



**BOSTON PIZZA ROYALTIES INCOME FUND**

**ANNUAL INFORMATION FORM**

**For the year ended December 31, 2012**

**February 6, 2013**

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## GLOSSARY

In this Annual Information Form, the following terms shall have the meanings ascribed to them in this Glossary, and terms defined elsewhere in this Annual Information Form shall have the meanings ascribed to them in this Annual Information Form.

**"2012 NCIB"** means the normal course issuer bid through the facilities of the TSX that commenced on September 4, 2012 and which will end no later than August 31, 2013, pursuant to which the Fund may repurchased for cancellation up to 1,442,522 Units.

**"2010 Special Meeting"** means the special general meeting of Unitholders of the Fund held on December 7, 2010.

**"Additional Restaurants"** means, at any time, Boston Pizza Restaurants which are not included in the Royalty Pool at such time.

**"Adjustment Date"** means January 1 of each calendar year.

**"Administration Agreement"** means the amended and restated administration agreement dated September 22, 2008 among the Fund, the Trust, Holdings LP, Holdings GP and the Partnership, pursuant to which the Partnership has agreed to provide or arrange for the provision of services required for the administration of the Fund, the Trust, Holdings LP and Holdings GP.

**"affiliate"** has the meaning set out in Ontario Securities Commission Rule 45-501.

**"Bank"** means the Canadian chartered bank providing the Credit Facilities to the Partnership and providing the Line of Credit to BPI.

**"Boston Pizza"** means the business of BPI, its affiliated entities and franchisees.

**"Boston Pizza General Security Agreement"** means the general security agreement dated July 17, 2002 granted to the Fund by BPI and each of its subsidiaries that own a Boston Pizza Restaurant over certain assets of BPI and each of these subsidiaries to secure payment of the BP Loan.

**"Boston Pizza Restaurants"** refers to the casual dining pizza and pasta restaurants operated by BPI, its affiliated entities, related parties or franchisees in Canada.

**"BPI"** means Boston Pizza International Inc., a company continued under the CBCA.

**"BP Loan"** means the loan to BPI in the aggregate amount of \$24.0 million made by the Fund.

**"BP Rights"** means:

- (a) all rights of BPI in Canada, including all Canadian trade-mark registrations and pending Canadian trade-mark applications, in and to the following trademarks:
  - BP & Design (Canadian registration no. TMA171,429)
  - BP & Design (Canadian registration no. TMA181,249)
  - BP BOSTON PIZZA DELIVERY & Design (Canadian registration no. TMA804,670)
  - BP BOSTON PIZZA LIVRAISON & Design (Canadian registration no. TMA778,093)
  - BP FONDATION BOSTON PIZZA & Design (Canadian registration no. TMA734,023)

BPC BRAND PROFITABILITY SERVICE & Shield and Banner Design (Canadian registration no. TMA695,413)

BPFL (Canadian application no. 1,554,935)

BP FOOD LEAGUE & Design (Canadian application no. 1,554,940)

BPHL (Canadian application no. 1,542,158)

BP KIDS Roundel Design (Canadian registration no. TMA818,934)

BP KIDS Roundel & Word Design (Canadian registration no. TMA818,932)

BP's LOUNGE (Canadian registration no. TMA293,639)

BP's BISTRO (Canadian registration no. TMA362,359)

BOSTON PIZZA (Canadian registration no. TMA171,428)

BOSTON PIZZA QUICK EXPRESS (Canadian registration no. TMA429,024)

BOSTON PIZZA RESTAURANT & SPORTS BAR (Canadian registration no. TMA629,841)

BOSTON PIZZA COLLEGE (Canadian registration no. TMA653,655)

BOSTON PIZZA FOUNDATION (Canadian registration no. TMA732,332)

BOSTON PIZZA FOUNDATION & Design (Canadian registration no. TMA732,334)

BOSTON'S THE GOURMET PIZZA (Canadian registration no. TMA410,558)

BOSTONS SPORTS BAR (Canadian application no. 1,563,495)

BOSTON PIZZA FOOD LEAGUE (Canadian application no. 1,554,939)

BRAND PROFITABILTY SERVICE & Banner Design (Canadian registration no. TMA695,411)

ENFANTS BP Roundel Design (Canadian registration no. TMA818933)

ENFANTS BP Roundel & Word Design (Canadian registration no. TMA818931)

FONDATION BOSTON PIZZA (Canadian registration no. TMA734,027)

- (b) all rights of BPI in Canada in and to any unregistered trademarks used in the business of BPI which contain the word "Boston" or "Boston's" or the letters "BP" or the BP design; and
- (c) all rights of BPI in Canada in any trade names confusingly similar to any of the foregoing trade-marks.

"CBCA" means the *Canada Business Corporations Act*.

"CDS" means CDS Clearing and Depository Services Inc.

"CFADS" means cash flow available for debt service and is the aggregate of EBITDA,

plus:

- proceeds received from sale of Units, net of transaction costs;

less:

- unfunded capital expenditures;
- cash taxes; and
- dividends paid.

**“CFRA”** means the Canadian Restaurant and Food Services Association

**“Class A Units”** means Class A limited partner units of the Partnership held by Holdings LP or a permitted transferee.

**“Class B Distribution Limit”** means at any time the number, calculated in accordance with the Limited Partnership Agreement, used to determine the amount of any distributions to be made on the Class B Units at that time.

**“Class B Exchange Limit”** means at any time the Class B Exchange Limit immediately before that time

- (i) plus, where that time is an Adjustment Date,
  - (a) 80% of the estimated Determined Amount for that date divided by the Current Market Price of a Unit on that date; and
  - (b) the amount, whether positive or negative, equal to (1) the Determined Amount on the immediately preceding Adjustment Date, if any, divided by the Current Market Price of a Unit on that preceding date, less (2) the amount determined under (a) on that preceding date,
- (ii) less the number of Class B Units exchanged on that date, if any, multiplied by the Class B Exchange Multiplier on that date.

**“Class B Exchange Multiplier”** means at any time the Class B Exchange Limit on such date divided by the number of Class B Units outstanding on that date.

**“Class B Units”** means the Class B general partner units of the Partnership held by BPI or any Related Party.

**“Class C Units”** means the Class C general partner units of the Partnership held by BPI or any Related Party or Class C limited partner units of the Partnership acquired by Holdings LP or a permitted transferee pursuant to the Exchange Agreement (see “The Exchange Rights”), as the case may be.

**“Class D Units”** means the Class D limited partner units of the Partnership which are acquired by Holdings LP in exchange for Class B Units from BPI or any Related Party pursuant to the Exchange Agreement.

**“Credit Facilities”** means the loan provided by the Bank to the Partnership in the amount of up to \$56.0 million of credit facilities, having a five year term expiring on July 19, 2017.

**“Current Market Price of a Unit”** means as at any date or for any period, the weighted average price at which the Units have traded on a stock exchange during the period of 20 consecutive trading days ending on the fifth trading day before such date or the end of each period.

**“Declaration of Trust”** means the amended and restated declaration of trust dated December 7, 2010 by which the Fund is governed.

**“Determined Amount”** means the amount, calculated as at the end of each fiscal year, in respect of the Adjustment Date in the next following fiscal year determined in the manner described under “License and Royalty – Adjustment of the Royalty – Class B Unit Entitlement”.

**“Eastern Canada”** means that part of Canada containing the provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario and Prince Edward Island.

**“EBITDA”** means the trailing four quarter earnings before interest, taxes and depreciation and amortization, based on accounting policies consistent with those policies applied in preparation of the fiscal year-end audited financial statements.

**“Exchange Agreement”** means the amended and restated exchange agreement dated September 22, 2008 among the Fund, the Trust, BPI, Holdings LP and Partnership GP providing for, among other things, the Exchange Rights. See “The Exchange Rights”.

**“Exchange Rights”** means the right of BPI (or a Related Party to which BPI has transferred Partnership Securities in accordance with the Governance Agreement) in respect of the Class B Units to exchange one Class B Unit for the number of Units equal to the Class B Exchange Multiplier at that time, by delivering such Class B Unit to Holdings LP in exchange for a Unit or Units which Holdings LP, through the Trust, will obtain from the Fund and, in respect of the Class C Units, the right to transfer Class C Units in consideration of the assumption by Holdings LP (and the concurrent release of BPI of its obligations with respect to) an amount of indebtedness under the BP Loan equal to \$10 per Class C Unit transferred.

**“Fiscal Year”** means January 1 to December 31 in a calendar year.

**“Franchised Boston Pizza Restaurants”** means Boston Pizza restaurants owned and operated by the owners thereof under franchise agreements with BPI which are operated in Canada.

**“Franchise Revenue”** is the basis on which the Royalty is payable. Franchise Revenue is Gross Revenue after deducting revenue from the sale of liquor, beer, wine and tobacco and approved national discounts and excluding applicable sales and similar taxes.

**“Fund”** means Boston Pizza Royalties Income Fund, a limited purpose open-ended trust established under the laws of the Province of British Columbia.

**“Governance Agreement”** means the amended and restated governance agreement dated September 22, 2008 among the Fund, the Partnership, the Trust, Partnership GP, Holdings LP, Holdings GP, BPI, James Treliving Holdings Ltd., George Melville Holdings Ltd., Richcal Ventures Ltd., and T & M Management Services Ltd. providing for, among other things, the governance of Partnership GP.

**“GP Units”** means the ordinary general partner units of the Partnership.

**“Gross Revenue”** is (i) revenue of the corporate Boston Pizza Restaurants in Canada owned by BPI and (ii) revenue reported to BPI by Franchised Boston Pizza Restaurants in Canada, without audit or other form of independent assurance in the case of both (i) and (ii).

**“Holdings GP”** means Boston Pizza Holdings GP Inc., a company incorporated under the laws of the Province of British Columbia.

**“Holdings Limited Partnership Agreement”** means the limited partnership agreement dated September 17, 2008 among the Trust and Holdings GP by which Holdings LP is governed.

**“Holdings LP”** means Boston Pizza Holdings Limited Partnership a limited partnership formed under the laws of the Province of British Columbia pursuant to the Holdings Limited Partnership Agreement.

**“Holdings LP Units”** means the limited partner units of Holdings LP.

**“HST”** means that effective July 1, 2010 the British Columbia Ministry of Finance harmonized the federal Goods and Services Tax and the provincial sales tax.

**“IFRS”** means international financial reporting standards.



**“License”** means the exclusive and unlimited license to use the BP Rights in Canada for a period of 99 years from July 17, 2002 granted by the Partnership to BPI pursuant to the License and Royalty Agreement.

**“License and Royalty Agreement”** means the license and royalty agreement dated July 17, 2002, as amended as of May 9, 2005, between the Partnership and BPI pursuant to which the Partnership has granted the License to BPI and BPI has agreed to pay the Royalty.

**“Limited Partnership Agreement”** means the amended and restated limited partnership agreement dated January 2, 2011 among Partnership GP, Holdings LP and BPI by which the Partnership is governed.

**“Line of Credit”** means the \$7.5 million operating line of credit and the \$2 million corporate Mastercard facility provided by the Bank to BPI.

**“LP Units”** means the ordinary limited partner units of the Partnership.

**“Management”** means senior management of BPI.

**“Non-resident”** means a non-resident of Canada within the meaning of the Tax Act.

**“Partnership”** means Boston Pizza Royalties Limited Partnership, a limited partnership formed under the laws of the Province of British Columbia pursuant to the Limited Partnership Agreement.

**“Partnership General Security Agreement”** means the general security agreement dated July 17, 2002 granted to the Partnership by BPI and each of its subsidiaries that owns a Boston Pizza Restaurant over certain assets of BPI and each of these subsidiaries, to secure payment of the Royalty and all of the obligations of BPI under the License and Royalty Agreement.

**“Partnership GP”** means Boston Pizza GP Inc. in its capacity as managing general partner of the Partnership.

**“Partnership Securities”** means, collectively, the LP Units, GP Units, Class A Units, Class B Units, Class C Units and Class D Units in the capital of the Partnership.

**“Related Parties”** means, collectively, James Treliving and George Melville (the holders of the beneficial interest in BPI) and Management (from time to time), or any corporation or other entity in which they or any of their associates (or other family members) has a direct or indirect equity interest of 50% or greater, or an associate or affiliate of any of them.

**“Royalty”** means the royalty and other amounts payable by BPI under the License and Royalty Agreement for the License to use the BP Rights in Canada for 99 years, commencing on July 17, 2002.

**“Royalty Pool”** means, in any period, all Boston Pizza Restaurants for which Franchise Revenue is to be determined for such period, as described under “License and Royalty – The Royalty”.

**“same store sales growth”** or **“SSSG”** means the growth in annual Gross Revenue of a particular Boston Pizza Restaurant as compared to sales for the same period in the previous year, where the restaurant was open for a full 12 months in each year.

**“Securities Act”** means the *Securities Act* (British Columbia).

**“Series 1 Trust Notes”** means the non-interest bearing Series 1 unsecured subordinated demand notes of the Trust.

**“Series 2 Trust Notes”** means the interest bearing Series 2 unsecured subordinated notes of the Trust.

“**Series 3 Trust Notes**” means the interest bearing Series 3 unsecured subordinated notes of the Trust.

“**SIFT Tax**” means the specified investment flow-through tax enacted by the Federal Government of Canada in 2007, which is an entity level tax that Canadian publicly listed income trusts are required to pay effective January 1, 2011.

“**Special Voting Unit**” means a special voting unit of the Fund to be issued to the holders of securities exchangeable into Units, and which shall entitle the holder to vote at any meeting of Voting Unitholders.

“**subsidiary**” has the meaning set out in the Securities Act and includes a partnership or other entity.

“**Swap Agreement**” means the International Swap Dealers Association Master Agreement entered into by the Partnership and the Bank.

“**Tax Act**” means the *Income Tax Act* (Canada) and regulations thereunder, as amended from time to time.

“**TDS**” means total debt service requirements and is the aggregate of:

- total interest expense on funded debt;
- scheduled principal repayments; and
- any capital lease payments,

which are scheduled to be paid during the period of the test.

“**Trust**” means Boston Pizza Holdings Trust, a limited purpose trust established under the laws of British Columbia.

“**Trust Notes**” means the Series 1 Trust Notes, Series 2 Trust Notes and Series 3 Trust Notes, collectively.

“**Trust Units**” means the units of the Trust.

“**Trustees**” means, at the relevant time, the trustees of the Fund.

“**TSX**” means the Toronto Stock Exchange.

“**Unitholders**” means, at the relevant time, the holders of the Units.

“**Unit**” means a trust unit of the Fund, each such unit representing an equal undivided beneficial interest therein.

“**Voting Units**” means collectively the Units and Special Voting Units.

“**Voting Unitholders**” means the holders from time to time of Units and Special Voting Units.

“**Voting Unitholders’ Special Resolution**” means a resolution passed by a majority of more than  $66\frac{2}{3}\%$  of the votes cast, either in person or by proxy, at a meeting of Voting Unitholders, called for the purpose of approving such resolution, or approved in writing by the holders of more than  $66\frac{2}{3}\%$  of the votes cast by Voting Unitholders entitled to vote on such resolution.

“**Western Canada**” means that part of Canada containing the provinces of Alberta, British Columbia, Manitoba and Saskatchewan and the territories of Nunavut, Northwest Territories and Yukon.

## GENERAL

The information in this Annual Information Form is dated as of February 6, 2013 unless otherwise indicated. All dollar amounts are stated in Canadian currency.

## CORPORATE STRUCTURE

### **Boston Pizza Royalties Income Fund**

The Fund is a limited purpose open-ended trust established under the laws of the Province of British Columbia by the Declaration of Trust. The Fund's head office is located at 100 – 10760 Shellbridge Way, Richmond, British Columbia, Canada, V6X 3H1 and its registered office is located at Suite 1200 Waterfront Centre, 200 Burrard Street, Vancouver, British Columbia, Canada, V7X 1T2. The Fund was established to, and on July 17, 2002 did, acquire indirectly through the Partnership the BP Rights and the BP Loan.

The Fund is administered by the Partnership pursuant to the Administration Agreement. See "Management – Administration Agreement".

The Fund owns 100% of the issued and outstanding Trust Units, 100% of the Series 1 Trust Notes and indirectly through the Trust and by indirect ownership of Holdings LP through the Trust and Holdings GP, 100% of the LP Units, Class A Units and Class D Units of the Partnership. The Fund owns 100% of the issued and outstanding common shares of Holdings GP. The Fund also owns 80% of the issued and outstanding common shares of the Partnership GP.

The Units are listed for trading on the TSX under the symbol BPF.UN.

The Declaration of Trust was amended in conjunction with the 2010 Special Meeting. For a description of the principal amendments, see "General Development of the Business – Recent Developments – Amendment to Declaration of Trust for IFRS".

### **Boston Pizza Holdings Trust**

The Trust is a limited purpose trust established under the laws of the Province of British Columbia pursuant to a declaration of trust between the Fund and William C. Brown made July 8, 2002, as amended and restated on September 22, 2008. The Trust is the sole limited partner of Holdings LP, owning 100% of the Holdings LP Units and 100% of the non-interest bearing promissory notes issued from time to time by Holdings LP, and indirectly through Holdings LP owns 100% of the LP Units, the Class A Units and the Class D Units of the Partnership. The declaration of trust for the Trust contemplates that the Trust will make monthly distributions of distributable cash to the holders of Trust Units.

### **Boston Pizza Holdings GP Inc.**

Holdings GP is a company incorporated under the laws of the province of British Columbia. Holdings GP owns 100% of the general partner units of Holdings LP and is the general partner of Holdings LP.

### **Boston Pizza Holdings Limited Partnership**

Holdings LP is a limited partnership formed under the laws of the Province of British Columbia pursuant to the Holdings Limited Partnership Agreement. The Trust is the sole limited partner of Holdings LP. Holdings GP is the sole general partner of Holdings LP. Holdings LP owns 100% of the LP Units, Class A Units and Class D Units of the Partnership. The Holdings Limited Partnership Agreement requires Holdings LP to pay monthly distributions to its partners of available cash first to the holders of the general partner units of Holdings LP in an amount equal to 0.01% of available cash up to a maximum of \$100.00, and second all remaining available cash to the holders of Holdings LP Units.

## **Partnership GP**

Partnership GP is a corporation incorporated under the CBCA. Partnership GP owns 99% of the GP Units of the Partnership and is the managing general partner of the Partnership. Pursuant to the Governance Agreement, the Fund is entitled to elect three of the five directors of Partnership GP and BPI is entitled to elect two of the five directors of Partnership GP. See “Management – Governance Agreement”.

## **Boston Pizza Royalties Limited Partnership**

The Partnership is a limited partnership formed under the laws of the Province of British Columbia pursuant to the Limited Partnership Agreement. Holdings LP is the sole limited partner of the Partnership. Partnership GP is the managing general partner and BPI is the general partner of the Partnership.

The Partnership is the owner of the BP Rights. The Partnership licenses the BP Rights to BPI for use in BPI’s business as a franchisor of Boston Pizza Restaurants. The License is granted pursuant the License and Royalty Agreement and BPI pays the Royalty to the Partnership equal to 4% of Franchise Revenue. See “License and Royalty”.

## **Boston Pizza International Inc.**

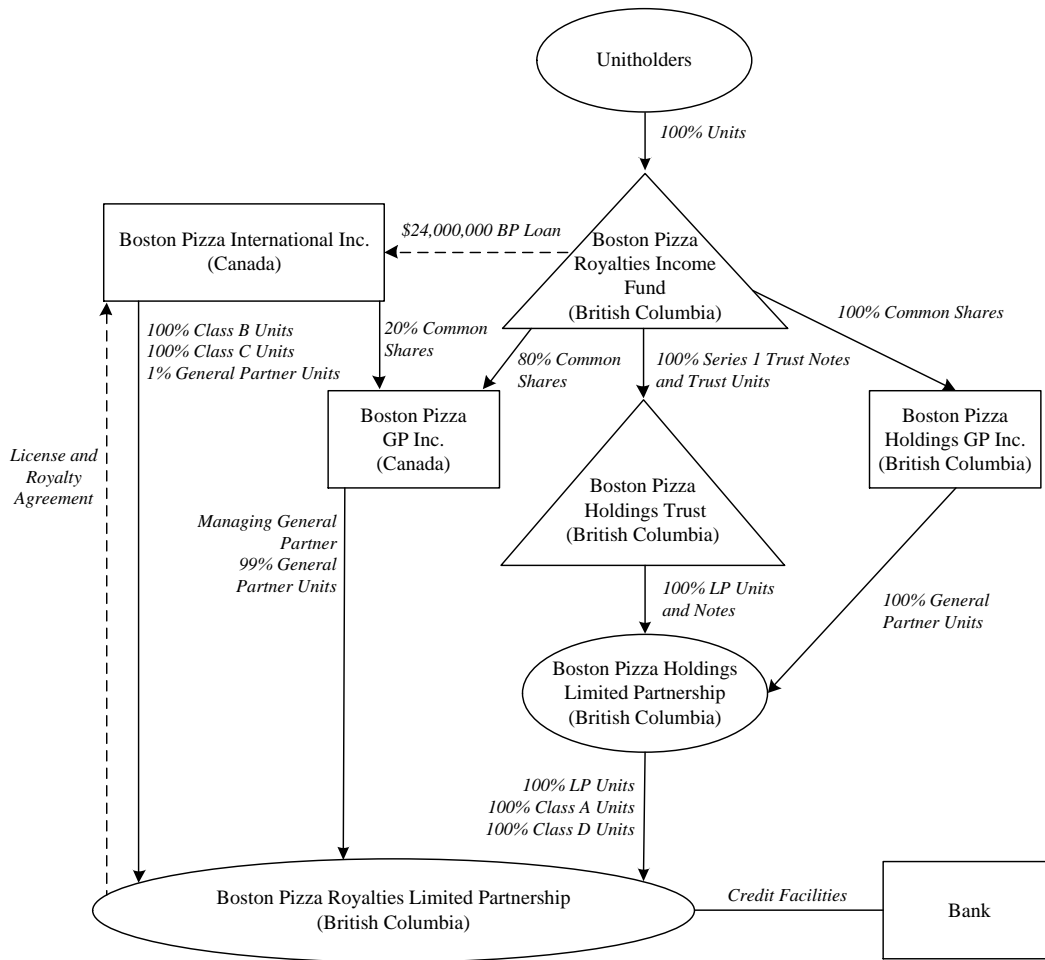
BPI is a corporation continued under the CBCA. BPI carries on business as the franchisor of casual dining pizza and pasta restaurants and operates only in Canada and, through various affiliated entities, in select markets in the United States and Mexico. BPI licenses the BP Rights from the Partnership under the License and Royalty Agreement.

BPI owns 100% of the Class B Units and 100% of the Class C Units of the Partnership and 1% of the GP Units. The Class B Units are exchangeable for Units of the Fund. As of February 6, 2013, BPI’s Class B Units represent an approximate indirect 12.4% interest in the Fund. BPI also holds 100% of the Special Voting Units of the Fund which entitle BPI to one vote for each Unit of the Fund that BPI would be entitled to receive if it exchanged all of its Class B Units of the Partnership for Units of the Fund. As of February 6, 2013, BPI was entitled to 2,203,845 votes, representing approximately 12.4% of the aggregate votes held by Voting Unitholders. See “Description of Fund – Units and Special Voting Units”. The number of Units of the Fund that BPI is entitled to receive upon the exchange of its Class B Units of the Partnership and the number of votes that BPI is entitled in respect of its Special Voting Units is adjusted annually to reflect any Additional Restaurants that are added to the Royalty Pool.

The Fund does not have any direct or indirect ownership interest in BPI.

## **Intercorporate Relationships**

The following chart illustrates the primary structural and contractual relations between the Unitholders, the Fund, the Trust, Holdings LP, Holdings GP, Partnership GP, the Partnership and BPI.



## GENERAL DEVELOPMENT OF THE BUSINESS

### Three Year History

The Fund's sole business is carried on through the Partnership. The Partnership's revenue is based on collecting a 4% royalty of Franchise Revenue from a fixed Royalty Pool.

