

I.A. Michael Investment Counsel Limited Tax Free Savings Account Trust Agreement

1. **Definitions.** Whenever used in this Trust Agreement or the Application, any capitalized terms shall have the meanings given to them below:
- “Account” means the tax free savings account established for the Original Holder;
- “Agent” means I.A. Michael Investment Counsel Limited and its successors and assigns;
- “Applicable Laws” means the Tax Act and such other laws of Canada and of the provinces and territories applicable hereto;
- “Application” means the Original Holder’s application to the Agent to establish the Account;
- “Contribution” means a contribution of cash or any Qualified Investment;
- “Distribution” means a payment out of or under the Account in satisfaction of all or part of the Holder’s interest therein;
- “Estate Documents” means proof of the Holder’s death and such other documents including Letters Probate of the Holder’s will as may be required by the Trustee in its sole discretion in connection with the transmission of the Property on the Holder’s death;
- “Estate Representative” means an executor, an administrator, an administrator with the will annexed, a liquidator, or an estate trustee with a will or without a will, whether one or more than one is so appointed;
- “Expenses” means all costs, charges, fees, commissions, investment management fees, brokerage fees, legal expenses and out-of-pocket expenses (together with any goods and services tax or other Taxes applicable to such expenses) incurred from time to time in relation to the Account;
- “Former Spouse” means the individual who is considered by the Applicable Laws to be the Holder’s former Spouse;
- “Holder” means the Original Holder or the Survivor;
- “Non-Qualified Investment” means an investment which is not a Qualified Investment;
- “Original Holder” means the individual who enters into the arrangement with the Trustee which arrangement is to be registered as a TFSA;
- “Proceeds” means the Property, less any applicable Expenses and Taxes;
- “Prohibited Investment” means Property (other than prescribed excluded Property as that term is defined in the Tax Act) that is:
- (a) a debt of the Holder;
 - (b) a share of the capital stock of, an interest in or a debt of:
 - (i) a corporation, partnership or trust in which the Holder has a significant interest;
 - (ii) a person or partnership that does not deal at arm’s length with the Holder or with a person or partnership described in subparagraph (i);
 - (c) an interest in, or right to acquire, a share, interest or debt described in paragraph (a) or (b); or
 - (d) prescribed property (as that term is defined in the Tax Act);
- “Property” means any property, including the income on it, the proceeds from it and any cash, held in the Account from time to time;
- “Qualified Investment” means any investment which is a qualified investment for a TFSA according to the Tax Act;
- “Spouse” means the individual who is considered by the Tax Act to be the Holder’s spouse or common-law partner;
- “Survivor” means the individual who, immediately before the death of the Original Holder, was the Spouse of the Original Holder;
- “Tax Act” means *Income Tax Act (Canada)*;
- “Taxes” means any and all taxes, assessments, interest and penalties which may be required under the Applicable Laws;
- “TFSA” means a tax free savings account, which is a “qualifying arrangement” (as that term is defined in the Tax Act) the issuer of which has elected, in the form and manner prescribed by the Tax Act, to register as a TFSA; and
- “Trustee” means The Royal Trust Company in its capacity as trustee and issuer of the arrangement governed by this Trust Agreement, and its successors and assigns.
2. **Acceptance of Trust.** The Trustee agrees to act as trustee of the Account, which is to be maintained for the exclusive benefit of the Holder, and to administer the Property in accordance with the terms of this Trust Agreement.
3. **Appointment of Agent.** The Trustee has appointed I.A. Michael Investment Counsel Limited (the “Agent”) as its agent to perform certain duties relating to the operation of the Account. The Trustee acknowledges and confirms that ultimate responsibility for the administration of the Account remains with the Trustee.
4. **Registration.** Subject to the Original Holder having attained at least 18 years of age, the Trustee agrees to elect, in the manner and form prescribed by the Tax Act, to register the arrangement governed by this Trust Agreement as a TFSA under the social insurance number of the Original Holder. For greater certainty, unless the original Holder has attained at least 18 years of age at the time that this arrangement is entered into, it shall not constitute a qualifying arrangement, as that term is defined in subsection 146.2(1) of the Tax Act, susceptible of being registered as a tax free savings account.
5. **Account.** The Agent shall maintain an account for the Holder which will record particulars of all Contributions, investments, Distributions and transactions under the Account, and shall mail to the Holder, at least annually, a statement of account.
6. **Contributions.** Only the Holder may make Contributions to the Account, in such amounts as are permitted under the Tax Act, in cash or such other property as may be permitted in the sole discretion of the

