

# **CLEARWATER SEAFOODS INCOME FUND**

## **ANNUAL INFORMATION FORM**

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## CLEARWATER SEAFOODS INCOME FUND

### The Fund

Clearwater Seafoods Income Fund (the “**Fund**”) is an unincorporated open-ended trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated June 5, 2002, as amended (the “**Declaration of Trust**”). The Fund is administered by its trustees (the “**Trustees**”) and by Clearwater Seafoods Limited Partnership (“**Clearwater**”) pursuant to an administration agreement entered into by the Fund and Clearwater, among others, in July 2002 (the “**Administration Agreement**”). The principal and head office of the Fund is located at 757 Bedford Highway, Bedford, Nova Scotia B4A 3Z7.

The Fund holds an approximate 55.71% interest in Clearwater which carries on the seafood business that was carried on by Clearwater Fine Foods Incorporated (“**CFFI**”) and its subsidiaries and joint ventures (“**Clearwater**”) immediately prior to July 2002, the date of completion of the Fund’s initial public offering.

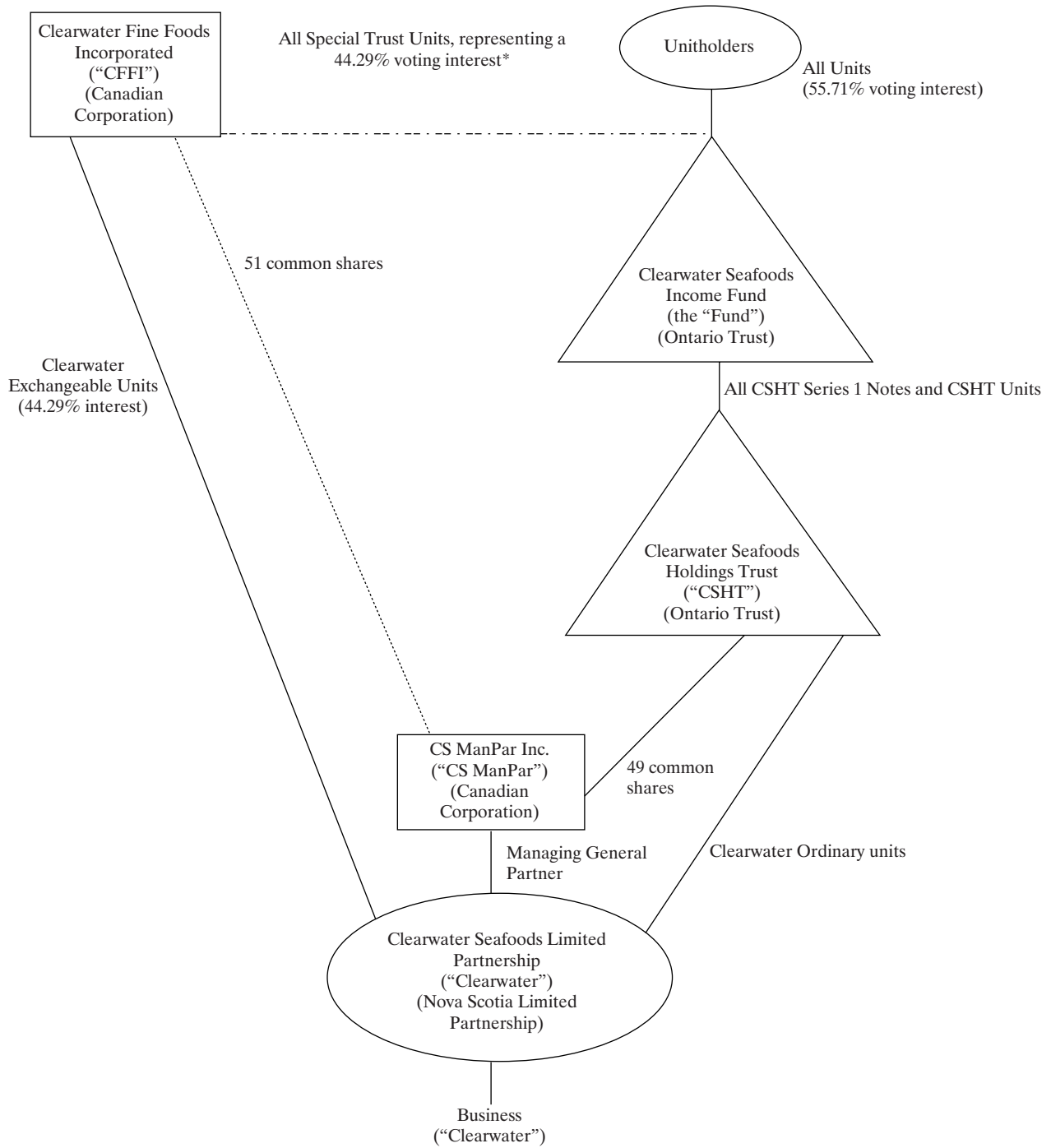
### Clearwater Seafoods Holdings Trust

Clearwater Seafoods Holdings Trust (“**CSHT**”) is an unincorporated open-ended trust established pursuant to a declaration of trust dated July 17, 2002, as amended, and governed by the laws of the Province of Ontario. CSHT is wholly-owned by the Fund and is the vehicle through which it holds its investment in Clearwater.

### Clearwater

Clearwater is a limited partnership established under the laws of the Province of Nova Scotia to carry on, directly or indirectly, the business of, and the ownership, operation and lease of assets and property in connection with, the harvesting, processing, distribution and marketing of seafood, including the Clearwater business, and such other businesses as the directors of CS ManPar Inc. (“**CS ManPar**”), the managing general partner of Clearwater, may determine, and all activities ancillary and incidental thereto. The general partners of Clearwater are CS ManPar, which is the managing general partner, and CFFI.

**Structure of the Fund**



\* CFFI owns 46.38% of the Fund on a fully diluted basis through its ownership of 23,381,217 Special Trust Units and 1,100,205 Units.

## ADMINISTRATION AGREEMENT

In July 2002, the Fund, CSHT and Clearwater entered into the Administration Agreement. Under the terms of the Administration Agreement, Clearwater agreed to provide (for no additional consideration, other than payment to Clearwater of out-of-pocket expenses for provision of such services), administrative and support services to the Fund and CSHT, including (without limitation) those necessary to: (i) ensure compliance by the Fund with continuous disclosure obligations under applicable securities legislation; (ii) provide investor relation services; (iii) provide or cause to be provided to Unitholders all information with respect to income taxes; (iv) call and hold meetings of Unitholders and holders of Special Trust Units and distribute required materials, including notices of meetings and information circulars, in respect of all such meetings; (v) assist the Trustees in calculating distributions to Unitholders; (vi) attend to all administrative and other matters arising in connection with any redemption of Units, units of CSHT (“**CSHT Units**”) and CSHT series 1 notes (“**CSHT Series 1 Notes**”); and (vii) ensure compliance with the Fund’s limitations on non-resident ownership. No amounts were charged for out-of-pocket expenses in 2002, 2003 or 2004.

## GENERAL DEVELOPMENT OF THE FUND AND CLEARWATER

Prior to July 2002, when the Fund completed its initial public offering (the “**Closing**”), it did not hold any material assets. The proceeds of the Fund’s initial public offering (together with the proceeds from exercise of the over-allotment option granted in connection therewith), net of underwriting and other costs, were used to purchase, indirectly, an approximate 49.9% interest in Clearwater.

Set forth below are material transactions that have taken place prior to and following the completion of the Fund’s initial public offering:

- The conduct of the business of Clearwater was unaffected. The Clearwater business continues to be conducted by Clearwater. The corporate structure of the ownership of the Clearwater business was reorganized, by adding holding entities to distribute the net cash generated to their securityholders which supports the distribution of distributable cash by the Fund, but the business did not change.
- The proceeds of the initial public offering were used by the Fund to acquire, through CSHT and other holding entities, an interest in Clearwater, in which the Fund holds a majority interest. Cash distributions made by Clearwater, using cash generated by its interests in the operating businesses, fund the cash distributions paid by the Fund to Unitholders.
- CFFI, the owner of the Clearwater business immediately prior to Closing, received a combination of Clearwater Exchangeable Units and cash. The Clearwater Exchangeable Units are interests in Clearwater, the same vehicle through which the Fund indirectly receives distributions and controls the business; through those interests CFFI receives its distributions from Clearwater. CFFI has certain rights to representation on the board of directors of CS ManPar so as to have input in the management of the business. See “Trustees, Directors and Management — Governance of CS ManPar”.
- On December 27, 2002, the Fund issued 1,271,186 Units through a private placement and increased its ownership in Clearwater to 51.23%, who in turn used the proceeds, along with \$4,125,000 in cash, to acquire the remaining 45% interest in one of its subsidiaries, Deep Sea Clam Company Incorporated.
- On May 21, 2003, Clearwater completed the purchase of certain of High Liner Foods Incorporated’s (“**High Liner**”) sea scallop and groundfish quotas and licenses (the “**Transaction**”). The acquisition’s total cost was approximately \$65.4 million, and was financed by Clearwater through a combination of the net proceeds of the issuance of special warrants and a draw on the revolving term loan facility. The special warrants were issued by private placement for gross proceeds of \$42,400,000, representing an issue price of \$10.60 per warrant. CFFI purchased 500,000 special warrants, which results in it retaining approximately 47% of the Units of the Fund. Each special warrant was exercisable for no additional consideration into one Unit of the Fund. The conversion of the special warrants occurred in May 2003. As part of the Transaction, Clearwater extended three loans to unrelated entities that purchased certain of High Liner’s assets previously used in connection with such quotas and licenses.

- On September 17, 2003, the Fund and Clearwater acquired an additional 10% interest in the Fund's Argentine subsidiary, Glaciar Pesquera S.A. ("Glaciar"), bringing Clearwater's interest in Glaciar from 70% to 80%. The acquisition's total cost of \$10.4 million was financed through the issuance of 848,962 Units of the Fund to the current minority shareholder of Glaciar.
- On December 5, 2003, Clearwater obtained approximately CAD\$83 million from a group of institutional lenders in the private debt market as part of its strategy to continue to diversify its debt profile and access longer-term debt. The debt consists of three series: USD\$15 million due on December 8, 2003 bearing interest at 5.65%; CAD\$43 million due on December 8, 2003 bearing interest at 6.40%; and CAD\$20 million due on December 8, 2013 bearing interest at 7.23%. The proceeds from the private debt facility were used to reduce the amount outstanding under the \$120 million revolving debt facility that Clearwater has with its syndicate of five banks.
- In June 2004, 4,081,633 Class C units were issued by Clearwater (indirectly) to the Fund concurrently with the issue by the Fund of \$50 million of Convertible Debentures. The Class C units are non-voting and redeemable and retractable at a price of \$12.25 per unit, subject to certain conditions. These units exist under an agreement whereby they will be converted, redeemed or retracted in a manner that corresponds to any conversion, redemption or repurchase of the Convertible Debentures of the Fund and in a manner that ensures that the distributions on the Class C units will be able to (indirectly) fund the ongoing interest payments on the Convertible Debentures.

### **BUSINESS OF CLEARWATER**

Clearwater is recognized for its consistent quality, wide diversity and reliable delivery of premium seafood including scallops, lobster, clams, cold water shrimp, crab and groundfish.

Clearwater harvests, processes and sells approximately 80 million pounds of seafood annually. Its operations consist primarily of:

- harvesting premium shellfish in the offshore fisheries off the coasts of Atlantic Canada and Argentina;
- processing shellfish on board state-of-the-art factory vessels or in modern shore-based processing plants in Atlantic Canada; and
- marketing and distributing premium shellfish to over 1,100 customers in North America, Europe and Asia.

Clearwater was established in 1976. Since then, it has developed new fisheries, acquired other seafood enterprises and formed strategic alliances to build a profitable international seafood enterprise. Today, Clearwater's unparalleled access to a diverse variety of premium shellfish provides it with a secure and stable source of revenues. In addition, Clearwater's investments in its operations and focus on innovation have allowed it to develop an efficient infrastructure.

Clearwater currently has operations in Canada, the United States, Europe, Asia and Argentina, employing over 2,100 people worldwide. It operates on average 21 state-of-the-art vessels, ranging in size from 100 feet to 235 feet. Clearwater's vessels are able to harvest, process and, in some cases, freeze product while at sea, which results in higher quality and, as a result, higher prices for its seafood compared to seafood which is processed and frozen on land. Clearwater also operates seven modern shore-based processing plants and four distribution facilities, including one adjacent to the distribution hub of United Parcel Services ("UPS") in Louisville, Kentucky, one in London, England, another in Brussels, Belgium and one in Canada, allowing Clearwater to effectively service its international customer base in North America 47% (52% of sales in 2003), Europe 31% (25% of sales in 2003) and Asia 19% (20% of sales in 2003).

#### **Clearwater's Corporate Strategy**

Over the last 28 years, Clearwater has grown to become a leader in the global seafood industry. It has accumulated a large portfolio of licenses and quotas to harvest a diverse range of shellfish and operates modern, state-of-the-art vessels and processing facilities.

Clearwater's vision is to be "dedicated to sustainable seafood excellence". Clearwater will realize this corporate vision through:

- Leading sustainable harvesting and resource management;
- Developing its people;
- Creating value for its customers;
- Embracing a culture of innovation;
- Encouraging the entrepreneurial spirit; and
- Continuing to seek opportunities for growth and global development.

By adhering to the values and goals of each of these areas, Clearwater believes that it will realize its corporate vision and achieve strong sustainable financial results over the long-term.

Clearwater's underlying corporate strategy for growth rests on three key pillars of its business: innovation through leadership in the adoption of new technology including resource management, vessels, plants, information technology and managerial processes, vertical integration from resource to customers, and diversity of species with a primary emphasis on shellfish. Key attributes of this strategy include: resource ownership and management, market and customer focus and skilled and dedicated employees.

## **Products**

Clearwater harvests and processes five premium shellfish species (including: scallops both Canadian and Argentine, lobster, clams, cold water shrimp and crab) and groundfish. It is the largest holder of quotas (or rights with respect thereto) in Canada for each of these shellfish species. The harvesting and processing systems are unique to each product and are the responsibility of distinct business units. All of the products are marketed and distributed by a co-coordinated sales department.

### *Scallops*

#### Canada

Clearwater holds quotas for 49% of the total allowable catch in the Atlantic Canada offshore sea scallop fishery. In 2004, Clearwater had scallops sales of approximately \$115 million.

Many species of scallops are caught around the world. Those caught off the east coasts of Canada and the United States, *placopectan magellanicus*, are the largest single source of their particular size range, which is larger and premium priced compared to smaller, competing species.

The harvesting part of Clearwater's sea scallop business is operated from the South Shore of Nova Scotia. In the fall of 2002, Clearwater completed a renewal program for its sea scallop fleet by building two new, state-of-the-art vessels at an aggregate cost of \$26 million (the Atlantic Leader which was delivered in June 2002 and the Atlantic Guardian which was delivered in February 2003). The two new vessels contain facilities on board that permit the sea scallops to be harvested, processed and frozen while at sea.

In August 2004 Clearwater acquired two additional vessels, which are being converted to factory freezer scallop vessels. The total estimated cost to acquire and convert the vessels, including owner supplied materials and related costs, is expected to be approximately \$17 million and these vessels will enter the fishery in early 2005. The investment in these vessels completes Clearwater's vision to convert the remainder of their scallop fleet to factory vessels. These vessels will provide incremental contributions by enabling Clearwater to produce a higher quality frozen-at-sea scallop that sell for a premium in the market. In addition, the vessels will enable Clearwater to increase the efficiency of its harvesting operations by reducing the number of vessels employed, thus lowering its costs.

Freezing at sea capability, combined with greater fishing power and larger storage capacity, allows the new vessels to catch a greater portion of Clearwater's sea scallop quota in a more efficient manner, thereby decreasing the number of vessels required to catch Clearwater's full quota. Fleet rationalization, together with

the harvesting efficiencies arising from the use of ocean floor mapping technology described below, has reduced operating costs. In addition, frozen-at-sea scallops command a premium price in the marketplace due to their superior quality and yield for the customer as compared to land-frozen sea scallops.

In May 2003, Clearwater completed the High Liner Transaction, acquiring certain scallop licenses and quotas which increased Clearwater's ownership in total allowable catch ("TAC") of sea scallops in Atlantic Canada from 36% to the current level.

Sea scallops are processed and packaged at Clearwater's modern facility located in Lockeport, Nova Scotia. Major investments in the latest processing technologies at this facility have reduced production costs by more than half over the past four years and virtually eliminated "broken" sea scallops during the production process, thereby increasing yields over the same period. Sophisticated, automated grading machines enable Clearwater to offer customers more consistent and precise size grading. This size grading permits Clearwater to obtain greater value for its catch through improved handling processes which significantly reduce operating costs.

The market for Canadian sea scallops has been diversified into Europe and Asia from a primarily North American market prior to 1987.