On the Adjustment Date each year, an adjustment is made to add to the Royalty Pool new Boston Pizza Restaurants that opened and to remove any Boston Pizza Restaurants that permanently closed since the last Adjustment Date. In return for adding net additional royalty revenue, BPI receives the right to indirectly acquire Additional Entitlements. The adjustment for new Franchise Revenue added to the Royalty Pool is designed to be accretive to Unitholders. The Additional Entitlements for Adjustment Dates occurring on or before January 1, 2011 were calculated at 92.5% of the estimated royalty revenue added to the Royalty Pool, divided by the yield of the Fund, divided by the weighted average Unit price. BPI received 80% of the Additional Entitlements initially, with the balance received when the actual full year performance of the new restaurants is known with certainty. BPI receives 100% of distributions from the Additional Entitlements throughout the year. Once these new restaurants have been part of the Royalty Pool for a full year, an audit of the royalty revenues of these restaurants received from BPI is performed. At such time an adjustment is made to reconcile distributions paid to BPI and the Additional Entitlements received by BPI.

## **Amendment to Roll-in Calculation**

On January 2, 2011, the mechanism through which new Boston Pizza Restaurants are added to the Royalty Pool on each Adjustment Date was amended, in the manner described below, to adjust for the impact that the SIFT Tax has had on the economics of such mechanism commencing with the roll-in of new Boston Pizza Restaurants that occurred on January 1, 2012 and that will occur on each Adjustment Date thereafter (the "**Amendment**").

### *(i) Background to Amendment*

As a result of the SIFT Tax, the Fund commenced paying tax on January 1, 2011, at a rate approximately equal to the rate applicable to income earned by a Canadian public corporation and is prevented from deducting trust distributions when calculating taxable income. The SIFT Tax reduces the amount of cash available for distribution to the Unitholders.

### *(ii) Details of Amendment*

On January 2, 2011, the Limited Partnership Agreement governing the Partnership was amended by altering the basis for determining the Additional Entitlements that BPI receives for adding new Boston Pizza Restaurants to the Royalty Pool of the Partnership to take into account the reduced benefit that additional royalty revenues to the Partnership will have on the Fund and Unitholders as a result of the SIFT Tax. The percentage reduction is an estimate of the effective entity level tax rate (determined using the total income taxes paid by the Fund during the fiscal year divided by the total cash received by the Fund during that fiscal year) of the Fund for the upcoming year (i.e. for the roll-in of January 1, 2012, there was an estimate made of the effective entity level tax rate of the Fund for the year ended December 31, 2012).

The reduction in Additional Entitlements to BPI adjusted the economics of the roll-in mechanism, following the imposition of the SIFT Tax, to the economics in place between the parties prior to the imposition of the SIFT Tax. The roll-in mechanism was designed to compensate BPI for the new royalties added to the Partnership by the new Boston Pizza Restaurants, but still result in accretion to Unitholders and the Fund. The Amendment re-adjusted the roll-in mechanism such that the addition of new Boston Pizza Restaurants to the Royalty Pool in the future will continue to be accretive to the Fund and Unitholders.

Over the last three financial years the Royalty Pool remained stable at 340 restaurants from January 1, 2010 to January 1, 2011, increased to 342 restaurants as at January 1, 2012, and increased to 348 restaurants as at February 6, 2013 (being the net result from adding seven new restaurants to the Royalty Pool and removing two permanently closed restaurants from the Royalty Pool on January 1, 2013).

The historical adjustments for the last three years to the Royalty Pool and BPI's Additional Entitlements are as follows:

- On January 1, 2010, the number of Boston Pizza Restaurants for which the Royalty is paid to the Partnership was increased by 18 restaurants less one restaurant that was permanently closed. In return for the additional royalty revenue, BPI initially received 518,607 Additional Entitlements. An adjustment to the Additional Entitlements was made based on the full year performance of these stores, as a result of which BPI received an additional 164,033 Additional Entitlements.
- On January 1, 2012, the number of Boston Pizza Restaurants for which the Royalty is paid to the Partnership was increased by six restaurants less six restaurants that were permanently closed, one of which was a quick express restaurant. In return for the additional royalty revenue, BPI initially received 46,387 Additional Entitlements. An adjustment to the Additional Entitlements was made based on the full year performance of these stores, as a result of which BPI received an additional 61,481 Additional Entitlements.

- On January 1, 2013, the number of Boston Pizza Restaurants for which the Royalty is paid to the Partnership was increased by seven restaurants less two restaurants that were permanently closed. In return for the additional royalty revenue, BPI initially received 43,633 Additional Entitlements. An adjustment to the Additional Entitlements was made based on the full year performance of these stores, as a result of which BPI received an additional 88,411 Additional Entitlements. (See Recent Developments below for details of this adjustment).

### **Amendment to Declaration of Trust for IFRS**

The Declaration of Trust was amended on December 7, 2010 to ensure the continued classification of Units as equity on the balance sheet of the Fund under IFRS, which took effect on January 1, 2011. Under Canadian generally accepted accounting principals, the Units were classified as equity. However under IFRS, an instrument is classified as a financial liability if it contains a contractual obligation to transfer cash or other financial assets. In 2010, the Trustees of the Fund determined that the Units likely would be classified as a financial liability under IFRS as the Declaration of Trust contained a mandatory requirement to distribute to Unitholders no less than all of the Fund's taxable income and all of the Fund's net realized capital gains in each year. The Trustees of the Fund further determined that it would be undesirable for Units to be classified as a financial liability under IFRS. As a result, the Fund convened the 2010 Special Meeting on December 7, 2010 at which Unitholders approved, among other things, an amendment to the Declaration of Trust to remove the Fund's mandatory requirement to distribute to Unitholders no less than all of the Fund's taxable income and all of the Fund's net realized capital gains in each year. As a result of this amendment, the Units and distributions paid on the Units are, under IFRS, presented as equity from and after December 7, 2010; however, comparative figures for the periods prior to December 7, 2010 present the Units and distributions paid on the Units as a financial liability and interest expense, respectively. At the 2010 Special Meeting, Unitholders also approved an amendment to the Declaration of Trust that permits the Trustees of the Fund to make future amendments to the Declaration of Trust without Unitholder approval that are, in the opinion of the Trustees, necessary or desirable as a result of changes in accounting standards.

### **Recent Developments**

- January 1, 2013 Roll-in of New Boston Pizza Restaurants: On January 1, 2013, seven new Boston Pizza Restaurants that opened across Canada in the 2012 Fiscal Year were added to the Royalty Pool and the two restaurants that permanently closed in the 2012 Fiscal Year were removed from the Royalty Pool. The estimated annual gross Franchise Revenue for the seven new Boston Pizza Restaurants that opened less the revenue from the two permanent closures was \$8.2 million. The calculation for the number of Additional Entitlements received by BPI is designed to be accretive to existing Unitholders as the additional royalty revenues from the new restaurants are valued at a 7.5% discount. The estimated 4% royalty revenue the Fund will receive in 2013 from these additional seven new restaurants, less revenue from the two permanent closures, is \$0.3 million. The pre-tax royalty revenue for the purposes of calculating the Additional Entitlements, therefore, is \$0.3 million or 92.5% of \$0.3 million. The estimated effective average tax rate that the Fund will pay in the 2013 Fiscal Year is 25%. Accordingly, the after-tax royalty revenue for the purposes of calculating the Additional Entitlements is \$0.2 million ( $\$0.3 \text{ million} \times (1 - 0.25)$ ). In return for adding the royalty revenue from these seven new restaurants, less royalty revenue from the two permanent closures, to the Royalty Pool, BPI received the right to acquire an additional 155,559 Units, representing 80% of the Additional Entitlements with the balance to be received when the actual full year performance of the new restaurants and the actual effective average tax rate paid by the Fund for the 2013 Fiscal Year are known with certainty. The 155,559 Additional Entitlements represented 1.1% of the total outstanding Units on a fully diluted basis on January 1, 2013. 38,890 Additional Entitlements, representing the remaining 20% of the Additional Entitlements, have been "held back" until such time as the actual performance of these new Royalty Pool restaurants and the actual effective average tax rate paid by the Fund for the 2013 Fiscal Year are known. BPI also receives an increase in monthly distributions based on 100% of the Additional Entitlements, subject to a reconciliation of the distributions paid to BPI in respect of these Additional Entitlements that will occur once the actual performance of these new Royalty

Pool restaurants and the actual effective average tax rate paid by the Fund for the 2013 Fiscal Year are known.

- January 2013 Audit of 2012 Roll-in of New Boston Pizza Restaurants: In January 2013, an audit of the Royalty revenues of the seven new restaurants that were added to the Royalty Pool on January 1, 2012 were performed and the actual effective average tax rate paid by the Fund for 2012 was determined. The purpose of this was to compare the actual Royalty revenue from these seven new restaurants to the estimated amount of Royalty revenue the Fund expected to receive for 2012, and to compare the actual effective average tax rate paid by the Fund for 2012 to the estimated effective average tax rate the Fund expected to pay for 2012. The original Royalty revenue the Fund expected to receive from these seven new restaurants less the Royalty revenue from the four permanent closures that occurred in 2011 was \$0.3 million and the actual Royalty revenue that the Fund received was \$0.1 million greater. The original effective average tax rate the Fund expected to pay for 2012 was 25.0% and the actual effective average tax rate paid by the Fund for 2012 was 23.6%. As a result, the Partnership made a nominal payment to BPI to reconcile distributions payable on the full number of Additional Entitlements and the effective average tax rate. BPI received the right to acquire only 80% of the Additional Entitlements at the Adjustment Date in 2012. Following the audit, BPI received the right to acquire 88,411 Additional Entitlements.

## DESCRIPTION OF THE BUSINESS

### The Fund

The Fund is a limited purpose trust and as such the business of the Fund is limited to, among other things, investing in Trust Units and Trust Notes, holding the BP Loan, making distributions to Unitholders and matters incidental thereto. See “Description of Fund – Activities of the Fund” and “Description of Fund – BP Loan”.

The Fund’s distribution policy is to distribute the total amount of cash received by the Fund from the Trust on the Trust Units and the Trust Notes and from BPI on the BP Loan, less the sum of: (a) administrative expenses and other obligations of the Fund; (b) amounts which may be paid by the Fund in connection with any cash redemptions of Units; (c) any interest expense incurred by the Fund; and (d) reasonable reserves established by the trustees of the Fund in their sole discretion, including, without limitation, reserves established after January 1, 2011 to pay the SIFT Tax, in order to maximize returns to Unitholders.

### The Partnership

The business of the Partnership is to take actions consistent with the License and Royalty Agreement to exploit, to the fullest extent possible, the use of the BP Rights by BPI, the collection of the Royalty payable to the Partnership under the License and Royalty Agreement, and the administration of the Fund, the Trust, Holdings LP and Holdings GP pursuant to the Administration Agreement. See “License and Royalty”, “Description of the Partnership” and “Management - Administration Agreement”.

### Boston Pizza International Inc.

BPI carries on the business as franchisor of casual dining pizza and pasta restaurants in Canada. The business of BPI and the manner in which BPI operates that business is relevant to the Fund and its Unitholders since BPI is the exclusive licensor of the BP Rights under the License and Royalty Agreement. A key attribute of the Fund’s structure is the fact that it is a “top-line” fund. Royalty income of the Fund is based on top-line revenue of Royalty Pool restaurants and is not determined by the profitability of either BPI or the Boston Pizza Restaurants in the Royalty Pool. Given this structure, the success of the Fund depends primarily on the ability of BPI to maintain and increase Franchise Revenue of the Royalty Pool restaurants.



## Industry Overview

The CFRA estimates that Canada's commercial food service industry grew by 4.7% in 2012 and forecasts that it will grow by a further 3.9% in 2013<sup>1</sup>. The CFRA further predicts that commercial foodservice sales in Canada will increase at an annual average rate of 4.1% per year between 2012 and 2016, with full-service restaurant sales increasing at an annual average rate of 4.0% per year and quick-service restaurant sales increasing at an annual average rate of 4.5% per year for that same period<sup>1</sup>. Profitability in Canada's commercial foodservice industry in 2010 (the most recent year for which data is available from the CRFA) was 4.5% of operating revenue, relatively unchanged from 4.4% in 2009<sup>2</sup>. According to the CRFA, in 2011, traffic to chain restaurants grew by 1.2% following a 2.1% increase in 2010<sup>2</sup> (the most recent years for which data is available from the CRFA). Chain restaurants generate 75.2% of foodservice traffic and 62.4% of spending even though they account for only 37% of foodservice establishments<sup>2</sup>.

The HST imposes a 12% tax on restaurant services in British Columbia. Prior to July 1, 2010, restaurant services in British Columbia were exempt from provincial sales tax and were only subject to the 5% Goods and Services Tax. British Columbia will re-instate the 5% Good and Services Tax and 7% provincial sales tax following the referendum decision by British Columbians on August 26, 2011 to extinguish the HST in British Columbia, which reinstatement will result in restaurant services only being subject to the 5% Goods and Services Tax. However, the CFRA predicts that the return to the PST system currently scheduled for April 1, 2013 will drive the growth of total foodservice sales in British Columbia to 5.1% in 2013<sup>1</sup>.

The Canadian foodservice industry is comprised of two main sectors: commercial foodservice operators, whose primary business is food and beverage service; and non-commercial foodservice operators, such as hotels, retail outlets, movie theatres and schools, whose primary business is something other than food and beverage, but includes some component of commercial foodservice. Commercial foodservice operators generally fall within one of the following categories: restaurants, social and contract caterers and bars.

There are four major restaurant segments within commercial food service: quick-service, family / midscale dining, casual dining and fine dining, with the latter three falling within the definition of "full service restaurants". The table below summarizes the characteristics of the various segments:

<b>Restaurant Segment</b>	<b>Average Cheque Amount Per Person in 2011<sup>2</sup></b>	<b>Characteristics</b>	<b>Examples</b>
Quick Service	\$4.95	<ul style="list-style-type: none"> <li>• Counter service</li> <li>• Usually specializes in one type of food</li> <li>• Emphasis on take-out and delivery</li> <li>• Some drive-through service</li> </ul>	<ul style="list-style-type: none"> <li>• A&amp;W</li> <li>• KFC</li> <li>• McDonald's</li> <li>• Tim Horton's</li> </ul>
Family / Midscale Dining	\$11.29	<ul style="list-style-type: none"> <li>• Table or self-service</li> <li>• Usually specializes in one type of food</li> <li>• May be take-out service</li> </ul>	<ul style="list-style-type: none"> <li>• Denny's</li> <li>• Pizza Hut</li> <li>• Swiss Chalet</li> </ul>

<sup>1</sup> CRFA's Restaurant Industry Forecast: 2012 - 2016 periodical.

<sup>2</sup> CRFA's Foodservice Facts 2012 periodical.

<b>Restaurant Segment</b>	<b>Average Cheque Amount Per Person in 2011<sup>2</sup></b>	<b>Characteristics</b>	<b>Examples</b>
Casual Dining	\$16.17	<ul style="list-style-type: none"> <li>• Full table service</li> <li>• Themed atmosphere</li> <li>• Generally limited take-out</li> </ul>	<ul style="list-style-type: none"> <li>• Boston Pizza</li> <li>• Earl's</li> <li>• East Side Mario's</li> <li>• Kelsey's</li> <li>• Montana's</li> <li>• The Keg</li> </ul>
Fine Dining	\$41.51	<ul style="list-style-type: none"> <li>• Extensive table service</li> <li>• Formal table settings</li> </ul>	<ul style="list-style-type: none"> <li>• Morton's</li> <li>• Various independents</li> </ul>

### *Trends in the Foodservice Industry*

- On and Off Premise Trends: The CRFA reports that with Canadians struggling to juggle their home and work life, many households are eating restaurant meals and snacks off premise<sup>2</sup>. 57.3% of meals are eaten off premise and 42.7% are consumed on premise<sup>2</sup>. In 2011, traffic to restaurants rose by 0.5% as a 0.9% increase in on-premise dining due to increased traffic at quick-service restaurants<sup>2</sup>.
- Demographics Favouring Full Service Restaurants: Growth in the foodservice industry has been driven by demographic changes, as aging and increasingly affluent consumers spend more on foodservice, and a younger generation increasingly views foodservice not as a luxury but integral to their everyday lifestyle.
- Significant Market Share of Chain Restaurants: According to the latest CRFA figures<sup>2</sup>, chain restaurants in Canada represented 62.4% of the revenues generated in the commercial foodservice industry and 75.2% of the traffic in the commercial foodservice industry<sup>2</sup>. The continued significant market share of chain restaurants, is in part, a result of the brand strength that many of the chain restaurants have developed through their use of marketing programs, resulting in increased traffic and market share. Management expects continued consolidation in the industry and increasing market share for the largest chain operators and franchises.

### *Overview of the Business of BPI*

From its first restaurant in Edmonton in 1964, Boston Pizza has grown to become Canada's number one casual dining brand. With 348 restaurants stretching from Victoria to St. John's, Boston Pizza has more locations and serves more customers annually than any other casual dining concept in Canada.

BPI is a franchise-driven restaurant company, and operates only three Boston Pizza Restaurants as corporate restaurants. These corporate restaurants also serve as franchisee training centres, and allow BPI to test-market new menu items and programs before launching them throughout the BPI franchise system. BPI's strategic focus on the development of successful franchise operations has underpinned the success of the Boston Pizza franchise system over the past 49 years.

BPI franchises the "Boston Pizza", "Boston Pizza Fast Casual" and the "Boston Pizza Quick Express" concepts. Boston Pizza is a full service restaurant and sports bar concept competing in the casual dining segment of the restaurant industry. Boston Pizza Fast Casual and Boston Pizza Quick Express locations serve a limited menu and are targeted to "captured traffic" locations such as arenas, food courts, governmental institutions and airports. As of February 6, 2013, there are three Boston Pizza Quick Express locations and one Boston Pizza Fast Casual location.

*The Boston Pizza Concept*

Two Distinct Dining Experiences – The Boston Pizza Restaurant provides for “two experiences under one roof”, with a full service, family friendly casual dining restaurant and a separate sports bar. The restaurant décor is lively, colourful and eclectic. The bar area is an adult-oriented design with big screen TVs. Most restaurants also have an outdoor patio to accommodate guests during the warmer months. A typical restaurant is 5,185 to 6,300 square feet and has seating for 160 to 225 guests in total.

Ability to Target Distinct Business Segments – The Boston Pizza concept offers the flexibility to target four distinct business segments, or “dayparts”. Lunch and dinner are standards for the casual dining segment, but Boston Pizza has a competitive advantage in the late night daypart due to its sports bar development. Boston Pizza Restaurants also have a much more developed take-out and delivery business by virtue of their pizza menu focus. Take-out and delivery sales averaged 14.3% of total sales across the chain in 2012.

Boston Pizza Target Market - Boston Pizza is able to exploit its unique “two experiences under one roof” restaurant design to simultaneously and successfully appeal to different target groups. Families and other casual dining customers are attracted to Boston Pizza’s menu, décor, friendly service and moderate pricing while the “bar crowd” is attracted to the fun, social atmosphere of the sports bar. Families are the primary target and represent approximately 66% of the total business, split equally between families with young children and families with teenagers. The secondary target skews to adults between the legal drinking age and 40 - primarily males who play and watch sports. Both of these broad market segments are expected to continue to drive full service restaurant trends in the coming years.

*BPI’s Board of Directors and Senior Management*

BPI has a highly skilled and experienced Board of Directors and senior management team that oversees the strategic direction and operations of BPI. The Board of Directors of BPI is comprised of Co-Owners and Co-Chairmen W. James Treliving and George C. Melville. The senior management team of BPI consists of 15 senior officers lead by President and Chief Executive Officer, Mark Pacinda. The names and positions of the directors and senior officers of BPI are as follows:

<u>Name</u>	<u>Position</u>
Walter J. (Jim) Treliving	Director, Chairman & Owner
George C. Melville	Director, Chairman, Owner & Secretary
Mark G. Pacinda	President and Chief Executive Officer
Ken Otto	Chief Operating Officer
Wes Bews	Chief Financial Officer
Stephen M. Plunkett	Executive Vice President, Communications and Technology
Steve Silverstone	Executive Vice President, Marketing
Alan Howie	Regional Vice President, Western Operations
Paul Pascal	Regional Vice President, Eastern Operations
Daniel Harvey	Regional Vice President, Quebec Operations
Jonathan K.M. Jeske	General Counsel
Jordan Holm	Vice President, Investor Relations
Caroline Schein	Vice President, People and Operations Development
Joanne Forrester	Vice President, Marketing
Alexander Green	Vice President, Marketing

<u>Name</u>	<u>Position</u>
Helen Langford	Vice President, Foodservices
Steve Johnstone	Chief Information Officer

A biographical summary of the Chairmen, two directors and co-owners, the Chief Executive Officer, the Chief Operating Officer and the Chief Financial Officer of BPI is as follows:

**WALTER J. (JIM) TRELIVING, CHAIRMAN & OWNER:** Mr. Jim Treliving is a director and officer of BPI and is a co-owner (through his holding company). He has been involved with the Boston Pizza concept since the early 1960s. After serving with the Royal Canadian Mounted Police, Mr. Treliving became a management trainee in an Edmonton, Alberta Boston Pizza Restaurant. Mr. Treliving went on to purchase his own Boston Pizza franchise in Penticton, British Columbia. After establishing several additional Boston Pizza outlets, he joined with George Melville to acquire ownership of the franchise rights to the concept and established BPI in 1983.

**GEORGE C. MELVILLE, CHAIRMAN, OWNER & SECRETARY:** Mr. George Melville is a director and officer of BPI and is a co-owner (through his holding company). He has been involved with the Boston Pizza concept since 1973. His duties and accomplishments include the planning and execution of the growth and constant improvement of the Boston Pizza system. Mr. Melville earned his Chartered Accountant designation in 1968 and was appointed Manager of Peat Marwick Mitchell & Co., Penticton, British Columbia branch in 1970. He has been active in business management and finance in many capacities over the years and is directly involved in the operation of the BPI.

**MARK G. PACINDA, PRESIDENT AND CHIEF EXECUTIVE OFFICER:** Mr. Mark Pacinda joined BPI in December 1997 as Executive Vice-President and became President in January 2004 and Chief Executive Officer in July 2011. In his position as President and Chief Executive Officer, Mr. Pacinda oversees all aspects of BPI, including marketing, development, operations, strategic planning and finance. Prior to joining BPI, Mr. Pacinda was the Vice-President and General Manager for Arby's Canada from 1994 to 1997. Prior to working for Arby's Canada, Mr. Pacinda held various senior management positions with Pepsi Co. Inc. including Vice-President and Chief Financial Officer, from 1986 to 1994.

**KEN OTTO, CHIEF OPERATING OFFICER:** Mr. Ken Otto joined BPI in June 2004, as Executive Vice President, Operations and became Chief Operating Officer in July 2011. Mr. Otto is responsible for the ongoing strategic development of the Boston Pizza brand in Canada, food services operations, purchasing, construction & design and franchising. Prior to joining BPI, Mr. Otto was employed by the Airport Terminal Restaurants division of Cara Operations Ltd. Mr. Otto held a number of positions with the Airport Terminal Restaurants division of Cara Operations Ltd., including Chief Operating Officer from 2001 to 2004, Assistant Vice President from 1999 to 2000 and General Manager from 1998 to 1999. Prior to working for the Airport Terminal Restaurants division of Cara Operations Ltd., Mr. Otto held senior management positions with Moxie's Restaurants, including Director, Franchise and Corporate Development from 1997 to 1998 and Regional Manager from 1996 - 1997. From 1987 to 1996, Mr. Otto worked as a consultant to Canada's hospitality industry with the firms Price Waterhouse and Panel Kerr Forster.

**WES BEWS, CHIEF FINANCIAL OFFICER:** Mr. Wes Bews joined T & M Management Services Ltd., a parent company of BPI, as Vice-President of Finance in January of 2008. Since January 2010 he has held the position of Vice-President of Finance of BPI, in December 2010 was appointed Chief Financial Officer of Partnership GP and in July 2011 was appointed Chief Financial Officer of BPI. As Chief Financial Officer, Mr. Bews oversees the finance, accounting, risk management, legal and investor relations departments. Prior to that, Mr. Bews served as the Corporate Controller for CHC Helicopter Corporation from December 2006 to October 2007 and for Premium Brands Income Fund from January 1999 to December 2006. Wes has been a member of the Institute of Chartered Accounts of British Columbia since obtaining his C.A. designation in 1996.

