

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF AN APPLICATION PURSUANT  
TO RULE 14.05(2) OF THE ONTARIO *RULES OF CIVIL PROCEDURE*, R.R.O. 1990, Reg.  
194 AND SECTION 35 OF THE *PARTNERSHIPS ACT*, R.S.O. 1990, c. P.5

IN THE MATTER OF AN APPLICATION PURSUANT TO  
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.R.O. 1990. c. C.43

BETWEEN:

JAMES HAGGERTY HARRIS

Applicant

- and -

BELMONT DYNAMIC GROWTH FUND  
an Ontario limited partnership

Respondent

**RESPONDING MOTION RECORD OF  
NATIONAL BANK OF CANADA (GLOBAL) LIMITED**

August 18, 2010

**OSLER, HOSKIN & HARCOURT LLP**  
Barristers & Solicitors  
P. O. Box 50  
1 First Canadian Place  
Toronto ON M5X 1B8

John MacDonald (LSUC# 25884R)  
Tel: (416) 862 -5672  
Mary Paterson (LSUC# 51572P)  
Tel: (416) 862-4929  
Fax: (416) 862-6666

Lawyers for National Bank of Canada (Global)  
Limited

TO: THE SERVICE LIST

## SERVICE LIST

TO: McCarthy Tétrault LLP  
Suite 5300, TD Bank Tower  
Toronto Dominion Centre  
Toronto ON M5K 1E6

Malcolm Mercer/ Jamey Gage/ Michael C. Nicholas/Heather Meredith  
Tel: (416) 601-7659 / (416) 601-7539 / (416) 601-8147 / (416) 601-8342  
Fax: (416) 868-0673

E-Mail: mmercerc@mccarthy.ca / jgage@mccarthy.ca / mnichola@mccarthy.ca /  
meredith@mccarthy.ca

Lawyers for the Applicant, James Haggarty Harris

AND TO: Belmont Dynamic GP Inc.  
Suite 800  
357 Bay Street  
Toronto, ON M5H 2T7

AND TO: Bellmore & Moore  
393 University Avenue  
Suite 1600  
Toronto ON M5G 1E6

David C. Moore  
Tel: (416) 581-1818  
Fax: (416) 581-1279

Email: david@bellmore.ca

Lawyers for Omniscope Advisors Inc. and Daniel Nead

AND TO: Wilton & Associates  
127 John Street  
Toronto ON M5V 2E2

Matthew Wilton/ Greg Graham  
Tel: (416) 860-9889 / (416) 860-9339  
Fax: (416) 204-1849

E-mail: matthew@wiltonlaw.com / greg@wiltonlaw.com

AND TO: Baker & McKenzie LLP  
Brookfield Place, Suite 2100  
181 Bay Street, P.O. Box 874  
Toronto, ON M5J 2T3

Matthew J. Latella/ Michael Nowina  
Tel: (416) 865 6985 / (416) 865-2312  
Fax: (416) 863 6275

E-mail: Matthew.J.Latella@BAKERNET.com /  
Michael.Nowina@BAKERNET.com

Lawyers for Harcourt Investment Consulting AG and Peter Fanconi

AND TO: Stikeman Elliott LLP  
5300 Commerce Court West  
199 Bay Street  
Toronto ON M5L 1B9

Elizabeth Pillon/ Maria Konyukhova  
Tel: (416) 869-5623 / (416) 869-5230  
Fax: (416) 947-0866

E-mail: lpillon@stikeman.com / mkonyukhova@stikeman.com

Lawyers for KPMG, Receiver of Belmont Dynamic Growth Fund

**SERVICE LIST  
RE: PROOF OF CLAIM**

TO: Citigroup Fund Services Canada, Inc.  
2920 Matheson Blvd. East  
Mississauga, ON L4W 5J4

Attn.: Mr. Chrisfel Genat

AND TO: Fundserv Inc.  
130 King St. W.  
17th Floor  
Toronto, ON M5X 1E5

Attn.: Mr. Ron Taggart

AND TO: Accilent Capital Management Inc.  
370 King St. W.  
Suite 807, Box 67  
Toronto, ON M5V 1J9

Attn.: Mr. Dan Pembleton

AND TO: Omniscope Advisors Inc.  
c/o Bellmore & Moore  
393 University Avenue  
Suite 1600  
Toronto ON M5G 1E6

David C. Moore  
Tel: (416) 581-1818  
Fax: (416) 581-1279

Email: david@bellmore.ca

AND TO: McMillan LLP  
181 Bay Street, Suite 4400  
Bay Wellington Tower  
Toronto, ON M5J 2T3

Michael Burns  
Tel: (416) 865-7261  
Fax: (416) 865-7048

Email: michael.burns@mcmillan.ca

AND TO: Borden Ladner Gervais LLP  
40 King Street West  
Scotia Plaza  
Toronto, ON M5H 3Y4

Richard Austin  
Tel: (416) 367-6147  
Fax: (416) 367-6749

Email: [raustin@blgcanada.com](mailto:raustin@blgcanada.com)

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# TAB 1

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**AFFIDAVIT OF HAYDEN JONES**  
(sworn August 18, 2010)

I, HAYDEN JONES, of the Parish of St. Michael, in Barbados, AFFIRM:

1. At all material times, I was the Managing Director of National Bank of Canada (Global) Limited (“NBCG” or the “Counterparty”) and have personal knowledge of the matters deposed to herein except where otherwise noted. Where I have relied on other sources for information, I have identified the sources and believe the information to be true.

### **The National Bank of Canada (Global) Limited**

2. NBCG is an indirect wholly owned subsidiary of the National Bank of Canada that was incorporated in Barbados. Its main activities include proprietary derivatives and credit trading, fund management services, and provision of financial services to clients, including by acting as a counterparty on some derivatives transactions. Earlier this year, NBCG was continued under the laws of Malta.

### **The Belmont Fund's Basic Structure**

3. The Belmont Dynamic Growth Fund (the "Belmont Fund") is an investment fund established as an Ontario limited partnership. Its objective is to provide its investors with exposure to the return achieved by a separate fund of hedge funds in the Cayman Islands – the Belmont Dynamic Segregated Portfolio (the "Segregated Portfolio") – without requiring the Belmont Fund or Belmont Fund investors to invest in the Segregated Portfolio.

4. The Belmont Fund exposes its investors to the return achieved by the Segregated Portfolio as follows:

- (a) First, at the outset of the transaction, the Belmont Fund used the cash provided by investors in the Belmont Fund to buy two baskets of Canadian common shares (the CAD Forward Share Basket and the USD Forward Share Basket, collectively, the "Share Baskets").
- (b) Second, the Belmont Fund entered into two forward sale agreements (the CAD Forward Contract and the USD Forward Contract, collectively, the "Forward Contracts") with NBCG. Under the Forward Contracts, the Belmont Fund agreed to sell and NBCG agreed to buy the Share Baskets on the Forward Maturity Date.

The purchase price for the Share Baskets under the Forward Contracts is not based on the value of the Share Baskets but rather the value of the Segregated Portfolio. In essence, NBCG buys the Share Baskets that were made up of Canadian shares and the Belmont Fund investors receive a cash amount equal to the amount of cash that investors in the Segregated Portfolio would receive upon redemption of their investments in the Segregated Portfolio, less certain deductions.

5. The Belmont Fund pledged the Share Baskets to NBCG as security for the Belmont Fund's obligation to deliver the Share Baskets under the Forward Contracts (the "Pledge").

6. Through this structure, the Belmont Fund is able to expose its investors to the holdings of the Segregated Portfolio without requiring the investors to invest in the Segregated Portfolio.

### **The Segregated Portfolio**

7. The Segregated Portfolio is a fund of hedge funds. It is a sub-fund of Belmont SPC, which is a segregated portfolio company organized under the laws of and located in the Cayman Islands. The Segregated Portfolio's objective is to invest on a leveraged basis in a specialized fund of the Cayman Islands hedge funds of Belmont SPC that are managed by Harcourt Investment Consulting AG ("Harcourt").

8. Despite the similar name, Belmont SPC is not owned by the Belmont Fund. Rather, Alternative Investments Management Inc., a Barbadian company associated with Harcourt, owns all of the voting shares of Belmont SPC.

9. The Segregated Portfolio issued two classes of non-voting Participating Shares: Class A and Class B. With its own funds, NBCG purchased 187,142.5472 Class A shares (the “NBCG Segregated Portfolio Shares”) and, as such, is a shareholder of the Segregated Portfolio. The Vontobel Group (“Vontobel”), a Swiss private bank headquartered in Zurich, Switzerland, owns 30,000 Class A shares.

10. The Belmont Fund does not own or have any interest in any shares of the Segregated Portfolio; indeed, the entire purpose of the Belmont Fund is to permit Belmont Fund investors to be exposed to the Segregated Portfolio’s holdings without investing in it.

**Details of the Forward Contracts**

11. The CAD Confirmation of Share Basket Forward Transaction is attached to this affidavit as Exhibit “A”.

12. The Forward Contracts require NBCG to purchase the Share Baskets on the Forward Maturity Date for an amount that is equal to the value the Belmont Fund investors would have received had they used the money they invested in the Belmont Fund to instead invest in the Segregated Portfolio, less certain deductions.

