

ARCTIC GLACIER INCOME FUND

SECOND AMENDED AND RESTATED DECLARATION OF TRUST

Made as of December 6, 2004

TABLE OF CONTENTS

ARTICLE 1	INTERPRETATION.....	2
1.1	DEFINITIONS.....	2
1.2	REFERENCE TO ACTS PERFORMED BY THE TRUST	6
1.3	TAX ACT.....	6
1.4	GENDER.....	6
1.5	HEADINGS FOR REFERENCE ONLY	6
1.6	DAY NOT A BUSINESS DAY	6
1.7	TIME OF THE ESSENCE.....	6
1.8	GOVERNING LAW	6
ARTICLE 2	DECLARATION OF TRUST.....	7
2.1	INITIAL CONTRIBUTION, ACCEPTANCE AND TRUST PROPERTY	7
2.2	ESTABLISHMENT OF TRUST	7
2.3	NAME OF TRUST	7
2.4	HEAD OFFICE.....	8
2.5	NATURE OF TRUST.....	8
2.6	RIGHTS OF UNITHOLDERS	8
2.7	LIABILITY OF TRUST UNITHOLDERS.....	8
2.8	INDEMNITY	9
ARTICLE 3	ISSUE AND SALE OF TRUST UNITS.....	9
3.1	NATURE OF TRUST UNITS	9
3.2	AUTHORIZED NUMBER OF TRUST UNITS.....	10
3.3	ISSUE OF TRUST UNITS	10
3.4	NO FRACTIONAL TRUST UNITS.....	10
3.5	CONSOLIDATION OF TRUST UNITS.....	10
3.6	NO PRE-EMPTIVE RIGHTS.....	10
ARTICLE 4	INVESTMENTS OF TRUST	11
4.1	PURPOSE OF THE TRUST	11

4.2	OTHER INVESTMENTS.....	11
ARTICLE 5 DISTRIBUTIONS		12
5.1	CONTRIBUTION OF DISTRIBUTABLE CASH FLOW OF THE TRUST.....	12
5.2	COMPUTATION OF INCOME OF THE TRUST AND NET REALIZED CAPITAL GAINS FOR THE PURPOSES OF THE TAX ACT	12
5.3	DISTRIBUTIONS OF DISTRIBUTABLE CASH FLOW.....	13
5.4	OTHER DISTRIBUTIONS	13
5.5	CHARACTER OF DISTRIBUTIONS.....	14
5.6	ENFORCEABILITY OF RIGHT TO RECEIVE DISTRIBUTIONS.....	14
5.7	DESIGNATION OF TAXABLE DIVIDENDS, TAXABLE CAPITAL GAINS AND FOREIGN SOURCE INCOME	14
5.8	METHOD OF PAYMENT OF DISTRIBUTION.....	14
5.9	WITHHOLDING TAXES	15
5.10	DEFINITIONS	15
ARTICLE 6 REDEMPTION OF TRUST UNITS		15
6.1	RIGHT OF REDEMPTION	15
6.2	EXERCISE OF REDEMPTION RIGHT	15
6.3	CASH REDEMPTION.....	15
6.4	NO CASH REDEMPTION IN CERTAIN CIRCUMSTANCES	17
6.5	IN SPECIE REDEMPTION.....	17
6.6	CANCELLATION OF ALL REDEEMED TRUST UNITS	18
6.7	SUBORDINATION.....	18
ARTICLE 7 TRUSTEES.....		18
7.1	NUMBER OF TRUSTEES	18
7.2	CALLING AND NOTICE OF MEETINGS	18
7.3	PLACE OF MEETINGS	19
7.4	MEETINGS BY TELEPHONE	19
7.5	QUORUM.....	19
7.6	CHAIRMAN	19

7.7	ACTION BY THE TRUSTEES.....	19
7.8	ADJOURNED MEETING.....	19
7.9	REMUNERATION AND EXPENSES.....	20
7.10	OFFICERS.....	20
ARTICLE 8	APPOINTMENT, RESIGNATION AND REMOVAL OF TRUSTEES.....	20
8.1	QUALIFICATION OF TRUSTEES.....	20
8.2	APPOINTMENT OF TRUSTEES.....	20
8.3	CONSENT TO ACT.....	21
8.4	FAILURE TO ELECT MINIMUM NUMBER OF TRUSTEES.....	21
8.5	CEASING TO HOLD OFFICE.....	22
8.6	REMOVAL OF TRUSTEE.....	22
8.7	FILLING VACANCIES.....	22
8.8	VALIDITY OF ACTS.....	22
ARTICLE 9	CONCERNING THE TRUSTEES.....	23
9.1	POWERS OF THE TRUSTEES.....	23
9.2	SPECIFIC POWERS AND AUTHORITIES.....	23
9.3	VOTING OF SHARES AND NOTES HELD BY THE TRUST.....	25
9.4	RESTRICTIONS ON TRUSTEE'S POWERS.....	25
9.5	BANKING.....	26
9.6	STANDARD OF CARE AND DUTIES.....	26
9.7	FEES AND EXPENSES.....	26
9.8	LIMITATIONS ON LIABILITY OF TRUSTEES.....	26
9.9	INDEMNIFICATION OF TRUSTEES.....	27
9.10	CONTRACTUAL OBLIGATIONS OF TRUST.....	27
9.11	CONFLICTS OF INTEREST.....	27
ARTICLE 10	COMMITTEES OF TRUSTEES.....	28
10.1	DELEGATION.....	28
10.2	PROCEDURE.....	28

10.3	GOVERNANCE	28
10.4	AUDIT REVIEW	29
	ARTICLE 11 AMENDMENT	29
11.1	AMENDMENT	29
11.2	NOTIFICATION OF AMENDMENT	30
	ARTICLE 12 MEETINGS OF TRUST UNITHOLDERS	30
12.1	ANNUAL AND SPECIAL MEETINGS	30
12.2	NOTICE OF MEETINGS	30
12.3	QUORUM	31
12.4	VOTING RIGHTS OF TRUST UNITHOLDERS	31
12.5	RESOLUTIONS BINDING THE TRUSTEES	31
12.6	MEANING OF SPECIAL RESOLUTION	32
12.7	MEANING OF OUTSTANDING	32
12.8	RECORD DATE FOR VOTING	33
12.9	APPOINTMENT OF INSPECTOR	33
12.10	RESOLUTIONS IN WRITING	33
	ARTICLE 13 CERTIFICATES, REGISTRATION AND TRANSFER OF TRUST UNITS	34
13.1	NATURE OF TRUST UNITS	34
13.2	TRUST UNIT CERTIFICATES	35
13.3	CONTENTS OF TRUST UNIT CERTIFICATES	35
13.4	REGISTER OF TRUST UNITHOLDERS	36
13.5	LIMITATION OF NON-RESIDENT OWNERSHIP	36
13.6	TRANSFER OF TRUST UNITS	37
13.7	TRUST UNITS HELD JOINTLY OR IN A FIDUCIARY CAPACITY	38
13.8	PERFORMANCE OF TRUST	38
13.9	LOST CERTIFICATES	38
13.10	DEATH OF A TRUST UNITHOLDER	38
13.11	UNCLAIMED INTEREST OR DISTRIBUTION	38

13.12	OFFER FOR TRUST UNITS	39
13.13	POWER OF ATTORNEY	41
ARTICLE 14	TERMINATION.....	42
14.1	TERM OF TRUST	42
14.2	TERMINATION WITH THE APPROVAL OF TRUST UNITHOLDERS.....	42
14.3	AUTOMATIC TERMINATION	42
14.4	PROCEDURE UPON TERMINATION.....	42
14.5	POWERS OF THE TRUSTEES UPON TERMINATION.....	42
14.6	SALE OF INVESTMENTS	42
14.7	DISTRIBUTION OF PROCEEDS.....	43
14.8	FURTHER NOTICE TO TRUST UNITHOLDERS	43
14.9	RESPONSIBILITY OF THE TRUSTEES AFTER SALE AND CONVERSION	43
ARTICLE 15	SUPPLEMENTAL INDENTURES.....	43
15.1	PROVISION FOR SUPPLEMENTAL INDENTURES FOR CERTAIN PURPOSES.....	43
ARTICLE 16	GENERAL.....	44
16.1	NOTICES	44
16.2	FAILURE TO GIVE NOTICES	44
16.3	JOINT HOLDERS	44
16.4	SERVICE OF NOTICE.....	44
16.5	INFORMATION AVAILABLE TO TRUST UNITHOLDERS.....	45
16.6	INCOME TAX: OBLIGATIONS OF THE TRUSTEE.....	45
16.7	INCOME TAX: ELECTION	45
16.8	INCOME TAX: DEDUCTIONS	45
16.9	FISCAL YEAR	45
16.10	FINANCIAL DISCLOSURE.....	45
16.11	TRUST UNITHOLDER MEETING INFORMATION.....	46
16.12	TAXATION INFORMATION	46
ARTICLE 17	AUDITORS	46

17.1	QUALIFICATION OF AUDITORS.....	46
17.2	APPOINTMENT OF AUDITORS.....	46
17.3	CHANGE OF AUDITORS.....	46
17.4	REPORT OF AUDITORS.....	46
ARTICLE 18	MISCELLANEOUS.....	47
18.1	SUCCESSORS AND ASSIGNS.....	47
18.2	COUNTERPARTS.....	47
18.3	SEVERABILITY.....	47

ARCTIC GLACIER INCOME FUND

THIS SECOND AMENDED AND RESTATED DECLARATION OF TRUST made as of December 6, 2004.

AMONG:

ROBERT NAGY, JAMES E. CLARK, PETER HYNDMAN, DAVID SWAINE AND GARY FILMON, (the "**Trustees**") being, as of the date hereof, all of the trustees of the Trust constituted by this Declaration of Trust, and each individual who after the date hereof becomes a trustee of the Trust as herein provided (each of the foregoing named or unnamed individuals, while a trustee of the trust as herein provided, being hereinafter called a "**Trustee**" and collectively called the "**Trustees**")

OF THE FIRST PART

AND:

LAXUS HOLDINGS INC., a corporation incorporated under the *Business Corporations Act* (Alberta), resident in the Province of Alberta (hereinafter called the "**Settlor**")

OF THE SECOND PART

AND:

The Unitholders (as hereinafter defined)

OF THE THIRD PART

WHEREAS by Declaration of Trust made as of January 22, 2002 ("Initial Trust Declaration") as amended and restated as of March 11, 2002 the Settlor established an irrevocable trust for the principal purpose of providing persons who may become Unitholders with an opportunity to participate in the acquisition of a packaged ice business;

AND WHEREAS, in consideration of these premises and the agreement of the Trustees to act as Trustees and to accept the Trust and the transfer of the Initial Contribution as the initial Trust Property, the Settlor herein established the terms and conditions of this Trust;

AND WHEREAS for the purpose of establishing the trust created hereunder (the "**Trust**"), the Settlor pursuant to the terms of the Initial Trust Declaration transferred to the Trustees an amount of \$10.00 in lawful money of Canada (the "**Initial Contribution**") and the Trust issued one Unit to the Settlor;

AND WHEREAS the Trustees have agreed to hold the Initial Contribution and all amounts and assets subsequently received or transferred to the Trustees, pursuant to this Amended and

Restated Declaration of Trust as now amended and restated in accordance with the provisions hereinafter set forth;

AND WHEREAS the Settlor and the Trustees desire that the beneficiaries of the Trust shall be the holders of Trust Units evidenced by certificates therefor as hereinafter provided, each of which shall rank equally in all respects with every other Trust Unit;

AND WHEREAS the Trustees have agreed to hold all amounts and assets received under the Initial Declaration of Trust and this Declaration of Trust or in respect of the investment of the assets of the Trust in accordance with the provisions hereinafter set forth;

AND WHEREAS the Trustees desire that the Trust shall continue to qualify as a "unit trust" and as a "mutual fund trust" pursuant to paragraph 108(2)(a) and subsection 132(6) of the *Income Tax Act* (Canada);

AND WHEREAS the Trustees desire to set out the agreements, terms and conditions which shall govern the rights, powers and obligations with respect to the settlement and administration of the Trust;

AND WHEREAS the parties are entering into this Amended and Restated Declaration of Trust to provide for amended terms upon which persons may qualify as a Trustee of the Trust;

AND WHEREAS by extraordinary resolution of the Trust Unitholders dated May 27, 2004 the amended terms of the Trust as contained herein were ratified confirmed and approved;

NOW THEREFORE THIS DECLARATION WITNESSETH THAT in consideration of the premises and the mutual and respective covenants and agreements contained herein, the Trustees declare, covenant and agree with the Trust Unitholders, and the Trust Unitholders covenant and agree with the Trustees that the Initial Trust Declaration as amended and restated as of March 11, 2002 be hereby further amended and restated so that as amended and restated, it reads as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Declaration of Trust including the Recitals, unless the context otherwise requires, the following terms shall have the following meanings:

- (a) "**Affiliate**" or "**Affiliates**" means as to any person, any other person which directly or indirectly controls, or is under common control with, or is controlled by, such Person and, if such Person is an individual, any member of the immediate family (including parents, spouse, children and grandchildren) of such individual and any trust whose principal beneficiary is such individual or one or more members of such immediate family and any person who is controlled by any such member or trust. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of the management or policies (whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise);

- (b) "**Arctic Glacier**" means Arctic Glacier Inc.;
- (c) "**Auditors**" means the firm of chartered accountants appointed as the auditors of the Trust from time to time in accordance with the provisions hereof and, initially, means KPMG LLP;
- (d) "**Business Day**" means a day which is not a Saturday, Sunday or holiday in the City of Calgary, in the Province of Alberta;
- (e) "**Cash Flow of the Trust**" has the meaning ascribed thereto in Section 5.1(a);
- (f) "**CDS**" means The Canadian Depository for Securities Limited and its successors;
- (g) "**CDS Participant**" means a broker, dealer, bank other financial institution or other person who, directly or indirectly, from time to time, effects book-based transfers with CDS and pledges of securities deposited with CDS;
- (h) "**Common Shares**" means the common shares in the capital of the Company, Arctic Glacier, or any successor corporation to either of them;
- (i) "**Company**" means The Arctic Group Inc. or any successor corporation incorporated pursuant to the laws of Alberta;
- (j) "**Counsel**" means a barrister or solicitor or firm of barristers and solicitors or other lawyers in an appropriate jurisdiction retained by the Trust;
- (k) "**Depository**" has the meaning specified in subsection 13.1(a);
- (l) "**Distributable Cash Flow**" has the meaning ascribed thereto in Section 5.1(b);
- (m) "**Distribution Payment Dates**" means on or about the 15th day of the month immediately following the end of each Distribution Period or, if such day is not a Business Day, the next following Business Day or such other date or dates as may be selected or determined by the Trustees from time to time;
- (n) "**Distribution Period**" means each month in each calendar year or such other period as may be selected or determined by the Trustees from time to time;
- (o) "**Distribution Record Date**" means the last day of each Distribution Period;
- (p) "**DRIP**" means the Distribution Reinvestment Plan in such form as may be approved by the Trustees of the Trust from time to time;
- (q) "**Exchange Arrangement**" means the arrangement for the exchange by the holder of Notes of Arctic Glacier for Trust Units pursuant to a plan of arrangement under Section 193 of the ABCA involving, among other things, the exchange of Common Shares for Notes, the exchange of such Notes for Trust Units and the amalgamation of the Company and Arctic Glacier;
- (r) "**Global Trust Unit Certificate**" has the meaning specified in subsection 13.1(a);

