

# **EXHIBIT "B"**

This is Exhibit B referred to in the  
affidavit of Mathieu Salles-Myotte  
sworn before me, this 27<sup>th</sup>  
day of June 2014

*[Handwritten Signature]*

A COMMISSIONER FOR TAKING AFFIDAVITS

R.V. GIRARD

**SETTLEMENT DEED**

between

**METCALFE & MANSFIELD ALTERNATIVE INVESTMENTS VII CORP.**

and

**METCALFE & MANSFIELD CAPITAL CORPORATION**

relating to

**DEVONSHIRE TRUST**

Made as of August 2, 2006

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## SETTLEMENT DEED

**SETTLEMENT DEED** made as of August 2, 2006 between **Metcalf & Mansfield Capital Corporation**, a corporation incorporated under the laws of Canada (the “**Settlor**”) and **METCALFE & MANSFIELD ALTERNATIVE INVESTMENTS VII CORP.**, a corporation incorporated under the laws of Canada (the “**Issuer Trustee**”).

**WHEREAS** the Settlor has determined to establish a trust to be known as Devonshire Trust for the purpose of establishing and carrying on the business hereinafter described in order to produce income for the benefit of the Beneficiary;

**NOW THEREFORE** the Settlor hereby settles on the Issuer Trustee and has paid to the Issuer Trustee the sum of TEN DOLLARS (\$10.00) (the “**Initial Contribution**”) and the Issuer Trustee acknowledges receipt of and confirms that it has accepted the Initial Contribution and all property of every nature and kind which it may acquire in its capacity as trustee of the trust hereby established, and all income therefrom, in trust as trustee for the benefit of the Beneficiary in accordance with and subject to the provisions of this Settlement Deed.

### ARTICLE 1 INTERPRETATION

#### Section 1.1 Definitions.

(1) In this Settlement Deed, the following terms will have the following meanings:

“**Affiliate**” shall have the meaning ascribed thereto in the *Canada Business Corporations Act*.

“**Annual Net Income of the Trust**” means the income of the Trust for the fiscal year of the Trust as computed in accordance with the Tax Act, and after deducting all expenses properly incurred by the Trust and such losses of the Trust for prior fiscal years which the Trust is entitled to deduct in the current fiscal year.

“**Beneficiary**” means any one or more of the charities registered under the Tax Act, other than any registered charity which is a trust, designated in writing from time to time by the Issuer Trustee in consultation with the Administrative Agent on an annual basis or upon the termination of the Trust to be the recipient of the Trust Property pursuant to Article 9, their respective successors and assigns, and the term “**Beneficiaries**” refers to more than one such registered charity.

“**Settlement Deed**”, “**this Settlement Deed**”, “**herein**”, “**hereof**”, “**hereto**”, “**hereunder**” and similar expressions refer to this Settlement Deed, as the same may be amended, supplemented, modified, restated or replaced from time to time, and not to any particular Article or Section hereof.

“**Tax Act**” means the *Income Tax Act* (Canada), R.S.C. 1985 (5<sup>th</sup> Supp.) c. 1 and the regulations thereunder.

**“Trust”** means the trust established by this Settlement Deed.

**“Trust Activities”** means the activities of the Trust described in Section 2.1.

**“Trust Indenture”** means the Trust Indenture to be made as of August 2, 2006 (or such other date determined by the Issuer Trustee and CIBC Mellon Trust Company) among the Trust, CIBC Mellon Trust Company and NBCN Inc., as amended, supplemented, modified, restated or replaced from time to time.

**“Trust Property”** means, as at any particular time, any and all assets and property, real or personal, tangible or intangible, of the Trust, including all Asset Interests, Collections arising therefrom, Permitted Investments thereof and the proceeds of such Permitted Investments which are owned or held by the Trust at such time.

**“Trust Records”** means any written, mechanical, electronic or other record maintained by the Issuer Trustee, the Indenture Trustee, or the agents thereof, including the Administrative Agent, Financial Services Agent and the Issuing and Paying Agent, with respect to any of the Noteholders, the Trust Property or the Trust Indenture, including any registers maintained with respect to any Notes or other securities or instruments issued by the Trust.

- (2) Unless otherwise defined in this Settlement Deed, all capitalized terms used in this Settlement Deed shall have the meanings attributed thereto in the Trust Indenture.

**Section 1.2 Extended Meanings.**

In this Settlement Deed, words importing the singular number include the plural and vice versa and words importing gender include all genders.

**Section 1.3 Headings.**

The table of contents does not form part of this Settlement Deed. Article and Section headings are not to be considered part of this Settlement Deed, are included solely for convenience of reference and do not define, limit or enlarge the construction or interpretation hereof.

**Section 1.4 References to Sections and Articles.**

Unless otherwise provided, all references herein to Sections or Articles are references to Sections and Articles of this Settlement Deed.

**Section 1.5 References to Statutes**

Unless otherwise provided, all references herein to any statute or any provision thereof shall mean such statute or provision as amended, restated or re-enacted from time to time.

**Section 1.6 Certain Phrases**

Unless otherwise provided herein, the words “including”, “includes” and “include” mean “including (or includes or include) without limitation”.

**Section 1.7      Governing Law.**

THIS SETTLEMENT DEED WILL BE GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN.

**Section 1.8      Invalidity of Provisions.**

Save and except for any provision or covenant contained herein which is fundamental to the subject matter of this Settlement Deed (including those that relate to the payment of moneys), the invalidity or unenforceability of any provision or covenant hereof or herein contained will not affect the validity or enforceability of any other provision or covenant hereof or herein contained and any such invalid or unenforceable provision or covenant will be deemed to be severable.

**Section 1.9      References to Acts of the Trust.**

For greater certainty, where any reference is made in this Settlement Deed, or in any other instrument to which the Trust or the Issuer Trustee, as trustee of the Trust, is party, to an act (including for greater certainty the Trust Activities) to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Trust) by or with respect to (i) the Trust; or (ii) the Issuer Trustee, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Trust) by or with respect to the Issuer Trustee as trustee of the Trust.