13. In general, this value is calculated by multiplying the notional number of participating shares that the Belmont Fund investors would have been able to buy in the Segregated Portfolio with the cash they invested in the Belmont Fund (the “Notional Participating Shares”) by the net asset value (“NAV”) of the Segregated Portfolio and then making certain deductions. Logically, the value calculation is:

$$\begin{aligned} & \text{(Number of Notional Participating Shares x NAV per share of Segregated Portfolio)} \\ & \quad - \text{Deductions permitted by Forward Contracts} \end{aligned}$$

14. When the Forward Contracts are terminated or settled, NBCG will be obliged to pay the Belmont Fund cash in an amount equal to the number of Notional Participating Shares multiplied by the NAV of the Segregated Portfolio less certain deductions. As a result, the investors in the Belmont Fund are exposed to the holdings of the Segregated Portfolio without owning any shares or having any other interest in the Segregated Portfolio.

15. When the Forward Contracts are terminated or settled, the Belmont Fund can either deliver the Share Baskets or an equivalent cash payment at its election to NBCG. NBCG does not have the same option: it is obliged to make a cash payment. There are no circumstances under the Forward Contracts that would oblige or even contemplate NBCG delivering any shares in the Segregated Portfolio, or the distributions related thereto, to the Belmont Fund.

**Deductions Permitted by the Forward Contracts**

16. The amounts payable by NBCG to the Belmont Fund under the Forward Contracts are reduced by any outstanding Forward Fees.

17. In certain circumstances, the Forward Contracts give NBCG the right to increase or reduce the number of Notional Participating Shares used to calculate the payment NBCG will be obliged to make. One such circumstance relates to the foreign exchange hedge requested by the Belmont Fund and embedded in the CAD Forward Contract that protects the Belmont Fund against its US dollar currency exposure.

18. But for the FX Forward (defined below), the Canadian dollar investment in the Belmont Fund would have had foreign exchange risk because the investment is in Canadian dollars and the Segregated Portfolio is a US dollar investment. The CAD Forward Contract

therefore contains protection against this risk (the "FX Forward"). NBCG hedged its exposure under the FX Forward by entering into a currency hedge with a third party.

19. Under the CAD Forward Contract, if a specified trigger event occurs, then NBCG can terminate the FX Forward and reduce the number of Notional Participating Shares.

20. Neither the amount of outstanding Forward Fees nor the loss resulting from termination of the FX Forward affects the value of the Segregated Portfolio; these deductions only affect the value of the Forward Contracts. As a result, the value of the Forward Contracts does not exactly track the value of the Segregated Portfolio.

**The Belmont Fund Pledges the Share Baskets to NBCG as Security for Its Obligations**

21. Article 16 of the Forward Contracts required the Belmont Fund to pledge the Share Baskets as security for its obligations under the Forward Contracts. The Pledge is attached to this affidavit as Exhibit "B".

22. Under the Pledge, the Belmont Fund "assigns, charges and pledges to and in favour of [NBCG], and grants to [NBCG] a continuing interest in" the Belmont Fund's "right, title and interest in, to and under the [Share Baskets]", among other things.

23. NBCG perfected its security in the Share Baskets by having the Belmont Fund deposit the Share Baskets to an NBCG trading account.

**National Bank of Canada Guarantees NBCG's Obligations under the Forward Contracts**

24. The National Bank of Canada guaranteed NBCG's obligations under the Forward Contracts (the "Guarantee"). The Guarantee is attached to this affidavit as Exhibit "C".

25. The National Bank of Canada Guarantee is unconditional and absolute and guarantees all present and future obligations and liabilities of all kinds of NBCG to the Belmont Fund. The Guarantee is unaffected by any agreement between the Belmont Fund and NBCG that would extend or compromise NBCG's obligations under the Forward Contracts. The Guarantee remains in effect until all of NBCG's obligations to the Belmont Fund under the Forward Contracts have been satisfied in full.

26. As a result, when NBCG is obliged to purchase the Share Baskets, should NBCG fail to make the payments contemplated by the Forward Contracts, the Belmont Fund will have a claim against the National Bank of Canada as well as against NBCG.

**Although Not Required to Do So, NBCG Purchased Shares in the Segregated Portfolio to Hedge NBCG's Risk**

27. NBCG did not agree to assume any of the investment risk assumed by investors in the Belmont Fund by virtue of the Forward Contracts. Rather, NBCG agreed to enter into the Forward Contracts as a means to provide Canadian Belmont Fund investors with exposure to the potential return on the Cayman Islands Segregated Portfolio without having to purchase shares directly in the Segregated Portfolio.

28. As permitted by Article 15 of the Forward Contracts and for the sole purpose of hedging its own risk, NBCG initially borrowed and short sold securities equivalent to those in the Share Baskets and used the proceeds from the sale as collateral for its obligation to redeliver the borrowed securities. Simultaneously, NBCG used its own funds to purchase the NBCG Segregated Portfolio Shares. NBCG bought a sufficient amount of Segregated Portfolio shares to hedge its financial obligation under the Forward Contracts. NBCG did so to ensure that on the Forward Maturity Date, NBCG would be able, at its election, to redeem the NBCG Segregated



Portfolio Shares to raise the cash needed to make the payment to the Belmont Fund required by the Forward Contracts.

29. As a result of purchasing the NBCG Segregated Portfolio Shares, NBCG hedged its risk (i.e. its obligation to pay a cash amount equal in value to the value of the Segregated Portfolio less certain deductions) and ensured that regardless of the change in value of the Share Baskets or the Segregated Portfolio on the Forward Maturity or Termination Date, NBCG would experience no financial loss as a result of changes in the value of the Segregated Portfolio or Share Baskets. Investors in the Belmont Fund assumed the entire risk of investing in the Belmont Fund.

30. NBCG was not obliged to purchase the NBCG Segregated Portfolio Shares nor was it obliged to keep or sell them. NBCG is the registered and beneficial owner of the NBCG Segregated Portfolio Shares.

#### **Summary of Belmont Fund Investment Structure**

31. In summary, under this investment structure, the Belmont Fund:
- (a) Is party to the Forward Contracts entitling the Belmont Fund to a cash payment on the Maturity date;
  - (b) Is the registered owner of the Share Baskets, which contains Canadian securities;
  - (c) Does not have an interest in the Segregated Portfolio; and
  - (d) Is obliged to deliver the Share Baskets to NBCG at maturity of the Forward Contracts or under the Pledge in the event that the Belmont Fund defaults on its obligations.

32. Conversely, NBCG:
- (a) Is obliged to make a cash payment to the Belmont Fund at the Forward Maturity Date (which obligation is guaranteed by the National Bank of Canada);
  - (b) Has a beneficial interest in the Share Baskets under the Forward Contracts (by virtue of the agreement of the Belmont Fund to sell such shares to NBCG thereunder) and a perfected security interest in the Share Baskets under the Pledge; and
  - (c) Is the registered and beneficial owner of the NBCG Segregated Portfolio Shares.

**A Trigger Event Occurred and NBCG Terminated the FX Forward**

33. On April 23, 2009, NBCG gave notice to the Belmont Fund under the CAD Forward Contract that a NAV Trigger Event had occurred and terminated the FX Forward.

34. Before this date, the Segregated Portfolio had frozen redemptions such that there was no actual NAV, only estimates that could not be traded upon or redeemed. The CAD Forward Contract only allows the number of Notional Participating Shares to be adjusted based on the actual value of the Segregated Portfolio, which cannot be known while redemptions are frozen until the date of the final payment from the Segregated Portfolio or until the Segregated Portfolio can calculate an actual NAV.

35. NBCG realized a loss of USD\$2,492,619.98 on April 23, 2009 (the "FX Loss") when NBCG terminated and unwound the FX Forward and its hedge. NBCG notified the General Partner of the Belmont Fund before terminating the FX Forward and provided FX Loss

estimates, a payment schedule showing NBCG would be reimbursed first, and discussed the termination with the General Partner and its counsel, during a conference call on April 22, 2009.

**NBCG Participates in Claims Procedure on a Without Prejudice Basis**

36. KPMG Inc. was appointed receiver and manager of the Belmont Fund on August 6, 2009. On December 4, 2009, NBCG filed a proof of claim in the Belmont Fund claims procedure on a without prejudice basis. The Proof of Claim states:

This Proof of Claim is filed on a without prejudice basis. The contractual arrangements between NBCG and the [Belmont Fund] are eligible financial contracts and NBCG is entitled to exercise all of its contractual, legal and equitable rights in connection therewith, including set-off rights, regardless of the terms of the appointment of KPMG as Court Appointed Receiver of the [Belmont Fund] or the Claims Procedure Order [emphasis added].

37. In NBCG's without prejudice proof of claim, NBCG takes the alternative position that if it is a creditor of the Belmont Fund, then it is a secured creditor under the terms of the Forward Contracts and the Pledge. In the further alternative, NBCG claims as an unsecured creditor.

38. The Receiver issued a Notice of Revision or Disallowance and disallowed the majority of NBCG's claim; NBCG served a Notice of Dispute of Disallowance.