- (s) **"Income of the Trust"** has the meaning ascribed thereto in Section 5.2(a);
- (t) **"Material Contracts"** means an arrangement agreement among the Trust, Arctic Glacier and the Company implementing the Exchange Arrangement and the Note Indenture;
- (u) **"Net Income of the Trust"** shall have the meaning attributed thereto in Section 5.1;
- (v) **"Net Realized Capital Gains"** has the meaning ascribed thereto in Section 5.2(b);
- (w) **"Note Indenture"** means the trust indenture between Arctic Glacier and the Note Trustee, as Trustee;
- (x) **"Note Trustee"** means Computershare Trust Company of Canada, or its successor, as Trustee under the Note Indenture;
- (y) **"Notes"** means such unsecured, subordinated promissory notes as may be issued pursuant to the Note Indenture by Arctic Glacier from time to time evidencing the indebtedness of Arctic Glacier;
- (z) **"Preferred Shares"** means preferred shares in the capital of the Company;
- (aa) **"Redemption Price"** has the meaning ascribed thereto in Section 6.3(a);
- (bb) **"Special Resolution"** shall have the meaning attributed thereto in Section 12.6;
- (cc) **"Subsidiary"** or **"Subsidiaries"** means, with respect to a specified corporation, any corporation of which more than fifty per cent (50%) of the outstanding shares ordinarily entitled to elect a majority of the board of directors thereof (whether or not shares of any other class or classes shall or might be entitled to vote upon the happening of any event or contingency) are at the time owned directly or indirectly by such specified corporation, and shall include any corporation in like relation to a Subsidiary;
- (dd) **"Tax Act"** means the *Income Tax Act* R.S.C. 1985 (5th Supp) c.1, as amended and the regulations thereunder;
- (ee) **"this Amended and Restated Declaration of Trust", "this Declaration of Trust", "this Declaration", "hereto", "herein", "hereof", "hereby", "hereunder"** and similar expressions refer to this instrument and not to any particular Article, section or portion hereof, and include any and every instrument supplemental or ancillary hereto;
- (ff) **"Transfer Agent"** means such company as may from time to time be appointed by the Trust to act as registrar and transfer agent of the Trust Units, together with any sub-transfer agent duly appointed by the Transfer Agent;
- (gg) **"Trust"** means the trust constituted pursuant to the terms of this Declaration of Trust as Arctic Glacier Income Fund;
- (hh) **"Trust Assets"**, at any time, means such of the following monies, properties and other assets as are at such time held by the Trust or by the Trustees on behalf of the Trust:

- (i) the Initial Contribution;
 - (ii) all funds or property derived from the issuance or sale of Trust Units or other cash received by the Trust;
 - (iii) the Common Shares and Notes;
 - (iv) any proceeds of disposition of any of the foregoing property but not Trust Units in the case of a redemption thereof to which Section 6.5 applies;
 - (v) all income, interest, profit, return of capital, gains and accretions and additional substituted assets, rights and benefits of any kind or nature whatsoever arising directly or indirectly from or in connection with or accruing to such foregoing property or such proceeds of disposition; and
 - (vi) such other property and assets as may properly be held by the Trust from time to time;
- (ii) "**Trust Liabilities**" has the meaning ascribed thereto in Section 2.7(a);
- (jj) "**Trust Option Plan**" means the trust unit option plan approved by the Trustees pursuant to which up to 10% of the then issued and outstanding Trust Units, may be issued to provide long-term incentives to develop the interests of (i) the independent Trustees and employees and advisors of the Trust, any Subsidiary of the Trust, and (ii) personal holding companies or family trusts of any persons referred to in (i), all as selected by the Trustees (collectively referred to as "Eligible Persons"). Pursuant to the Trust Option Plan, the Trustees may grant options to purchase Trust Units ("New Options") to Eligible Persons in respect of authorized and unissued Trust Units. The number of New Options and the exercise price of the Trust Units issuable upon exercise thereof is set by the Trustees at the time of the grant, provided that the exercise price shall not be less than the closing market price of the Trust Units on the day immediately preceding the date of the grant of the New Options. New Options granted under the Trust Option Plan may be exercised during a period not exceeding ten years, subject to earlier termination upon an optionee ceasing to be an Eligible Person or upon an optionee retiring, becoming permanently disabled or dying. The New Options will be non-transferable and non-assignable;
- (kk) "**Trust Unit Certificate**" means a certificate, in the form approved by the Trustees, evidencing one or more Trust Units, issued and certified in accordance with the provisions hereof;
- (ll) "**Trust Unitholders**" means at any time the holders at that time of one or more Trust Units, as shown on the register of such holders maintained by the Transfer Agent or by the Trustees on behalf of the Trust;
- (mm) "**Trust Units**" means the trust units of the Trust authorized and issued hereunder as such and for the time being outstanding and entitled to the benefits hereof; and

- (nn) **"Trustee"**, at any time, means a person who is, in accordance with the provisions hereof, a trustee of the Trust at that time; and **"Trustees"** means, at any time, all of the persons each of whom is at that time a Trustee.

1.2 References to Acts Performed by the Trust

For greater certainty, where any reference is made in this Declaration of Trust to an act to be performed by the Trust, such reference shall be construed and applied for all purposes as if referred to an act to be performed by the Trustees on behalf of the Trust or by some other person duly authorized to do so by the Trustees or pursuant to the provisions hereof.

1.3 Tax Act

In this Declaration of Trust, any reference to the *Tax Act* shall refer to the *Tax Act* as amended from time to time applicable with respect thereto. Any reference herein to a particular provision of the *Tax Act* shall include a reference to that provision as it may be renumbered or amended from time to time. Where there are proposals for amendments to the *Tax Act* which have not been enacted into law or proclaimed into force on or before the date on which such proposals are to become effective, the Trustees may take such proposals into consideration and apply the provisions hereof as if such proposals had been enacted into law and proclaimed into force.

1.4 Gender

In this Declaration of Trust, unless herein otherwise expressly provided or unless the context otherwise requires, words importing the singular number include the plural, and vice versa; words importing a gender shall include the feminine, masculine and neuter genders; and words importing persons include an individual, partnership, association, body corporate, trustee, executor, administrator or legal representative.

1.5 Headings for Reference Only

The division of this Declaration of Trust into Articles and sections, the provision of a Table of Contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Declaration of Trust.

1.6 Day Not a Business Day

In the event that any day on which any amount is to be determined or any action is required to be taken hereunder is not a Business Day, then such amount shall be determined or such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day. This section is not applicable to Sections 5.1, 5.2, 5.3 and 5.4.

1.7 Time of the Essence

Time shall be of the essence in this Declaration of Trust.

1.8 Governing Law

This Declaration of Trust and the Trust Unit Certificates shall be construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and shall be treated in

all respects as Alberta contracts. The parties hereto hereby irrevocably submit and attorn to the jurisdiction of the courts of the Province of Alberta.

ARTICLE 2 DECLARATION OF TRUST

2.1 Initial Contribution, Acceptance and Trust Property

It is acknowledged and agreed that, pursuant to the terms of the Initial Declaration of Trust, the Settlor did irrevocably transfer, concurrent with the execution of Initial Declaration of Trust, the Initial Contribution to the Trustees for the purpose of establishing the Trust. Receipt of the Initial Contribution is hereby acknowledged by the Trustees and in consideration thereof the Settlor was issued one initial Unit in the Trust. The Settlor hereby fully and finally, unconditionally and irrevocably, divests itself of the Initial Contribution and of any other property which is to be comprised within the Trust Assets and does further fully and finally, unconditionally and irrevocably, divest itself of all rights of ownership, possession, enjoyment or administration of the Trust Assets and the Trustees hereby accept the Initial Contribution and all other property or assets which may become the Trust Assets on behalf of and for the benefit of the Unitholders, subject to the terms and provisions hereof (including any discretionary rights and powers granted the Trustees) such acceptance to include not merely the receipt or future receipt of the Trust Assets but also the acceptance for the benefit of the Unitholders pursuant to the terms hereof, of all rights of ownership, possession, use, enjoyment and administration of the said Trust Assets as referred to in the definition of Trust Assets herein.

2.2 Establishment of Trust

The Trustees hereby accept the Trust hereby constituted and agree to hold the Trust Assets transferred to them in trust from time to time for the use and benefit of the Unitholders, their permitted assigns and personal representatives upon the trust and subject to the terms and conditions hereinafter set forth, such trust to constitute the Trust hereunder. The Trustees acknowledge that the Trust results from this Declaration of Trust, the transfer by the Settlor hereby made of the Initial Contribution from its patrimony to the patrimony of the Trust hereby constituted by the Settlor which the Settlor has appropriated to the particular purposes set forth herein, and each of the Trustees hereby undertakes and accepts to hold and administer such trust patrimony in accordance with the provisions hereof. Each of the Settlor and the Trustees confirms that the patrimony of the Trust has been hereby transferred in trust and constitutes a patrimony by appropriation, autonomous and distinct from that of the Settlor, the Trustees or any Unitholder. The Settlor hereby appoints the Initial Trustees as Trustees and provides that the mode of appointment and replacement of the is set forth in Article 7. Subject to the provisions hereof, each of the Trustees elected or appointed pursuant to this Declaration of Trust shall have all of the powers set forth herein. To the extent required by applicable law, the Settlor hereby appoints the Unitholders as the sole beneficiaries of the Trust. The Units shall be issued upon the terms and subject to the conditions of the Declaration of Trust, and this Declaration of Trust shall be binding upon all Unitholders and by acceptance of the certificate representing any such Unit, the Unitholder thereof shall be deemed to agree to be bound by this Declaration of Trust.

2.3 Name of Trust

- (a) Effective January 22, 2002, the Trust shall be known and designated as "ARCTIC GLACIER INCOME FUND" and, whenever practicable, lawful and convenient, the property of the Trust shall be held and the affairs of the Trust shall be conducted and transacted under that name.

- (b) If the Trustees determine that the use of such name is not practicable, legal or convenient, the Trust may use such other designation or may adopt such other name as the Trustees deem appropriate, and the Trust may hold property and conduct and transact its affairs under such other designation or name.

2.4 Head Office

The head office of the Trust hereby created shall be located 625 Henry Avenue, Winnipeg, Manitoba, R3A 0V1 or such other place or places in Canada as the Trustees may from time to time designate.

2.5 Nature of the Trust

The Trust is an unincorporated open-end mutual fund trust, established for the purpose specified in Section 4.1. The Trust is not, is not intended to be, shall not be deemed to be and shall not be treated as, a general partnership, limited partnership, syndicate, association, joint venture, company, corporation or joint stock company nor shall the Trustees or any individual Trustee or the Trust Unitholders or any of them or any person be, or be deemed to be, treated in any way whatsoever as liable or responsible hereunder as partners or joint venturers. The Trustees are not and shall not be, or be deemed to be, agents of the Trust Unitholders. The relationship of the Trust Unitholders to the Trustees shall be solely that of beneficiaries of the Trust and their rights shall be limited to those conferred upon them by this Declaration of Trust.

2.6 Rights of Trust Unitholders

- (a) The rights of each Trust Unitholder to call for a distribution or division of assets, monies, funds, income and capital gains held, received or realized by the Trustees are limited to those contained herein and, except as provided herein, no Trust Unitholder shall be entitled to call for any partition or division of the Trust Assets or for a distribution of any particular asset forming part of the Trust Assets or of any particular monies or funds received by the Trustees. The legal ownership of the assets of the Trust and the right to conduct the activities of the Trust are vested exclusively in the Trustees, and no Trust Unitholder has or is deemed to have any right of ownership in any of the assets of the Trust, except as specifically provided herein. The Trust Units, shall be personal property and shall confer upon the holders thereof only the interest and rights specifically set forth in this Declaration of Trust.
- (b) Except as specifically provided herein, no Trust Unitholder shall be entitled to interfere with or give any direction to the Trustees with respect to the affairs of the Trust or in connection with the exercise of any powers or authorities conferred upon the Trustees under this Declaration of Trust.

2.7 Liability of Trust Unitholders

- (a) No Trust Unitholder or annuitant under a plan of which a Unitholder acts as trustee or carrier, in its capacity as such, shall incur or be subject to any liability, direct or indirect, absolute or contingent, in contract or in tort or of any other kind to any person in connection with (i) the Trust Assets or the ownership, use, operation, acquisition or disposition thereof or exercise or enjoyment of the rights, privileges, conditions or

benefits attached thereto, associated therewith or derived therefrom; (ii) the obligations or the activities or affairs of the Trust; (iii) any actual or alleged act or omission of the Trustees or any of them or by any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust) (iv) any act or omission of the Trustees or any of them or any other person in the performance or exercise, or purported or attempted performance or exercise, of any obligation, power, discretion or authority conferred upon the Trustees or any of them or such other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); (v) any transaction entered into by the Trustees or any of them or by any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); or (vi) any taxes, levies, imposts or charges or fines, penalties or interest in respect thereof payable by the Trust or by the Trustees or any of them or by any other person on behalf of or in connection with the activities or affairs of the Trust (collectively, "Trust Liabilities").

- (b) No Trust Unitholder in its capacity as such shall be liable to indemnify the Trustees or any of them or any other person with respect to any Trust Liabilities.
- (c) To the extent that, notwithstanding the provisions of this Section 2.7, any Trust Unitholder, in its capacity as such, may be determined by a judgement of a court of competent jurisdiction to be subject to or liable in respect of any Trust Liabilities, such judgement and any writ of execution or similar process in respect thereof, shall be enforceable only against, and shall be satisfied only out of, the Trust Unitholder's share of the Trust Assets represented by its Trust Unit Certificates.

2.8 Indemnity

The Trust agrees to indemnify and hold harmless each Trust Unitholder from any cost, damages, liabilities, expenses, charges and losses suffered by a Trust Unitholder in its capacity as such in connection with the Trust Liabilities.

ARTICLE 3 ISSUE AND SALE OF TRUST UNITS

3.1 Nature of Trust Units

- (a) The beneficial interests in the Trust shall be divided into interests of one class, described and designated as "Trust Units", which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein, and the interest of each Trust Unitholder shall be determined by the number of Trust Units registered in the name of the Trust Unitholder.
- (b) Each Trust Unit represents an equal undivided interest in the Trust. All Trust Units outstanding from time to time shall be entitled to participate pro rata in any distributions by the Trust and, in the event of termination or winding-up of the Trust, in the net assets of the Trust. All Trust Units shall rank among themselves equally and rateably without discrimination, preference or priority.