**ARTICLE 2  
ACTIVITIES OF THE TRUST**

**Section 2.1      Activities of the Trust.**

The Trust will carry on activities in order to produce income for the benefit of the Beneficiary. The activities of the Trust will be the purchase, acquisition, creation and administration of Asset Interests which the Trust purchases or otherwise acquires or creates from time to time for the purpose of producing income therefrom, which purchase, acquisition or creation may be funded through the issuance of Notes from time to time pursuant to the terms of the Trust Indenture or may otherwise secure obligations of the Trust under the Trust Indenture, all in accordance with and subject to the terms and conditions of the Programme Agreements, together with all such activities as may be reasonably incidental to the foregoing or necessary in connection with the performance by the Trust of its obligations under the Programme Agreements. The activities of the Trust will be deemed to have been established on the date of purchase, acquisition or creation of the first of the Asset Interests by the Trust and not before that date. The Trust shall not engage directly or indirectly in any activity other than the activities described in this Section 2.1.



**ARTICLE 3  
CHARACTERISTICS OF THE TRUST**

**Section 3.1 Name and Head Office.**

The name of the Trust will be "Devonshire Trust" and it will be referred to as "Devonshire Trust". Should the Issuer Trustee determine that the use of such name is not practicable, legal or convenient, it may use such other designation or adopt such other name for the Trust as it deems proper and the Trust may hold the Trust Property and conduct the Trust Activities under such other designation or name. The head office, place of business and situs of administration of the Trust initially will be c/o Metcalfe & Mansfield Alternative Investments VII Corp., 199 Bay Street, Suite 4850, Commerce Court West, P.O. Box 445, Toronto, Ontario M5L 1G4. The Issuer Trustee may at any time or from time to time change the head office, place of business and situs of the administration of the Trust to another location within the Province of Ontario and have such other offices or places of business or administration within Canada as the Issuer Trustee may from time to time determine is necessary or desirable.

**Section 3.2 Nature of Trust.**

The Trust is not and is not intended to be, will not be deemed to be and will not be treated as a general partnership, limited partnership, syndicate, association, joint venture, company or corporation, nor will the Issuer Trustee or the Beneficiary or either of them for any purpose be, or be deemed to be, or be treated in any way whatsoever as, liable or responsible hereunder as partners or joint venturers. The Issuer Trustee will not be, or be deemed to be, the agent of the Beneficiary. The relationship of the Beneficiary to the Issuer Trustee will be solely that of the beneficiary of the Trust and the rights of the Beneficiary will be limited to those expressly conferred upon it by this Settlement Deed and, for greater certainty, the Issuer Trustee will be entitled to deal with the Trust Property in the manner provided in this Settlement Deed without the consent of or approval from or notice to the Beneficiary.

**ARTICLE 4  
RIGHTS AND POWERS OF ISSUER TRUSTEE**

**Section 4.1 General Powers.**

Subject to the specific restrictions and limitations set forth in this Settlement Deed, the Issuer Trustee will have full, exclusive and absolute power, control and authority over the Trust Property and the Trust Activities to the same extent as if the Issuer Trustee were the sole and absolute owner thereof in its own right, including such power, control and authority to do all such acts and things as in its sole judgment and discretion are necessary, incidental or desirable for carrying on the Trust Activities in accordance with the Programme Agreements, with such powers of delegation as may be permitted by this Settlement Deed including pursuant to the Administration Agreement and the Financial Services Agreement. For greater certainty, and without limiting the generality of the foregoing, the powers of the Issuer Trustee that may be exercised as aforesaid include the powers set forth in Sections 4.2 to 4.19 hereof, inclusive. The enumeration of any specific power or authority in this Settlement Deed will not be construed as limiting the aforesaid power or authority or any other specific power or authority or any power and authority necessarily incidental to the conduct of the

Trust Activities. Notwithstanding any other provision of this Settlement Deed, the Issuer Trustee will not have the power or authority to enter into any transaction pursuant to which it will acquire an Asset Interest (including the entering into of any credit default transaction but excluding a Hedging Transaction where the counterparty's rights under such Hedging Transactions are secured only by the Trust Indenture) other than (i) with or from, as applicable, Barclays Bank PLC ("Barclays"), its successor or an Affiliate of Barclays, (ii) as contemplated by an agreement between the Trust and Barclays, its successor or an Affiliate of Barclays, or (iii) with the prior written consent of Barclays, its successor or an Affiliate of Barclays, acting reasonably.

#### **Section 4.2 Acquisition and Disposition of Assets and Deposit of Funds.**

Notwithstanding the provisions of the *Trustee Act* (Ontario) or other similar legislation, the Issuer Trustee will have the power, for such consideration as it may deem proper, to purchase or otherwise acquire or create and hold Asset Interests pursuant to Securitization Agreements, to sell, dispose of or transfer such Asset Interests and to make Permitted Investments including the power to lend money on the security of property with a value, compared to the amount of the loan, as it may, in its discretion, consider reasonable and prudent in the circumstances. The Issuer Trustee will have power to deposit any Collections with any Canadian chartered bank, any foreign bank licensed to accept deposits under the *Bank Act* (Canada), trust company or loan company (including any Affiliate of the Administrative Agent or the Financial Services Agent) or the Indenture Trustee (including, without limitation, Canadian Imperial Bank of Commerce or Mellon Bank N.A.) which has the Required Rating from time to time or is otherwise approved by the Related Rating Agencies and to withdraw such deposits in such manner as the Issuer Trustee may determine, and the Issuer Trustee will have no liability for any loss which may occur by reason of the failure of any depository with whom the moneys have been deposited. Notwithstanding any other provision of this Settlement Deed, the Issuer Trustee will not have the power or authority to enter into any transaction pursuant to which it will acquire an Asset Interest (including the entering into of any credit default transaction but excluding a Hedging Transaction where the counterparty's rights under such Hedging Transactions are secured only by the Trust Indenture) other than (i) with or from, as applicable, Barclays, its successor or an Affiliate of Barclays, (ii) as contemplated by an agreement between the Trust and Barclays, its successor or an Affiliate of Barclays, or (iii) with the prior written consent of Barclays, its successor or an Affiliate of Barclays, acting reasonably.