Innovations introduced by Clearwater, bottom imaging technology and vessel tracking systems, have provided the industry and the Department of Fisheries and Oceans (the "DFO") with the ability to better understand the resource and has permitted Clearwater to harvest its quota more efficiently. An example is the ability to identify particular beds of sea scallops and to target its harvesting operations more specifically. This technology also permits identification of areas where the sea scallops are not at full maturity so as to allow operators to defer harvesting in those areas until maturity is reached.

## Argentina

Participation in the Argentine scallop fishery, which has been operating since 1996, is limited to four licenses that are currently held by two companies. Clearwater, through its 80% owned subsidiary, owns two of the four outstanding licenses and operates two vessels. Similar to Canada, Argentina annually establishes a total allowable catch on a geographic basis. The Argentine authorities have demonstrated a keen interest in prudent, scientifically-guided management principles and have introduced a Canadian-type regulatory regime designed to ensure the fishing effort is closely matched with sustainable catch levels. Clearwater is actively engaged in research activity with INIDEP, the Argentine scientific authority, in carrying out research designed to determine biomass, growth rates and other resource parameters.

Argentine scallops are much smaller than Canadian sea scallops and, as a result, have to be processed mechanically on board harvesting vessels. As this species of scallop had prior to 1996 not been caught and processed, much of the equipment now utilized on board Clearwater's vessels was designed and manufactured on a custom basis. Although there were significant start-up costs and effort associated with the development of this capability, Clearwater believes it has now developed leading-edge technology.

Both factory vessels remain at sea for several weeks at a time. The Argentine scallops harvested are removed from the shell using sophisticated on-board processing techniques developed by Clearwater. Argentine scallops are graded, frozen and packaged on board the vessels. On landing in Argentina, the frozen product is loaded into containers ready for export either directly to the European market, which applies to the majority of the Argentine scallops, or, to Clearwater's plant in Lockeport, Nova Scotia where the product is generally repackaged for sale in North America. After landing their product, the vessels are re-fuelled, the crew is changed and the vessel is back at sea within 36 hours.

The primary market for Clearwater's Argentine scallops is in France and other European countries. These small size scallops have found a ready market in the recipe dish processing sector and a robust market in France has been developed. Management believes there is a growing interest in the value-added segment as the food industry commits to finding new ways to make seafood more convenient for the consumer. This trend should support growing demand for the quality product produced by Clearwater's frozen-at-sea processing methods.



## *Lobster*

There are only eight Canadian offshore lobster fishing licenses, seven of which are held by Clearwater, thereby providing Clearwater with a quota equal to 87.5% of the offshore TAC. In addition, in 2004, Clearwater purchased six million pounds of lobster from independent inshore harvesters. Clearwater's inshore purchases represented approximately 5% of the total Atlantic Canadian inshore catch. In 2004, Clearwater had lobster sales of \$67 million.

The term "lobster" is used liberally to describe many varieties of the shellfish, some with two claws, some with none. *Homarus Americanus*, one of the two clawed varieties, with average weights in excess of one pound when caught are found only on the Northeast coasts of the United States and of Eastern Canada. Catch volumes in Canada in 2003 were approximately 51,000 metric tonnes and in the Northeast United States were approximately 32,000 metric tonnes. Collectively these catches represent the largest source of any of the internationally available lobster species.

Clearwater operates two long-term storage facilities, or dryland pounds. These innovative facilities allow Clearwater to store up to 2.5 million pounds of lobsters in a live and healthy condition for periods up to six months. Long-term storage techniques are important as the fishery only produces an excellent quality product during the late fall and early spring. These two facilities gather lobster from Clearwater's own fleet of lobster vessels and the network of inshore fishermen from whom Clearwater purchases product. On arrival at one of these facilities, lobsters are graded for their biological ability to withstand extended storage and are sized, sorted, stored and inventoried accordingly. These unique facilities permit Clearwater to provide its customers with a consistent quality product year round and have allowed it to be a pioneer in the development of new markets for Canadian lobster around the world. From these two facilities lobsters are sent to either Bedford, Nova Scotia, or Louisville, Kentucky where Clearwater operates packing and distribution facilities.

Virtually all of Clearwater's lobster is shipped live to its customers by air or other overnight carriers. Clearwater's major lobster customers represent large distributors, grocery and restaurant chains and seafood specialty outlets in North America, Europe and Asia. The proximity of the Bedford facility to the Halifax airport provides Clearwater with the ability to ensure maximum quality to its international customers. The facility in Louisville is adjacent to the UPS distribution hub. This operation is able to respond to Clearwater's United States corporate customer base with overnight delivery of orders received as late as 7:00 p.m. and the sophisticated live handling system ensures the customer a top quality product. Clearwater also has live handling and storage facilities in London, England and Brussels, Belgium. These facilities were added to the distribution capability to encourage consumption of Clearwater products by the hotel, retail and restaurant trade in their respective local markets. Clearwater currently also operates two retail shops in the Halifax metropolitan area.

Clearwater works closely with the DFO and conducts ongoing sampling and monitoring programs, which provide it with the information necessary to make informed resource management decisions. In the offshore lobster industry, important stock indices such as catch per trap haul, male/female ratios and size distribution point to a stable, well managed fishery. Like the offshore sea scallop fishery, ocean floor mapping contributes to an understanding of the lobster resource and its habitat. This knowledge is improving management practices and reducing operating costs through increased harvesting efficiency. The DFO does not manage lobster on the basis of biomass. Rather, the health of the resource is assessed on the basis of catch per trap haul, size data and sex ratios.

Lobsters harvested in the offshore fishery are on average significantly larger than lobsters caught by inshore fishermen. Clearwater's year round access to these large size lobsters, combined with its expertise in live lobster storage, handling and distribution, have led to the development of lucrative niche markets where customers require large size lobsters for special menu applications.

In July 2004 Clearwater completed construction of a new \$4 million lobster processing facility. This investment has enabled Clearwater to produce an exciting new premium quality raw lobster product, which is being targeted at the high-end restaurant market. This investment will result in increased growth in our lobster business over the next several years, which has historically been solely a live lobster business. This new raw lobster meat product will complement our quality live lobster offering and leverage our international reputation for lobster through the addition of a value-added product.

## *Clams*

There are three offshore Arctic surf clam fishing licenses issued in the Canadian fishery, all of which are held by Clearwater, thereby providing Clearwater with a quota equal to 100% of the TAC. Clearwater's licenses also permit it to land northern propeller clams and Greenland cockles taken as a by-catch during the harvesting operations for Arctic surf clams. Clearwater was a pioneer in the development of this fishery, which began in 1986. In 2004, Clearwater had clams sales of \$60 million.

Clearwater operates this fishery with three offshore Arctic surf clam harvesting/processing vessels. Arctic surf clams are harvested through a dredging process and once on-board, the surf clams are immediately removed from the shell, blanched and frozen. The product from all three vessels is landed at one of Clearwater's shore-based facilities in North Sydney, Nova Scotia or Grand Bank, Newfoundland where the product may be custom cut, graded and repackaged. Much of the equipment in use in each of these two plants has been designed by Clearwater specifically to promote the efficient handling and processing of Arctic surf clams.

This particular species is commercially harvested only in two areas of the world, one off the island of Hokkaido in northern Japan and the other in the Canadian Atlantic. This clam species is distinct from its American counterpart in that it turns a bright red when cooked. The cosmetic value of this colour change and its superior taste and quality makes the product ideal for the Japanese market. The Japanese market values the product, primarily used for sushi, at significantly higher prices than the value attributed to the United States species by the United States market. In recent years Clearwater has developed marketing initiatives with the intent to increase Arctic surf clam sales outside of Japan, thereby providing greater market diversification.

As Clearwater was the pioneer of this fishery and now is the controlling license holder, the database of scientific information regarding this resource has become its responsibility to develop. These clams are a slow growth species, taking 10 to 12 years to reach commercial size. Sustainable management practices are therefore crucial to a stable fishery. During the past several years Clearwater has conducted a number of research cruises over the two fishing banks, in part, to assess biomass.

Until 2001, little attention was paid to the commercial prospects for the by-catch of northern propeller clams and Greenland cockles. Clearwater is expanding the offshore clam fishery beyond Arctic surf clams to include northern propeller clams and Greenland cockles, both of which are suitable for use in chowders, as well as in other applications. Product and market development work for them is now well underway with modest incremental harvesting costs incurred in landing this by-catch.

In July 2004 Clearwater entered into a contract with a shipyard in Taiwan to construct a new factory freezer clam vessel. The total estimated cost of the vessel, including owner supplied materials and related costs, is expected to be approximately \$45 million and we will be operating it by mid 2006. This new vessel is expected to generate significant incremental contribution by enabling Clearwater to increase the volume of product harvested and processed in a far more efficient manner. Clearwater has been increasing its volumes recently with the expansion of its canned clam products. This new vessel will be able to stay at sea longer and will also utilize new technology, which will result in increased catching capacity enabling Clearwater to catch more of the existing quota. The new vessel will also provide Clearwater with the additional catching capacity to harvest the Quahog quota that it received in 2003. The vessel will also contain new shell removal technology, which will enable Clearwater to achieve higher yields on the product that it processes.

## *Cold Water Shrimp*

Clearwater holds and has rights to, directly and indirectly, 21% of the TAC in the offshore cold water shrimp fishery in Atlantic Canada. This resulted in sales of \$32 million in 2004.

Cold water shrimp is harvested by two factory freezer trawlers, the Arctic Endurance (a vessel which began operations in October 2000) and the Atlantic Enterprise (a vessel which began operations in April 2002). The Atlantic Enterprise, which is operated by a 50% joint venture, represents a significant step forward in the development of sophisticated harvesting practices. Built at a cost of approximately \$28 million, the Atlantic Enterprise has the capacity to process approximately 165,000 pounds of cold water shrimp each day and hold approximately 1.65 million pounds of processed cold water shrimp on board. This compares to a production capacity of approximately 77,000 pounds each day and a hold capacity of 880,000 pounds on the vessel it

replaced. More significantly, the Atlantic Enterprise is the first fishing vessel in the world to employ AC driven electric winches and to make extensive use of frequency converters throughout the vessel. The result has been lower maintenance costs and materially less fuel consumption.

In the past, the cold water shrimp harvested in this Canadian offshore cold water shrimp fishery was mostly sold into the Japanese market in raw format and into the European market as a cooked product, both of which are produced at sea on board the vessels that harvest the cold water shrimp. However, in the last five years, markets in China have opened and now represent a significant portion of the sales of this product. In 2004, Asia (excluding Japan) accounted for approximately 20% of Clearwater's cold water shrimp sales.

In addition to its offshore cold water shrimp harvesting business, Clearwater is a 75% partner in a cold water shrimp processing plant in St. Anthony, Newfoundland. This state-of-the-art plant commenced operations in 1999 and produces cooked and peeled cold water shrimp and has a capacity to process 22 million pounds of cold water shrimp annually. The facility has been approved by leading retailers in the United Kingdom, as well as the Danish brining industry. The United Kingdom and Denmark represent a significant percentage of the market for cooked and peeled cold water shrimp. In 2004, Europe accounted for approximately 31% of St. Anthony's sales with North America accounting for the balance.

Cold water shrimp biomass and abundance have been increasing since the early 1990's and are at levels never before observed. TAC levels have been increasing since 1997 but are still at low exploitation rates which are considered conservative.

Clearwater's investment in the two FAS vessels positions it to take advantage of this buoyant resource by being a low cost producer and by having the processing flexibility to produce in high volumes to meet the requirements of different markets. Cold water shrimp prices are near a ten year low and management is not expecting an immediate meaningful improvement in prices in the near term.

#### *Groundfish and other*

Clearwater has licenses to harvest redfish, haddock, halibut, cod and turbot in Atlantic Canada and also purchases significant quantities of raw groundfish on the international market. In 2004, sales were \$34 million. Although certain of the groundfish stocks continue to be the subject of moratoria, there are a number of thriving stocks in some areas of Atlantic Canada, specifically the ones Clearwater harvests. In May 2003, Clearwater completed the High Liner Transaction pursuant to which Clearwater acquired certain groundfish licences and quotas in respect of Pollack, redfish, flounder, haddock and cod from High Liner.

Clearwater's groundfish processing facility is located at Glace Bay, Nova Scotia. The plant has replaced its traditional local source of raw material by importing frozen-at-sea cod from Alaska and the Barent's Sea. Capital investments have enabled this operation to increase yields and reduce processing costs. In addition to processing cod, the plant also processes and markets its locally caught quota of redfish. The majority of Clearwater's groundfish products are sold in the United States market to a combination of food service distributors and retail buyers.

Clearwater has recently experienced lower contribution margins and higher raw material costs due to increasing competition from Chinese processors for individually quick frozen ("IQF") cod and as a result has decreased production of this low margin product.

#### **Facilities and Capital Expenditures**

Clearwater directly and through its subsidiaries operates on average 21 offshore harvesting vessels, nine of which also engage in processing at sea, and seven shore-based processing plants. With the exception of two harvesting vessels with processing capabilities engaged in the Argentine scallop fishery, these vessels and plants are all based in Atlantic Canada.

Clearwater maintains the largest fleet of factory freezer vessels in Canada. The condition and operating capability of these vessels is paramount for Clearwater successfully operating in its fisheries. Since 1999 Clearwater has invested more than \$250 million on its fleet, its onshore processing facilities and licences. Clearwater typically replaces vessels early as a result of its focus on innovation and constant adoption of new and leading edge technology. These additional investments typically provide greater efficiencies, lower costs and in some cases new product forms.

The following schedule sets out the historic capital expenditures and harvesting license investments (in thousands of dollars) for the past five years:

	<u>2004</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>	<u>2000</u>
Vessels . . . . .	\$19,700	\$ 6,700	\$15,600	\$24,500	\$30,800
Plants and other . . . . .	5,500	4,900	2,000	7,200	13,200
Licenses . . . . .	—	53,500	2,100	—	—
Maintenance capital . . . . .	2,700	2,700	5,100	2,800	1,000
<b>Total . . . . .</b>	<b><u>\$27,900</u></b>	<b><u>\$67,800</u></b>	<b><u>\$24,800</u></b>	<b><u>\$34,500</u></b>	<b><u>\$45,500</u></b>

Vessel costs significantly impact the amount spent annually on capital expenditures. The amounts spent on plants, licences and other capital assets typically run between \$5 to \$13 million with \$5 million being more of a base amount with no growth strategy at play. With regards to maintenance capital, expenditures in 2002 were expectedly high, however a level of approximately \$3 million per year is a reasonable estimate going forward. In 2004 capital expenditures included progress payments on our clam vessels, two FAS scallop vessels as well as the investment in a new processed lobster facility. In 2003 Clearwater acquired a significant amount of scallop and groundfish quotas and licences. In 1999 and 2002 Clearwater completed expansions at several of its plants. In 2000 Clearwater purchased a FAS shrimp vessel, began construction of a second new shrimp vessel, began construction on two new FAS scallop vessels and expanded the plants in Grand Bank, Lockeport and St. Anthony.

In addition to the amounts capitalized annually, Clearwater historically has spent and expensed an average of \$13 million a year on the maintenance of its fleet and processing plants. This reflects Clearwater's commitment to ensuring that its assets are kept in top condition enabling it to harvest and process its allowable catch and, on the processing side, provide additional capacity for selective procurement.

The most costly of Clearwater's vessels are the factory freezers of which Clearwater has nine (and will have eleven in operation by mid 2005). These vessels are used in the harvesting of Canadian scallops, Argentine scallops, shrimp and clams. Other vessels typically do not cost as much to replace, an example being a lobster vessel, which would cost about \$500,000 to \$1,000,000 to replace.

The factory vessels typically have long lives of up to 25 years but Clearwater typically will replace them earlier if it sees an opportunity to upgrade the technology and improve its return. Of the 9 factory vessels:

- **Two are used to harvest shrimp and are less than 3 years old.** These vessels provided incremental returns due to greater harvesting efficiencies and lower fuel costs.
- **Two are used to harvest Canadian sea scallops and are less than 2 years old.** Clearwater plans to add two used vessels which will be in operation in early 2005 at a cost of approximately \$17 million. These vessels provide a return on investment well in excess of the cost of capital due to greater harvesting efficiencies, lower costs and a new higher quality product, frozen-at-sea scallops.
- **Two of Clearwater's vessels are used to harvest Argentine scallops with one expected to be replaced over the next 5 years and the second sometime thereafter.** The management of Clearwater estimates a new vessel would cost about \$20 million. Management believes that there is opportunity to improve efficiency in this fishery through the investment in new technology as well as additional research.
- **Three of Clearwater's vessels are used to harvest clams.** In July 2004 Clearwater entered into a contract with a shipyard in Taiwan to construct a new factory freezer clam vessel. The total estimated cost of the vessel, including owner supplied materials and related costs, is expected to be approximately \$45 million

and we will be operating it by mid 2006. Once operational, this new vessel is expected to generate significant incremental contribution by enabling Clearwater to increase the volume of product harvested and processed in a far more efficient manner. In particular, the vessel will consume significantly lower amounts of fuel on a per pound harvested basis. The investment in this new clam vessel is an exciting opportunity to extend Clearwater's clam business by increasing its catching capacity and volumes processed while reducing harvesting costs and increasing yields. Clearwater plans to replace one vessel over the next two years and a second will most likely be replaced in about five years with the third having a useful life of another ten plus years.