3.2 Authorized Number of Trust Units

The aggregate number of Trust Units which is authorized and may be issued hereunder is unlimited.

3.3 Issue of Trust Units

- (a) Trust Units may be issued by the Trust at the times, to the persons, for the consideration and on the terms and conditions that the Trustees determine, including without limitation, pursuant to the DRIP (if any) and the Trust Option Plan and, without limiting the generality of the foregoing, the Trustees may authorize the Trust to pay a reasonable commission to any person in consideration of such person purchasing or agreeing to purchase Trust Units from the Trust or from any other person or procuring or agreeing to procure purchasers for Trust Units.
- (b) Trust Units are only to be issued as fully paid in money, property, including an obligation to pay consideration in instalments, or past services that are not less in value than the fair equivalent of the money that the Trust would have received if the Units had been issued for money, and are not to be subject to future calls or assessment, except that Trust Units to be issued under an offering may be issued for a consideration payable in instalments and the Trust may take a security interest over such Trust Units for unpaid instalments.
- (c) Trust Units may not be issued by the Trust or the Trustees other than:
 - (i) pursuant to subsection 3.3(a);
 - (ii) pursuant to the Exchange Arrangement; or
 - (iii) pursuant to Section 5.8.

3.4 No Fractional Trust Units

Fractions of Trust Units shall not be issued, except pursuant to distributions of additional Trust Units to all Trust Unitholders pursuant to Section 5.8.

3.5 Consolidation of Trust Units

Immediately after any pro rata distribution of additional Trust Units to all Trust Unitholders pursuant to Section 5.8, the number of the outstanding Trust Units will be consolidated such that each Trust Unitholder will hold after the consolidation the same number of Trust Units as the Trust Unitholder held before the distribution of additional Trust Units, except where tax is required to be withheld. In this case, each Trust Unit Certificate representing a number of Trust Units prior to the distribution of additional Trust Units is deemed to represent the same number of Trust Units after the distribution of additional Trust Units and the consolidation.

3.6 No Pre-Emptive Rights

No person shall be entitled, as a matter of right, to subscribe for or purchase any Trust Unit.

ARTICLE 4 INVESTMENTS OF TRUST

4.1 Purpose of the Trust

The Trust is a limited purpose trust and its operations and activities shall be restricted to the following activities, provided that such activities do not result in (i) the Trust not being considered either a "unit trust" or a "mutual fund trust" for the purposes of the *Tax Act*; or (ii) the Units being considered "foreign property" (or the Trust becoming obligated to pay a tax in respect of its holdings of "foreign property") for the purposes of the *Tax Act*:

- (a) investing in such securities as may be approved from time to time by the Trustees, including the Common Shares, Notes, and additional common shares, securities or debt obligations of Arctic Glacier and otherwise lending funds to Arctic Glacier and its Affiliates and borrowing funds for any such purposes;
- (b) issuing guarantees of the obligation and indebtedness of any of its Subsidiaries or Affiliates and charging, pledging, hypothecating or granting any security interest, mortgage or encumbrance over or with respect to any or all of the Trust Assets in connection with any such guarantees;
- (c) disposing of any part of the assets of the Trust;
- (d) temporarily holding cash and short term investments in accordance with a policy from time to time determined by the Trustees or, if no such policy is in place, in accordance with Section 4.2, and other investments (including investments in Arctic Glacier) for the purposes of paying expenses and Trust Liabilities, paying amounts payable by the Trust in connection with the redemption of any Trust Units, and making distributions to Trust Unitholders; and
- (e) undertaking such other activities as shall be approved by the Trustees from time to time.

4.2 Other Investments

To the extent that any monies or other property received by the Trust or the Trustees are not to be immediately used by the Trustees for the purpose of making distributions under Article 5 hereof, the Trustees are hereby authorized and, where prudent to do so, shall invest such monies in: (i) debt obligations of or guaranteed by the Government of Canada or a province of Canada, (ii) short term commercial paper obligations of a corporation whose short term commercial paper is rated R-I (or higher) by Dominion Bond Rating Service or A-1 (or higher) by Canadian Bond Rating Service or (iii) interest-bearing accounts and certificates of deposit issued or guaranteed by one of the six largest (in terms of total assets) Canadian chartered banks; provided that under no circumstances shall the Trustees purchase or authorize the purchase of any investment which is defined as "foreign property" under subsection 206(1) of the *Tax Act*, if such purchase would result in the Trust exceeding the "foreign property" limitation for "mutual fund trusts" under the *Tax Act*, nor shall the Trust purchase or authorize the purchase of any investment that would not be allowed for a "mutual fund trust" under subsection 132(6) of the *Tax Act* or to engage in activities contrary to that provision. For the purpose hereof, "short term" shall mean having a date to maturity or call for payment of not more than 60 days from the date on which the investment is made or at any time thereafter.

**ARTICLE 5
DISTRIBUTIONS**

5.1 Computation of Distributable Cash Flow of the Trust

- (a) The Cash Flow of the Trust, for any Distribution Period, shall be determined pursuant to the following provisions:
- (i) all amounts which are received by the Trust in the Distribution Period, including, without limitation, interest, dividends, redemption proceeds, purchase for cancellation proceeds, returns of capital and repayments of indebtedness, shall be included in the calculation;
 - (ii) the following amounts shall be deducted in the calculation:
 - (A) all costs and expenses of the Trust which, in the opinion of the Trustees, may reasonably be considered to have accrued and become owing in respect of, or which relate to, such Distribution Period or a prior Distribution Period if not accrued in such prior period; and
 - (B) all amounts which relate to the redemption of Trust Units and which have become payable in cash by the Trust in such Distribution Period.
 - (iii) the proceeds and issuance costs from the sale of any Trust Units by the Trust shall not be included in the Cash Flow of the Trust.
- (b) The Distributable Cash Flow for, or in respect of, a Distribution Period shall be the Cash Flow of the Trust for such Distribution Period less any amount which the Trustees may reasonably consider to be necessary to provide for the payment of any costs which have been or will be incurred in the activities and operations of the Trust and to provide for the payments of any income tax liability of the Trust.

5.2 Computation of Income of the Trust and Net Realized Capital Gains for the purposes of the *Tax Act*

- (a) The Income of the Trust for any year shall be the net income determined pursuant to the provisions of the *Tax Act* having regard to the provisions thereof which relate to the calculation of income of a trust, and taking into account such adjustments thereto as are determined by the Trustees in respect of dividends received from taxable Canadian corporations, amounts paid or payable by the Trust to Trust Unitholders and such other amounts as may be determined in the discretion of the Trustees; provided, however, that capital gains and capital losses shall be excluded.
- (b) The Net Realized Capital Gains of the Trust for any year shall be determined as the amount, if any, by which the aggregate of the capital gains of the Trust in the year exceeds the aggregate of the capital losses of the Trust in the year, excluding any capital gains or losses which are realized by the Trust as a result of any redemption of Trust Units pursuant to Article 6, and the amount determined by the Trustees in respect of any net capital losses for prior years which the Trust is permitted by the Act to deduct in computing the taxable income of the Trust for the year.

5.3 Distributions of Distributable Cash Flow

The Trustees shall, on or before each Distribution Record Date, declare payable to the Trust Unitholders on such Distribution Record Date, all or any part of the Distributable Cash Flow for the Distribution Period which includes such Distribution Record Date. The proportionate share of each Trust Unit of the amount of such Distributable Cash Flow shall be determined by dividing such amount by the number of issued and outstanding Trust Units on such Distribution Record Date. Each Trust Unitholder's share of such Distributable Cash Flow shall be an amount equal to the proportionate share of each Trust Unit of such Distributable Cash Flow multiplied by the number of Trust Units owned of record by each such Trust Unitholder on such Distribution Record Date. Subject to Section 5.8, Distributable Cash Flow which has been declared to be payable to Trust Unitholders in respect of a Distribution Period shall be paid in cash on the Distribution Payment Date which immediately follows such Distribution Record Date.

5.4 Other Distributions

- (a) In addition to the distributions which are made payable to Trust Unitholders pursuant to Section 5.3, the Trustees may declare to be payable and make distributions, from time to time, out of the Income of the Trust, Net Realized Capital Gains, the capital of the Trust or otherwise, in any year, in such amount or amounts, and on such dates as the Trustees may determine.
- (b) Having regard to the present intention of the Trustees to allocate, distribute and make payable to Trust Unitholders all of the Income of the Trust, Net Realized Capital Gains and any other applicable amounts so that the Trust will not have any liability for tax under the *Tax Act* in any year, the following amounts shall, without any further actions on the part of the Trustees, be due and payable to Trust Unitholders of record on December 31st in each year:
 - (i) an amount equal to the amount, if any, by which the Income of the Trust for such year exceeds the aggregate of the portions, if any, of each distribution made by the Trust pursuant to Section 5.3 or Section 5.4(a) which have been determined by the Trustees, pursuant to Section 5.5, to have been payable by the Trust out of Income of the Trust for such year; and
 - (ii) an amount equal to the amount, if any, by which the Net Realized Capital Gains of the Trust for such year exceeds the aggregate of the portions, if any, of each distribution made by the Trust pursuant to Section 5.3 or Section 5.4(a) which have been determined by the Trustees, pursuant to Section 5.5, to have been payable by the Trust out of Net Realized Capital Gains for such year.
- (c) Subject to Section 6.5, the proportionate share of each issued and outstanding Trust Unit of the amount of any distribution made pursuant to either or both of Sections 5.4(a) and (b) shall be determined by dividing such amount by the number of issued and outstanding Trust Units on the applicable Distribution Record Date in respect of a distribution pursuant to Section 5.4(a) and on December 31 in respect of a distribution pursuant to Section 5.4(b). Each Trust Unitholder's share of the amount of any such distribution shall be an amount equal to the proportionate share of each Trust Unit of such amount multiplied by the number of Trust Units owned of record by each such Trust Unitholder on such applicable record date or December 31 in the year of such distribution, as the

case may be. Subject to Section 5.8, amounts which have been declared to be payable to Trust Unitholders pursuant to either Section 5.4(a) or (b) shall be paid in cash on the Distribution Payment Date which immediately follows the applicable record date in respect of a distribution pursuant to Section 5.4(a) or December 31 in the applicable year in respect of a distribution pursuant to Section 5.4(b).

5.5 Character of Distributions

Distributions payable to Trust Unitholders pursuant to this Article 5 shall be deemed to be distributions of Income of the Trust, Net Realized Capital Gains, trust capital or other items in such amounts as the Trustees shall, in their absolute discretion, determine. For greater certainty, it is hereby declared that any distribution of Net Realized Capital Gains shall include the non-taxable portion of the capital gains of the Trust which are encompassed in such distribution.

5.6 Enforceability of Right to Receive Distributions

For greater certainty, it is hereby declared that each Trust Unitholder shall have the legal right to enforce payment of any amount which is due and payable to such Trust Unitholder as a result of any distribution which is payable to such Trust Unitholder pursuant to this Article.

5.7 Designation of Taxable Dividends, Taxable Capital Gains and Foreign Source Income

In accordance with and to the extent permitted by the *Tax Act*, the Trustees in each year shall make designations in respect of the amounts payable to Trust Unitholders for such amounts that the Trustees consider to be reasonable in all of the circumstances, including, without limitation, designations relating to taxable dividends received by the Trust in the year on shares of taxable Canadian corporations, net taxable capital gains realized by the Trust in the year and foreign source income of the Trust for the year.

5.8 Method of Payment of Distributions

- (a) Distributions shall be made by cheque payable to or to the order of the Unitholder or by such other manner of payment as approved by the Trustees from time to time.
- (b) Where the Trustees determine that the Trust does not have cash in an amount sufficient to make payment of the full amount of any distribution which has been declared to be payable pursuant to this Article on the due date for such payment, the payment may, at the option of the Trustees, include the issuance of additional Trust Units, or fractions of Trust Units, if necessary, having a value equal to the difference between the amount of such distribution and the amount of cash which has been determined by the Trustees to be available for the payment of such distribution.
- (c) The value of each Trust Unit which is issued pursuant to Section 5.8(b) shall be the market price (as defined in Section 6.3) of the Trust Units on the applicable Distribution Record Date in respect of a distribution pursuant to Section 5.3, on the applicable Distribution Record Date in respect of a distribution under Section 5.4(a) or December 31 in respect of a distribution under Section 5.4(b), provided that if the particular date is not a Business Day then the market price (as defined in Section 6.3) shall be determined on the last Business Day which precedes such particular date.

5.9 Withholding Taxes

The Trustees shall deduct or withhold from distributions payable to any Trust Unitholder all amounts required by law to be withheld from such distribution.

5.10 Definitions

Unless otherwise specified or the context otherwise requires, any term in this Article which is defined in the *Tax Act* shall have for the purposes of this Article the meaning that it has in the *Tax Act*.

ARTICLE 6 REDEMPTION OF TRUST UNITS

6.1 Right of Redemption

Each Trust Unitholder shall be entitled to require the Trust to redeem at any time or from time to time at the demand of the Unitholder all or any part of the Trust Units registered in the name of the Trust Unitholder at the prices determined and payable in accordance with the conditions hereinafter provided.

6.2 Exercise of Redemption Right

- (a) To exercise a Trust Unitholder's right to require redemption under this Article 6, a duly completed and properly executed notice requiring the Trust to redeem Trust Units, in a form approved by the Trustees, shall be sent to the Trust at the head office of the Trust. No form or manner of completion or execution shall be sufficient unless the same is in all respects satisfactory to the Trustees and is accompanied by any further evidence that the Trustees may reasonably require with respect to the identity, capacity or authority of the person giving such notice.
- (b) Upon receipt by the Trust of the notice to redeem Trust Units, the Unitholder shall thereafter cease to have any rights with respect to the Trust Units tendered for redemption (other than to receive the redemption payment therefor) including the right to receive any distributions thereon which are declared payable to the Trust Unitholders of record on a date which is subsequent to the day of receipt by the Trust of such notice. Trust Units shall be considered to be tendered for redemption on the date that the Trust has, to the satisfaction of the Trustees, received the notice and other required documents or evidence as aforesaid.

6.3 Cash Redemption

- (a) Upon receipt by the Trust of the notice to redeem Trust Units in accordance with Section 6.2, the holder of the Trust Units tendered for redemption shall be entitled to receive a price per Trust Unit (hereinafter called the "Redemption Price") equal to the lesser of:
 - (i) 90% of the "market price" of the Trust Units on the principal market on which the Trust Units are quoted for trading during the 10 trading day period

commencing immediately after the date on which the Trust Units were surrendered to the Trust for redemption; and

- (ii) 100% of the "closing market price" on the principal market on which the Trust Units are quoted for trading on the date on which the Trust Units were surrendered to the Trust for redemption.

