect to the Final Prospectus on or before the date which is two Business Days after the issuance of a Final Receipt. The Fund shall similarly cause to be delivered commercial copies of any Prospectus Amendment. The commercial copies of such documents shall be identical in content to the electronically transmitted versions thereof filed with Canadian securities regulatory authorities pursuant to the System for Electronic Document Analysis and Retrieval.

#### **6. Change of Closing Date**

Subject to Section 14, if a material change or a change in a material fact such as is contemplated by Section 7 occurs prior to the Closing Date, the Closing Date shall be, unless the Fund and the Agents otherwise agree in writing, and provided that all applicable periods during which all purchasers may withdraw subscriptions under Canadian Securities Laws have expired, the sixth Business Day following the later of:

- (a) the date on which all applicable filings or other requirements of the Canadian Securities Laws with respect to such material change or change in a material fact have been complied with in all applicable Qualifying Jurisdictions and any appropriate receipts obtained for such



filings and notice of such filings from the Fund or its counsel have been received by the Agents; and

- (b) the date upon which the commercial copies of any Prospectus or any Prospectus Amendments have been delivered in accordance with Section 5.

## **7. Material Change During Distribution**

During the Distribution Period, Marret shall promptly notify the Agents in writing of:

- (a) any material change (actual, anticipated, contemplated, proposed or threatened, financial or otherwise) in the business, financial condition, affairs, operations, assets, liabilities or obligations (contingent or otherwise) or capital of the Fund or Marret;
- (b) any material fact that has arisen or has been discovered which was not stated in the Final Prospectus or a Prospectus Amendment and which would have been required to have been stated in the Final Prospectus or Prospectus Amendment had the fact arisen or been discovered on, or prior to, the date of the Final Prospectus or Prospectus Amendment; and
- (c) any change in any fact or matter covered by a statement contained in the Prospectus or a Prospectus Amendment,

which change or fact is, or may be, of such a nature as to render the Prospectus or any Prospectus Amendment misleading or untrue in any material respect or would result in any of such documents containing a misrepresentation, as defined under Canadian Securities Laws, or which would result in any of such documents not complying in any material respect with any of the Canadian Securities Laws or which change would reasonably be expected to have a significant effect on the market price of the Units or value of the Offered Units.

The Fund shall in good faith discuss with the Agents any change in circumstances (actual or proposed within the knowledge of the Fund) which is of such a nature as to give rise to a reasonable question as to whether notice should be given to the Agents pursuant to this Section 7 and, in any event, prior to making any filing and, where it has been determined to be appropriate, promptly and in any event, within the applicable statutory time limitation, comply with applicable filing and other requirements under the Canadian Securities Laws; provided that the Fund and Marret shall allow the Agents and their counsel to participate fully in the preparation of any Prospectus Amendment and to conduct all due diligence investigations that the Agents may reasonably require to fulfill their obligations as agents and in order to enable the Agents responsibly to execute the certificate required to be executed by them in any Prospectus Amendment and the Agents shall have approved the form of any Prospectus Amendment, such approval not to be unreasonably withheld and to be provided in a timely manner.

During the Distribution Period, the Fund shall advise the Agents promptly, and forthwith provide the Agents with copies, of any written communications issued by any securities regulatory authority or by the TSX: (a) suspending or preventing the use of the Prospectus or a Prospectus Amendment or imposing any cease trading or stop order or any halt in trading relating to the Units or instituting or threatening any proceedings for that purpose; or (b) otherwise relating to the Prospectus or the Offering.

The Fund shall use its commercially reasonable efforts to prevent the issuance of any such cease-trading or stop order and, if issued, shall forthwith take all reasonable steps which it is able to take and which may be necessary or desirable in order to obtain the withdrawal thereof as soon as possible.

The Fund shall deliver promptly to the Agents signed and certified copies of all Prospectus Amendments. Concurrently with the filing of any Prospectus Amendment or as soon as possible thereafter, Marret shall deliver to counsel to the Agents for and on behalf of the Agents, with respect to such Prospectus Amendment, documents similar to those referred to in Sections 3(c), (d), (e) and (f), as applicable.

## **8. Change in Canadian Securities Laws**

If during the Distribution Period there shall be any change in the Canadian Securities Laws which, in the opinion of the Agents and their legal counsel, acting reasonably, requires the filing of a Prospectus Amendment, the Fund shall promptly prepare and file such document, to the reasonable satisfaction of the Agents, with the appropriate securities regulatory authority in each of the Qualifying Jurisdictions where such filing is required; provided that the Fund shall not file any such document without first obtaining the approval of the Agents with respect to the form and content thereof, such approval not to be unreasonably withheld.

## **9. Covenants, Representations and Warranties of Marret as Manager of the Fund and the Fund**

Marret and the Fund each jointly and severally covenant, represent and warrant as follows to each of the Agents and acknowledges that each of the Agents is relying upon such representations, warranties and covenants in connection with its execution and delivery of this Agreement:

- (a) the Fund is and will be at the Closing Time a validly subsisting trust established under the laws of the Province of Ontario, and, pursuant to the Declaration of Trust, has and will at the Closing Time have all requisite power and authority to invest in accordance with its investment strategy as set out in the Prospectus and conduct its business as contemplated thereby;
- (b) the Trust is and will be at the Closing Time a validly subsisting trust established under the laws of the Province of Ontario, and, pursuant to the Trust Declaration of Trust, has and will at the Closing Time have all

requisite power and authority to invest in accordance with its investment strategy as set out in the Prospectus and conduct its business as contemplated thereby;