Capital expenditures were \$27.9 million for the year ended December 31, 2004. Of this amount \$25.2 million was considered return on investment ("ROI") capital and \$2.7 million was maintenance capital. The ROI capital investments in 2004 included the investment in new technology for our clam vessels, deposits on two FAS scallop vessels as well as the investment in the new processed lobster facility.

In total Clearwater plans to spend approximately \$30.7 million on capital projects in 2005 with approximately \$25.2 million to be spent on vessels (including the two FAS scallop vessels and the new clam vessel), \$1.1 million to be spent on new product and productivity improvements in the plants and approximately \$4.4 million on maintenance capital expenditures (including \$2 million to be spent on an existing clam vessel). In addition to expenditures on scallop and clam vessels Clearwater will invest in new processing technology in its clam, scallop and lobster businesses, which will enable it to improve yields, reduce costs and create new product forms.

These expenditures are financed with a combination of debt and Units funded by the additional earning that the capital program generates.

*Harvesting*

The following table sets forth the harvesting vessels utilized in Clearwater's harvesting operations, which include nine (eleven by mid 2005) factory vessels and 11 other vessels.

<u>Vessel</u>	<u>Principal Products</u>
Ocean Lady, Atlantic Leader, Atlantic Guardian, T.K. Pierce, Cachalot <sup>(1)</sup> , Chockle Cap <sup>(1)</sup> , Freedom 99 <sup>(1)</sup> . . . . .	sea scallops
Ryan Atlantic, Atlantic Prospect, Atlantic Horizon, Hannah Atlantic, Ryan Atlantic II . . . . .	lobster, Jonah crab
Atlantic Surf I <sup>(2)</sup> , Atlantic Surf III <sup>(2)</sup> . . . . .	Argentine scallops
Atlantic Pursuit, Atlantic Vigour, Ocean Concord . . . . .	Arctic surf clams
Arctic Endurance, Atlantic Enterprise <sup>(3)</sup> . . . . .	cold water shrimp
Atlantic Odyssey, Atlantic Optimist . . . . .	groundfish

Notes

- (1) Owned by a joint venture in which Clearwater has a 50% interest.
- (2) Owned by a subsidiary in which Clearwater has an 80% interest.
- (3) Owned by a joint venture partnership in which Clearwater has a 50% interest.

## Processing

The following table sets forth the location and principal products of Clearwater's processing operations:

<u>Location</u>	<u>Principal Products</u>
Arichat, Nova Scotia <sup>(1)</sup> . . . . .	lobster
Clark's Harbour, Nova Scotia . . . .	lobster
Glace Bay, Nova Scotia . . . . .	groundfish, snow crab
Grand Bank, Newfoundland . . . . .	Arctic surf clam
Lockeport, Nova Scotia . . . . .	sea scallop, Jonah crab, processed lobster
North Sydney, Nova Scotia . . . . .	Arctic surf clam, Greenland cockle and Northern propeller clam
St. Anthony, Newfoundland <sup>(2)</sup> . . . .	cold water shrimp

### Notes

(1) The plant at Arichat, Nova Scotia is owned by a partnership, which is 64% owned by Clearwater.

(2) The plant at St. Anthony, Newfoundland is operated by a partnership, which is 75% owned by Clearwater.

Clearwater also owns its head office building located at 757 Bedford Highway, Bedford, Nova Scotia. In addition, Clearwater owns and operates a vessel discharge and maintenance facility at Lunenburg, Nova Scotia, which is surplus to our needs and is being offered for sale and a vessel discharge facility and a public cold store in Shelburne, Nova Scotia.

## Sales, Marketing and Distribution Systems

Clearwater's strategy has always been to sell its products to a broad range of customers, customer types and geographic markets. This strategy has been complemented by a clear objective to deal as far into the distribution chain as possible and to avoid dependence on any one or group of customers. Clearwater relies on its own sales force dedicated to selling only its products. This has required the creation and maintenance of an internal sales and service support function and the operation of sales offices in all its important markets. These offices are staffed by a multilingual sales group able to do business in the language of the customer. Clearwater has focused its business on developing long-term partnerships with its customers rather than transactional relationships. The food industry has been characterized by significant consolidation at all levels, in retail and food service distribution, in the growth of corporate and theme restaurant chains and in the institutional catering business. This consolidating customer base is demanding a reduction in the number of suppliers with whom it does business and is focused on those relationships which provide stability, breadth and depth of product offerings in their respective categories. More and more it is becoming important to demonstrate leadership and investment in a respective field in order to build and maintain profitable and growing relationships with the preferred customer base.

It is these drivers which have led Clearwater to focus on ensuring all of its business units have the capability to offer year-round supply in an industry characterized by seasonal features, the ability to offer stable pricing in an industry in which price cycles can be measured in days and a commitment to consistency of quality in an industry where fragmentation often leads to the anonymity of supply sources and irregular quality and product specifications.

Examples of Clearwater's leading role in developing new customer relationships include:

- the first Canadian seafood company to guarantee year-round delivery of quality live lobster to the European and Asian markets;
- the first Canadian seafood company to open a sales office in China, where it now has three;
- the first Canadian seafood company to open and operate an overnight live and perishable distribution facility at one of the two major United States distribution hubs;

- the first Canadian seafood company to introduce roe-on Canadian sea scallops to the European market; and
- the first Canadian seafood company to offer customer education programs in the form of the Lobster, Shrimp and Scallop Universities.

Clearwater operates its own freight-forwarding department with in-house logistics expertise in both air and ocean freight distribution and is among the largest users of refrigerated containers in Atlantic Canada. Clearwater believes that this in-house logistics capability (which removes the need to deal with product brokers, like many of its competitors) provides the high level of service demanded by its sophisticated customers.

Clearwater also operates four distribution facilities, including one adjacent to the distribution hub of UPS in Louisville, Kentucky, one in London, England, another in Brussels, Belgium and one in Canada, allowing Clearwater to effectively service an international customer base.

## **Customers**

Clearwater's customer base is diversified, both in terms of geographic markets and types of customer. Clearwater sells premium seafood products to retail chains (such as Sobeys, Publix and Marks & Spencer), food distributors (such as Sysco, Gordons Food Service and Food Services of America) and corporate restaurants (such as The Palm and Carrabbas). No one customer of Clearwater represents in excess of 5% of its revenues. Clearwater also sells its products to a broad geographic market, including in North America, Europe, Japan and other parts of Asia. This diversification mitigates the effects on Clearwater of adverse market conditions or low prices in any particular segment of the seafood industry at a given time, thereby stabilizing Clearwater's revenues.

## **Research and Development**

Clearwater has been a pioneer in the development of new markets for its premium seafood products. Clearwater's commitment to continuously introducing technological improvements has permitted it to improve product quality, reduce costs and enhance stewardship of the seafood resources that it harvests. These initiatives have secured Clearwater's reputation as a market leader and innovator. Clearwater shares its research and development with the DFO and other industry participants in order to assist in building sustainable resource management regimes.

Clearwater's innovations in technology have allowed it to develop major new businesses around several previously unexploited species, such as Arctic surf clams, Argentine scallops and Jonah crab, and Clearwater's history of developing new fisheries is continuing.

Clearwater took the lead in bringing other offshore sea scallop companies together with the Canadian Hydrographic Service in a partnership that has produced accurate, three-dimensional maps of much of Canada's offshore sea scallop grounds. By integrating sophisticated multibeam sonar and data processing technology pioneered in Atlantic Canada, Clearwater's fishing captains now use electronic charts detailing seabed habitat, topography and sediment type. "Seeing" the ocean floor and mapping the specific habitat preferred by sea scallops, enables Clearwater's captains to be more efficient in catching its quota. The quality of the DFO's scientific advice on sustainable catch levels is also being significantly enhanced through the use of ocean floor maps during research surveys of the resource. Clearwater's management believes that the introduction of this new technology will also result in a higher average total allowable catch in the future.

Clearwater's technology has also provided it with the ability to deliver a better quality product in a more timely way to its customers around the world. As an example, Clearwater has been a leader in research and development of measures and systems to manage and reduce one of the single largest expenses in the lobster industry, mortality before delivery. Clearwater has developed and is the only company in Atlantic Canada to use an on-land "dryland pound" system to store lobster. The dryland pound keeps the lobster in premium condition for as long as six months, by simulating the lobster's natural wintering hibernation state, resulting in significantly lower mortality rates than traditional holding systems such as holding tanks, tidal pounds, or crates. Clearwater's lobster biologists also add value throughout the supply chain and have designed a unique "Lobster University"

program to educate staff, fishermen, shippers and customers on proper handling, husbandry and storage techniques for lobster.

Clearwater is committed to developing improvements to enhance the sustainability of seafood resources. Clearwater contributed \$1.2 million towards a four-year DFO science stock assessment of the Arctic surf clam resources.

### **Competitive Conditions**

All segments of the food supply industry are highly competitive. The primary seafood industry is highly fragmented representing minor share positions typically targeting price-conscious consumers. Although Clearwater has a number of competitors in each of its product categories, few of Clearwater's direct competitors offer the diversity of high quality seafood offered by Clearwater. Clearwater's diversity of its product mix mitigates the effects of fluctuations in the prices for any particular product at a given time, thereby stabilizing Clearwater's revenues.

### **Human Resources**

Clearwater employs approximately 2,100 people, 2,000 of which are employed in Atlantic Canada and a portion of which are employed only seasonally based on raw material availability and other seasonal factors.

Clearwater has five collective agreements covering approximately 730 employees. Clearwater has three-year collective agreements with its plant workers in Glace Bay, Nova Scotia and North Sydney, Nova Scotia represented by the Canadian Auto Workers Union. These agreements expire on September 3, 2005 and October 1, 2005 respectively. The plant workers in the two Newfoundland plants are represented by the Fish, Food and Allied Workers Union. There was a three year agreement that expired on December 31, 2004 with plant workers in St. Anthony, Newfoundland; negotiations commenced in February 2005. In addition, there is a three year agreement expiring on July 31, 2006 with plant workers in Grand Bank, Newfoundland. Clearwater also has a 5-year collective agreement with the crew of its Canadian wet fish and freezer sea scallop vessels expiring on January 31, 2008 and May 31, 2008, respectively. Management of Clearwater believes it has good relationships with its employees and does not anticipate any major disruptions in operations caused by labour disputes.

## **INDUSTRY**

### **Consumption of Seafood**

Although the size of the consumer food industry has been relatively stable for the last several years, an increasing awareness of the health benefits of seafood has fuelled an expansion of the worldwide consumption of seafood as an alternative to other protein sources, such as beef, chicken and pork. In the growing global seafood market, Clearwater's premium shellfish, such as sea scallops, lobster and cold water shrimp, are among the fastest growing segments.

Purchasers of seafood (such as retailers, food distributors and corporate restaurants) will pay a premium to a supplier of seafood that can provide consistent quality, wide diversity and reliable delivery of seafood, together with value-added education and marketing of "easy to prepare" seafood. In fact, growth in the consumption rates of seafood is, in part, attributable to the recent commitment in the retail food industry to offer seafood in a more convenient form. Clearwater is well positioned to take advantage of this opportunity because of its premium quality, wide diversity and year-round delivery capability, as well as its value-added educational programs, such as its "Lobster University".

In North America, the largest segment of the population attracted to the health benefits of seafood has traditionally been those aged 50 to 64, a group that is expected to grow dramatically in the coming years. The seafood industry has already started to realize this growth.

In Europe, where seafood has traditionally been consumed on a larger per capita basis than in North America, the consumption of seafood has been relatively stable in recent years. However, growth has occurred in several of the key European markets in which Clearwater is active, including France, Italy, Germany,



Scandinavia and the United Kingdom. Due to the size of these markets, small per capita growth in consumption has resulted in significantly larger seafood sales.

In Asia, where per capita consumption of seafood has also traditionally been significantly higher than that in North America, consumption continues to increase. China, one of Clearwater's key markets for cold water shrimp and Arctic surf clams, is experiencing significant annual growth. Combined with China's increasing population and consumer spending power, this represents one of the fastest growing markets for Clearwater.

There are no dominant suppliers or purchasers in the seafood industry, but there is a growing trend towards consolidation. Clearwater, which is able to supply a large, diverse range of quality seafood, is well positioned to capitalize on the opportunities resulting from the consolidation of the purchasers of seafood (e.g., retailers, food distributors and corporate restaurants).

## **Harvesting of Seafood**

The Atlantic Canada seafood harvesting industry, where Clearwater primarily operates, is one of the largest sources of premium shellfish in the world. The industry consists of two distinctive segments — the seasonal inshore fishery and the year-round offshore fishery.

The inshore (or smaller vessel) fishery is comprised of thousands of independent fishermen. The interest of these fishermen are generally restricted to operating their own, relatively small fishing boats, harvesting one or two species of seafood in waters that are relatively close to the shore, and selling their harvest to seafood processors based in Atlantic Canada. The inshore fishery segment of the industry is highly fragmented across all species.

The offshore (or larger vessel) fishery, in which Clearwater operates, is comprised of a relatively small number of vertically integrated seafood enterprises. These enterprises generally operate large fishing vessels, harvest a variety of species of seafood in waters that are further from shore, process the seafood onboard the fishing vessels or at shore-based processing plants, and sell the products (directly or through distributors) in the international market. The enterprises also generally purchase product from inshore fishermen for processing and sale. Over the last ten years, there has been significant consolidation in the Atlantic Canadian fishing industry, as enterprises have grown organically and through acquisitions to become more efficient and competitive participants in the global seafood industry. Clearwater has been a leading participant in this consolidation and is now the largest harvester in Canada of sea scallops, lobster, Arctic surf clams, cold water shrimp and Jonah crab.

The Atlantic Canada offshore fishery is regulated by the Government of Canada through the DFO. The regulatory environment in Canada and other mature fisheries, such as those in Norway, Iceland, Argentina and New Zealand, are highly sophisticated, emphasizing sustainability of the resource as the priority. There are three primary aspects to regulation: licensing, total allowable catch and quotas.

*Licensing* — In order to harvest any species of seafood in the Atlantic Canada offshore fishery, an enterprise must hold a license to harvest that species. The DFO strictly controls the number of licensed enterprises in the fishery, rarely granting new licenses unless and until increases in the stock of a particular species evidences significant and sustainable growth. The DFO has not issued any new licenses in the offshore fishery since 1991, when the number of offshore cold water shrimp licenses was increased by one, from 16 to 17, in response to and in anticipation of the 88% increase in the total allowable catch of offshore cold water shrimp from 1988 to 1992.

*Total Allowable Catch (TAC)* — In order to ensure that the seafood stocks in Atlantic Canada are not over harvested, the DFO (in consultation with industry working groups) establishes on an annual basis the total allowable catch (by ocean region) of each species of seafood. This amount represents the maximum amount of the species that can be harvested by all enterprises participating in the fishery for that species. As described in greater detail below, shellfish resources have generally been increasing and, therefore, total allowable catches have generally been increasing over time.

*Quotas* — In order to increase the efficiency of the offshore fishery and permit industry consolidation, the DFO regulates the harvesting by holders of offshore licenses by way of a quota system. Under this system, each

enterprise is permitted to harvest a specified and tradable percentage of the total allowable catch of a particular species in specific offshore areas. As such, the enterprises are not competing with one another in the harvest of seafood and are at liberty to harvest their quotas in a rational and efficient manner. Quotas can be transferred, traded and sold, thereby providing an important opportunity for rationalization within the industry.

## **Supply of Seafood Resources**

Canada is considered a global leader in the management of its fisheries. Clearwater has worked with the DFO and other industry players to build sustainable resource management regimes. In many instances, Clearwater has been the primary proponent of the adoption of these practices. Examples of the practices of Clearwater and the DFO to ensure sustainable resources include:

- ongoing joint investment in the DFO scientific research programs to ensure all fisheries are guided by the best possible scientific advice;
- regulated minimum size restriction in the sea scallop, lobster and crab fisheries so as to allow an opportunity for reproduction and growth to optimum size and value;
- closed fishing areas to protect concentrations of juvenile shellfish from premature harvest;
- continued modification and refinement of fishing gear to allow the release of juvenile shellfish and non-target species; and
- a male only retention rule in the Jonah crab and snow crab fisheries so as to protect the female stock.

As a result of the work done by the industry and the DFO in this area, total allowable catch levels of shellfish resources have been generally stable to increasing in Atlantic Canada.