For the purposes hereof, "market price" shall be an amount equal to the weighted average of the closing price of the Trust Units for each of the trading days on which there was a closing price; provided that if the applicable exchange or market does not provide a closing price but only provides the highest and lowest prices of the Trust Units traded on a particular day, the "market price" shall be an amount equal to the weighted average of the average of the highest and lowest prices for each of the trading days on which there was a trade; and provided further that if there was trading on the applicable exchange or market for fewer than five of the 10 trading days, the "market price" shall be the weighted average of the following prices established for each of the 10 trading days: the average of the last bid and last ask prices for each day on which there was no trading; the closing price of the Trust Units for each day that there was trading if the exchange or market provides a closing price; and the weighted average of the highest and lowest prices of the Trust Units for each day that there was trading, if the market provides only the highest and lowest prices of Trust Units traded on a particular day. For the purposes of Section 6.3(a)(iii), the "closing market price" shall be: an amount equal to the closing price of the Trust Units if there was a trade on the date and the exchange or market provides a closing price; an amount equal to the weighted average of the highest and lowest prices of Trust Units if there was trading and the exchange or other market provides only the highest and lowest trading prices of Trust Units traded on a particular day; and the weighted average of the last bid and last ask prices if there was no trading on the date. During the period of time, if any, after the date on which the Trust Units were surrendered to the Trust for redemption, that the Trust Units issued are subject to payment of an instalment of the issue price and are represented by instalment receipts, unless a market for trading in the Trust Units (other than those so represented by instalment receipts) develops which the Trustees consider fairly reflects the market value of the Trust Units, the "market price" for purposes of Section 6.3(a)(i) and the "closing market price" for purposes of Section 6.3(a)(ii) shall equal the aggregate of the "market price" or "closing market price" for such instalment receipts (calculated as aforesaid as if the instalment receipts were Trust Units) plus the amount of the unpaid instalment of the issue price per Trust Unit.

- (b) Subject to Sections 6.4 and 6.5, the Redemption Price payable in respect of the Trust Units tendered for redemption during any month shall be paid by cheque, drawn on a Canadian chartered bank or a trust company in lawful money of Canada, payable at par to or to the order of the Trust Unitholder who exercised the right of redemption on or before the last day of the calendar month following the month in which the Trust Units were tendered for redemption. Payments made by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former Unitholder and/or any party having a security interest unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder in respect of Trust Units redeemed.

6.4 No Cash Redemption in Certain Circumstances

Section 6.3(b) shall not be applicable to Trust Units tendered for redemption by a Trust Unitholder, if:

- (a) the total amount payable by the Trust pursuant to Section 6.3 in respect of such Trust Units and all other Trust Units tendered for redemption prior thereto in the same calendar month exceeds \$50,000 ("Monthly Limit"); provided that the Trustees may, in their sole discretion, waive such limitation in respect of all Trust Units tendered for redemption in any calendar month. In the absence of such a waiver, Trust Units tendered for redemption in any calendar month in which the total amount payable by the Trust pursuant to Section 6.3(b) exceeds the Monthly Limit will be redeemed for cash pursuant to Section 6.3(b) and, subject to any applicable regulatory approvals, by a distribution in specie of securities of Arctic Glacier under Section 6.5 on a pro rata basis;
- (b) at the time the Trust Units are tendered for redemption, the outstanding Trust Units (or, as applicable, instalment receipts) are not listed for trading or quoted on any stock exchange or market which the Trustees consider, in their sole discretion, provides representative fair market value prices for the Trust Units (or, as applicable, instalment receipts); or
- (c) the normal trading of the outstanding Trust Units (or, as applicable, instalment receipts) is suspended or halted on any stock exchange on which the Trust Units (or, as applicable, instalment receipts) are listed for trading or, if not so listed, on any market on which the Trust Units (or, as applicable, instalment receipts) are quoted for trading, on the date that such Trust Units tendered for redemption were tendered to the Trust for redemption or for more than five trading days during the 10 trading day period commencing immediately after the date on which such Trust Units tendered for redemption were tendered to the Trust for redemption.

6.5 In Specie Redemption

If, pursuant to Section 6.4, Section 6.3(b) is not applicable to Trust Units tendered for redemption by a Unitholder, the Redemption Price per Trust Unit specified in Section 6.3 to which the Unitholder would otherwise be entitled shall, subject to receipt of all necessary regulatory approvals, be paid and satisfied by way of a distribution in specie to such Unitholder of a pro rata number of Common Shares and Notes (each in the principal amount of \$100), on the basis, for such Trust Units tendered for redemption, equal to the product of (i) number of Trust Units tendered for redemption divided by the total number of Trust Units outstanding on the date on which the Trust Units were tendered for redemption multiplied by (ii) the number of Common Shares and Notes (each in the principal amount of \$100) held by the Trust on the date the Trust Units were tendered for redemption. The Redemption Price payable pursuant to this Section 6.5 in respect of Trust Units tendered for redemption during any month shall, subject to receipt of all necessary regulatory approvals, be paid by the transfer, to or to the order of the Unitholder who exercised the right of redemption, on the last day (the "Transfer Date") of the calendar month following the month in which the Trust Units were tendered for redemption, of the number of Common Shares and Notes (each in the principal amount of \$100) determined as aforesaid. The Trust shall be entitled to all interest paid or accrued and unpaid on the Notes being transferred and distributions paid on the Common Shares being transferred to and including the Transfer Date. Payments by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of the securities of the Company by registered mail in a postage prepaid envelope addressed to the former Trust Unitholder. Upon such payment, the Trust shall be discharged from all liability to the former Trust Unitholder in

respect of the Trust Units so redeemed. No fractional Common Shares or Notes in a principal amount less than \$100 will be distributed and where the number of securities of the Company to be received by the former Trust Unitholder includes a fraction or a principal amount less than a multiple of \$100, such number shall be rounded to the next lowest number or multiple of \$100, as the case may be. Where the Trust makes a distribution in specie of a pro rata number of securities of the Company on a redemption of Trust Units as a result of the operation of Section 6.4(b) or (c) the Trustees shall determine the fair market value of the redeemed Trust Units. Where the Trust makes a distribution in specie of a pro rata number of securities of the Company on a redemption of Trust Units pursuant to this subsection, the Trustees may, in their sole discretion, designate to the redeeming Trust Unitholders any capital gain realized by the Trust as a result of the distribution of such securities to the Trust Unitholder.

6.6 Cancellation of all Redeemed Trust Units

All Trust Units which are redeemed under this Article 6 shall be cancelled and such Trust Units shall no longer be outstanding and shall not be reissued.

6.7 Subordination

Following any in specie redemption pursuant to the operation of Section 6.5, holders of Notes will be required to acknowledge that they are subject to any applicable subordination agreements as may be determined by the Trustees prior to delivery of such Notes to the Trust Unitholder.

ARTICLE 7 TRUSTEES

7.1 Number of Trustees

The Trustees shall consist of not more than nine nor less than three Trustees, with the number of Trustees from time to time within such range being fixed by resolution of the Trustees, provided that until otherwise so determined by resolution, the number of Trustees shall be three.

7.2 Calling and Notice of Meetings

Meetings of the Trustees shall be called and held at such time and at such place as the Trustees, the chairman of the Trustees or any two Trustees may determine, and any one Trustee or officer of the Trust may give notice of meetings when directed or authorized by such persons. Notice of each meeting of the Trustees shall be given to each Trustee not less than 48 hours before the time when the meeting is to be held, provided that if a quorum of Trustees is present, the Trustees may without notice hold a meeting immediately following an annual meeting of Trust Unitholders. Notice of a meeting of the Trustees may be given verbally, in writing or by telephone, fax or other means of communication. A notice of a meeting of Trustees need not specify the purpose of or the business to be transacted at the meeting. Notwithstanding the foregoing, the Trustees may by resolution from time to time fix a day or days in any month or months for regular meetings of the Trustees at a place and hour to be named, in which case, provided that a copy of such resolution is sent to each Trustee forthwith after being passed and forthwith after each Trustee's appointment, no other notice shall be required for any such regular meeting. Notice of a meeting may be waived by the Trustees at or after a meeting which is held and the meeting shall be deemed to have been duly held in such event. A Trustee who attends a meeting of Trustees is deemed to have waived notice of the meeting except when such Trustee attends for the express purpose of objecting to the transaction of any business on the grounds that proper notice of the meeting was not given.

7.3 Place of Meetings

Meetings of the Trustees shall be held in Winnipeg, Manitoba or such other place in Canada as the Trustees shall designate. A Trustee who attends a meeting of Trustees, in person or by telephone, is deemed to have consented to the location of the meeting except when he attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully held.

7.4 Meetings by Telephone

With the consent of the chairman of the meeting or a majority of the other Trustees present at the meeting, a Trustee may participate in a meeting of the Trustees or of a committee of the Trustees by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other. A Trustee participating in such a meeting in such manner shall be considered present at the meeting and at the place of the meeting.

7.5 Quorum

The quorum for the transaction of business at any meeting of the Trustees shall consist of the greater of two Trustees or a majority of the number of Trustees then holding office, and, notwithstanding any vacancy among the number of Trustees, a quorum of Trustees may exercise all of the powers of the Trustees.

7.6 Chairman

The chairman of any meeting of the Trustees shall be the Trustee present at the meeting who holds the office of Chairman of the Trustees or if such person is not present, the Trustees present shall choose one of their number to be chairman.

7.7 Action by the Trustees

At all meetings of the Trustees every question shall be decided by a majority of the votes cast on the question. In the case of equality of votes, the chairman of the meeting shall not be entitled to a second or casting vote. The powers of the Trustees may be exercised by resolution passed at a meeting at which a quorum is present or by resolution in writing signed by all Trustees who would be entitled to vote on that resolution at a meeting of the Trustees. Resolutions in writing may be signed in counterparts each of which shall be deemed to be an original and all originals together shall be deemed to be one and the same instrument.

7.8 Adjourned Meeting

Any meeting of Trustees may be adjourned from time to time by the chairman of the meeting with the consent of the meeting to a fixed time and place. Further notice of the adjourned meeting need not be given. The adjourned meeting shall be duly constituted if a quorum is present and if it is held in accordance with the terms of the adjournment. If there is not a quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated upon its adjournment.

7.9 Remuneration and Expenses

The Trustees shall be paid such remuneration for their services as may from time to time be determined by the Trustees, acting reasonably. The Trustees shall also be entitled to be reimbursed for reasonable travelling and other expenses properly incurred by them in attending meetings of the Trustees or any committee thereof or in connection with their services as Trustees. A Trustee shall not be precluded from serving the Trust in any other capacity and receiving remuneration therefor. Trustees who are not employees of the Company shall be entitled to participate in any Trust Option Plan adopted by the Trustees.

7.10 Officers

The Trustees from time to time may appoint one or more officers of the Trust, including without limitation a Chairman of the Trustees, and, without prejudice to rights under any employment contract, may remove any officer of the Trust. The powers and duties of each officer of the Trust shall be those determined from time to time by the Trustees and, in the absence of such determination, shall be those usually applicable to the office held.

ARTICLE 8 APPOINTMENT, RESIGNATION AND REMOVAL OF TRUSTEES

8.1 Qualification of Trustees

The following persons are disqualified from being a Trustee of the Trust:

- (a) anyone who is less than eighteen years of age;
- (b) anyone who is of unsound mind and has been so found by a Court in Canada or elsewhere;
- (c) a person who is not an individual;
- (d) a person who is a non-resident of Canada as defined in the *Tax Act* if, at any time, a majority of the Trustees of the Trust would have otherwise been non-residents of Canada as defined in the *Tax Act*; and
- (e) a person who has the status of bankrupt.

8.2 Appointment of Trustees

Except as otherwise provided herein, Trustees shall be appointed (including the reappointment of incumbent Trustees) at each annual meeting of Trust, and may be appointed at a special meeting of Trust Unitholders, in each case to hold office, subject to Section 8.5, for a term expiring at the close of the next annual meeting of Trust Unitholders following such an appointment. Any such appointment shall be made either by a resolution approved by a majority of the votes cast at a meeting of Trust Unitholders or shall be made by resolution in writing in the manner set out in Section 12.10. Notwithstanding the foregoing:

- (a) if no Trustees are appointed at the annual meeting of Trust held immediately before the term of office of such Trustees expires, such Trustees shall continue to hold the office of Trustee under this Declaration of Trust until successors have been appointed; and
- (b) the Trustees may, between annual meetings of the Trust appoint one or more additional Trustees for a term to expire (subject to further appointment) at the close of the next annual meeting of Trust Unitholders but the number of additional Trustees so appointed shall not at any time exceed one-third of the number of Trustees who held office immediately after the expiration of the immediately preceding annual meeting of Trust Unitholders.

8.3 Consent to Act

- (a) A person who is appointed a trustee hereunder shall not become a Trustee until such Trustee has, either before or after such appointment, executed and delivered to the Trust and the Trustees a consent substantially as follows:

"To: ARCTIC GLACIER INCOME FUND (the "Trust")
 And to: The Trustees thereof

The undersigned hereby consents to act as a Trustee of the Trust and hereby agrees, upon the later of the date of this consent and the date of the undersigned's appointment as a Trustee of the Trust, to thereby become a party, as a Trustee, to the Declaration of Trust dated as of January 22, 2002, as amended or amended and restated from time to time, constituting the Trust.

Dated:

 [Signature]

 [Print Name]"

- (b) Upon the later of a person being appointed a trustee hereunder and executing and delivering to the Trust and the Trustees, a consent substantially as set forth in subsection 8.3(a), such person shall become a Trustee hereunder and shall be deemed to be a party (as a Trustee) to this Declaration of Trust, as amended or amended and restated from time to time.

8.4 Failure to Elect Minimum Number of Trustees

If a meeting of Trust Unitholders fails to elect the minimum number of Trustees required by this Declaration of Trust by reason of the disqualification or death of any nominee, the Trustees elected at the meeting may exercise all of the powers of the Trustees if the number of Trustees so elected constitutes a quorum.

8.5 Ceasing to Hold Office

A Trustee ceases to hold office when:

- (a) he or she dies or resigns;
- (b) he or she is removed in accordance with Section 8.6; or
- (c) he or she is disqualified from being a Trustee as provided under Section 8.1.

A resignation of a Trustee becomes effective at the time a written resignation is sent to the Trust and the other Trustees or at the time specified in the resignation, whichever is later, provided that if, upon the resignation becoming effective, the number of remaining Trustees would be less than the number necessary to constitute a quorum for a meeting of Trustees, the resignation is not effective until the resigning Trustee's successor is duly appointed as a Trustee.

Upon a Trustee ceasing to hold office as such hereunder, such Trustee shall cease to be a party, as a Trustee, to this Declaration of Trust; provided, however, that such Trustee shall continue to be entitled to be paid any amounts owing by the Trust to the Trustee and to the benefits of the indemnity provided in Section 9.9.

8.6 Removal of Trustee

The Trust Unitholders may remove any Trustee or Trustees from office by resolution approved by a majority of the votes cast at a meeting of Trust Unitholders called for that purpose. A vacancy created by the removal of a Trustee may be filled at the meeting of Trust Unitholders at which the Trustee is removed or, if not so filled, may be filled as set forth in Section 8.7.