Trustee. It shall be the sole responsibility of the Holder to ensure that the amount of Contributions are within the limits permitted under Tax Act.

7. **Distributions to Reduce Tax.** Notwithstanding any limit on the frequency of Distributions or any minimum Distribution requirement identified in the Application or other notice given under the terms of this Trust Agreement, any Distributions may be made at any time to reduce the amount of Taxes otherwise payable by the Holder as a result of excess Contributions made contrary to the Tax Act.

8. **Tax Information.** The Trustee shall provide the Holder with appropriate information slips for income tax purposes and such other information as may be required under the Applicable Laws.

9. **Delegation by Trustee.** The Holder expressly authorizes the Trustee to delegate to the Agent the performance of the following duties of the Trustee:

- (a) receiving Contributions;
- (b) receiving transfers of Property;
- (c) investing and reinvesting the Property as directed by the Holder;
- (d) registering and holding the Property in the Trustee's name, the Agent's name, in the name of their respective nominees or in bearer form as determined by the Agent from time to time;
- (e) maintaining records, including information concerning the Survivor and the designation of beneficiaries, where applicable;
- (f) providing to the Holder statements of account at least annually;
- (g) preparing all government filings and forms;
- (h) making Distributions pursuant to the provisions hereof; and
- (i) such other duties and obligations of the Trustee as the Trustee in its sole discretion may from time to time determine.

The Holder acknowledges that, to the extent the Trustee delegates any such duties, the Trustee shall thereby be discharged from performing such duties, subject to paragraph 3.

10. **Investment of the Property.** The Property shall be invested and reinvested on the directions of the Holder (or the Holder's agent) without being limited to investments authorized by law for trustees. The Trustee, in its sole discretion, may require the Holder to provide such documentation in respect of any investment or proposed investment as the Trustee deems necessary in the circumstances. The Trustee reserves the right to decline to make any particular investment if the proposed investment and related documentation do not comply with the Trustee's requirements at that time. Subject to the appointment of an agent as contemplated in paragraph 12, no one other than the Holder and the Trustee shall have rights under the Account relating to the investment and reinvestment of the Property.

11. **Segregated Funds.** Segregated funds forming part of the Property will be held in nominee name. The Holder agrees to designate the Trustee as the beneficiary under any segregated fund held in the Account. Upon the death of the Original Holder, the proceeds of the segregated funds paid shall form part of the Property to be dealt with according to the terms of this Trust Agreement.

12. **Choice of Investments.** Without restricting the generality of the foregoing, it shall be the sole responsibility of the Holder to:

- (a) select the investments with respect to the Property and to determine whether any such investment is or remains a Qualified Investment and is not and continues not to be a Prohibited Investment, and
- (b) determine whether any such investment would result in the imposition of any penalty under the Tax Act and whether any investments should be purchased, sold or retained by the Trustee, and give such instructions as are needed.

The Holder shall have the right to appoint an agent, including the Agent as his or her agent, for the purpose of giving investment directions as provided in this paragraph and paragraph 10.

13. **No Advantage.** No advantage may be extended to the Holder or to a person with whom the Holder does not deal at arm's length. Advantage means:

- (a) any benefit, loan or indebtedness that is conditional on the existence of the Account other than:
 - (i) a benefit derived from the provision of administrative or investment services in respect of the Account,
 - (ii) a loan or indebtedness (including the use of the Account as security for a loan or an indebtedness) the terms and conditions of which are terms and conditions that persons dealing at arm's length with each other would have entered into, and
 - (iii) a Distribution; and
- (b) an increase in the total fair market value of the Property if it is reasonable to consider, having regard to all circumstances, that the increase is attributable, directly or indirectly, to a transaction or series thereof as is described in the definition of "advantage" in the Tax Act; and
- (c) a prescribed benefit (as that term is defined in the Tax Act).