- (c) Equity Financial Trust Company has been duly appointed as trustee of the Fund in accordance with the terms and provisions of the Declaration of Trust and has all the requisite power and authority under the Declaration of Trust to enable the Fund to own its investments as described in the Final Prospectus, to own or lease assets, to execute, deliver and perform its obligations under each of the Material Contracts to which it is a party and to issue, sell and deliver the Offered Units in accordance with the provisions of this Agreement;
- (d) upon their issue by the Fund in accordance with this Agreement, the Offered Units will be validly issued in accordance with the terms and provisions of the Declaration of Trust and will be outstanding as fully paid Units of the Fund, and the sole registered holder thereof will be CDS or its nominee;
- (e) Marret is current with all filings required to be made by it under all jurisdictions in which it exists or carries on any material business and has all necessary certificates, licences, authorizations and other approvals necessary to permit it to conduct its proposed activities, except where the absence of such power and authority or failure to make any filing or obtain any certificate, licence, authorization or other approval would not result in a material adverse change to the Fund, and all such certificates, licenses, authorizations and other approvals are in full force and effect in accordance with their terms except where the failure to so maintain such certificates, licenses, authorizations or other approvals would not have a Material Adverse Effect;
- (f) the Offered Units to be issued at Closing shall, at the Closing Date, have the attributes and characteristics and shall conform in all material respects with the description thereof contained in the Prospectus;
- (g) except as disclosed in the Final Prospectus, as at the Closing Date, no person will have any agreement, option, right or privilege (whether pre-emptive or contractual) capable of becoming an agreement for the purchase, subscription or issuance of any securities of the Fund and no rights, warrants or options to acquire, or instruments convertible into or exchangeable for, any securities of the Fund, will be outstanding;
- (h) each of Marret and the Fund has all requisite power and authority, and on or before the Closing Time will have taken all actions required, to: (i) enter into this Agreement; and (ii) to carry out all the terms and provisions hereof and, in the case of the Fund only, to issue, sell and

deliver the Offered Units and the Additional Units, if any, in accordance with the provisions of this Agreement;

- (i) neither the Fund nor Marret is in breach or violation of any of the terms or provisions of, or in default under (whether after notice or lapse of time or both) (i) any of the Material Contracts to which it is a party; (ii) any indenture, mortgage, deed of trust, loan agreement or other agreement (written or oral) or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject where such breach, violation or default could have a Material Adverse Effect; (iii) its constating documents; or (iv) any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its properties where such breach, violation or default could have a Material Adverse Effect;
- (j) the execution and delivery of this Agreement by each of Marret and the Fund and the issue, sale and delivery of the Units pursuant to this Agreement and the performance or the consummation of the transactions contemplated in this Agreement and the Prospectus, do not and will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under (whether after notice or lapse of time or both), any of the Material Contracts or any indenture, mortgage, deed of trust, loan agreement, lease or other agreement (written or oral) or instrument to which any of them is a party or by which any of them is bound or to which any of their property or assets is subject, nor will such action conflict with or result in any violation of the provisions of their constating documents or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over them or any of their properties;
- (k) other than as disclosed in the Prospectus and as may be required and as have or will have been obtained prior to Closing, no consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body is required for the issue, sale and delivery of the Units as contemplated in this Agreement or the consummation of the transactions contemplated in this Agreement or the Prospectus;
- (l) at the Closing, the Offered Units will be authorized for issuance and, when issued and the consideration therefor received by the Fund, the Offered Units will be validly issued as fully paid;
- (m) at the Closing, the Additional Units will be authorized for issuance and, when issued and the consideration therefor received by the Fund, Additional Units will be validly issued as fully paid;
- (n) there are no legal or governmental actions, proceedings or investigations pending to which the Fund, Marret or the Trust is a party or to which its

property is subject or, to the Best of Marret's Knowledge, contemplated or threatened, at law or in equity or before or by any federal, provincial, municipal or other governmental department, commission, board or agency, domestic or foreign, which: (i) could have a Material Adverse Effect, or (ii) questions the validity of the issuance, sale or delivery of the Offered Units and Additional Units or the validity of any action taken or to be taken in connection with the transactions contemplated by this Agreement or the Prospectus;

- (o) all necessary organizational or corporate action has been taken by each of Marret and the Fund to authorize the execution, delivery and performance of this Agreement, as applicable, and, with respect to the other Material Contracts to which it is a party, will have been taken prior to the Closing Date;
- (p) this Agreement has been duly executed and delivered by each of the parties hereto other than the Agents; and constitutes a valid and binding obligation thereof, enforceable against each of them in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting the rights of creditors generally, and except as limited by the application of equitable principles when equitable remedies are sought and by the fact that rights to indemnity, contribution and waiver, and the ability to sever unenforceable terms, may be limited by applicable law;
- (q) the Fund is a "mutual fund trust" within the meaning of the Tax Act;
- (r) the Fund will apply the net proceeds from the Offering (including the proceeds of the offering of Additional Units, if any) in accordance with the description set forth in the Final Prospectus;
- (s) none of Marret, the Trust or the Fund has received notice from any governmental or regulatory authority of any jurisdiction in which it carries on a material part of its business, or owns or leases any material property, of any restriction on the ability of it, nor is any of them otherwise aware of any restriction on their ability to, conduct their businesses as described in the Final Prospectus in such jurisdiction, except such qualifications as have been satisfied;
- (t) the Offered Units and the Additional Units have been conditionally listed on the TSX and the Fund will use its commercially reasonable efforts to obtain final listing approval and thereafter maintain a listing for such Offered Units and Additional Units on the TSX;
- (u) the Financial Information in the Final Prospectus, fairly presents the financial position of the Fund as of the date(s) indicated thereon and has

been prepared in conformity with Canadian generally accepted accounting principles applied on a consistent basis;