All members of BPI's senior management team are employed under written employment contracts that contain, among other things, restrictions on the ability of those employees to compete against BPI and Boston Pizza Restaurants both while they are employed by BPI and for a period of time after they cease to be employed by BPI.

BPI has 176 employees.

### *Franchise Support Systems*

BPI believes that its historical success, and the success of Boston Pizza going forward, begins with the success of each individual franchise. BPI's approach to restaurant development begins with the careful selection of the right market site and coupling an appropriate location with a strong franchisee. As part of its commitment to ensuring success of the Boston Pizza franchisee, BPI provides the following support services:

Franchisee Selection – BPI has developed a rigorous, systematic approach to franchisee selection. A potential franchisee must go through a series of interviews with senior managers in each of the key business operational areas: marketing, finance and operations. A series of financial and background checks are also conducted on a potential franchisee.

Real Estate – BPI's real estate managers take a lead role in sourcing, negotiating and securing sites, as well as assembling the necessary site approval information. BPI provides full demographic and market analysis as well as site information. Once assembled, the site packages go through a multi-department review with senior management before final approval is given to the franchisee.

Finance – BPI administers national franchise finance programs with major Canadian lenders to provide funds for new store construction, store renovations and equipment leasing. However, BPI does not provide these financial institutions with a guarantee of franchisees' obligations or otherwise provide financial assistance to the franchisees. A comprehensive general insurance program has been developed with the support of insurance brokers and consultants to provide Boston Pizza franchisees with a complete and competitive program that effectively protects the interests of both the franchisees and BPI. A group benefits program is administered through BPI's Finance group providing corporate staff and the franchisee community with benefits coverage for employees and their families.

Construction and Design – BPI has developed a project management process that oversees new store design and construction with the franchisee to ensure adherence to BPI store design standards. The design and construction process includes the design, tender and award process, development review process, construction start-up meetings, on-site construction completion and pre-opening review, final inspection, one-year warranty inspection and final project review. The construction department also has oversight of the renovation construction process with the franchisees to ensure adherence to BPI current design standards. Each Boston Pizza restaurant must renovate their restaurant on a seven-year cycle, which includes design changes to the exterior and interior, scope of work, budget preparation, drawing and tendering.

Training - Franchisees and their general managers undergo seven weeks of total training. Each trainee completes an intensive five-day Business Management Foundations program and then completes six weeks of practical training at one of the corporate restaurants. BPI provides a separate three-week training course for the franchisee's kitchen manager. In addition to the initial franchisee training program, BPI provides ongoing training programs; including in-market sessions annually, a leadership conference every two years, and ongoing on-line learning sessions.

Store Opening Support - A regional business manager is assigned to each new franchise to assist in the development of a business plan and a restaurant opening marketing support program. Two weeks prior to the store opening date, BPI supplies a four person training team that stays during and for two weeks after opening. The training team assists franchisee in hiring staff and training staff and managers on restaurant operating standards.

Ongoing Field Support - Each restaurant is assigned to a regional business manager who provides ongoing support and assessment of the financial and operations standards including local store marketing. In the first year a restaurant is open they will receive a minimum of three visits: a store opening visit and two subsequent business review visits. After the first year, each Boston Pizza restaurant receives a minimum of two business review visits and ongoing online learning sessions. There are also a number of programs that utilize comprehensive tools and reports that help franchisees and managers budget, monitor expenses, and understand overall guest satisfaction. All programs link into an annual reward program that recognizes top performing stores who utilize and execute BPI programs, processes and tools.

Purchasing - BPI's purchasing department leverages Boston Pizza's buying power to procure the highest quality ingredients at the best possible prices. Approximately 85% of total food purchases are covered under national buying contracts that are negotiated directly with large manufacturers. This allows BPI to procure food, packaging and equipment at prices that are substantially lower than the market average price for like items.

Research and Development – BPI employs an executive chef and has a Menu Development Committee, who together are responsible for menu development. This group's key goal is the continuous refreshment and updating of the menu while maintaining BPI's strategic food cost target. This group also manages menu design and administration and reviews pricing decisions.

Information Technology – Franchisees use the POSitouch point of sale system for order entry, inventory, labour management and reporting. POSitouch provides detailed information on food and labour costs, and the system's architecture allows BPI to collect detailed sales information electronically. This information is stored in a data warehouse and is then used by BPI staff to analyze menu item profitability, menu item sales volumes and to support marketing decisions. Immediate communication throughout the organization is achieved online through BPI's Intranet system, "Bostonlink", a web-based knowledge management and collaboration system which allows franchisees and corporate staff continual access to key operational information and company announcements, along with access to online manuals and resource materials.

Franchise Agreement – The legal relationship between a franchisee and BPI is governed by a franchise agreement entered into between each franchisee and BPI. In BPI's standard franchise agreement, BPI licenses a franchisee the right to operate a Boston Pizza Restaurant and use the BP Rights in a specific geographical location strictly in accordance with comprehensive standards and protocols mandated in the franchise agreement. For this right, the franchisee is required to pay BPI a 7% royalty on Franchise Revenue (in the case of a full service restaurant or fast casual) and a 5% royalty on Franchise Revenue (in the case of a quick express restaurant), together with certain marketing and other charges as specified in the franchise agreement. The initial term of a franchise agreement is typically 10 years, with a right to renew the franchise agreement for an additional term of 10 years in certain circumstances. One of BPI's competitive strengths is that the franchise agreement requires each Boston Pizza Restaurant to undergo, at the franchisee's expense, a complete store renovation every seven years and complete any equipment upgrades as required by BPI. BPI has the right to terminate a franchise agreement in a variety of circumstances, including a material breach of the franchise agreement by the franchisee or the bankruptcy or insolvency of the franchisee.

### *Competitive Strengths*

BPI believes that the success of the Boston Pizza concept and the historically strong increases in SSSG and Franchise Revenues are driven by the following factors:

- Low Food Costs - The Boston Pizza menu features pizza and pasta on an extensive menu of over 100 items. The balance of low-cost high return signature food items like pizza and pasta and high cost items such as steak, seafood or poultry affords us a lower than average overall food cost while providing our guests with tremendous menu variety. The corporate target is to

maintain pizza and pasta sales at 45 to 50% of food sales in order to maintain our food cost targets, which is a key component of Boston Pizza's success.

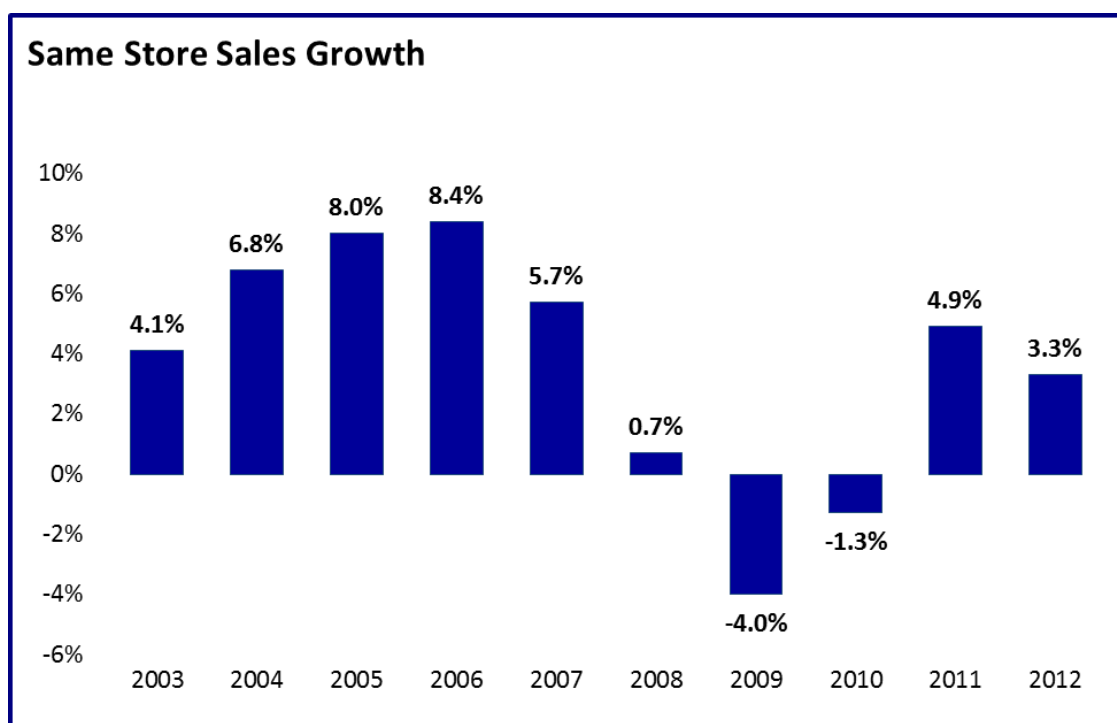
- Broad Demographic Appeal – Boston Pizza Restaurants operate within two distinct categories of the full service restaurant segment as a casual dining restaurant and as a sports bar. This concept duality means that the typical Boston Pizza Restaurant has broader demographic appeal, primarily targeting families as restaurant customers as well as young adults with no children as sports bar customers. These two segments are typically considered to be very different markets.
- Ability to Target Multiple Dayparts – The Boston Pizza concept provides a franchisee with the flexibility necessary to target four distinct “dayparts” or segments – lunch, dinner and late night, as well as the takeout and delivery segment. Typically, other casual dining concepts are not as well developed in the late night and takeout and delivery segments.
- Single Brand Focus – BPI's exclusive focus on Boston Pizza has driven the continued successful evolution of the brand. This has had a significant impact in the areas of menu development, franchisee communication and relations, and marketing.
- Franchise System Focus – Unlike many competitors in the casual dining segment, BPI's business is focused on franchisee operations rather than owning and operating restaurants corporately. BPI owns and operates only three Boston Pizza Restaurants (which also serve as testing facilities and training centres for franchisees). The focus of BPI's operations is on the success of its franchise restaurants.
- Market Flexibility – With its menu diversity, average cheque advantage and profitability potential for a franchisee, the Boston Pizza concept has enjoyed success in a wide range of markets, including smaller markets. Some very successful franchises operate in population trade areas under 20,000 people. The profitability and universality of the Boston Pizza concept allows for expansion into markets which BPI believes would be unable to support other competing casual dining concepts.
- Average Cheque Advantage – BPI delivers a top quality eating experience with a lower average guest cheque relative to many other casual dining restaurants. This translates into a significant advantage for franchisees and BPI, both in being able to target a broader market generally and in providing an appealing “cross-over” option for customers in changing economic conditions.
- Ability to Continuously Update the Concept – BPI's franchise agreement provides that franchisees are required to update their restaurants at least every seven years to current standards set by BPI. This is a significant advantage in that it allows BPI to ensure that locations are maintained at the highest standards, and allows for regular updating of the concept. In many cases this regular updating and renovation has been a key determinant of the continued success of specific locations.
- Award Winning National Marketing Platform – Boston Pizza is one of the few casual dining restaurant brands in Canada able to utilize the efficiencies of national marketing initiatives such as purchasing of blocks of advertising on cable and national network television. This growth in marketing resources has allowed BPI to invest in an aggressive promotional calendar, including sponsorship of the AirMiles® customer loyalty program.
- Advantages of Scale and Scope – As well as increasing marketing impact, BPI is able to benefit from its increasing number of franchise operations to increase purchasing efficiencies and reduce unit cost overhead in providing services to franchisees.

### Growth Strategy

Management believes that Boston Pizza is well positioned to enhance its number one position in the casual dining market. BPI's future growth is expected to come from a combination of same store sales growth and new restaurant growth.

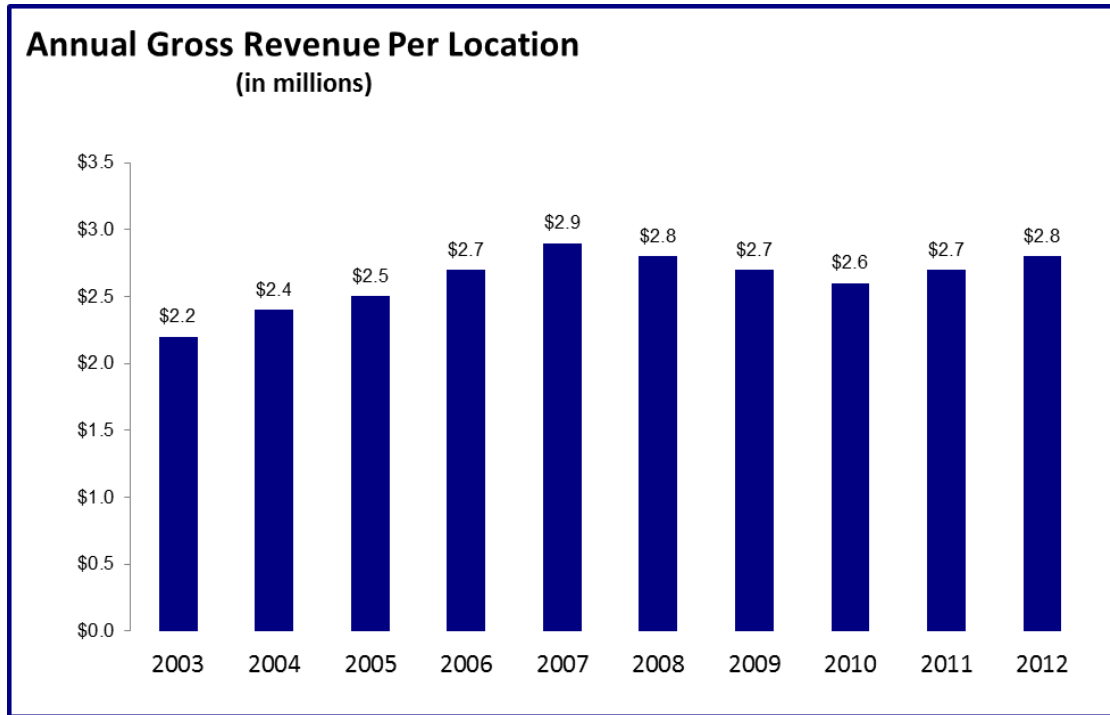
- Same Store Sales Growth – BPI has demonstrated a track record of strong SSSG, averaging 3.7% over the last 10 years. BPI's franchise agreement requires that each Boston Pizza Restaurant undergo a complete store renovation once every seven years at the franchisee's expense, as well as any equipment upgrades required by BPI. BPI's renovation program is a proven sales builder. Restaurants typically close for two to three weeks to complete the renovation and experience an incremental sales increase in the year following the re-opening.

The following chart shows SSSG over the last ten years ended December 31, 2012.





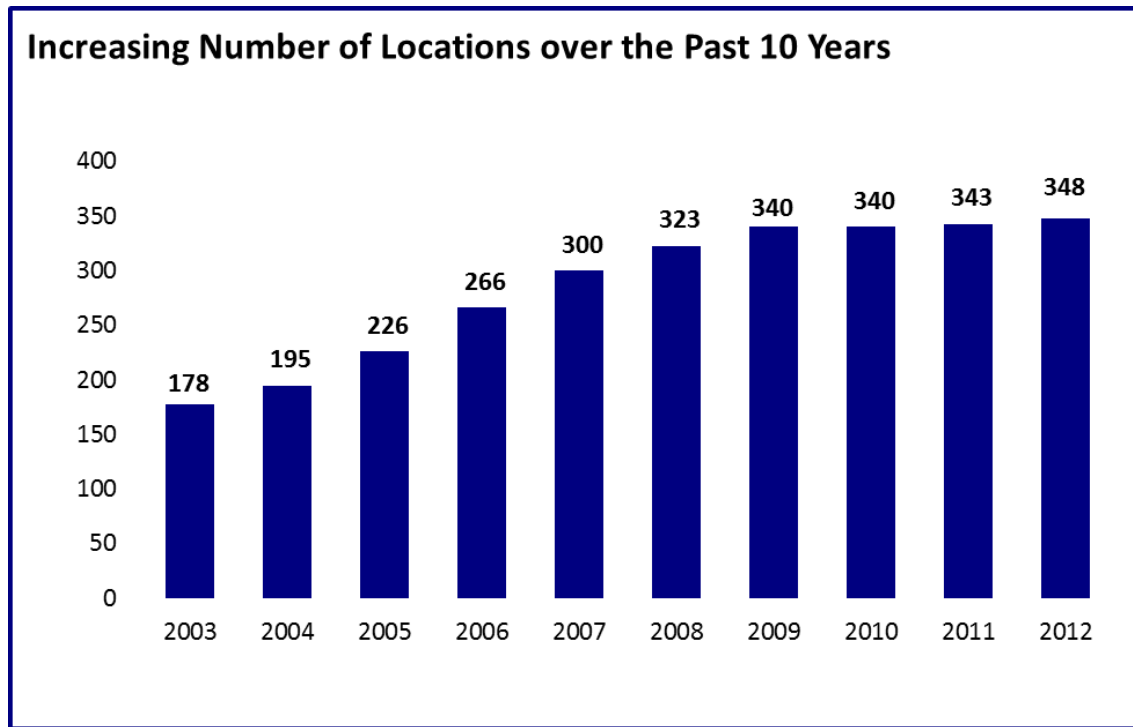
The following chart shows average annual Gross Revenue per Boston Pizza Restaurant over the last ten years ended December 31, 2012 (excluding (i) any Boston Pizza Restaurant that was not open for a minimum of 24 months as at the end of the applicable year, (ii) Boston Pizza Quick Express locations, and (iii) Boston Pizza Fast Casual locations).



- Growth in New Restaurants** – BPI currently has significant commitments from franchisees to develop new restaurants. Eastern Canada and Quebec are markets with significant development potential for new restaurants, while BPI will continue to infill an already well developed market in Western Canada. As at February 6, 2013, Boston Pizza Eastern Canada has received 10 deposits for new restaurants in Eastern Canada, one deposit for a new restaurant in Quebec and 13 deposits for new restaurants in Western Canada. As at February 6, 2013, 348 Boston Pizza Restaurants are in operation. The following is a summary of existing Boston Pizza Restaurants distributed by province:

PROVINCE	NUMBER OF EXISTING RESTAURANTS (INCLUDING FAST CASUAL AND QUICK EXPRESS)
Alberta	101
British Columbia	61
Manitoba	16
New Brunswick	5
Newfoundland and Labrador	2
Northwest Territories and Yukon	2
Nova Scotia	10
Ontario	107
Prince Edward Island	1
Québec	26
Saskatchewan	17
<b>TOTAL</b>	<b>348</b>

The following chart shows the increase in the number of Boston Pizza Restaurants during the last 10 years ended December 31, 2012:



#### *Government Regulation*

##### Local Regulation of Boston Pizza Restaurants

Corporate and Franchised Boston Pizza Restaurants are subject to licensing and regulation by a number of governmental authorities which may include liquor, health, sanitation, safety, fire, building and other agencies in the provinces or municipalities in which Boston Pizza Restaurants are located. Developing new Boston Pizza Restaurants in particular locations requires licenses and land use approval, and restaurant openings could be delayed by difficulties in obtaining such licenses and approvals or by more stringent requirements of local government bodies with respect to zoning, land use and licensing. Boston Pizza franchisees must comply with all applicable federal, provincial and local laws and regulations. Pursuant to its franchise agreements, BPI is indemnified by Boston Pizza franchisees for any liabilities or costs incurred which are attributable to the franchisee's failure to comply with such laws and regulations.

##### Food Product Regulation

BPI and suppliers of food products to Boston Pizza Restaurants must comply with applicable federal and provincial regulations relating to the manufacturing, preparation and labelling of food products.

##### Franchise Regulation

BPI must comply with the laws and regulations adopted in the Provinces of Alberta, Manitoba, Ontario, Prince Edward Island and New Brunswick that require certain disclosure to be made with respect to the offer and sale of franchises. These laws require that BPI furnish prospective Boston Pizza franchisees with a disclosure document containing information prescribed by these laws.

### Employment Regulations

BPI and Boston Pizza franchisees are subject to provincial labour and employment laws that govern their relationship with employees, such as minimum wage requirements, overtime and working conditions.

### Regulations Governing Alcoholic Beverages

Alcoholic beverage control regulations require that BPI, its subsidiaries or a Boston Pizza franchisee, as the case may be, apply to a provincial or a municipal authority for a license or permit to sell alcoholic beverages on the premises and, in certain locations, to provide service of alcoholic beverages for extended hours and on Sundays. Typically, licenses must be renewed annually and may be revoked or suspended for cause at any time. Alcoholic beverage control regulations relate to numerous aspects of daily operations of a Boston Pizza Restaurant, including the minimum age of patrons and employees, hours of operation, advertising, wholesale purchasing, inventory control, and handling, storage and dispensing of alcoholic beverages.

Boston Pizza Restaurants may be subject to certain provincial statutes, which may provide a person injured by an intoxicated person the right to recover damages from an establishment that wrongfully served alcoholic beverages to the intoxicated person.

### Regulations Governing Smoking

Boston Pizza Restaurants are subject to various laws that prohibit or limit smoking on the premises and that impose fines for failure to adhere to such laws.

### *Competition*

Boston Pizza Restaurants compete with other food service operations within the same geographical area. Competition, in the broadest perspective, includes full service restaurants, quick service restaurants, coffee shops, delicatessens and supermarkets. More narrowly, Boston Pizza is competing within the casual dining segment of the full service restaurant segment. The principal competitors to Boston Pizza vary from market to market and include a number of regional and national chain restaurants. These include Earl's, East Side Mario's, Jack Astor's, Kelsey's, Montana's and The Keg, as well as other smaller chains.

Boston Pizza competes with other casual dining concepts for high quality restaurant sites as well as committed, qualified individuals as franchisee candidates. In terms of customers, competition comes primarily through the quality, variety and value perception of the menu items, as well as through the perception of the quality of the dining experience. The number of locations, attractiveness of facilities, effectiveness of marketing and menu development are also important competitive factors.

### *Seasonality*

Boston Pizza Restaurants experience seasonal fluctuations in Franchise Revenue, which are inherent in the full service restaurant industry in Canada. Seasonal factors such as better weather allow Boston Pizza Restaurants to open their patios and generally increase Franchise Revenue in the second and third fiscal quarters compared to the first and fourth fiscal quarters. Tourism is also a seasonal factor positively impacting the same time frame.

### **BPI Line of Credit**

BPI entered into an agreement with the Bank dated November 16, 2007 whereby the Bank agreed to provide to BPI an operating line of credit, repayable on demand, in the amount of \$7.5 million dollars with an interest rate equal to the Bank's prime rate. This Line of Credit will be used to cover BPI's day-to-day operating requirements through normal seasonal variations in the business, if needed. As of February 6, 2013, this Line of Credit is not drawn upon.

BPI's obligation under the Line of Credit from the Bank is secured by a first charge over the assets of BPI and its subsidiaries, other than the following assets of BPI:

- the royalty payments received by BPI from its franchisees;
- the Class C Units held by BPI; and
- the monthly distribution by the Partnership on those Class C Units.

The Fund and its subsidiaries (including the Partnership) will continue to have a first charge over these assets and will have a second position charge over all of the other assets of BPI and its subsidiaries (with certain exceptions).

BPI has, as part of the security granted to the Bank, agreed to pledge a minimum number of Class B Units held by BPI which are convertible into Units of the Fund which would have a value, at any time, equal to at least 125% of the amount outstanding on the Line of Credit.

BPI and its subsidiaries have also consented under the Line of Credit that they shall:

- not guarantee any debt without the prior consent of the Bank;
- not grant a security interest in their assets without the prior consent of the Bank (excluding standard permitted liens);
- not amalgamate or merge without the consent of the Bank (such consent not to be unreasonably withheld);
- not allow a change of control without the prior consent of the Bank (such consent not to be unreasonably withheld);
- not maintain the Line of Credit in an overdraft position for more than 180 consecutive days;
- at all times maintain an adjusted current ratio of 1.10:1 (tested quarterly); and
- at all times maintain a maximum total funded debt to EBITDA ratio of 3.00:1 (tested quarterly; EBITDA is calculated on a rolling 4 quarters basis); and shall at all times maintain a ratio of CFADS to TDS of 1.25:1 (tested annually).

## **LICENSE AND ROYALTY**

### **The License**

Pursuant to the License and Royalty Agreement, the Partnership has granted to BPI the License to use the BP Rights for a period of 99 years from July 17, 2002.