## **Regulation**

### *Licenses*

In Canada, the harvesting of seafood in the waters off Atlantic Canada is primarily regulated by the DFO through the Fisheries Act (Canada) and the Atlantic Fishery Regulations (1985) made under that act. These regulations provide for the registration of vessels and enterprises and for the issuance of licenses to catch specified species of seafood. The licenses set out conditions for harvesting that may include the species which may be caught, the type and quantity of gear to be used, the waters in which harvesting is permitted, the period during which harvesting is permitted, the vessel which may be used and the persons permitted to operate the vessel. The DFO grants renewable licenses to participants in the various fisheries. In the Canadian offshore fishery, the licenses permit the holder to catch a prescribed percentage of the TAC for the relevant fishing area. See “Industry — Harvesting of Seafood”.

The harvesting of scallops in Argentina is regulated by the National Federal Fishery Law (1998) and Resolution 150/96 of the Secretary of Agriculture, Livestock, Fishery and Food. These laws provide for the registration of vessels and enterprises and for the issuance of licenses to catch specified species of seafood. The licenses set out conditions for harvesting that may include the species which may be caught, the type and quantity of gear to be used, the waters in which harvesting is permitted, the period during which harvesting is permitted, the vessel which may be used and the persons permitted to operate the vessel.

### *Vessels*

All vessels operated in connection with Clearwater’s harvesting operations are registered with and subject to inspection by Transport Canada or the Argentine Coast Guard.

### *Processing*

All fish processing plants conducting business throughout Canada require a combination of provincial and federal licenses to operate. The requirement to obtain and maintain a food processing license principally relates to food safety and labelling. All fish processing plants are required to implement an approved quality management plan, or QMP, which is approved by the Canadian Food Inspection Agency (CFIA) covering the

regulatory and safety aspects of food processing. Clearwater also maintains hazard analysis and critical control point (HACCP) quality management programs which focus on preventing hazards that could cause food-borne illnesses by applying science-based controls, from raw materials to finished products. See “Risk Factors — The Business and the Industry — Food Processing Risks”.

#### *Environmental, Health and Safety Regulation*

The harvesting, processing and transportation of seafood, seafood products and by-products and the operation of vessel discharge and maintenance facilities have been and are subject to extensive and increasingly stringent federal, provincial, municipal and local statutes, regulations and by-laws, permitting and other requirements with respect to workers’ health and safety and environmental matters in Canada.

Environmental legislation, orders, permits, approvals, common law and other requirements impose obligations relating to, among other things: the release of substances into the natural environment; the production, processing, preparation, handling, storage, transportation, disposal, and management of substances (including liquid and solid, non-hazardous wastes and hazardous materials); and the prevention and remediation of environmental impacts such as the contamination of soil and water (including groundwater). See “Risk Factors — The Business and Industry — Environmental, Health and Safety Regulation”.

### **INFORMATION CONCERNING THE FUND**

The following is a summary of the material attributes and characteristics of the Units and certain provisions of the Declaration of Trust, which does not purport to be complete. Reference is made to the Declaration of Trust for a complete description of the Units and the full text of its provisions.

#### **Activities of the Fund**

The Declaration of Trust provides that the Fund is a limited purpose trust and its activities are restricted to:

- (a) acquiring, investing in, holding, transferring, disposing of and otherwise dealing with interests in corporations, partnerships, trusts and other persons involved, directly or indirectly, in the harvesting, processing, distribution and marketing of seafood and such other investments as the Trustees may determine;
- (b) guaranteeing (as guarantor, surety or co-principal obligor) the payment of any indebtedness, liability or obligation of Clearwater, or any of its affiliates, or any affiliate of the Fund and mortgaging, pledging, charging, granting a security interest in or otherwise encumbering any of its assets as security for such guarantee;
- (c) temporarily holding cash and other short-term investments in connection with and for the purposes of the Fund’s activities, including paying expenses of the Fund, paying amounts payable by the Fund in connection with the redemption or repurchase of any Units and making distributions to Unitholders;
- (d) issuing Units, Special Trust Units and other securities of the Fund (including securities convertible or exchangeable for Units, Special Trust Units or other securities of the Fund) including, for the purposes of: (i) obtaining funds to conduct the activities described in paragraph (a) above, including raising funds for further acquisitions; (ii) implementing unitholder rights plans or incentive option or other compensation plans, if any, established by the Fund; (iii) making non-cash distributions to Unitholders as contemplated by the Declaration of Trust, including pursuant to distribution reinvestment plans, if any, established by the Fund; and (iv) upon the exercise of the right of exchange held by holders of Clearwater Exchangeable Units pursuant to the Exchange Agreement (as defined herein);
- (e) issuing debt securities or otherwise borrowing and mortgaging, pledging, charging and granting a security interest in or otherwise encumbering any of its assets as security;
- (f) repurchasing or redeeming Units or other securities of the Fund;
- (g) satisfying the obligations, liabilities or indebtedness of the Fund; and

- (h) undertaking such other activities, or taking such actions, including investing in securities, related to or in connection with the foregoing, or as permitted by the Declaration of Trust and 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 *Income Tax Act* (Canada) (the “**Tax Act**”) or the Units being considered “foreign property” for purposes of Part XI of the Tax Act.

### **Units and Special Trust Units**

An unlimited number of Units and an unlimited number of Special Trust Units are issuable 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. All Units are of the same class with equal rights and privileges. Except as set out under “Redemption at the Option of Unitholders” below, the Units have no conversion, retraction, redemption or pre-emptive rights.

The Special Trust Units are to be used solely for providing voting rights to persons holding Clearwater Exchangeable Units or other securities that are, directly or indirectly, exchangeable for Units and that, by their terms have voting rights of the Fund. Special Trust Units were issued in conjunction with, and are not transferable separately from, the Clearwater Exchangeable Units to which they relate. Each Special Trust Unit will entitle the holder thereof to a number of votes at any meeting of Unitholders and holders of Special Trust Units equal to the number of Units which may be obtained upon the exchange of the Clearwater Exchangeable Units to which the Special Trust Units relate (except for Clearwater Exchangeable Units which have previously been exchanged pursuant to the Exchange Agreement (as defined herein)), but will not otherwise entitle the holder to any rights with respect to the Fund’s property or income. See “Clearwater Exchangeable Units”.

### **Convertible Debentures**

On June 15, 2004 the Fund completed an offering for \$50 million of 7% convertible unsecured subordinated debentures, which are due December 31, 2010. The convertible debentures are convertible at any time up to maturity at the option of the holder into trust units of the Fund at a conversion price of \$12.25 per trust unit. The Debentures pay interest semi-annually in arrears on June 30 and December 31, commencing December 31, 2004. The Debentures are not redeemable before December 31, 2007. On and after December 31, 2007, but before December 31, 2008, the Debentures may be redeemed at the option of the Fund provided that the market price of the trust units is not less than 125% of the conversion price. On and after December 31, 2008, the Debentures may be redeemed at the option of the Fund at a price equal to their principal amount plus accrued interest. Subject to regulatory approval, the Fund may satisfy its obligation to repay the principal amount of the Debentures on redemption or at maturity, in whole or in part, by delivering that number of trust units equal to the amount due divided by 95% of the market price of the trust units at that time, plus accrued interest in cash.

### **Issuance of Units**

The Declaration of Trust provides that the 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, including pursuant to any unitholder rights plan or any incentive option or other compensation plan established by the Fund. 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. However, if amounts so distributed represent income, then non-resident holders will be subject to withholding tax thereon and the consolidation will not result in those non-resident unitholders holding the same number of units. Such non-resident unitholders will be required to surrender the certificate (if any) representing their original units in exchange for a certificate representing their post-consolidation units.

## Trustees

The Fund has a minimum of three and a maximum of nine Trustees. The Trustees supervise the activities and manage the affairs of the Fund.

Trustees are appointed at each annual meeting of Unitholders and holders of Special Trust Units to hold office for a term expiring at the close of the next annual meeting or until their successors are elected or appointed. All of the Trustees proposed for election must be unrelated to CFFI (as such term is defined in The Toronto Stock Exchange Company Manual). The Declaration of Trust prohibits a non-resident of Canada (as that term is defined in the Tax Act) from acting as a Trustee.

The Declaration of Trust provides that, subject to its terms and conditions, the Trustees have full, absolute and exclusive power, control and authority over the trust assets and over the affairs of the Fund to the same extent as if the Trustees were the sole and absolute legal and beneficial owners of the trust assets and will supervise the investments and manage the affairs of the Fund. The Trustees are responsible for, among other things:

- acting for, voting on behalf of and representing the Fund as a unitholder and noteholder of CSHT and a shareholder of CS ManPar;
- maintaining records and providing reports to Unitholders;
- supervising the activities and managing the affairs of the Fund;
- ensuring the ownership restrictions in the Declaration of Trust are met; and
- effecting payments of distributions from the Fund to Unitholders.

The Trustees have the right to approve the adoption of a unitholder rights plan from time to time if the Trustees determine in good faith that the action is appropriate. Any such unitholder rights plan will be effective as of the date of its adoption by the Trustees but will terminate six months from the date of its adoption if not ratified and confirmed by the Unitholders in accordance with the Declaration of Trust.

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

A quorum of Trustees, being the greater of two Trustees or a majority of the Trustees then holding office, may fill a vacancy in the Trustees, except a vacancy resulting from an increase in the number of Trustees (other than as noted below) or from a failure of the Unitholders and holders of Special Trust Units to elect the required number of Trustees. In the absence of a quorum of Trustees, or if the vacancy has arisen from a failure of the Unitholders and holders of Special Trust Units to elect the required number of Trustees, the Trustees will promptly call a special meeting of Unitholders and holders of Special Trust Units to fill the vacancy. If the Trustees fail to call that meeting or if there are not Trustees then in office, any Unitholder or holder of a Special Trust Unit may call the meeting. The Trustees may, between annual meetings of Unitholders and holders of Special Trust Units, appoint one or more additional Trustees to serve until the next annual meeting of Unitholders and holders of Special Trust Units, but the number of additional Trustees may not exceed one-third of the number of Trustees who held office at the expiration of the immediately preceding annual meeting of Unitholders and holders of Special Trust Units.

The Declaration of Trust provides that the Trustees must act honestly and in good faith with a view to the best interests of the Fund and in connection with that duty must exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The Declaration of Trust provides that each Trustee is entitled to indemnification from the Fund in respect of the exercise of the Trustee's powers and the discharge of the Trustee's duties, provided that the Trustee acted honestly and in good faith with a view to the best interests of the Unitholders. In addition, in certain circumstances, limitations on indemnification similar to those under the *Business Corporations Act* (Ontario) apply.

Except as expressly prohibited by law, the Trustees may grant or delegate certain of the authority of the Trustees to effect the actual administration of the duties of the Trustees under the Declaration of Trust. The Trustees may grant broad discretion to a third party to administer and manage the day-to-day operations of the Fund, and to make executive decisions that conform to the general policies and general principles set forth in the Declaration of Trust or are otherwise established by the Trustees from time to time, including pursuant to the Administration Agreement.

### **Cash Distributions**

The Fund makes monthly cash distributions, based upon cash receipts of the Fund in respect of such month, after satisfaction of administrative and other expenses (including reasonable reserves for such expenses), any debt service obligations (principal and interest) and any amounts payable by the Fund in connection with any cash redemptions or repurchases of Units. The Fund may make additional distributions in excess of the monthly distributions during the year in the sole discretion of the Trustees. Any amounts of net income and net capital gains of the Fund for a taxation year not otherwise distributed during the year and that would otherwise result in the Fund being liable to tax will be payable on December 31 of that year.

Any income of the Fund which is applied to any cash redemptions of Units or is otherwise unavailable for cash distribution will, to the extent necessary to ensure that the Fund does not have an income tax liability under Part I of the Tax Act, be distributed 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.

Monthly distributions will be paid to Unitholders of record on the last business day of each month and are paid within 15 days following each month end.

Holders of Units who are non-residents of Canada are 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.

### **Redemption at the Option of Unitholders**

#### *General*

Units are redeemable at any time on demand by the holders thereof upon delivery to the Fund of a duly completed and properly executed notice requesting redemption in a form reasonably acceptable to the Trustees, together with written instructions as to the number of Units to be redeemed. As the Units will be issued in book entry form, a Unitholder who wishes to exercise the redemption right will be required to obtain a redemption notice form from the Unitholder's investment dealer who will be required to deliver the completed redemption notice form to the Fund at its head office and to Canadian Depository for Securities Limited. Upon receipt of the redemption notice by the Fund, all rights to and under the Units tendered for redemption shall be surrendered and the holder thereof shall be entitled to receive a price per Unit (the "**Redemption Price**") equal to the lesser of:

- 90% of the "market price" on the principal market on which the Units are quoted for trading during the ten trading day period ending immediately prior to the date on which the Units were tendered for redemption (the "**Redemption Date**"); and
- 100% of the "closing market price" on the principal market on which the Units are quoted for trading on the Redemption Date.

For the purposes of this calculation, "market price" will be an amount equal to the weighted average of the closing price of the Units for each of the trading days on which there was a closing price; provided that if the applicable exchange or market does not provide a closing price, but only provides the highest and lowest prices of the Units traded on a particular day, the "market price" will be an amount equal to the weighted average of the highest and lowest prices for each of the trading days on which there was a trade; and provided further that if there was trading on the applicable exchange or market for fewer than five of the ten trading days, the "market

price” will be the weighted average of the following prices established for each of the ten trading days: the average of the last bid and last asking prices of the Units for each day there was no trading; the closing price of the Units for each day that there was trading if the exchange or market provides a closing price; and the average of the highest and lowest prices of the Units for each day that there was trading if the market provides only the highest and lowest prices of Units traded on a particular day. The “closing market price” will be an amount equal to the closing price of the Units if there was a trade on the date and the exchange or market provides a closing price; an amount equal to the average of the highest and lowest prices of the Units if there was trading and the exchange or other market provides only the highest and lowest prices of Units traded on a particular day; or the average of the last bid and last asking prices of the Units if there was no trading on that date.

If the Units are not listed on a public market, the Redemption Price will be the net asset value of the Units, which shall be determined by the Trustees in their sole discretion.

The aggregate Redemption Price payable by the Fund in respect of any Units surrendered for redemption during any month shall be satisfied by way of a cash payment by the Fund within 30 days after the end of the calendar month in which the Units were tendered for redemption, provided that the entitlement of the Unitholders to receive cash upon the redemption of their Units is subject to the limitations that: (i) the total amount payable in cash by the Fund in respect of such Units and all other Units tendered for redemption in the same calendar month shall not exceed \$50,000 (provided that such limitation may be waived at the discretion of the Trustees in respect of all Units to be redeemed); (ii) at the time such Units are tendered for redemption, the outstanding Units shall be listed for trading on The Toronto Stock Exchange or traded or quoted on any other stock exchange or market which the Trustees consider, in their sole discretion, provides representative fair market value prices for the Units; (iii) the normal trading of Units is not 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 date that the Units are tendered for redemption or for more than five trading days during the ten day trading period prior to the date on which the Units are tendered for redemption; and (iv) the redemption of the Units will not result in the de-listing of the Units on the principal stock exchange on which the Units are listed.

If a Unitholder is not entitled to receive cash upon the redemption of Units as a result of the foregoing limitation, then the Redemption Price for such Units shall, subject to any applicable regulatory approvals, be paid and satisfied by way of a distribution in specie of assets held by the Fund. Where the Fund makes a distribution in specie of securities of CSHT on the redemption of Units to a Unitholder, the Fund currently intends to designate to that Unitholder any capital gain realized by the Fund as a result of the distribution of those securities to the Unitholder. In such circumstances, CSHT Units and CSHT Series 1 Notes of a value equal to the Redemption Price (as determined by the Trustee in their sole discretion) will be redeemed by CSHT in consideration of series 2 notes of CSHT (the “**CSHT Series 2 Notes**”) prescribed by the note indenture between CSHT and Computershare Trust Company of Canada (the “**CSHT Note Indenture**”) with an aggregate principal amount equal to the Redemption Price. The said CSHT Series 2 Notes will then be distributed in satisfaction of the Redemption Price. No CSHT Series 2 Notes will be distributed in integral multiples of less than \$100 and, where the number of amount of CSHT Series 2 Notes to be received by a Unitholder includes a multiple less than \$100, such number shall be rounded to the next lowest integral of \$100.

This redemption right is not the primary mechanism for Unitholders to dispose of their Units. Assets of the Fund which may be distributed in specie to Unitholders in connection with a redemption will not be listed on any exchange and no market is expected to develop in such assets of the Fund. Fund assets so distributed may be subject to resale restrictions under applicable securities laws. Assets of the Fund so distributed may not be qualified investments for trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans and deferred profit sharing plans.

#### *CSHT Units*

CSHT Units are not and are not intended to be issued or held by any person other than the Fund (until such time as a Unitholder redeems Units of the Fund) and, as such, registration of interests in, and transfer of, the CSHT Units are not to be made through the book-entry system administered by The Canadian Depository for Securities Limited. Rather, holders of CSHT Units will be entitled to receive certificates therefor.