39. NBCG's proof of claim was filed without prejudice because NBCG takes the position that it is not a creditor of the Belmont Fund but rather is a shareholder of the Segregated Portfolio and a party to Forward Contracts, which are eligible financial contracts that have not yet matured. NBCG responded to the Receiver's Second Report and noted that NBCG took the position that the Receiver did not have the authority to terminate the Forward Contracts. NBCG

also noted that it was premature to ask the Court to address substantive issues as the Receiver had not yet decided what to do with the Forward Contracts. The letter setting out NBCG's position is attached to this affidavit as Exhibit "D".

40. Madam Justice Hoy noted NBCG's position in her May 17, 2010, endorsement.

**NBCG Will Hold Its Distributions from the Segregated Portfolio**

41. In its motion scheduled to be heard on August 25, 2010, the Receiver asks that all distributions from the Segregated Portfolio be paid to the Receiver to be held in the Receiver's accounts in Canada. This request is made notwithstanding the facts that:

- (a) NBCG is the registered and beneficial owner of shares in and distributions from the Segregated Portfolio;
- (b) The Segregated Portfolio is incorporated and has its registered and head office in the Cayman Islands; and
- (c) The cash not yet distributed from the Segregated Portfolio is currently located in the Cayman Islands.

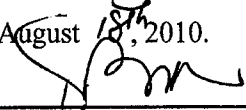
NBCG objects to the Receiver's request to the extent that it would require payment of NBCG's Segregated Portfolio distributions to the Receiver.


42. However, NBCG is not opposed to the remaining terms of the Order requested by the Receiver. NBCG is prepared to hold distributions received from the Segregated Portfolio and

will undertake not to distribute any of those funds without an agreement with the Receiver or an order of a Court of competent jurisdiction.

AFFIRMED BEFORE ME at *BARBADOS*

, on August *18<sup>th</sup>*, 2010.

  
\_\_\_\_\_  
NOTARY

  
\_\_\_\_\_  
HAYDEN JONES

**Dionne Nerissa Brown**  
**Shop Hill**  
**St Thomas**  
**Barbados**  
**Attorney-at-Law**

**JAMES HAGGERTY HARRIS**  
Applicant  
and

**BELMONT DYNAMIC GROWTH FUND,**  
an Ontario limited partnership  
Defendant

Court File No: 09-8302-00CL

IN THE MATTER OF AN APPLICATION PURSUANT  
TO RULE 14.05(2) OF THE ONTARIO RULES OF CIVIL PROCEDURE, R.R.O. 1990, Reg. 194 AND  
SECTION 35 OF THE PARTNERSHIPS ACT, R.S.O. 1990, c. P.5  
IN THE MATTER OF AN APPLICATION PURSUANT TO  
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.R.O. 1990. c. C.43

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**AFFIDAVIT OF HAYDEN JONES**

**OSLER, HOSKIN & HARCOURT LLP**  
P. O. Box 50  
1 First Canadian Place  
Toronto ON M5X 1B8

John A. MacDonald (LSUC# 25884R)  
Tel: (416) 862-5672  
Mary Paterson (LSUC# 51572P)  
Tel: (416) 862-4929  
Fax: (416) 862-6666

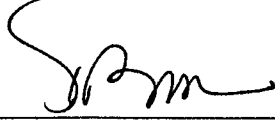
Lawyers for National Bank of Canada (Global)  
Limited

F. 1082987

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF HAYDEN JONES

SWORN BEFORE ME

ON THIS 18<sup>th</sup> DAY OF AUGUST, 2010



---

NOTARY

**Dionne Nerissa Brown**  
**Shop Hill**  
**St Thomas**  
**Barbados**  
**Attorney-at-Law**

**CONFIRMATION OF SHARE BASKET FORWARD TRANSACTION**

Date: August 25, 2006

To: Belmont Dynamic Growth Fund c/o Belmont Dynamic GP Inc.

From: National Bank of Canada (Global) Limited

Attention: Dan Nead

Contact: Vice President, Administration

Facsimile No: (416) 867-1020

Facsimile No: (246) 426-0544

Telephone No:(416) 869-0202

Telephone No:(246) 426-0512

We are pleased to confirm the details of the following Share Basket Forward Transaction (the "Transaction").

The purpose of this letter agreement (this "Confirmation") is to confirm the terms and conditions of the Transaction entered into between us on the Trade Date specified below. This letter agreement constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

The definitions and provisions contained in the 2000 ISDA Definitions as supplemented by the Annex to the 2000 ISDA Definitions (June 2000 Version) (the "Swap Definitions") and in the 2002 ISDA Equity Derivatives Definitions (the "Equity Definitions", and together with the Swap Definitions, the "Definitions"), in each case as published by the International Swaps and Derivatives Association, Inc., are incorporated into this Confirmation. In the event of any inconsistency between the Swap Definitions and the Equity Definitions, the Equity Definitions will govern. In the event of any inconsistency between either of the Swap Definitions or the Equity Definitions and this Confirmation, this Confirmation will govern. For purposes of the Equity Definitions, this Transaction shall be deemed to be a Share Basket Forward Transaction.

This Confirmation supplements, forms part of, and is subject to, the ISDA Master Agreement dated as of August 24, 2006, as amended and supplemented from time to time (the "Agreement"), between you and us. All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

1. General Terms

Party A: National Bank of Canada (Global) Limited ("NBC").

Party B: Belmont Dynamic Growth Fund (the "Fund").

Trade Date: August 25, 2006.

Effective Date: August 25, 2006.



Termination Date: The Forward Date.

Basket: As specified in Annex 1. Annex 1 will be amended from time to time by Party A to reflect Pre-Settlements (defined in Section 3 hereof) and Upward Adjustments (defined in Section 8 hereof). Any amended Annex 1 delivered by Party A shall supersede and replace the preceding Annex 1.

Shares: As specified in Annex 1.

Number of Shares: For the Shares of each Issuer comprising the Basket, the number of those Shares specified in Annex 1.

Forward Price: The greater of (a) zero; and (b) a CAD amount equal to the sum of:

- (i) (a) in respect of the Scheduled Forward Date, the Maturity CAD Amount, or (b) in respect of any Pre-Settlement Date, the PV of Maturity CAD Amount; and
- (ii) the product of the Net USD Amount and the Conversion Rate set out in part (b) of the definition of Conversion Rate;

and reduced by the aggregate amount of any outstanding Forward Fees (defined in Section 6 hereof) that have not been paid as of the Forward Date. For greater certainty, if the Net USD Amount is negative, the product calculated in (ii) above shall be a negative number and shall be subtracted from the amount calculated in (i) above.

Net USD Amount: The product of (i) NAV<sub>BDG</sub> and (ii) the Number of BDG Shares, less (a) in respect of the Scheduled Forward Date, the Maturity USD Amount, or (b) in respect of any Pre-Settlement Date, the PV of Maturity USD Amount

NAV<sub>BDG</sub>: On the Trade Date, the net asset value per non-voting participating redeemable share ("**BDG Share**") of the Belmont Dynamic Growth Segregated Portfolio of Belmont SPC, a multi sub-fund investment company incorporated in the Cayman Islands as a segregated portfolio company ("**BDG**" or the "**Fund**") that would be payable by an investor in BDG Shares that has given timely notice of subscription for BDG Shares on such date, and on any other day including the Forward Date, any Pre-Settlement Date (defined in Section 3 hereof) and any Upsize Trade Date (defined in Section 8 hereof) the net asset value per BDG Share as determined in USD by Alternative Investments Management Limited, the investment manager of BDG (or any successor acceptable to Party A), and reported to

Party A on that day or, if that day is not the last Business Day in a calendar month (each, a “**BDG Valuation Date**”), on the most recent BDG Valuation Date preceding that day, less any performance fees or redemption fees that would be payable by a holder of BDG Shares if such BDG Shares were acquired on the Trade Date and redeemed on such BDG Valuation Date (or, in respect of BDG Shares that have been added to the Number of BDG Shares pursuant to one or more Upward Adjustments, on the applicable Upsize Trade Date(s)), provided however that if a holder of BDG Shares has given timely notice of redemption of BDG Shares on or prior to that day, NAV<sub>BDG</sub> shall be the amount equal to the actual redemption proceeds per BDG Share to be received by such holder of BDG Shares in respect of such redemption.

- Number of BDG Shares: A notional number of BDG Shares, as specified in Annex 1, which number shall be: (i) on the Trade Date, a number equal to the aggregate acquisition cost to Party B of all of the Shares in the Basket multiplied by the Conversion Rate set out in part (a) of the definition of Conversion Rate, and then divided by NAV<sub>BDG</sub> as of the Trade Date (the “**Initial Number of BDG Shares**”); and (ii) thereafter, on any day, the Initial Number of BDG Shares (a) reduced by the aggregate number of BDG Shares determined accordingly to paragraph (ii) of “Amendments to Annex 1 to reflect Pre-Settlement” to Section 3 hereof, (b) increased by the aggregate number of BDG Shares specified in Confirmations of Upward Adjustment (defined in Section 8 hereof) delivered by Party A to Party B from time to time and (c) otherwise adjusted pursuant to Sections 9, 10 or 11 hereof.
  
- Forward Date: (i) August 1, 2016 or such other date as may be agreed upon in writing by Party A and Party B (the “**Scheduled Forward Date**”), and (ii) in respect of a Pre-Settlement, the applicable Pre-Settlement Date.
  