14. **Uninvested Cash.** Uninvested cash will be placed on deposit with the Trustee or an affiliate of the Trustee. The interest on such cash balances payable to the Account will be determined by the Agent from time to time in its sole discretion with no obligation to pay a minimum amount or rate. The Trustee will pay interest to the Agent for distribution to the Account and the Agent shall credit the Account with appropriate interest. The Trustee shall have no liability for such payment of interest once it is paid to the Agent for distribution.

15. **Right of Offset.** The Trustee and the Agent shall have no right of offset with respect to the Property in connection with any obligation or debt owed by the Holder to the Trustee or the Agent, other than the Expenses payable by the terms of this Trust Agreement.

16. **Pledging.** Where the Holder wishes to use his or her interest or right in the Account as security for a loan or other indebtedness, he or she must first advise the Trustee. Where the Holder uses his or her interest or right in the Account as security for a loan or indebtedness, it shall be the sole responsibility of the Holder to ensure:

- (a) that the terms and conditions of the loan or other indebtedness are terms and conditions that persons dealing at arm's length with each other would have entered into; and
- (b) that it can be reasonably be concluded that none of the main purposes for that use is to enable a person (other than the Holder) or a partnership to benefit from the exemption from Taxes of any amount of the Account.

The Trustee shall be entitled to rely on the information provided by the Holder, liquidate Property as it deems appropriate with respect to the

pledge, and fully recover any legal costs it incurs in this regard as Expenses, and shall be fully discharged with respect to any such liquidation and payment to the creditor of the loan or other indebtedness.

17. **Debit Balances.** If the Account has a cash deficit, the Holder authorizes the Trustee or the Agent to determine which Property to select and to sell such Property to cover such cash deficit. The Trustee is prohibited from borrowing money or other property for the purposes of the Account.

18. **Distributions.** Subject to any limit on the frequency of Distributions or to any minimum Distribution requirement identified in the Application or other notice given under the terms of this Trust Agreement, and to the deduction of all Expenses and Taxes, the Holder may, at any time and upon 60 days' written notice or such shorter period as the Agent in its sole discretion permits, request that the Agent liquidate part or all of the Property and pay to the Holder an amount from the Property not exceeding the value held under the Account immediately before the time of payment. No one other than the Holder and the Trustee shall have rights under the Account relating to the amount and timing of Distributions.

19. **Designation of Beneficiary.** Where the Holder is domiciled in a jurisdiction where the Applicable Laws permit the valid designation of a beneficiary and where the Holder has not designated the Survivor or there is no Survivor, the Original Holder may designate a beneficiary to receive the Proceeds on the Original Holder's death. A beneficiary designation may only be made, changed or revoked for the purposes of the Account by the Original Holder in a format required by the Agent for this purpose. Such designation must adequately identify the Account and be delivered to the Agent prior to any payment by the Agent. The Original Holder acknowledges that it is his or her sole responsibility to ensure the designation is valid under the Applicable Laws.

20. **Death of Original Holder (Where There Is a Survivor).** Upon the death of the Original Holder where there is a Survivor, the Holder is domiciled in a jurisdiction where the Applicable Laws permit the valid designation of a survivor, and the Survivor has been designated for purposes of the Account, and upon the receipt of Estate Documents by the Agent which are satisfactory to the Trustee, the Survivor shall become the Holder, subject to any pledging under paragraph 16.