#### **Section 4.3 Legal Title and Custody.**

Subject to Article 9, the Issuer Trustee will have the power to cause any and all Trust Property to be held by or registered in the name of any Person, on such terms and in such manner as the Issuer Trustee may determine and with or without disclosure that the Trust is interested therein.

#### **Section 4.4 Possession, Use and Disposition of Assets.**

The Issuer Trustee will have the power, subject to the terms and conditions of the Programme Agreements, to possess and use the Trust Property in connection with the Trust Activities, including the power to exercise all of the Trust's rights and perform all of the Trust's obligations under the Programme Agreements and enter into Hedging Transactions, and to sell, convey, transfer and assign all Trust Property free and clear of any and all trusts hereby established, at public or private

sale, for cash or on terms, with or without advertisement and subject to such restrictions, stipulations, agreements and reservations as it deems proper.

**Section 4.5 Management of Trust Property.**

The Issuer Trustee will have the power to own, manage, use, invest, hold, lease, as either lessor or lessee, sell, transfer and dispose of the Trust Property and to enter into agreements in respect of the Trust Property or its use, including to modify, amend, extend, renew or terminate any grant or agreement relating to the Trust Property, to waive compliance with any of the terms and conditions thereof and to give any consent, request or notice, waive any notice, or cast any vote, all in each case without the approval of or notice to the Beneficiary.

**Section 4.6 Power to Raise Money.**

- (1) The Issuer Trustee will have the power to borrow or in any other manner raise money; to evidence the same by the issuance of the Notes or other securities or instruments by way of private placement, public offering or otherwise; to reacquire or redeem the Notes or other securities or instruments; to pay principal, interest, premium and all other amounts owing thereunder, from time to time; to guarantee, indemnify or act as surety with respect to the payment by, or performance of obligations of, any Person; to enter into any Hedging Transactions; to execute and deliver any mortgage, pledge, assignment or other instrument to secure the Notes or other securities, instruments or agreements whether by fixed or floating charge or by assignment or by the granting of a security interest, free and clear of any and all trusts hereby established, and in lieu of or in addition to granting any security for the Notes or other securities or instruments, to grant to any Person a negative pledge whereby the Issuer Trustee agrees not to encumber any Trust Property and such other covenants as the Issuer Trustee may deem appropriate and to effect the foregoing and without limitation, to execute and deliver the Trust Indenture, any Related Supplement or other indenture supplemental to the Trust Indenture or any amendment, modification, restatement or replacement thereof; and in connection with any of the foregoing to provide for any remedies in respect of enforcement against the Trust and the Trust Property whereby the Indenture Trustee or other Person may exercise any such remedies and take any proceedings in the name of or as attorney for the Trust.
- (2) For greater certainty and without limiting the powers of the Issuer Trustee herein and for purposes of constituting security under the laws of the Province of Québec, the Issuer Trustee shall have full power and capacity to grant a hypothec on any moveable or immovable Trust Property, whether by a floating hypothec or on a universality of property, moveable or immovable, present or future, corporeal or incorporeal, or otherwise charge any of the Trust Property.

**Section 4.7 Execution of Notes and Other Instruments.**

Every deed, transfer, assignment, agreement or other instrument including the Notes, the Programme Agreements and any information circular, offering memorandum, annual information form, prospectus, registration statement or other document used by the Trust in connection with the offering of Notes, whether in the name of the Trust or the Issuer Trustee, will be signed by the Issuer

Trustee as trustee of the Trust. The Issuer Trustee may sign such documents by its duly appointed agent or attorney, including the Financial Services Agent and/or Administrative Agent.

**Section 4.8 Facsimile Signatures.**

The Issuer Trustee may authorize the use of facsimile signatures on the Notes or other instruments; provided, however, that where facsimile signatures are so used, the Notes or other instruments will be manually countersigned or certified by a transfer agent or registrar or similar Person. If a Note or other instrument contains a printed or mechanically reproduced signature of a Person, the Issuer Trustee may issue the Note or other instrument notwithstanding that the Person has ceased to be a director or officer of the Issuer Trustee, and the Note or other instrument will be as valid as if he or she were a director or an officer of the Issuer Trustee at the date of its issue.

**Section 4.9 Taxes.**

The Issuer Trustee will have power to pay all taxes or assessments of whatever kind or nature imposed upon the Issuer Trustee or the Trust in connection with the Trust Property or upon or against the income from the Trust Activities or any part thereof, to settle and compromise disputed tax liabilities and, for the foregoing purposes, to make such returns and do all such other acts and things as may be deemed by the Issuer Trustee necessary or desirable. The Issuer Trustee will have the power to deduct and remit any taxes which are required by law to be deducted and remitted from any payment made by the Issuer Trustee under the Programme Agreements or otherwise.

**Section 4.10 Collection.**

The Issuer Trustee will have power to collect, receive, give receipts for and sue for all sums of money or other property due to the Trust; to consent to extensions of time for payment, or to the renewal of, any securities or obligations; to engage or intervene in, prosecute, defend, compound, compromise, abandon or adjust by arbitration or otherwise any actions, suits, proceedings, disputes, claims, demands or things relating to the Trust Property or the Trust Activities; to exercise any and all remedies available to it or the Trust under any agreement to which it or the Trust is a party or otherwise including any foreclosure or power of sale available to the Issuer Trustee or the Trust thereunder or under any such other security and, in connection with any such foreclosure or sale, to purchase or otherwise acquire title to any property and to convey good title thereto free of any and all trusts hereby established, or to take or retake possession of any property secured or unsecured thereunder or such other security; to extend the time, with or without security, for the payment or delivery of any debts or property and to execute and enter into releases, agreements and other instruments; and to pay or satisfy any debts or claims upon any evidence that the Issuer Trustee determines to be sufficient.