CSHT's declaration of trust provides that CSHT will make monthly cash distributions to holders of record of CSHT Units on the last business day of each month. Such distributions will be paid within 15 days following each month end and are intended to be received by the Fund prior to its related distributions to Unitholders. The CSHT Trustee has adopted a policy to distribute all of CSHT's available cash, subject to applicable law, to holders of CSHT Units by way of monthly cash distributions, after satisfaction of administrative and other expenses (including reasonable reserves for such expenses), any debt service obligations (principal and interest) and any amounts payable in connection with any cash redemptions or repurchases of CSHT Units and CSHT Series 1 Notes.

CSHT may make additional distributions in excess of the monthly distributions during the year as may be determined in the sole discretion of the CSHT Trustee. Any income of CSHT 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 unitholders in the form of additional CSHT Units and/or CSHT Series 1 Notes. 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.

#### *CSHT Notes*

The following is a summary of the material attributes and characteristics of the CSHT Series 1 Notes and CSHT Series 2 Notes, which does not purport to be complete. Reference is made to the CSHT Note Indenture for a complete description of the CSHT Series 1 Notes and CSHT Series 2 Notes and the full text of its provisions.

CSHT Series 1 Notes and CSHT Series 2 Notes are issuable in Canadian currency. CSHT Series 1 Notes and CSHT Series 2 Notes are issuable in denominations of \$100.00 and integral multiples of \$100.00. No fractional CSHT Series 1 Notes or CSHT Series 2 Notes may be distributed and where the number of CSHT Series 1 Notes or CSHT Series 2 Notes to be received by a noteholder includes a fraction, such number shall be rounded to the next lowest whole number.

CSHT Series 2 Notes have been reserved by CSHT to be issued exclusively to holders of CSHT Units and CSHT Series 1 Notes as full or partial payment of the redemption price thereof as the CSHT Trustees may decide or, in certain circumstances, be obliged to issue.

#### *Interest and Maturity*

The CSHT Series 1 Notes issued upon completion of the initial public offering to the Fund are repayable upon the earlier of (i) demand by the holder, and (ii) on the 25th anniversary of the closing of the initial public offering, and bear interest at the rate of 5.0% per annum payable monthly within 15 days of the end of each calendar month in respect of which such interest has accrued. Each CSHT Series 2 Note will mature on the 25th anniversary of the closing of the initial public offering and bear interest at a market rate to be determined by the CSHT Trustees at the time of issuance thereof, payable within 15 days of the end of each calendar month in respect of which such interest has accrued.

#### *Payment Upon Maturity*

On maturity, CSHT will repay the CSHT Series 1 Notes and CSHT Series 2 Notes by paying to the trustee under the CSHT Note Indenture, in cash, an amount equal to the principal amount of the outstanding CSHT Series 1 Notes and CSHT Series 2 Notes that have then matured, together with accrued and unpaid interest thereon.

#### *Redemption*

The CSHT Series 1 Notes and CSHT Series 2 Notes are redeemable (at a redemption price equal to the principal amount thereof plus accrued and unpaid interest, payable in cash) at the option of CSHT prior to maturity.



### *Subordination*

Payment of the principal amount and interest on the CSHT Series 1 Notes and CSHT Series 2 Notes is 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 in the CSHT Note Indenture as all indebtedness, liabilities and obligations of CSHT which, by the terms of the instrument creating or evidencing same, will be expressed to rank in right of payment in priority to the indebtedness evidenced by the CSHT Note Indenture. The CSHT Note Indenture provides that upon any distribution of the assets of CSHT in the event of any dissolution, liquidation, reorganization or similar proceedings relevant to CSHT, the holders of all such senior indebtedness will be entitled to receive payment in full before the holders of the CSHT Series 1 Notes and CSHT Series 2 Notes are entitled to receive any payment.

The CSHT Series 1 Notes and CSHT Series 2 Notes are unsecured debt obligations of CSHT.

### *Default*

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

- default in payment of the principal of the CSHT Series 1 Notes or CSHT Series 2 Notes when the same becomes due and payable and the continuation of such default for a period of ten business days;
- default in payment of any interest due on any CSHT Series 1 Notes or CSHT Series 2 Notes and continuation of such default for a period of ten business days;
- default in the observance or performance of any other covenant or condition of the CSHT Note Indenture and continuance of such default for a period of 30 days after written notice has been given by the trustee specifying such default and requiring CSHT to rectify same; and
- certain events of dissolution, liquidation, reorganization or other similar proceedings relative to CSHT.

The provisions governing an event of default under the CSHT Note Indenture and remedies available thereunder do not provide protection to the holders of CSHT Series 1 Notes or CSHT Series 2 Notes that would be comparable to the provisions generally found in debt securities issued to the public.

### **Repurchase of Units**

The Fund is allowed, from time to time, to purchase Units for cancellation in accordance with applicable securities legislation and the rules prescribed under applicable stock exchange or regulatory policies. Any such purchases will constitute an “issuer bid” under Canadian securities legislation and must be conducted in accordance with the applicable requirements thereof.

### **Meetings of Unitholders**

The Declaration of Trust provides that there shall be an annual meeting of Unitholders and holders of Special Trust Units for the purpose of: (i) the election or removal of the Trustees; (ii) the appointment or removal of auditors of the Fund for the ensuing year; (iii) any other matter which requires a resolution of Unitholders and holders of Special Trust Units; and (iv) transacting such other business as the Trustees may determine or as may be properly brought before the meeting.

The Declaration of Trust contains provisions as to the notice required and other procedures with respect to the calling and holding of meetings of Unitholders and holders of Special Trust Units.

### **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 not be established or maintained primarily for the benefit of non-residents of Canada within the meaning of the Tax Act. Accordingly, the Declaration of Trust provides that at no time may non-residents of Canada be the beneficial owners of either more than 49% of the Units or more than 49% of the Units and the Special Trust Units, collectively, then outstanding. The Trustees may require declarations as to the jurisdictions in which beneficial owners of Units or Special Trust Units are resident. If the Trustees become aware that the beneficial

owners of either at least 49% of the Units or at least 49% of the Units and the Special Trust Units, collectively, then outstanding are, or may be, non-residents or that such a situation is imminent, the transfer agent or registrar shall make a public announcement thereof and shall not accept a subscription for Units from or issue or register a transfer of Units or Special Trust Units to a person unless the person provides a declaration that he or she is not a non-resident. If, notwithstanding the foregoing, the Trustees determine that 49% or more of the Units or more than 49% of the Units and Special Trust Units are held by non-residents, the Trustees may send a notice to non-resident holders of Units and/or Special Trust 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 Special Trust Units or a portion thereof within a specified period of not less than 60 days. If the persons receiving such notice have not sold the specified number of Units or Special Trust Units or provided the Trustees with satisfactory evidence that they are not non-residents within such period, the Trustees may, on behalf of such persons, sell such Units or Special Trust Units and, in the interim, shall suspend the voting and distribution rights (if any) attached to such Units or Special Trust Units. Upon such sale, the affected holders shall cease to be holders of the Units or Special Trust Units, as applicable, and their rights shall be limited to receiving the net proceeds of such sale that, in the case of the Special Trust Units, may be nil. The Trustees shall have no liability for the amount received provided that they act in good faith.

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

The Declaration of Trust may be amended or altered from time to time by special resolution of the Unitholders and holders of Special Trust Units, requiring 66⅔% of votes cast (a “**Special Resolution**”).

The Trustees may, without the approval of the Unitholders and holders of Special Trust Units, 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 the Fund;
- which, in the opinion of the Trustees, after consulting with legal counsel, provide additional protection or benefits for Unitholders and/or holders of Special Trust Units;
- 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 Unitholders and holders of Special Trust Units; and
- which, in the opinion of the Trustees, are necessary or desirable as a result of changes in Canadian taxation laws.

### **Exercise of Certain Voting Rights Attached to the Securities of CSHT, CS ManPar and Clearwater**

The Declaration of Trust provides that the Fund will not vote securities held by it of CSHT and CS ManPar, nor will it permit CSHT or CS ManPar to vote their securities of Clearwater, to authorize, among other things,

- any sale, lease or other disposition of all or substantially all of the assets of CSHT or Clearwater, except in conjunction with an internal reorganization or bona fide pledges or mortgages in the ordinary course of business or in connection with permitted guarantees;
- any amalgamation, arrangement or other merger or combination of CSHT, CS ManPar or Clearwater with any other entity, except in conjunction with an internal reorganization or the acquisition by Clearwater of the securities or assets of another entity;
- any material amendment to the CSHT Note Indenture, other than in contemplation of an issuance of CSHT Series 1 Notes or CSHT Series 2 Notes;
- the winding-up or dissolution of CSHT, CS ManPar or Clearwater prior to the end of the term of the Fund, except in connection with an internal reorganization; or
- any material amendment to the CSHT Trust Indenture, the limited partnership agreement of Clearwater or the articles of CS ManPar in a manner which may be prejudicial to the Fund, without the authorization of the Unitholders and holders of Special Trust Units by Special Resolution.

## **Term of the Fund**

The Fund has been established for a term to continue until 21 years after the death of the last surviving issue of Her Majesty, Queen Elizabeth II, alive on June 5, 2002. The termination of the Fund may also be required by Special Resolution. 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.

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 Unitholders and holders of Special Trust Units, which notice shall designate the time or times at which Unitholders shall surrender their Units for cancellation and the date at which the register of Units will be closed. Two years prior to the expiry of the term of the Fund or following a resolution to terminate the Fund, 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 Unitholders, fulfill or discharge the contracts of the Fund, perform or cause the auditor to perform any final audit of the Fund assets, collect its assets, sell, convey, assign, exchange, transfer or otherwise dispose of all or any part of the remaining Fund assets, to one or more persons in one transaction or a series of transactions at public or private sale for consideration which may consist in whole or in part of cash, securities or other property of any kind, discharge or pay its liabilities, 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 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 assets which comprise part of the Fund by the date set for termination, the Trustees may distribute the remaining assets in specie directly to the Unitholders in accordance with their pro rata interests, subject to obtaining all required regulatory approvals. The Trustees shall have no liability for the amount received provided that they act in good faith.

## **Take-over Bids**

The Declaration of Trust provides that if a non-exempt take-over bid from a person acting at arm's length to holders of Clearwater Exchangeable Units is made for the Units and a contemporaneous identical offer is not made for the Clearwater Exchangeable Units (in terms of price, timing, proportion of securities sought to be acquired and conditions, provided that the offer for the Clearwater Exchangeable Units may be conditional on Units being taken up and paid for under the take-over bid), then provided not less than 25% of the Units (other than 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 pursuant to the non-exempt bid from and after the date of first take-up of Units under the said take-over bid in excess of the foregoing threshold, the Clearwater Exchangeable Units will be exchangeable at an exchange ratio equal to 110% of the exchange ratio previously in effect, such that, based on the current one-to-one exchange ratio, on exchange the holder of Clearwater Exchangeable Units will receive 1.1 Units for each Clearwater Exchangeable Unit. Notwithstanding any adjustment on completion of an exclusionary offer as described above, the voting rights attaching to the Special Trust Units will not be similarly adjusted, and the distribution rights will also not be adjusted until the exchange right is actually exercised.

The Declaration of Trust also contains provisions to the effect that if a take-over bid is made and not less than 90% of the aggregate of the Units (other than 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 who did not accept the take-over bid on the same terms on which the offeror acquired Units from Unitholders who accepted the take-over bid.

## Information and Reports

In accordance with and subject to applicable securities laws, the Fund will furnish to Unitholders and holders of Special Trust Units 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 tax returns under the Tax Act and equivalent provincial legislation. Prior to each meeting of Unitholders and holders of Special Trust Units, the Trustees will provide the Unitholders and holders of Special Trust Units (along with notice of such meeting) with all such information as is required by applicable law and the Declaration of Trust to be provided to such holders. CSHT and Clearwater will undertake to the Fund and the securities regulatory authorities to provide the Fund with (i) a report of any material change that occurs in the affairs of CSHT or Clearwater in form and content that they would file with applicable regulatory authorities were they reporting issuers (or equivalent); and (ii) all financial statements that it would be required to file with applicable regulatory authorities if it were a reporting issuer (or equivalent) under applicable securities laws. All such reports and statements will 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.

## Clearwater Exchangeable Units

Clearwater issued Clearwater Exchangeable Units to CFFI in partial consideration for Clearwater's acquisition of Clearwater. The Clearwater Exchangeable Units, together with the Special Trust Units, except as otherwise noted, have economic and voting rights equivalent in all material respects to the Units. The Clearwater Exchangeable Units have the following attributes:

- (i) the Clearwater Exchangeable Units not subject to subordination described below are exchangeable, directly or indirectly, on a one-for-one basis (subject to customary anti-dilution provisions and as provided under "Information Concerning the Fund — Take-Over Bids") for Units of the Fund at the option of the holder;
- (ii) each Clearwater Exchangeable Unit entitles the holder thereof to receive distributions from Clearwater, where practicable, pro rata with distributions made to holders of Clearwater ordinary units, provided that Clearwater Exchangeable Units are subordinated as described below; and
- (iii) each Clearwater Exchangeable Unit shall be accompanied by a Special Trust Unit of the Fund which entitles the holder thereof to receive notice of, to attend and to vote at all meetings of Unitholders (except in respect of Clearwater Exchangeable Units previously exchanged pursuant to the Exchange Agreement).

Clearwater distributes to limited partners (listed on the record) holding Clearwater ordinary units and to the general partners (listed on the record) holding Clearwater Exchangeable Units not then subject to subordination on the last day of each month and to the general partners (listed on the record) holding Clearwater Exchangeable Units still subject to subordination on the last day of each quarter their pro rata portions of distributable cash as set out below. Distributions are made within 15 days of the end of each month. Distributions on the Clearwater ordinary units are intended to be received by CSHT prior to its related distributions to the Fund. Clearwater may, in addition, make a distribution at any other time.

Distributable cash represents, in general, all of Clearwater's cash, after:

- satisfaction of its debt service obligations (principal and interest);
- satisfaction of administrative and other expense obligations;
- satisfaction of capital expenditures as considered appropriate by the board of directors of CS ManPar from time to time; and
- retaining reasonable reserves for administrative and other expense obligations and reasonable reserves for working capital and capital expenditures as may be considered appropriate by the board of directors of CS ManPar.

Approximately 9,352,487 Clearwater Exchangeable Units are subordinated to distributions to holders of Clearwater ordinary units until December 31, 2005. Under such subordination, distributions will be made in the following priority:

- (i) holders of Clearwater ordinary units and unsubordinated Clearwater Exchangeable Units will be entitled to receive pro rata monthly cash distributions equal to \$0.0958 per unit or, if there is insufficient available cash to make distributions in such amount, such lesser amount as is available;
- (ii) in respect of each fiscal quarter of Clearwater, available cash shall be distributed:
  - (a) first, to holders of Clearwater ordinary units and unsubordinated Clearwater Exchangeable to the extent that monthly per unit distributions for such fiscal year to date averaged less than \$0.0958 per month,
  - (b) second, to holders of subordinated Clearwater Exchangeable Units in a per unit amount of up to \$0.2875 plus, to the extent that distributions to such holders in any previous fiscal quarter(s) during that fiscal year (and not, for greater certainty, in any previous fiscal year) were not made or were made in amounts less than \$0.2875 per unit, an amount per unit equal to the difference between \$0.2875 and the amount per unit of any distributions made for each such previous fiscal quarter(s); provided that if the amount per unit actually distributed to such holders in respect of such quarter is less than \$0.2875 due only to restrictions upon the distribution to Clearwater of cash earned in Argentina in such quarter, provision shall be made to permit such holders to recover such shortfall from future distributions to Clearwater of cash from Argentina; and
  - (c) third, to the holders of Clearwater ordinary units and Clearwater Exchangeable Units, *pro rata*, subject to the proviso in paragraph (b) above.

Notwithstanding the foregoing, while the subordination remains in effect, the directors of CS ManPar shall, if they determine, based on trends or developments in the business or operations of Clearwater then in effect or reasonably foreseeable, that there is a reasonable likelihood that there will be insufficient available cash in a future month within that fiscal year to make distributions on the Clearwater ordinary units and Clearwater Exchangeable Units in respect of which subordination has ended of at least \$0.0958 per unit, suspend distributions to holders of Clearwater Exchangeable Units in respect of which subordination has not ended to the extent determined necessary.

After the subordination in respect of all Clearwater Exchangeable Units has ended, cash available to make distributions shall be paid monthly to the holders of Clearwater ordinary units and holders of Clearwater Exchangeable Units pro rata, subject to the proviso in paragraph (ii)(b) above.

Clearwater Exchangeable Units that are subject to subordination, shall during the period of such subordination be prohibited from being exchanged into Units of the Fund.

#### *Exchange Agreement*

On completion of the Fund's initial public offering, the Fund, CSHT, Clearwater and CFFI entered into an exchange agreement (the "**Exchange Agreement**").