21. **Death of Original Holder (All Other Cases).** Upon the death of the Original Holder, where there is no Survivor or the Survivor has not been designated for purposes of the Account, and upon the receipt of Estate Documents by the Agent which are satisfactory to the Trustee, and subject to paragraph 16:

- (a) if the Original Holder has designated a beneficiary in accordance with paragraph 19, the Proceeds will be paid to the designated beneficiary, subject to the Applicable Laws. The Trustee and the Agent will be fully discharged by such payment, even though any beneficiary designation made by the Original Holder may be invalid as a testamentary instrument; and
- (b) if the Original Holder's designated beneficiary had died before the Original Holder or if the Original Holder has not designated a beneficiary, the Trustee will pay the Proceeds to the Original Holder's estate.

Where multiple beneficiaries have been designated and the Holder has not indicated how the Proceeds are to be shared among them, or if there is such an indication but the shares do not add up to 100%, then the Proceeds shall be divided equally among the beneficiaries designated. If any designated beneficiary predeceases the Holder or dies at the same time as the Holder or in circumstances rendering it impossible to determine which of the Holder or beneficiary died first, then the remaining beneficiary(ies) is(are) entitled to receive the

Proceeds in accordance with the Holder's wishes. If the Holder has not indicated how the Proceeds are to be shared among the designated beneficiaries, or if there is such an indication but the shares do not add up to 100% of the Proceeds, then the Proceeds allocated to the deceased person(s) will be divided equally among the surviving designated beneficiary(ies). For greater certainty, the share of a deceased person will go in equal portions to the surviving designated beneficiary(ies).

22. **Release of Information.** The Trustee and the Agent each are authorized to release any information about the Account and the Proceeds, after the Holder's death, if the Holder has pledged his or her interest or right in the Account as security for a loan or other indebtedness or where there is to be a transfer to the Spouse's TFSA pursuant to paragraph 30, to either the Holder's Estate Representative, the creditor or the Spouse, as the Trustee deems advisable.

23. **Payment into Court.** If there is a dispute about who is legally authorized to apply for and accept receipt of the Proceeds on death of the Holder, the Trustee and the Agent are entitled to either apply to the court for directions or pay the Proceeds into court and, in either case, fully recover any legal costs it incurs in this regard as Expenses from the Account.

24. **Limitation of Liability.** The Trustee shall not be liable for any loss suffered by the Account, by the Holder or by any Survivor or beneficiary designated for purposes of the Account as a result of the purchase, sale or retention of any investment including any loss resulting from the Trustee acting on the direction of the agent appointed by the Holder to provide investment direction.

25. **Indemnity.** The Holder agrees to indemnify the Trustee for all Expenses, Taxes and compensation incurred or owing in connection with the Account to the extent that such Expenses, Taxes or compensation cannot be paid out of the Property.

26. **Self-Dealing.** The Trustee's services are not exclusive and, subject to the limitations otherwise provided in this Trust Agreement on the powers of the Trustee, the Trustee may, for any purpose, and is hereby expressly authorized from time to time in its sole discretion to, appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, with which it may be directly or indirectly interested or affiliated with, whether on its own account or on the account of another (in a fiduciary capacity or otherwise), and to profit therefrom, without being liable to account therefore and without being in breach of this Trust Agreement.

27. **Compensation, Taxes and Expenses.** The Trustee and Agent will be entitled to such reasonable fees and other charges as each may establish from time to time for services rendered in connection with the Account. All such fees and other charges (together with any goods and services tax or other Taxes applicable thereto) will, unless first paid directly to the Agent, be charged against and deducted from the Property in such manner as the Agent or Trustee determines. All Expenses incurred and Taxes payable shall be paid from the Account. For greater certainty, in the event of any executions of third party demands or claims against the Account, both the Trustee and the Agent are entitled to fully recover any Expenses incurred by them in this regard as Expenses.

28. **Sale of Property.** The Trustee and Agent may sell Property in their respective sole discretion for the purposes of paying Expenses, Taxes, compensation and loans or other indebtedness under paragraph 16 including, for greater certainty, their own compensation.