**Section 4.11 Expenses and Compensation of Issuer Trustee.**

- (1) The Issuer Trustee will have power to incur and make payment of any charges or expenses which in the opinion of the Issuer Trustee are necessary or incidental to or proper for carrying out any of the powers provided in this Settlement Deed and the Trust Activities and to pay appropriate compensation or fees out of the Trust Property to Persons with whom the Trust or the Issuer Trustee has contracted or transacted business including any charges, expenses, compensation or fees payable under the Programme Agreements.

- (2) The Issuer Trustee will be entitled to be paid from the funds of the Trust, without any requirement of a passing of accounts in respect thereof or approval of the Beneficiary, such fees as the Issuer Trustee and the Administrative Agent may agree to from time to time for its services hereunder and all reasonable expenses, disbursements and advances incurred or made by the Issuer Trustee in the administration or execution of the trusts hereby created (including the reasonable compensation and the disbursements of its counsel and all other advisers and assistants not regularly in its employ) until all the duties of the Issuer Trustee under the trusts hereof shall be finally and fully performed. The Issuer Trustee will not be entitled to be paid for any such expense, disbursement or advance as may arise from or in connection with the failure by the Issuer Trustee to comply with Section 6.1 as determined by a final non-appealable judgment of a court of competent jurisdiction or against the Issuer Trustee or any of its Related Persons in connection with any such Persons' dishonesty, bad faith, wilful misconduct, gross negligence or reckless disregard of any duty as determined by a final non-appealable judgment of a court of competent jurisdiction. All such amounts will be payable at such times as the Issuer Trustee and the Administrative Agent may agree from time to time. Any amount not paid when due shall bear interest at a rate per annum equal to the rate designated by the Issuer Trustee as the then current rate charged by National Bank of Canada or its successors from time to time to its corporate customers, payable on demand. After default and unless otherwise provided in the Trust Indenture and any documents contemplated thereunder, all amounts so payable and the interest thereon shall be payable out of any funds coming into the possession of the Issuer Trustee or its successors in the trusts hereunder in priority to any payments to Specified Creditors.

**Section 4.12 Allocation.**

The Issuer Trustee will have power to determine whether moneys or other assets received by the Trust or expenses or disbursements made by the Trust will be charged or credited to income or capital or allocated between income and capital.

**Section 4.13 Fiscal Year and Form of Accounts.**

The fiscal year of the Trust will be the calendar year or such other fiscal year as the Issuer Trustee may determine. The Issuer Trustee will have power to determine and from time to time change the method or form in which the accounts of the Trust will be kept, provided such method or form reasonably complies with Canadian generally accepted accounting principles as applicable from time to time. ✓

**Section 4.14 Power to Contract.**

The Issuer Trustee will have power to appoint, employ or contract with or delegate to any Person as the Issuer Trustee may deem necessary or desirable for the transaction of the Trust Activities. Without in any way limiting the generality of the foregoing, the Issuer Trustee will have the power to:

- (a) Enter into and grant security as provided for in the Programme Agreements;
- (b) Subject to compliance with Section 6.1, appoint, employ or contract with or delegate to any Person or Persons who, under the supervision of the Issuer Trustee, may,

among other things: furnish and supervise or cause to be furnished and supervised the performance of the clerical and administrative services necessary to the administration of the Trust, including the provision of office space and office equipment, personnel for the performance of such services, property management and acquisition, administration and servicing, the maintenance of books and records for the Trust, the receipt and disbursement of Trust Property, the servicing and payment of debt obligations and generally all matters relating to the obtaining of and the administration and servicing of Trust Property; serve as an advisor to the Issuer Trustee; furnish reports to the Issuer Trustee and provide research and economic and statistical data in connection with the Trust Activities; act as consultants, accountants, brokers, correspondents, lenders, technical advisors, counsel, brokers and dealers, underwriters, fiscal agents, corporate fiduciaries, escrow agents, depositaries, custodians or agents for collection from Obligors, loan administrators, appraisers, banks, insurers or insurance agents, transfer or issue agents or registrars or paying agents for the Notes or other debt instruments, or in any other capacity deemed by the Issuer Trustee necessary or desirable; act as attorney or agent in the creation, purchase or sale or other disposition of Asset Interests and the handling, prosecution or settling of any claims of the Trust; and perform or assist in the performance of such functions necessary in the management of the Trust as may be agreed upon with the Issuer Trustee; including in respect of each of the foregoing, as provided in the Programme Agreements. For greater certainty, any Person with whom the Issuer Trustee so contracts may exercise such discretionary or other power or authority of the Issuer Trustee as shall be set out in such contract or as shall be reasonably incidental thereto. The entering into of and the compliance by the Issuer Trustee with the Programme Agreements shall be deemed to constitute adequate supervision by the Issuer Trustee of any Person in connection with the foregoing activities or any other activities which are the subject of such Programme Agreements;

- (c) Investigate, select and conduct negotiations with Persons acting in the capacities referred to in Section 4.14 (b) and pay appropriate fees to, and enter into appropriate contracts with, or employ, or retain the services of, any of them in connection with the Asset Interests created, acquired, sold or otherwise disposed of, or committed, negotiated, or contemplated to be created, acquired, sold, or otherwise disposed of or in connection with the issue of Notes. For greater certainty, it is expressly acknowledged that the entering into of the Programme Agreements shall, as to all matters referred to therein, be deemed to constitute appropriate contracts and the fees therein provided shall be deemed to be appropriate fees; and
- (d) Substitute any other Person for any Person referred to in Section 4.14(b).

**Section 4.15 Indemnification.**

The Issuer Trustee will have power to indemnify or enter into agreements with respect to indemnification with any Person with whom the Issuer Trustee or the Trust deals to such extent as the Issuer Trustee determines necessary or desirable, including as set out in the Programme

Agreements. Any determination as to what is necessary or desirable for such purposes, when made by the Issuer Trustee in compliance with Section 6.1, will be conclusive.