- (v) there are no outstanding claims, actions, suits, litigation, arbitration, investigations or proceedings, whether or not purportedly on behalf of Marret, or, to the Best of Marret's Knowledge, proposed or threatened in writing against Marret, the Trust or the Fund which, if determined adversely could result in the revocation, cancellation or suspension of any of its licenses or qualifications to do business or could have a material adverse effect on its business, affairs, property, liabilities (contingent or otherwise), operations, results, capital or prospects, financial or otherwise, or which may restrict or prohibit its ability to perform its obligations as contemplated by the Prospectus, in each case as would have a Material Adverse Effect;
- (w) with the exception of the Material Contracts, there are no material contracts of or pertaining to the Fund;
- (x) other than as disclosed in the Final Prospectus or as disclosed to the Agents in writing, none of the Material Contracts has been amended since the dates of their execution and delivery and each of the Material Contracts will, at the Closing Time, be in full force and effect;
- (y) none of the shareholders, directors or officers of Marret or any associate or affiliate of any of the foregoing had or intends to have any material interest, direct or indirect, in any material transaction contemplated by this Agreement, any of the Material Contracts or the Prospectus or any proposed material transaction with the Fund which materially affects, is material or will materially affect the Fund except to the extent disclosed in the Prospectus;
- (z) other than pursuant to this Agreement, the Fund is not a party to any contract, agreement or understanding with any person that would give rise to a valid claim against the Fund or the Agents for a brokerage commission, finder's fee or like payment in connection with the Offering; and
- (aa) Marret on its own behalf and on behalf of the Fund and the Trust maintains, or hires a third party to maintain, a system of internal accounting controls sufficient to provide reasonable assurance that:
  - (i) transactions are executed in accordance with Marret's general or specific authorization; and
  - (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with Canadian generally

accepted accounting principles and to maintain accountability for assets.

#### **10. Services Provided by Agents and the Agency Fee**

In return for the Agents' services including but not limited to acting as the Fund's agents in arranging for the sale of the Offered Units and the Additional Units, acting as financial advisors to the Fund, assisting it in the preparation of the Prospectus and performing administrative work in connection with the sales of the Offered Units and the Additional Units, if any, the Fund will pay to the Agents a fee (the "Agency Fee") of \$0.426 per Offered Unit and \$0.426 per Additional Unit actually sold.

#### **11. Delivery of Purchase Price, Agency Fee and Certificate**

The purchase and sale of the Offered Units for which orders have been received shall be completed at the offices of Stikeman Elliott LLP, in the City of Toronto at the Closing Time.

The delivery of the Offered Units is to be made to RBC on behalf of the Agents, for the purchasers at the Closing Time in the form of one or more definitive certificates representing the Offered Units registered in the name of "CDS & Co." (or as it may direct) on behalf of the purchasers of Offered Units, against payment to the Fund of the purchase price therefor by electronic funds transfer or other similar payment mechanism. Notwithstanding the foregoing, if the Fund determines to issue any Offered Units as book-entry only securities in accordance with the rules and procedures of CDS, then as an alternative or in addition to the Fund delivering one or more definitive certificates representing the Offered Units, the Agents will provide a direction to CDS with respect to the crediting of the Offered Units to the accounts of participants of CDS as shall be designated by the Agents in writing in sufficient time prior to the Closing Date to permit such crediting.

At the Closing Time, the Agents will deliver to the Fund the aggregate purchase price for the Offered Units, being \$10.65 per Offered Unit issued, net of the Agency Fee. The obligations of each of the Agents and the Fund to complete the Closing shall be subject to the condition that all applicable periods during which purchasers may withdraw subscriptions under Canadian Securities Laws shall have expired. Pending satisfaction of these conditions, proceeds from subscriptions will be held by the Agents. If these conditions are not satisfied or the Closing does not occur for any other reason, the Agents shall ensure that the subscription proceeds received from prospective purchasers are returned by the Agents to such purchasers promptly without interest or deduction.

#### **12. Exercise of Over-Allotment Option**

RBC, on behalf of the Agents, may exercise the Over-Allotment Option at any time and from time to time prior to the close of business on the Over-Allotment Option Expiry Date in respect of a number of Units, which does not exceed the Additional Units by delivery of written notice by RBC on behalf of the Agents, to the Fund not later than two Business Days prior to an Over-Allotment Option Closing Date, specifying the number of Additional

Units in respect of which the Over-Allotment Option is being exercised and the date for delivery of the purchase price for the Additional Units (the “**Over-Allotment Option Notice**”). The Over-Allotment Option Closing Date shall be determined by RBC and Marret but shall not be earlier than two Business Days after any such exercise of the Over-Allotment Option and, in any event, shall not be earlier than the Closing Date.

Upon receipt of the Over-Allotment Option Notice of the Agents, the Fund shall become obligated to sell the number of Additional Units set out in the Over-Allotment Option Notice at the Over-Allotment Closing Time on the Over-Allotment Closing Date against payment (by certified cheque or bank draft) of the purchase price therefor being the amount obtained by multiplying, as applicable, the number of Additional Units in respect of which the Over-Allotment Option is exercised by \$10.65 net of a fee of \$0.426 per Additional Unit purchased (the “**Agency Fee (Over-Allotment Option)**”).

On the Over-Allotment Option Closing Date, the Fund shall deliver to RBC on behalf of the Agents one definitive certificate registered in the name of “CDS & Co.” (or as it may direct) representing the Units in respect of which the Over-Allotment Option has been exercised against payment of the purchase price therefor net of the Agency Fee (Over-Allotment Option). Notwithstanding the foregoing, if the Fund determines to issue any Units in respect of which the Over-Allotment Option has been exercised as book-entry only securities in accordance with the rules and procedures of CDS, then as an alternative or in addition to the Fund delivering one or more definitive certificates representing such Units, the Agents will provide a direction to CDS with respect to the crediting of the Additional Units to the accounts of participants of CDS as shall be designated by the Agents in writing in sufficient time prior to the Over-Allotment Closing Date to permit such crediting

In the event the Fund shall subdivide, consolidate or otherwise change its Units prior to the Over-Allotment Option Closing Time, the number of Additional Units into which the Over-Allotment Option is exercisable shall be similarly subdivided, consolidated or changed such that the Agents would be entitled to receive the equivalent of the number and type of securities that they would have otherwise been entitled to receive had they exercised the Over-Allotment Option prior to such subdivision, consolidation or change. The subscription price per Unit shall be adjusted accordingly and notice shall be given to RBC, on behalf of the Agents, of such adjustment. In the event that RBC, on behalf of the Agents, shall disagree with the foregoing adjustment, such adjustment shall be determined conclusively by the Fund’s auditors at the Fund’s expense.

The closing of the purchase and sale of the Additional Units shall be completed at the offices of Stikeman Elliott LLP, in the City of Toronto at the Over-Allotment Option Closing Time.