29. **Transfers to the Account.** Amounts may be transferred to the Account from another TFSA of the Holder, or of the Spouse or Former Spouse where:

- (c) the Holder and the Spouse or Former Spouse are living separate and apart and the transfer is made under a decree, order or judgment of a competent tribunal or under a written separation agreement, relating to the division of property between the Holder and the Spouse or

Former Spouse in settlement of rights, arising out of, or on the breakdown of, their marriage or common-law partnership; or

- (a) the Holder is the Spouse's survivor and the transfer occurs as a result of an exempt contribution (as that term is defined in the Tax Act).

30. **Transfers out of the Account.** Upon delivery to the Agent of a written direction from the Holder in a form satisfactory to the Trustee, the Trustee shall transfer all or a portion of the Property as is specified in the written direction:

- (a) to another TFSA of the Holder; or
- (b) to a TFSA of the Spouse or Former Spouse where the Holder and the Spouse or Former Spouse are living separate and apart and the transfer is made under a decree, order or judgment of a competent tribunal or under a written separation agreement, relating to the division of property between the Holder and the Spouse or Former Spouse in settlement of rights, arising out of, or on the breakdown of, their marriage or common-law partnership.

31. **Changes to Trust Agreement.** The Trustee may change this Trust Agreement periodically. The Holder will be notified on how to obtain an amended copy of the Trust Agreement reflecting any such change and will be deemed to have accepted such changes. No change to this Trust Agreement (including a change calling for the Trustee's resignation as trustee or the termination of the trust created by this Trust Agreement) will be retroactive or result in the Account not being acceptable as a TFSA under the Applicable Laws.

32. **Replacement of Trustee.**

- (a) The Trustee may resign by giving such written notice to the Agent as may be required from time to time under the terms of an agreement entered into between the Agent and the Trustee. The Holder will be given at least 30 days prior notice of such resignation. On the effective date of such resignation, the Trustee will be discharged from all further duties, responsibilities, and liabilities under this Trust Agreement, except those incurred before the effective date. The Trustee will transfer all Property, together with all information required to continue the administration of the Property as a tax free savings account under the Applicable Laws, to a successor trustee.
- (b) The Trustee has agreed to resign upon it being provided with notice in writing by the Agent if the Trustee is satisfied that the successor trustee nominated by the Agent will properly assume and fulfill the Trustee's duties and liabilities hereunder in respect of the administration of the Account.
- (c) In either event, the Agent shall forthwith nominate a person to replace the Trustee and the resignation of the Trustee shall not take effect until its replacement has been so nominated by the Agent and appointed as successor by the Trustee and approved by Canada Revenue Agency or its successor. Failing the nomination of a replacement by the Agent within 30 days after receipt by it of a notice of resignation, the Trustee shall be entitled to appoint a person as its own replacement.
- (d) Upon any such appointment and resignation of the Trustee, the person so appointed as replacement trustee shall, without further act or formality, be and become the Trustee hereunder. Such replacement trustee shall, without any conveyance or transfer, be vested with the same power, rights, duties and responsibilities as the Trustee and with the assets of the Account as if the replacement trustee had been the original Trustee. The Trustee shall execute and deliver to the replacement trustee all such conveyances, transfers and further

assurances as may be necessary or advisable to give effect to the appointment of the replacement trustee.

- (e) Any person appointed as a replacement trustee shall be a corporation resident in Canada that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee.

Any trust company resulting from the merger or amalgamation of the Trustee with one or more trust companies and any trust company that succeeds to substantially all of the trust business of the Trustee shall thereupon become the successor to the Trustee without further act or formality. In all such cases, Canada Revenue Agency or its successor shall be notified.

33. **Assignment by Agent.** The Agent may assign its rights and obligations hereunder to any other corporation resident in Canada authorized to assume and discharge the obligations of the Agent hereunder and under the Applicable Laws.

34. **Notice.** Any notice given by the Holder to the Agent shall be sufficiently given if delivered electronically to the Agent upon the Holder's receipt of an acknowledgement and response to same or personally to the office of the Agent where the Account is administered, or if mailed, postage prepaid and addressed to the Agent at such office, and shall be considered to have been given on the day that the notice is actually delivered or received by the Agent.