**Section 4.16 Further Powers.**

The Issuer Trustee will have power to perform and do all such other acts and things and to execute all such deeds, transfers, assignments, agreements or other instruments whatsoever as it deems necessary, proper or desirable in order to carry on the Trust Activities in accordance with the Programme Agreements although such acts or things, or deeds, transfers, assignments or other instruments are not herein specifically mentioned. Any determination as to what is necessary, proper or desirable in order to carry on the Trust Activities in accordance with any such agreement, when made by the Issuer Trustee in compliance with Section 6.1, will be conclusive. Any construction of this Settlement Deed or any determination of the purposes of the Trust or the existence of any power or authority hereunder, made in compliance with Section 6.1 by the Issuer Trustee upon the advice of counsel, will be conclusive to the extent consistent with the law. In construing the provisions of this Settlement Deed, there will be a presumption in favour of a grant of power to the Issuer Trustee.

**Section 4.17 The Issuer Trustee and Affiliates.**

The Issuer Trustee and its Affiliates may generally engage in any kind of business with any Person that does business with the Trust, any of their respective Affiliates and any Person who may do business with or own securities of any thereof, and may, subject to compliance with its duties hereunder, contract with the Trust for its or their own account including pursuant to any of the Programme Agreements, all as if the Issuer Trustee was not the Issuer Trustee and without any duty to account therefor to the Trust or to any other Person.

**Section 4.18 Auditors.**

The Issuer Trustee shall have power from time to time to select and discharge and re-appoint an auditor or auditors of the Trust in its discretion and to negotiate and fix the fees of any such auditor or auditors.

**Section 4.19 Power of Attorney.**

The Issuer Trustee shall have power to appoint any Person its attorney, including as set out in the Programme Agreements, with or without power of substitution, and any such attorney shall be entitled to exercise the powers of the Issuer Trustee set forth herein to the extent of such appointment which may be for action generally or for any particular action.

**Section 4.20 Defect in Appointment.**

Notwithstanding anything to the contrary herein contained, no action taken by the Issuer Trustee will be invalid by reason only of any defect that is thereafter discovered in its appointment.

**Section 4.21 The Settlor.**

For greater certainty, the Settlor shall not receive any distributions or benefits from the Trust Property and, subject to section 16 of the *Perpetuities Act* (Ontario), no part of the capital or income

of the Trust Property may revert, by way of resulting trust or otherwise, to the Settlor. The Settlor's consent shall not be required for any disposition of property comprising the Trust Property nor shall dispositions be made at the Settlor's discretion. Notwithstanding the foregoing, nothing in this section 4.21 shall prevent the Trust from purchasing goods or services from the Settlor or its Affiliates and making payments to the Settlor or its Affiliates in consideration thereof.

## ARTICLE 5 REPLACEMENT OF ISSUER TRUSTEE

### Section 5.1 Resignation or Removal of Issuer Trustee; Conflict of Interest.

- (1) The Issuer Trustee may resign its trust after giving 60 days' notice in writing to the Indenture Trustee, the Administrative Agent, the Financial Services Agent and the Rating Agencies or such shorter notice as the Indenture Trustee, the Administrative Agent, the Financial Services Agent and the Rating Agencies may accept as sufficient, provided that no such voluntary resignation shall be effective until a replacement issuer trustee acceptable to the Indenture Trustee, the Financial Services Agent, the Administrative Agent and the Rating Agencies has been appointed in accordance with Section 5.1(4) and has executed a written agreement whereby such replacement issuer trustee agrees to assume the obligations of the Issuer Trustee hereunder, under the Programme Agreements and under any other contract pursuant to which the Issuer Trustee is obligated.
- (2) The Issuer Trustee shall resign if a material conflict of interest arises in its role as a trustee under this Settlement Deed that is not eliminated within 90 days after the Issuer Trustee becomes aware that it has such a material conflict of interest. Forthwith after the Issuer Trustee becomes aware that it has a material conflict of interest it shall provide the Indenture Trustee, the Financial Services Agent and the Administrative Agent with written notice of the nature of that conflict. Upon such resignation, the Issuer Trustee shall be discharged from all further duties and liabilities under this Settlement Deed. If, notwithstanding the foregoing provisions of this Section 5.1(2), the Issuer Trustee has such a material conflict of interest, the validity and enforceability of this Settlement Deed shall not be affected in any manner whatsoever by reason only of the existence of such material conflict of interest. If the Issuer Trustee contravenes the foregoing provisions of this Section 5.1(2), any interested party may apply to a Judge of the Ontario Superior Court of Justice, on such notice as such Judge may direct, for an order that the Issuer Trustee be replaced as trustee hereunder. The Issuer Trustee represents to the Indenture Trustee, the Financial Services Agent and the Administrative Agent that at the time of the execution and delivery hereof no material conflict of interest exists in the Issuer Trustee's role as a fiduciary hereunder.
- (3) The Settlor may remove the Issuer Trustee for any reason after giving 30 days' notice in writing to the Issuer Trustee, the Indenture Trustee, the Administrative Agent, the Financial Services Agent and the Rating Agencies or such shorter notice as the Issuer Trustee, the Indenture Trustee, the Administrative Agent, the Financial Services Agent and the Rating Agencies may accept as sufficient, provided that no removal shall be effective until a replacement issuer trustee acceptable to the Indenture Trustee, the Financial Services Agent, the Administrative Agent and the Rating Agencies has been appointed in accordance with Section 5.1(4) and has executed a written agreement whereby such replacement issuer trustee



agrees to assume the obligations of the Issuer Trustee hereunder, under the Programme Agreements and under any other contract pursuant to which the Issuer Trustee is obligated.