8.7 Filling Vacancies

Subject to Section 8.2, a quorum of Trustees may fill a vacancy among the Trustees, except a vacancy resulting from an increase in the number of Trustees or from a failure to elect the minimum number of Trustees fixed by or pursuant to this Declaration of Trust. If there is not a quorum of Trustees, or if there has been a failure to elect the minimum number of Trustees required by or pursuant to this Declaration of Trust, the Trustees then in office shall forthwith call a special meeting of Trust Unitholders to fill the vacancy and, if they fail to call a meeting or if there are no Trustees then in office, the meeting may be called by any Trust Unitholder. A Trustee appointed to fill a vacancy holds office, subject to Section 8.5, until the close of the next annual meeting of the Trust Unitholders.

8.8 Validity of Acts

All acts of a Trustee are valid notwithstanding any irregularity in the appointment of the Trustee or any defect in the qualifications of the Trustee.

**ARTICLE 9
CONCERNING THE TRUSTEES**

9.1 Powers of the Trustees

Subject to the terms and conditions of this Declaration of Trust, the Trustees may exercise from time to time in respect of the Trust Assets and the investments and affairs of the Trust full, absolute and exclusive power control and authority over the Trust Assets and appears to the same extent as if the Trustees were the legal and beneficial owners thereof

9.2 Specific Powers and Authorities

Subject only to the express limitations contained in this Declaration of Trust and in addition to any other powers and authorities conferred by this Declaration of Trust or which the Trustees may have by virtue of any present or future statute or rule of law, the Trustees without any action or consent by the Trust Unitholders, shall have and may exercise at any time and from time to time the following powers and authorities which may or may not be exercised by the Trustees in their sole judgement and discretion and in such manner and upon such terms and conditions as they may from time to time determine proper including the following powers and authorities:

- (a) to supervise the activities and manage the investments and affairs of the Trust;
- (b) to maintain records and provide reports to Trust Unitholders;
- (c) to collect, sue for and receive all sums of money coming due to the Trust;
- (d) to effect payment of distributions to the Trust Unitholders as provided in Article 5;
- (e) to invest funds of the Trust as provided in Article 4;
- (f) subject to the Note Indenture to the extent it is in force and binding upon the Trust, to possess and exercise all the rights, powers and privileges pertaining to the ownership of shares of Arctic Glacier and the Notes to the same extent that an individual might, unless otherwise limited herein, and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or actions generally or for any particular meeting or action and may include the exercise of discretionary power;
- (g) to vote in favour of the Trust's nominees to serve as directors of Arctic Glacier;
- (h) where reasonably required, to engage or employ on behalf of the Trust any persons as agents, representatives, employees or independent contractors (including, without limitation, investment advisors, registrars, underwriters, accountants, lawyers, appraisers, brokers or otherwise) in one or more capacities;
- (i) except as prohibited by law, to delegate any of the powers and duties of the Trustees to any one or more agents, representatives, officers, employees, independent contractors or other persons without liability to the Trustees except as provided in this Declaration of Trust;

- (j) to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, disputes, claims, demands or other litigation or proceedings, regulatory or judicial, relating to the Trust, the assets of the Trust or the Trustee's affairs, to enter into agreements therefor, whether or not any suit or proceeding is commenced or claim asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- (k) to arrange for insurance contracts and policies insuring the Trust, its assets, the business of Arctic Glacier and/or any or all of the Trustees or the Trust Unitholders, including against any and all claims and liabilities of any nature asserted by any person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustees or Trust Unitholders or otherwise;
- (l) to cause legal title to any of the assets of the Trust to be held by and/or in the name of a Trustee, or except as prohibited by law, by and/or in the name of the Trust or any other custodian or person, on such terms, in such manner, with such powers in such person as the Trustees may determine and with or without disclosure that the Trust or a Trustee is interested therein; provided, however, that should legal title to any of the Trust Assets be held by and/or in the name of any person or persons other than a Trustee or the Trust, the Trustees shall require such person or persons to execute a trust agreement acknowledging that legal title to such assets is held in trust for the benefit of the Trust;
- (m) ensuring that the restrictions on Non-Resident ownership referred to herein are met;
- (n) to issue Trust Units for such consideration as the Trustees may advise the Trustees, such issuance to be subject to the terms and conditions of the Declaration of Trust;
- (o) to enter into and perform the obligations of the Trust under the Note Indenture, the DRIP (if any) and the Trust Option Plan;
- (p) to use their best efforts to ensure that the Trust qualifies at all times as a "unit trust" pursuant to paragraph 108(2)(a) of the *Tax Act* and a "mutual fund trust" pursuant to subsection 132(6) of the *Tax Act* and that the Trust Units do not constitute "foreign property" for purposes of the *Tax Act*;
- (q) to issue convertible unsecured subordinated debentures, or securities exchangeable to or into convertible unsecured subordinated debentures notwithstanding Section 9.4 hereof;
- (r) to guarantee the obligations of any of its Subsidiaries or Affiliates and to charge, pledge, hypothecate or grant any security interest, mortgage or encumbrance over or with respect to any or all of the Trust Assets in connection with any such guarantee existing as at the date hereof or incurred hereafter; and
- (s) to do all such other acts and things as are incidental to the foregoing, and to exercise all powers which are necessary or useful to carry on the purpose and activities of the Trust, to promote any of the purposes for which the Trust is formed and to carry out the provisions of this Declaration of Trust.

9.3 Voting of Shares and Notes Held by the Trust

The Common Shares and the Notes held from time to time by the Trustees as part of the Trust Assets may be voted by the Trustees at any and all meetings of shareholders of Arctic Glacier or any and all meetings of shareholders of Arctic Glacier at which the holders of such Common Shares or Notes are entitled to vote.

9.4 Restrictions on Trustee's Powers

- (a) Notwithstanding Section 9.3, the Trustees may not under any circumstances whatsoever vote the Common Shares or, where applicable, the Notes to authorize:
- (i) any sale, lease or other disposition of, or any interest in, all or substantially all of the assets of Arctic Glacier, except in conjunction with an internal reorganization of the direct or indirect assets of Arctic Glacier as a result of which Arctic Glacier has the same interest, whether direct or indirect, in the assets as the interest, whether direct or indirect, that it had prior to the reorganization;
 - (ii) any amalgamation, arrangement or other merger of Arctic Glacier with any other corporation, except in connection with an internal reorganization as referred to in paragraph (i) above;
 - (iii) any material amendment to the Note Indenture, other than in contemplation of an issuance of further Trust Units;
 - (iv) any material amendment to the articles of Arctic Glacier to change the authorized share capital in a manner that may be prejudicial to the Trust; and
 - (v) any issue of shares in the capital of Arctic Glacier other than to the Trust;

without the approval of the Trust Unitholders by Special Resolution at a meeting of Trust Unitholders called for that purpose.

- (b) Subject to sections 9.2(q) and (r) hereof, the Trustees shall have no power to borrow, incur any indebtedness or give any guarantee on behalf of the Trust or any other person or to charge, pledge, hypothecate or grant any security interest, mortgage or encumbrance over or with respect to any or all of the Trust Assets; provided that the Trust may from time to time incur indebtedness, which may be reborrowed after repayment, in whole or in part, for the sole purpose of paying the amounts required for the redemption of Trust Units pursuant to Article 6, provided that such indebtedness is repaid in full from income received by the Trust prior to making any distribution on or before the next following Distribution Record Date.
- (c) The Trustees shall have no power to sell or otherwise dispose of any Common Shares or Notes (except pursuant to an in specie redemption under Section 6.5), or to sell all or substantially all of the Trust Assets or cause Arctic Glacier to sell all or substantially all of its assets, except with the approval of the Trust Unitholders by Special Resolution at a meeting of Trust Unitholders called for that purpose or except as part of an internal reorganization of the direct or indirect assets of the Trust as a result of which the Trust

has the same interest, whether direct or indirect, in the assets as the interest, whether direct or indirect, that it had prior to the reorganization.

- (d) The Trustees shall only vote the Common Shares of Arctic Glacier and exercise the rights under the Notes in the manner provided for herein, as the case may be, on the conditions contained therein.

9.5 Banking

The banking activities of the Trust, or any part thereof, including, but without restricting the generality of the foregoing, the operation of the Trust's accounts; the making, signing, drawing, accepting, endorsing, negotiation, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for orders relating to any property of the Trust; the execution of any agreement relating to any property of the Trust; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such banker to do any act or thing on the Trust's behalf to facilitate such banking activities, shall be transacted with such bank, trust company, or other firm or corporation carrying on a banking business as the Trustees may designate, appoint or authorize from time to time and shall be transacted on the Trust's behalf by one or more officers of the Trust or Trustees as the Trustees may designate, appoint or authorize from time to time.

9.6 Standard of Care and Duties

The Trustees shall act honestly and in good faith with a view to the best interests of the Trust and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. A Trustee shall not be liable in carrying out his or her duties under this Declaration of Trust except in cases where a Trustee fails to act honestly and in good faith with a view to the best interests of the Trust or to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The duties and standard of care of the Trustees provided as aforesaid are intended to be similar to, and not to be any greater than, those imposed on a director of a corporation governed by the *Business Corporations Act* (Alberta). Unless otherwise required by law, a Trustee shall not be required to give bond surety or security in any jurisdiction for the performance of any duties or obligations hereunder. No Trustee, in his or her capacity as trustee, shall be required to devote his or her entire time to the investments or business or affairs of the Trust.

9.7 Fees and Expenses

As part of the expenses of the Trust, the Trustees may pay or cause to be paid reasonable fees, costs and expenses incurred in connection with the administration and management of the Trust, including (without, limitation) fees of auditors, accountants, lawyers, appraisers and other agents, consultants and professional advisors employed by or on behalf of the Trust and the cost of reporting or giving notices to Trust Unitholders. All costs, charges and expenses properly incurred by the Trustees on behalf of the Trust shall be payable out of the Trust Assets.

9.8 Limitations on Liability of Trustees

None of the Trustees or the officers or agents of the Trust shall be liable to any Trust Unitholder for any action taken in good faith in reliance on any documents that are, *prima facie* properly executed; for any depreciation of, or loss to, the Trust incurred by reason of the sale of any security; for

the loss or disposition of monies or securities; or for any other action or failure to act including, without limitation, the failure to compel in any way any former trustee to redress any breach of trust or any failure by the Company to perform obligations or pay monies owed to the Trust, except for a breach of the standard of care, diligence and skill as set out in Section 9.6 or a breach of Section 9.4. If the Trustees have retained an appropriate expert or advisor with respect to any matter connected with their duties under this Declaration of Trust, the Trustees may act or refuse to act based on the advice of such expert or advisor and, notwithstanding any provision of this Declaration of Trust, including, without limitation, the standard of care, diligence and skill set out in Section 9.6 hereof, the Trustees shall not be liable for any action or refusal to act based on the advice of any such expert or advisor which it is reasonable to conclude is within the expertise of such expert or advisor to give.

9.9 Indemnification of Trustees

Each Trustee, each former Trustee, each officer of the Trust and each former officer of the Trust shall be entitled to be and shall be indemnified and reimbursed out of the Trust Assets in respect of any and all taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon the Trustee or officer in consequence of his or her performance of his or her duties hereunder and in respect of any and all costs, charges and expenses, including amounts paid to settle an action or satisfy a judgement, reasonably incurred in respect of any civil, criminal or administrative action or proceeding to which the Trustee, former Trustee, officer or former officer is made a party by reason of being or having been a Trustee or officer of the Trust or, at the request of the Trust, a director or officer of Arctic Glacier or any Subsidiary thereof, provided that a Trustee, former Trustee, officer or former officer shall not be indemnified out of the Trust Assets in respect of unpaid taxes or other governmental charges or in respect of such costs, charges and expenses that arise out of or as a result or in the course of his or her failure to act honestly and in good faith with a view to the best interests of the Trust Unitholders. A Trustee, former Trustee, officer or former officer shall not be entitled to satisfy any right of indemnity or reimbursement granted herein, or otherwise existing under law, except out of the Trust Assets, and no Trust Unitholder or other Trustee or officer shall be personally liable to any person with respect to any claim for such indemnity or reimbursement as aforesaid.

9.10 Contractual Obligations of Trust

In respect of any obligations or liabilities being incurred by the Trust or the Trustees on behalf of the Trust, the Trustees and the Trust shall make all reasonable efforts to include as a specific term of such obligations or liabilities a contractual provision to the effect that none of the Trust Unitholders or the Trustees have any personal liability or obligations in respect thereof.

9.11 Conflicts of Interest

A Trustee or an officer of the Trust who is a party to, or is a director or officer of, or has a material interest in any person who is a party to a material contract or proposed material contract with the Trust shall disclose in writing to the Trust or request to have entered in the minutes of meetings of the Trustees the nature and extent of such interest, and shall not vote on any resolutions to approve the contract, unless the contract is one relating primarily to his or her remuneration as a Trustee or officer, one for indemnity or insurance in respect of him or her, or one with Arctic Glacier and, for greater certainty, a Trustee complying with this Section 9.11, shall not be subject to any liability to the Trust or the Trust Unitholders with respect to such contract or proposed material contract as aforesaid.

ARTICLE 10
COMMITTEES OF TRUSTEES

10.1 Delegation

Except as prohibited by law, the Trustees may appoint from their number a committee of Trustees and may delegate to the committee of Trustees such authority as the Trustees may in their sole discretion deem necessary or desirable to effect the administration of the duties of the Trustees under this Declaration of Trust, without regard to whether such authority is normally granted or delegated by trustees.

10.2 Procedure

Unless otherwise determined by the Trustees, a quorum for meetings of any committee shall be a majority of its members, each committee shall have the power to appoint its chairman and the rules for calling, holding, conducting and adjourning meetings of the committee shall be the same as those governing the Trustees. Each member of a committee shall serve during the pleasure of the Trustees and, in any event, only so long as he or she shall be a Trustee. The Trustees may fill vacancies in a committee by appointment from among their members. Provided that a quorum is maintained, the committee may continue to exercise its powers notwithstanding any vacancy among its members.

10.3 Governance

In lieu of a committee, the Trustees will be directly responsible for developing the Trust's approach to governance issues, filling vacancies among the Trustees and periodically reviewing the composition and effectiveness of the Trustees and the contribution of individual Trustees.

The Trustees will also be responsible for adopting and periodically reviewing and updating the Trust's written disclosure policy. This policy will, among other things:

- (a) Articulate the legal obligations of the Trust, its affiliates and their respective Trustees, directors, officers and employees with respect to confidential corporate information;
- (b) Identify spokespersons of the Trust who are authorized to communicate with third parties such as analysts, the media and investors;
- (c) Provide guidelines on the disclosure of forward-looking information;
- (d) Require advance review by senior representatives of any disclosure of financial information to seek to ensure that the information is not material, and to seek to ensure that selective disclosure of material information does not occur, and that if it does occur, a news release is issued promptly; and
- (e) Establish "black-out" periods immediately prior to and following the disclosure of quarterly and annual financial results and immediately prior to the disclosure of certain material changes during which the Trust, its affiliates, and their respective trustees, directors, officers and certain other persons may not purchase or sell Trust Units.