Any notice, statement, receipt or other communication given by the Trustee or the Agent to the Holder shall be sufficiently given if delivered electronically or personally to the Holder, or if mailed, postage prepaid and addressed to the Holder at the address shown on the Application or at the Holder's last address given to the Trustee or the Agent, and any such notice, statement, receipt or other communication shall be considered to have been given at the time of delivery to the Holder electronically or personally or, if mailed, on the fifth day after mailing to the Holder.

35. **Date of Birth.** The Holder's statement of his or her date of birth in the Application shall be deemed to be a certification as to the Holder's age, on which the Trustee and the Agent may rely, and an undertaking to provide any further evidence of proof of age as may be required by the Agent.

36. **Contribution While Holder is a Minor.** Where the Holder makes a Contribution to the Account prior to the Holder having attained the age of majority in accordance with the Applicable Laws, the Holder will execute a ratification of the Application and all transactions made by the Holder in respect of the Account prior to reaching the age of majority.

37. **SIN and Address of Holder.** The Trustee shall be entitled to rely upon the Agent's records as to the social insurance number, and to the current address of the Holder as establishing his or her residency and domicile for the operation of the Account and its devolution on the death of the Holder subject to any written notice to the contrary respecting the Holder's domicile on death.

38. **Heirs, Representatives and Assigns.** The terms of this Trust Agreement shall be binding upon the heirs, Estate Representatives, attorneys, committees, guardians of property, other legal and personal representatives, and assigns of the Holder and upon the respective successors and assigns of the Trustee and the Agent and their directors, officers, employees, and agents, as well as their respective estates, Estate Representatives, heirs, attorneys, committees, guardians of property, other legal and personal representatives, and assigns.

39. **Language.** The Holder has expressly requested that this Trust Agreement and all related documents, including notices, be in the English language. Le titulaire a expressément demandé que cette Convention de fiducie et tous documents y afférents, y compris tout avis, soient rédigés en langue anglaise. (Quebec only/Québec seulement)

40. **Interpretation.** Unless the context requires otherwise, any terms or provisions importing the plural shall include the singular and vice versa.
41. **Governing Law.** This Trust Agreement and the Account shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

The Holder expressly agrees that any action arising out of or relating to this Trust Agreement or the Account shall be filed only in a court located in Canada and the Holder irrevocably consents and submits to the personal jurisdiction of such court for the purposes of litigating of any such action.

THE FOLLOWING IS APPLICABLE TO GROUP TAX-FREE SAVINGS ACCOUNTS

42. **Group TFSA.** Where the Account is part of a group TFSA:
- (a) the Original Holder acknowledges that:
 - (i) the Sponsor's arrangement with the Agent and the Original Holder imposes certain additional terms and conditions on the Account;
 - (ii) the Agent has appointed the Sponsor as agent for certain limited purposes with respect to submitting Contributions and delivering instructions to the Agent;
 - (iii) upon termination of the Original Holder's relationship with the Sponsor, which includes death of the Original Holder, or the discontinuance of the group TFSA by the Sponsor, the Original Holder's Account will continue as an individual arrangement with the Agent, subject to the rights of the Holder with respect to Contributions, Distributions, and permitted transfers as set out in this Trust Agreement; and
 - (iv) the limitation of liability provided in paragraph 24, any indemnity hereunder and any authority granted hereby for reimbursement out of the Account will extend to and save harmless the Sponsor.
 - (b) the Original Holder appoints the Sponsor to act as the agent for the purpose of administration of the Account including, without limiting the generality of the foregoing, receiving information with respect to the Account from time to time, delivering the Application and the Original Holder's directions to the Agent, as the case may be, and submitting Contributions to the Agent.

"Sponsor" means the corporation, partnership, or an association that is the Original Holder's employer, or to which the Original Holder otherwise has a membership or affiliation; and which has adopted a group TFSA with the Agent, of which the Original Holder's Account is a part.