### **The Royalty**

As consideration for the License, BPI pays the Partnership on a monthly basis the Royalty equal to 4% of Franchise Revenue for all Boston Pizza Restaurants included in the Royalty Pool. The amount of the Royalty is determined at the end of each month and is payable on the 21st day following the end of such month.

The Royalty Pool, at any time, is comprised of the Boston Pizza Restaurants for which Franchise Revenue is to be calculated and for which the Royalty is to be paid at such time. As of February 6, 2013 there are 348 Boston Pizza Restaurants in the Royalty Pool. For the purposes of determining the amount of the Royalty payable at any time, Franchise Revenue is Gross Revenue after deducting revenue from the sale of liquor, beer, wine and tobacco and approved national discounts.

Each time a Royalty payment is made to the Partnership, BPI provides the Partnership with a statement, certified as correct by the Chief Financial Officer of BPI, of the amount of the Franchise Revenue for the month for which the Royalty is paid. The Partnership is entitled to inspect the books and records of BPI at any time to review the determination of the amount of the Royalty that is payable by BPI. BPI is obligated to provide the Partnership and the Fund, by not later than February 28 of each year, with an audited statement of the amount of Franchise Revenue for the 12 months ended on December 31 of the preceding year.

BPI is also obligated to provide the Partnership and the Fund with BPI's unaudited financial statements within 45 days of the end of each quarterly accounting period of BPI and audited annual consolidated financial statements within 90 days of the end of each fiscal year of BPI. These financial statements are required to be prepared in accordance with Canadian generally accepted accounting principles.

### **Operating Covenants of BPI in the License and Royalty Agreement**

BPI is obligated under the License and Royalty Agreement, among other things, to:

- operate and conduct its business (including the supervision of the Boston Pizza franchisees) in at least the manner and to at least the standards that its business was conducted and operated as at July 17, 2002;
- preserve and protect the business of BPI and all goodwill associated therewith;
- collect all fees and other amounts payable to BPI under franchise agreements with BPI by Boston Pizza franchisees;
- monitor the compliance of Boston Pizza franchisees with the trade mark and character and quality standards set under the franchise agreements;
- enforce the observance and performance of franchise agreements by Boston Pizza franchisees in a manner that is consistent with good and prudent business practices; and
- not, without the consent of the Trustees, which shall not be withheld unreasonably, amend the terms of any franchise agreement such that:
  - royalty revenues under a franchise agreement are calculated in a manner that is not consistent with the present and past practices of BPI, including, without limitation, any reduction in the percent of food sales that is payable by franchisees as a royalty;
  - franchisees are required or have the opportunity to purchase supplies or equipment from BPI or any affiliate of or related party to BPI, in connection with any change in the manner by which royalty revenues are determined; or
  - franchisees are obligated to carry on business in a manner that is not materially consistent with historical Boston Pizza practice.

### **Adjustment of the Royalty**

The License and Royalty Agreement provides for an annual adjustment to the amount of the Royalty based upon closed Boston Pizza Restaurants and any Additional Restaurants. The following is a summary only of the manner by which such adjustments are calculated and implemented. Reference should be made to the License and Royalty Agreement and Limited Partnership Agreement for the full text of these adjustments.

### *New Boston Pizza Restaurants and Adjustment to the Royalty Pool*

BPI intends to continue to expand the number of Boston Pizza Restaurants in Canada by entering into franchise agreements in respect of new Boston Pizza Restaurants that are not included in the Royalty Pool.

The Royalty Pool is adjusted on each Adjustment Date by including in the Royalty Pool those Additional Restaurants which opened prior to the Adjustment Date and deleting from the Royalty Pool those restaurants that permanently closed during the year.

### *Class B Unit Entitlement*

The holders of the Class B Units are entitled to distributions on the Class B Units in each year, payable monthly, equal to the distribution on that number of Units equal to the Class B Distribution Limit at that time. The Class B Distribution Limit and the Class B Exchange Limit (the number of Fund Units the holder of Class B Units is entitled to acquire from time to time) are adjusted on the Adjustment Date in each year based upon the Determined Amount.

The amount of the Franchise Revenue of the Additional Restaurants that is used to calculate the Determined Amount is to be based upon the amount that the actual Franchise Revenue of the Additional Restaurants for the first fiscal year in which such Additional Restaurants are included in the Royalty Pool exceeds the Franchise Revenue of Boston Pizza Restaurants that permanently closed during the year (the amount of Franchise Revenue of a "permanently closed" Boston Pizza Restaurant is determined using Franchise Revenue of that restaurant for the twelve months following the date of adding that restaurant to the Royalty Pool). An estimate of the Determined Amount is to be made based upon the amount of the Franchise Revenue of the Additional Restaurants for such fiscal year as forecast by BPI, on the basis of assumptions that are considered to be reasonable by the board of directors of Partnership GP. Such estimated Determined Amount is to be readjusted after the end of such fiscal year when the actual Determined Amount is calculated on the basis of the actual Franchise Revenue for such Additional Restaurants for such fiscal year. BPI is to provide the Partnership with an audited report of the amount of such Franchise Revenues of the Additional Restaurants for the first fiscal year in which such Additional Restaurants are included in the Royalty Pool.

The Determined Amount for Adjustment Dates on or before January 1, 2011 was 92.5% of the amount determined by dividing the Royalty paid in respect of the Franchise Revenue for such net Additional Restaurants in respect of the first Fiscal Year for which such net Additional Restaurants are included in the Royalty Pool by the annual yield paid on the Units for the Fiscal Year immediately preceding the Adjustment Date in respect of such first mentioned Fiscal Year. The Determined Amount for Adjustment Dates after January 1, 2011 is 92.5% of the amount determined by multiplying the Royalty paid in respect of the Franchise Revenue for such net Additional Restaurants in respect of the first Fiscal Year for which such net Additional Restaurants are included in the Royalty Pool by the estimated effective average SIFT Tax rate that the Fund will pay during the Fiscal Year in which the Adjustment Date occurs, and dividing this amount by the annual yield paid on the Units for the Fiscal Year immediately preceding the Adjustment Date in respect of such first mentioned Fiscal Year. The annual yield is determined by dividing the per Unit amount distributed in cash by the Fund in such Fiscal Year (annualized in the case of a Fiscal Year of less than 12 months) by the Current Market Price of the Units on such Adjustment Date. BPI receives 80% of the Additional Entitlements initially, with the balance received when the actual full year performance of the new restaurants is known with certainty. BPI receives 100% of distributions from the Additional Entitlements throughout the year. Once these new restaurants have been part of the Royalty Pool for a full year, an audit of the royalty revenues of these restaurants received from BPI will be performed. At such time an adjustment will be made to reconcile distributions paid to BPI and the Additional Entitlements received by BPI. At the same time, an adjustment will be made to reconcile any differences between the estimated effective average SIFT Tax rate used for the purpose of calculating BPI's Additional Entitlements and the actual average SIFT Tax rate (determined by the audited financial statements of the Fund) paid by the Fund during the Fiscal Year in which the Adjustment Date occurs.

## **Security for the Royalty**

### *Security*

Payment of the Royalty is secured by a general security interest in all present and after acquired property of BPI (with certain exceptions), including all amounts payable to BPI by the Boston Pizza franchisees operating Boston Pizza Restaurants in Canada, pursuant to the Partnership General Security Agreement granted by BPI to the Partnership. Under the Partnership General Security Agreement, the Partnership is entitled, in the event of a default by BPI, to appoint a receiver of BPI with the power to carry on the business of BPI and, in the event of a material default by BPI, to require BPI to prepay the amount of the Royalty for 12 months. All amounts realized by the receiver, after costs, will be applied to the costs of operating the business of BPI and to the payment of the Royalty to the Partnership. BPI has obtained the Line of Credit from the Bank. BPI's obligation under the Line of Credit is secured by a first charge over certain assets of BPI and its subsidiaries and, as a consequence, the Partnership's interest in those assets is subordinate to that charge. See "Description of the Business - BPI Line of Credit".

No security interest in any specific property of BPI has been obtained by the Partnership.

### *Negative Covenants*

BPI has covenanted in the Partnership General Security Agreement in respect of the Royalty and the Boston Pizza General Security Agreement in respect of the BP Loan, among other things, not to and not to permit its subsidiaries that are credit parties to the Partnership General Security Agreement to incur any indebtedness (with certain exceptions), grant any security interests (with certain exceptions), pay any dividends, or dispose of any interest in any subsidiary of BPI that owns a Boston Pizza Restaurant in Canada except in certain circumstances.

### *Certain Remedies*

In the event of a default by BPI under the License and Royalty Agreement, the BP Loan, the Boston Pizza General Security Agreement or the Partnership General Security Agreement, including the failure to pay the Royalty or any interest payment when due, the Partnership and the Fund are each entitled to a number of remedies, both at law and under the agreements. The principal remedies include the commencement of legal proceedings, assignment to the Partnership or the Fund of amounts owing by franchisees to BPI under its franchise agreements and the appointment of a receiver to take possession of the assets of BPI over which the Fund or the Partnership have a security interest.

In the event of the bankruptcy or insolvency of BPI, the License and Royalty Agreement provides that BPI is required to prepay the Royalty by paying the Partnership the present value at that time, of the Royalty over the remaining term of the License and Royalty Agreement.

Until the Royalty is brought into good standing, or the Partnership agrees to other arrangements, and subject to applicable law (including laws governing reorganizations), a receiver appointed by the Partnership or by the court would continue to operate the business of BPI and its affiliated entities over which the Partnership and the Fund have a security interest.

The foregoing is a summary only of the remedies available to the Partnership in the event of a default by BPI under the License and Royalty Agreement and the Partnership General Security Agreement.

## **DESCRIPTION OF THE PARTNERSHIP**

### **General**

The Partnership is a limited partnership formed under the laws of British Columbia. The business of the Partnership is the ownership of the BP Rights, the taking of actions consistent with the License and Royalty Agreement to exploit, to the fullest extent possible, the use of the BP Rights by BPI, and the

collection of the Royalty payable to the Partnership under the License and Royalty Agreement and the administration of the affairs of the Fund, Holdings LP, Holdings GP and the Trust. The Partnership is governed by the Limited Partnership Agreement.

## **Partners**

The members of the Partnership are Partnership GP, as the managing general partner holding 99% of the GP Units; BPI, as a general partner holding in aggregate 1% of the GP Units, 100% of the Class B Units and 100% of the Class C Units; and Holdings LP, as the sole limited partner holding 100% of the LP Units, Class A Units and Class D Units.

## **Partnership Units**

As of February 6, 2013, there are 6,819,532 Class B Units, 2,400,000 Class C Units, 100 GP Units, 7,690,000 LP Units, 1,605,290 Class A Units, and 8,750,878 Class D Units issued and outstanding. The rights and entitlements of these units in the Partnership with respect to voting, distributions of distributable cash, allocations of Partnership income and distributions of proceeds of liquidation of the Partnership are described in this description of the Partnership.

The Limited Partnership Agreement provides that, subject to the terms, conditions and restrictions contained therein, the Partnership may issue an unlimited number of Partnership Securities to any person. The Partnership GP will be entitled to determine the amount of capital required to be contributed in respect of each unit, the time or times at which the contribution is to be paid to the Partnership and to amend the certificate of limited partnership to reflect such units. The amount of capital to be contributed in respect of any Partnership Security may be paid in cash, or in property, as determined by the Partnership GP.

Limited partners are liable for the liabilities, debts and obligations of the Partnership, but only to the extent of the amount contributed by them or agreed to be contributed by them to the Partnership, provided that they take no part in the management of the Partnership. Subject to applicable law, limited partners do not otherwise have any liability in respect of the liabilities, debts and obligations of the Partnership. The maximum amount to be contributed to the Partnership in respect of an LP Unit or a Class A Unit, Class B Unit or Class C Unit is the amount agreed to by the Partnership as the value of the property contributed to the Partnership in respect of such unit. Each holder of GP Units, as a general partner, will have unlimited liability for obligations of the Partnership.

## **Distributions**

Partnership GP, as managing general partner, is obligated, on behalf of the Partnership, to distribute cash as set out below. Distributions of available cash in respect of each month will be made no later than the third business day immediately prior to the end of the month following the month in which the applicable distribution period ends to Partnership GP and to those partners listed on record on the 21st day of such following month (except distributions in respect of December, for which the record date will be the last day of December). The Partnership GP may, on behalf of the Partnership, distribute additional available cash at any other time.

Available cash at any time will represent, in general, all of the Partnership's cash at such time, less amounts which in the opinion of the Partnership GP are required to be provided for at such time in respect of:

- debt service obligations, if any, and payments on account of principal of the Credit Facilities or any other debt obligations of the Partnership;
- interest (including interest accrued or payable under the Credit Facilities) and other expense obligations of the Partnership;



- expenses of the Fund, the Trust, Partnership GP, Holdings LP and Holdings GP to be paid by the Partnership under the Administration Agreement;
- expenses of the Partnership; and
- reasonable reserves considered necessary or desirable by Partnership GP.

The Partnership is obligated to make monthly distributions to its partners of available cash first to holders of LP Units; second to holders of Class C Units; third, to holders of Class D Units; fourth, to holders of Class A Units; fifth, to holders of Class B Units; and sixth, to holders of GP Units; in the amounts prescribed by the Limited Partnership Agreement. Any amounts remaining after those distributions will be distributed to holders of Class A Units, Class B Units, Class D Units and LP Units *pro rata* with the *pro rata* entitlements determined as prescribed by the Limited Partnership Agreement.

In addition, as soon as practicable after each Adjustment Date there will be distributed to the holders of the Class B Units, in priority to all other distributions, any positive amount that would have been distributed to holders of Class B Units in the previous year if the Determined Amount for that period had been based on the actual Franchise Revenues of the Additional Restaurants added to Royalty Pool on the previous Adjustment Date rather than on an estimate of those revenues. In the event the holders of Class B Units should have received less distributions in the previous year than they received based on the estimated Determined Amount, the holders of the Class B Units will pay to the Partnership the negative difference between what they should have received and what they actually received.

#### **Allocation of Income and Losses**

The income or loss, if any, of the Partnership for accounting purposes for each Fiscal Year, and the income or loss, if any, of the Partnership as determined pursuant to the Tax Act for a particular Fiscal Year, is allocated to the holders of Class A Units, Class B Units, Class C Units, Class D Units, GP Units and LP Units in proportion to the available cash of the Partnership distributed or loaned to such holders in respect of such Fiscal Year. The amount of income allocated to a partner may exceed or be less than the amount of cash distributed by the Partnership to that partner. In any Fiscal Year in which no cash is distributed to the partners in respect of their units, income or loss is allocated to partners in proportion to the number of Partnership Securities held by each.

#### **Liquidation Entitlement**

In the event of a dissolution of the Partnership, Partnership GP will distribute the net proceeds from the liquidation of the Partnership (after payment of expenses and provision for indebtedness and adequate reserves) first, to holders of Class C Units; second, to holders of Class D Units; third, to the holders of Class A Units; fourth, to the holders of Class B Units; fifth, to the holders of GP Units; and sixth, to each partner that made additional contributions; in amounts prescribed in the Limited Partnership Agreement. Any amounts remaining after those distributions will be distributed to the holders of Class A Units, Class B Units, Class D Units and LP Units *pro rata*, with the *pro rata* entitlements determined as prescribed by the Limited Partnership Agreement.

#### **Voting**

Except as expressly provided for in the Limited Partnership Agreement, units in the Partnership do not carry any entitlement to vote.

#### **Functions and Powers of Partnership GP and BPI**

Partnership GP has the authority to manage the business and affairs of the Partnership, to make decisions regarding the business of the Partnership and to bind the Partnership in respect of any such decision. Partnership GP is required to exercise its powers and discharge its duties honestly, in good

faith and in the best interests of the Partnership and to exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

The authority and power to be vested in Partnership GP to manage the business and affairs of the Partnership includes all authority necessary or incidental to carry out the objects, purposes and business of the Partnership, including the ability to engage agents to assist Partnership GP to carry out its management obligations and administrative functions in respect of the Partnership and its business. BPI, as a general partner of the Partnership, is actively engaged in the business of the Partnership, is responsible for assisting, and has authority to assist, Partnership GP in the management of the business and affairs of the Partnership and performs such additional specific duties in connection with the business of the Partnership as are delegated to BPI by Partnership GP from time to time and pursuant to the Limited Partnership Agreement. BPI provides ongoing and regular consultation and management services to the Partnership as to the operation and management of the business of the Partnership, in addition to the assistance provided to Partnership GP.

In particular, BPI is responsible for:

- the performance of the duties of the Partnership pursuant to the Administration Agreement;
- the provision of accounting, bookkeeping and administrative services; and
- subject to the approval of Partnership GP, allocating distributions of cash and allocations of taxable and accounting income to the partners.

The Limited Partnership Agreement provides that all material transactions and agreements involving the Partnership (other than the agreements entered into in connection with the formation of the Partnership) must be approved by Partnership GP's board of directors and, where those agreements involve BPI or its affiliates or associates, they must be approved by a majority of the directors who are not nominees of BPI or of an affiliate or an associate of BPI, and where those agreements involve the creation of debt obligations for which BPI is liable, they must be approved by BPI. Partnership GP and BPI are both entitled, under the Partnership Agreement to reimbursement of out-of-pocket costs associated with activities undertaken on behalf of the Partnership.

### **Limited Liability**

The Partnership is obligated to operate in a manner so as to ensure, to the greatest extent possible, the limited liability of the limited partners. Limited partners may lose their limited liability in certain circumstances. If limited liability is lost by reason of the negligence of Partnership GP in performing its duties and obligations under the Limited Partnership Agreement, Partnership GP is obligated to indemnify the limited partners against all claims arising from assertions that their respective liabilities are not limited as intended by the Limited Partnership Agreement.

However, since Partnership GP has no significant assets or financial resources, the indemnity from Partnership GP may have nominal value.

### **Transfer of Partnership Units**

Except as provided in the Governance Agreement and the Exchange Agreement, the Partnership Securities are not transferable or assignable to any person. No assignee of the Partnership Securities will be entitled to be admitted to the Partnership as a partner pursuant to an assignment thereof, except with the written consent of Partnership GP and BPI (which consent Partnership GP and BPI will each be entitled to withhold in their sole discretion) on the terms and conditions of such consent and unless the assignee has delivered to Partnership GP an assignment, power of attorney and such other instruments and documents as may be required by Partnership GP in appropriate form completed and executed in a manner acceptable to Partnership GP and upon the payment of an administration fee, if any, required by

Partnership GP. A transferee of a Partnership Security will not become a partner or be admitted to the Partnership and will not be subject to the obligations and entitled to the rights of the transferor under the Limited Partnership Agreement until the foregoing conditions are satisfied and such transferee is recorded on the Partnership's register of partners.

BPI has, as part of the security granted to the Bank for the Line of Credit, agreed to pledge a minimum number of Class B Units held by BPI in the Partnership which are convertible into Units of the Fund which would have a value, at any time, equal to at least 125% of the amount outstanding on the Line of Credit. See "Description of Business - BPI Line of Credit."

### **Credit Facilities**

Effective July 19, 2012 the Partnership entered into an agreement with the Bank whereby the Bank has provided to the Partnership the Credit Facilities having a five year term expiring on July 19, 2017 to supersede and replace the Partnership's previous credit facilities. The Credit Facilities are comprised of: (a) a \$1 million operating facility to replace the Partnership's previous \$1 million operating facility that was scheduled to expire on September 22, 2012; (b) a \$30 million revolving credit facility to replace the Partnership's previous \$5 million term loan, \$20 million non-revolving normal course issuer bid credit facility and \$5 million non-revolving supplementary normal course issuer bid credit facility, all of which were fully drawn and were scheduled to expire on September 22, 2012; and (c) a new \$25 million revolving credit facility to facilitate the Fund repurchasing and canceling additional units of the Fund should it choose to do so in the future.

The Partnership had \$30 million of indebtedness drawn on its previous credit facilities. In connection with the Credit Facilities, the Partnership concurrently entered into an interest rate swap under the Swap Agreement to fix the interest rate at 2.69% per annum (assuming existing debt to EBITDA levels are maintained) for a term of five years for the Partnership's existing \$30 million of debt.

After entering into the Swap Agreement, the \$30 million of debt currently drawn on the Credit Facilities bears interest at a fixed rate of 1.44% plus between 1.00% and 1.50%, depending upon the amount drawn on the Credit Facilities. The remaining \$26 million of available debt capacity will, if drawn, bear interest at fixed or variable interest rates, as selected by the Partnership, comprised of either or a combination of the Bank's bankers' acceptance rates plus between 1.00% and 1.50%, depending upon the amount drawn on the Credit Facilities, or prime rate plus between 0.00% and 0.50%, depending upon the amount drawn on the Credit Facilities.

The indebtedness and liability of the Partnership under the Credit Facilities are secured by a first ranking interest in all present and after-acquired property of the Partnership and the rights and interest of the Partnership in a General Security Agreement providing a first floating charge against assets of the Partnership guaranteed by the Fund, the Trust, Holdings LP, Holdings GP and Partnership GP. No security has been given by BPI with respect to Credit Facilities. Principal covenants of the Credit Facilities are: (i) the Partnership shall maintain a total Funded Debt to EBITDA Ratio of not greater than 2.00:1 (tested quarterly) and (ii) the Partnership shall maintain a position so that actual cash distributed to partners of the Partnership, excluding capital returned for the purposes of enabling the Fund to repurchase Units, does not exceed the sum of: (a) Distributable Cash, and (b) Cash on hand – being the greater of cash on hand as indicated on the Partnership's Balance Sheet at the end of the period of the test and nil (tested quarterly on a trailing 12 month basis), except that such actual distributed cash may from time to time exceed the sum of Distributable Cash and Cash on Hand by an amount of up to \$1 million, provided that no such short fall of Distributable Cash and Cash on Hand shall exist for any period exceeding 180 days. Funded Debt is defined as all indebtedness for borrowed money that carries an interest cost. Distributable Cash is defined as EBITDA less interest expense and any other cash payments required by the Partnership before making cash distributions (excluding returns of capital) to partners of the Partnership. The Partnership is currently in full compliance with all covenants related to these loan agreements.

The Partnership has third-party debt service obligations under the Credit Facilities. The degree to which the Partnership is leveraged could have important consequences to the holders of the Units, including: (i)

a portion of the Partnership's cash flow from operations could be dedicated to the payment of the principal of and interest on its indebtedness, thereby reducing funds available for distribution to the Fund; and (ii) certain of the Partnership's borrowings may be at variable rates of interest, which exposes the Partnership to the risk of increased interest rates. Upon maturity of the Credit Facilities, the Partnership will need to refinance the Credit Facilities. There can be no assurance that refinancing of this indebtedness will be available to the Partnership, or available to the Partnership on acceptable terms. The Partnership's ability to make scheduled payments of principal of or interest on, or to refinance, its indebtedness depends on future cash flows, which is dependent on the Royalty payments it receives from BPI, prevailing economic conditions, prevailing interest rate levels, and financial, competitive, business and other factors, many of which are beyond its control.

The Credit Facilities contain numerous restrictive covenants that limit the discretion of the management of the managing general partner of the Partnership with respect to certain business matters. These covenants place restrictions on, among other things, the ability of the Partnership to incur additional indebtedness, to create liens or other encumbrances, to pay distributions or make certain other payments, investments, loans and guarantees and to sell or otherwise dispose of assets to allow a change of control, to change the terms of the Limited Partnership Agreement and to merge or consolidate with another entity. A failure to comply with the obligations in the Credit Facilities could result in an event of default which, if not cured or waived, could result in the acceleration of the relevant indebtedness. If the indebtedness under the Credit Facilities were to be accelerated, there can be no assurance that the assets of the Partnership and its related entities would be sufficient to repay in full that indebtedness.

### **Governance Agreement**

The Fund, the Partnership, the Trust, Holdings LP, Holdings GP, BPI, Partnership GP and certain of the Related Parties have entered into a Governance Agreement, providing for, among other things, the governance of Partnership GP. See "Management – Governance Agreement".

## **DESCRIPTION OF THE FUND**

### **Declaration of Trust**

The Fund is a limited purpose open-ended trust established under the laws of the Province of British Columbia pursuant to the Declaration of Trust. The Fund is a mutual fund trust for the purposes of the Tax Act and intends to continue to so qualify. The following is a summary of the material attributes and characteristics of the Units and Special Voting Units and certain provisions of the Declaration of Trust which does not purport to be complete. Reference should be made to the Declaration of Trust for a complete description of the Units and Special Voting Units and the full text of its provisions.