10.4 Audit Review

In lieu of an audit committee, the Trustees will directly fulfill their responsibilities of oversight and supervision of:

- (a) The accounting for and financial reporting practices and procedures of the Trust;
- (b) The adequacy of internal accounting controls and procedures of the Trust; and
- (c) The quality and integrity of financial statements of the Fund.

In addition, the Trustees will be responsible for directing the auditors' examination into specific areas.

ARTICLE 11 AMENDMENT

11.1 Amendment

The provisions of this Declaration of Trust, except where specifically provided otherwise, may only be amended by Special Resolution; provided that the provisions of this Declaration of Trust may be amended by the Trustees without the consent, approval or ratification of the Trust Unitholders or any other person at any time for the purpose of:

- (a) ensuring continuing compliance with applicable laws, regulations, requirements or policies of any governmental or other authority having jurisdiction over the Trustees or the Trust;
- (b) making all changes deemed necessary or advisable to ensure that the Trust has not been established nor maintained primarily for the benefit of non-residents of Canada as defined in the Tax Act;
- (c) providing, in the opinion of the Trustees, additional protection for or of benefit to the Trust Unitholders;
- (d) removing any conflicts or inconsistencies in this Declaration of Trust or making corrections, including the correction or rectification of any ambiguities, defective provisions, errors, mistakes or omissions which are, in the opinion of the Trustees, necessary or desirable and not prejudicial to the Trust Unitholders; or
- (e) making amendments which, in the opinion of the Trustees, are necessary or desirable as a result of changes in taxation laws;
- (f) correcting errors or inconsistencies between this Declaration of Trust and the Material Contracts which are, in the opinion of the Trustees, necessary or desirable and not prejudicial to the Trust Unitholders;

but notwithstanding the foregoing, no such amendment shall modify the right to one vote per Trust Unit or reduce the fractional undivided interest in the Trust Assets represented by any Trust Unit without the consent of the holder of such Trust Unit.

11.2 Notification of Amendment

As soon as shall be practicable after the making of any amendment pursuant to this Article 11, the Trustees shall furnish written notification of the substance of such amendment to each Trust Unitholder.

ARTICLE 12 MEETINGS OF TRUST UNITHOLDERS

12.1 Annual and Special Meetings of Trust Unitholders

Annual meetings of the Trust Unitholders shall be called on a day on or before June 30 in each year, at a time and at a place in Canada set by the Trustees. The business transacted at such meetings shall include the presentation of the audited financial statements of the Trust for the prior fiscal year, the election of nominees of the Trust to serve as directors of Arctic Glacier (except to fill casual vacancies which shall be done by the other directors of Arctic Glacier), the appointment of Trustees for the ensuing year in accordance with Article 8, the appointment of Auditors and the transaction of such other business as Trust Unitholders may be entitled to vote upon as hereinafter provided in this Article 12 or as the Trustees may determine. Special meetings of the Trust Unitholders may be called at any time by the Trustees and shall be called by the Trustees upon a written request of Trust Unitholders holding in the aggregate Trust Units to which are attached not less than 10% of the votes attached to all Trust Units then outstanding, such request specifying the purpose or purposes for which such meeting is to be called. The chairman of any annual or special meeting shall be the Chairman of the Trustees or any other Trustee specified by resolution of the Trustees or, in the absence of any Trustee, any person appointed as chairman of the meeting by the Trust Unitholders present. The Trustees, the officers of the Trust, the Auditors and any other person approved by the Trustees, the chairman of the meeting or by resolution passed by a majority of the votes cast by Trust Unitholders represented at the meeting may attend meetings of the Trust Unitholders.

12.2 Notice of Meetings

Notice of all meetings of Trust Unitholders shall be given by unregistered mail, postage prepaid, addressed to each Trust Unitholder at his or her last address on the books of the Trust, mailed at least 21 days and not more than 50 days before the meeting. Such notice shall specify the time when, and the place where, such meeting is to be held and shall specify the nature of the business to be transacted at such meeting in sufficient detail to permit a Trust Unitholder to form a reasonable judgement thereon, together with the text of any Special Resolution, at the time of mailing of the notice, proposed to be passed. Any adjourned meeting, other than a meeting adjourned for lack of a quorum under Section 12.6(b), may be held as adjourned without further notice. The accidental omission to give notice or the non-receipt of such notice by a Trust Unitholder shall not invalidate any resolution passed at any such meeting. Notwithstanding the foregoing, a meeting of Trust Unitholders may be held at any time without notice if all the Trust Unitholders are present or represented thereat or those not so present or represented have waived notice. Any Trust Unitholder (or a duly appointed proxy of a Trust Unitholder) may waive any notice required to be given under the provisions of this section, and such waiver, whether given before or after the meeting, shall cure any default in the giving of such notice.

12.3 Quorum

At any meeting of the Trust Unitholders, subject as hereinafter provided, a quorum shall consist of two or more individuals present in person either holding personally or representing as proxies Trust Units to which are attached not less in aggregate than 5% of the votes attached to all outstanding Trust Units. In the event of such quorum not being present at the appointed place on the date for which the meeting is called within 30 minutes after the time fixed for the holding of such meeting, the meeting, if called by request of Trust Unitholders, shall be terminated and, if otherwise called, shall stand adjourned to such day being not less than 14 days later and to such place and time as may be appointed by the chairman of the meeting. If at such adjourned meeting a quorum as above defined is not present, the Trust Unitholders present either personally or by proxy shall form a quorum, and any business may be brought before or dealt with at such an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

12.4 Voting Rights of Trust Unitholders

Only Trust Unitholders of record shall be entitled to vote. Each Trust Unit shall entitle the holder or holders of that Trust Unit to one vote on a poll vote at any meeting of Trust Unitholders. Every question submitted to a meeting, other than a Special Resolution, shall, unless a poll vote is demanded, be decided by a show of hands vote, on which every person present and entitled to vote shall be entitled to one vote. At any meeting of Trust Unitholders, any holder of Trust Units entitled to vote thereat may vote by proxy and a proxy need not be a Trust Unitholder, provided that no proxy shall be voted at any meeting unless it shall have been received by the Transfer Agent for verification at least 24 hours prior to the commencement of such meeting. When any Trust Unit is held jointly by several persons, any one of them may vote at any meeting in person or by proxy in respect of such Trust Unit, but if more than one of them shall be present at such meeting in person or by proxy, and such joint owners of their proxies so present disagree as to any vote to be cast, such vote purporting to be executed by or on behalf of a Trust Unitholder shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger.

12.5 Resolutions Binding the Trustees

Trust Unitholders shall be entitled to pass resolutions that will bind the Trustees or the Trust only with respect to the following matters:

- (a) the appointment or removal of a Trustee as provided in Article 8;
- (b) the appointment or removal of Auditors as provided in Article 17;
- (c) the appointment of an Inspector as provided in Section 12.9;
- (d) amendments of this Declaration of Trust as provided in Section 11.1;
- (e) the termination of the Trust as provided in Section 14.2;
- (f) the sale of the Trust Assets as an entirety or substantially as an entirety; and
- (g) the appointment or removal of nominees of the Trust to serve as directors of Arctic Glacier as provided in and subject to Article 12.

Except with respect to the above matters set out in this Section 12.5, no action taken by the Trust Unitholders or any resolution of the Trust Unitholders at any meeting shall in any way bind the Trustees other than with respect to matters brought before the Trust Unitholders by the Trustees. Any action taken or resolution passed in respect of any matter at a meeting of Trust Unitholders shall be by Special Resolution, unless the contrary is otherwise expressly provided under any specific provision of this Declaration of Trust and except for the matters set out in Sections 12.5(a), 12.5(b) and 12.5(g) above which matters may be dealt with by a resolution passed by a majority of the votes cast by Trust Unitholders represented at the meeting.

12.6 Meaning of "Special Resolution"

- (a) The expression "Special Resolution" when used in this Declaration of Trust means, subject to Article 11, a resolution proposed to be passed as a special resolution at a meeting of Trust Unitholders (including an adjourned meeting) duly convened for that purpose and held in accordance with the provisions of this Article at which two or more individuals present in person either holding personally or representing as proxies not less in aggregate than 25% of the number of Trust Units then outstanding and passed by the affirmative votes of the holders of Trust Units to which are attached more than 66 2/3% of the votes attached to all Trust Units represented at the meeting and cast on a poll upon such resolution.
- (b) Notwithstanding Section 12.3, if at any meeting at which a Special Resolution is proposed to be passed the holders of Trust Units to which are attached 25% of the aggregate number of votes attached to all Trust Units outstanding are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Trust Unitholders, shall be dissolved; but in any other case it shall stand adjourned to such date, being not less than 21 nor more than 60 days later and to such place and time as may be appointed by the chairman. Not less than ten days prior notice shall be given of the time and place of such adjourned meeting in the manner provided in Section 12.2. Such notice shall state that at the adjourned meeting the Trust Unitholders present in person or by proxy shall form a quorum but it shall not be necessary to set forth the purposes for which the meeting was originally called or any other particulars. At the adjourned meeting, the Trust Unitholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed by the requisite vote as provided in subsection 12.6(a) shall be a Special Resolution within the meaning of this Declaration of Trust, notwithstanding that the holders of Trust Units to which are attached less than 25% of the aggregate number of votes attached to all Trust Units then outstanding are present in person or by proxy at such adjourned meeting.
- (c) Votes on a Special Resolution shall always be given on a poll and no demand for a poll on a Special Resolution shall be necessary.

12.7 Meaning of "Outstanding"

Every Trust Unit issued, certified and delivered hereunder shall be deemed to be outstanding until it shall be cancelled or delivered to the Trustees or Transfer Agent for cancellation provided that:

- (a) when a new certificate has been issued in substitution for a Trust Unit Certificate which has been lost, stolen, mutilated or destroyed, only one of such Trust Unit Certificates shall be counted for the purposes of determining the number of Trust Units outstanding;
- (b) for the purpose of any provision of this Declaration of Trust entitling holders of outstanding Trust Units to vote, sign consents, requisitions or other instruments or take any action under this Declaration of Trust, Trust Units owned directly or indirectly, legally or equitably, by the Trust, the Company or any affiliate thereof shall be disregarded, except that:
 - (i) for the purpose of determining whether the Trustees shall be protected in relying on any such vote, consent, requisition or other instrument or action only the Trust Units which the Trustees know are so owned shall be so disregarded; and
 - (ii) Trust Units so owned which have been pledged in good faith other than to the Trust, Arctic Glacier or an Affiliate thereof shall not be so disregarded if the pledgee shall establish to the satisfaction of the Trustees the pledgee's right to vote such Trust Units in his or her discretion free from the control of the Trust, Arctic Glacier or any Affiliate thereof.

12.8 Record Date for Voting

For the purpose of determining the Trust Unitholders who are entitled to vote or act at any meeting or any adjournment thereof, the Trustees may fix a date not more than 60 days and not less than 28 days prior to the date of any meeting of Trust Unitholders as a record date for the determination of Trust Unitholders entitled to vote at such meeting or any adjournment thereof, and any Trust Unitholder who was a Trust Unitholder at the time so fixed shall be entitled to vote at such meeting or any adjournment thereof even though the Trust Unitholder has since that time disposed of his or her Trust Units, and no Trust Unitholder becoming such after that time shall be so entitled to vote at such meeting or any adjournment thereof. In the event that the Trustees do not fix a record date for any meeting of Trust Unitholders, the record date for such meeting shall be the date upon which notice of the meeting is given as provided under Section 12.2.

12.9 Appointment of Inspector

The Trustees shall call a meeting of Trust Unitholders upon the written request of Trust Unitholders holding Trust Units to which are attached in the aggregate not less than 25% of the votes attached to all Trust Units then outstanding for the purpose of considering the appointment of an Inspector to investigate the performance by the Trustees of their responsibilities and duties in respect of the Trust. An Inspector may be appointed for such purpose, at the expense of the Trust, at such meeting by a resolution approved by a majority of the votes cast at the meeting.

12.10 Resolutions in Writing

Notwithstanding any other provision of this Declaration of Trust, a resolution in writing executed by Trust Unitholders holding Trust Units to which are attached more than 66 2/3% of the votes attached to all outstanding Trust Units at any time shall be as valid and binding for all purposes of this Declaration of Trust as if such Trust Unitholders had exercised at that time all of the voting rights to which they were then entitled under Section 12.5 or 12.6 in favour of such resolution at a meeting of Trust Unitholders duly called for the purpose.

ARTICLE 13
CERTIFICATES, REGISTRATION AND TRANSFER OF TRUST UNITS

13.1 Nature of Trust Units

- (a) The provisions of this Article 13 shall not in any way alter the nature of Trust Units or the relationships of a Trust Unitholder to the Trustees and of one Trust Unitholder to another but are intended only to facilitate the issuance of certificates evidencing the ownership of Trust Units if desirable to issue them to Trust Unitholders and the recording of all transactions in respect of Trust Units and Trust Unit Certificates whether by the Trust, securities dealers, stock exchanges, transfer agents, registrars or other persons. The Trust Units may be issued in the form of one global Trust Unit Certificate (the "Global Trust Unit Certificate"). The Global Trust Unit Certificate will be issued in the name of and deposited by the Transfer Agent with, or on behalf of, CDS or a successor (collectively, the "Depository"), as custodian of the Global Trust Unit Certificate and registered by the Transfer Agent in the name of the Depository or its nominee. No purchaser of Trust Units represented by the Global Trust Unit Certificate will be entitled to a certificate or other instrument from the Trust or the Depository evidencing that purchaser's ownership thereof except in the circumstances where the Depository resigns or is removed from its responsibilities as depository and the Trustees are unable or do not wish to locate a qualified successor. Beneficial interests in the Global Trust Unit Certificate will be represented only through the Book-Based System. Transfers of Trust Units between CDS Participants shall occur in accordance with the Depository's rules and procedures.
- (b) All references herein to actions by, notices given or payments made to Trust Unitholders shall, where such Trust Units are held through the Depository, refer to actions taken by, or notices given or payments made to, the Depository upon instruction from the CDS Participants in accordance with the Depository's rules and procedures. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of Trust evidencing a specified percentage of the aggregate votes attached to the Trust Units outstanding, such direction or consent may, with respect to the Trust Units, be given by Trust Unitholders acting through the Depository and the CDS Participants owning Trust Units evidencing the relevant portion of the requisite percentage of the Trust Units. The rights of a Trust Unitholder shall be exercised only through the Depository and the CDS Participants and shall be limited to those established by law and agreements between such Trust Unitholders and the Depository and/or the CDS Participants or upon instruction from the CDS Participants. Each of the Transfer Agent and the Trustees may deal with the Depository for all purposes (including the making of payments) as the authorized representative of the respective Trust Unitholders and such dealing with the Depository shall constitute satisfaction or performance, as applicable, towards their respective obligations hereunder.
- (c) For so long as the Trust Units are held through the Depository, if any notice or other communication is required to be given to Trust Unitholders, the Trustees and the Transfer Agent will give all such notices and communications to the Depository.
- (d) If the Depository resigns or is removed from its responsibilities as depository and the Trustees are unable or do not wish to locate a qualified successor, the Depository shall surrender the Global Trust Unit Certificate to the Transfer Agent with instructions from

the Depository for registration of Trust Units in the name and in the amounts specified by the Depository and the Trust shall issue and the Trustees and Transfer Agent shall execute and deliver the aggregate number of Trust Units then outstanding in the form of definitive Trust Unit Certificates representing such Trust Units.