### **13. Closing Conditions**

The Agents’ obligations hereunder shall be subject to the accuracy of the representations and warranties of Marret and the Fund contained in this Agreement as of the date of this Agreement and as of the Closing Date or Over-Allotment Closing Date, as the



case may be, the performance by each of the parties hereto other than the Agents of their respective obligations under this Agreement and the following conditions:

- (a) The Agents shall have received at the Closing Time a legal opinion dated the Closing Date, in form and substance satisfactory to counsel to the Agents, addressed to the Agents and counsel to the Agents from Stikeman Elliott LLP, counsel to the Fund, as to the laws of Canada and the Qualifying Jurisdictions, which counsel in turn may rely upon the opinions of local counsel where they deem such reliance proper as to the laws other than those of Canada, Alberta, Ontario and Québec and, as to matters of fact, on certificates of the auditors of the Fund, public officials and officers of Marret and correspondence between public and stock exchange officials with respect to the following matters:
  - (i) as to the incorporation or formation and existence of each of Marret and the Fund under the laws of the Province of Ontario, and the power and capacity of each to carry on their respective businesses and to enter into and to carry out their respective obligations under this Agreement, and, in the case of the Fund only, the requisite power and authority of the Fund to invest in accordance with the investment strategy set out in the Prospectus and to issue the Offered Units and the Additional Units as contemplated by this Agreement and the Prospectus;
  - (ii) that the Fund is authorized to issue an unlimited number of Units;
  - (iii) that all necessary corporate or organizational action has been taken on behalf of each of Marret and the Fund to authorize the execution and delivery of each of the Preliminary Prospectus, the Final Prospectus and, if applicable, any Prospectus Amendments, and the filing of such documents under the Passport System or Canadian Securities Laws;
  - (iv) that all necessary corporate or organizational action has been taken by and on behalf of the Fund to authorize the creation and issuance of the Offered Units and the Additional Units;
  - (v) that the Offered Units are validly issued and outstanding as fully paid units of the Fund and, upon exercise of the Over-Allotment Option upon the terms and conditions set out in this Agreement and upon receipt of the consideration for the Additional Units, the Additional Units will be validly issued and outstanding as fully paid Units of the Fund;
  - (vi) that the attributes of the Offered Units and the Additional Units are consistent in all material respects with the descriptions thereof in the Final Prospectus and, if applicable, any Prospectus Amendments;

- (vii) that the execution and delivery of this Agreement, the issue and sale of the Offered Units, the sale of the Additional Units, and the consummation of the transactions contemplated by this Agreement, do not result in a breach (whether after notice or lapse of time or both) of any of the terms, conditions or provisions of the constating documents of each of Marret or the Fund, or any applicable laws of the Province of Ontario or the laws of Canada applicable therein;
- (viii) that this Agreement has been duly authorized and executed on behalf of each of Marret and the Fund, as the case may be, and constitutes a legal, valid and binding obligation of each of them, enforceable against each of them in accordance its terms, except as enforcement of such agreements may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought and by the fact that rights to indemnity, contribution and waiver, and the ability to sever unenforceable terms, may be limited by applicable law;
- (ix) that provided that the Fund qualifies and continues at all times to qualify as a “mutual fund trust” within the meaning of the Tax Act, the Offered Units and Additional Units will be qualified investments under the Tax Act for trusts governed by registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans and tax-free saving accounts;
- (x) that Equity Transfer & Trust Company, at its office in the city of Toronto, has been appointed as the registrar and transfer agent for the Units;
- (xi) that Marret has been appointed manager of the Fund;
- (xii) that all necessary documents have been filed and all requisite proceedings have been taken and all necessary approvals, permits, consents and authorizations of the appropriate regulatory authorities under the Canadian Securities Laws have been obtained by the Fund to qualify the Offered Units and, if sold, the Additional Units for Distribution in each of the Qualifying Jurisdictions through persons or companies duly registered under the applicable laws of the Qualifying Jurisdictions who have complied with the relevant provisions of such applicable legislation;
- (xiii) that the Offered Units and the Additional Units have been conditionally approved for listing by the TSX; and

- (xiv) that the statements in the Final Prospectus under the heading “Canadian Federal Income Tax Considerations” is a summary of such matters, subject to the limitations and qualifications stated or referred to in the Final Prospectus.
- (b) The Agents shall have received at the Closing Time a legal opinion dated the Closing Date, in form and substance satisfactory to counsel to the Agents, addressed to the Agents from Québec counsel to the Fund, regarding compliance with the laws of Québec relating to the use of the French language in connection with the documents (including the Preliminary Prospectus, Final Prospectus and any Prospectus Amendments) to be delivered to Purchasers in the province of Québec.
- (c) The Agents shall have received at the Closing Time a legal opinion dated the Closing Date, addressed to the Agents from counsel to the Agents, McCarthy Tétrault LLP, with respect to certain of the matters in 13(a), provided that counsel to the Agents shall be entitled to rely on the opinions of local counsel as to matters governed by the laws of jurisdictions other than the laws of Ontario and as to matters of fact, on certificates of the auditors of the Fund, public officials and officers of the Fund; and provided further that counsel to the Agents shall be entitled to rely upon the opinion of counsel to the Fund.
- (d) The Agents shall have received at the Closing Time and Over-Allotment Closing Time, a letter dated the Closing Date, in form and substance satisfactory to the Agents addressed to the Agents and the Trustee from the auditors of the Fund, PricewaterhouseCoopers LLP, confirming the continued accuracy of the comfort letter to be delivered to the Agents pursuant to Section 3(f) with such changes as may be necessary to bring the information in such letter forward to a date not more than two Business Days prior to the Closing Date or Over-Allotment Closing Date, as applicable, which changes shall be acceptable to the Agents.
- (e) The Agents shall have received at the Closing Time and Over-Allotment Closing Time, certificates dated the Closing Date, addressed to the Agents and counsel to the Agents and signed by or on behalf of each of Marret, the Trust and the Fund, with respect to their respective constating documents, all resolutions relating to this Agreement, the incumbency and specimen signatures of signing officers and with respect to such other matters as the Agents may reasonably request.
- (f) The Agents shall have received at the Closing Time and Over-Allotment Closing Time, a certificate or certificates dated the Closing Date, addressed to the Agents and counsel to the Agents from each of Marret and the Fund and signed by officers acceptable to the Agents, certifying, after having made due enquiry and after having carefully examined the Final Prospectus and any Prospectus Amendments, that:

- (i) since the respective dates as of which information is given in the Final Prospectus as amended by any Prospectus Amendment (A) there has been no material change (actual, anticipated, contemplated, proposed or threatened, whether financial or otherwise) in the business, financial condition, affairs, operations, assets, liabilities or obligations (contingent or otherwise) or capital of the Fund and (B) no transaction has been entered into by the Fund which is material to the Fund, other than as disclosed in the Final Prospectus or the Prospectus Amendments, as the case may be;
  - (ii) they have complied with and satisfied the covenants, terms and conditions of this Agreement on their part to be complied with and satisfied up to the Closing Time or Over-Allotment Closing Time, as applicable;
  - (iii) no order, ruling or determination having the effect of suspending the sale or ceasing the trading of the Units, or any other securities of the Fund, has been issued by any regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or are pending or, to the knowledge of such officers, contemplated or threatened under any of the Canadian Securities Laws or by any other regulatory authority;
  - (iv) the representations and warranties of such parties contained in this Agreement are true and correct as of the Closing Date or Over-Allotment Closing Date, as applicable, with the same force and effect as if made at and as of the Closing Time or Over-Allotment Closing Time, as applicable, after giving effect to the transactions contemplated by this Agreement;
  - (v) since the respective date as of which information is given in the Final Prospectus, as amended by any Prospectus Amendment, the Fund has not carried on any business and, immediately prior to the Closing Time or Over-Allotment Closing Time, as applicable, on the Closing Date or Over-Allotment Closing Date, as applicable, had no material agreements other than as disclosed in the Final Prospectus or any Prospectus Amendment; and
  - (vi) such other matters as the Agents may reasonably request.
- (g) The Fund shall have received the conditional approval of the TSX to the listing of the Offered Units and the Additional Units for trading on such exchange.

## **14. Rights of Termination**

### **(a) Proceedings**

If prior to the Closing Time any enquiry, action, suit, investigation or other proceeding whether formal or informal is commenced, announced or threatened or any order is made by any securities commission in Canada, the TSX, or any other federal, provincial or other governmental authority having jurisdiction or authority over the Fund, the Trust or Marret or any of their respective material assets, or over their directors or officers, which in the sole opinion of any Agent, operates to prevent or restrict materially the distribution of the Offered Units or the trading of the Units or which, in the sole opinion of any Agent, acting reasonably, might reasonably be expected to have a significant adverse effect on the market price of the Units or the value of the Offered Units, such Agent shall be entitled, at its sole option, in accordance with Section 14(f), to terminate its obligations under this Agreement by written notice to that effect given to the Fund at any time prior to the Closing Time.

### **(b) Disaster/Market Out Clause**

If prior to the Closing Time there should develop, occur or come into effect or existence any event, action, state, condition or occurrence of national or international consequence (including any natural catastrophe, act of war, terrorism or similar event) or any governmental action, change of applicable law or regulation (or in the judicial interpretation thereof), inquiry or other occurrence of any nature whatsoever which, in the sole opinion of any Agent, acting reasonably, might be expected to have a significant adverse effect on the state of financial markets in Canada or the business, operations or capital of the Fund or the market price of the Units or the value of the Offered Units, such Agent shall be entitled, at its sole option, in accordance with Section 14(f), to terminate its obligations under this Agreement by written notice to that effect given to the Fund at any time prior to the Closing Time.

### **(c) Material Change**

If, prior to the Closing Time, there should occur or be announced any material change or a change in any material fact which results or, in the sole opinion of any Agent, might reasonably be expected to have a significant adverse effect on the business, operations or capital of the Fund or a significant adverse effect on the market price of the Units, or the value of the Offered Units, such Agent shall be entitled, at its sole option, in accordance with Section 14(f), to terminate its obligations under this Agreement by written notice to that effect given to the Fund at any time prior to the Closing Time.

### **(d) Tax Event**

If, prior to Closing Time, there is announced any change or proposed change in the income tax laws of Canada or the interpretation or administration thereof and such change would, in the sole opinion of any Agent, acting reasonably, be expected to have a significant adverse effect on the market price of the Units, or the value or marketability of the Offered Units, such Agent shall be entitled, at its sole option, in accordance with Section 14(f), to

terminate its obligations under this Agreement by written notice to that effect given to the Fund at any time prior to the Closing Time .

(e) Non-Compliance With Conditions

Each of Marret and the Fund agrees that all terms and conditions in Section 13 shall be construed as conditions and complied with so far as they relate to acts to be performed or caused to be performed by it, that it will use its best efforts to cause such conditions to be complied with (other than Section 13(c)), and that any failure by it to comply with, or any breach of, or failure to satisfy, any such conditions shall entitle any of the Agents to terminate its obligations to purchase the Offered Units by notice to that effect given to the Fund at or prior to the Closing Time, unless otherwise expressly provided in this Agreement. The Agents may waive, in whole or in part, or extend the time for compliance with, any terms and conditions without prejudice to their rights in respect of any other terms and conditions or any other or subsequent breach or non-compliance, provided that any such waiver or extension shall be binding upon the Agents only if such waiver or extension is in writing and signed by all of the Agents.

(f) Exercise of Termination Rights

The rights of termination contained in Sections 14(a),(b),(c),(d) and (e) may be exercised by any of the Agents and are in addition to any other rights or remedies any of the Agents may have in respect of any default, act or failure to act or non-compliance by any party hereto other than the Agents in respect of any of the matters contemplated by this Agreement or otherwise. In the event of any such termination, there shall be no further liability on the part of the terminating Agent to Marret and the Fund or on their part to the terminating Agent except in respect of any liability which may have arisen prior to or arise after such termination under any of Sections 15, 20 and 25. A notice of termination given by an Agent under any of Section 14(a),(b),(c),(d) or (e) shall not be binding upon any other Agent.