### **Activities of the Fund**

The Declaration of Trust provides that the Fund is restricted to:

- (a) investing its securities, including those issued by the Trust, Partnership GP and Holdings GP and acquiring and holding the BP Loan;
- (b) temporarily holding cash in interest-bearing accounts or short-term government debt or investment grade corporate debt for the purposes of paying the expenses of the Fund, paying amounts payable by the Fund in connection with the redemption of any Units and making distributions to Unitholders;
- (c) issuing Units and Special Voting Units (i) for cash or in satisfaction of any non-cash distribution or in order to acquire securities, including those issued by the Trust, Holdings LP, Holdings GP or the Partnership, (ii) upon the conversion or exchange of securities or debt obligations issued by the Fund, the Trust, Holdings LP, Holdings GP, the

Partnership or any other person, and (iii) in satisfaction of any indebtedness of or borrowing by the Fund;

- (d) issuing debt securities or borrowing funds (including letters of credit, bank guarantees and bankers acceptances);
- (e) guaranteeing the obligations of the Partnership, the Trust, Holdings LP, or Holdings GP or any affiliate of the Fund and granting security interests in the assets of the Fund therefor;
- (f) pledging securities issued by the Trust or Holdings GP as security for the debt securities or borrowed funds referred to in (d) or the guarantees referred to in (e);
- (g) issuing rights and Units pursuant to any Unitholder rights plan adopted by the Fund;
- (h) purchasing securities pursuant to any issuer bid made by the Fund;
- (i) entering into and performing its obligations under certain agreements, including the Administration Agreement, the Governance Agreement and the Exchange Agreement; and
- (j) undertaking such other activities, or taking such actions, including investing in securities as shall be approved by the Trustees from time to time provided that the Fund shall not undertake any activity, take any action or make any investment which would result in the Fund not being considered a "mutual fund trust" for purposes of the Tax Act.

The Fund does not hold securities of entities other than the Trust, Holdings GP and Partnership GP and the only loans it holds is the BP Loan and Series 1 Trust Notes.

### **Units and Special Voting Units**

The beneficial interests in the Fund are divided into interests in two classes as follows:

- (a) a class described and designated as "Units", which are entitled to the rights and subject to the limitations, restrictions and conditions set out in the Declaration of Trust as summarized herein. An unlimited number of Units may be created and issued pursuant to the Declaration of Trust. Each Unit is transferable and represents an equal undivided beneficial interest in any distributions from the Fund, whether of net income, net realized capital gains or other amounts, and in the net assets of the Fund in the event of termination or winding-up of the Fund; and
- (b) a class described and designated as "Special Voting Units", which may be issued by the Fund, from time to time, to holders of record of securities which are ultimately exchangeable, exercisable or convertible into Units and shall be entitled to such number of votes at meetings of Voting Unitholders as is equal to the number of Units into which the related securities are exchangeable, exercisable or convertible but shall not be entitled to any distributions from the Fund.

All Units have equal rights and privileges and are not subject to future calls or assessments. Except as set out under "Redemption Right" below, the Units have no conversion, retraction, redemption or pre-emptive rights. Issued and outstanding Units and Special Voting Units may be subdivided or consolidated from time to time by the Trustees without the approval of Voting Unitholders.

No certificates have been issued for fractional Units and fractional Units do not entitle the holders thereof to vote. The Units are not "deposits" within the meaning of the *Canada Deposit Insurance Corporation Act* (Canada) and are not insured under the provisions of such act or any other legislation. Furthermore,

the Fund is not a trust company and, accordingly, is not registered under any trust and loan company legislation as it does not carry on or intend to carry on the business of a trust company.

The Special Voting Units are subject to such other rights and limitations as may be determined by the Trustees at the time of issuance of any such Special Voting Units, provided that in no event do Special Voting Units entitle the holder to receive any distributions from the Fund. The Declaration of Trust provides that any Special Voting Units acquired by the Fund or an affiliate of the Fund will immediately cease to represent an entitlement to vote at meetings of Voting Unitholders. As of February 6, 2013, BPI, as holder of Class B Units of the Partnership, held Special Voting Units representing 2,203,845 votes, being that number of Units that BPI would be entitled to receive upon the exchange of its Class B Units for Units of the Fund. The Special Voting Units issued to BPI, as the holder of Class B Units of the Partnership, may be transferred only under the same circumstances as the associated Class B Units and will be cancelled upon the exchange of Class B Units for Units of the Fund. Special Voting Units may be redeemed by the holder at any time for nominal consideration.

### **Issuance of Units and Special Voting Units**

The Declaration of Trust provides that the Units and Special Voting Units or rights to acquire Units may be issued at the times, to the persons, for the consideration and on the terms and conditions that the Trustees determine. Units may be issued in satisfaction of any non-cash distribution of the Fund to Unitholders on a *pro rata* basis. The Declaration of Trust also provides that immediately after any *pro rata* distribution of Units to all Unitholders in satisfaction of any non-cash distribution, the number of outstanding Units will be consolidated such that each Unitholder will hold after the consolidation the same number of Units as the Unitholder held before the non-cash distribution. In this case, each certificate representing a number of Units prior to the non-cash distribution is deemed to represent the same number of Units after the non-cash distribution and the consolidation.

### **Trustees**

The Declaration of Trust provides that the Fund will have a minimum of two Trustees and a maximum of ten Trustees. The Trustees are to supervise the activities and manage the affairs of the Fund. See "Management – Trustees of the Fund" for a list of the current Trustees. Each of the current Trustees is also a director of Partnership GP.

Trustees are appointed at each annual meeting of Voting Unitholders to hold office for a term expiring at the close of the next annual meeting or until the earlier of the Trustee's death, resignation or removal.

Any one or more of the Trustees may resign upon 30 days prior written notice to the Fund and may be removed by a resolution passed by a majority of the Voting Unitholders and the vacancy created by such removal or resignation must be filled at the same meeting, failing which it may be filled by the remaining Trustees.

A quorum of the Trustees, being a majority of the Trustees then holding office, may fill a vacancy in the Trustees, except a vacancy resulting from an increase in the maximum number of Trustees or from a failure of the Voting Unitholders to elect the required number of Trustees at a meeting of the Voting Unitholders called for such purpose. In the absence of a quorum of Trustees, or if the vacancy has arisen from a failure of the Voting Unitholders to elect the required number of Trustees at a meeting of the Voting Unitholders called for such purpose, the Trustees will forthwith call a special meeting of the Voting Unitholders to fill the vacancy. If the Trustees fail to call such meeting or if there are no Trustees then in office, any Voting Unitholder may call the meeting.

The Trustees may, between annual meetings of Voting Unitholders, appoint one or more additional Trustees to serve until the next annual meeting of Voting Unitholders, but the number of additional Trustees will not at any time exceed one-third of the number of Trustees who held office at the expiration of the immediately preceding annual meeting of Voting Unitholders.

The Declaration of Trust provides that, subject to the terms and conditions thereof, the Trustees may, in respect of the trust assets, exercise any and all rights, powers and privileges that could be exercised by a legal and beneficial owner thereof and shall supervise the investments and conduct the affairs of the Fund.

The Declaration of Trust prohibits a Non-resident from acting as a Trustee. The Trustees are responsible for, among other things:

- acting for, voting on behalf of and representing the Fund as a unitholder and noteholder of the Trust and a shareholder of Partnership GP and Holdings GP, including voting for the election of the trustees of the Trust;
- maintaining records and providing reports to Voting Unitholders;
- supervising the activities of the Fund; and
- effecting payments of distributable cash from the Fund to Unitholders.

The Declaration of Trust provides that the Trustees shall act honestly and in good faith with a view to the best interests of the Fund and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The duties and standard of care of the Trustees are intended to be similar to, and not to be any greater than, those imposed on a director of a corporation governed by the CBCA. The Declaration of Trust provides that the Trustees shall be entitled to indemnification from the Fund in respect of the exercise of their powers and the discharge of their duties provided that they acted honestly and in good faith with a view to the best interests of all the Unitholders.

## Cash Distributions

The following is a summary of the amount of cash distributions per Unit for the financial years ended 2012, 2011 and 2010:

	CASH DISTRIBUTIONS					
	2012 January to December Distributions		2011 January to December Distributions		2010 January to December Distributions	
	Payment Date	Amount	Payment Date	Amount	Payment Date	Amount
<b>December</b>	January 31, 2013	9.80¢	January 31, 2012	9.20¢	January 31, 2011	11.50¢
<b>November</b>	December 31, 2012	9.80¢	December 30, 2011	9.20¢	December 31, 2010	11.50¢
<b>October</b>	November 30, 2012	9.80¢	November 30, 2011	9.20¢	November 30, 2010	11.50¢
<b>September</b>	October 31, 2012	9.80¢	October 31, 2011	9.20¢	October 29, 2010	11.50¢
<b>August</b>	September 28, 2012	9.80¢	September 30, 2011	9.20¢	September 30, 2010	11.50¢
<b>July</b>	August 31, 2012	9.80¢	August 31, 2011	9.20¢	August 31, 2010	11.50¢
<b>June</b>	July 31, 2012	9.80¢	July 29, 2011	8.40¢	July 30, 2010	11.50¢
<b>May</b>	June 29, 2012	9.80¢	June 30, 2011	8.40¢	June 30, 2010	11.50¢
<b>April</b>	May 31, 2012	9.80¢	May 31, 2011	8.40¢	May 31, 2010	11.50¢
<b>March</b>	April 30, 2012	9.80¢	April 29, 2011	8.40¢	April 30, 2010	11.50¢
<b>February</b>	March 30, 2012	9.80¢	March 31, 2011	8.40¢	March 31, 2010	11.50¢
<b>January</b>	February 29, 2012	9.20¢	February 28, 2011	8.40¢	February 26, 2010	11.50¢

While the amount of cash to be distributed per month per Unit to Unitholders is determined by the Trustees in their sole discretion, the Fund's current distribution policy is that such amount will generally be equal to a *pro rata* share of interest and principal repayments on the BP Loan and the Trust Notes and distributions on or in respect of the Trust Units owned by the Fund less:

- administrative expenses and other obligations of the Fund;
- amounts which may be paid by the Fund in connection with any cash redemptions of Units;
- any interest expense incurred by the Fund; and
- reasonable reserves established by the Trustees in their sole discretion, including, without limitation, reserves established after January 1, 2011 to pay SIFT Tax.

The Fund intends to make distributions each month of amounts determined by the Trustees in their sole discretion to be available for distribution by the Fund for such month. Distributions in respect of each month are paid on the last day of the immediately following month to Unitholders of record on the 21st day of such following month (except in respect of the month of December, for which the record date is the last day of December).

To the extent that income of the Fund is applied to any cash redemptions of Units or is otherwise unavailable for cash distribution, distributions will be made to Unitholders in the form of additional Units.



Such additional Units will be issued pursuant to applicable exemptions under applicable securities laws, discretionary exemptions granted by applicable securities regulatory authorities or a prospectus or similar filing.

Holders of Units who are Non-residents will be required to pay all withholding taxes payable in respect of any distributions of income by the Fund, whether such distributions are in the form of cash or additional Units. Non-residents should consult their own tax advisors regarding the tax consequences of investing in the Units.

### **Book-Entry Only System**

Registration of interests in and transfer of the Units will be made only through a book-based system (the “**Book-Entry Only System**”) administered by CDS. Units must be purchased, transferred and surrendered for redemption through a CDS participant. All rights of Unitholders must be exercised through, and all payments or other property to which such Unitholder is entitled will be delivered by, CDS or the CDS participant through which the Unitholder holds such Units. Upon purchase of any Units, the Unitholder will receive only a customer confirmation from the registered dealer which is a CDS participant and from or through which the Units are purchased.

The ability of a beneficial owner of Units to pledge such Units or otherwise take action with respect to such Unitholder’s interest in such Units (other than through a CDS participant) may be limited due to the lack of a physical certificate.

The Fund has the option to terminate registration of the Units through the Book-Entry Only System in which case certificates for the Units in fully registered form would be issued to beneficial owners of such Units or their nominees.

### **Rights of Unitholders**

The rights of Unitholders as investors in the Fund are currently governed by the Declaration of Trust and have been summarized above under “Description of the Fund”. Although the Declaration of Trust confers upon a Unitholder many of the same protections, rights and remedies that an investor would have as a shareholder of a corporation governed by the CBCA, significant differences do exist.

Many of the provisions of the CBCA respecting the governance and management of a corporation have been incorporated in the Declaration of Trust. For example, Unitholders are entitled to exercise voting rights in respect of their holdings of Units in a manner comparable to shareholders of a CBCA corporation and to elect Trustees and auditors. The Declaration of Trust also includes provisions modeled after comparable provisions of the CBCA dealing with the calling and holding of meetings of Unitholders and Trustees, the quorum for and procedures at such meetings and the right of investors to participate in the decision-making process where certain fundamental actions are proposed to be undertaken. The matters in respect of which Unitholder approval is required under the Declaration of Trust are generally less extensive than the rights conferred on the shareholders of a CBCA corporation, but effectively extend to certain fundamental actions that may be undertaken by the Fund’s subsidiary entities, as described under “Description of the Fund – Meetings of Voting Unitholders” and “Description of the Fund – Exercise of Certain Voting Rights Attached to Certain Securities”. These Unitholder approval rights are supplemented by provisions of applicable securities laws that are generally applicable to issuers (whether corporations, trusts or other entities) that are “reporting issuers” or the equivalent or are listed on the TSX.

The Declaration of Trust contains conflict of interest provisions, similar to those contained in the CBCA, that require each Trustee to disclose to the Fund, as applicable, any interest in a material contract or transaction or proposed material contract or transaction with the Fund, or the fact that such person is a director or officer of, or otherwise has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Fund. In any case, a Trustee, director or officer who has made disclosure to the foregoing effect is not entitled to vote on any resolution to approve the contract or transaction unless the contract or transaction is one relating primarily

to (i) his or her remuneration as a Trustee or officer of the Fund, as applicable, (ii) insurance or indemnity, or (iii) a contract or transaction with an affiliate of the Fund.

Unitholders do not have recourse to a dissent right under which shareholders of a CBCA corporation are entitled to receive the fair value of their shares when certain fundamental changes affecting the corporation are undertaken (such as an amalgamation, a continuance under the laws of another jurisdiction, the sale of all or substantially all of its property, a going private transaction or the addition, change or removal of provisions restricting (i) the business or businesses that the corporation can carry on, or (ii) the issue, transfer or ownership of shares). As an alternative, Unitholders seeking to terminate their investment in the Fund are entitled to receive, subject to certain conditions and limitations, their *pro rata* share of the Fund's net assets through the exercise of the redemption rights provided by the Declaration of Trust, as described under "Description of the Fund – Redemption Right". Unitholders similarly do not have recourse to the statutory oppression remedy that is available to shareholders of a CBCA corporation where the corporation undertakes actions that are oppressive, unfairly prejudicial or that disregard the interests of security holders and certain other parties. Shareholders of a CBCA corporation may also apply to a court to order the liquidation and dissolution of the corporation in those circumstances, whereas Unitholders could rely only on the general provisions of the Declaration of Trust, which permit the winding up of the Fund with the approval of a Voting Unitholders' Special Resolution. Shareholders of a CBCA corporation may also apply to a court for the appointment of an inspector to investigate the manner in which the business of the corporation and its affiliates is being carried on where there is reason to believe that fraudulent, dishonest or oppressive conduct has occurred. The Declaration of Trust allows Unitholders to pass resolutions appointing an inspector to investigate the Trustees' performance of their responsibilities and duties, but this process would not be subject to court oversight to assure the other investigative procedures, rights and remedies available under the CBCA. The CBCA also permits shareholders to bring or intervene in derivative actions in the name of the corporation or any of its subsidiaries, with the leave of a court. The Declaration of Trust does not include a comparable right of the Unitholders to commence or participate in legal proceedings with respect to the Fund.

## Redemption Right

Units are redeemable at any time on demand by the holders thereof. As the Units have been issued in book entry form, a Unitholder who wishes to exercise the redemption right is required to obtain a redemption notice form from the Unitholder's investment dealer who is required to deliver the completed redemption notice form to CDS. Upon receipt of the redemption notice by the Fund, all rights to and under the Units tendered for redemption will be surrendered and the holder thereof will be entitled to receive a price per Unit (the "**Redemption Price**") equal to the lesser of:

- 90% of the weighted average price per Unit at which the Units have traded on the stock exchange on which the Units are listed (or if the Units are not listed on any stock exchange, the principal market on which the Units are quoted for trading) during the 20-trading day period immediately following the date on which the Units were surrendered for redemption (the "**Unit Redemption Date**"); and
- an amount equal to (a) the closing price of the Units on the principal stock exchange on which the Units are listed (or if the Units are not listed on any stock exchange, the principal market on which the Units are quoted for trading), if there was a trade on the Unit Redemption Date and the exchange or market provides a closing price; (b) the average of the highest and lowest prices of the Units if there was a trade on the Unit Redemption Date and the exchange or market provides only the highest and lowest prices of the Units traded on a particular day; or (c) the average of the last bid and ask prices of the Units on the exchange or market if there was no trading on the Unit Redemption Date.

The aggregate Redemption Price payable by the Fund in respect of any Units surrendered for redemption during any calendar month will be satisfied by way of a cash payment no later than the last day of the month following the month in which the Units were tendered for redemption, provided that Unitholders are not entitled to receive cash upon the redemption of their Units if:

- the total amount payable by the Fund in respect of such Units and all other Units tendered for redemption in the same calendar month exceeds \$50,000, provided that the Trustees may, in their sole discretion, waive such limitation in respect of all Units tendered for redemption in any calendar month;
- at the time such Units are tendered for redemption, the outstanding Units are not listed for trading on a stock exchange or traded or quoted on another market which the Trustees consider, in their sole discretion, one which provides representative fair market value prices for the Units; or
- the normal trading of Units is suspended or halted on any stock exchange on which the Units are listed (or, if not listed on a stock exchange, on any market on which the Units are quoted for trading) on the Unit Redemption Date or for more than five trading days during the ten-day trading period commencing immediately after the Unit Redemption Date.

If a Unitholder is not entitled to receive cash upon the redemption of Units as a result of the foregoing limitations, then the Redemption Price for each Unit tendered for redemption will be the fair market value thereof as determined by the Trustees in their sole discretion and, subject to any applicable regulatory approvals, will be paid and satisfied by way of a distribution in kind. In such circumstances, the Fund will transfer to the Trust, in respect of each Unit surrendered for redemption, a *pro rata* portion of the outstanding BP Loan owed to the Fund in consideration for Trust Units and Series 3 Trust Notes. Trust Units and Series 1 Trust Notes having a value equal to the Redemption Price will then be redeemed by the Trust in consideration of the issuance to the Fund of Series 2 Trust Notes and Series 3 Trust Notes, respectively. The portion of the fair market value of such redeemed Units derived from the Fund's interest in the BP Loan may, in the Trustees' discretion, be represented by Series 3 Trust Notes issued by the Trust to the Fund in consideration for the transfer by the Fund to the Trust of an interest in the BP Loan of equivalent value. The Series 2 Trust Notes and Series 3 Trust Notes will then be distributed in satisfaction of the Redemption Price. No fractional Series 2 Trust Notes or Series 3 Trust Notes in integral multiples of less than \$100 will be distributed and where the number of securities of the Trust to be received by a Unitholder includes a fraction or, in the case of Trust Notes, a multiple less than \$100, that number shall be rounded to the next lowest whole number or integral multiple of \$100 as the case may be. The Fund shall be entitled to all interest paid on the Trust Notes, if any, and distributions paid on the Trust Units on or before the date of the distribution in kind. Where the Fund makes a distribution in kind of securities of the Trust on the redemption of Units of a Unitholder, the Fund currently intends to allocate to that Unitholder any capital gain or income realized by the Fund as a result of the redemption of Trust Units, the transferring of an interest in the BP Loan owned by the Fund to the Trust in exchange for Series 3 Trust Notes or any capital gain realized by the Fund as a result of the distribution of Series 2 Trust Notes or Series 3 Trust Notes to the Unitholder.

It is anticipated that the redemption right described above will not be the primary mechanism for holders of Units to dispose of their Units. Series 2 Trust Notes and Series 3 Trust Notes which may be distributed to Unitholders in connection with a redemption will not be listed on any stock exchange, no market is expected to develop in securities of the Trust and such securities may be subject to an indefinite "hold period" or other resale restrictions under applicable securities laws. Series 2 Trust Notes and Series 3 Trust Notes so distributed may not be qualified investments for registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans and tax free savings accounts and may be prohibited investments for registered retirement savings plans, registered retirement income funds and tax free savings accounts, depending upon the circumstances at the time.

## Trust Units

Trust Units are not, and are not intended to be, issued or held by any person other than the Fund.

An unlimited number of Trust Units may be issued pursuant to the declaration of trust for the Trust. Each Trust Unit is transferable and represents an equal undivided beneficial interest in any distributions from the Trust (whether of net income, net realized capital gains or other amounts) and in the net assets of the Trust in the event of termination or winding-up of the Trust. All Trust Units have equal rights and privileges. The Trust Units are not subject to future calls or assessments. The Trust Units have no conversion, retraction or pre-emptive rights. The Trust Units are redeemable at the option of the holder.

The amount of cash to be distributed per Trust Unit in respect of each month shall be equal to a proportionate share of distributions on or in respect of the securities of Holdings LP owned by the Trust and all other amounts, if any, from any other investments from time to time held by the Trust, received in respect of such period, less amounts which are paid, payable, incurred or provided for in respect of such period in connection with:

- administrative expenses and other obligations (including reasonable reserves) of the Trust;
- any interest (including interest payable in respect of the Trust Notes) incurred by the Trust; and
- principal repayments in respect of the Trust Notes considered advisable by the trustees of the Trust and any other debt securities of the Trust.

The trustee of the Trust may authorize additional distributions in excess of the aforementioned distributions during the year, as the trustee sees fit, in the trustee's sole discretion.

Any income of the Trust which is unavailable for cash distribution will, to the extent necessary to ensure that the Trust does not have any income tax liability under Part I of the Tax Act, be distributed to holders of Trust Units in the form of additional Trust Units.

## Trust Notes

The following is a summary of the material attributes and characteristics of the Trust Notes, which are issued by the Trust under a note indenture (the "**Note Indenture**") providing for the issuance of the Trust Notes by the Trust dated July 17, 2002 between the Trust and Computershare Trust Company of Canada (the "**Note Trustee**"), and is qualified in its entirety by reference to the provisions of the Note Indenture, which contains a complete statement of such attributes and characteristics.

The Trust Notes will be issued only as fully registered Trust Notes in a minimum denomination of \$100 and for amounts above such minimum, only in integral multiples of \$100. No fractional Trust Notes will be distributed and where the number of Trust Notes to be received by a Unitholder includes a fraction, such number shall be rounded down to the lowest whole number or integral multiple of \$100.

Series 2 Trust Notes will be reserved by the Trust to be issued exclusively to holders of Trust Units as full or partial payment of the redemption price for Trust Units, as the trustees of the Trust may decide or, in certain circumstances, be obliged to issue. Series 3 Trust Notes will be reserved by the Trust to be issued exclusively as full or partial payment of the redemption price for Series 1 Trust Notes or as consideration for an interest in the BP Loan acquired from the Fund in the event of an in kind payment of the redemption price for Units redeemed by a Unitholder.

### *Interest and Maturity*

The Series 1 Trust Notes will mature on July 17, 2032 and will not bear interest. Each Series 2 Trust Note will mature on a date which is no later than the first anniversary of the date of issuance thereof and bear interest at a market rate to be determined by the trustee(s) of the Trust at the time of issuance thereof, payable in monthly installments on the last day of each calendar month that such Series 2 Trust Note is outstanding. Each Series 3 Trust Note will mature on July 17, 2032 and will bear interest at a market rate to be determined by the trustee(s) of the Trust at the time of issuance thereof, payable in monthly installments on the last day of each calendar month that such Series 3 Trust Note is outstanding.

### *Payment upon Maturity*

On maturity, the Trust will repay the Trust Notes by paying to the trustee under the Note Indenture in cash an amount equal to the principal amount of the outstanding Trust Notes which have then matured, together with accrued and unpaid interest thereon.