13.2 Trust Unit Certificates

- (a) Trust Unit Certificates shall, subject to the provisions hereof, be in such form as is authorized from time to time by the Trustees.
- (b) If issued, Trust Unit Certificates are issuable only in fully registered form.
- (c) The definitive form of the Trust Unit Certificates shall:
 - (i) be in the English language;
 - (ii) be dated as of the date of issue thereof; and
 - (iii) contain such distinguishing letters and numbers as the Trustees shall prescribe.
- (d) In the event that the Trust Unit Certificate is translated in the French language, any provision of the Trust Unit Certificates in the French language shall be susceptible of an interpretation different from the equivalent provision in the English language, the interpretation of such provision in the English language shall be determinative.
- (e) Each Trust Unit Certificate shall be signed on behalf of the Trustees and the Transfer Agent of such Trust Units. Signatures of the Trustees required to appear on such certificate may be printed, lithographed or otherwise mechanically reproduced thereon and, in such event, certificates so signed are as valid as if they had been signed manually.

13.3 Contents of Trust Unit Certificates

- (a) Until otherwise determined by the Trustees, each Trust Unit Certificate shall legibly set forth on the face thereof, inter alia, the following:
 - (i) the name of the Trust and the words "A trust created under the laws of the Province of Alberta by a Declaration of Trust dated as January 22, 2002" or words of like effect;
 - (ii) the name of the person to whom the Trust Unit Certificate is issued as Trust Unitholder;
 - (iii) the number of Trust Units represented thereby and whether or not the Trust Units represented thereby are fully paid;
 - (iv) that the Trust Units represented thereby are transferable;
 - (v) "The Trust Units represented by this certificate are issued upon the terms and subject to the conditions of the Declaration of Trust, which Declaration of Trust is binding upon all holders of Trust Units and, by acceptance of this certificate,

the holder assents to the terms and conditions of the Declaration of Trust. A copy of the Declaration of Trust pursuant to which this certificate and the Trust Units represented thereby are issued may be obtained by a Trust Unitholder on demand and without fee from the head office of the Trust" or words of like effect; and

- (vi) "For information as to personal liability of a Trust Unitholder, see the reverse side of this certificate" or words of like effect.
- (b) Until otherwise determined by the Trustees, each such certificate shall legibly set forth on the face or the reverse side thereof, inter alia, the following:
- (i) "The Declaration of Trust provides that no Trust Unitholder shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the assets of the Trust or the obligations or the affairs of the Trust and all such persons shall look solely to the assets of the Trust for satisfaction of claims of any nature arising out of or in connection therewith and the assets of the Trust only shall be subject to levy or execution", or words of like effect; and
 - (ii) appropriate forms of notice of exercise of the right of redemption and of powers of attorney for transferring Trust Units.

The Trust Unit Certificates may be engraved, printed or lithographed, or partly in one form and partly in another, as the Trustees may determine.

13.4 Register of Trust Unitholders

A register may be kept at the principal corporate trust office in Winnipeg, Manitoba of the Transfer Agent, which, if maintained, register shall contain the names and addresses of the Trust Unitholders, the respective numbers of Trust Units held by them, the certificate numbers of certificates representing such Trust Units and a record of all transfers and redemptions thereof. Branch transfer registers shall be maintained at such other offices of the Transfer Agent as the Trustees may from time to time designate. Only Trust Unitholders whose certificates are so recorded shall be entitled to receive distributions or to exercise or enjoy the rights of Trust Unitholders hereunder. The Trustees shall have the right to treat the person registered as a Trust Unitholder on the register of the Trust as the owner of such Trust Units for all purposes, including, without limitation, payment of any distribution, giving notice to Trust Unitholders and determining the right to attend and vote at meeting of Trust Unitholders.

13.5 Limitation of Non-Resident Ownership

At no time may non-residents of Canada ("Non-residents") within the meaning of the *Tax Act* be the beneficial owners of that number of either or both of the Trust entitling them to more than 49% of the votes attached to all outstanding units. The Trustees shall inform the Administrator of this restriction. The Trustees or the Administrator may require declarations as to the jurisdictions in which beneficial owners of Trust Units are resident. If the Trustees or the Administrator become aware that the beneficial owners of either or both of the Trust Units entitling the holders to 45% of the votes attached to all outstanding units or may be non-resident or that such a situation is imminent, the Trustee or the Administrator may make a public announcement thereof and shall not accept a subscription for Trust Units from or issue or register a transfer of Trust Units to a person unless the person provides a

declaration in form and content satisfactory to the Trustees that the person is not a Non-resident. If notwithstanding the foregoing, the Trustees or the Administrator determine that a majority of the Trust Units are held by Non-residents, the Trustees or the Administrator may send a notice to Non-resident holders of Trust Units, chosen in inverse order to the order of acquisition or registration or in such other manner as the Trustees or the Administrator may consider equitable and practicable, requiring them to sell their Trust Units or a portion thereof within a specified period of not less than 60 days. If the Trust Unitholders receiving such notice have not sold the specified number of Trust Units or provided the Trustees or the Administrator with satisfactory evidence that they are not Non-residents within such period, the Trustees or the Administrator, may on behalf of such Trust Unitholders, sell such Trust Units and, in the interim, shall suspend the voting and distribution rights attached to such Trust Units. Upon such sale the affected holders shall cease to be holders of the Trust Units so sold and their rights shall be limited to receiving the net proceeds of sale upon surrender of the certificates representing such Trust.

13.6 Transfer of Trust Units

- (a) Subject to the provisions of this Article 13, the Trust Units shall be fully transferable without charge as between persons, but no transfer of Trust Units shall be effective as against the Trustees or shall be in any way binding upon the Trustees until the transfer has been record on the register or one of the branch transfer registers maintained by the Trustees, the Trust or the Transfer Agent. No transfer of a Trust Unit shall be recognised unless such transfer is of a whole Trust Unit.
- (b) Subject to the provisions of this Article 13, Trust Units shall be transferable on the register or one of the branch transfer registers only by the Trust Unitholders of record thereof or their executors, administrators or other legal representatives or by their agents or attorneys duly authorized in writing, and only upon delivery to the Trust or to the Transfer Agent of the certificate therefor, properly endorsed or accompanied by a duly executed instrument of transfer or power of attorney and accompanied by all necessary transfer or other taxes imposed by law, together with such evidence of the genuineness of such endorsement, execution and authorisation and other matters that may reasonably be required by the Trustees or the Transfer Agent. Upon such delivery the transfer shall be recorded on the register or branch transfer registers and a new certificate for the Trust Units shall be issued to the transferee and a new certificate for the balance of Trust Units not transferred shall be issued to the transferor.
- (c) Any person becoming entitled to any Trust Units as a consequence of the death, bankruptcy or mental incompetence of any Trust Unitholder, or otherwise by operation of law, shall be recorded as the holder of such Trust Units and shall receive a new certificate therefor only upon production of evidence satisfactory to the Trustees or the Transfer Agent and delivery of the existing certificate to the Trustees or the Transfer Agent, but until such record is made the Trust Unitholder of record shall continue to be and be deemed to be the holder of such Trust Units for all purposes whether or not the Trustees or the Transfer Agent shall have actual or other notice of such death or other event.
- (d) Trust Unit Certificates representing any number of Trust Units may be exchanged without charge for Trust Unit Certificates representing an equivalent number of Trust Units in the aggregate. Any exchange of Trust Unit Certificates may be made at the offices of the Trust or the Transfer Agent where registers are maintained for Trust Unit Certificates pursuant to the provisions of this Article 13. Any Trust Unit Certificates

tendered for exchange shall be surrendered to the Trustees or appropriate and then shall be cancelled.

13.7 Trust Units Held Jointly or in a Fiduciary Capacity

Except as herein provided, the Trustees may treat two or more persons holding any Trust Units as joint owners of the entire interest therein unless their ownership is expressly otherwise recorded on the register of the Trust, but no entry shall be made in the register or on any certificate that any person is in any other manner entitled to any future, limited or contingent interest in any Trust Units; provided, however, that any person recorded as a Trust Unitholder may, subject to the provisions hereinafter contained, be described in the register or on any certificate as a fiduciary of any kind and any customary words may be added to the description of the holder to identify the nature of such fiduciary relationship.

13.8 Performance of Trust

The Trustees and the Transfer Agent shall not be bound to be responsible for or otherwise inquire into or ensure the performance of any trust, express, implied or constructive, or of any pledge or equity to which any of the Trust Units or any interest therein are or may be subject, or to ascertain or enquire whether any transfer of any such Trust or interests therein by any such Trust Unitholder or by his or her personal representatives is authorized by such trust, pledge, or equity, or to recognize any person as having any interest therein except for the person recorded as Trust Unitholder.

13.9 Lost Certificates

In the event that any certificate for Trust Units is lost, stolen, destroyed or mutilated, the Trustees may authorize the issuance of a new certificate for the same number of Trust Units in lieu thereof. The Trustees may in their or its discretion, before the issuance of such new certificate, require the owner of the lost, stolen, destroyed or mutilated certificate, or the legal representative of the owner, to make an affidavit or statutory declaration setting forth such facts as to the loss, theft, destruction or mutilation as the Trustees may deem necessary, to surrender any mutilated certificate and may require the applicant to supply to the Trust a "lost certificate bond" or a similar bond in such reasonable sum as the Trustees or the Transfer Agent may direct indemnifying the Trust for so doing.

13.10 Death of a Trust Unitholder

The death of a Trust Unitholder during the continuance of the Trust shall not terminate the Trust or any of the mutual or respective rights and obligations created by or arising under this Declaration of Trust nor give such Trust Unitholder's personal representatives a right to an accounting or take any action in court or otherwise against other Trust Unitholders or the Trustees or the Trust Assets, but shall merely entitle the personal representatives of the deceased Trust Unitholder to demand and receive, pursuant to the provisions hereof, a new certificate for Trust Units in place of the certificate held by the deceased Trust, if any, and upon the acceptance thereof such personal representatives shall succeed to all rights of the deceased Trust Unitholder under this Declaration of Trust.

13.11 Unclaimed Interest or Distribution

In the event that the Trustees shall hold any amount of interest or other distributable amount which is unclaimed or which cannot be paid for any reason, the Trustees shall be under no obligation to invest or reinvest the same but shall only be obliged to hold the same in a current interest bearing account pending payment to the person or persons entitled thereto. The Trustees shall, as and

when required by law, and may at any time prior to such required time. pay all or part of such interest or other distributable amount so held to the Public Guardian and Trustee (or other appropriate government official or agency) whose receipt shall be a good discharge and release of the Trustees.

13.12 Offer for Trust Units

- (a) In this Section 13.12:
- (i) "**Affiliate**" and "**Associate**" shall have the respective meanings given to such terms (without initial capital letters) in the *Securities Act* (Alberta), as constituted on the date hereof;
 - (ii) "**Dissenting Unitholder**" means a Trust Unitholder who does not accept an Offer referred to in subsection 13.12(b) and includes any assignee of the Trust Unit of a Trust Unitholder to whom such an Offer is made, whether or not such assignee is recognized under this Declaration of Trust;
 - (iii) "**Offer**" means an offer to acquire outstanding Trust Units where, as of the date of the offer to acquire, the Trust Units that are subject to the offer to acquire, together with the Offeror's Trust Units, constitute in the aggregate 20% or more of all outstanding Trust Units;
 - (iv) "**offer to acquire**" includes an acceptance of an offer to sell;
 - (v) "**Offeror**" means a person, or two or more persons acting jointly or in concert, who make an Offer;
 - (vi) "**Offeror's Notice**" means the notice described in subsection 13.12(c); and
 - (vii) "**Offeror's Trust Units**" means Trust Units beneficially owned, or over which control or direction is exercised, on the date of an Offer by the Offeror, any Affiliate or Associate of the Offeror or any person or company acting jointly or in concert with the Offeror.
- (b) If an Offer for all of the outstanding Trust Units (other than Trust Units held by or on behalf of the Offeror or an Affiliate or Associate of the Offeror) is made and, by such Offer, the Offeror agrees to be bound by the provisions of this Article 13, and:
- (i) within the time provided in the Offer for its acceptance or within 45 days after the date the Offer is made, whichever period is the shorter, the Offer is accepted by Trust Unitholders representing at least 90% of the outstanding Trust Units at the expiry of the Offer, other than the Offeror's Trust Units;
 - (ii) the Offeror is bound to take up and pay for, or has taken up and paid for the Trust Units of the Trust Unitholders who accepted the Offer; and
 - (iii) the Offeror complies with subsections 13.12(c) and 13.12(e);

the Offeror is entitled to acquire, and the Dissenting Unitholders are required to sell to the Offeror, the Trust Units held by the Dissenting Unitholders for the same consideration per Trust Unit payable or paid, as the case may be, under the Offer.

- (c) Where an Offeror is entitled to acquire Trust Units held by Dissenting Unitholder Pursuant to subsection 13(12)(b)., and the Offeror wishes to exercise such right, the Offeror shall send by registered mail within 30 days after the date of termination of the Offer a notice (the "**Offeror's Notice**") to each Dissenting Unitholder stating that:
 - (i) Trust Unitholders holding at least 90% of the Trust Units of all Trust Unitholders, other than Offeror's Trust Units, have accepted the Offer;
 - (ii) the Offeror is bound to take up and pay for, or has taken up and paid for, the Trust Units of the Trust Unitholders who accepted the Offer;
 - (iii) Dissenting Unitholders must transfer their respective Trust Units to the Offeror on the terms on which the Offeror acquired the Trust Units of the Trust Unitholders who accepted the Offer within 21 days after the date of the sending of the Offeror's Notice; and
 - (iv) Dissenting Unitholders must send their respective Trust Unit Certificate(s) to the Trust within 21 days after the date of the sending of the Offeror's Notice.
- (d) A Dissenting Unitholder to whom an Offeror's Notice is sent pursuant to subsection 13.4, shall, within 21 days after the sending of the Offeror's Notice, send his or her Trust Unit Certificate(s) to the Trust, duly endorsed for transfer, if a Certificate has been provided.
- (e) Within 21 days after the Offeror sends an Offeror's Notice pursuant to subsection 13.12(c) the Offeror shall pay or transfer to the Trustees, or to such other person as the Trustees may direct, the cash or other consideration that is payable to Dissenting Unitholders pursuant to subsection 13.12(b).
- (f) The Trustees, or the person directed by the Trustees, shall hold in trust for the Dissenting Unitholders the cash or other consideration they or it receives under subsection 13.12(e) but such cash or other consideration shall not form any part of the Trust Assets. The Trustees, or such persons, shall deposit such cash in a separate account in a Canadian chartered bank, and shall place such other consideration in the custody of a Canadian chartered bank or similar institution for safekeeping.
- (g) Within 30 days after the date of the sending of an Offeror's Notice pursuant to subsection 13.12(c), the Trustees, if the Offeror has complied with subsection 13.12(e), shall:
 - (i) do all acts and things and execute and cause to be executed all instruments as in the Trustees' opinion may be necessary or desirable to cause the transfer of the Trust Units of the Dissenting Unitholders to the Offeror;
 - (ii) send to each Dissenting Unitholder who has complied with subsection 13.12(d) the consideration to which such Dissenting Unitholder is entitled under this Section 13.12; and

- (iii) send to each Dissenting Unitholder who has not complied with subsection 13.12(d) a notice stating that:
 - (A) his or her Trust Units have been transferred to the Offeror;
 - (B) the Trustees or some other person designated in such notice are holding in trust the consideration for such Trust Units; and
 - (C) the Trustees, or such other person, will send the consideration to such Dissenting Unitholder as soon as practicable after receiving such Dissenting Unitholders Certificate(s) or such other documents as the Trustees or such other person may require in lieu thereof;

and the Trustees are hereby appointed the agent and attorney of the Dissenting Unitholders for the purposes of giving effect to the foregoing provisions.