- Exchanges: In respect of each Share, as specified in Annex 1.
  
- Related Exchanges: Any other exchange on which futures or options in respect of the relevant Shares in the Basket are ordinarily traded.
  
- Conversion Rate: A currency exchange rate for the conversion of (a) a Canadian Dollar (“**CAD**”) amount to a U.S. dollar (“**USD**”) or (b) a USD amount to a CAD amount (as applicable) as determined by the Calculation Agent.
  
- Maturity CAD Amount: Initially, a CAD amount equal to \$● as of the FX Reset Date and thereafter as set forth on Annex 1 as the same may be amended

from time to time.

PV of Maturity CAD Amount: The present value of the Maturity CAD Amount as determined by the Calculation Agent.

Maturity USD Amount: Initially, a USD amount equal to \$● as of the FX Reset Date and thereafter as set forth on Annex 1 as the same may be amended from time to time.

PV of Maturity USD Amount: The present value of the Maturity USD Amount as determined by the Calculation Agent.

FX Reset Date: Initially, September 22, 2007 and thereafter as set forth on Annex 1 as the same may be amended from time to time.

Threshold Unit Price: A price equal to 75% of NAV<sub>BDG</sub> on the Trade Date.

Threshold AUM Change: 20%

Threshold Exposure Trigger: 0.60

Exposure Target: 0.50

Business Days: Toronto and Montreal.

Business Day Convention: Modified Following.

Calculation Agent: Party A.

2. Settlement Physical Settlement, provided that Party B may elect Cash Settlement by providing written notice to Party A to such effect at least seven Business Days prior to the Scheduled Forward Date.

Physical Settlement: Subject to the provisions of Section 3 relating to Physical Pre-Settlement, on the Physical Settlement Date, Party A will pay to Party B the Forward Price for all of the Shares in the Basket and Party B will deliver to Party A all of such Shares; provided, however, that if there are outstanding amounts to be paid by BDG in respect of distributions on BDG Shares declared by BDG on or prior to the Scheduled Forward Date or in respect of BDG Shares tendered for redemption on or prior to the Scheduled Forward Date (collectively, "Outstanding Amounts"), then (i) Party A will pay to Party B that portion of the Forward Price not represented by such Outstanding Amounts in exchange for the delivery of a corresponding proportion (as determined by the Calculation Agent) of all of the Shares then in the Basket, and (ii) the payment of the remainder of the Forward Price by Party A to Party B and the delivery of the remainder of the Shares in the Basket by Party B to Party A shall be deferred

to the extent determined by the Calculation Agent until the date on which such Outstanding Amounts are paid by BDG and any additional Hedging Costs incurred by Party A as a result of such deferral shall be deducted from the remainder of the Forward Price payable by Party A. In the event that any such deferral continues for a period of 14 days (the “Deferral Period”) then payments of amounts by Party A and the delivery of Shares by Party B on settlement shall occur on the next following Business Day and (i) notwithstanding Section 6(e) of the Agreement, the remainder of the Forward Price, any outstanding partial Pre-Settlement Payment Amounts (defined in Section 3 hereof) and any other payments owing by Party A to Party B will be deemed to be \$1.00 for purposes of such settlement, (ii) Party B will deliver to Party A all of the Shares in the Basket that have not yet been delivered to Party A, and (iii) Party A will thereafter pay to Party B, on further account of the Forward Price, any additional amount(s) equal to any Outstanding Amount(s) subsequently paid by BDG at such times as such Outstanding Amount(s) are received by shareholders of BDG in full satisfaction of its obligations hereunder in respect of that proportion of the Forward Price represented by such Outstanding Amounts; provided, however, that Party A shall be released from any further obligations under this Section 2 on the date that the Calculation Agent determines (in consultation with Party B) that there is no reasonable likelihood that such Outstanding Amounts will be paid by BDG.

Party B shall transfer good title to the Shares free and clear of any liens, charges, claims and encumbrances. Delivery shall be effected by book-entry transfer of the Shares through the relevant clearing system.

For the avoidance of doubt, if Physical Settlement applies, Party A shall only be required to make payment for any Shares contemporaneously with the completion of the delivery of such Shares.

Physical Settlement Date:

The first day on which settlement of a sale of the Shares in the Basket in respect of which the Transaction is being terminated customarily would take place unless a Settlement Disruption Event prevents delivery of such Shares on that day, in which case the provisions set out in Section 9.4 of the Equity Definitions shall apply.

Cash Settlement:

If Cash Settlement is elected as provided for above, then:

- (i) Subject to the provisions of “Cash Settlement Payment Date” below, Party B will pay to Party A an amount equal to the Cash Settlement Amount on the Cash

Settlement Payment Date, if such Cash Settlement Amount is a positive number, and

- (ii) Subject to the provisions of "Cash Settlement Payment Date" below, Party A will pay to Party B an amount equal to the absolute value of the Cash Settlement Amount on the Cash Settlement Payment Date, if such Cash Settlement Amount is a negative number.

Valuation Time: In relation to each Share, the close of trading on the relevant Exchange.

Valuation Date: The Scheduled Forward Date.

Cash Settlement Payment Date: Three (3) Business Days following the Valuation Date provided however that if there are Outstanding Amounts as of the Cash Settlement Payment Date, then Party A will pay to Party B that proportion of the Forward Price not represented by such Outstanding Amounts and Party B will pay to Party A an amount equal to the Aggregate Equity Amount and payment of all other amounts on account of the Cash Settlement Amount shall be deferred for the Deferral Period pending payment of such Outstanding Amounts by BDG (for greater certainty, any additional Hedging Costs incurred by Party A as a result of such deferral shall be deducted from the remainder of the Forward Price payable by Party A), after which period (i) the remainder of the Forward Price, any outstanding partial Pre-Settlement Payment Amounts and any other payments owing by Party A to Party B shall be deemed to be \$1.00 for purposes of such settlement, and (ii) Party A shall thereafter pay to Party B, on further account of the Forward Price, additional amount(s) equal to the Outstanding Amount(s), if any, subsequently paid by BDG and at such times as such Outstanding Amount(s) are received by shareholders of BDG, in full satisfaction of its obligations hereunder in respect of that proportion of the Forward Price represented by such Outstanding Amount(s); provided, however, that Party A shall be released from any further obligations under this Section 2 on the date that the Calculation Agent, acting in good faith, determines (in consultation with Party B) that there is no reasonable likelihood that such Outstanding Amounts will be paid by BDG.

Cash Settlement Amount: An amount determined by the Calculation Agent in its sole and absolute discretion equal to the Aggregate Equity Amount minus the Forward Price, where:

**"Equity Amount"**, for each Issuer comprising the Basket, means an amount equal to the product of (i) the Number of Shares of

such Issuer, and (ii) the Final Price; and

**“Aggregate Equity Amount”** means the sum of all the Equity Amounts for each Issuer comprising the Basket.

Final Price:

In respect of each Share in the Basket, the average price per Share at which Party A (or an affiliate of Party A) acquires Shares (if any) in order to execute the unwind of Party A’s hedge (if any) in respect of the Shares (including, for greater certainty, a hedge position taken by an affiliate of Party A in respect of the Shares) on the Forward Date or such other days preceding or following the Forward Date (which days shall not be prior to the fifth Exchange Business Day immediately preceding, or after the fifth Exchange Business Day immediately following, the Forward Date) identified by Party A, such acquisitions to be completed at prices determined or negotiated by Party A (or an affiliate of Party A) in good faith and in a commercially reasonable manner in light of the prevailing market prices at the times of such acquisitions or, if none of Party A or any of its affiliates have a hedge in respect of the Shares which is being unwound, the closing market price per Share on the relevant Exchange of the Shares on the Valuation Date, provided that if there is a Market Disruption Event in respect of any relevant Share on that day, then Section 6.6(c) of the Equity Definitions shall apply except that the words “and commercially reasonable” shall be added before the word “estimate” in clause (ii) thereof.

Share Adjustments and Extraordinary Events:

Articles 11 and 12 of the Equity Definitions (other than defined terms used therein) shall not apply to this Transaction and the consequences in respect of this Transaction following the occurrence of an Extraordinary Event or a Potential Adjustment Event shall be as provided for in Section 7 set out below.

3. Pre-Settlement for Redemptions, etc.

Provided that no Event of Default, Potential Event of Default, Termination Event or Trigger Event has occurred and is continuing with respect to Party B and that no Early Termination Date has occurred or been designated in respect of this Transaction or any part thereof, Party B may, at any time and from time to time, elect to pre-settle the Transaction (A) in part, for the purposes of funding (i) liabilities and expenses of Party B, or (ii) redemptions of Units by unitholders of Party B, or (B) in whole, in response to the adoption of, change in or change in the application of or any administrative position in respect thereof, any securities or tax law (by a court, securities regulator or any relevant governmental revenue authority) applicable to Party B or its unitholders which results or is reasonably expected to result in the Transaction being materially disadvantageous or no longer advantageous to unitholders of Party B.