- (4) In the event of the Issuer Trustee resigning or being removed or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Administrative Agent and the Financial Services Agent shall nevertheless remain in office and the Settlor may forthwith appoint a replacement issuer trustee, provided such replacement is acceptable to the Indenture Trustee, the Financial Services Agent, the Administrative Agent and the Rating Agencies; failing which the retiring Issuer Trustee or any Specified Creditor may apply to a Judge of the Ontario Superior Court of Justice, on such notice as such Judge may direct, for the appointment of a replacement issuer trustee. Any replacement issuer trustee appointed under any provision of this Section 5.1 shall be a corporation and shall not have a material conflict of interest in its role as a fiduciary under this Settlement Deed. For greater certainty, any replacement issuer trustee may be a Person that is related by ownership to, or subject to the control of, the Settlor. The expense of any act, document or other instrument or thing required under this Section 5.1 will be satisfied from the Trust Property.
- (5) Subject to Section 5.1(1), any successor trustee will become vested with all the estates, properties, rights, powers, duties, responsibilities and trusts of its predecessors in the trusts hereunder as if it has been originally named as Issuer Trustee pursuant to this Settlement Deed, but nevertheless, upon written request of the successor trustee, the trustee ceasing to act will do, make, execute, deliver or cause to be done, made, executed or delivered all such acts, documents, deeds or other instruments and things as may be necessary or desirable in order to more effectually assign, transfer and deliver to, and vest in, the successor trustee, upon the trusts herein expressed, all the rights, powers and trusts of, and all property and money held by the trustee so ceasing to act. The expense of any act, document, deed or other instrument or thing required under this Section 5.1 will be satisfied from the Trust Property.
- (6) Any company into which the Issuer Trustee may be merged or with which it may be consolidated or amalgamated, any company resulting from any merger, consolidation or amalgamation to which the Issuer Trustee shall be a party or any company to which the Issuer Trustee may transfer all or substantially all of its assets shall be a successor Issuer Trustee under this Settlement Deed without the execution of any instrument or any further act; provided that such successor Issuer Trustee shall be a corporation and shall not have a material conflict of interest in its role as a fiduciary under this Settlement Deed.

## ARTICLE 6 LIABILITY OF ISSUER TRUSTEE

### Section 6.1 Standards of Performance.

The Issuer Trustee will exercise its powers and carry out its obligations under this Settlement Deed honestly, in good faith and in the best interests of the Trust and the Beneficiary and in connection therewith will exercise that degree of care, diligence, and skill that a reasonably prudent trustee would exercise in comparable circumstances. To the extent that the Issuer Trustee has delegated the performance of all or a portion of its activities to the Administrative Agent, the

Financial Services Agent or the Issuing and Paying Agent as contemplated by Sections 4.1 and 4.14, the Issuer Trustee shall be deemed to have satisfied the aforesaid standards. Unless otherwise required by law, the Issuer Trustee will not be required to give bond, surety or security in any jurisdiction for the performance of any duties or obligations hereunder. The Issuer Trustee will not be required to devote its entire time to the Trust Activities. For greater certainty, it is expressly acknowledged that the entering into of the Programme Agreements by the Issuer Trustee or the Trust and the performance by the Issuer Trustee or the Trust of its obligations thereunder in compliance with the terms of the Programme Agreements is in the best interests of the Trust and the Beneficiary and satisfies the foregoing standards.

**Section 6.2      Limitation of Liability of Issuer Trustee.**

The Issuer Trustee, in doing anything or permitting anything to be done in respect of the execution of the duties of its office or in respect of the Trust Property or the Trust Activities is, and will be conclusively deemed to be, acting as trustee of the Trust and not in any other capacity. The Issuer Trustee will not be subject to any liability whatsoever, in tort, contract or otherwise, in connection with the Trust Property or the Trust Activities, to the Beneficiary or to any other Person, for any action taken or permitted by it to be taken, or for its failure to take any action, including the failure to compel in any way any former or acting Issuer Trustee to redress any breach of trust in respect of the execution of the duties of its office or in respect of the Trust Property or the Trust Activities. The Issuer Trustee will not be subject to any liability for any Claim against or with respect to the Trust or the Issuer Trustee, arising out of anything done, omitted to be done or permitted to be done by it in respect of the execution of the duties of its office or for or in respect of the Trust Property or the Trust Activities and resort will be had solely to the Trust Property for the payment or performance of any such Claim. No other property or assets of the Issuer Trustee, owned in its personal capacity or otherwise, will be subject to levy, execution or other enforcement procedure with regard to any obligations under this Settlement Deed or under any of the Programme Agreements. No recourse may be had or taken, directly or indirectly, against the Issuer Trustee in its personal capacity, any of its Related Persons or any predecessor or successor of the Issuer Trustee. The foregoing limitations of this Section 6.2 will not apply in respect of any Claim against the Issuer Trustee arising from or in connection with its failure to comply with Section 6.1 or against the Issuer Trustee or any of its Related Persons arising from or in connection with any such Persons' own dishonesty, bad faith, wilful misconduct, gross negligence or reckless disregard of any duty.

**Section 6.3      Indemnification of Issuer Trustee.**

- (1) Subject to Section 6.3(2), the Issuer Trustee and its Related Persons, including the Financial Services Agent or any Agent and their respective Related Persons, will at all times be indemnified and saved harmless out of the Trust Property from and against any and all Claims that the Issuer Trustee or any of its Related Persons may suffer or incur, whether at law or in equity, in any way caused by or arising, directly or indirectly, in respect of anything done, omitted to be done or permitted to be done by any of them in or about or in relation to the execution of its duties as or on behalf of the Issuer Trustee or which they sustain or incur in or about or in relation to the Trust Property and the Trust Activities including those which arise out of or are related to anything done, omitted to be done or permitted to be done by the Administrative Agent, the Financial Services Agent, the Issuing and Paying Agent or the Agent as contemplated by any of the Programme Agreements. Further, subject to Section

6.2, the Issuer Trustee and its Related Persons will not be liable to the Trust or to any Beneficiary for any loss or damage relating to any matter regarding the Trust, including any loss or diminution in the value of the Trust Property. Notwithstanding any other provisions of this Settlement Deed, this indemnity will survive the removal or resignation of the Issuer Trustee, the termination of this Settlement Deed and the termination of any trust created by it.

- (2) The Issuer Trustee is not entitled to indemnification under Section 6.3(1) if the Claim arises from or in connection with its own failure to comply with Section 6.1 as determined by a final non-appealable judgment of a court of competent jurisdiction. Neither the Issuer Trustee nor any of its Related Persons is entitled to indemnification under Section 6.3(1) if the Claim arises from or in connection with any such Person's own dishonesty, bad faith, wilful misconduct, gross negligence or reckless disregard of any duty as determined by a final non-appealable judgment of a court of competent jurisdiction.