The Exchange Agreement granted to CFFI (and to any subsequent holder of Clearwater Exchangeable Units) the right to exchange each Clearwater Exchangeable Unit not then subject to subordination for Units on a one-for-one basis (subject to customary anti-dilution provisions and as provided under "Information Concerning the Fund — Take-over Bids").

The rights of exchange under the Exchange Agreement may be assigned in whole or in part, as applicable, by CFFI (and any subsequent holder of Clearwater Exchangeable Units) in connection with a transfer of the Clearwater Exchangeable Units.

## RISK FACTORS

### **The Business and the Industry**

#### *Resource Supply*

Clearwater's business depends on a continuing supply of product that meets its quality and quantity requirements. Water temperatures, feed in the water and the presence of predators all influence the level of the catch, and locations are not necessarily consistently successful from year to year.

The availability of seafood in Canadian and Argentine waters is also dependent on the total allowable catch allocated to Clearwater in a given area. Although the total allowable catch in these areas and Clearwater's quotas have been largely stable, fishery regulators have the right to make changes in the total allowable catch based on their assessment of the resource from time to time.

Any reduction of total allowable catches in the areas from which Clearwater sources seafood, or the reduction of stocks due to changes in the environment or the health of certain species, may have a material adverse effect on Clearwater's financial condition and results of operations.

#### *Food Processing Risks*

Clearwater's food processing operations are subject to international, federal, provincial and local food processing controls, and may be impacted by consumer product liability claims, product tampering, and the possible unavailability and/or expense of liability insurance. A determination by applicable regulatory authorities that any of Clearwater's plants are not in compliance with any such controls in any material respect may allow regulators to shut down plant operations and may have a material adverse effect on Clearwater's financial condition and results of operations. In addition, negative publicity, significant decreases in demand or increased costs associated with any of these circumstances may have a material adverse effect on Clearwater's financial condition and results of operations.

Clearwater's operation of its facilities involves some risks, including the failure or substandard performance of equipment, natural disasters, suspension of operations and new governmental statutes, regulations, guidelines and policies. There can be no assurance that as a result of past or future operations, there will be no claims of injury by employees or members of the public.

#### *Suppliers, Customers and Competition*

Consolidation among food distributors results in increased pressure on pricing and trade terms for food processors. Clearwater's operating costs may be negatively affected by increases in inputs, such as energy costs and commodity prices.

Clearwater uses fuel, electricity, air and ocean freight and other materials in the production, packaging and distribution of its products. Fuel and freight are two significant components of the costs of Clearwater's products and the distribution thereof. The inability of any of Clearwater's suppliers to satisfy its requirements or a material increase in the cost of these inputs may have an adverse effect on Clearwater's financial condition and results of operations.

In addition, Clearwater typically does not have written agreements with its customers. Accordingly, a customer may decide to terminate its relationship with Clearwater on relatively short notice. The loss of significant customers may have a material adverse effect on Clearwater's financial condition and results of operations.

The seafood industry is highly competitive in all of the markets in which Clearwater participates. Some of Clearwater's competitors have more significant operations within the marketplace, a greater diversification of products lines and greater economic resources than Clearwater and are well-established as suppliers to the markets that Clearwater serves. Such competitors may be better able to withstand volatility within the seafood industry and throughout the economy as a whole while retaining greater operating and financial flexibility than Clearwater. There can be no assurance that Clearwater will be able to compete successfully against its current or future competitors or that competition will not affect Clearwater's financial condition and results of operations.

### *Foreign Exchange Exposure*

Certain of Clearwater's sales are in United States dollars and other currencies, although cash distributions payable by the Fund and Clearwater are in Canadian dollars. As a result, fluctuations may have a material impact on Clearwater's financial results and the amount of cash available for distribution to Unitholders.

### *Seasonality of the Business*

Clearwater's business is subject to seasonality because of poor weather and fewer fishing days in the first quarter of the year, which affects catch rates and vessel results. This seasonality affects Clearwater's working capital as inventory reaches peak levels in the early summer. If Clearwater is not able to adequately finance these working capital requirements, there may be a material adverse effect on Clearwater's financial condition and results of operations.

### *Acquisitions Strategy*

Clearwater's ability to continue to grow depends, in part, on successfully continuing its acquisition strategy. Clearwater may not be able to continue its acquisition strategy, which depends in part on the availability and suitability of appropriate acquisition targets. In addition, Clearwater may face competition for the acquisition of attractive candidates from other consolidators in the seafood industry, who may be larger and have greater economic resources than Clearwater. There can be no assurance that Clearwater will be able to successfully integrate the operations of any business which it acquires and there can be no assurance that Clearwater will be able to maintain its growth objectives in the absence of acquisition opportunities.

### *Product Liability*

Clearwater is subject to potential product liabilities connected with its food processing operations, including liabilities and expenses associated with product defect and handling, such as the potential contamination of ingredients or products by bacteria and other external agents. Clearwater maintains insurance in respect of such liabilities in accordance with market practice within the industry. However, there can be no assurance that Clearwater will be adequately insured with respect to any losses arising from product liability claims.

### *Environmental, Health and Safety Regulation*

Clearwater's past and present business operations, including the harvesting, processing and transportation of seafood, have been and are subject to extensive and increasingly stringent federal, provincial and local statutes, regulations and by-laws and other requirements with respect to workers' health and safety and environmental matters in Canada, the United States and elsewhere.

Environmental legislation, orders, permits, approvals, common law and other requirements impose obligations relating to, among other things: the release of substances into the natural environment; the production, processing, preparation, handling, storage, transportation, disposal, and management of substances (including liquid and solid, non-hazardous and hazardous wastes and hazardous materials); and the prevention and remediation of environmental impacts such as the contamination of soil and water (including groundwater). As a result of these requirements, Clearwater's operations and ownership, management and control of property carry an inherent risk of environmental liability (including potential civil actions, compliance or remediation orders, fines and other penalties), including with respect to the harvesting and processing of seafood, the disposal of waste and the ownership, management, control or use of vessels, transport vehicles and real estate.

Workers' health and safety legislation and other requirements impose a number of obligations on Clearwater. In Nova Scotia, the principal workers' health and safety legislation is the Occupational Health and Safety Act (Nova Scotia). Workers' health and safety on Canadian vessels is governed by the Canadian Department of Transport pursuant to the *Canada Shipping Act*.

Compliance with all such laws and future changes to them is material to Clearwater's business. Clearwater has incurred and will continue to incur significant capital and operating expenditures to comply with such laws. As a result of its operations, Clearwater may occasionally be subject to orders, investigations, inquiries or other proceedings relating to environmental, health and safety matters, including issues of compliance with legislation,

permits, historical contamination and other requirements. Changes or additions to such regulatory matters, or more rigorous enforcement, could result in additional material expenditures. Furthermore, no assurance can be given that additional environmental and workers' health and safety issues relating to presently known matters or identified sites, or to other matters or sites, will not require currently unanticipated liability or expenditures for investigation, assessment or remediation, or result in fines or other penalties. Future discovery of previously unknown environmental issues, including contamination of property underlying or in the vicinity of Clearwater's present or former properties or manufacturing facilities, could require Clearwater to incur material unforeseen expenses.

#### *Economic Fluctuations*

As a seller of shellfish to a large global market, the prices of Clearwater's products are subject to price fluctuations as a result of changes in global supply and demand of such products and other economic factors. Material changes in the economies of the markets which Clearwater supplies, may have an adverse effect on Clearwater's revenues.

The price of raw material, fuel, insurance costs, interest rates, fluctuation in customers' business cycles and international, national and regional economic conditions are economic factors over which Clearwater has little or no control. Significant increases in fuel prices, interest rates or increases in insurance costs, to the extent not offset by increases in the selling prices of its products, or disruptions in raw material supply would reduce Clearwater's profitability and could adversely affect its ability to service its debts.

#### *International Operations*

Clearwater's foreign operations and investments and any future international expansion by Clearwater are subject to numerous risks, including fluctuations in foreign currency, exchange rates and controls, expropriation and other economic, political and regulatory policies of foreign governments. For example, the Government of Argentina devalued the Argentine Peso in early 2002 and forced the conversion of all foreign currency bank deposits and many other foreign currency denominated contracts into Argentine Pesos. The Argentine Government also imposed temporary restrictions on the ability of companies to transfer and retain cash outside of Argentina. Clearwater's operations in Argentina and elsewhere may be negatively affected by both foreign exchange and expropriation losses. No assurance can be given that Clearwater's operations will not be adversely impacted as a result of the existing or future legislation.

#### *Duties*

Markets in the United States and other countries may be affected from time to time by the imposition of customs duties and other tariffs. There can be no assurance that Clearwater's financial condition and results of operations will not be materially adversely affected by the imposition of customs duties or other tariffs in the future.

#### *Labour Action*

The success of Clearwater's business depends on a large number of employees, particularly during peak periods, employed on its vessels or at its processing facilities. Any organized work stoppage or other similar action at one or more of Clearwater's vessels or facilities may have a material adverse effect on its financial condition and results of operations.

#### *Governmental Regulation*

Clearwater operates in a highly regulated industry, both within Canada and internationally. Changes to any of the laws, regulations, rules or policies respecting the harvesting, production, processing, preparation, distribution, packaging or labelling of Clearwater's products could have a significant impact on its business. There can be no assurance that Clearwater will be able to comply with any future laws, regulations, rules and policies. Failure by Clearwater to comply with applicable laws, regulations, rules or policies may subject Clearwater to revocation of licenses and quotas or to civil or regulatory proceedings, including fines, injunctions, recalls or seizures, which may have a material adverse effect on its financial condition and results of operations.



### *Reliance on Key Personnel*

Clearwater's operations are dependent on the abilities, experience and efforts of its senior management. Should any of these individuals be unable or unwilling to continue their employment with Clearwater, there may be a material adverse effect on Clearwater's financial condition and results of operations.

### *Licence Renewals*

Clearwater relies on licenses issued by governmental authorities in order to permit it to harvest seafood. Any failure to renew Clearwater's licenses or any material alteration to the terms of such licenses may have a material adverse effect on Clearwater's financial condition and results of operations.

### *Demand for Product*

Worldwide consumption of seafood has expanded over the past several years. Demand for Clearwater's products is subject to fluctuations resulting from adverse changes in general economic conditions, evolving consumer preferences, nutritional and health-related concerns and public reaction to food spoilage or food contamination issues. There can be no assurance that consumption will continue to expand or that present consumption levels will be maintained. Should consumer demand for seafood products stop growing or decrease, Clearwater's growth strategy, financial condition and results of operations may be materially adversely affected.

### *Uninsured and Underinsured Losses*

The Declaration of Trust requires that the Fund obtain and maintain at all times insurance coverage in respect of potential liabilities of the Fund and the accidental loss of value of the Fund from risks, in amounts and on such terms as the Trustees consider appropriate, taking into account all relevant factors including the practices of owners of similar assets and operations. Management of Clearwater believes that it has adequate insurance in place sufficient to cover amounts required to repair or replace assets physically damaged or destroyed, with the exception of coverage for resultant business interruption losses, or extra expenses sustained, and to cover in respect of claims for bodily injury or property damage arising out of assets or operations. However, not all risk factors will be covered by insurance, and no assurance can be given that insurance will be consistently available or will be consistently available on an economically feasible basis or that the amounts of insurance will at all times be sufficient to cover each and every loss or claim that may occur involving the assets or operations of Clearwater.

## **The Structure of the Fund**

### *Dependence on Clearwater*

The Fund is a limited purpose trust which is entirely dependent on the business of Clearwater through its ownership of Clearwater through CSHT. The cash distributions to the Unitholders are dependent on the ability of Clearwater to pay distributions. The ability of Clearwater to pay distributions is subject to applicable laws and contractual restrictions contained in the instruments governing any indebtedness of Clearwater. The ability of Clearwater to pay distributions or make other payments is also dependent upon the ability of Clearwater's subsidiaries to pay distributions or make other payments or advances to Clearwater.

### *Leverage*

The degree to which Clearwater is leveraged could have important consequences to the holders of the Units, including (i) the ability of Clearwater (and its affiliates) to obtain additional financing for working capital, capital expenditures or acquisitions in the future; (ii) a material portion of Clearwater's cash flow from operations may need to be dedicated to payment of the principal of and interest on indebtedness, thereby reducing funds available for future operations and to pay distributions; (iii) certain of the borrowings will be at variable rates of interest, which exposes Clearwater to the risk of increased interest rates; and (iv) Clearwater may be more vulnerable to economic downturns and be limited in its ability to withstand competitive pressures. Clearwater's ability to make scheduled payments of principal and interest on, or to refinance, its indebtedness

will depend on its future operating performance and cash flow, which are subject to prevailing economic conditions, prevailing interest rate levels, and financial, competitive, business and other factors, many of which are beyond its control.

Clearwater's credit facilities contain restrictive covenants of a customary nature, including covenants that limit the discretion of management with respect to certain business matters. These covenants place restrictions on, among other things, the ability of Clearwater to incur additional indebtedness, to pay distributions or make certain other payments and to sell or otherwise dispose of assets. In addition, they contain a number of financial covenants that require Clearwater to meet certain financial ratios and financial condition tests. A failure to comply with the covenants could result in an event of default which, if not cured or waived, could permit acceleration of the relevant indebtedness. If indebtedness under the credit facilities were to be accelerated, there can be no assurance that the assets of Clearwater would be sufficient to repay in full that indebtedness. There can also be no assurance that the credit facilities would be able to be refinanced.

#### *Cash Distributions Are Not Guaranteed and Will Fluctuate with Clearwater's Performance*

Although the Fund intends to distribute the interest and other income earned by the Fund less amounts, if any, paid by the Fund in connection with the redemption of Units, there can be no assurance regarding the amounts of income to be generated by Clearwater and paid to the Fund. The actual amount distributed in respect of the Units will depend upon numerous factors, including profitability, fluctuations in working capital, the sustainability of margins and capital expenditures. For Canadian income tax purposes, distributions to Unitholders shall consist of a combination of return of capital, dividend income and other income. However, there can be no assurance regarding the relative make-up of such distributions.

#### *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 business of Clearwater and should not be viewed by investors as shares or debt of Clearwater. As holders of Units, 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 primary asset is its interests in CSHT. The price per Unit is a function of anticipated distributable income.

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

Upon a redemption of Units or termination of the Fund, the Trustees may distribute CSHT Units, CSHT Series 1 Notes and CSHT Series 2 Notes, as the case may be, directly to the Unitholders, subject to obtaining all required regulatory approvals. There is currently no market for the CSHT Units, CSHT Series 1 Notes or CSHT Series 2 Notes. In addition, the CSHT Units, CSHT Series 1 Notes and CSHT Series 2 Notes are not freely tradable and are not currently listed on any stock exchange. Securities so distributed may not be qualified investments for trusts governed by registered retirement savings plans, registered retirement income funds, deferred profit sharing plans and registered education savings plans, depending upon the circumstances at the time.

#### *Reliance on Partners in Certain Subsidiaries and Joint Ventures*

A portion of the business of Clearwater is now being carried on by subsidiaries and joint ventures of Clearwater, which in some cases are not wholly-owned by Clearwater. The actions of the other investors or partners in these subsidiaries and joint ventures may adversely impact on Clearwater and, therefore, indirectly on the Fund. For instance, if one of these investors or partners were to default on its obligations relating to a subsidiary or joint venture or if such an investor or partner were to take steps to delay or prevent the entity from distributing all of its available cash, there may be a material adverse effect on Clearwater's financial condition and results of operations or its ability to distribute all available cash, which, in turn, would affect the Fund's ability to pay distributions.

### *Potential Dilution*

The Declaration of Trust authorizes the Fund to issue an unlimited number of Units for such consideration and on such terms and conditions as shall be established by the Trustees without the approval of Unitholders. Additional Units may also be issued pursuant to the Exchange Agreement. The issuance of additional Units may dilute a Unitholder's investment in the Fund and reduce distributable cash per Unit. See "Information Concerning the Fund — Units".

### *Restrictions on Potential Growth*

The payout by Clearwater of substantially all of its operating cash flow will make additional capital and operating expenditures dependent on increased cash flow or additional financing in the future. Lack of such funds could limit the future growth of Clearwater and the related cash flow to the Fund.

### *Unitholder Liability*

The Declaration of Trust provides that no Unitholder will be subject to any liability whatsoever to any person in connection with a 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.

In December 2004 a new statute, the *Trust Beneficiary's Liability Act* (Ontario), was enacted to create a statutory limitation on the liability of Unitholders of Ontario income trusts such as the Fund. The legislation provides that a Unitholder will not, as beneficiary, be liable for any act, default, obligation or liability of the trust or any of its trustees after the legislation comes into force. However, this legislation does not address potential liabilities arising before the date the legislation came into force. In addition, 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.

### *Undiversified and Illiquid Holding in CSHT*

The Fund's holding of CSHT Units and CSHT Series 1 Notes is undiversified, and such securities are illiquid, as they are not currently, nor are they expected to be, listed or quoted on any stock exchange or other market.