Pre-Settlement Notice:

To effect a Pre-Settlement, Party B shall, at least 60 days prior to the last Business Day of any calendar quarter, provide Party A with written notice in the form attached hereto as Annex 2, by facsimile or as otherwise agreed upon by the parties (the “**Pre-Settlement Notice**”) specifying:

- (i) the percentage (between 0-100%) of notional BDG Shares in respect of which Pre-Settlement is to occur (the “**Pre-Settlement Percentage**”), and the CAD amount that Party A will pay to Party B in respect of such Pre-Settlement (the “**Pre-Settlement Payment Amount**”) will be equal to the product of (a) the Pre-Settlement Percentage, and (b) the Forward Price as determined on the last business day of the calendar quarter preceding the Pre-Settlement Date;
- (ii) the date on which the Transaction shall be pre-settled, which must be at least 90 days after the Pre-Settlement Notice is received by Party A (the “**Pre-Settlement Date**”);
- (iii) the Shares of any Issuer or Issuers comprising the Basket in respect of which the Transaction is being pre-settled selected by Party B in consultation with Party A (the “**Pre-Settlement Shares**”); and
- (iv) whether Party B elects Cash Settlement in respect of such Pre-Settlement.

Physical Pre-Settlement:

If Party B has not elected Cash Settlement in respect of such Pre-Settlement, on the Pre-Settlement Date:

- (i) Party A will pay to Party B the Pre-Settlement Payment Amount less the aggregate amount of any outstanding Forward Fees that were due on or prior to the Pre-Settlement Date and less the Pre-Settlement Forward Fee provided however that if there are Outstanding Amounts, then payment of the Pre-Settlement Payment Amount corresponding to such Outstanding Amount(s) shall be postponed until the date on which such Outstanding Amount(s) are paid by BDG and any additional Hedging Costs incurred by Party A as a result of such deferral shall be deducted from the remainder of the Pre-Settlement Payment Amount payable by Party A. The “**Pre-Settlement Forward Fee**” is an amount equal to the Forward Fee that would, if the Transaction had not been Pre-Settled, be payable on the first Forward Fee Payment Date (defined in Section 6 hereof) following the Pre-Settlement Date multiplied by the Pre-Settlement

Percentage:

- (ii) Party B will deliver to Party A that number of Pre-Settlement Shares having an aggregate purchase price to Party B equal to the product of:
  - (A) the aggregate purchase price per Share (as set out in Annex 1) to Party B of all Shares comprising the Basket; and
  - (B) the Pre-Settlement Percentage, and;

provided that the number of Pre-Settlement Shares to be delivered by Party B shall be rounded to the nearest whole number, provided that Party B cannot deliver more shares of an Issuer than the Number of Shares of that Issuer specified in Annex 1 immediately prior to the Pre-Settlement Date.

Cash Pre-Settlement:

If Party B has elected Cash Settlement in respect of such Pre-Settlement, an amount (the **"Cash Pre-Settlement Amount"**) equal to:

- (i) the Pre-Settlement Payment Amount, less
- (ii) an amount equal to the sum of the Final Price for every Pre-Settlement Share, less
- (iii) the aggregate amount of any outstanding Forward Fees that were due on or prior to the Pre-Settlement Date and the Pre-Settlement Forward Fee,

shall be determined and:

- (A) if the Cash Pre-Settlement Amount is a positive number, Party A shall pay the Cash Pre-Settlement Amount to Party B, and
- (B) if the Cash Pre-Settlement Amount is a negative number, Party B shall pay the absolute value of the Cash Pre-Settlement Amount to Party A;

provided however that if there are Outstanding Amounts, then payment of the Pre-Settlement Payment Amount corresponding to such Outstanding Amounts shall be postponed until the date on which such Outstanding Amounts are paid by BDG and any additional Hedging Costs incurred by Party A as a result of such deferral shall be deducted from the remainder of the Pre-Settlement Payment Amount payable by Party A.



Amendments to Annex 1 to reflect Pre-Settlement:

Promptly following any Pre-Settlement, Party A shall deliver an amended Annex 1 to Party B reflecting the following:

- (i) a reduction in the Number of Shares by the corresponding number of Pre-Settlement Shares delivered pursuant to the Pre-Settlement or in respect of which a Cash Pre-Settlement Amount has been paid;
- (ii) a reduction in the Number of BDG Shares by a number of BDG Shares equal to the product of the Pre-Settlement Percentage specified in the Pre-Settlement Notice and the Number of BDG Shares immediately prior to the Pre-Settlement Date;
- (iii) a reduction in the Maturity CAD Amount equal to the product of the Pre-Settlement Percentage specified in the Pre-Settlement Notice and the Maturity CAD Amount immediately prior to the Pre-Settlement Date, and;
- (iv) a reduction in the Maturity USD Amount equal to the product of the Pre-Settlement Percentage specified in the Pre-Settlement Notice and the Maturity USD Amount immediately prior to the Pre-Settlement Date.

Party B shall transfer good title to any Shares delivered pursuant to a Pre-Settlement free and clear of any liens, charges, claims and encumbrances. Delivery shall be effected by book-entry transfer of the Shares through the relevant clearing system.

4. Optional Pre-Settlement by Party B:

If at any time: (a) the long-term unsecured debt rating of Party A's Credit Support Provider falls below BBB- as rated by Standard & Poor's, a division of the McGraw-Hill Companies, Inc. or the equivalent rating provided by another "approved credit rating organization" as defined in National Instrument 81-102 (an "Approved Credit Rating") and (b) within 30 days thereafter (the "Optional Pre-Settlement Date"), Party A fails to (1) transfer at its own expense all of its rights and obligations under this Transaction to a transferee acceptable to Party B acting reasonably that has an Approved Credit Rating on its long-term unsecured debt, or (2) have a Credit Support Provider acceptable to Party B acting reasonably with an Approved Credit Rating guarantee its obligations hereunder to the extent and in a manner satisfactory to Party B, Party B may elect to pre-settle the Transaction in whole in accordance with the pre-settlement mechanics set forth in Section 3 hereof.

5. Optional Pre-Settlement for

If (1) due to the adoption of or change in, or the proposed adoption of or change in, any applicable law (including, without limitation, any tax law other than laws relating to taxes on net

Increased Costs:

income or capital) after the Trade Date, (2) due to the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law (including, without limitation, any action taken by a taxing authority) after such date, or (3) due to an obligatory request made by, or an announcement or notification issued by, or a requirement imposed by, or any agreement reached with, any central bank or other fiscal, monetary or other authority, a party (for the purposes of this Section 5 only, the **“Affected Party”**) incurs increased costs in performing its obligations under this Transaction, or in respect of any hedge that might be maintained in connection with this Transaction (whether by such party or an affiliate of such party), including, without limitation, due to any increase in tax liability, decrease in any tax benefit or adverse effect in its tax position, in each case, except as it relates to taxes on net income or capital (collectively, **“Increased Costs”**) by:

- (i) subjecting it to any loss due to the characterization of any payments or deliveries made under this Transaction,
- (ii) imposing or adversely modifying any reserve, special deposit, or similar requirement against assets or hedges incidental to this Transaction, or
- (iii) adversely affecting the amount of capital to be maintained by the Affected Party or increasing such party’s amount of regulatory capital,

and the other party (the **“Unaffected Party”**) is unable or unwilling to compensate the Affected Party for such Increased Costs (by reducing the amounts owing by the Affected Party under this Transaction by the amount of such Increased Costs or on another basis acceptable to the Affected Party, acting reasonably), then the Affected Party may provide ten (10) Business Days notice to the Unaffected Party of its intention to pre-settle this Transaction in whole in accordance with the terms of Section 2 hereof.

6. Other Provisions

Additional Payments by Party B:

During the term of this Transaction, Party B agrees to pay Party A, within five days after the last Business Day of each calendar month (the **“Forward Fee Payment Date”**), a CAD amount, in arrears (the **“Forward Fee”**) equal to:

$$\frac{(x * \text{Class Net Asset Value} * \text{Number of Days} * \text{Conversion Rate})}{365}$$

For the purposes of calculating the Forward Fee:

- (i) x equals (A) at any time that both the Maturity CAD Amount and the Maturity USD Amount are greater than zero, 1.00% in respect of the first CAD112 million of Net Asset Value of the Fund and 0.90% in respect of the Net Asset Value of the Fund in excess of CAD112 million, or (B) at any time that both the Maturity CAD Amount and the Maturity USD Amount are zero, 0.50% in respect of the first CAD112 million of Net Asset Value of the Fund and 0.40% in respect of Net Asset Value of the Fund in excess of CAD112 million;
- (ii) “Class Net Asset Value” is an amount equal to the aggregate of the net asset value of the Fund attributable to (a) the Class AC limited partnership units of the Fund and (b) the Class FC limited partnership units of the Fund, in each case as of the last Business Day of the month immediately preceding the Forward Fee Payment Date; and
- (iii) “Number of Days” means the number of days that have elapsed since the last Forward Fee Payment Date or, in the case of the first Forward Fee Payment Date, since the Trade Date.

7. Adjustments and Extraordinary Events

- (a) If, during the term of the Transaction, (i) any Shares in the Basket cease to be “Canadian securities” for the purposes of subsection 39(6) of the *Income Tax Act* (Canada), or (ii) either party reasonably requests that any Shares in the Basket be replaced, the parties will replace such Shares to the extent that alternate shares selected by the Calculation Agent after consultation with Party B and acceptable to party A, in its sole discretion, are obtained in sufficient quantity (the “Substituted Shares”), as determined by the Calculation Agent to preserve the value of the Transaction immediately prior to the occurrence or potential occurrence of such event. The Substituted Shares and their issuer will be deemed “Shares” and an “Issuer”, respectively, and if necessary the Calculation Agent will adjust any relevant terms hereunder. The Substituted Shares must be “Canadian securities” for purposes of subsection 39(6) the *Income Tax Act* (Canada).