**15. Indemnity of the Fund and Marret as Manager of the Fund**

The Fund (solely out of the assets of the Fund) and Marret as manager of the Fund jointly and severally agree to indemnify and hold harmless each of the Agents and each of their respective directors, officers, employees, partners, and agents (collectively, the “**Indemnified Parties**” and individually, an “**Indemnified Party**”) from and against any and all liabilities, claims (including Unitholder actions, derivative or otherwise), actions, losses (excluding loss of profits), costs, damages and expenses including the aggregate amount paid in settlement of any action, suit, proceeding, investigation or claim and the reasonable fees and reasonable expenses of their counsel that may be incurred in advising with respect to and/or defending any action, suit, proceeding, investigation or claim that may be made or threatened against any Indemnified Party or in enforcing this indemnity (collectively, the “**Claims**” and individually, a “**Claim**”) to which any Indemnified Party may become subject or otherwise involved in any capacity insofar as the Claims relate to, are caused by, result from, arise out of, directly or indirectly:

- (a) any information or statement (except any information or statement relating solely to, or provided by the Agents) contained in the Final Prospectus or any Prospectus Amendment or in any other material filed in compliance or intended compliance with Canadian Securities Laws, or in any certificate or other document delivered to the Agents or pursuant to this Agreement being or being alleged to be a misrepresentation or untrue, or any omission or alleged omission to state therein any information;
- (b) any order made or enquiry, investigation or proceeding commenced or threatened by any court, securities regulatory authority, stock exchange, or other competent authority (except any such proceeding or order based solely upon the activities of any of the Agents or Sub Agents) or any change of law or the interpretation or administration thereof which operates to prevent or restrict the trading in the Units or the distribution of the Offered Units or Additional Units in any of the Qualifying Jurisdictions;
- (c) the breach of or default under any representation, warranty, covenant or agreement of the Fund or Marret, as the case may be, in this Agreement; or
- (d) the Fund not complying with any requirement of Canadian Securities Laws, or any breach of violation or alleged breach or violation of any Canadian Securities Laws.

## **16. Notification of Claims**

If any Claim contemplated by Section 15 is asserted against any Indemnified Party in respect of which indemnification is or might reasonably be considered to be provided under Section 15, the Indemnified Party will notify the Fund, as soon as possible of the nature of such Claim, but the omission to so notify as soon as possible the Fund will not relieve Marret or the Fund from any liability which it may have to any Indemnified Party under this Section, except to the extent that such omission or delay prejudices their ability to contest such Claim, and Marret or the Fund shall be entitled (but not required) to participate in or assume the defence of any suit or the conduct of any proceeding brought to enforce such Claim; provided, however, that the defence shall be conducted through legal counsel acceptable to the Indemnified Party and provided that no admission of liability in respect of any such Claim may be made by or on behalf of an Indemnified Party without the prior written consent of all parties hereto.

The Fund and Marret shall not be liable to indemnify the Agents with respect to the settlement of any Claim effected by the Agents without the written consent of the Fund, such consent not to be unreasonably withheld or delayed.

## **17. Right of Indemnity in Favour of Others**

With respect to any Indemnified Party who is not a party to this Agreement, it is the intention of the parties thereto to constitute the Agents as trustees for such Indemnified Party

of the rights and benefits of Section 15 and the Agents agree to accept such trust and to hold the rights and benefits of Section 15 in trust for and on behalf of such Indemnified Party.

## **18. Retaining Counsel**

In any Claim referred to in Section 15, the Indemnified Party shall have the right to retain other counsel to act on his or its behalf and participate in the defence of such Claim, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party unless: (i) Marret or the Fund does not assume the defence of the Claim within a reasonable period of time of being notified of such Claim; (ii) Marret or the Fund and the Indemnified Party shall have mutually agreed to the retention of the other counsel and the manner in which the costs of such counsel are to be shared; or (iii) the named parties to any such Claim (including any added, third or impleaded party) include both the Indemnified Party on the one hand and Marret or the Fund, on the other hand, and in the written opinion of counsel to the Indemnified Party, acting reasonably, the representation of both parties by the same counsel would be inappropriate due to the actual or potential conflicting interests between them or additional defences are available to an Indemnified Party, in each of which cases neither Marret nor the Fund shall have the right to assume the defence of such suit on behalf of the Indemnified Party but shall be liable to pay the reasonable fees and expenses of counsel for the Indemnified Party. In no event shall Marret or the Fund be required to pay the reasonable fees and expenses of more than one set of counsel in any one jurisdiction for all of the Indemnified Parties in respect of any particular Claim or related set of Claims.

## **19. Limitation**

The rights of indemnity contained in Section 15 in respect of a claim based on a misrepresentation or omission or alleged misrepresentation or omission in the Prospectus shall not apply if Marret has complied with Sections 3 and 5 and, if applicable, 7 and the person asserting such claim was not provided with a copy of the Final Prospectus or a Prospectus Amendment (which is required under the applicable Canadian Securities Laws to be delivered to such person by the Agents or the Sub Agents) which corrects such alleged misrepresentation or omission or alleged misrepresentation or omission.

## **20. Contribution**

In order to provide for a just and equitable contribution in circumstances in which the indemnity provided in Section 15 would otherwise be available in accordance with its terms but is, under applicable law, unavailable to or unenforceable by the Agents or enforceable otherwise than in accordance with its terms, Marret or the Fund (the “**Indemnifier**”) in lieu of indemnifying the Indemnified Party shall contribute to all Claims suffered or incurred by any Indemnified Party in such proportion as is appropriate to reflect not only the relative benefits received by the Indemnifier on the one hand and any Indemnified Party on the other hand from the distribution of the Offered Units and the Additional Units but also the relative fault of the Indemnifier or any Indemnified Party as well as any relevant equitable considerations. The Indemnifier shall in any event be liable to contribute to the amount paid or payable by an Indemnified Party as a result of a Claim for which indemnification would otherwise be available, any amounts in excess of the Agency Fee and, if applicable, the