### *Redemption*

The Trust Notes are redeemable at the option of the Trust prior to maturity. The Series 1 Trust Notes are redeemable at the option of the holder prior to maturity.

### *Subordination/Security*

Payment of the principal amount and interest on the Trust Notes will be subordinated in right of payment to the prior payment in full of the principal of and accrued and unpaid interest on, and all other amounts owing in respect of all senior indebtedness which is defined as all indebtedness, liabilities and obligations of the Trust which, by the terms of the instrument creating or evidencing the same, will be expressed to rank in right of payment in priority to the indebtedness evidenced by the Note Indenture. The Note Indenture provides that upon any distribution of the assets of the Trust in the event of any dissolution, liquidation, reorganization or other similar proceedings relative to Trust, the holders of all such senior indebtedness will be entitled to receive payment in full before the holders of the Trust Notes are entitled to receive any payment.

### *Default*

The Note Indenture provides that any of the following shall constitute an event of default under the Note Indenture:

- default in repayment of the principal amount of any of the Trust Notes when the same becomes due and the continuation of such default for a period of ten business days;
- subject to the terms of any senior indebtedness, the failure to pay the interest obligations of any of the Series 2 Trust Notes or Series 3 Trust Notes, if and when issued, for a period of six months;
- default in the observance or performance of any other covenant or condition of the Note Indenture and the continuance of such default for a period of 60 days after notice in writing has been given by the Note Trustee to the Trust specifying such default and requiring the Trust to rectify the same;
- certain events of winding-up, liquidation, bankruptcy, insolvency or receivership of the Trust or the Partnership;
- the taking of possession by an encumbrancer, in the opinion of the Note Trustee, of all or substantially all of the property of the Trust or of a material subsidiary, including the

Partnership and the affected party failed to satisfy the claim or terminate such encumbrance within 60 days;

- the Trust ceasing to own any Partnership Securities or the Partnership ceasing to own the BP Rights; or
- the Partnership or any material subsidiary ceasing to carry on its business in the ordinary course or a substantial part thereof.

### **Meetings of Voting Unitholders**

Each Unit entitles the holder thereof to one vote at all meetings of Voting Unitholders. Special Voting Units entitle the holder thereof to one vote for each unit that the holder would be entitled to receive if it exchanged all of its Class B Units of the Partnership for Units of the Fund at all meetings of Voting Unitholders. Meetings of Voting Unitholders will be called and held annually for the appointment of Trustees and the appointment of auditors of the Fund. The Declaration of Trust provides that the Voting Unitholders shall be entitled to pass resolutions that will bind the Fund only with respect to:

- the election or removal of Trustees of the Fund;
- the appointment or removal of the auditors of the Fund;
- the appointment of an inspector to investigate the performance by the Trustees in respect of their respective responsibilities and duties in respect of the Fund;
- the approval of amendments to the Declaration of Trust (except as described under "Description of the Fund - Amendments to the Declaration of Trust");
- the sale of all or substantially all of the assets of the Fund;
- the exercise of certain voting rights attached to the Partnership Securities, common shares of Holdings GP and Partnership GP, Trust Notes and Trust Units held directly or indirectly by the Fund; and
- the dissolution of the Fund prior to the end of its term.

A resolution appointing or removing the Trustees and a resolution appointing or removing the auditors of the Fund must be passed by a simple majority of the votes cast by the Voting Unitholders either in person or by proxy, at a meeting of Voting Unitholders. All other matters must be approved by a resolution passed by a majority of more than  $66\frac{2}{3}\%$  of the votes cast, either in person or by proxy, at a meeting of Voting Unitholders, or approved in writing by holders of more than  $66\frac{2}{3}\%$  of the total Voting Units.

A meeting of Voting Unitholders may be convened at any time and for any purpose by the Trustees and must be convened if requisitioned by the holders of not less than 10% of the Voting Units then outstanding by a written requisition. A requisition must state in reasonable detail the business proposed to be transacted at the meeting.

Voting Unitholders may attend and vote at all meetings of the Voting Unitholders either in person or by proxy and a proxy holder need not be a Voting Unitholder. Two or more persons present in person or represented by proxy and representing in the aggregate at least 25% of the votes attached to the total of the then outstanding Voting Units shall constitute a quorum for the transaction of business at all such meetings. The Declaration of Trust contains provisions as to the notice required and other procedures with respect to the calling and holding of meetings of Voting Unitholders.

## **Limitation on Non-resident Ownership**

In order for the Fund to maintain its status as a mutual fund trust under the Tax Act, the Fund must meet certain requirements relating to the ownership of Units by Non-residents. Accordingly, the Declaration of Trust provides that at no time may Non-residents be the beneficial owners of a majority of the Units. The Trustees may require declarations as to the jurisdictions in which beneficial owners of Units are resident.

If the Trustees become aware that the beneficial owners of 49% of the Units then outstanding are, or may be, Non-residents or that such a situation is imminent, the Trustees may direct the transfer agent and registrar to make a public announcement thereof and shall not accept a subscription for Units from or issue or register a transfer of Units to any person unless the person provides a declaration that he or she is not a Non-resident. If, notwithstanding the foregoing, the Trustees determine that a majority of the Units are held by Non-residents, the Trustees may direct the transfer agent of the Units to send a notice to Non-resident holders of Units, chosen in inverse order to the order of acquisition or registration or in such manner as the Trustees may consider equitable and practicable, requiring them to sell their Units or a portion thereof within a specified period of not less than 60 days. If the Unitholders receiving such notice have not sold the specified number of Units or provided the Trustees with satisfactory evidence that they are not Non-residents within such period, the Trustees may direct the transfer agent to sell such Units on behalf of such Unitholders and, in the interim, the voting and distribution rights attached to such Units shall be suspended. Upon such sale, the affected holders shall cease to be holders of the Units and their rights shall be limited to receiving the net proceeds of such sale.

Special Voting Units may not be owned by a Non-resident. In the event that a holder of Special Voting Units becomes a Non-resident, such a holder will be deemed to have exercised his or her right of redemption in accordance with the Declaration of Trust and such Special Voting Units will be immediately redeemed for nominal consideration.

## **Amendments to the Declaration of Trust**

The Declaration of Trust may be amended or altered from time to time by a Voting Unitholders' Special Resolution.

The Trustees may, without the approval of the Voting Unitholders, make certain amendments to the Declaration of Trust, including amendments:

- for the purpose of ensuring continuing compliance with applicable laws, regulations, requirements or policies of any governmental authority having jurisdiction over the Trustees or over the Fund;
- which, in the opinion of counsel to the Trustees, provide additional protection for Voting Unitholders;
- to remove any conflicts or inconsistencies in the Declaration of Trust or to make minor corrections which, in the opinion of the Trustees, are necessary or desirable and not prejudicial to the Voting Unitholders;
- which, in the opinion of the Trustees, are necessary or desirable as a result of changes in Canadian taxation laws or accounting standards; and
- for the purpose of ensuring that the Fund continues to qualify as a "mutual fund trust" under the Tax Act and Units are not considered "foreign property" under the Tax Act.

## **Term of the Fund**

The Fund has been established for a term ending 21 years after the date of death of the last surviving issue of Her Majesty, Queen Elizabeth II, alive on June 10, 2002. On a date selected by the Trustees

which is not more than two years prior to the expiry of the term of the Fund, the Trustees are obligated to commence to wind up the affairs of the Fund so that it will terminate on the expiration of the term. In addition, at any time prior to the expiry of the term of the Fund, the Voting Unitholders may by a Voting Unitholders' Special Resolution require the Trustees to commence to wind up the affairs of the Fund.

The Declaration of Trust provides that, upon being required to commence to wind up the affairs of the Fund, the Trustees will give notice thereof to the Voting Unitholders, which notice shall designate the time or times at which Voting Unitholders may surrender their Voting Units for cancellation and the date at which the register of Voting Units will be closed. After the date the register is closed, the Trustees shall proceed to wind up the affairs of the Fund as soon as may be reasonably practicable and for such purpose shall, subject to any direction to the contrary in respect of a termination authorized by a resolution of the Voting Unitholders, sell and convert into money the Trust Units, Series 1 Trust Notes and all other assets comprising the Fund in one transaction or in a series of transactions at public or private sales and do all other acts appropriate to liquidate the Fund. After paying, retiring, discharging or making provision for the payment, retirement or discharge of all known liabilities and obligations of the Fund and providing for indemnity against any other outstanding liabilities and obligations, the Trustees shall distribute the remaining part of the proceeds of the sale of the Trust Units, Series 1 Trust Notes and other assets together with any cash forming part of the assets of the Fund among the Unitholders in accordance with their *pro rata* interests. If the Trustees are unable to sell all or any of the Trust Units, Series 1 Trust Notes or other assets which comprise part of the Fund by the date set for termination, the Trustees may distribute the remaining Trust Units, Series 1 Trust Notes or other assets in kind directly to the Unitholders in accordance with their *pro rata* interests subject to obtaining all required regulatory approvals.

### **Take-over Bids**

The Declaration of Trust and the Governance Agreement contain provisions to the effect that if a take-over bid is made for the Units (including rights to the Units to be issued upon exercise of the Exchange Rights) and not less than 90% of the Units on a fully diluted basis (including the Units issuable upon the exchange of any securities exchangeable into Units but not including any Units held at the date of the take-over bid by or on behalf of the offeror or associates or affiliates of the offeror) are taken up and paid for by the offeror, the offeror will be entitled to acquire the Units held by Unitholders and holders of securities exchangeable for Units who did not accept the take-over bid on the terms offered by the offeror.

### **Exercise of Certain Voting Rights Attached to Certain Securities**

The Declaration of Trust provides that the Fund shall not vote the securities held by it in the Trust, Holdings LP, Holdings GP, Partnership GP or the Partnership to authorize, among other things:

- any sale, lease or other disposition of all or substantially all of the direct or indirect assets of the Trust, Partnership GP or Holdings GP except in conjunction with an internal reorganization;
- any amalgamation, arrangement or other merger of the Trust, Holdings GP or Partnership GP with any other corporation except in conjunction with an internal reorganization;
- any material amendment to the note indenture in respect of the Trust Notes other than in contemplation of a further issue of Trust Notes; and
- any material amendment to the declaration of trust for the Trust, the Holdings Limited Partnership Agreement or the Limited Partnership Agreement which may be prejudicial to the Fund,

without the authorization of the Voting Unitholders by a Voting Unitholders' Special Resolution.



## Information and Reports

The Fund will furnish, in accordance with and subject to, applicable securities laws, to Voting Unitholders such consolidated financial statements of the Fund (including quarterly and annual consolidated financial statements) and other reports as are from time to time required by applicable law, including prescribed forms needed for the completion of Unitholders' tax returns under the Tax Act and equivalent provincial legislation.

Prior to each meeting of Voting Unitholders, the Trustees will provide the Voting Unitholders (along with notice of such meeting) all such information as is required by applicable law and the Declaration of Trust to be provided to such holders.

The Partnership has undertaken to provide the Fund with:

- a report of any material change that occurs in the affairs of the Partnership in form and content that it would file with the applicable securities regulatory authorities as if it were a reporting issuer; and
- all financial statements that it would be required to file with the applicable securities regulatory authorities as if it were a reporting issuer under applicable securities laws.

All such reports and statements must be provided to the Fund in a timely manner so as to permit the Fund to comply with the continuous disclosure requirements relating to reports of material changes in its affairs and the delivery of financial statements as required under applicable securities laws.

BPI is to provide the Partnership and the Fund with BPI's unaudited financial statements within 45 days of the end of each quarterly accounting period of BPI and audited annual consolidated financial statements within 90 days of the end of each fiscal year of BPI. These financial statements are required to be prepared in accordance with Canadian generally accepted accounting principles. BPI also provided an undertaking to the applicable securities regulatory authorities to issue a press release and file a report of any material change that occurs in the affairs of BPI that would reasonably be expected to have a significant effect on the market price or value of the Units.

## BP Loan

As permitted by the Declaration of Trust, on July 17, 2002, the Fund acquired the BP Loan from a Canadian chartered bank. The following is a summary of the main terms of the BP Loan:

- interest on all amounts outstanding on the BP Loan accrues at 7.5% per annum payable on each "Interest Payment Date", being the last day of each month for which such interest has accrued;
- the principal amount, together with all accrued and unpaid interest, outstanding under the BP Loan will become due and payable on the 40<sup>th</sup> anniversary of July 17, 2002, subject to extension by the mutual agreement of BPI and the lender, or earlier, at the option of the lender, following the occurrence and continuance of an event of default;
- the events of default under the BP Loan include:
  - (i) default in repayment of the principal amount of the BP Loan when the same becomes due;
  - (ii) the failure to pay interest obligations under the BP Loan when the same become due, following a period of three days after receipt of written notice of such default;
  - (iii) the winding-up, liquidation, bankruptcy, insolvency or receivership of BPI;

- (iv) the taking of possession by an encumbrancer, of all or substantially all of the property of BPI and its subsidiaries;
  - (v) a material default under the License and Royalty Agreement, the Boston Pizza General Security Agreement or the Partnership General Security Agreement; and
  - (vi) the right to accelerate or the acceleration of other indebtedness of BPI or any subsidiary of BPI that has or is reasonably likely to have a material adverse effect on BPI, including the indebtedness permitted under the License and Royalty Agreement. See “License and Royalty – Security for the Royalty”;
- the BP Loan is secured by the Boston Pizza General Security Agreement. The security interest for all amounts payable by BPI under the BP Loan, as set out in the Boston Pizza General Security Agreement, is the same as, and ranks equally with, the security interest granted in respect of the Royalty described under “License and Royalty – Security for the Royalty”. The Boston Pizza General Security Agreement contains negative covenants that are the same as the negative covenants contained in the Partnership General Security Agreement. See “License and Royalty – Security for the Royalty – Negative Covenants”;
  - BPI (as holder of the Class C Units) has the right to transfer such Class C Units to Holdings LP in consideration for the assumption by Holdings LP of (and the concurrent release of BPI of its obligations with respect to) an amount of the indebtedness under the BP Loan equal to \$10 per Class C Unit to be transferred; and
  - the BP Loan may not be assigned (directly, by operation of law or otherwise) other than to the Fund or the Trust, without the prior consent of BPI.

### **THE EXCHANGE RIGHTS**

Pursuant to the Exchange Agreement, BPI (or a Related Party to whom such Class B Units are transferred) has the right to exchange a Class B Unit for that number of Units equal to the Class B Exchange Multiplier. The exchange procedure is initiated by BPI delivering to Partnership GP, as escrow agent under the Exchange Agreement, a unit certificate in respect of the Class B Units to be exchanged, duly endorsed in blank for transfer together with the required form of exchange notice. Partnership GP will thereupon give notice of the proposed exchange to Holdings LP. Holdings LP will issue and deliver to the Trust any combination of Holdings LP Units and notes of Holdings LP equal to the Current Market Price of Units into which the tendered Class B Units are exchangeable. The Trust will thereupon issue and deliver to the Fund any combination of Trust Units and Trust Notes equal to the Current Market Price of Units into which the tendered Class B Units are exchangeable. The Fund will thereupon issue the Units into which the tendered Class B Units are exchangeable, and deliver a certificate in the name of BPI (or the applicable Related Party) therefor to the Trust. The Trust will deliver the certificate to Holdings LP, and Holdings LP will deliver the certificate to Partnership GP as escrow agent. Partnership GP will complete the exchange procedure by causing to be issued in the name of Holdings LP a unit certificate for that number of Class D Units to be issued on the exchange, entering Holdings LP in the register of limited partners of the Partnership in respect of such additional Class D Units of a number equal to the Class B Exchange Multiplier for each Class B Unit exchanged, causing the Class B Units so tendered for exchange to be cancelled, and delivering to BPI a certificate for that number of Units of the Fund to be received on the exchange.

The Fund has agreed with BPI not to issue any Units to all or substantially all of the holders of Units by way of a distribution of Units (other than the issue of Units to Unitholders as distribution in lieu of a cash distribution) or to subdivide or redivide the outstanding Units into a greater number of Units or to combine, reduce or consolidate the outstanding Units into a lesser number of Units without adjusting the number of Units for which Class B Units may be exchanged upon exercise of the Exchange Rights in a manner approved by BPI and the Trustees, acting reasonably.

If at any time while any Class B Units are outstanding there is any reclassification of the Units outstanding, any change of the Units into other units or securities or any other capital reorganization of the Fund or any consolidation, amalgamation, merger or other form of business combination of the Fund with or into any other entity resulting in a reclassification of the outstanding Units, then the Exchange Rights will also be adjusted in the manner approved by BPI and the Trustees, acting reasonably, so that BPI is entitled to receive, in lieu of the number of Units which it would otherwise have been entitled, the kind and number or amount of securities that it would have been entitled to receive as a result of such event if, on the effective date thereof, it had been the registered holder of the number of Units which it would have received had it exercised the Exchange Rights immediately before the effective date of any such transaction.

The Exchange Rights may be exercised by BPI with respect to any number of Class B Units held by BPI at such time upon not less than three and not more than 10 business days' prior written notice to Holdings LP and Partnership GP of the exercise of such Exchange Rights.

Pursuant to the Exchange Agreement, BPI, as the holder of Class C Units, has the right to transfer such Class C Units to Holdings LP in consideration for the assumption by Holdings LP of (and the concurrent release of BPI of its obligations with respect to) an amount of the indebtedness under the BP Loan equal to \$10 per Class C Unit to be transferred. The exchange procedure will be initiated by BPI delivering to Partnership GP as escrow agent under the Exchange Agreement a unit certificate in respect of the Class C general partner units to be exchanged, duly endorsed in blank for transfer and giving notice of the proposed exchange to Holdings LP. Upon receipt of a notice of such exchange, Holdings LP is obligated to assume, and the Fund is obligated to release BPI with respect to, an aggregate amount of the indebtedness under the BP Loan equal to \$10 per Class C Unit to be transferred. Partnership GP will effect the exchange procedure by causing to be issued in the name of Holdings LP a unit certificate for that number of Class C limited partner units to be issued on the exchange, entering Holdings LP in the register of limited partners of the Partnership in respect of such additional Class C limited partner units, causing the Class C general partner units so tendered for exchange to be cancelled.

## **RISKS & UNCERTAINTIES**

### **Risks Related to the Casual Dining Restaurant Industry**

#### *The Restaurant Industry and its Competitive Nature*

The performance of the Fund is directly dependent upon Royalty and interest payments received from BPI. The amount of Royalty received from BPI is dependent on various factors that may affect the casual dining sector of the restaurant industry. The restaurant industry generally, and in particular the casual dining sector, is intensely competitive with respect to price, service, location and food quality. Competitors include national and regional chains, as well as independently owned restaurants. If BPI and the Boston Pizza franchisees are unable to successfully compete in the casual dining sector, Franchise Revenue may be adversely affected; the amount of Royalty reduced and the ability of BPI to pay Royalty or interest on the BP Loan may be impaired. The restaurant industry is also affected by changes in demographic trends, traffic patterns, and the type, number, and location of competing restaurants. In addition, factors such as government regulations, smoking bylaws, inflation, publicity from any food borne illnesses, increased food, labour and benefits costs, continuing operations of key suppliers and the availability of experienced management and hourly employees may adversely affect the restaurant industry in general and therefore potentially affect Franchise Revenue. BPI's success also depends on numerous factors affecting discretionary consumer spending, including economic conditions, disposable consumer income and consumer confidence. Adverse changes in these factors could reduce guest traffic or impose practical limits on pricing, either of which could reduce revenue and operating income, which could adversely affect Franchise Revenue, the Royalty and the ability of BPI to pay the Royalty to the Partnership or interest on the BP Loan to the Fund.

### Growth of the Royalty

The growth of the Royalty and other amounts payable by BPI under the License and Royalty Agreement is dependent upon the ability of BPI to (i) maintain and grow its franchised restaurants, (ii) locate new restaurant sites in prime locations; and (iii) obtain qualified operators to become Boston Pizza franchisees. BPI faces competition for restaurant locations and franchisees from its competitors and from franchisors of other businesses. BPI's inability to successfully obtain qualified franchisees could adversely affect its business development. The opening and success of a Boston Pizza Restaurant is dependent on a number of factors, including: availability of suitable sites; negotiations of acceptable lease or purchase terms for new locations; availability, training and retention of management and other employees necessary to staff new Boston Pizza Restaurants; adequately supervising construction; securing suitable financing; and other factors, some of which are beyond the control of BPI. Boston Pizza franchisees may not have all the business abilities or access to financial resources necessary to open a Boston Pizza Restaurant or to successfully develop or operate a Boston Pizza Restaurant in their franchise areas in a manner consistent with BPI's standards.

BPI provides training and support to Boston Pizza franchisees, but the quality of franchised operations may be diminished by any number of factors beyond BPI's control. Consequently, Boston Pizza franchisees may not successfully operate restaurants in a manner consistent with BPI's standards and requirements, or may not hire and train qualified managers and other restaurant personnel. If they do not, the image and reputation of BPI may suffer, and gross revenue and results of operations of the Boston Pizza Restaurants could decline.

### The Closure of Boston Pizza Restaurants May Affect the Amount of the Royalty

The amount of the Royalty payable to the Partnership by BPI is dependent upon the Franchise Revenue which is dependent on the number of Boston Pizza Restaurants that are included in the Royalty Pool and the Franchise Revenue of those Boston Pizza Restaurants. Each year, a number of Boston Pizza Restaurants may close and there is no assurance that BPI will be able to open sufficient new Boston Pizza Restaurants to replace the Franchise Revenue of the Boston Pizza Restaurants that have closed.

### Revenue from Franchisees

The ability of BPI to pay the Royalty is dependent, in part, on Boston Pizza franchisees' ability to generate revenue and to pay royalties to BPI. Failure of BPI to achieve adequate levels of collection from Boston Pizza franchisees could have a serious effect on the ability of BPI to pay the Royalty or interest on the BP Loan.

### Intellectual Property

The ability of BPI to maintain or increase its Franchise Revenue will depend on its ability to maintain "brand equity" through the use of the BP Rights licensed from the Partnership. If the Partnership fails to enforce or maintain any of its intellectual property rights, BPI may be unable to capitalize on its efforts to establish brand equity. All registered trademarks in Canada can be challenged pursuant to provisions of the *Trade-marks Act* (Canada) and if any BP Rights are ever successfully challenged, this may have an adverse impact on Franchise Revenue and therefore on the Royalty. The Partnership owns the BP Rights in Canada. However it does not own identical or similar trademarks owned by parties not related to BPI or the Partnership in other jurisdictions. Third parties may use such trademarks in jurisdictions other than Canada in a manner that diminishes the value of such trademarks. If this occurs, the value of the BP Rights may suffer and gross revenue by Boston Pizza Restaurants could decline. Similarly, negative publicity or events associated with such trademarks in jurisdictions outside of Canada may negatively affect the image and reputation of Boston Pizza Restaurants in Canada, resulting in a decline in gross revenue by Boston Pizza Restaurants.

### Government Regulation

BPI is subject to various federal, provincial and local laws affecting its business. Each Boston Pizza Restaurant is subject to licensing and regulation by a number of governmental authorities, which may include alcoholic beverage control, smoking laws, health and safety and fire agencies. Difficulties in obtaining or failures to obtain the required licenses or approvals could delay or prevent the development of a new Boston Pizza Restaurant in a particular area or limit the operations of an existing Boston Pizza Restaurant.

### Regulations Governing Alcoholic Beverages

The ability of Boston Pizza Restaurants to serve alcoholic beverages is an important factor in attracting customers. Alcoholic beverage control regulations require each Boston Pizza Restaurant to apply to provincial or municipal authorities, for a license or permit to sell alcoholic beverages on the premises and, in certain locations, to provide service for extended hours and on Sundays.

Typically, licenses must be renewed annually and may be revoked or suspended for cause at any time. Alcoholic beverage control regulations relate to numerous aspects of daily operations of Boston Pizza Restaurants, including minimum age of patrons and employees, hours of operation, advertising, wholesale purchasing, inventory control, and handling, storage and dispensing of alcoholic beverages.