- (b) Upon the occurrence of a Merger Event in respect of any Shares in the Basket whereby the Shares are exchanged for new shares ("**New Shares**"), the number of New Shares to which a holder of the Number of Shares would be entitled upon consummation of the Merger Event will be deemed the "Number of Shares" and the New Shares and their issuer will be deemed to be included in the Basket as "Shares" and an "Issuer", respectively, and if necessary the Calculation Agent will adjust any relevant terms hereunder so as to preserve the value of the Transaction immediately prior to the occurrence of such Merger Event.
- (c) Upon the Announcement Date of (i) a Merger Event in respect of any Shares in the Basket (the "**Merged Shares**") with consequences other than those described in clause (b) above, or (ii) a Delisting in respect of any Shares in the Basket (the "**Delisted Shares**"), (the Merged Shares and the Delisted Shares being, collectively, the "**Event Shares**"), the parties will replace such Event Shares to the extent that alternate shares selected by the Calculation Agent after consultation with Party B and acceptable to Party A, in its sole discretion, are obtained in sufficient quantity (the "**Replacement Shares**"), as determined by the Calculation Agent to preserve the value of the Transaction immediately prior to the occurrence of such Announcement Date. The Replacement Shares and their issuer will be deemed to be included in the Basket as "Shares" and an "Issuer", respectively, and if necessary the Calculation Agent will adjust any relevant terms hereunder. In the event the Merger Event or Delisting occurs prior to the parties being able to replace the relevant Event Shares, then Party B will, upon the demand of Party A, sell the Event Shares (as applicable) to Party A at a price reasonably determined by the Calculation Agent on any date as may be specified by the Calculation Agent. The price at which the Event Shares are sold to Party A will be used to adjust the Transaction. The Replacement Shares must be "Canadian securities" for purposes of subsection 39(6) the *Income Tax Act* (Canada).
- (d) Upon or following the occurrence of (i) a Potential Adjustment Event, (ii) a payment of a dividend or distribution in respect of any Shares in the Basket, (iii) an Announcement Date in respect of a Tender Offer, Nationalization or Insolvency in respect of any Shares in the Basket, or (iv) any Insolvency Filing in respect of any

Issuer of any Share comprised in the Basket, the Calculation Agent will adjust any relevant terms hereunder so as to preserve the value of the Transaction immediately prior to the occurrence of such event, including, without limitation, a reduction in the Number of BDG Shares equal to the quotient of the amount or value in respect of the Potential Adjustment Event divided by  $NAV_{BDG}$  as of the last Business Day of a calendar quarter occurring not less than 60 days following the occurrence of the Potential Adjustment Event. The value of any non-cash dividend or distribution will be based on its price at the close of trading on the relevant Exchange on the first trading day of such non-cash dividend or distribution, unless Party B elects, and Party A consents to such election, to sell such non-cash dividend or distribution to Party A (on the date such dividend or distribution is made) in which case the price at which the non-cash dividend or distribution is sold to Party A shall be the value.

8. Upward Adjustments: Provided that no Event of Default, Potential Event of Default, Termination Event or Trigger Event has occurred and is continuing with respect to Party B and that no Pre-Settlement has occurred or has been initiated under Section 4 or Section 5 hereof, Party B may request to increase the size of the Transaction (an “**Upward Adjustment**”) by a CAD amount of not less than CAD250,000 and in integral multiples of CAD50,000 (an “**Upsize Amount**”) by delivering to Party A, at least 20 Business Days prior to the last Business Day of any month during the term of the Transaction, a request substantially in the form of Annex 3 (an “**Upsize Request**”) specifying the Upsize Amount, the proposed trade date (the “**Upsize Trade Date**”) for the Upward Adjustment and, if applicable, a proposed amended Scheduled Forward Date that is ten years from the Upsize Trade Date. The Upsize Trade Date shall be the eighth Business Day before the last Business Day of the month in which the Upsize Notice is delivered or, if the Upsize Notice is delivered less than 20 Business Days prior to the last Business Day of a month, the eighth Business Day before the last Business Day of the following month.

To effect an Upward Adjustment, Party B shall purchase on one or more Exchanges a number of Shares selected by Party A and agreed to by Party B (the “**Upsize Shares**”) that have an aggregate purchase price which is approximately equal to but not greater than the Upsize Amount. The “**Purchase Price per Share**” applicable in respect of the Upsize Shares shall be equal to the weighted average of the respective purchase prices per

Share of all Upsize Share purchase transactions effected by Party B on the Exchange in connection with the Upward Adjustment, which weighted average shall be determined by multiplying each purchase price by the number of Upsize Shares to which such purchase price is applicable, aggregating the products thereof and dividing such sum by the aggregate number of Upsize Shares acquired by Party B.

Acceptance of Upsize Request:

Within two Business Days of receipt of an Upsize Request, Party A may, but is not required to, accept such Upsize Request (which acceptance may or may not include an agreement to amend the Scheduled Forward Date and, in the case of such an agreement, the necessary adjustments to the Maturity CAD Amount and the Maturity USD Amount) by signing same and returning it to Party B, including recommended Upsize Shares to be added to the Basket. Party B shall advise Party A by no later than 10:00 a.m. (Toronto time) on the Upsize Trade Date, by signing a Response to Upsize Request in the form of Annex 4 and returning it to Party A, that Party B has accepted and is in agreement with the Upsize Shares recommended by Party A to be added to the Basket, subject to adjustment to the Numbers of Shares and the Purchase Price per Share to reflect changes in the market prices of such Shares, if any, that may occur between the time when Party A recommends the Upsize Shares to Party B and the Upsize Settlement Date (defined below).

Upsize Settlement:

The purchase by Party B of Upsize Shares for the Basket shall settle on the third Business Day after the Upsize Trade Date (the "Upsize Settlement Date"). An affiliate of Party A shall act as Party B's agent in connection with such purchase of Upsize Shares and Party A and Party B agree that such Upsize Shares shall be delivered to and held by Party A as provided for in the securities pledge agreement executed and delivered by Party B in connection with this Transaction.

Confirmation of Upward Adjustment:

On the Upsize Settlement Date, Party A shall deliver to Party B (by 11:00 a.m. (Toronto time), using reasonable efforts) a Confirmation of Upward Adjustment in the form of Annex 5, with amended Annex 1 attached, reflecting the following:

- (i) an increase in the Number of BDG Shares by a notional number of BDG Shares having an aggregate value equal to the product of the Upsize Amount and the Conversion Rate, and then divided by NAV<sub>BDG</sub> as of the Upsize Trade Date; and
- (ii) adjustments to the Number of Shares, the Purchase Price per Share, Maturity CAD Amount and Maturity USD Amount as determined by the Calculation Agent to

reflect the Upward Adjustment.

9. Termination of FX Forward Upon the occurrence of an Asset Trigger Event, NAV Trigger Event or an Outstanding Amount Trigger Event, Party A may, after providing written notice to Party B of its intention to do so, reduce the Maturity CAD Amount and Maturity USD Amount to zero and adjust the Number of BDG Shares such that the Forward Price on any Forward Date is equal to the Forward Price immediately prior to the exercise by Party A of its rights under this paragraph.
10. Right to Re-Hedge FX Forward Upon the occurrence of an Exposure Trigger Event, Party A may modify the Maturity CAD Amount, the Maturity USD Amount or the Number of BDG Shares such that
- (i) the Forward Price on any Forward Date is equal to the Forward Price immediately prior to the exercise by Party A of its rights under this paragraph; and
  - (ii)  $(\text{PV of Maturity USD Amount} * \text{the Conversion Rate set out in part (b) of the definition thereof}) / (\text{PV of Maturity CAD Amount} + (\text{NAV}_{\text{BDG}} * \text{the Number of BDG Shares} * \text{the Conversion Rate set out in part (b) of the definition thereof}))$  is approximately equal to the Exposure Target.
11. Annual Re-Hedge of FX Forward 90 days prior to each FX Reset Date, Party A shall send to Party B an FX Reset Notice substantially in the form of Annex 6 specifying the indicative adjusted Maturity CAD Amount and adjusted Maturity USD Amount, the related BDG Share Adjustment Date and the next FX Reset Date. Within two Business Days of its receipt thereof, Party B shall accept the terms set forth in the FX Reset Notice by signing the same and returning it to Party A.

**Termination of FX Forward:** If Party B does not accept the terms set forth in the FX Reset Notice, then Party A may, after providing written notice to Party B of its intention to do so, reduce the Maturity CAD Amount and Maturity USD Amount to zero and adjust the Number of BDG Shares such that the Forward Price on any Forward Date is equal to the Forward Price immediately prior to the exercise by Party A of its rights under this paragraph.