#### **Section 6.4      Reliance upon Advice.**

- (1) The Issuer Trustee shall be entitled to consult with and obtain advice from legal counsel appointed by it, who may but need not be counsel for the Trust, in the event of any questions as to any of the provisions hereof or its duties hereunder.
- (2) The Issuer Trustee may (but need not) rely and act upon any statement, report or opinion prepared by or any advice received from the Administrative Agent, the Financial Services Agent, the Issuing and Paying Agent or the Agent or from the auditors, counsel or other professional advisors of the Issuer Trustee, the Administrative Agent, the Financial Services Agent, the Issuing and Paying Agent or the Agent, and shall not be responsible or held liable for any loss or damage resulting from so relying or acting (or not relying or acting) if the Issuer Trustee acted honestly and in good faith in relying or acting (or not relying or acting) upon the advice received and complied with Section 6.1 in the selection of any such auditor, counsel or other professional advisor and in the decision to rely or act or not to rely or act upon the advice received.

#### **Section 6.5      Limitation of Liability of Beneficiary.**

The Beneficiary will not be held to have any personal liability as such, and no resort will be had to its private property for satisfaction of any obligation or claim arising out of or in connection with any contract or obligation in respect of which the Beneficiary would otherwise have to indemnify the Issuer Trustee for any liability incurred by the Issuer Trustee as such, but rather the Trust Property only will be subject to levy or execution for such satisfaction.

#### **Section 6.6      Interest of Beneficiary in Trust Property.**

The legal ownership of the Trust Property and the right to conduct the affairs of the Trust are vested exclusively in the Issuer Trustee and the Beneficiary shall have no interest therein other than pursuant to Article 9 and no Beneficiary shall have any right to require the Issuer Trustee to terminate the Trust or to partition, liquidate or distribute any of the Trust Property.

**Section 6.7 Provisions Regarding Liability.**

Any written instrument creating an obligation of the Issuer Trustee will be conclusively deemed to have been executed by the Issuer Trustee only in its capacity as trustee of the Trust. Any written instrument creating an obligation of the Issuer Trustee will contain a provision to the effect that, subject to Section 6.2, (i) the Issuer Trustee has entered into the written agreement in its capacity as trustee of the Trust; (ii) any and all of the representations, warranties, undertakings, covenants, indemnities, agreements and other obligations made on the part of the Issuer Trustee therein are made and intended not as personal representations, warranties, undertakings, covenants, indemnities, agreements and other obligations by the Issuer Trustee or for the purpose or with the intention of binding the Issuer Trustee in its personal capacity, but are made and intended for the purpose of binding only the property and assets of the Trust or a specific portion thereof; (iii) no property or assets of the Issuer Trustee, whether owned beneficially by it in its personal capacity or otherwise, will be subject to levy, execution or other enforcement procedures with regard to any of the representations, warranties, undertakings, covenants, indemnities, agreements and other obligations of the Trust or the Issuer Trustee thereunder; and (iv) no recourse may be had or taken, directly or indirectly against the Issuer Trustee in its personal capacity, any Beneficiary, any of their respective Related Persons or any predecessor or successor of the Issuer Trustee, with regard to the representations, warranties, undertakings, covenants, indemnities, agreements and other obligations of the Trust or the Issuer Trustee thereunder. Such written instrument may contain any further provisions which the Issuer Trustee may deem appropriate, but, subject to Section 6.2, the omission of any such provisions will not operate to impose liability on the Issuer Trustee in its personal capacity, any of their respective Related Persons, or any predecessor or successor of the Issuer Trustee.

**Section 6.8 Protection of Issuer Trustee.**

- (1) The Issuer Trustee shall not be responsible or liable in any manner whatever for the sufficiency, correctness, genuineness or validity of any security deposited with it.
- (2) Notwithstanding anything contained herein to the contrary, the Issuer Trustee shall not be required to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder if there is reasonable ground for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.
- (3) The Issuer Trustee will disburse moneys according to this Settlement Deed only to the extent that moneys have been deposited with it.
- (4) The Issuer Trustee shall not be bound to give any notice or do or take any act, action or proceeding by virtue of the powers conferred on it hereby unless and until it shall have been required so to do under the terms hereof; nor shall the Issuer Trustee be required to take notice of any failure by it in the exercise of its powers or the carrying out of its obligations hereunder (a "default"), unless and until notified in writing of such default, which notice shall distinctly specify the default desired to be brought to the attention of the Issuer Trustee and in the absence of any such notice the Issuer Trustee may for all purposes of this Settlement Deed conclusively assume that no default has been made. No such notice shall in

any way limit any discretion herein given to the Issuer Trustee to determine whether or not the Issuer Trustee shall take action with respect to such default.

**Section 6.9 Third Party Beneficiaries.**

It is the intention of the parties hereto to constitute the Issuer Trustee as trustee for its Related Persons of the covenants under Section 6.2, 6.3 and 6.7 and the Issuer Trustee agrees to accept such trust and to hold and enforce such covenants on behalf of such Related Persons.

**ARTICLE 7  
RECORDS AND OTHER MATTERS**

**Section 7.1 Records to be Kept.**

The Issuer Trustee will keep or cause to be kept proper records and books of account as are by law or good and prudent business practice necessary. Such books or records will be available for inspection by the Beneficiary. Such records or books shall be kept at the head office of the Issuer Trustee or at the office of any Person whom the Issuer Trustee has appointed to maintain the same, provided that the Issuer Trustee has access to such books and records on one Business Day's notice to such Person.

**Section 7.2 Method of Keeping Records.**

Where this Settlement Deed requires the Issuer Trustee to cause a record to be kept, it may be kept in bound or loose-leaf form, or by means of a mechanical, electronic or other device.

