

**Schedule “A”**

**AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

**B E T W E E N:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(“Fund / Manager / Financial Institution”)

**OF THE FIRST PART**

-and-

**MUTUAL FUND DEALERS ASSOCIATION OF CANADA/  
ASSOCIATION CANADIENNE DES COURTIERS DE FONDS  
MUTUELS**, Suite 1000, 121 King Street West, Toronto, Ontario, M5H 3T9,  
for and on behalf of its Members, as trustee,

(“MFDA”)

**OF THE SECOND PART**

**INTRODUCTION:**

1. The MFDA is a self-regulatory organization which regulates its Members in accordance with its by-laws, rules, policies, forms and other directives and notices (the “Rules”).
2. The Fund / Manager / Financial Institution (i) sells and redeems investment products (as defined below) of its own issue to, and/or (ii) provides management, administrative or other services to issuers or distributors of products who deal with, certain Members and the customers of such Members from time to time.
3. This Agreement is intended to apply to all investment products ("products"), which shall include (without limitation) securities of every type, mutual funds and investment funds, annuities and other types of insurance contracts, deposits and deposit liabilities of every type, precious metals and other commodities and other similar investments in whatever form (whether tangible or intangible and whether or not evidenced by any certificate or instrument or book entry).

4. In connection with the activities of the Fund / Manager / Financial Institution described in paragraph 2, the Fund / Manager / Financial Institution is to be an acceptable segregation location for Members for the purposes of the Rules in respect of the segregation obligations of the Members with respect to all products.

5. The Rules require that the terms upon which any products are held by or deposited with the Fund / Manager / Financial Institution for Members include written provisions to the effect of paragraphs 1(a), (b), (c) and (d) below.

6. As a matter of convenience and to reduce the need for the Fund / Manager / Financial Institution to enter into individual written agreements with each Member with whom it deals, the MFDA has agreed to enter into this Agreement as a bare trustee on behalf of such Members.

**IN CONSIDERATION** of these premises and other good and valuable consideration received by each of the parties from each of the others, the parties agree as follows:

1. **Terms of Segregation.** The Fund / Manager / Financial Institution shall ensure, in respect of any products registered in the name of a Member and/or held by or deposited with it for the Member in accordance with the Rules, that, subject to paragraph 1(e),

- (a) no use or disposition of such products shall be made (including any action that could result in the creation of an encumbrance) without the prior written consent of the Member (which consent may be given by electronic communication which is capable of being retrieved and confirmed);
- (b) certificates or instruments representing such products shall be delivered to the Member promptly on demand or, when certificates or instruments are not available and the products are represented by book entry by the Fund / Manager / Financial Institution, the products shall be able to be transferred either from the Fund / Manager / Financial Institution or to the account of any other person maintaining an account at the Fund / Manager / Financial Institution promptly on demand;
- (c) the products of the Member or customers of a Member shall be held in segregation for the Member and shall be free and clear of any mortgage, charge, lien, trust, right of retention, claim or other encumbrance of any kind in favour of the Fund / Manager / Financial Institution in any capacity, any such encumbrance that may exist or be created despite this prohibition being irrevocably waived; and
- (d) the Fund / Manager / Financial Institution shall not, in any capacity, assert any right of set off, consolidation of accounts, combination, compensation, retainer or netting, or assert any other right or counterclaim in any manner that could produce a like or analogous effect, any such right or manner of counterclaim that may exist or arise despite this prohibition being irrevocably waived; provided that

(e) the prohibition of the Fund / Manager / Financial Institution in paragraph 1(a) and the requirements of the Fund / Manager / Financial Institution in paragraphs 1 (b), (c) and (d) are each subject to the terms, conditions and provisions of:

- (i) the products,
- (ii) any contract between the Fund / Manager / Financial Institution and the holder of the products in respect of the sale, issuance, transfer or redemption of the products, and
- (iii) any applicable law or regulatory policy,

and any act or refusal to act by the Fund / Manager / Financial Institution in accordance with or permitted by such terms, conditions or provisions shall not be considered to be in breach of this Agreement.

2. Notwithstanding any other agreement or course of dealing between the Member and the Fund / Manager / Financial Institution either before or after the date of this Agreement, all products of the Member or customers of the Member that may be held by, recorded with or otherwise left or placed in the possession or under the control of the Fund / Manager / Financial Institution from time to time (regardless of the form of holding or recording or any other circumstances, and whether in tangible or intangible form) shall be subject to this Agreement, except only to the extent that the application of this Agreement to a particular product or group of products is expressly excluded by the prior written consent of the Member (which consent to exclusion may be given by electronic communication which is capable of being retrieved and confirmed).

3. **Trust.** The MFDA declares that it holds the benefit of the covenants of the Fund / Manager / Financial Institution herein in trust for the Members and the Fund / Manager acknowledges that each Member for whom the Fund / Manager / Financial Institution is an acceptable segregation location may enforce such covenants directly against the Fund / Manager / Financial Institution as if entered into by such Member itself in connection with the services provided by the Fund / Manager / Financial Institution to such Member. The MFDA shall be under no obligation or responsibility of any kind or character to any Member or customer of a Member or any person claiming through either of them in respect of this Agreement and, in particular, shall have no obligation, responsibility or duty to see that any covenant herein is carried out and fulfilled or to take any action for the enforcement of this Agreement.

4. **Indemnity.** The Fund / Manager / Financial Institution shall indemnify and save harmless the Member against and from any and all losses of the Member as a result of the failure of the Fund / Manager / Financial Institution to return to the Member any securities or property held by it in accordance with this Agreement, provided that the liability of the Fund / Manager / Financial Institution under this paragraph shall be limited to the market value of the securities and property as at the time which it was required to deliver to the Member the securities and property.

5. **Term.** This Agreement shall remain in full force and effect with respect to any Member and the Fund / Manager / Financial Institution as long as any products are held by or deposited with the Fund / Manager / Financial Institution on behalf of such Member as an acceptable segregation location.

6. **Binding Effect.** This Agreement shall extend to and enure to the benefit of and be binding upon the successors and assigns of the parties hereto and the Members but shall not be assigned by the Fund / Manager / Financial Institution without the prior written consent of MFDA.

7. **English Language.** This Agreement has been drawn up in the English language at the request of the parties. Les parties ont requis que la présente convention soit rédigée en anglais.

8. **Governing Law.** This Agreement shall be governed by the laws of the Province of Ontario.

**THE PARTIES** have executed this Agreement under the hands of their authorized officers as of the date set out above

\_\_\_\_\_  
(Name of Fund / Manager / Financial Institution)

By: \_\_\_\_\_

By: \_\_\_\_\_

Type(s) of Products Managed: (e.g. Mutual Funds, Segregated Funds, Guaranteed Investment Certificates, Other - with Description)

**MUTUAL FUND DEALERS ASSOCIATION OF  
CANADA/ASSOCIATION CANADIENNE DES  
COURTIERS DE FONDS MUTUELS**

By: \_\_\_\_\_

By: \_\_\_\_\_

DM#783047v2