**BDG Share Adjustment Date:** As specified in the related FX Reset Notice. On each BDG Share Adjustment Date, Party A shall send a confirmation of the final adjustment of the Maturity CAD Amount, Maturity USD Amount and Number of BDG Shares substantially in the form attached hereto as Annex 7. Party B shall accept such final adjustments by signing the same and returning it to Party A

within two Business Days of its receipt thereof.

12. Trigger Events

Each of the following events shall constitute a Trigger Event:

Asset Trigger Event:

An Asset Trigger Event will occur on any Business Day where the absolute value of the percentage negative change in the assets under management of BDG measured from the Trade Date is greater than or equal to the Threshold AUM Change.

NAV Trigger Event:

A NAV Trigger Event will occur on any Business Day if the  $NAV_{BDG}$  is less than or equal to the Threshold Unit Price.

Exposure Trigger Event:

An Exposure Trigger Event will occur on any Business Day if (i) the product of (a) PV of the Maturity USD Amount and (b) the Conversion Rate set out in part (b) of the definition of Conversion Rate, divided by (ii) the sum of (A) the PV of Maturity CAD Amount and (B) the product of (x) the Number of BDG Shares, (y)  $NAV_{BDG}$  and (z) the Conversion Rate, is greater than (iii) the Threshold Exposure Trigger.

Outstanding Amount Trigger Event:

An Outstanding Amount Trigger Event will occur on any Business Day if there are Outstanding Amounts on a Physical Settlement Date, Cash Settlement Date or Pre-Settlement Date.

13. Offices

The Office of Party A for this Transaction is its Barbados Office.

The Office of Party B for this Transaction is its Toronto Office.

14. Account Details

Payments to Party A:

National Bank of Canada (Global) Limited  
 Enfield House  
 Upper Collymore Rock  
 St-Michael, Barbados (West Indies)  
 Attention: Vice President Administration  
 Telephone No.: 246-426-0512  
 Fax: 246-426-0544  
 CAD Account: National Bank of Canada,  
 Montreal (bndccammint)  
 600 De La Gauchetière West,  
 Montreal, QC H3B 4L3  
 Account: 101677 22800100101  
 USD Account: Deutsche Bank Trust Co.  
 Americas New York (bktrus33)  
 Account.: 04419407

Payments to Party B:

Belmont Dynamic Growth Fund



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c/o Belmont Dynamic GP Inc.  
National Bank Trust  
Fax: (514) 871-7174  
Telephone: (514) 871-7592  
Account: CAD Account: 306356  
USD Account: 306357

15. Representations

Each party hereby represents and warrants to the other party as of the date hereof:

- (a) Each party retains complete freedom to determine, in its individual unfettered discretion, whether, or to what extent and in what manner, to hedge their respective obligations with respect to this Transaction. This Transaction does not create any further obligation on the part of Party A and/or any branch or affiliates thereof to hedge or otherwise make any investment, directly or indirectly, in an Issuer or BDG. However, if and to the extent that any investment in an Issuer or BDG is made or any hedging transaction is undertaken at any time by Party A and/or any branch or affiliate thereof, such investment or transaction will be on its own behalf only, Party B will have no interest or right or obligation, directly or indirectly, in respect of such investment or transaction (whether by way of third party beneficiary, security interest, or otherwise). Party B will be a general unsecured and unsubordinated creditor of Party A with respect to Party A's obligations relating to this Transaction.
- (b) Each party has the capability to make its own legal, regulatory, tax, investment, financial, accounting and business evaluation of and to understand, and has evaluated and does understand on its own behalf, the terms, conditions and risks of entering into this Transaction and is willing to accept those terms and conditions and to assume (financially and otherwise) those risks.
- (c) Each party has made its own independent decision to enter into this Transaction and as to whether this Transaction is appropriate and proper for it. Except as otherwise expressly provided under the terms of this Transaction, neither party or any affiliate thereof will bear any responsibility or liability if the legal, regulatory, tax, investment, financial, accounting, business or credit effects or consequences of this Transaction are other than those contemplated by the other party.

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- (d) Neither party is relying on any communication (written or oral) from the other party or any of its affiliates or representatives as investment or other advice or as a recommendation to enter into this Transaction, it being understood and agreed that any information, commentary and explanations related to the terms and conditions of this Transaction provided by one party or an affiliate or representative thereof to the other party or an affiliate or representative thereof, shall not be considered investment or other advice or a recommendation, and is not being relied upon by the other party or forming the basis, primary or otherwise, of that party's decision to enter into this Transaction. No compensation or other amount (including any amount otherwise payable under this Confirmation) is being paid by or on behalf of one party to the other or any affiliate thereof for any advice or information in respect of this Transaction.
- (e) Each party acknowledges that (i) it has been offered an opportunity to ask questions of, and receive answers from, the other party concerning the other party, and (ii) any request for such information has been fully complied with to the extent the other party possesses such information or can acquire it without unreasonable effort or expense.
- (f) Neither Party A, any affiliate or representative thereof nor Party B is making, and has not made, in connection with this Transaction any representation or warranty whatsoever as to any Issuer or as to any information contained in any document provided by the Issuer to Party A, any affiliate or representative thereof, Party B or to any other person or filed by the Issuer with any exchange or with any governmental or regulatory authority regulating the purchase and sale of securities.
- (g) Party A and its affiliates may accept deposits from, make loans or otherwise extend credit to, and generally engage in any kind of commercial or investment banking business with, any Issuer or its affiliates or any other person or entity having obligations relating to the Issuer and may act with respect to such business in the same manner as if this Transaction did not exist.
- (h) Party A and its affiliates may, whether by virtue of the types of relationships described above or otherwise, at the Effective Date hereof or at times thereafter, be in possession of information in relation to BDG or the Issuers of Shares comprising the Basket which is or may

be material in the context of this Transaction and which may or may not be publicly available or known to Party B. This Transaction does not create any obligation on the part of Party A or its affiliates to disclose to Party B any such relationship or information (whether or not confidential).

- (i) Each party acknowledges that it is entering into this Transaction as principal and not as agent for any person or entity.

16. Credit Support Document

On or prior to the Trade Date, Party B will pledge the Number of Shares of each Issuer in the Basket to Party A as security for its obligations under the Agreement, and will grant to Party A a first priority continuing security interest in, lien on and right of set-off against such securities. Prior to the occurrence of an Event of Default or Termination Event, Party A shall not have any right to sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise dispose of or use in its business any of the Shares pledged under the Agreement or any Credit Support Document. Party B agrees to deliver any document that may be reasonably required to facilitate such pledge of, and interest in, the Shares and each such document shall be a Credit Support Document for purposes of the Agreement. Following the Trade Date, subject to Party A's prior consent and the delivery of any document (which shall be a Credit Support Document for purposes of the Agreement) that may be reasonably required by Party A, Party B may provide cash, United States or Canadian government treasury bills or other substitute security in a form and amount acceptable to Party A in lieu of the Shares.

17. Limitation of Liability, Covenant and Indemnity

Party A expressly disclaims responsibility for any loss or diminution in the Net Asset Value of the Fund and/or for the construction, management or performance of the Fund and disclaims liability for any losses suffered by Party B or any third party in respect of any diminution in the Net Asset Value of the Fund whether by virtue of this Transaction or otherwise and/or the construction, management or performance of the Fund. Party B acknowledges the foregoing disclaimer of responsibility and liability by Party A and covenants that neither Party B nor its manager nor any affiliate thereof nor any director, officer, employee or agent thereof shall make any demand or commence any claim against Party A, any affiliate of Party A and/or any director, officer, employee or agent thereof in relation to any diminution in the Net Asset Value of the Fund and/or the construction, management or performance of the Fund. Party B agrees to indemnify and hold harmless Party A, all affiliates of Party A and all directors, officers, employees or agents thereof

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from any liability in respect of any diminution in the Net Asset Value of the Fund and/or any other claim by any unitholder of Party B relating to the construction, management or performance of the Fund. This Section 17 shall survive any termination of the Transaction.

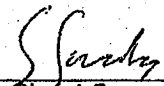
This document may be executed in one or more counterparts, either in original or facsimile form, each of which shall constitute one and the same agreement. When executed by the parties through facsimile transmission, this document shall constitute the original agreement between the parties and the parties hereby adopt the signatures printed by the receiving facsimile machine as the original signatures of the parties.

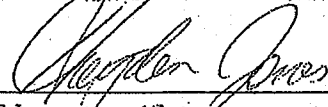
**[INTENTIONALLY LEFT BLANK]**

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Confirmation and returning it to us.

Yours sincerely,

**NATIONAL BANK OF CANADA  
(GLOBAL) LIMITED**

By:   
Name: Signed By: SYLVAIN SACOLAX  
Title: VICE-PRESIDENT ADMINISTRATION  
NATIONAL BANK OF CANADA (GLOBAL) LTD.

By:   
Name: Signed By: HAYDEN JONES  
Title: VICE -PRESIDENT  
NATIONAL BANK OF CANADA (GLOBAL) LTD.

Accepted and confirmed as of the date first written:

**BELMONT DYNAMIC GROWTH  
FUND** by its general partner  
**BELMONT DYNAMIC GP INC.**

By: \_\_\_\_\_  
Name:  
Title:

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Confirmation and returning it to us.