The failure of BPI or a Boston Pizza franchisee to retain a license to serve liquor for a Boston Pizza Restaurant would adversely affect that restaurant's operations. BPI or a Boston Pizza franchisee may be subject to legislation in certain provinces, which may provide a person injured by an intoxicated person the right to recover damages from an establishment that wrongfully served alcoholic beverages to the intoxicated person. BPI carries host liquor liability coverage as part of its existing comprehensive general liability insurance. There is no assurance that such insurance coverage will be adequate.

### Laws Concerning Employees

The operations of Boston Pizza Restaurants are also subject to minimum wage laws governing such matters as working conditions, overtime and tip credits. Significant numbers of Boston Pizza Restaurants' food service and preparation personnel are paid at rates related to the minimum wage and, accordingly, further increases in the minimum wage could increase Boston Pizza Restaurants' labour costs.

### Potential Litigation and Other Complaints

BPI and Boston Pizza franchisees may be the subject of complaints or litigation from guests alleging food related illness, injuries suffered on the premises or other food quality, health or operational concerns. Adverse publicity resulting from such allegations may materially affect the sales by Boston Pizza Restaurants, regardless of whether such allegations are true or whether BPI or a Boston Pizza franchisee is ultimately held liable.

## **Risk Related to the Structure of the Fund**

### Investment Eligibility

There can be no assurance that the Units will continue to be qualified investments for registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans or tax-free savings accounts under the Tax Act. In addition, a Unit may be a prohibited investment in respect of a registered retirement savings plan, registered retirement income fund or tax-free savings account where, in general terms, the holder or annuitant (as the case may be) does not deal at arm's length with the Fund or has a "significant interest" (as defined in the Tax Act) in the Fund or in a corporation, partnership or trust with which the Fund does not deal at arm's length. The Tax Act imposes penalties for the acquisition or holding of non-qualified or prohibited investments.

### Dependence of the Fund on the Trust, Holdings LP and BPI

The cash distributions to the Unitholders are entirely dependent on the ability of the Trust to pay its interest obligations, if any, under the Trust Notes and to make distributions on the Trust Units and upon the ability of BPI to pay the interest on the BP Loan and the ability of Holdings LP to meet its obligations to assume payment of the BP Loan as consideration for the purchase of Class C general partner units of the Partnership held by BPI or any related party or Class C limited partner units of the Partnership acquired by Holdings LP or a permitted transferee pursuant to the exchange agreement, as the case may be. The ability of the Trust to pay its interest obligations or make distributions on units of the Trust held by the Fund is entirely dependent upon the ability of Holdings LP to make distributions on the Holdings LP Units held by the Trust. The ability of Holdings LP to make distributions on the Holdings LP Units held by the Trust is entirely dependent upon the ability of the Partnership to make distributions on the limited partner units of the Partnership held by Holdings LP.

The sole source of revenue of the Partnership and ultimately the Fund is the Royalty payable to the Partnership and the interest on the BP Loan payable to the Fund, by BPI. BPI collects franchise fees and other amounts from Boston Pizza franchisees and generates revenues from its corporate restaurants. In the conduct of the business, BPI pays expenses and incurs debt and obligations to third parties. These expenses, debts and obligations could impact the ability of BPI to pay the Royalty to the Partnership and interest on the BP Loan to the Fund.

The Partnership and the Fund are each entirely dependent upon the operations and assets of BPI to pay the Royalty to the Partnership and interest on the BP Loan to the Fund, and each is subject to the risks encountered by BPI in the operation of its business, including the risks relating to the casual dining restaurant industry referred to above and the results of operations and financial condition of BPI.

### Leverage: Restrictive Covenants

The Partnership has third-party debt service obligations under the Credit Facilities. The degree to which the Partnership is leveraged could have important consequences to Unitholders, including: (i) a portion of the Partnership's cash flow from operations could be dedicated to the payment of the principal of and interest on its indebtedness, thereby reducing funds available for distribution to the Fund; and (ii) certain of the Partnership's borrowings are at variable rates of interest, which exposes the Partnership to the risk of increased interest rates. The Credit Facilities are due on July 19, 2017, at which time the Partnership will need to refinance such loans. There can be no assurance that refinancing of this indebtedness will be available to the Partnership, or available to the Partnership on acceptable terms. The Partnership's ability to make scheduled payments of principal or interest on, refinance, its indebtedness depends on future cash flows, which is dependent on the Royalty payments it receives from BPI, prevailing economic conditions, prevailing interest rate levels, and financial, competitive, business and other factors, many of which are beyond its control.

The Credit Facilities contain numerous restrictive covenants that limit the discretion of the Partnership's management with respect to certain business matters. These covenants place restrictions on, among other things, the ability of the Partnership to incur additional indebtedness, to create liens or other encumbrances, to pay distributions or make certain other payments, investments, loans and guarantees, to sell or otherwise dispose of assets, to allow a change of control, to change the terms of the Limited Partnership Agreement and to merge or consolidate with another entity. A failure to comply with the obligations in the Credit Facilities could result in an event of default which, if not cured or waived, could result in the acceleration of the relevant indebtedness. If the indebtedness under the Credit Facilities were to be accelerated, there can be no assurance that the Partnership's and the Trust's assets would be sufficient to repay that indebtedness.

Current and future borrowings by BPI could adversely affect BPI's ability to pay the Royalty and interest on the BP Loan.

### Cash Distributions are Not Guaranteed and Will Fluctuate with the Partnership's Performance

Although the Fund's policy is to distribute the total amount of cash received by the Fund from the Trust on the Trust Units and the Trust Notes and from BPI on the BP Loan, less the sum of: (a) administrative expenses and other obligations of the Fund; (b) amounts which may be paid by the Fund in connection with any cash redemptions of Units; (c) any interest expense incurred by the Fund; and (d) reasonable reserves established by the trustees of the Fund in their sole discretion, including, without limitation, reserves established after January 1, 2011 to pay SIFT Tax, in order to maximize returns to Unitholders, there can be no assurance regarding the amounts of income to be generated by the Fund or the Partnership. The actual amount distributed in respect of the Units will depend upon numerous factors, including payment of the Royalty and interest on the BP Loan by BPI.

### Restrictions on Certain Unitholders and Liquidity of Units

The Declaration of Trust imposes various restrictions on Unitholders. Unitholders that are Non-residents and partnerships that are not Canadian partnerships for purposes of the Tax Act are prohibited from beneficially owning more than 50% of the Units (on a non-diluted and a fully-diluted basis). These restrictions may limit (or inhibit the exercise of) the rights of certain Unitholders, including Non-residents, to acquire Units, to exercise their rights as Unitholders and to initiate and complete take-over bids in respect of the Units. As a result, these restrictions may limit the demand for Units from certain Unitholders and thereby adversely affect the liquidity and market value of the Units held by the public.

### Fund not a Corporation

Investors are cautioned that, although the Fund is a legal entity, it is not generally regulated by established corporate law and Unitholders' rights are governed primarily by the specific provisions of the Declaration of Trust of the Fund, which address such items as the nature of the Units, the entitlement of Unitholders to cash distributions, restrictions respecting non-resident holdings, meetings of Unitholders, delegation of authority, administration, Fund governance and liabilities and duties of the Trustees to Unitholders. As well, under certain existing legislation such as the *Bankruptcy and Insolvency Act* and the *Companies' Creditor Arrangement Act*, the Fund is not a legally recognized entity within the definitions of these statutes. In the event of an insolvency or restructuring of the Fund, the rights of Unitholders will be different from those of shareholders of an insolvent or restructuring corporation.

### Nature of Units

Securities such as the Units are hybrids in that they share certain attributes common to both equity securities and debt instruments. The Units do not represent a direct investment in the Trust, the Partnership or Holdings LP and should not be viewed by investors as units in the Trust, the Partnership or Holdings LP. Unitholders will not have the statutory rights normally associated with ownership of shares of a corporation including, for example, the right to bring "oppression" or "derivative" actions. The Units represent a fractional interest in the Fund. The Fund's only assets are Series 1 Trust Notes, Trust Units, the BP Loan, common shares of Partnership GP and common shares of Holdings GP. The price per Unit is a function of the anticipated amount of distributions.

### Possible Unitholder Liability

The Declaration of Trust of the Fund provides that no Unitholder will be subject to any liability whatsoever to any person in connection with the holding of Units. However, there remains a risk, which is considered by the Fund to be remote in the circumstances, that a Unitholder could be personally liable despite such statement in the Declaration of Trust for the obligations of the Fund to the extent that claims are not satisfied out of the assets of the Fund. It is intended that the affairs of the Fund will be conducted to seek to minimize such risk wherever possible. There is legislation under the laws of British Columbia (discussed below) and certain other provinces which is intended to provide protection for beneficial owners of trusts.

On March 30, 2006, the *Income Trust Liability Act* (British Columbia) came into force. This legislation creates a statutory limitation on the liability of beneficiaries of British Columbia income trusts such as the Fund. The legislation provides that a unitholder of a trust will not be, as a beneficiary, liable for any act, default, obligation or liability of the trustees. However, this legislation has not been judicially considered and it is possible that reliance on the legislation by a Unitholder could be successfully challenged on jurisdictional or other grounds.

#### *Distribution of Securities on Redemption or Termination of the Fund*

Upon a redemption of Units or termination of the Fund, the Trustees may distribute Series 2 Trust Notes and Series 3 Trust Notes directly to the Unitholders, subject to obtaining all required regulatory approvals. There is currently no market for Series 2 Trust Notes or Series 3 Trust Notes. In addition, the Series 2 Trust Notes and Series 3 Trust Notes are not freely tradable and are not currently listed on any stock exchange. Securities of the Trust so distributed may not be qualified investments for trusts governed by registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans or tax free savings accounts and may be prohibited investments for registered retirement savings plans, registered retirement income funds and tax free savings accounts, depending upon the circumstances at the time.

#### *The Fund May Issue Additional Units Diluting Existing Unitholders' Interests*

The Declaration of Trust authorizes the Fund to issue an unlimited number of Units and Special Voting Units for such consideration and on such terms and conditions as shall be established by the Trustees without the approval of any Unitholders. Additional Units will be issued by the Fund upon the exchange of the Class B Units held by BPI or any Related Party.

#### *Income Tax Matters*

There can be no assurance that Canadian federal income tax laws will not be changed in a manner that adversely affects the Fund and the Unitholders. If the Fund ceases to qualify as a "mutual fund trust" under the Tax Act, the income tax treatment afforded to Unitholders would be materially and adversely different in certain respects.

Distributions on the Trust Units and interest on the BP Loan accrues at the Fund level for income tax purposes whether or not actually paid. Similarly, the Royalty may accrue at the Partnership level for income tax purposes whether or not actually paid. As a result, the income of the Partnership allocated to the Fund (through the Trust and Holdings LP), in respect of a particular fiscal year may exceed the cash distributed by the Partnership to the Fund (through the Trust and Holdings LP) in such year. The Declaration of Trust provides that the Trustees of the Fund may declare distributions to Unitholders in such amounts as the Trustees may determine from time to time. Where, in a particular year, the Fund does not have sufficient available cash to distribute the amounts so declared to Unitholders (for instance, where distributions on the Trust Units or interest payments on the BP Loan are due but not paid in whole or in part), the Declaration of Trust provides that additional Units may be distributed to Unitholders in lieu of cash distributions. Unitholders will generally be required to include an amount equal to the fair market value of those distributed Units in their taxable income.

On January 1, 2011, the Fund became liable to pay the SIFT Tax. The payment of the SIFT Tax will reduce the cash flow of the Fund, thereby reducing the amount available for distributions to Unitholders. The SIFT Tax may also adversely affect the marketability of the Units and the ability of the Fund to undertake financings and acquisitions. The Trustees have examined a number of alternatives available to the Fund to maximize Unitholder value in the face of the legislative changes to the tax treatment of income trusts, which became effective on January 1, 2011, and believe that the Fund remaining a trust is in the best interest of Unitholders and the business. The Trustees will continue to examine all available alternatives for the structure of the Fund. If the Trustees decide, in the future, to change the Fund's existing structure, there is no way of determining the potential impact (positively or negatively) that any such change might have on the value or trading price of Units or any publicly traded replacement securities.



## MARKET FOR SECURITIES

### Trading Price and Volume

Units of the Fund are listed for trading on the TSX under the symbol BPF.UN. The following is a summary of the price ranges and volume traded on a monthly basis for the Fiscal Year ended December 31, 2012:

<u>MONTH</u>	<u>OPEN</u>	<u>HIGH</u>	<u>LOW</u>	<u>CLOSE</u>	<u>TOTAL MONTH VOLUME TRADED</u>
January, 2012	\$14.23	\$15.05	\$14.06	\$14.97	658,638
February, 2012	\$15.00	\$16.10	\$14.95	\$16.05	622,091
March, 2012	\$16.04	\$18.41	\$15.97	\$17.99	883,308
April, 2012	\$18.00	\$18.33	\$17.52	\$18.27	645,890
May, 2012	\$18.26	\$18.33	\$15.61	\$17.49	722,908
June, 2012	\$17.50	\$17.66	\$16.95	\$17.34	281,458
July, 2012	\$17.36	\$18.67	\$17.30	\$18.25	460,492
August, 2012	\$18.26	\$19.33	\$18.15	\$18.80	484,958
September, 2012	\$18.82	\$19.80	\$18.70	\$19.30	431,783
October, 2012	\$19.50	\$19.70	\$18.81	\$19.11	403,802
November, 2012	\$19.19	\$19.39	\$17.52	\$19.05	398,992
December, 2012	\$19.04	\$19.33	\$18.90	\$19.30	223,545

## MANAGEMENT

### Trustees of the Fund

The names, province of residence and principal occupation for the five preceding years of the Trustees are shown below. The Trustees are appointed at each annual meeting of Unitholders. The term of office for each Trustee expires at the close of the next annual general meeting of the Fund or until the earlier of the Trustee's death, resignation or removal.

<u>Trustee and Province of Residence</u>	<u>Trustee Since</u>	<u>Principal Occupation for Previous Five Years</u>
William C. Brown British Columbia, Canada	July 2002	Trustee of the Fund – July 2002 to present; Corporate Director
John L. Cowperthwaite, FCA British Columbia, Canada	July 2002	Trustee of the Fund – July 2002 to present; Corporate Director
W. Murray Sadler, QC British Columbia, Canada	June 2008	Trustee of the Fund – June 2008 to present; Practicing lawyer and associate counsel of the law firm of Heather Sadler Jenkins LLP; Corporate Director

### *Remuneration of Trustees of the Fund and Directors of Partnership GP*

Each of the Trustees is entitled to annual compensation of \$20,000 plus an additional \$1,000 for each regularly scheduled meeting of Trustees attended and \$500 for each extraordinary meeting of the Trustees attended, unless the extraordinary meeting is deemed to be substantive, as determined by the Chairman of such meeting, then each Trustee is entitled to \$1,000 for each extraordinary meeting of the

Trustees attended. Each of the directors of Partnership GP is entitled to annual compensation for their services as a director of \$20,000 per year plus an additional \$1,000 per director for attending each regularly scheduled meeting of the board of directors and \$500 per director for each extraordinary meeting of the board of directors or a committee of the board of directors, unless the extraordinary meeting is deemed to be substantive, as determined by the Chairman of such meeting, then each director is entitled to \$1,000 for each extraordinary meeting of the directors attended (in each case, except where the director attends a meeting of the Trustees on the same day and for which compensation is paid). Each of the directors of the Partnership GP is reimbursed for general expenses as they arise from time to time. At present, neither Mr. Pacinda nor Mr. Bews received compensation for their roles as directors of the Partnership GP. For descriptions of Mr. Pacinda, Chief Executive Officer of Partnership GP and Mr. Bews, Chief Financial Officer of Partnership GP see "Directors and Officers of Partnership GP".

#### *Directors' and Officers' Liability Insurance*

The trustees of the Fund and the Trust, and the directors and officers of Holdings GP and Partnership GP are covered under the directors' and officers' insurance policy established by the Fund. The aggregate limit of liability applicable to those insured Trustees, directors and officers under the policy is \$15 million inclusive of defence costs. The policy will pay on behalf of the Fund, the Trust, Holdings GP and Partnership GP all losses for which the Fund, the Trust, Holdings GP or Partnership GP grants indemnification to such trustees, directors or officers in excess of a deductible of \$100,000 for each loss. In addition, there is an excess "Side A" directors' and officers' policy in the amount of \$10 million. The premiums for the policies are paid by the Partnership. For the policy year ending July 2013, the premiums for these policies were \$78,000.

#### *Units Held*

To the knowledge of the Fund, as at February 6, 2013, the trustees of the Fund and the Trust, and the directors and officers of Holdings GP and Partnership GP, together as a group, beneficially owned, directly or indirectly, or exercised control or direction over 66,523 Units representing 0.43% of outstanding Units of the Fund.

#### *Corporate Cease Trade Orders, Bankruptcies, Penalties or Sanctions*

No Trustee or director or executive officer of Partnership GP, is, or has been, within the past ten years, a director, chief executive officer or chief financial officer of any company, that (a) while that person was acting in that capacity was the subject of a cease trade or similar order or an order that denied that company access to any exemption under Canadian securities legislation, for a period of more than 30 consecutive days (collectively an "Order") or (b) after that person was acting in that capacity was subject to an Order that resulted from an event that occurred while that person was acting in that capacity. No Trustee, director or executive officer of Partnership GP or Unitholder of the Fund holding a sufficient number of securities of the Fund to materially affect control of the Fund, (a) is or has been within the past ten years a director or executive officer of any company that, while that person was acting in that capacity, or within a year of that person ceasing to act in that capacity, became bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or was subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver or receiver manager or trustee appointed to hold its assets; (b) has, within the past ten years become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or become subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold their assets.

No Trustee of the Fund, director or executive officer of Partnership GP or Unitholder of the Fund holding a sufficient number of securities of the Fund to materially affect control of the Fund: (a) has had any penalties or sanctions imposed by a court relating to securities legislation or by a securities regulatory authority, (b) since December 31, 2000 entered into any settlement agreement with a securities regulatory authority or (c) has had any other penalties or sanctions imposed by a court or regulatory body that would likely be considered important to a reasonable investor in making an investment decision with respect to the Fund.

### *Conflicts of Interest*

Except as described in the “Interest of Management and Others in Material Transactions” section below, to the knowledge of the Fund, no Trustee of the Fund or director or executive officer of Partnership GP has an existing or potential material conflict of interest with the Fund or any of its subsidiaries. The Governance Agreement requires that certain procedures be followed whenever a conflict arises between the Fund or any of its subsidiaries and BPI.

### **Audit Committee of the Fund**

The Audit Committee is responsible for monitoring Partnership GP and the Partnership’s financial reporting, accounting systems, internal controls and liaising with external auditors.

#### *Composition of the Audit Committee*

<b><u>Audit Committee Member</u></b>	<b><u>Is the member: (i) independent and (ii) financially literate?</u></b>
William C. Brown	Mr. Brown is independent and financially literate.
John L. Cowperthwaite, FCA	Mr. Cowperthwaite is independent and financially literate.
W. Murray Sadler, QC	Mr. Sadler is independent and financially literate.

#### *Relevant Education and Experience*

<b><u>Audit Committee Member</u></b>	<b><u>Education and Experience</u></b>
William C. Brown	Mr. Brown served as Vice President of BC Sugar Refinery Ltd. from 1976 to 1988, President from 1988 to 1997, and Chief Executive Officer from 1990 to 1997. Mr. Brown was Chairman of BC Sugar Refinery Ltd. from 1997 to 1998. Mr. Brown has also acquired significant experience and exposure to accounting and financial reporting issues through his board appointments and serving on the audit committee at Union Gas Ltd. from 2002 to 2007, Harmac Pacific Inc. from 1998 to 1999, Westcoast Energy Inc. from 1995 to 2007, TimberWest Forest Corp. from 1993 to 2009, Duke Seabridge Ltd. from 1992 to 2002, Coast Tractor & Equipment Ltd. from 1992 to 2002 and Pacific Northern Gas Ltd. from 1985 to 1995. Mr. Brown has a Bachelor of Science degree from the University of New Brunswick.
John L. Cowperthwaite, FCA	Mr. Cowperthwaite graduated from University College high school in London, England in 1958 and obtained his professional qualification as a Chartered Accountant in 1965. He acquired significant experience with the audits of numerous public companies during his 42 years with Ernst & Young, LLP. While at Ernst & Young, LLP, Mr. Cowperthwaite was a senior executive partner and an office managing partner until October 2001. He subsequently became Chairman of the United Way of the Lower Mainland and Vice Chair of Simon Fraser University. Mr. Cowperthwaite also chaired the committee which advised the Government of British Columbia on accounting matters.

## Audit Committee Member

## Education and Experience

W. Murray Sadler, QC

Mr. Sadler is associate counsel and former managing partner of the law firm of Heather Sadler Jenkins LLP, a full service law firm. Mr. Sadler is a graduate of the University of British Columbia (BA 63; LL.B. 66) and he has practiced law since his call to the Bar in the province of British Columbia in 1967. Mr. Sadler's practice has included financial restructuring, taxation and the organization and reorganization of various business structures. He was the Chair of the Board of the University of Northern British Columbia for four years during its formation, facilities construction and initial start-up. He is currently a director of the Provincial Health Services Authority of British Columbia and sits on its research, audit and finance committees.

### *Terms of Reference for Audit Committee*

#### I. PURPOSE

The purpose of the Audit Committee (the "**Committee**") is to assist the board of directors (the "**Board**") of Boston Pizza GP Inc. (the "**Corporation**") in fulfilling its oversight responsibilities with respect to the Corporation, the Partnership, the Trust, Holdings LP and the Fund, by reviewing the financial information which will be provided to the shareholders of the Corporation and the unitholders of the Partnership, the Trust, Holdings LP and the Fund and others, the systems of corporate financial controls which management and the Board have established and the audit process.

More specifically the purpose of the Committee is to satisfy itself that:

- A. The Corporation's, Partnership's, Trust's, Holdings LP's and Fund's annual financial statements are fairly presented in accordance with generally accepted accounting principles and to recommend to the Board or the trustees, as the case may be, whether the annual financial statements should be approved.
- B. The information contained in the Partnership's, the Trust's, Holdings LP's and the Fund's quarterly financial statements, the Fund's annual report to Unitholders of the Fund and other financial publications, such as management's discussion and analysis, is complete and accurate in all material respects and to recommend to the Board whether these materials should be approved.
- C. The Corporation has appropriate systems of internal control over the safeguarding of assets and financial reporting to ensure compliance by the Corporation, the Partnership, the Trust, Holdings LP and the Fund with legal and regulatory requirements.
- D. The external audit functions with respect to the Corporation, Partnership, Trust, Holdings LP and Fund have been effectively carried out and that any matter which the independent auditors wish to bring to the attention of the Board has been addressed. The Committee will also recommend to the Board the re-appointment or appointment of auditors of the Corporation, the Partnership, the Trust, Holdings LP and the Fund and their remuneration.

#### II. COMPOSITION AND TERMS OF OFFICE

- A. Following each annual meeting of Unitholders of the Fund, the Board shall appoint not less than three directors to serve on the Committee, a majority of whom shall not be officers or employees of BPI or its affiliates.
- B. The Chair of the Committee shall be appointed by the Board and shall not be an officer or an employee of BPI or its affiliates.

- C. Any member of the Committee may be removed or replaced at any time by the Board and shall cease to be a member upon ceasing to be a director of the Corporation. Each member of the Committee shall hold office until the close of the next annual meeting of Unitholders of the Fund or until the member resigns or is replaced, whichever first occurs.
- D. The Committee will meet at least four times per year. The meetings will be scheduled to permit timely review of the interim and annual financial statements. Additional meetings may be held as deemed necessary by the Chair of the Committee or as requested by any member of the Committee or by the internal or external auditors.
- E. If all members consent, and proper notice has been given, or waived, a member or members of the Committee may participate in a meeting of the Committee by means of such telephonic, electronic or other communication facilities as to permit all persons participating in the meeting to communicate adequately with each other, and a member participating in such a meeting by any such means is deemed to be present at that meeting.
- F. A quorum for the transaction of business at all meetings of the Committee shall be a majority of the members of the Committee. Questions arising at any meeting shall be determined by a majority of votes of the members of the Committee present, and in case of an equality of votes the Chair of the Committee shall have a second casting vote.
- G. The Committee may invite such directors, officers and employees of the Corporation as it may see fit from time to time to attend meetings of the Committee and assist in the discussion and consideration of the business of the Committee, but without voting rights.
- H. The Committee shall keep regular minutes of proceedings and shall cause them to be recorded in books kept for that purpose, and shall report the same to the Board at such times as the Board may, from time to time, require.
- I. Supporting schedules and information reviewed by the Committee will be available for examination by any director upon request to the Secretary of the Committee.
- J. The Committee shall choose as its Secretary such person as it deems appropriate.
- K. The external and internal auditors of the Corporation, Partnership, Trust, Holdings LP and/or Fund shall be given notice of, and have the right to appear before and to be heard at, every meeting of the Committee, and shall appear before the Committee when requested to do so by the Committee.

### III. DUTIES AND RESPONSIBILITIES

Subject to the powers and duties of the Board, the Board has delegated to the Committee the following powers and duties to be performed by the Committee on behalf of and for the Board acting on behalf of the Corporation, Partnership, Trust, Holdings LP and Fund:

#### A. Financial Reporting Control Systems

The Committee shall:

- (i) review reports from senior officers of the Corporation outlining any significant changes in financial risks facing the Corporation, the Partnership, the Trust, Holdings LP and the Fund;
- (ii) review the management letter of the external auditors and the Corporation's responses to suggestions made;
- (iii) annually review the guidelines of the Committee; and

- (iv) obtain assurance from the external and internal auditors regarding the overall control environment and the adequacy of accounting system controls of the Corporation with respect to the financial information of the Corporation, the Partnership, the Trust, Holdings LP and the Fund.

B. Interim Financial Statements

The Committee shall:

- (i) review interim financial statements of the Partnership, the Trust, Holdings LP and the Fund with officers of the Corporation prior to their release and recommend their approval to the Board and the trustees, as the case may be; this will include a detailed review of quarterly and year-to-date results; and
- (ii) review narrative comment accompanying interim financial statements.

C. Annual Financial Statements and Other Financial Information

The Committee shall:

- (i) review any changes in accounting policies or financial reporting requirements that may affect the current year's financial statements;
- (ii) obtain summaries of significant transactions, and other potentially difficult matters whose treatment in the annual financial statements merits advance consideration;
- (iii) obtain draft annual financial statements in advance of the Committee meeting and assess, on a preliminary basis, the reasonableness of the financial statements in light of the analyses provided by officers of the Corporation;
- (iv) review a summary provided by the Corporation's legal counsel of the status of any material pending or threatened litigation, claims and assessments against the Corporation, the Partnership, the Trust, Holdings LP and/or the Fund;
- (v) discuss any annual financial statements and the auditors' report thereon in detail with officers of the Corporation and the auditors;
- (vi) review the annual report of the Fund and other annual financial reporting documents including the management discussion and analysis;
- (vii) provide to the Board or the trustees, as the case may be, a recommendation as to whether any of the annual financial statements should be approved; and
- (viii) review insurance coverage including directors', officers' and trustees' liability coverage.

D. External Audit Terms of Reference, Reports, Planning and Appointment

The Committee shall:

- (i) review the audit plan with the external auditors;
- (ii) discuss in private with the external auditors matters affecting the conduct of their audit and other corporate matters;
- (iii) recommend to the Board and/or trustees each year the retention or replacement of the external auditors; if there is a plan to change auditors, review all issues related to the change and the steps planned for an orderly transition;

- (iv) annually review and recommend for approval to the Board the terms of engagement and the remuneration of the external auditor; and
- (v) approve in advance any non-audit services provided by the external auditors.

E. Disclosure Controls and Procedures

The Committee shall review, discuss with the Disclosure Policy Committee and, to the extent the Committee deems appropriate, the internal auditor and the external auditor, the Fund's and BPI's disclosure controls and procedures and make recommendations to the Board of Directors and the Board of Trustees respecting the Fund's and BPI's disclosure controls and procedures. More particularly, the Committee shall:

- (i) discuss and review the Disclosure Policy Committee's annual evaluation and certification process of the design and effectiveness of the disclosure policy and disclosure controls and procedures;
- (ii) discuss with the Disclosure Policy Committee at least annually the guidelines and policies with respect to financial, fraud and disclosure risk assessments; and
- (iii) receive updates from the Disclosure Policy Committee in the form of meeting minutes.

IV. ACCOUNTABILITY

- A. The Committee shall report to the Board at its next regular meeting all such action it has taken since the previous report.
- B. The Committee is empowered to investigate any activity of the Corporation, the Partnership, the Trust, Holdings LP and the Fund and all employees are to co-operate as requested by the Committee. The Committee may retain persons having special expertise to assist it in fulfilling its responsibilities.
- C. The Committee is authorized to request the presence at any meeting, but without voting rights, of a representative from the external auditors, senior management, internal audit, legal counsel or anyone else who could contribute substantively to the subject of the meeting and assist in the discussion and consideration of the business of the Committee, including directors, officers and employees of the Corporation.

**External Auditor Service Fees**

*Audit Fees*

The aggregate fees billed by the Fund's external auditor for fiscal 2012 was \$40,000 and for fiscal 2011 was \$50,000. The aggregate fees billed for assurance and related services by the Fund's external auditor for the performance of the audit or review of the Fund's financial statements that are not part of the audit fees for fiscal 2012 was \$44,500 and for fiscal 2011 was \$45,847. The nature of the services comprising the fees are quarterly review engagements.

*Audit-Related Fees*

The aggregate fees billed for products and services provided by the Fund's external auditor other than audit fees, audit-related fees and tax fees for fiscal 2012 was \$41,500 and for fiscal 2011 was \$64,236. The nature of the services comprising the fees are assistance with accounting and disclosure-related issues, tax legislation changes, and internal controls review and disbursements.

### *Tax Fees*

The aggregate fees billed for professional services rendered by the Fund's external auditor for tax compliance, tax advice and tax planning for fiscal 2012 was \$5,755 and for fiscal 2011 was \$6,600. The nature of the services comprising the fees are associated with the preparation of tax returns.

### *Pre-Approval Policies and Procedures*

On January 1, 2004, the Canadian Institute of Chartered Accountants' revised Rules of Professional Conduct on auditor independence became effective. As they relate to public companies these new rules are very similar to the revised independence rules of the United States Securities and Exchange Commission that became effective on May 6, 2003. They include prohibitions or restrictions on services that may be provided by auditors to their audit clients and require that all services provided to a listed entity audit client, including its subsidiaries, be pre-approved by the client's Board of Directors / Audit committee.

The Fund will not engage an auditor to carry out any prohibited service. The Trustees will consider the pre-approval of permitted services to be performed by the external auditor in each of the following broad categories:

#### Audit Services

#### Audit Related Services

#### Tax Services

- Compliance Services
- Canadian & US Tax Planning Services
- Commodity Tax Services
- Executive Tax Services

#### Other Services

- Valuation Services
- Information Technology Advisory and Risk Management Services
- Actuarial Services
- Forensic and Related Services
- Corporate Recovery Services
- Transaction Services
- Corporate Finance Services
- Project Risk Management Services
- Operational Advisory and Risk Management Services
- Regulatory and Compliance Services

For permitted services the following pre-approval policies will apply:

#### Audit Services

The Trustees will pre-approve all audit services provided by an auditor through their recommendation of an auditor to the Unitholders for appointment at the Fund's annual meeting and through the Trustees' review of the auditor's annual audit plan.

#### Pre-Approval of Audit Related, Tax and Other Services

Annually, the Trustees will update a list of pre-approved services and pre-approve services that are recurring or otherwise reasonably expected to be provided. The Trustees will be subsequently informed (quarterly) of the services for which the auditor has been actually engaged. Any additional requests for pre-approval will be addressed on a case-by-case specific engagement basis.



## Administration Agreement

Under the Administration Agreement, the Partnership is obligated to provide or arrange for the provision of administrative services to the Fund, Holdings LP, Holdings GP and the Trust. With respect to the Fund the administrative services provided by the Partnership include without limitation, those necessary to: (i) ensure compliance by the Fund with continuous disclosure obligations under applicable securities legislation, including the preparation of financial statements relating thereto; (ii) provide investor relations services; (iii) provide or cause to be provided to Unitholders all information to which Unitholders are entitled under the Declaration of Trust, including relevant information with respect to income taxes; (iv) call and hold all meetings of Unitholders and distribute required materials, including notices of meetings and information circulars, in respect of all such meetings; (v) provide for the calculation of distributions to Unitholders; (vi) attend to all administrative and other matters arising in connection with any redemption of Units; (vii) ensure compliance with the Fund's limitations on Non-resident ownership; (viii) administer certain loans; and (viii) meet general accounting, bookkeeping and administrative needs. The Partnership is obligated to pay all expenses incurred by it and attributable to the exercise of its duties in the administration of the Fund, Holdings LP, Holdings GP and the Trust and no fee is payable to the Partnership for the services provided by it to the Fund, Holdings LP, Holdings GP or the Trust under the Administration Agreement.

## Directors and Officers of Partnership GP

As the managing general partner of the Partnership, Partnership GP has the authority to manage the business and affairs of the Partnership, including the authority to carry out the Partnership's obligations under the Administration Agreement. Thus, the Fund is managed and administered by the Partnership which, in turn, is managed by the managing general partner. Certain matters relating to the conduct of the business and affairs of the Partnership GP are provided for in the Governance Agreement. See "Management – Governance Agreement".

The names, province of residence and principal occupation for the five preceding years of the directors and officers of Partnership GP, managing general partner of the Partnership, administrator to the Fund are set out in the table below:

<b><u>Directors and Officers, Province of Residence</u></b>	<b><u>Office Held</u></b>	<b><u>Principal Occupation for Previous Five Years</u></b>
William C. Brown <sup>(1) (2)</sup> British Columbia, Canada	Director, June, 2002	Trustee of the Fund – July 2002 to present, Corporate Director
John L. Cowperthwaite, FCA <sup>(1) (2)</sup> British Columbia, Canada	Director, Chairman and Secretary, June, 2002	Trustee of the Fund – July 2002 to present, Corporate Director
W. Murray Sadler, QC <sup>(1) (2)</sup> British Columbia, Canada	Director, June, 2008	Trustee of the Fund – June 2008 to present; Practicing lawyer and associate counsel of the law firm of Heather Sadler Jenkins LLP; Corporate Director

**Directors and Officers,  
Province of Residence**

**Office Held**

**Principal Occupation for Previous Five Years**

Mark Pacinda<sup>(3)</sup>  
British Columbia, Canada

Director, Chief  
Executive Officer  
July, 2011

President of BPI – January 2004 to present; Chief  
Operating Officer of BPI – January 2009 to July  
2011; Chief Executive Officer of BPI – July 2011 to  
present

Wes Bews<sup>(3)</sup>  
British Columbia, Canada

Assistant  
Secretary,  
November, 2008;  
Director and  
Chief Financial  
Officer,  
December 2010

Corporate Controller of Premium Brands Income  
Fund - January 1999 to December 2006; Corporate  
Controller of CHC Helicopters Corporation -  
December 2006 to October 2007; Vice President,  
Finance of T & M Management Services Ltd. –  
January 2008 to December 2009 – Vice President,  
Finance of BPI – January 2010 to July 2011; Chief  
Financial Officer of BPI – July 2011 to present

<sup>(1)</sup> Also a Trustee of the Fund.

<sup>(2)</sup> Member of the Audit Committee and the Governance Committee.

<sup>(3)</sup> Nominee of BPI.

**Governance Agreement**

*Directors and Committees*

Under the Governance Agreement, three of the directors of the Partnership GP are nominated by the Fund (each of whom may be a Trustee and must be “independent” within the meaning of section 1.2 of National Instrument 58-101 *Disclosure of Corporate Governance Practices* in effect on September 22, 2008) and, for so long as BPI holds a 10% interest in the Fund, whether directly or indirectly through its Class B Units of the Partnership which are exchangeable for Units, two of the directors are nominated by BPI. In addition, the Governance Agreement provides for the establishment of an Audit Committee and a Governance Committee of the Partnership GP, each of which are to be comprised solely of nominees of the Fund.

*Governance Committee*

The Governance Committee is responsible for, among other things, overseeing the operations of the Partnership, addressing any conflicts of interest between the Partnership and BPI, annually reviewing the operations and performance of BPI and for assisting the board of Partnership GP in establishing its approach to corporate governance issues and advising the board in filling vacancies. The corporate governance practices of the Partnership GP are disclosed under the heading “Statement of Corporate Governance Practices” in the Information Circular for the Fund dated April 9, 2012.

*Restrictive Covenants*

BPI agreed with the Partnership in the Governance Agreement not to amend the term or provisions of the confidentiality, non-solicitation and non-competition covenants contained in employment agreements with its senior management without the consent of the Partnership, and to enforce these covenants to the extent required by the Partnership.

*Restrictions on the Transfer of Partnership Securities*

BPI agreed in the Governance Agreement that it will not sell, transfer, encumber or otherwise dispose of any Partnership Securities or Special Voting Units without the prior written consent of the other parties to the Governance Agreement, except:

- in accordance with the Exchange Agreement;
- to the Fund, the Trust, Holdings LP or the Partnership in accordance with the Limited Partnership Agreement;
- in the event of a takeover bid for all of the Units in which the offeror acquires 90% of all of the issued and outstanding Units (including rights to the Units to be issued upon exercise of the Exchange Rights), in which case BPI will be obligated to sell its Class B Units to the successful offeror;
- in the event of a takeover bid, amalgamation, plan of arrangement or other business combination or reorganization involving all or substantially all of the Partnership Securities, the Partnership's assets or the Units or the Fund's assets;
- to create a security interest in favour of a bank or other financial institution in respect of *bona fide* indebtedness of BPI, a subsidiary of BPI or the Partnership, provided that the bank or other financial institution enters into an agreement with the Fund and the Partnership agreeing to cause any person who may acquire any Class B Units in a realization proceeding to become a party to and to observe the terms and provisions of the Limited Partnership Agreement, the Exchange Agreement and the Governance Agreement; or
- to a Related Party in accordance with the Governance Agreement.

If a takeover bid is made for all of the issued and outstanding Units (including rights to the Units to be issued upon exercise of the Exchange Rights) and not less than 90% of the Units on a fully-diluted basis (other than Units held at the date of the takeover bid by or on behalf of the offeror or associates or affiliates of the offeror) are taken up and paid for by the offeror, or upon the merger of the Fund with another entity, the Fund shall have the option, exercisable within 60 days of the closing of the takeover bid, to acquire from BPI all of BPI's Class B Units. The aggregate price for such Class B Units will be equal to the price paid per Unit pursuant to the successful takeover bid or merger multiplied by the number of Units which BPI would be entitled to receive if BPI exercised its Exchange Rights on the date of purchase.

#### *Right of First Offer ("ROFO")*

BPI and each of the Related Parties agreed with the Partnership and the Fund in the Governance Agreement that neither BPI nor the Related Parties will enter into any agreement which, if completed, would result in a Change of Control (as defined hereafter) of BPI unless the Partnership or the Fund is first provided with the opportunity to acquire the assets and undertaking of BPI, or the shares of BPI held directly or indirectly by the Related Parties, for the consideration and on terms set forth in a written ROFO Notice by BPI to the Fund and the Partnership. The ROFO Notice must set forth the amount of the purchase price to be paid by the Partnership or the Fund for the assets and undertaking of BPI, or the shares of BPI held directly or indirectly by the Related Parties, and a summary of the material terms of the proposed transaction.

If, within 30 days after the receipt of the ROFO Notice, the Fund or the Partnership does not inform BPI in writing that the Fund or the Partnership desires to purchase the assets and undertaking of BPI, or the shares of BPI held directly and indirectly by the Related Parties, and, within 30 days after the Fund or the Partnership so informs BPI, the Fund or the Partnership does not enter into an agreement with BPI or the Related Parties for the purchase of assets and undertaking of BPI, or the shares of BPI held directly and indirectly by the Related Parties, then BPI or the Related Parties may enter into any agreement in respect thereof which, if completed, would result in a Change of Control of BPI, so long as:

- the amounts that would be received by the direct and indirect shareholders of BPI upon completion of the transaction contemplated by such agreement, after taking into account the amount of income taxes that would be payable under the Tax Act by BPI and the Related Parties

if the consideration payable in respect of the transaction that results in such Change of Control were immediately distributed to, or paid to, the Related Parties, is at least equal to the amount of such consideration set forth in the ROFO Notice;

- the non-price terms of the transaction as contained in such agreement, when considered as a whole in a commercially reasonable manner having regard to the nature of the transaction and the summary of the proposed transaction as contained in the ROFO Notice, are not materially more favourable to BPI and/or the Related Parties, as the case may be, than the summary of the terms of the proposed transaction contained in the ROFO Notice; and
- on or before the completion of the transaction as contained in such agreement, the purchaser or other party to such agreement, if the Change of Control involves the sale of the shares of BPI, enters into an agreement with the Partnership and the Fund agreeing to guarantee the obligations of BPI under the Governance Agreement and the operating covenants of BPI under the License and Royalty Agreement.

If BPI or the direct or indirect shareholders of BPI do not enter into such an agreement within 210 days after the date the ROFO Notice was given to the Fund or the Partnership by BPI in respect of such transaction, or a transaction giving effect to a Change of Control permitted by the foregoing is not completed by the first anniversary of the date upon which such ROFO Notice was first given, then neither BPI nor the Related Parties may enter into an agreement which, if completed, would result in a Change of Control, unless the Fund and the Partnership are again provided with the opportunity to acquire the assets and undertaking of BPI, or all but not less than all of the shares of BPI held directly or indirectly by the Related Parties in accordance with the foregoing.

A Change of Control is defined as:

- the direct or indirect acquisition by any person or persons (other than one or more Related Parties), acting jointly or in concert, of beneficial ownership (“acting jointly or in concert” and “beneficial ownership” within the meaning of the *Securities Act* (British Columbia)) of 50% or more of the votes attached to BPI’s then outstanding voting shares; or
- the approval by shareholders of BPI of (a) an amalgamation involving BPI, or (b) a complete liquidation or dissolution of BPI or the sale or other disposition of all or substantially all of the assets of BPI if immediately after the completion of a transaction referred to in (a) or (b) the Related Parties do not own directly or indirectly more than 50% of the votes attached to the then outstanding voting securities of each person that then owns the assets and undertaking previously owned by BPI.

Notwithstanding the foregoing, a Change in Control shall not be deemed to occur solely because 50% or more of the votes attached to BPI’s then outstanding voting shares are acquired by: (a) a Related Party; or (b) a trustee or other fiduciary holding securities for the benefit of a Related Party or the estate of a deceased Related Party.

### **Legal Proceedings**

Management is not aware of any litigation outstanding, pending or threatened against the Fund, BPI, the Partnership, the Trust, Holdings LP, Holdings GP or the Partnership GP which would be material to a purchaser of Units.

### **Interest of Management and Others in Material Transactions**

BPI has an interest in the following material transactions involving the Fund and the Partnership:

- BPI receives ongoing distributions from the Partnership on its Class B Units and Class C Units;

- Certain of BPI's officers are also directors and officers of Partnership GP. The Fund has engaged the Partnership, its administrator to provide certain administrative services on behalf of the Fund. In turn, certain of the administrative services are performed by BPI as a general partner of the Partnership. Under the terms of the Partnership Agreement governing the Partnership, BPI is entitled to be reimbursed for certain out-of-pocket expenses incurred in performing these services. The total amount paid to BPI in respect of these services during 2012 was \$0.3 million; and
- On November 23, 2012, BPI exchanged 3,479,575 Class B Units for 1,000,000 Units, which were then sold to the chairmen and owners of BPI and a related party.

### **TRANSFER AGENTS AND REGISTRARS**

The transfer agent and registrar of the Units is Computershare Investor Services Inc. at its principal offices in Vancouver, British Columbia and Toronto, Ontario.

### **MATERIAL CONTRACTS**

The only material contracts entered into by any of the Fund, Holdings LP, Holdings GP, the Trust, the Partnership or Partnership GP, other than in the ordinary course of business, that were entered into in the most recently completed financial year, or before the most recently completed financial year but are still in effect, are as follows:

1. the agreements required for the Credit Facilities, referred to under "Description of the Partnership - Credit Facilities";
2. the agreements required for the BP Loan and the Boston Pizza General Security Agreement referred to under "Description of the Fund - BP Loan";
3. the License and Royalty Agreement and the Partnership General Security Agreement referred to under "License and Royalty";
4. the Governance Agreement referred to under "Description of the Partnership - Governance Agreement" and "Management – Governance Agreement";
5. the Exchange Agreement referred to under "The Exchange Rights";
6. the Limited Partnership Agreement referred to under "Description of the Partnership";
7. the Holdings Limited Partnership Agreement referred to under "Corporate Structure – Boston Pizza Holdings Limited Partnership";
8. the Declaration of Trust of the Fund referred to under "Description of the Fund";
9. the declaration of trust for the Trust referred to under "Corporate Structure – Boston Pizza Holdings Trust" and "Description of the Fund – Trust Units";
10. the Administration Agreement referred to under "Management - Administration Agreement"; and
11. the Note Indenture for the Trust Notes referred to under "Description of the Fund – Redemption Right" and "Description of the Fund – Trust Notes".

Copies of the foregoing documents may be examined during normal business hours at the offices of the Fund, at 100 – 10760 Shellbridge Way, Richmond, British Columbia, V6X 3H1 or may be found on SEDAR at [www.sedar.com](http://www.sedar.com).

## INTERESTS OF EXPERTS

The auditors of the Fund, KPMG LLP (“**KPMG**”) have prepared the auditors’ report attached to the Fund’s annual consolidated financial statements for its most recently completed year end. As of February 6, 2013, KPMG was independent from the Fund within the meaning of the Rules of Professional Conduct of the Institute of Chartered Accounts of British Columbia.

## ADDITIONAL INFORMATION

Additional information related to the Fund maybe found on SEDAR at [www.sedar.com](http://www.sedar.com). Additional information, including Trustees’ remuneration and indebtedness, and principal holders of the Fund’s securities, is contained in the Fund’s information circular for its most recent annual meeting of Unitholders that involved the appointment of Trustees. Additional financial information is provided in the Fund’s audited financial statements and management’s discussion and analysis for its most recently completed financial year.

## NOTE REGARDING FORWARD-LOOKING INFORMATION

Certain information in this Annual Information Form may constitute “forward-looking information” that involves known and unknown risks, uncertainties, future expectations and other factors which may cause the actual results, performance or achievements of the Fund, the Trust, the Partnership, Holdings LP, Holdings GP, Partnership GP, BPI, Boston Pizza Restaurants, or industry results, to be materially different from any future results, performance or achievements expressed or implied by such forward-looking information. When used in this Annual Information Form, forward-looking information may include words such as “anticipate”, “estimate”, “may”, “will”, “expect”, “believe”, “plan” and other similar terminology. This information reflects current expectations regarding future events and operating performance and speaks only as of the date of this Annual Information Form.

Forward-looking information in this Annual Information Form includes, but is not limited to, such things as:

- the Fund retaining its current income trust structure;
- the future expansion of Boston Pizza Restaurants;
- Boston Pizza will continue to strengthen its position as the number one casual dining brand in Canada; and
- the Partnership being able to refinance the Credit Facilities.

The forward-looking information disclosed herein is based on a number of assumptions including, among other things:

- absence of changes in law;
- protection of BP Rights;
- pace of commercial real estate development;
- franchisees’ access to financing;
- franchisees’ duly paying franchise fees and other amounts;
- there will be no closures of Boston Pizza Restaurants that materially affect the amount of Royalty paid by BPI to the Fund;
- speed of permitting;
- future results being similar to historical results; and
- expectations related to future general economic conditions.

This forward-looking information involves a number of risks, uncertainties and future expectations including, but not limited to:

- competition;
- changes in demographic trends;
- changes in consumer preferences and discretionary spending patterns;

- changes in national and local business and economic conditions;
- legislation and government regulation;
- cash distributions are not guaranteed;
- accounting policies and practices; and
- the results of operations and financial conditions of BPI and the Fund.

The foregoing list of factors is not exhaustive and should be considered in conjunction with the risks and uncertainties set out above in “Risks & Uncertainties”.

This Annual Information Form discusses some of the factors that could cause actual results to differ materially from those expressed in or underlying such forward-looking information. Forward-looking information is provided as of the date hereof and, except as required by law, we assume no obligation to update or revise forward-looking information to reflect new events or circumstances.