### *Income Tax Matters*

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

Further, interest on the CSHT Series 1 Notes accrues at the Fund level for income tax purposes whether or not actually paid. The Declaration of Trust provides that an amount equal to the taxable income of the Fund will be distributed each year to Unitholders in order to reduce the Fund's taxable income to zero. Where in a particular year, the Fund does not have sufficient available cash to distribute such an amount to Unitholders (for instance, where interest payments on the CSHT Series 1 Notes are due but not paid in whole or in part) the Declaration of Trust provides that additional Units must 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 Units in their taxable income, notwithstanding that they do not directly receive a cash distribution.

In addition, the agreements under which CFFI transferred the Clearwater business provided that elections would be made under the Tax Act to transfer the transferred assets on a fully or partially tax-deferred basis, as may be determined by CFFI. The adjusted cost to Clearwater of the assets so transferred where such elections were made may be less than fair market value, such that Clearwater may realize a gain on the future disposition of those assets.

### Investment Eligibility and Foreign Property

There can be no assurance that the Units will continue to be qualified investments for registered retirement savings plans, deferred profit sharing plans, registered retirement income funds and registered education savings plans or that the Units will not be foreign property under the Tax Act. Adverse tax consequences may arise under the Tax Act on the acquisition or holding of non-qualified or ineligible investments and on excess holdings of foreign property.

### SELECTED CONSOLIDATED FINANCIAL INFORMATION OF THE FUND AND CLEARWATER

The Fund did not hold any material assets until July 2002 when it acquired an indirect approximately 45.36% interest in Clearwater. On August 27, 2002, this ownership percentage was increased to approximately 49.9% when the underwriters exercised their over-allotment option. On December 27, 2002 the Fund issued 1,271,186 Units through a private placement and increased its ownership in Clearwater to 51.23%, who in turn used the proceeds, along with \$4,125,000 in cash, to acquire the remaining 45% interest in one of its subsidiaries — Deep Sea Clam Company Incorporated.

On May 21, 2003, the Fund issued 4,000,000 warrants (which were converted to Units shortly thereafter) and used the proceeds to acquire an equal number of units in Clearwater increasing its ownership in Clearwater to 54.98%. On September 17, 2003, the Fund issued 848,962 Units through a private placement and used the proceeds to acquire an equal number of units in Clearwater increasing its ownership in Clearwater to 55.71%.

On June 15, 2004 the Fund completed an offering for \$50 million of 7% convertible unsecured subordinated debentures, which are due December 31, 2010. The convertible debentures are convertible at any time up to maturity at the option of the holder into trust units of the Fund at a conversion price of \$12.25 per trust unit. The Debentures pay interest semi-annually in arrears on June 30 and December 31, commencing December 31, 2004. The Debentures are not redeemable before December 31, 2007. On and after December 31, 2007, but before December 31, 2008, the Debentures may be redeemed at the option of the Fund provided that the market price of the trust units is not less than 125% of the conversion price. On and after December 31, 2008, the Debentures may be redeemed at the option of the Fund at a price equal to their principal amount plus accrued interest. Subject to regulatory approval, the Fund may satisfy its obligation to repay the principal amount of the Debentures on redemption or at maturity, in whole or in part, by delivering that number of trust units equal to the amount due divided by 95% of the market price of the trust units at that time, plus accrued interest in cash.

The convertible debentures are classified in accordance with their component parts: the value ascribed to the holder's option to convert to units has been classified as equity and the remaining portion of the convertible debenture has been classified as debt.

Clearwater did not hold any material assets until July 2002, when it acquired the seafood business from CFFI.

The following table includes consolidated financial information of the Fund and Clearwater (in thousands of Canadian dollars, except per Unit amounts) for the period from July 30, 2002 to December 31, 2002 and for fiscal years 2003 and 2004:

	Fund			Clearwater <sup>(1)</sup>		
	2003	July 30 – Dec. 31, 2002	2004	2003	July 30 – Dec. 31, 2002	
Sales . . . . .	\$ —	\$ —	\$ —	\$345,459	\$349,737	\$156,006
Equity in earnings of Clearwater . . .	18,719	33,198	15,180	—	—	—
Net Earnings . . . . .	18,675	33,198	15,004	37,473	62,117	30,423
Net Earnings per Unit (basic and fully diluted) . . . . .	0.64	1.21	0.64	0.71	1.22	0.64
Long-Term Debt . . . . .	49,165	—	—	169,198	145,802	110,769
Unitholders' Equity . . . . .	289,510	303,757	249,353	152,022	165,371	110,299
<b>Total Assets . . . . .</b>	<b><u>\$341,492</u></b>	<b><u>\$306,574</u></b>	<b><u>\$251,705</u></b>	<b><u>\$380,012</u></b>	<b><u>\$374,482</u></b>	<b><u>\$289,919</u></b>

Note:

(1) As CFFI controlled the business both before and after the initial public offering, the acquisition was accounted for by Clearwater using the book values of the assets and liabilities as recorded by CFFI.

More detailed financial information is set out in the audited annual financial statements, and the related notes thereto included in the Annual Report on pages 43 to 68, as at and for the year ended December 31, 2004.

## MANAGEMENT'S DISCUSSION AND ANALYSIS

Reference is made to Management's Discussion and Analysis of Financial Conditions and Results from Operations for the year ended December 31, 2004 included in the Annual Report at pages 16 to 40 and pages 13 to 31 of the 2003 Annual Report, which is incorporated herein by reference.

### SELECTED FINANCIAL INFORMATION OF CLEARWATER

The combined pro-forma 2002 earnings disclosed below reflects the unaudited interim earnings of Clearwater Fine Foods Fishing Business (the "**Business**") for the seven month period from January 1, 2002 to July 29, 2002, and the audited statement of earnings of Clearwater for the five month period from July 30, 2002 to December 31, 2002. Reference is made to pages 13 to 31 of the 2003 Annual Report and pages 16 to 40 of the 2004 Annual Report for Management's Discussion and Analysis on this financial information.

The results prior to July 30, 2002 do not reflect the current capital structure which would have impacted bank interest, interest on long-term debt, income taxes and minority interest. The financial information below is presented in thousands of dollars.

	<u>2004</u>	<u>2003</u>	<u>Combined pro-forma 2002</u>
	(Audited)	(Audited)	(Unaudited)
Sales . . . . .	\$345,459	\$349,737	\$319,928
Cost of goods sold . . . . .	253,322	252,111	232,383
Gross Profit <sup>(1)</sup> . . . . .	92,137	97,626	87,545
Gross Profit (%) . . . . .	26.7%	27.9%	27.4%
Administration and selling . . . . .	36,759	34,579	29,412
Other income . . . . .	(11,451)	(6,753)	(4,233)
Foreign exchange loss (income) . . . . .	(7,482)	(21,443)	(179)
Bank interest and charges . . . . .	659	921	2,445
Interest on long-term debt . . . . .	10,490	6,138	13,072
Depreciation and amortization . . . . .	16,145	15,540	14,003
Reduction in foreign currency translation account . . . . .	3,006	1,443	0
	<u>48,126</u>	<u>30,425</u>	<u>54,520</u>
Earnings before the undernoted . . . . .	44,011	67,201	33,025
Income Taxes . . . . .	4,276	2,338	2,036
Earnings before minority interest . . . . .	39,735	64,863	30,989
Minority interest . . . . .	2,262	2,746	1,456
<b>Net earnings</b> . . . . .	<u><b>\$ 37,473</b></u>	<u><b>\$ 62,117</b></u>	<u><b>\$ 29,533</b></u>

Note:

- (1) Gross Profit is not a recognized measure under Canadian GAAP. Gross Profit should not be construed as an alternative to net earnings as determined in accordance with GAAP as an indicator of Clearwater's profitability. Clearwater's method of calculating Gross Profit may differ from other companies and, accordingly, Gross Profit may not be comparable to measures used by other companies.

## DISTRIBUTIONS

The Fund has paid distributions to unsubordinated unitholders of \$0.0958 per unit from the time of the initial public offering on July 30, 2002 to December 31, 2004. Clearwater has paid distributions of \$0.0958 per unit to unsubordinated unitholders from the initial public offering on July 30, 2002 to December 31, 2004. Clearwater has paid distributions of 0.0958 per unit to subordinated unitholders from the initial public offering to December 31, 2003 and \$0.46 per unit annualized in 2004.

In January 2005 Clearwater reduced distributions to its Class A and unsubordinated Class B Units to an annualized rate of 84 cents per unit and suspended distributions on its subordinated Class B Units. Clearwater Seafoods Income Fund (the “Fund”) made an identical reduction in its’ distributions.

Due to Clearwater’s outlook for 2005, management and the board determined that it would be prudent and in the best interests of unitholders to reduce monthly cash distributions. The weakening of the U.S. dollar at a rate exceeding the current growth in the business was the main factor in making this decision. Clearwater utilizes a hedging policy to give certainty to its cash flows in Canadian dollars. As these hedges have been expiring they have been renewed at lower and lower rates.

### PRINCIPAL UNITHOLDERS

To the knowledge of the Trustees and the directors and senior officers of CS ManPar, the only person or company that beneficially owns, directly or indirectly, or exercises control or direction over, in excess of 10% of the Units (on a fully diluted basis) is as follows:

<u>Name</u>	<u>Number of Units and Special Trust Units Owned</u>	<u>Percentage of Units and Special Trust Units Owned</u>
Clearwater Fine Foods Incorporated <sup>(1)</sup> . . . . .	24,481,422	46.38%

Note:

(1) CFFI holds 1,100,205 Units as well as an additional 23,381,217 Special Trust Units. Each Special Trust Unit was issued concurrently with the issuance of an Exchangeable Unit, which, subject to certain restrictions, will be exchangeable for Units on a one-for-one basis, subject to adjustment in certain circumstances. Upon exchange of the Exchangeable Units for Units of the Fund, the associated Special Trust Unit shall be cancelled.

Other than as set out above, to the knowledge of the Trustees and the directors and senior officers of CS ManPar, the number of Units owned collectively by the Trustees and the directors and officers of CS ManPar and their respective subsidiaries is approximately 2% of the Units on a fully-diluted basis, excluding those Units and Special Trust Units held by CFFI over which Messrs. MacDonald and Risley may be said to have control or direction or to beneficially own, as described below.

### MARKET FOR SECURITIES

The outstanding Units of the Fund are listed for trading on The Toronto Stock Exchange under the symbol CLR.UN and the convertible debentures trade under the symbol CLR.DB.

The monthly volume of trading and price ranges of the Units on the TSX over fiscal 2004 are set forth in the following table:

<u>Period</u>	<u>High</u>	<u>Low</u>	<u>Volume</u>
	\$	\$	
<b>2004</b>			
January . . . . .	12.30	11.80	1,405,521
February . . . . .	12.95	12.10	2,049,823
March . . . . .	12.70	12.00	938,891
April . . . . .	12.48	10.55	1,876,243
May . . . . .	11.73	10.31	2,781,698
June . . . . .	11.75	11.00	772,536
July . . . . .	11.97	11.07	250,881
August . . . . .	11.10	10.05	738,752
September . . . . .	10.57	9.35	1,289,147
October . . . . .	10.13	9.30	1,939,763
November . . . . .	9.90	8.10	2,961,971
December . . . . .	9.15	8.11	1,575,637

## TRUSTEES, DIRECTORS AND MANAGEMENT

### Trustees and Directors

The names, municipalities of residence, principal occupations and current holdings of the persons who are Trustees and directors of CS ManPar are set out below.

PURDY CRAWFORD, 73 Toronto, Ontario Units: 35,000 <sup>(1)</sup>	Mr. Crawford is the Chairman and a Trustee of the Fund, as well as a director of CS ManPar. His principal occupation is Counsel at Osler, Hoskin & Harcourt LLP.
JAMES W. GOGAN, 66 New Glasgow, Nova Scotia Units: 52,000	Mr. Gogan is a Trustee of the Fund and a director of CS ManPar. Mr. Gogan's principal occupation is that of President of High Street Investment Limited (an investment company).
THOMAS D. TRAVES, 56 Halifax, Nova Scotia Units: 7,000	Mr. Traves is a Trustee of the Fund and a director of CS ManPar. His principal occupation is that of President and Vice-Chancellor of Dalhousie University.
GEORGE S. ARMOYAN, 45 Halifax, Nova Scotia Units <sup>(1)</sup> : None	Mr. Armoyan is a director of CS ManPar. Mr. Armoyan's principal occupation is President and CEO of Clarke Inc.
HUGH K. SMITH, 60 Halifax, Nova Scotia Units: 28,000	Mr. Smith is a director of CS ManPar. His principal occupation is Vice President of Municipal Group of Companies and Counsel at Stewart McKelvey Stirling Scales.
COLIN E. MACDONALD, 57 Halifax, Nova Scotia Units and Special Trust Units: 24,502,685 <sup>(2)(3)</sup>	Mr. MacDonald is a director of CS ManPar. Mr. MacDonald's principal occupation is that of Chief Executive Officer of CS ManPar.
JOHN C. RISLEY, 56 Halifax, Nova Scotia Units and Special Trust Units: 24,481,422 <sup>(3)</sup>	Mr. Risley is the Chairman and director of CS ManPar. His principal occupation is that of Chairman of CS ManPar.

Notes:

- (1) The information as to Units and Special Trust Units beneficially owned, directly or indirectly, including by associates or affiliates, not being within the knowledge of the Fund, has been furnished by the respective trustees and directors.
- (2) Colin MacDonald holds 21,263 Units directly.
- (3) CFFI holds 1,100,205 Units as well as an additional 23,381,217 Special Trust Units. Each Special Trust Unit was issued concurrently with the issuance of Clearwater Exchangeable Units which, once such Units are no longer subject to subordination, will be exchangeable for Units on a one-for-one basis, subject to customary anti-dilution protections and as provided under "Information Concerning the Fund — Takeover Bids". Messrs. MacDonald and Risley beneficially own, and exercise control or direction over such Units as the sole directors and shareholders of CFFI.

Compensation for the Trustees is \$30,000 per Trustee per year (plus \$3,000 for committee chairs) and \$1,500 per meeting per Trustee for attending meetings of the board of Trustees to a limit of \$15,000 per year. Compensation for the directors of CS ManPar, other than directors who also serve as Trustees or as management of CS ManPar, is \$30,000 per director per year and \$1,500 per meeting per director for attending meetings of the board of directors and committee meetings of the board of directors to a limit of \$15,000 per

year. All Trustees and directors are reimbursed for out-of-pocket expenses for attending meetings and participate in the insurance and indemnification arrangements described below.

During 2003 the board of directors adopted a policy whereby board members will be required, over a three year period, to hold Units equal to three times their total annual retainer.

## **Governance**

The board of trustees of the Fund is responsible for supervising the activities and managing the investments and affairs of the Fund. The board reviews, discusses and approves various matters related to the Fund's investments and affairs, strategic direction and organizational structure to ensure that the best interests of the Fund are being served. The board is assisted in its supervision and management by the standing committees of the board of CS ManPar, who report to the board on matters falling within the purview of their mandate.

The Trustees are directly responsible for adopting and periodically reviewing and updating the Fund's written corporate disclosure policy. This policy, among other things:

- articulates the legal obligations of the Fund, its affiliates and their respective trustees, directors, officers and employees with respect to confidential corporate information;
- identifies spokespersons of the Fund who are the only persons authorized to communicate with third parties such as analysts, media and investors;
- provides guidelines on the disclosure of forward-looking information;
- requires advance review by the Trustees of any disclosure of financial information to ensure the information is not material, and ensures that selective disclosure of material information is not permitted, and that when it occurs, a news release is issued immediately; and
- establishes "black-out" periods immediately prior to and following the disclosure of quarterly and annual financial results and immediately prior to the disclosure of certain material changes during which the Fund, its affiliates and their respective trustees, directors, officers and employees may not purchase or sell units of the Fund.

Insiders of the Fund are required to file insider reports in compliance with applicable securities laws. For these purposes, insiders of the Fund include, amongst others, the directors and senior officers of CS ManPar. Each of these individuals has provided an undertaking to the securities regulatory authorities to file insider reports in compliance with applicable securities laws. Holders of partnership interests in Clearwater who are insiders of the Fund are also required to file insider reports in respect of their interests in Clearwater and Units.

### *Audit Review*

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

- accounting and financial reporting practices and procedures of the Fund and its affiliates;
- adequacy of internal accounting controls and procedures of the Fund and its affiliates; and
- quality and integrity of financial statements of the Fund.

In addition, the Trustees are responsible for directing the examination into specific areas by the auditors of the Fund.