Agency Fee (Over-Allotment Option), or any portion of such fee actually received by the Indemnified Party. The Agents shall not in any event be liable to contribute, in the aggregate, any amounts in excess of the Agency Fee and, if applicable, the Agency Fee (Over-Allotment Option), or any portion of such fee actually received. However, if and to the extent that a court of competent jurisdiction in a final judgment from which no appeal can be made or a governmental authority in a final ruling from which no appeal can be made determines that a Claim resulted from the gross negligence or wilful misconduct of the Indemnified Party claiming the indemnity, such Indemnified Party shall promptly reimburse to the Fund any funds advanced to the Indemnified Party in respect of such Claim and the indemnity provided for in Section 15 shall cease to apply to such Indemnified Party in respect of such Claim. For greater certainty, the Fund and the Agents agree that they do not intend that any failure by the Agents to conduct such reasonable investigation as necessary to provide the Agents with reasonable grounds for believing the Prospectus or Prospectus Amendment contained no misrepresentation shall constitute “gross negligence” or “wilful misconduct” for the purposes of Section 15 or 20 or otherwise disentitle the Agents from indemnification hereunder.

## **21. Right of Contribution in Addition to Other Rights**

The rights to contribution provided in Section 20 shall be in addition to and not in derogation of any other right to contribution which the Agents may have by statute or otherwise at law.

## **22. Calculation of Contribution**

If the Fund may be held to be entitled to contribution from the Agents under the provisions of any statute or at law, the Fund shall be limited to contribution in an amount not exceeding the lesser of:

- (i) the portion of the full amount of the loss or liability giving rise to such contribution for which the Agents are responsible, as determined in Section 20, and
- (ii) the amount of the aggregate Agency Fee and, if applicable, the Agency Fee (Over-Allotment Option) actually received by the Agents from the Fund under this Agreement.

## **23. Right of Contribution in Favour of Others**

With respect to any Indemnified Party who is not a party to this Agreement, it is the intention of the parties hereto to constitute the Agents as trustees for such Indemnified Party of the rights and benefits of Section 20 and the Agents agree to accept such trust and to hold the rights and benefits of Section 20 in trust for and on behalf of such Indemnified Party.

## **24. Severability**

If any provision of this Agreement is determined to be void or unenforceable in whole or in part, it shall be deemed not to affect or impair the validity of any other provision of this Agreement and such void or unenforceable provision shall be severable from this Agreement.

## **25. Expenses**

Whether or not the transactions contemplated by this Agreement shall be completed, except as specifically provided below, all expenses of or incidental to the issue, sale and delivery of the Offered Units and the Additional Units and all expenses of or incidental to all other matters in connection with the transaction set out in this Agreement shall be borne directly by the Fund and paid out of the assets of the Fund (subject to a maximum of 1.5% of the gross proceeds of the Offering), or, in the event the transactions contemplated by this Agreement are not completed, Marret, including, without limitation, fees and expenses payable in connection with the qualification of the Offered Units and the Additional Units for distribution, the fees relating to listing of the Offered Units and Additional Units on any exchange, the reasonable fees and disbursements of counsel to the Fund, counsel to the Agents, local counsel, all fees and expenses of the Fund's auditors, the reasonable fees and expenses relating to the marketing of the Offered Units and the Additional Units (including, without limitation, "road shows", marketing meetings and marketing documentation) and all reasonable out-of-pocket expenses of the Agents relating to this transaction including all reasonable travel expenses in connection with due diligence and marketing and all costs incurred in connection with the preparation, printing and mailing of the Prospectus and Prospectus Amendments.

## **26. Survival of Representations and Warranties**

The representations, warranties, obligations and agreements contained in this Agreement and in any certificate delivered pursuant to this Agreement or in connection with the purchase and sale of the Offered Units and the Additional Units shall survive the purchase of the Offered Units and the Additional Units and shall continue in full force and effect for a period of three years and one day unaffected by any subsequent disposition of the Offered Units and the Additional Units by the Agents or the termination of the Agents' obligations and shall not be limited or prejudiced by any investigation made by or on behalf of the Agents in connection with the preparation of the Prospectus, any Prospectus Amendment or the distribution of the Offered Units and the Additional Units.

## **27. Time of the Essence**

Time shall be of the essence of this Agreement.

## **28. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of Ontario and the laws of Canada applicable therein.

**29. Currency**

All funds referred to in this Agreement shall be in Canadian dollars.

**30. Notice**

Unless otherwise expressly provided in this Agreement, any notice or other communication to be given under this Agreement (a “**Notice**”) shall be in writing addressed as follows:

If to Marret in its capacity as manager of the Fund or the Fund, addressed and sent to:

Marret Asset Management Inc.  
200 King Street West, Suite 1902  
Toronto, ON M5H 3T4

Attention: Barry Allan  
Fax: 647-439-6471

In case of any Notice to the Fund or Marret in its capacity as manager to the Fund, with a copy (which shall not constitute notice) to:

Stikeman Elliott LLP  
Suite 5300, 199 Bay Street  
Commerce Court West  
Toronto, ON M5L 1B9

Attention: Philip J. Henderson and Jeffrey Elliott  
Fax: 416-947-0866

If to RBC Dominion Securities Inc., addressed and sent to:

RBC Dominion Securities Inc.  
Royal Bank Plaza  
200 Bay Street  
4th Floor, South Tower  
Toronto, ON M5J 2W7

Attention: Christopher Bean  
Fax: 416-842-7555

If to CIBC World Markets Inc., addressed and sent to:

CIBC World Markets Inc.  
BCE Place  
161 Bay Street  
Toronto, ON M5J 2S8

Attention: Michael D. Shuh  
Fax: 416-594-7226

If to GMP Securities L.P., addressed and sent to:

GMP Securities L.P.  
145 King Street West  
Suite 300  
Toronto, ON M5H 1J8

Attention: Neil Selfe  
Fax: 416-943-6160

If to TD Securities Inc., addressed and sent to:

TD Securities Inc.  
Toronto-Dominion Bank Tower, TD Centre  
Toronto, ON M5K 1A2

Attention: Cameron Goodnough  
Fax: 416-983-3176

If to BMO Nesbitt Burns Inc., addressed and sent to:

BMO Nesbitt Burns Inc.  
4<sup>th</sup> Floor, 1 First Canadian Place  
P.O. Box 150  
Toronto, ON M5X 1H3

Attention: Robin G. Tessier  
Fax: 416-359-4404

If to National Bank Financial Inc., addressed and sent to:

National Bank Financial Inc.  
130 King Street West, Suite 3200  
Toronto, ON M5X 1J9

Attention: Timothy D. Evans  
Fax: 416-869-6411

If to Scotia Capital Inc., addressed and sent to:

Scotia Capital Inc.  
66<sup>th</sup> Floor, Scotia Plaza  
P.O. Box 4085, Station A  
40 King Street West  
Toronto, ON M5W 2X6

Attention: Brian D. McChesney  
Fax: 416-945-4022

If to Canaccord Genuity Corp., addressed and sent to:

Canaccord Genuity Corp.  
Brookfield Place, Suite 3000  
161 Bay Street  
Toronto, ON M5J 2S1

Attention: Ron Sedran  
Fax: 416-869-7356

If to Macquarie Private Wealth Inc., addressed and sent to:

Macquarie Private Wealth Inc.  
Brookfield Place, Suite 3100  
161 Bay Street  
Toronto, ON M5J 2T3

Attention: Brent Larkan  
Fax: 416-864-3615

If to Raymond James Ltd., addressed and sent to:

Raymond James Ltd.  
40 King Street West  
Scotia Plaza, Suite 5300  
Toronto, ON M5H 3Y2

Attention: J. Graham Fell  
Fax: 416-777-7020

In case of any Notice to an Agent, with a copy (which shall not constitute notice) to:

McCarthy Tétrault LLP  
Suite 5300  
Toronto Dominion Bank Tower  
Toronto, ON M5K 1E6

Attention: Andrew R. Armstrong  
Fax: 416-868-0673

or to such other address as any of the persons may designate by Notice given to the others.

Each Notice shall be personally delivered or sent by commercial courier to the addressee or sent by fax to the addressee and (i) a Notice which is couriered or personally delivered shall, if delivered on a Business Day, be deemed to be given and received on that day and, in any other case, be deemed to be given and received on the first Business Day following the day on which it is delivered; and (ii) a Notice which is sent by fax shall be deemed to be given and received on the first Business Day following the day on which it is sent.

### **31. Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof.

### **32. Press Releases**

The Manager shall provide RBC with a copy of all press releases to be issued by the Fund concerning the Offering prior to the issuance thereof, and shall give RBC an opportunity to provide comments on any such press release.

### **33. Authority of RBC**

RBC is hereby authorized by the other Agents to act on their behalf and the Fund shall be entitled to and shall act on any Notice given in accordance with Section 30 or agreement entered into by or on behalf of the Agents by RBC, which represents and warrants that it has irrevocable authority to bind the Agents, except in respect of: (i) any consent to an admission of liability pursuant to Section 15 which consent shall be given by each of the Agents; (ii) a notice of termination pursuant to Section 14 which notice may be given by any of the Agents; (iii) any waiver of any significant closing condition, which waivers must be signed by all of the Agents; or (iv) any proposed amendment of any provision of this Agreement. RBC shall consult fully with the other Agents with respect to any such consent, notice, waiver, amendment or other communication.

**34. Counterparts/Facsimile Signatures**

This Agreement may be executed by any one or more of the parties to this Agreement in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument. The transmission by facsimile of a copy of the execution page hereof reflecting the execution of this Agreement by any party hereto shall be effective to evidence that party's intention to be bound by this Agreement and that party's agreement to the terms, provisions and conditions hereof, all without the necessity of having to produce an original copy of such execution page.

**35. Limitation of Liability**

The parties to this Agreement acknowledge that the Fund is an investment trust formed under the laws of the Province of Ontario pursuant to the Declaration of Trust, and the Unitholders are only liable for any of its liabilities or any of its losses to the extent of the amount a Unitholder has contributed or agreed to contribute to the Fund's capital and the Unitholder's interest in the Fund's assets. For the avoidance of doubt, no Unitholder shall be subject to any personal liability whatsoever, in tort, contract or otherwise in connection with property and assets of the Fund or the obligations or the affairs of the Fund and the parties to this Agreement shall look solely to the Fund Property (as defined in the Declaration of Trust) for satisfaction of claims of any nature arising out of or in connection therewith and the Fund Property only shall be subject to levy or execution.

If the foregoing is in accordance with your understanding and is agreed to by you, please signify your acceptance by executing the enclosed copies of this letter where indicated below and returning the same to RBC upon which this letter as so accepted shall constitute an agreement among us.

Yours very truly,

**RBC DOMINION SECURITIES INC.**

By: *(Signed) Christopher Bean*

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Christopher Bean

**CIBC WORLD MARKETS INC.**

By: *(Signed) Michael D. Shuh*

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Michael D. Shuh

**GMP SECURITIES L.P.**

By: *(Signed) Neil Selfe*

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Neil Selfe

**TD SECURITIES INC.**

By: *(Signed) Cameron Goodnough*

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Cameron Goodnough

**BMO NESBITT BURNS INC.**

By: *(Signed) Robin G. Tessier*

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Robin G. Tessier



**NATIONAL BANK FINANCIAL INC.**

By: *(Signed) Timothy D. Evans*

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Timothy D. Evans

**SCOTIA CAPITAL INC.**

By: *(Signed) Brian D. McChesney*

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Brian D. McChesney

**CANACCORD GENUITY CORP.**

By: *(Signed) Ron Sedran*

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Ron Sedran

**MACQUARIE PRIVATE WEALTH INC.**

By: *(Signed) Brent Larkan*

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Brent Larkan

**RAYMOND JAMES LTD.**

By: *(Signed) J. Graham Fell*

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J. Graham Fell

The foregoing is accepted and agreed to as of the date first above written.

**MARRET HIGH YIELD STRATEGIES  
FUND, by its manager MARRET ASSET  
MANAGEMENT INC.**

By: (Signed) Barry Allan

Name: Barry Allan

**MARRET ASSET MANAGEMENT INC.**

By: (Signed) Barry Allan

Name: Barry Allan