- (h) Subject to applicable law, an Offeror cannot make an Offer for Trust Units unless, concurrent with the communication of the Offer to any Trust Unitholder, a copy of the Offer is provided to the Trust.

13.13 Power of Attorney

Each Trust Unitholder hereby grants to the Trustees and each of them, their successors and assigns, a power of attorney constituting the Trustees, and each of them and such successors and assigns, with full power of substitution, as his or her true and lawful attorney to act on his or her behalf, with full power and authority in his or her name, place and stead, and to execute, under seal or otherwise, swear to, acknowledge, deliver, make or file or record when, as and where required:

- (a) this Declaration of Trust, any amendment to this Declaration of Trust and any other instrument required or desirable to qualify, continue and keep in good standing the Trust as a mutual fund trust;
- (b) any instrument, deed, agreement or document in connection with carrying on the activities and affairs of the Trust as authorized in this Declaration of Trust;
- (c) all conveyances and other documents required in connection with the dissolution or liquidation of the Trust in accordance with the terms of this Declaration of Trust; and
- (d) any and all elections, determinations or designations whether jointly with third parties or otherwise, under the *Tax Act* or any other taxation or other legislation or similar laws of Canada or of any other jurisdiction in respect of the affairs of the Trust or of a Trust Unitholder's interest in the Trust.

The Power of Attorney granted herein is irrevocable and will survive the bankruptcy of the Trust Unitholder or the assignment by the Trust Unitholder of all or part of his or her interest in the Trust and will extend to and bind the successors and assigns of the Trust Unitholder.

ARTICLE 14 TERMINATION

14.1 Term of Trust

Subject to the other provisions of this Declaration of Trust, the Trust shall continue for a term ending 21 years after the date of death of the last surviving issue of Her Majesty, Queen Elizabeth II, alive on January 22, 2002. For the purpose of terminating the Trust by such date, the Trustees shall commence to wind-up the affairs of the Trust on such date as may be determined by the Trustees, being not more than two years prior to the end of the term of the Trust.

14.2 Termination with the Approval of Trust Unitholders

The Trust Unitholders may vote by Special Resolution to terminate the Trust at any meeting of Unitholders duly called by the Trustees for the purpose of considering termination of the Trust, following which the Trustees shall commence to wind-up the affairs of the Trust. Such Special Resolution may contain such directions to the Trustees as the Trust Unitholders determine, including a direction to distribute the Common Shares, Notes, or any combination of the foregoing, in specie.

14.3 Automatic Termination

If the Trust ceases to hold any shares of Arctic Glacier which comprise part of the Trust Assets including as a result of the redemption or purchase thereof by Arctic Glacier, and all Notes comprising part of the Trust Assets have been distributed to Trust Unitholders or have been repaid or otherwise cease to exist, the Trust shall automatically terminate and, subject to obtaining all necessary regulatory approvals, the Trustees will distribute to the Trust Unitholders on a pro rata basis the remaining property of the Trust.

14.4 Procedure Upon Termination

Forthwith upon being required to commence to wind-up the affairs of the Trust, the Trustees shall give notice thereof to the Trust Unitholders, which notice shall designate the time or times at which Trust Unitholders may surrender their Trust Units for cancellation and the date at which the registers of Trust Units of the Trust shall be closed.

14.5 Powers of the Trustees Upon Termination

After the date on which the Trustees are required to commence to wind-up the affairs of the Trust, the Trustees shall carry on no activities except for the purpose of winding-up the affairs of the Trust as hereinafter provided and, for this purpose, the Trustees shall continue to be vested with and may exercise all or any of the powers conferred upon the Trustees under this Declaration of Trust.

14.6 Sale of Investments

After the date referred to in Section 14.4, the Trustees shall proceed to wind-up the affairs of the Trust as soon as may be reasonably practicable and for such purpose shall, subject to any direction to the contrary in respect of a termination authorized under Section 14.2, sell and convert into money the Common Shares, Preferred Shares and Notes and all other assets comprising the Trust in one transaction or in a series of transactions at public or private sales and do all other acts appropriate to liquidate the Trust, and shall in all respects act in accordance with the directions, if any, of the Trust

Unitholders (in respect of a termination authorized under Section 14.2). If the Trustees are unable to sell all or any of the shares of the Company, the Notes or other assets which comprise part of the Trust by the date set for termination, the Trustees may, subject to obtaining all necessary regulatory approvals, distribute the remaining shares of the Company, Notes or other assets directly to the Trust Unitholders in accordance with their pro rata shares.

14.7 Distribution of Proceeds

After paying, retiring or discharging or making provision for the payment, retirement or discharge of all known liabilities and obligations of the Trust and providing for indemnity against any other outstanding liabilities and obligations, the Trustees shall, subject to obtaining all necessary regulatory approvals, distribute the remaining part of the proceeds of the sale of the shares of the Company, the Notes and other assets together with any cash forming part of the Trust Assets among the Trust Unitholders in accordance with their pro rata shares.

14.8 Further Notice to Trust Unitholders

In the event that less than all of the Trust Unitholders have surrendered their Trust Units for cancellation within six (6) months after the time specified in the notice referred to in Section 14.4, the Trustee shall give further notice to the remaining Trust Unitholders to surrender their Trust Units for cancellation and if, within one (1) year after the further notice, all the Trust Units shall not have been surrendered for cancellation, such remaining Trust Units shall be deemed to be cancelled without prejudice to the rights of the holders of such Trust Units to receive their pro rata share of the remaining Trust Assets, and the Trustees may either take appropriate steps, or appoint an agent to take appropriate steps, to contact such Trust Unitholders (deducting all expenses thereby incurred from the amounts to which such Trust Unitholders are entitled as aforesaid) or, in the discretion of the Trustees, may pay such amounts into court.

14.9 Responsibility of the Trustees after Sale and Conversion

The Trustees shall be under no obligation to invest the proceeds of any sale of investments or other assets or cash forming part of the Trust Assets after the date referred to in Section 14.4 and, after such sale, the sole obligation of the Trustees under this Declaration of Trust shall be to hold such proceeds in trust for distribution under Section 14.7.

ARTICLE 15 SUPPLEMENTAL INDENTURES

15.1 Provision for Supplemental Indentures for Certain Purposes

The Trustees may, without approval of the Trust Unitholders and subject to the provisions hereof, and they shall, when so directed in accordance with the provisions hereof, execute and deliver indentures or instruments supplemental hereto, which thereafter shall form part hereof, for any one or more or all of the following purposes:

- (a) modifying or amending any provisions of this Declaration of Trust in the circumstances set forth in Section 11.1 where the Trustees may do so without the consent, approval or ratification of the Trust or any other person; and

- (b) modifying or amending any provisions of this Declaration of Trust where the modification or amendment has been approved by Special Resolution or, if required, with the consent of the holders of all of the Trust Units.

ARTICLE 16 GENERAL

16.1 Notices

- (a) Any notice or other document required to be given or sent to Trust Unitholders under this Declaration of Trust shall be given or sent through ordinary post addressed to each registered holder at his or her last address appearing on the register; provided that if there is a general discontinuance of postal service due to strike, lockout or otherwise, such notice may be given by publication twice in the Report on Business section of the National Edition of The Globe and Mail or similar section of any other newspaper having national circulation in Canada; provided further that if there is no newspaper having national circulation, then by publishing twice in the business section of a newspaper in each city where the register or a branch register is maintained. Any notice so given shall be deemed to have been given on the day following that on which the letter or circular was posted or, in the case of notice being given by publication, after publishing such notice twice in the designated newspaper or newspapers. In proving notice was posted, it shall be sufficient to prove that such letter or circular was properly addressed, stamped and posted.
- (b) Any written notice or written communication given to the Trustees shall be addressed to the Trustees at the head office of the Trust and shall be deemed to have been given on the date of delivery or, if mailed, five days from the date of mailing. If any such notice or communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities, such notice or communication shall be deemed to have been received 48 hours after 12:01 a.m. on the day following the resumption of normal mail service, provide that during the period that regular mail service shall be interrupted any notice or other communication shall be given by personal delivery or by cable, telegram, telex or other means of prepaid, transmitted or recorded communication.

16.2 Failure to Give Notice

The failure by the Trustees, by accident or omission or otherwise unintentionally, to give any Trust Unitholder any notice provided for herein shall not affect the validity, effect or taking effect of any action referred to in such notice, and the Trustees shall not be liable to any Trust Unitholder for any such failure.

16.3 Joint Holders

Service of a notice or document on any one of several joint holders of Trust Units shall be deemed effective service on the other joint holders.

16.4 Service of Notice

Any notice or document sent by post to or left at the address of a Trust Unitholder pursuant to this Article shall, notwithstanding the death or bankruptcy of such Trust Unitholder, and

whether or not the Trustees have notice of such death or bankruptcy, be deemed to have been fully served and such service shall be deemed sufficient service on all persons having an interest in the Trust Units concerned.

16.5 Information Available to Trust Unitholders

Each Trust Unitholder shall have the right to obtain, on demand and without fee, from the head office of the Trust a copy of this Declaration of Trust and any amendments thereto relating to Trust Units held by that Trust Unitholder and shall be entitled to inspect and, on payment of a reasonable fee therefor, obtain a list of the Trust Unitholders for purposes connected with the Trust.

16.6 Income Tax: Obligations of the Trustees

The Trustees shall satisfy, perform and discharge all obligations and responsibilities of the Trustees under the *Tax Act* (including any obligations of the Trust under Part XIII of the *Tax Act*) and neither the Trust nor the Trustees shall be accountable or liable to any Trust Unitholder by reason of any act or acts of the Trustees consistent with any such obligations or responsibilities.

16.7 Income Tax: Election

In respect of the first taxation year of the Trust, the Trust shall elect pursuant to subsection 132(6.1) of the *Tax Act* that the Trust be deemed to be a mutual fund trust for the entire year.

16.8 Income Tax: Deductions

The Trustees shall claim the maximum deductions available to the Trust for the purposes of computing its income pursuant to the provisions of the *Tax Act* to the extent required to reduce the taxable income of the Trust to nil or such lesser amounts as the Trustees may determine to be in the best interests of the Trust Unitholders.

16.9 Fiscal Year

The fiscal year of the Trust shall end on December 31 of each year.

16.10 Financial Disclosure

The Trust will send to Trust Unitholders:

- (a) at least 21 days prior to the date of each annual meeting of Trust Unitholders, the annual financial statements of the Trust for the fiscal year ended immediately prior to such annual meeting, together with comparative financial statements for the preceding fiscal year, if any, and the report of the Auditors thereon referred to in Section 17.4; and
- (b) within 60 days after the end of each fiscal quarter of the Trust (other than the fourth quarter of each year), unaudited quarterly financial statements of the Trust for such fiscal quarter, together with comparative financial statements for the same fiscal quarter in the preceding fiscal year, if any.

Such financial statements shall be prepared in accordance with generally accepted accounting principles in Canada as recommended from time to time in the Handbook of the Canadian

Institute of Chartered Accountants; provided that such statements may vary from such principles to the extent required to comply with applicable securities laws or securities regulatory requirements or to the extent permitted by applicable securities regulatory authorities.

16.11 Trust Unitholder Meeting Information

Prior to each meeting of Trust Unitholders, the Trustees will provide to each Trust Unitholder, together with the notice of the meeting:

- (a) a form of proxy which can be used by a Trust Unitholder to appoint a proxy, who need not be a Trust Unitholder, to attend and act at the meeting on behalf of the Trust Unitholder, in the manner and to the extent authorized by the proxy; and
- (b) all information required by applicable law.

16.12 Taxation Information

On or before February 28 in each year, the Trust will provide to Trust Unitholders who received distributions from the Trust in the prior calendar year, such information and forms as may be needed by such Trust Unitholders in order to complete their tax returns in respect of the prior calendar year under the *Tax Act* and equivalent provincial legislation in Canada.

ARTICLE 17 AUDITORS

17.1 Qualification of Auditors

The Auditors shall be an independent recognized firm of chartered accountants which has an office in Canada.

17.2 Appointment of Auditors

The Auditors will be selected at each succeeding annual meeting of Trust Unitholders. The Auditors will receive such remuneration as may be approved by the Trustees.

17.3 Change of Auditors

The Auditors may at any time be removed by the Trustees with the approval of a majority of the votes cast by Trust Unitholders at a meeting of Trust Unitholders duly called for the purpose and, upon the resignation or the removal of Auditors as aforesaid, new auditors may be appointed by a majority of votes cast by Trust Unitholders at a meeting duly called for the purpose or, in the absence of such meeting, by the Trustees.

17.4 Report of Auditors

The Auditors shall audit the accounts of the Trust at least once in each year and a report of the Auditors with respect to the annual financial statements of the Trust shall be provided to each Trust Unitholder with the annual financial statements referred to in Section 16.10.

**ARTICLE 18
MISCELLANEOUS**

18.1 Successors and Assigns

The provisions of this Declaration of Trust shall enure to the benefit of, and be binding upon, the parties and their heirs, executors, administrators, personal representatives, successors and assigns.

18.2 Counterparts

This Declaration of Trust may be simultaneously executed in several counterparts, each of which when executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterparts.

18.3 Severability

If any provision of this Declaration of Trust shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction or any other provision of this Declaration of Trust in any jurisdiction.

IN WITNESS WHEREOF each of the parties has caused these presents to be executed as of the date first above mentioned.

Witness

ROBERT NAGY

Witness

JAMES E. CLARK

Witness

PETER HYNDMAN

Witness

DAVID SWAINE

Witness

GARY FILMON

LAXUS HOLDINGS INC.

Per: _____