## **Governance of CS ManPar**

The board of CS ManPar is fixed at seven individuals, three of whom have been appointed by the Fund and four of whom have been appointed by CFFI. Pursuant to a shareholders' agreement, CFFI will continue to have the right to appoint directors of CS ManPar on the following basis:

- so long as CFFI holds or controls at least 45% of the Units (on a fully diluted basis), it is entitled to appoint four of the seven directors;



- so long as CFFI holds or controls at least 33% of the Units (on a fully diluted basis) but less than 45% of such Units, it is entitled to appoint three directors;
- so long as CFFI holds or controls at least 20% of the Units (on a fully diluted basis) but less than 33% of such Units, it is entitled to appoint two directors; and
- once CFFI holds or controls less than 20% of the Units (on a fully diluted basis), it does not have the right to appoint any directors.

The directors of CS ManPar that are not appointed by CFFI will be appointed by the Fund. So long as CFFI holds or controls at least 20% of the Units (on a fully diluted basis), the size of the board of CS ManPar will remain fixed at seven unless both the Fund and CFFI agree to a change in the size of the board.

The Fund's nominees to the board of directors of CS ManPar are the Trustees and CFFI's appointees to the board of directors of CS ManPar are Messrs. George S. Armoyan, Colin E. MacDonald, John C. Risley and Hugh K. Smith, Q.C.

### Management of the Business

The following sets out, for each of the executive officers of CS ManPar (the "Executive Officers"), the person's name, position with CS ManPar and the current holdings of Units.

JOHN C. RISLEY, 56 Halifax, Nova Scotia Units: 24,481,422 <sup>(1)</sup>	Mr. Risley is Chairman of CS ManPar.
COLIN E. MACDONALD, 57 Halifax, Nova Scotia Units: 24,502,685 <sup>(1)</sup>	Mr. MacDonald is Chief Executive Officer of CS ManPar.
ERIC R. ROE, 44 Halifax, Nova Scotia Units: 71,456	Mr. Roe is Chief Operating Officer of CS ManPar.
J. MICHAEL MAGNUS, 51 Halifax, Nova Scotia Units: 1,286	Mr. Magnus is Executive Vice President, Marketing and Sales of CS ManPar.
ROBERT D. WIGHT, 50 Halifax, Nova Scotia Units: 171,456	Mr. Wight is Vice President, Finance and Chief Financial Officer of CS ManPar.
MICHAEL PITTMAN, 58 Halifax, Nova Scotia Units: 7,286 <sup>(2)</sup>	Mr. Pittman is Vice-President, Fleet of CS ManPar.

Notes:

(1) See "Trustees, Directors and Management — Trustees and Directors".

(2) Michael Pittman beneficially owns and exercises control or direction over 6,000 of such Units.

### Committees of the Board of Directors

The board of directors of CS ManPar has a Corporate Governance and Compensation Committee and an Audit Committee.

### *Corporate Governance and Compensation Committee*

The Corporate Governance and Compensation Committee, which is comprised of Messrs. Crawford, Gogan and Traves, reviews and makes recommendations to the board concerning the appointment of officers of CS ManPar and the hiring, compensation, benefits and termination of senior executive officers and all other key employees of CS ManPar. The committee annually reviews the chief executive officer's goals and objectives for the upcoming year and provides an appraisal of the chief executive officer's performance. The committee administers and makes recommendations regarding the operation of the long-term incentive plan. The committee is also responsible for developing CS ManPar's approach to corporate governance issues, advising the board in filling vacancies on the board and periodically reviewing the composition and effectiveness of the board and the contribution of individual directors.

### *Audit Committee*

The purpose of the Audit Committee, which is comprised of Messrs. Armoyan, Gogan and Smith, is to assist the board in fulfilling its responsibilities of oversight and supervision of the:

- accounting and financial reporting practices and procedures of Clearwater and its subsidiaries;
- adequacy of internal accounting controls and procedures of Clearwater and its subsidiaries; and
- quality and integrity of financial statements of Clearwater.

In addition, this committee is responsible for directing the examination into specific areas by the auditors of Clearwater. A copy of the Audit Committee's charter is attached hereto as Schedule "A".

In addition to each member's general business experience, the education and experience of each member of the Audit Committee that is relevant to the performance of his responsibilities as a member of the Audit Committee are set forth below. The following is a brief summary of the education or experience of each member of the Audit Committee that is relevant to the performance of his responsibilities as a member of the Audit Committee, including any education or experience that has provided the member financial literacy, that is, an understanding of the accounting principles used by us to prepare our annual and interim financial statements:

#### **Audit Committee Member and Relevant Education and Experience**

**James W. Gogan (Chair):** Mr. Gogan was President and CEO of Empire Company Limited until his retirement in 1998. He is a Director of Empire Company, Seamark Asset Management and Nova Scotia Business Inc. Mr. Gogan holds a commerce degree from Dalhousie University in Halifax, Nova Scotia.

**George S. Armoyan:** Mr. Armoyan is President and CEO of Clarke Inc. and Geosam Investments Limited. Mr. Armoyan and his family own a number of businesses that are primarily involved in transportation, real estate development and operations, hospitality and public company investments. He is a director of Armc Capital Corporation, Vaquero Energy Ltd., Halterm Income Fund, Royal Host Income Fund and General Donlee Income Fund. Mr. Armoyan holds a Bachelor of Engineering (Civil) degree from The Technical University of Nova Scotia and a diploma in Engineering from Dalhousie University.

**Hugh K. Smith:** Mr. Smith is Vice President of the Municipal Group of Companies and Chairman of Clarke Inc. and Mirror Nova Scotia Limited. Mr. Smith also provides counsel to Stewart McKelvey Stirling Scales, an Atlantic Canada law firm. Mr. Smith holds a Bachelor of Commerce as well as a Bachelor of Law degree from Dalhousie University in Halifax, Nova Scotia.

#### **Auditors' Fees**

KPMG LLP has served as our auditor since the date of completion of our initial public offering. The aggregate amount of fees billed by KPMG LLP during the year ended December 31, 2004, for the annual audit as well as for the reviews of the financial statements was \$408,000 (2003 — \$430,000). The aggregate amount of fees billed by KPMG LLP for all non-audit services rendered during the year ended December 31, 2004, was \$272,000 (2003 — \$188,000).

The table below provides for greater disclosure of the services provided and fees earned by the Fund's external auditor over the two most recently completed fiscal years, dividing the services into the five categories of work performed.

<u>Type of Work</u>	<u>Fees — Fiscal 2004</u>	<u>Fees — Fiscal 2003</u>
Audit services . . . . .	\$407,100	\$451,900
Tax services . . . . .	202,500	165,500
All other fees . . . . .	<u>69,900</u>	<u>—</u>
<b>Total . . . . .</b>	<b><u>\$679,500</u></b>	<b><u>\$616,000</u></b>

**Audit Services**

Audit services relate to professional services rendered by the auditors for the audit of the Fund and CS ManPar's annual financial statements as well as services provided in connection with statutory and regulatory filings, prospectuses, periodic reports and other documents filed with securities regulatory bodies or other documents issued in connection with securities offerings.

**Tax Services**

Tax fees were paid for the review of tax returns, the review of proposed reorganizations of certain subsidiaries, assistance with review of foreign tax filings and assistance in completing routine tax schedules and calculations.

**All Other Fees**

Fees disclosed in the table above under the item "all other fees" were paid for products and services other than the audit fees, audit-related fees and tax fees described above. These services consisted of assistance with filings of foreign subsidiaries and completion of reports associated with security over foreign assets required as part of our banking arrangements.

Any non-audit services to be provided by the external auditors are required to be reviewed and approved in advance by the Chair of the Audit Committee. In addition, on a quarterly basis all fees paid to the external auditors, audit and non-audit, are reviewed in detail by the Audit Committee.

**NON-COMPETITION AGREEMENT**

In July 2002, CFFI and the individuals controlling it, Messrs. John C. Risley and Colin E. MacDonald, together with any person or entity controlled by or related to any of them, (collectively, the "**Restricted Persons**") entered into a non-competition agreement (the "**Non-Competition Agreement**") pursuant to which they covenanted not to compete with the business of Clearwater. The terms of this non-competition covenant are as follows.

- The term of the non-competition covenant is from July 31, 2002 until the first anniversary of the date that the Restricted Persons collectively hold less than 20% of the Units on a fully diluted basis but, in any event, not be less than three years.
- Subject to the next sentence, during the term of the non-competition covenant, the Restricted Persons may not engage in the harvesting or primary processing of seafood in Atlantic Canada or Argentina, either by establishing a new business or purchasing an existing business, without the prior written consent of the Trustees. If any of the Restricted Persons purchases a business that, as part of its operations, harvests or primary processes seafood in Atlantic Canada or Argentina, such a purchase shall not be regarded as a breach of the non-competition agreement provided that the harvesting and primary processing aspect of the business is disposed of within 18 months and, in connection with any such disposition, the Fund is provided with a right of first refusal to purchase the business on terms that are no

less favourable to the Fund than the terms (if any) made available to a third party. The decision by the Fund as to whether to exercise the right of first refusal will be made by the unrelated Trustees and in compliance with all applicable securities laws, including, if applicable, the rules of certain securities regulators applicable to “related party transactions”.

- The Restricted Persons may not purchase, directly or indirectly, a business that primarily engages in the harvesting or primary processing of seafood outside of Atlantic Canada or Argentina without first providing the Fund with the opportunity to pursue the purchase of such business.
- Notwithstanding the foregoing, none of the following shall be regarded as a breach of the non-competition agreement or give rise to any rights in favour of the Fund: (i) the acquisition of less than 20% of the shares or ownership interest in any entity or partnership provided that the Fund shall have a right of first refusal in respect of the subsequent disposition of such an interest; (ii) CFFI increasing its interest in FPI Limited up to 49.9%; or (iii) the purchase of any business that, as part of its operations, derives less than \$20 million in annual revenues over the three year period prior to the acquisition date from harvesting or primary seafood processing activities.

#### **TRANSFER AGENT AND REGISTRAR**

The transfer agent and registrar for our Units is Computershare Trust Company of Canada at its principal office in the City of Toronto.

#### **MATERIAL CONTRACTS**

The only material contracts entered into by any of the Fund or Clearwater during the past year or entered into prior to the most recently completed financial year but after January 1, 2002 and that is still in effect, other than in the ordinary course of business, are as follows:

- (a) the Declaration of Trust of the Fund, as amended;
- (b) the CSHT Note Indenture;
- (c) the CSHT Trust Indenture, as amended;
- (d) the Clearwater Partnership Agreement, as amended;
- (e) the Administration Agreement; and
- (f) the trust indenture for the Convertible Debentures;

#### **LEGAL PROCEEDINGS**

None of the Fund, CS ManPar or Clearwater is involved in any legal proceeding which would have a material effect on Clearwater or the Fund on a consolidated basis.

#### **INTEREST OF MANAGEMENT AND OTHERS IN MATERIAL TRANSACTIONS**

No trustee, director, executive officer or principal shareholder of the Fund, CS ManPar or Clearwater, or associate or affiliate of any of the foregoing, has any other material interest, direct or indirect, in any transaction which has materially affected Clearwater in the past three years (or in any transactions or proposed transaction which may materially affect Clearwater in the future), except as disclosed herein under “General Development of the Fund” or as disclosed in the Fund’s Management Information Circular relating to the annual meeting of unitholders of the Fund to be held on May 11, 2005.

## **ADDITIONAL INFORMATION**

Additional information, including trustees', directors' and officers' remuneration and indebtedness and principal holders of securities of the Fund, is contained in the Fund's Management Information Circular relating to the annual meeting of unitholders of the Fund to be held on May 11, 2005. Additional financial information is contained in our financial statements and MD&A for the year ended December 31, 2004. Additional information relating to the Fund may also be found at [www.sedar.com](http://www.sedar.com). Copies of all of these documents may be obtained upon request from the Chief Financial Officer of CS ManPar, 757 Bedford Highway, Bedford, Nova Scotia, B4A 3Z7.

## SCHEDULE "A"

### CLEARWATER'S AUDIT COMMITTEE CHARTER

#### **Audit Committee Charters**

The Canadian Securities Administrators' (CSA) multilateral instrument 52-110 has defined specific requirements for Audit Committees to meet. One of these requirements is that the company's Audit Committee will have a written charter that sets out its mandate and responsibilities. It also requires the text of the charter to be included in the annual information form along with other specified information on the audit committee members.

#### **Purpose:**

The Audit Committee is ultimately responsible for the policies and practices relating to integrity of financial and regulatory reporting as well as internal controls to achieve the objectives of safeguarding of corporate assets; reliability of information; and compliance with policies and laws. The committee will also be responsible for identifying principal risks of the business and ensuring appropriate risk management techniques are in place.

The Audit Committee charges management with developing and implementing procedures to:

- ensure internal controls are appropriately designed, implemented and monitored
- ensure reporting and disclosure of required information is complete, accurate, and timely.

The Audit Committee will make recommendations to the Board of Directors regarding items relating to financial and regulatory reporting and the system of internal controls, following the execution of the committee's responsibilities as described in the mandate

#### **Composition of Committee:**

The committee will be composed of 3 independent Directors from the Company's Board of Directors. Independence of the Board members will be as defined by applicable legislation and as a minimum each committee member will have no direct or indirect relationship with the Company which, in the view of the Board of Directors, could reasonably interfere with the exercise of a member's independent judgment.

All members of the committee will be financially literate as defined by applicable legislation. If a member upon appointment to the committee is not financially literate as required, the person will be provided a three month period in which to achieve the desired level of literacy.

If any member loses their independent status, they will be required to resign from the committee within three months of becoming non-independent. The Nominating Committee of the Board will be required to replace the member within that three month time frame. If it is the Chair of the Audit Committee that loses independent status, that person shall cease to be chair immediately and be replaced as chair by an existing member of the committee with the Nominating Committee being asked to replace this member within the three month time frame.

#### **Authority:**

The Committee has the authority to engage independent counsel and other advisors as it deems necessary to carry out its duties and the Committee will set the compensation for such advisors.

The Committee has the authority to communicate directly with and to meet with, without management involvement, the external auditors and the internal auditor. This extends to requiring the external auditor to report directly to the Audit Committee.

#### **Responsibilities:**

1. The Audit Committee will recommend to the Board of Directors;
  - (a) the external auditor to be nominated for purposes of preparing or issuing the auditor's report or performing other audit, review or attest services for the Company.
  - (b) the compensation of the external auditor.

2. The Audit Committee is directly responsible for overseeing the work of the external auditor engaged for the purpose of preparing or issuing the Auditor's Report or performing other review or attest services for the Company, including the resolution of disagreements between management and the external auditor regarding financial reporting. The Audit Committee will also ensure that the external auditor is in good standing with the Canadian Public Accountability Board and will enquire if there are any sanctions imposed by the CPAB on the external auditor. The Audit Committee will also ensure that the external auditor meets the rotation requirements for partners and staff on the Company's audit.
3. The Audit Committee must pre-approve all non-audit services to be provided to the Company or its subsidiary entities by the Company's external auditor. The Audit Committee has delegated to the Chair or any member of the Committee the authority to pre-approve non-audit services, with such pre-approved services presented to the Audit Committee at the next scheduled Audit Committee meeting following such pre-approval.
4. The Audit Committee will review and discuss with management and the external auditors the annual audited financial statements, including discussion of material transactions with related parties, accounting policies, as well as the external auditors' written communications to the Committee and to management.
5. The Audit Committee reviews the Company's financial statements, MD&A as well as annual and interim earnings press releases and recommends such to the Board. This is prior to public disclosure of such information.
6. The Audit Committee ensures that adequate procedures are in place for the review of financial information extracted or derived from the Company's financial statements, contained in the Company's other public disclosures and must periodically assesses the adequacy of those procedures.

The Audit Committee establishes procedures for:

- (a) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls, or auditing matters; and
  - (b) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.
7. The Audit Committee reviews and approves the Company's hiring policies regarding partners, employees and former partners and employees of the present and former external auditor of the Company. The Committee will ensure that the policies prohibits hiring any partners, employees and former partners and employees of the present and former external auditor of the Company until the passage of three years subsequent to the date of their last employment by the present or former external auditor of the company.
  8. The Audit Committee will, with respect to ensuring the integrity of disclosure controls and internal controls over financial reporting, understand the process utilized by the Chief Executive Officer and the Chief Financial Officer to comply with Multilateral Instrument 52-109. This will also involve enquiry of the Chief Internal Auditor as to the internal auditors' assessment of internal controls, and assessing disagreements between management and the internal auditor regarding the state of internal controls.
  9. The Audit Committee will undertake a process to identify the principal risks of the business and ensure appropriate risk management techniques are in place. This will involve enquiry of management regarding how risks are managed as well as receiving opinions from Internal Audit regarding the effectiveness of the risk mitigation strategies.

#### **Reporting:**

The reporting obligations of the Committee will include:

- Report to the Board on the proceedings of each Audit Committee meeting and on the Audit Committee's recommendations at the next regularly scheduled Board meeting.
- Review the disclosure required in the Company's Annual Information Form as Form 52-110FI.

**Meetings:**

The Committee will meet at least four times per year and at least once every fiscal quarter.

Notice of meetings shall be given to the external and internal auditor of the Company, and meetings can be convened at the request of the external auditor.