**ARTICLE 8  
AMENDMENT**

**Section 8.1 Amendment.**

- (1) The Issuer Trustee may, from time to time, amend, vary, supplement or replace or restate the provisions of this Settlement Deed without the consent or approval of the Beneficiary, the Settlor or any court as follows:
  - (a) To the extent deemed necessary by the Issuer Trustee in good faith to be necessary to remove any conflicts or other inconsistencies which may exist between any of the terms of this Settlement Deed and the provisions of any applicable law;
  - (b) To the extent deemed necessary by the Issuer Trustee in good faith to be necessary to make a change or correction in this Settlement Deed which is a typographical change or correction or which the Issuer Trustee has been advised by legal counsel is required for the purpose of curing an ambiguity or defect or inconsistent provision or clerical omission or mistake or manifest error contained herein;
  - (c) To ensure compliance with applicable laws in effect from time to time; and

- (d) For the purpose of making such amendments, variations, supplements, replacements or restatements as may be necessary or desirable with respect to matters or questions arising hereunder or under the Programme Agreements which in the opinion of the Issuer Trustee are expedient to make if the Issuer Trustee is of the opinion that such amendments or modifications will not be materially prejudicial to the interests of the Beneficiaries.

The Issuer Trustee shall immediately upon the entering into thereof, provide the Rating Agencies with a copy of any amendment, variation, supplement, replacement or restatement of this Settlement Deed.

### **Section 8.2 Automatic Amendment.**

Upon the Issuer Trustee ceasing to be a trustee of the Trust, this Settlement Deed will be automatically amended to delete any reference to the name of the trustee so ceasing to be a trustee of the Trust and to substitute therefor the name of the successor trustee of the Trust. Notice of any change in the Issuer Trustee shall be endorsed upon or attached to this Settlement Deed, signed by the successor Issuer Trustee and every such notice shall be sufficient evidence to any Person dealing with the Issuer Trustee under this Settlement Deed as to the facts to which it relates.

### **Section 8.3 Supplemental Settlement Deed.**

The Issuer Trustee is authorized to execute any supplemental Settlement Deed to give effect to amendments to this Settlement Deed made pursuant to this Article 8.

## **ARTICLE 9 DISTRIBUTION OF TRUST PROPERTY AND TERMINATION OF TRUST ACTIVITIES**

### **Section 9.1 Distribution of Trust Property.**

The Issuer Trustee may distribute to the Beneficiary periodically through each fiscal year as it shall in its sole discretion determine but in any event on or before the last Business Day of each fiscal year or, in the case of the termination of the Trust, on the last Business Day preceding such termination, all, part or none of the Annual Net Income of the Trust in respect of such fiscal year. If such distribution shall be made prior to the final determination of the Annual Net Income of the Trust, the Issuer Trustee shall be entitled to rely on an estimate of the amount to be distributed, such estimate to be provided by the Administrative Agent immediately prior to the date of distribution or before the commencement of the fiscal year in respect of which the Annual Net Income of the Trust is estimated, as the case may be.

### **Section 9.2 Termination of Trust Activities and Distribution of Trust Property.**

The Trust will continue in full force and effect so long as any of the Notes, other securities or instruments or interests in any or all of the Trust Property remain outstanding, until the Trust has satisfied all of its obligations under any agreement entered into for the purposes of carrying on the business of the Trust and until the trusts established hereby have been effected.

**Section 9.3 Termination of Trust.**

Subject to Section 9.2, upon the satisfaction of all the Notes or other debt instruments and other obligations and liabilities of the Trust, the Issuer Trustee may in its sole discretion wind up the affairs of the Trust, terminate the Trust and, upon receipt of such releases, indemnities and refunding agreements as the Issuer Trustee deems necessary for its protection, distribute the remaining Trust Property in cash or in kind or partly in each to one or more of the Beneficiaries. Notwithstanding the foregoing, the Issuer Trustee shall wind up the affairs of the Trust and terminate the Trust no later than January 1, 2026.

**ARTICLE 10  
POWER TO CHANGE GOVERNING LAW**

**Section 10.1 General**

Notwithstanding anything herein contained, the Issuer Trustee may at any time or times and from time to time during the existence of the trusts hereby created by deed declare that the Trust will from the date of such declaration take effect in accordance with the law of some other province of Canada (not being a province under the law of which this Trust would not be irrevocable) and that the forum for the administration thereof will thenceforth be the courts of that province and as from the date of such declaration the law of the province named therein will be the law applicable to this Trust and the courts of that province will be the forum for the administration thereof but subject to the powers conferred by this section and until any further declaration is made hereunder; provided, however, the Issuer Trustee will take advice with respect to the implications associated therewith, including any tax implications and will notify the Rating Agencies.

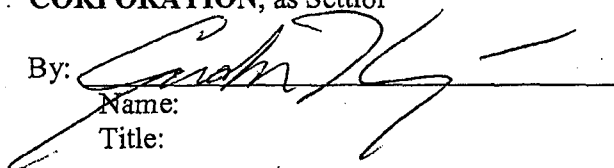
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**IN WITNESS WHEREOF** this Settlement Deed has been executed by the Settlor and the Issuer Trustee, in the City of Toronto, in the Province of Ontario as of the first date above written.

**METCALFE & MANSFIELD  
ALTERNATIVE INVESTMENTS VII  
CORP., as Issuer Trustee of DEVONSHIRE  
TRUST**

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

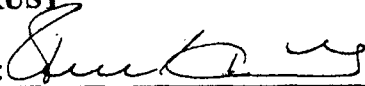
**METCALFE & MANSFIELD CAPITAL  
CORPORATION, as Settlor**

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



**IN WITNESS WHEREOF** this Settlement Deed has been executed by the Settlor and the Issuer Trustee, in the City of Toronto, in the Province of Ontario as of the first date above written.

**METCALFE & MANSFIELD  
ALTERNATIVE INVESTMENTS VII  
CORP., as Issuer Trustee of DEVONSHIRE  
TRUST**

By:   
Name: Robert Y. Girard  
Title: Secretary

**METCALFE & MANSFIELD CAPITAL  
CORPORATION, as Settlor**

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