Yours sincerely,

**NATIONAL BANK OF CANADA  
(GLOBAL) LIMITED**

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

Name:

Title:


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

Name:

Title:

Accepted and confirmed as of the date first written:

**BELMONT DYNAMIC GROWTH  
FUND** by its general partner  
**BELMONT DYNAMIC GP INC.**

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

Name: DANIEL NEAD

Title: PRESIDENT

## ANNEX 1

Shares comprised in the Basket

The Basket is composed of the specified Shares of the Issuers listed below in the relative numbers set out in relation to each Issuer.

Issuer	Class	Number of Shares*	Purchase Price per Share*	Exchange
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX

\* Subject to initial adjustment by the Calculation Agent based on the number and the purchase price per Share of the Shares actually purchased Party B on the Trade Date.

Number of BDG Shares: ●

Date: ●

Maturity CAD Amount: \$●

Maturity USD Amount: \$●

FX Reset Date:

**ANNEX 2**

**FORM OF PRE-SETTLEMENT NOTICE**

To: National Bank of Canada (Global) Limited (“NBC”)

Belmont Dynamic GP Inc., in its capacity as general partner of Belmont Dynamic Growth Fund (the “Fund”), refers to the ISDA Master Agreement dated as of August 24, 2006 between NBC and the Fund and the Confirmation of Share Basket Forward Transaction thereunder (the “Confirmation”) dated August 24, 2006 (collectively, the “Forward”). Terms with initial capitals not defined in this notice shall have the meanings given to those terms in the Forward.

The Fund hereby notifies NBC of its election to pre-settle the Transaction pursuant to Section 3 of the Confirmation and specifies the following for that purpose:

Physical or Cash Settlement:	●
Pre-Settlement Percentage:	●
Pre-Settlement Date:	●
Pre-Settlement Shares:	●

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**NATIONAL BANK OF CANADA  
(GLOBAL) LIMITED**

**BELMONT DYNAMIC GROWTH FUND**  
by its general partner **BELMONT DYNAMIC  
GP INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:



ANNEX 3

FORM OF UPSIZE REQUEST

To: National Bank of Canada (Global) Limited (“NBC”)

Belmont Dynamic GP Inc., in its capacity as general partner of Belmont Dynamic Growth Fund (the “Fund”), refers to the ISDA Master Agreement dated as of August 24, 2006 between NBC and the Fund and the Confirmation of Share Basket Forward Transaction thereunder (the “Confirmation”) dated August 24, 2006 (collectively, the “Forward”). Terms with initial capitals not defined in this request shall have the meanings given to those terms in the Forward.

The Fund hereby requests an Upward Adjustment of the Transaction pursuant to Section 8 of the Confirmation and specifies the following:

Upsize Amount:	CAD●
Upsize Trade Date:	●
Upsize Settlement Date:	●
Amended Scheduled Forward Date, if applicable	●

The Fund represents and warrants to NBC that (a) no Event of Default, Potential Event of Default, Termination Event or Trigger Event has occurred and is continuing with respect to the Fund as of the date hereof, and (b) the representations and warranties made by it in the Agreement are true and accurate as of the date hereof.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**BELMONT DYNAMIC GROWTH FUND** by its  
general partner **BELMONT DYNAMIC GP INC.**

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

Name:

Title:

Party A confirms receipt of this Upsize Request, [agrees/does not agree to amend the Scheduled Forward Date,] and provides the following recommended Upsize Shares to be added to the Basket:

Issuer	Class	Suggested Number of Shares	Approximate Aggregate Purchase Price	Exchange
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX

●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX

Approximate Increase in Maturity CAD Amount:	\$●
Approximate Increase in Maturity USD Amount:	\$●

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**NATIONAL BANK OF CANADA (GLOBAL)  
LIMITED**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**ANNEX 4**

**RESPONSE TO UPSIZE REQUEST**

To: National Bank of Canada (Global) Limited ("NBC")

Belmont Dynamic GP Inc., in its capacity as general partner of Belmont Dynamic Growth Fund (the "Fund"), refers to (a) the Upsize Request dated as of ●, 20● delivered by the Fund and attached hereto as Exhibit A, and (b) the Confirmation of Share Basket Forward Transaction related thereto (the "Confirmation") dated August 24, 2006 (collectively, the "Forward"). Terms with initial capitals not defined in this request shall have the meanings given to those terms in the Forward.

Party B hereby accepts and is in agreement with the recommended Upsize Shares to be added to the Basket.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**BELMONT DYNAMIC GROWTH FUND** by its  
general partner **BELMONT DYNAMIC GP INC.**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**  
**UPSIZE REQUEST**

**ANNEX 5**

**FORM OF CONFIRMATION OF UPWARD ADJUSTMENT**

To: Belmont Dynamic Growth Fund

Date: ●

**CONFIRMATION OF UPWARD ADJUSTMENT  
[AND AMENDMENT TO SCHEDULED FORWARD DATE]**

The purpose of this communication is to confirm the Upward Adjustment of the Share Basket Forward Transaction entered into between the undersigned and Belmont Dynamic Growth Fund (the "Fund") as of ●, 2006 pursuant to the ISDA Master Agreement dated as of August 24, 2006 between the undersigned and the Fund and the Confirmation of Share Basket Forward Transaction thereunder (the "Confirmation") dated August 24, 2006, (collectively, the "Forward"). Terms with initial capitals not defined herein shall have the meanings given to those terms in the Forward.

Upsize Amount:	CAD●
Upsize Trade Date:	●
Upsize Settlement Date:	●
Increase in number of notional BDG Shares	●
Amended Scheduled Forward Date, if applicable:	●
Adjusted Maturity CAD Amount, if applicable:	●
Adjusted Maturity USD Amount, if applicable:	●

A revised Annex 1 reflecting this Upward Adjustment is attached hereto.

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this confirmation and returning it to the undersigned.

Yours truly,

**NATIONAL BANK OF CANADA (GLOBAL)  
LIMITED**

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

Name:

Title:

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

Name:

Title:

Confirmed as of the date hereof:

**BELMONT DYNAMIC GROWTH FUND**, by its  
general partner, **BELMONT DYNAMIC GP INC.**

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

Name:

Title:

## ANNEX 1

## Shares comprised in the Basket

The Basket is composed of the specified Shares of the Issuers listed below in the relative numbers set out in relation to each Issuer.

Issuer	Class	Number of Shares	Purchase Price per Share	Exchange
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX

Number of BDG Shares: ●

Date: ●

Maturity CAD Amount:

Maturity USD Amount:

FX Reset Date:

ANNEX 6

FORM OF FX RESET NOTICE

To: Belmont Dynamic Growth Fund (the "Fund")

National Bank of Canada ("NBC"), refers to the ISDA Master Agreement dated as of August 24, 2006 between NBC and the Fund and the Confirmation of Share Basket Forward Transaction thereunder (the "Confirmation") dated August 24, 2006 (collectively, the "Forward"). Terms with initial capitals not defined in this request shall have the meanings given to those terms in the Forward.

NBC hereby proposes the following adjustments to the Transaction pursuant to Section 11 of the Confirmation and specifies the following as indicative of the final adjustments to be made to the Confirmation:

Indicative Maturity CAD Amount:	●
Indicative Maturity USD Amount:	●
BDG Share Adjustment Date:	●
FX Reset Date:	●

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NATIONAL BANK OF CANADA

By: \_\_\_\_\_  
Name:  
Title:

Belmont Dynamic GP Inc., in its capacity as general partner of Belmont Dynamic Growth Fund hereby accepts and is in agreement with the recommended indicative adjustments to be made to the Transaction.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BELMONT DYNAMIC GROWTH FUND by its  
general partner BELMONT DYNAMIC GP INC.

By: \_\_\_\_\_  
Name:  
Title:

ANNEX 7

FORM OF CONFIRMATION OF FX RESET DETAILS

To: Belmont Dynamic Growth Fund

Date: ●

CONFIRMATION OF FX RESET DETAILS

The purpose of this communication is to confirm the adjustment to certain terms of the Share Basket Forward Transaction entered into between the undersigned and Belmont Dynamic Growth Fund (the "Fund") as of ●, 2006 pursuant to the ISDA Master Agreement dated as of August 24, 2006 between the undersigned and the Fund and the Confirmation of Share Basket Forward Transaction thereunder (the "Confirmation") dated August 24, 2006, (collectively, the "Forward"). Terms with initial capitals not defined herein shall have the meanings given to those terms in the Forward.

Maturity CAD Amount:	●
Maturity USD Amount:	●
FX Reset Date:	●

A revised Annex 1 reflecting these adjustments is attached hereto.

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this confirmation and returning it to the undersigned.

Yours truly,

NATIONAL BANK OF CANADA (GLOBAL) LIMITED

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Confirmed as of the date hereof:

BELMONT DYNAMIC GROWTH FUND, by its general partner, BELMONT DYNAMIC GP INC.

By: \_\_\_\_\_  
Name:  
Title:



## ANNEX 1

## Shares comprised in the Basket

The Basket is composed of the specified Shares of the Issuers listed below in the relative numbers set out in relation to each Issuer.

Issuer	Class	Number of Shares	Purchase Price per Share	Exchange
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX
●	Common	●	●	TSX

**Number of BDG Shares:** ●

**Date:** ●

Maturity CAD Amount:

Maturity USD Amount:

FX Reset Date: