

securities by the Trust by Non-residents and/or U.S. Residents, as applicable, as the Administrator may deem necessary in its discretion to maintain the Trust's status as a mutual fund trust and as a foreign private issuer, as applicable.

- (iv) If at any time the Administrator, in its discretion, determines that it is in the best interest of the Trust, the Administrator, may:
- (A) require the Trust and the Transfer Agent, if one has been appointed by the Trust, to refuse to accept a subscription for securities of the Trust from, or issue or register a transfer of securities of the Trust to, a person unless the person provides a declaration to the Administrator and the Transfer Agent, if one has been appointed by the Trust, that the securities of the Trust to be issued or transferred to such person will not when issued or transferred be beneficially owned by a Non-resident or owned of record, directly or indirectly, by a U.S. Resident, as applicable, and such declaration is satisfactory to the Administrator and the Transfer Agent;
  - (B) send a notice to registered holders of securities of the Trust which are or may be beneficially owned by Non-residents or to holders of record, directly or indirectly, who are U.S. Residents, as applicable, chosen in inverse order to the order of acquisition or registration of such securities beneficially owned by Non-residents or owned by U.S. Residents, respectively, or chosen in such other manner as the Administrator may consider equitable and practicable, requiring such Non-resident or U.S. Residents to sell their securities of the Trust, or a specified portion thereof, within a specified period of not less than 60 days or such shorter period as may be, in the Administrator's opinion, required to preserve the status of the Trust as a mutual fund trust and as a foreign private issuer, as applicable. The Administrator may also refuse the issuance of Units to facilitate a conversion or exchange of Other Trust Securities if to do so may, in the Administrator's reasonable opinion, cause the Trust to lose its status as a mutual fund trust and as a foreign private issuer. If the holders of securities of the Trust receiving such notice have not, within such period, sold the specified number of such securities or provided the Administrator and the Transfer Agent with evidence satisfactory to the Administrator that such securities are not beneficially owned by Non-residents or owned of record, directly or indirectly, by U.S. Residents, as applicable, the Administrator may, on behalf of such registered Unitholder, sell such securities without any further notice to the holders of securities of the Trust and, in the interim and to the extent applicable, the voting and distribution rights attached to such securities of the Trust shall be deemed to have been suspended. Any such sale shall be made in such manner as the Administrator shall determine (including on any stock exchange on which the applicable securities of the Trust are then listed), and upon such sale, the affected securityholders shall cease to be holders of such securities so disposed of and their rights shall be limited to receiving the net proceeds of sale (net of applicable taxes, withholding taxes and costs of sale) upon surrender of the certificates representing such securities, if applicable;
  - (C) redeem Units in accordance with Article 6 hereof, *mutatis mutandis*;

- (D) list or delist any securities of the Trust from any non-Canadian stock exchange; and
  - (E) take such other actions as may be appropriate in the circumstances that will reduce or limit the number of securities of the Trust held by Non-residents and/or U.S. Residents, as applicable, to ensure that the Trust is not established or maintained primarily for the benefit of Non-residents and maintains its status as a foreign private issuer.
- (b) None of the Administrator, the Trustee or the Transfer Agent shall have any liability in connection with sales of securities of the Trust made pursuant to Section 3.07(a), including in respect of the amounts received upon such sales and the costs incurred in connection with such sales.
  - (c) For greater certainty, in accordance with Article 12, none of the Administrator, the Trustee, the Transfer Agent or any of their respective directors, officers, employees or agents, or any Unitholder, Beneficial Unitholder or annuitant, shall be liable with respect to a determination that the Trust is: (i) established or maintained primarily for the benefit of Non-residents; or (ii) is not a foreign private issuer, as a result of an excess number of securities of the Trust being held by Non-residents or U.S. Residents, respectively, during the term of the Trust.
  - (d) It is acknowledged that the ability of the Administrator to monitor compliance by the Trust with the Non-resident Restriction and the U.S. Residency Restriction may be limited due to the fact that the Units may be registered in the name of depositories and other non-beneficial holders and in such case, the Administrator shall be entitled to rely on information respecting the residency of Unitholders and Beneficial Unitholders provided by Unitholders, the Transfer Agent and CDS Participants and the Administrator may exercise its discretion in making any determination or taking any action under this Section 3.07, and any reasonable and *bona fide* exercise of such discretion shall be binding for the purpose of this Section 3.07.
  - (e) Neither the Trustee nor the Administrator shall be deemed to have notice of any violation of this Section 3.07 unless and until it has been provided with written notice of such violation. The Trustee shall only be required to act in respect of this Section 3.07 upon first being provided with a satisfactory indemnity from the Trust in addition to that provided pursuant to Article 12.
  - (f) Notwithstanding any other provision of this Trust Indenture, unless determined otherwise by the Administrator, Non-residents and U.S. Residents, whether registered holders or beneficial owners of securities of the Trust, shall not be entitled to vote in respect of any Special Resolution to amend this Section 3.07 to the extent such resolution relates to Non-residents or U.S. Residents, respectively.
  - (g) Notwithstanding the foregoing subsections of this Section 3.07, the Trustee and the Administrator, as the case may be, shall not exercise any of the powers expressed therein, including restricting the beneficial ownership of Units by Non-residents or the direct or indirect ownership by U.S. Residents, make any public announcement in respect of the foregoing, or otherwise take any action required by subsection 3.07(a) if the Trustee or Administrator, as the case may be, has received a legal and/or other professional opinion, advance tax ruling, comfort letter of a relevant Governing Authority or any combination

thereof, and based on such opinions and/or documentation, the Trustee or the Administrator, as the case may be, is of the view, acting reasonably, that the failure to exercise any of the powers provided in subsection 3.07(a) would not result in the Trust ceasing to be a mutual fund trust or a foreign private issuer, as applicable at any time.

- (h) If the Tax Act is (or is proposed to be) amended in a manner which places new restrictions on Non-residents beneficially owning Units, the Trustee, upon the recommendation of the Administrator, acting reasonably, may take any action it considers necessary to ensure, to the extent practicable, that the Trust maintains its status as a “mutual fund trust”.
- (i) If there is any amendment or proposed amendment to applicable U.S. securities laws which would reasonably require new restrictions on U.S. Residents holding voting securities of the Trust, the Trustee, upon recommendation of the Administrator, acting reasonably, may take any action it considers necessary to ensure, to the extent practicable, that the Trust maintains its status as a foreign private issuer.
- (j) The Trustee or Administrator may establish rules to monitor the holding of Units, to effect a suspension of voting and distribution rights and/or to refuse the transfer or issuance of Units if the Trustee or Administrator determines, or has reason to believe, that there is a possibility that the Non-resident Restriction or the U.S. Residency Restriction may be breached. The Trustee or Administrator may also establish operating procedures, forms of declarations and related materials to be used with or by the Transfer Agent, depositaries, CDS Participants and other persons for the purpose of giving effect to the powers granted to the Trustee and Administrator pursuant to this Trust Indenture.

### **3.08 Declaration as to Beneficial Owners**

- (a) The Trustee or Administrator may require any Unitholder as shown on the register of Unitholders to: (a) provide a declaration, in such form as prescribed by the Trustee or Administrator, as to the beneficial owner of Units registered in such Unitholder’s name and as to the jurisdiction in which such beneficial owner is resident for Canadian or United States income tax purposes; or (b) upon request of the Trustee or the Administrator, furnish a Taxation Certification, and use reasonable efforts to obtain Taxation Certifications from each Beneficial Unitholder beneficially owning Units registered or held in such Unitholder’s name, and the Unitholders and Beneficial Unitholders shall comply with any such request.
- (b) In addition, the Trustee or Administrator may request that a person who: (i) proposes to be a Unitholder, (ii) holds or proposes to hold or is believed by the Trustee or the Administrator to hold Units on behalf of another person, other than as registered holder of Units, (iii) subscribes for Units, (iv) requests registration of a transfer of Units, (v) requests a change in registration of Units, or (vi) elects to convert or exchange any Other Trust Securities into or for Units; shall file a declaration with the Administrator or the Transfer Agent within the time limit prescribed in the request, which time limit shall not be less than 15 days. The person to whom a request is made pursuant to this subsection shall submit the declaration in a form authorized by the Trustee or Administrator, and shall contain the information requested to enable the Trustee or Administrator to determine whether the Non-resident Restriction or U.S. Residency Restriction is being or may be contravened.

### 3.09 Unit Certificates

- (a) Subject to subsection 3.09(b), each holder of Units shall be entitled to a Unit Certificate representing such holder's Units as described herein and Units shall be issued in the form of Unit Certificates.
- (b) Units may be represented in the form of one or more Global Unit Certificates representing, in aggregate, the number of Units so issued. Each such Global Unit Certificate shall be transferred to the name of and deposited by the Transfer Agent with, or on behalf of, CDS or a nominee thereof (collectively, the "**Depository**"), as custodian of such Global Unit Certificate and be registered by the Transfer Agent in the name of the Depository or its nominee. No purchaser of Units represented by a Global Unit Certificate held by the Depository will be entitled to a certificate or other instrument from the Trust or the Depository evidencing such purchaser's ownership thereof except in the circumstances where the Depository resigns or is removed from its responsibilities as set forth in Section 3.11. Beneficial interests in a Global Unit Certificate will be represented only through the Book-Entry System. Transfers of Units between CDS Participants shall occur in accordance with the Depository's rules and procedures.
- (c) Notwithstanding anything to the contrary set out herein, all physical Unit Certificates or Global Unit Certificates issued to the Depository may be surrendered to the Transfer Agent for an electronic position on the register of Unitholders to be maintained by the Transfer Agent in accordance with Section 3.18. All Units maintained in such electronic position will be valid and binding obligations of the Trust, entitling the registered holders thereof to the same benefits as those registered holders who hold Units in physical form. This Indenture and the provisions contained herein will apply, mutatis mutandis, to such Units held in such electronic position.
- (d) The Trustee may, at any time that it so determines and without the necessity for any prior approval by Unitholders, commence utilization of the Book-Entry System with respect to the Units.

### 3.10 Dealings with Unitholders in Book-Entry System

All references herein to actions by, notices given or payments made to, Unitholders shall, in the case of Unitholders where such Units are held through the Depository, refer to actions taken by, or notices given or payments made to, the Depository upon instruction from the CDS Participants in accordance with the Depository's rules and procedures. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of Unitholders representing a specified percentage of the aggregate votes attached to the Units outstanding, such direction or consent may be given in whole or in part by the beneficial Unitholders beneficially owning such number of Units representing the requisite percentage of the Units and acting through the Depository and the CDS Participants. The rights of a beneficial Unitholder whose Units are held through the Depository shall be exercised only through the Depository and the CDS Participants and shall be limited to those rights established by law, by this Indenture and by agreements between such beneficial Unitholder and the Depository and/or the CDS Participants or upon instruction from CDS Participants. Each of the Transfer Agent and the Trustee may deal with the Depository for all purposes (including the making of payments) as the authorized representative of the respective beneficial Unitholders and such dealing with the Depository shall constitute satisfaction or performance, as applicable, of their respective obligations hereunder. For as long as any Units are held through the Depository, if any notice or other communication is required to be given

to Unitholders, the Trustee and the Transfer Agent will give all such notices and communications to the Depository, and as otherwise required by Applicable Laws.

### **3.11 Termination of Book-Entry System**

If the Depository resigns or is removed from its responsibilities as Depository and the Trust is unable or does not wish to locate a qualified successor, or if either of the Administrator or the Trust elects, or is required by law, to terminate the Book-Entry System with respect to the Units, including for the purpose of better permitting the enforcement of the Non-resident Restriction or U.S. Residency Restriction in Section 3.07, or if Unitholders representing more than 66 2/3% of the aggregate votes entitled to be voted at a meeting of Unitholders vote to discontinue the Book-Entry System, the Depository shall surrender each Global Unit Certificate to the Transfer Agent with instructions from the Depository for registration of the Units, as represented by such Global Unit Certificate, in the names and in the amounts specified by the Depository and thereupon the Trustee shall issue, and the Trustee or Administrator and Transfer Agent shall execute and deliver, definitive Unit Certificates representing the aggregate number of Units represented by each such Global Unit Certificate surrendered.

### **3.12 Unit Certificates for Jointly or Commonly Held Units**

The Trustee is not bound to issue more than one Unit Certificate in respect of any Unit held jointly or in common by two or more persons, and delivery of a Unit Certificate to one of them shall be sufficient delivery to all.

### **3.13 Execution of Unit Certificates**

Unit Certificates shall be signed on behalf of the Trust by the Trustee and/or the Administrator and by the Transfer Agent, if one has been appointed by the Trust. The signature of the Trustee and/or the Administrator required on Unit Certificates may be printed or otherwise mechanically reproduced thereon and Unit Certificates so signed are as valid as if they had been signed manually. If a Unit Certificate contains a printed or mechanically reproduced signature of a person, then the Trust may issue the Unit Certificate even though the person has ceased to be an authorized representative of the Trustee or the Administrator, as the case may be, and such Unit Certificate is as valid as if the person continued to be an authorized representative of the Trustee or Administrator at the date of its issue. Provided a Transfer Agent has been appointed by the Trust, no Unit Certificates representing Units shall be valid unless countersigned manually by or on behalf of the applicable Transfer Agent.

### **3.14 Certificate Fee**

The Trustee or the Transfer Agent may establish a reasonable fee to be charged for every Unit Certificate issued.

### **3.15 Form of Unit Certificate**

Unit Certificates shall be in such form as is from time to time authorized by the Administrator. The definitive form(s) of the Unit Certificates for each class of Units may be in English only or, in the discretion of the Administrator, in the English and French languages. Unit Certificates may be engraved, printed or lithographed, or partly in one form and partly in another, as the Administrator may determine and may have such letter, numbers or other marks of identification and such legends or endorsements placed thereon as may be required hereunder or as may be necessary to comply with Applicable Laws, or as may be determined by the Administrator.

Without limitation, and until otherwise determined by the Administrator, each Unit Certificate shall include on the face page thereof:

- (a) the name of the Trust and the words “A trust created under the laws of the Province of Alberta by a Trust Indenture dated as of June 29, 2012, as amended or amended and restated from time to time (the “**Trust Indenture**”)” or words of like effect;
- (b) the words “The Units represented by this certificate are issued upon the terms and subject to the conditions of the Trust Indenture, which Trust Indenture is binding upon all holders of Units and, by acceptance of this certificate, the holder assents to the terms and conditions of the Trust Indenture. A copy of the Trust Indenture pursuant to which this certificate and the Units represented thereby are issued may be obtained by a Unitholder on demand and without fee from the head office of the Trust” or words of like effect; and
- (c) the words “For information as to the personal liability of a Unitholder, see the reverse side of this certificate” or words of like effect.

Until otherwise determined by the Administrator, each Unit Certificate shall include on the reverse side thereof the words “The Trust Indenture provides that no Unitholder shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the assets of the Trust or the obligations or the affairs of the Trust and all such persons shall look solely to the assets of the Trust for satisfaction of claims of any nature arising out of or in connection therewith and the assets of the Trust only shall be subject to levy or execution”, or words of like effect.

In connection with any removal, or request for removal, of any legend or endorsement on the Unit Certificates, the Trustee and/or the Administrator shall be entitled to require, among other things, such declarations as to residency and such opinions, from appropriate persons (including Unitholders), as it considers prudent or necessary.

### **3.16 Fractional Units**

If as a result of any act of the Trustee hereunder any person becomes entitled to a fraction of a Unit, such person shall not be entitled to receive a Unit Certificate therefor. Fractional Units shall not, except to the extent that they may represent in the aggregate one or more whole Units held by the same holder, entitle the holders thereof to notice of, or to attend or to vote at, meetings of Unitholders. Subject to the foregoing, such fractional Units shall have attached thereto the rights, restrictions, conditions and limitations attaching to whole Units in the proportion that they bear to a whole Unit.

### **3.17 Unit Register and Transfer Ledgers to be Maintained**

- (a) A register (the “**Register**” and where more than one, the “**Registers**”) shall be kept by, or on behalf and under the direction of, the Trustee in respect of the Units, and each Register shall contain the names and addresses of Unitholders, the respective numbers of Units held by such Unitholders, the certificate numbers of the Unit Certificates held by them, and a record of all transfers and redemptions thereof.
- (b) A Transfer Agent shall be appointed to act as transfer agent and registrar for the Units and to provide for the transfer of Units in Alberta and at such other places in Canada as required by Applicable Laws. The Trustee shall designate which branch registers will be maintained, if any. The Trustee may, in its discretion, remove and replace the Transfer Agent for the Units.

- (c) A Transfer Agent so appointed shall keep all necessary registers and other books (which may be kept in a bound or loose-leaf book or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device) for recording original issues and registering and transferring those Units in respect of which it acts as registrar and transfer agent. Except as may otherwise be provided in this Trust Indenture, only persons whose Units are recorded on the Registers shall be entitled to vote or to receive distributions or otherwise exercise or enjoy the rights of Unitholders.

### **3.18 Entry on Register**

Upon any issue of Units, the name of the subscriber or other person entitled to such Units shall be promptly entered on the appropriate Register as the owner of the number of Units issued to such subscriber or other person, or if the subscriber is already a Unitholder, the Register(s) shall be amended to include such subscriber's additional Units.

### **3.19 Transfer of Units**

Subject to Section 3.08, Units shall be transferable at any time and from time to time by the Unitholder through applicable Depository Participants while such Units are held through the Book-Entry System. In the event of the termination of the Book-Entry System while the Trust is a reporting issuer, Units (including any Units which had been held through the Book-Entry System) shall be transferable at any time and from time to time by the Unitholder in compliance with applicable securities laws and this Indenture by endorsement and delivery of the Unit Certificates representing such Units, subject to Section 3.07 and to such provisions and conditions as may be prescribed by the Trustee from time to time. No such transfer shall be recorded on the Registers unless the transferor has executed the instrument of transfer as reproduced in the Unit Certificate, the transferor has satisfied any requirements of the Administrator pertaining to removal of legends or endorsements (if any), and the transferee has delivered to the Transfer Agent a Unit Certificate representing the Units so transferred and, if requested by the Trustee, a declaration as to residency status under the Tax Act and any applicable tax convention in a form satisfactory to the Trustee. Subject to the foregoing, such transfers shall be recorded on the Registers and a new Unit Certificate for the Units so transferred shall be issued to the transferee and, in case of a transfer of only part of the Units represented by any Unit Certificate, a new Unit Certificate for the remaining Units shall be issued to the transferor.

### **3.20 Successors in Interest to Unitholders**

Subject to Section 3.07, upon a person becoming entitled to any Units as a consequence of the death, bankruptcy or incapacity of any Unitholder or otherwise by operation of law, and upon production by such person of such documentation as the Trustee may reasonably require in order to evidence such entitlement of such person, such person shall be recorded in the Registers as the holder of such Units and shall receive (but subject first to the Book-Entry System not being applicable to, or having been terminated in respect of, such Units), a new Unit Certificate therefor upon production of evidence of such entitlement satisfactory to the Trustee and delivery of the existing Unit Certificate to the Transfer Agent, but until such record is made, the Unitholder of record shall continue to be and be deemed to be the holder of such Units for all purposes whether or not the Trust, the Trustee, the Administrator or the Transfer Agent shall have actual or other notice of such death, bankruptcy, incapacity or other event.

### **3.21 Units Held Jointly or in Fiduciary Capacity**

The Trust may treat two or more persons holding any Unit as joint owners of the entire interest therein unless the ownership is expressly otherwise recorded on the Registers, but no entry shall be made in the

Registers or on any Unit Certificate that any person is in any other manner entitled to any future, limited or contingent interest in any Unit; provided, however, that any person recorded in the Registers as a Unitholder may, subject to the provisions herein contained, be described in the Registers or on any Unit Certificate as a fiduciary of any kind and any customary words may be added to the description of the holder to identify the nature of such fiduciary relationship; provided further that none of the Trust, the Trustee, the Administrator or the Transfer Agent shall be required to recognize a person as having any interest in the Unit, other than the person recorded in the Registers as the holder of such Unit.

### **3.22 Performance of Trusts**

None of the Trustee, the Administrator, the Unitholders, the Transfer Agent or other agent of the Trust shall have a duty to inquire into any claim that a transfer of a Unit was or would be wrongful or that a particular adverse person is the owner of or, subject to Section 3.27, has an interest in the Unit or any other adverse claim, or be bound to see or ensure to the performance of any trust, express, implied or constructive, or of any charge, pledge or equity to which any of the Units or any interest therein are or may be subject, or to ascertain or inquire whether any sale or transfer of any such Units or interest therein by any Unitholder or their personal representatives is authorized by such trust, charge, pledge or equity, or to recognize any person as having any interest therein, except for the person recorded as Unitholder of such Unit.

### **3.23 Lost Unit Certificates**

In the event that any Unit Certificate is lost, stolen, destroyed or mutilated, the Transfer Agent may authorize the issuance of a new Unit Certificate for the same number of Units in lieu thereof and the Transfer Agent may in its discretion, before the issuance of such new Unit Certificate, require the owner of the lost, stolen, destroyed or mutilated Unit Certificate, or the legal representative of the owner, to make such affidavit or statutory declaration, setting forth such facts as to the loss, theft, destruction or mutilation as the Transfer Agent deems necessary and may require the applicant to supply to the Trust a "lost certificate" or similar bond in such reasonable amount as the Transfer Agent directs indemnifying the Trustee and the Transfer Agent for so doing. The Transfer Agent shall have the power to acquire from an insurer or insurers a blanket lost certificate security bond or bonds in respect of the replacement of lost, stolen, destroyed or mutilated Unit Certificates. The Trust shall pay all premiums and other sums of money payable for such purpose out of the property of the Trust with such contribution, if any, by those insured as may be determined by the Trustee or the Transfer Agent in their discretion. If such blanket lost certificate security bond is acquired, the Trustee may authorize and direct (upon such terms and conditions as it may from time to time impose) the Transfer Agent, or others to whom the indemnity of such bond extends, to take such action to replace such lost, stolen, destroyed or mutilated Unit Certificates without further action or approval by the Trustee.

### **3.24 Death of Unitholders**

The death of a Unitholder during the continuance of the Trust shall not terminate the Trust or any of the mutual or respective rights and obligations created by or arising under this Indenture or give the personal representatives or the heirs of the estate of the deceased Unitholder a right to an accounting or to take any action in the courts or otherwise against other Unitholders or the Trustee, the Administrator or the Trust Property, but shall only entitle the personal representatives or the heirs of the estate or succession of the deceased Unitholder, in accordance and upon compliance with the provisions of Section 3.20, to succeed to all rights of the deceased Unitholder under this Trust Indenture.



### 3.25 Unclaimed Payments

In the event that the Trustee shall hold any amount to be paid to any one or more Unitholders under this Trust Indenture, or otherwise, which is unclaimed or which cannot be paid for any reason, neither the Trustee nor any distribution disbursing agent shall be under any obligation to invest or reinvest the same and they shall only be obligated to hold the same in a current or other non-interest bearing account with a Canadian chartered bank or trust company, pending payment to the person or persons entitled thereto. The Trustee shall, as and when required by law, and may at any time prior to such required time, pay all or part of such amounts so held, net of any amount required to be withheld by the Tax Act, to a court in the province where the Trust has its head office (or to such other suitable government official or agency in the province where the Trust has its head office) whose receipt shall be a good release, acquittance and discharge of the obligations of the Trustee with respect thereto.

### 3.26 Repurchase of Securities

The Trust shall be entitled to offer, and upon acceptance of such offer, to purchase for cancellation, at any time, by private agreement or otherwise, the whole or from time to time any part of the outstanding Units, or Other Trust Securities, in respect of which the offer was accepted, at a price per security and on a basis as determined by the Trustee in its discretion but in compliance with Applicable Laws. For greater certainty, the Trust has the right to undertake and complete all purchases as may be necessitated as a result of subscribers exercising, in connection with any Offering, their statutory or contractual (as the case may be) rights of withdrawal or rescission. Units purchased by the Trust will be cancelled.

### 3.27 Take-Over Bids

- (a) If there is a take-over bid for all of the outstanding Units and, within 120 days after the date of such take-over bid, the bid is accepted by holders holding not less than 90% of the Units (collectively, such Units subject to the bid are herein referred to as the “**Bid Units**”), other than Bid Units held by or on behalf of, or issuable to, the offeror or an affiliate or associate of the offeror on the date of the take-over-bid, the offeror is entitled, on complying with this Section 3.27, to acquire the Bid Units held by the non-tendering offerees.
- (b) An offeror may acquire Bid Units held by a non-tendering offeree by sending by registered mail within 60 days after the date of termination of the take-over bid and in any event within 180 days after the date of the take-over bid, an offeror’s notice to each non-tendering offeree stating that:
  - (i) offerees holding not less than 90% of the Bid Units accepted the take-over bid;
  - (ii) the offeror has taken up and paid for the Bid Units of the offerees who accepted the takeover bid;
  - (iii) a non-tendering offeree is required to transfer his Bid Units to the offeror on the terms on which the offeror acquired the Bid Units of the offerees who accepted the take-over bid; and
  - (iv) a non-tendering offeree who is a Unitholder and who does not transfer his Bid Units within 20 days after it receives the offeror’s notice hereunder is deemed to have elected to transfer, and to have transferred, his Bid Units on the same terms

that the offeror acquired Bid Units from the offerees who accepted the take-over bid.

- (c) Concurrent with sending the offeror's notice under subsection 3.27(b), the offeror shall send to the Trust a notice of adverse claim disclosing the name and address of the offeror and the name of the non-tendering offeree with respect to each Bid Unit held by a non-tendering offeree.
- (d) A non-tendering offeree to whom an offeror's notice is sent under subsection 3.27(b) shall, within 20 days after it receives that notice, send its Bid Units, or cause same to be sent, to the Trust.
- (e) Within 20 days after the offeror sends an offeror's notice under subsection 3.27(b), the offeror shall pay or transfer to the Trust the amount of money or other consideration that the offeror would have had to pay or transfer to a non-tendering offeree if the non-tendering offeree had tendered under the take-over bid.
- (f) The Trust is deemed to hold on behalf of the non-tendering offeree the money or other consideration it receives under subsection 3.27(e), and the Trust shall deposit the money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation (or any successor thereof), and shall place the other consideration in the custody of a bank or such other body corporate. No such monies or other consideration shall form any part of the Trust Property.
- (g) If the money or other consideration is deposited with the Trust as required by subsection 3.27(f) above, then:
  - (i) with respect to each of those non-tendering offerees who have complied with subsection 3.27(d), Bid Units held by a non-tendering offeree shall be deemed to be cancelled and the Trust shall, without delay upon being satisfied that the Bid Units have been received by or transferred to the Trust in accordance with subsection 3.27(d), send to such non-tendering offeree the portion of the money or other consideration deposited with the Trust as required by subsection 3.27(e) above and to which such non-tendering offeree is entitled, and
  - (ii) with respect to each of those non-tendering offerees who have not complied with subsection 3.27(d), send to each such non-tendering offeree a notice stating that:
    - (A) his or her Bid Units have been transferred to the offeror;
    - (B) the Trustee or some other person designated in such notice are holding in trust the consideration for such Bid Units; and
    - (C) the Trustee, or such other person, will send the consideration to such non-tendering offeree as soon as practicable after receiving such non-tendering offeree's Bid Units, together with such other documents as the Trustee or such other person may require;

and the Trustee is hereby appointed the agent and attorney of the non-tendering offerees for the purposes of giving effect to the foregoing provisions.

- (h) The provisions of subsections 3.27(a) to (g) shall apply *mutatis mutandis* to an offer to acquire any class of Other Trust Securities that are convertible into or exchangeable for Units.

### 3.28 Power of Attorney

Each Unitholder hereby grants to the Trustee, its successors and assigns, a power of attorney constituting the Trustee, with full power of substitution, as his true and lawful attorney to act on his behalf, with full power and authority in his name, place and stead, to execute, under seal or otherwise, swear to, acknowledge, deliver, make, file or record (and to take all requisite actions in connection with such matters), when, as and where required with respect to:

- (a) this Trust Indenture and any other instrument required or desirable to qualify, continue and keep in good standing the Trust as a mutual fund trust in all jurisdictions that the Trustee deems appropriate and to ensure that the Trust is not a SIFT trust in all jurisdictions that the Trustee deems appropriate;
- (b) any instrument, deed, agreement or document in connection with carrying on the affairs of the Trust as authorized in this Trust Indenture, including all conveyances, transfers and other documents required to facilitate any sale of Units or in connection with any disposition of Units required by the Trust Indenture;
- (c) all conveyances, transfers and other documents required in connection with the dissolution, liquidation or termination of the Trust in accordance with the terms of this Trust Indenture;
- (d) any and all elections, determinations or designations whether jointly with third parties or otherwise, under the Tax Act or any other taxation or other legislation or similar laws of Canada or of any other jurisdiction in respect of the affairs of the Trust or of a Unitholder's interest in the Trust;
- (e) any instrument, certificate and other documents necessary or appropriate to reflect and give effect to any amendment to this Trust Indenture which is authorized from time to time as contemplated by Article 9; and
- (f) all transfers, conveyances and other documents required to facilitate the acquisition of Bid Units or Other Trust Securities of non-tendering offerees pursuant to Section 3.27.

The power of attorney granted herein is, to the extent permitted by Applicable Laws, irrevocable, is a power coupled with an interest, and shall survive the death, mental incompetence, disability and any subsequent legal incapacity of the Unitholder and shall survive the assignment by the Unitholder of all or part of the Unitholder's interest in the Trust and will extend to and bind the heirs, executors, administrators and other legal representatives and successors and assigns of the Unitholder. This power of attorney may be exercised by the Trustee on behalf of each Unitholder in executing any instrument by a facsimile signature or by listing all of the Unitholders and executing such instrument with a single signature as attorney for all of them. Each Unitholder agrees to be bound by any representations or actions made or taken by the Trustee or its delegate pursuant to this power of attorney and hereby waives any and all defences which may be available to contest, negate or disaffirm any actions taken by the Trustee or its delegate in good faith under this power of attorney. The Trustee may require, in connection with the subscription for, or any transfer of, Units, that the subscription form or transfer form be accompanied by a

certificate of legal advice signed by a lawyer or that the execution of the subscription form or transfer form be witnessed as may be required by any Applicable Laws.

## ARTICLE 4 PURPOSE AND INVESTMENTS OF THE TRUST

### 4.01 Purpose of the Trust

The Trust is a limited purpose trust and the undertaking of the Trust is restricted to investing its funds in property (other than real property or interests in real property or an immovable or a real right in an immovable), including property which is not non-portfolio property. The Trust is also subject to the restrictions set out in Section 4.03. Subject to the foregoing, the Trust may:

- (a) acquire, hold, transfer, dispose of, invest in, and otherwise deal with assets, securities (whether debt or equity) and other interests or properties of whatever nature or kind including securities: (i) of, or issued by, Can Holdco or any associate or affiliate thereof, or any other business entity in which Can Holdco has an interest, direct or indirect, or (ii) of, or issued by any other person involved, directly or indirectly, in the business of, or the ownership, lease or operation of assets or property in connection with energy related businesses;
- (b) temporarily hold cash and other investments in connection with and for the purposes of the Trust's activities, including paying liabilities of the Trust (including administration and trust expenses), paying any amounts required in connection with the redemption of Units, and making distributions to Unitholders;
- (c) dispose of any part of the Trust Property or mortgage, pledge, charge, grant a security interest in or otherwise encumber all or any part of the Trust Property;
- (d) issue Units and Other Trust Securities for the purposes of: (i) conducting, or facilitating the conduct of, the activities and undertaking of the Trust (including for the purpose of raising funds for acquisitions); (ii) repayment of any indebtedness or borrowings of the Trust or any affiliate thereof; (iii) establishing and implementing Unitholder rights plans, distribution reinvestment plans, Unit purchase plans, and Compensation Plans of the Trust or its subsidiaries, if any; (iv) satisfying obligations to deliver securities of the Trust, including Units, pursuant to the terms of securities convertible into or exchangeable for such securities of the Trust, whether or not such convertible or exchangeable securities have been issued by the Trust; and (v) making non-cash distributions to Unitholders, including *in specie* redemptions;
- (e) repurchase, redeem or otherwise acquire Units or Other Trust Securities, including pursuant to any issuer bid made by the Trust, subject to the provisions of this Trust Indenture and Applicable Laws;
- (f) guarantee any obligations or liabilities, present or future, direct or indirect, absolute or contingent, whether matured or not, of any person for, or in pursuit of, any of the purposes set forth in this Section 4.01, and pledge securities and other property of the Trust as security for any obligations of the Trust, including obligations under any such guarantees;

- (g) carry out any of the transactions, and enter into and exercise and perform any of the rights and obligations of the Trust under any agreements in connection with pursuing the permitted activities and purposes of the Trust hereunder;
- (h) borrow funds and issue debt securities, including entering into hedges for purposes of managing the Trust's exposure to commodity prices, foreign exchange or interest rates, at any time and from time to time, for any of the purposes set forth in this Section 4.01;
- (i) undertaking such other activities or taking such other actions as are approved by the Trustee from time to time, or as are contemplated by the Trust Indenture;
- (j) enter into and perform its obligations under the Voting Agreement; and
- (k) engage in all activities ancillary or incidental to any of those activities set forth in subsections 4.01(a) through (j) above.

#### **4.02 Investments**

Money or other property received by the Trust or the Trustee on behalf of the Trust, including the net proceeds of any Offering, may be used at any time and from time to time for any purpose not inconsistent with this Trust Indenture (including making distributions and redemptions under Article 5 and Article 6 respectively).

#### **4.03 Investment Restrictions**

- (a) The Trustee shall exercise commercially reasonable efforts to ensure that the Trust:
  - (i) complies at all times with the requirements of subsection 132(6) of the Tax Act once it qualifies as a mutual fund trust;
  - (ii) does not take any action, or acquire or retain any investment, that would result in the Trust not being considered a mutual fund trust once it qualifies as such;
  - (iii) does not take any action, or acquire, retain or hold any investment in any entity or other property that would result in the Trust or any entity in which the Trust has invested being considered a SIFT trust;
  - (iv) does not hold any "non-portfolio property", as defined in subsection 122.1 of the Tax Act; and
  - (v) does not own any "taxable Canadian property" as defined in the Tax Act.
- (b) The Trustee may consult with and receive direction from the Administrator with respect to any investment or activity to ensure compliance with the foregoing subsection 4.03(a) and may, prior to any investment or activity, request that the Administrator obtain an opinion of Counsel confirming that the investment or activity will not affect the Trust's status as a mutual fund trust, cause the Trust to become a SIFT trust, affect the Trust's ability to comply with the provisions of subsection 132(7) of the Tax Act (if applicable), or constitute an investment in non-portfolio property.

## ARTICLE 5- DISTRIBUTIONS

### 5.01 Distributable Cash Flow

The “Distributable Cash Flow” of the Trust in respect of a Distribution Period shall be equal to such amount as the Trustee may in its discretion determine.

### 5.02 Computation of Income and Net Realized Capital Gains

- (a) “**Income of the Trust**” for any taxation year shall be determined in accordance with the provisions of the Tax Act (other than paragraph 82(1)(b) and subsection 104(6) thereof) regarding the calculation of income for tax purposes and on the basis that all amounts available for deduction in the period will be deducted, provided, however, that capital gains or capital losses (other than business investment losses) shall be excluded.
- (b) The “**Net Realized Capital Gains**” of the Trust for any year shall equal the amount, if any, by which the capital gains realized by the Trust in the year exceeds the aggregate of (i) the capital losses incurred by the Trust in the year, and (ii) the amount of any net capital losses for prior taxation years which the Trust is permitted by the Tax Act to deduct in computing the taxable income of the Trust for the year.
- (c) Notwithstanding subsections 5.02(a) and (b), Income of the Trust and Net Realized Capital Gains shall not include any income (“**Redemption Income**”) or capital gains (“**Redemption Gains**”), respectively, which are realized by, or allocated to, the Trust, in accordance with the Tax Act, in connection with a distribution of Trust Property to a Unitholder pursuant to an in specie redemption of the Unitholder's Units under Section 6.06.

### 5.03 Regular Distributions

- (a) Unitholders shall be entitled to receive non-cumulative distributions if, as and when declared by the Trustee in accordance with the provisions of this Section 5.03.
- (b) The Trustee, on behalf of the Trust, in respect of each Distribution Period, may declare payable to Unitholders of record as at the close of business on the Distribution Record Date for such Distribution Period, all, any part or none of the Distributable Cash Flow for such Distribution Period.
- (c) Each Unit issued and outstanding on the Distribution Record Date for a particular Distribution Period shall be entitled, without preference or priority, to an equal share of the amount of the Distributable Cash Flow which is declared payable to Unitholders pursuant to subsection 5.03(b) above for such particular Distribution Period, which share shall be determined by dividing the amount of such Distributable Cash Flow declared payable by the number of issued and outstanding Units on such Distribution Record Date (the “**Distribution Per Unit**”). The share of such Distributable Cash Flow distributable to a particular Unitholder shall be an amount equal to the Distribution Per Unit multiplied by the number of Units owned of record by such Unitholder on such Distribution Record Date.
- (d) Subject to Section 5.08, any distributions which have been declared to be payable to Unitholders in respect of a Distribution Period shall be paid in cash on the Distribution

Payment Date which immediately follows the Distribution Record Date for such Distribution Period.

#### **5.04 Other Distributions**

- (a) In addition to the distributions which are payable to Unitholders pursuant to Section 5.03, the Trustee may, in its discretion, declare to be payable and make distributions to such Unitholders, from time to time, whether out of Income of the Trust, Net Realized Capital Gains, the capital of the Trust or otherwise, in any year, in such amount or amounts, and on such dates as the Trustee may determine.
- (b) To ensure the allocation and distribution, to Unitholders, of all of the Income of the Trust, Net Realized Capital Gains and any other applicable amounts so that the Trust will not have any liability for tax under Part I of the Tax Act in any taxation year, the following amounts will, without any further actions on the part of the Trustee, be due and payable to Unitholders of record immediately before the end of December 31 in each taxation year:
  - (i) the amount of Income of the Trust and Redemption Income for such taxation year not previously paid or made payable to Unitholders in such year, less the amount of any “non-capital losses” as defined in the Tax Act of the Trust that may be deducted in computing the taxable income of the Trust for such year; and
  - (ii) the amount of Net Realized Capital Gains and Redemption Gains for such taxation year not previously paid or made payable to Unitholders in such year, except to the extent of (i) Net Realized Capital Gains that would not be subject to tax in the Trust by reason of the deduction of any loss of the Trust in such year or any “net capital losses” or “non-capital losses” as defined in the Tax Act of the Trust that may be deducted in computing the taxable income of the Trust for such year and (ii) Net Realized Capital Gains in respect of which the tax payable by the Trust would be refunded as a “capital gains refund” as defined in the Tax Act for such year,

provided that before the end of December 31 in such year, the Trustee may exercise its discretion to reduce the amount of any such distribution as the Trustee may determine is appropriate in its discretion.

- (c) Each Unit’s proportionate share of the amount of any distribution made pursuant to either or both of subsections 5.04(a) or (b) shall be determined by dividing the amount of such distribution by the number of issued and outstanding Units as at the close of business on the applicable Distribution Record Date in respect of a distribution pursuant to subsection 5.04(a) and as of immediately before the end of December 31 in respect of a distribution pursuant to subsection 5.04(b). The share of the amount of any such distribution distributable to a particular Unitholder shall be an amount equal to each Unit’s proportionate share of such amount multiplied by the number of Units owned of record by such particular Unitholder on such applicable Distribution Record Date or December 31 in the year of such distribution, as the case may be. Subject to Section 5.08, amounts which have been declared to be payable to Unitholders pursuant to subsection 5.04(a) shall be paid in cash on the Distribution Payment Date which immediately follows the applicable Distribution Record Date in respect of a distribution pursuant to subsection 5.04(a) and amounts which are to be distributed pursuant to subsection 5.04(b) shall be

payable on December 31 in such year and shall be paid forthwith and in no event later than January 30 of the following year.

- (d) In addition to the distributions which are made payable to Unitholders otherwise hereunder, the Trustee shall allocate any Redemption Income and Redemption Gains realized by, or allocated to, the Trust in connection with the redemption of Units of a particular Unitholder, to that Unitholder, so that an amount equal to such Redemption Income and Redemption Gains shall be allocated to and shall be treated as an amount paid to the redeeming Unitholder. In addition, one-half (or any other proportion that may be provided for from time to time under section 38 of the Tax Act) of such Redemption Gains shall be designated as taxable capital gains of that Unitholder under subsection 104(21) of the Tax Act, and any portion of the Redemption Income and Redemption Gains in respect of that Unitholder as may be income from a source in a country other than Canada, within the meaning of subsection 104(22) of the Tax Act, shall be designated as that Unitholder's income from that source in accordance with that subsection.

#### **5.05 Character of Distribution**

Distributions or amounts paid or payable to Unitholders pursuant to this Article 5 or Article 6 shall be deemed to be distributions out of Income of the Trust, Net Realized Capital Gains, trust capital or other items, in such amounts as the Trustee shall, in its discretion, determine. For greater certainty, it is hereby declared that any distribution of Net Realized Capital Gains and Redemption Gains shall include the non-taxable portion of the capital gains of the Trust which are comprised in such distribution.

#### **5.06 Designation of Taxable Capital Gains and Other Amounts**

In accordance with and to the extent permitted by the Tax Act, the Trustee in each year shall make designations, determinations and allocations for tax purposes of amounts or portions of amounts which the Trust has received, paid, declared payable or allocated to Unitholders as distributions or redemptions proceeds.

#### **5.07 Enforceability of Right to Receive Distributions**

For greater certainty, it is hereby declared that each Unitholder shall have the legal right to enforce payment of any amount declared payable to such Unitholder as a result of any distribution or amount which becomes payable to such Unitholder pursuant to this Article 5 or pursuant to Article 6, as of the date on which such amounts become payable.

#### **5.08 Method of Payment of Distributions**

- (a) The Trust shall make payment, in cash, of distributions which have been declared to be payable pursuant to this Article, provided that where the Administrator determines that the Trust does not have cash in an amount sufficient to make payment of the full amount of any distribution which has been declared to be payable pursuant to this Article on the due date for such payment, the payment may, at the option of the Administrator, include the issuance of additional Units, or fractions of Units, if necessary. In each case, such Units so issued shall have an aggregate value equal to the difference between the amount of the distribution in question and the amount of cash which has been determined by the Administrator to be available for the payment of such distribution. The number of Units



so issued shall be determined based upon the value of such Units, as determined in accordance with subsection 5.08(b) below.

- (b) The value of each Unit which is issued pursuant to subsections 5.08(a) shall be deemed to be the “market price” (as defined in Section 6.03) of a Unit on the applicable Distribution Record Date in respect of a distribution pursuant to Section 5.03, on the applicable Distribution Record Date in respect of a distribution pursuant to subsection 5.04(a), or on December 31 in respect of a distribution under subsection 5.04(b), provided that if the particular date is not a Business Day then the “market price” (as defined in Section 6.03) shall be determined on the last Business Day which precedes such particular date.

#### **5.09 Withholding Taxes**

The Trustee shall deduct or withhold from payments and distributions (including redemptions) payable to any Unitholder all amounts required by Applicable Laws to be withheld from such payment or distribution, whether such payment or distribution is in the form of cash, additional Units or otherwise. To the extent that amounts are so deducted or withheld, such amounts shall be treated for all purposes as having been paid to the Unitholder in respect of which such deduction and withholding was made. In the event of a distribution in the form of additional Units, the Trustee shall sell all or a portion of the additional Units otherwise to be distributed to a Unitholder and the proceeds from such sale (less the Trustee’s reasonable expenses) shall firstly be used to satisfy the Trust’s withholding obligations under the Tax Act and shall be remitted to the appropriate taxation authority and secondly be used to pay all of the Trust’s reasonable expenses with regard thereto. The balance, if any, remaining shall be paid to such Unitholder. No liability shall accrue to the Trust, the Trustee or the Administrator if Units or other assets sold or disposed of pursuant to this Section 5.09 are sold at a loss to such affected Unitholder or the Beneficial Unitholder of such Units or if Units or other assets so sold or disposed of are sold or disposed of for an amount which may be less than might otherwise have been obtained if sold or disposed of at a different point in time or in different circumstances. For greater certainty, for purposes of all transactions that may be required with respect to this Section 5.09, the Trustee shall have the power of attorney of the Unitholder in accordance with the provisions of Section 3.28, and the provisions of Sections 3.25 and 6.04 shall also apply *mutatis mutandis* in this regard.

#### **5.10 Unit Plans**

Subject to any approvals required under Applicable Laws, the Trustee may, in its discretion and at any time and from time to time, establish and implement Unitholder rights plans, distribution reinvestment plans, Unit purchase plans, and Compensation Plans.

## ARTICLE 6 REDEMPTION

#### **6.01 Right of Redemption by Unitholders**

Each Unitholder shall be entitled to require the Trust to redeem at any time or from time to time at the demand of the holder all or any part of the Units registered in the name of the holder at the price, with respect to each Unit so redeemed, as determined and payable in accordance with the terms and conditions hereinafter provided in this Article 6.

## 6.02 Exercise of Redemption Right

To exercise a Unitholder's right to require redemption of Units under this Article 6, a duly completed and properly executed notice requiring the Trust to redeem Units, in a form reasonably acceptable to the Trustee, shall be sent to the Trust at the head office of the Trust and to CDS (if the Units are held through the Book-Entry System), together with written instructions as to the number of Units to be redeemed and together with any Unit Certificate or Unit Certificates, if any, representing the Units to be redeemed. No form or manner of completion or execution of such notice and other documents shall be sufficient unless the same is in all respects satisfactory to the Trustee and is accompanied by any further evidence that the Trustee may reasonably require with respect to the identity, capacity or authority of the person giving such notice.

Upon the tender of Units of a holder for redemption, the holder shall thereafter cease to have any rights with respect to the Units tendered for redemption (including no right to receive distributions in respect of Units where such distributions are declared payable to Unitholders of record on a date which is on or subsequent to the date upon which the Units of the Unitholder have been tendered for redemption), other than the right to receive the Cash Redemption Price or in Specie Redemption Price therefor, as the case may be, and the right to receive any distributions thereon which have been declared payable to Unitholders of record on a date which is prior to the date upon which the Units of the Unitholder have been tendered for redemption. Units shall be considered to be tendered for redemption on the date (the "**Redemption Date**") the Trust has, to the satisfaction of the Trustee, received the notice, Unit Certificates, if any, the written instructions as to the number of Units to be redeemed and all other required documents or evidence as aforesaid.

## 6.03 Cash Redemption Price

- (a) Subject to subsections 6.03(b) and Section 6.05, upon the tendering for redemption of Units in accordance with Section 6.02, the holder of the Units tendered for redemption shall be entitled to receive a price per Unit (herein referred to as the "**Appraised Redemption Price**") equal to the fair market value thereof, as at the date upon which such Units were tendered for redemption, as determined by the Administrator in its sole discretion, acting reasonably, but having regard to:
- (i) all prices at which trades of Units have been transacted, as reported to the Trust, and which have occurred during the 6 month period (or such other period as the Administrator determines relevant and reasonable) immediately preceding the date on which such Units tendered for redemption were tendered to the Trust for redemption;
  - (ii) the issue prices for Units issued in any Offering during the 6 month period (or such other period as the Administrator determines relevant and reasonable) immediately preceding the date on which such Units tendered for redemption were tendered to the Trust for redemption;
  - (iii) the fair market value of equity interests in, or enterprise values of, comparable entities substantially similar to the Trust; and
  - (iv) any other considerations which the Administrator, in its discretion, determines relevant for purposes of determining the Appraised Redemption Price.

- (b) In the event that at the time Units are tendered for redemption, the outstanding Units are listed, traded or quoted on a stock exchange or market which the Trustee considers, in its sole discretion, provides representative fair market value prices for the Units then subject to Section 6.05, upon the tendering for redemption of Units in accordance with Section 6.02, the holder of the Units tendered for redemption shall be entitled to receive a price per Unit (hereinafter called the “**Cash Redemption Price**”) equal to the lesser of:
- (i) 90% of the “market price” of a Unit on the principal stock exchange on which the Units are listed (or, if the Units are not listed on any such exchange, on the principal market on which the Units are quoted for trading) during the period of the last ten (10) trading days ending immediately prior to the Redemption Date; and
  - (ii) 100% of the “closing market price” of a Unit on the principal stock exchange on which the Units are listed (or, if the Units are not listed on any such exchange, on the principal market on which the Units are quoted for trading) on the Redemption Date.
- (c) For the purposes of this Indenture, the “**market price**” of a Unit shall be: (i) an amount equal to the volume weighted average trading price of a Unit for each of the ten (10) consecutive trading days preceding the date of determination; (ii) if the applicable exchange or market does not provide information necessary to compute a volume weighted average trading price, an amount equal to the volume weighted average of the closing prices of a Unit for each of the ten (10) consecutive 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” shall be an amount equal to the volume weighted average of the average of the highest and lowest prices for each of the ten (10) consecutive trading days on which there was a trade; and (iii) if there was trading on the applicable exchange or market for fewer than five (5) of the ten (10) consecutive trading days, the “market price” shall be the volume weighted average of the following prices established for each of the ten (10) consecutive trading days: (1) the average of the last bid and last asking prices for each day on which there was no trading; (2) the closing price of the Units for each day that there was trading if the exchange or market provides a closing price; and (3) the average of the highest and lowest prices of the Units for each day that there was trading, if the exchange or market provides only the highest and lowest prices of Units traded on a particular day.
- (d) For the purposes of this Indenture, “**closing market price**” shall be: (i) an amount equal to the volume weighted average trading price of a Unit on the Redemption Date, if the applicable exchange or market provides information necessary to compute a volume weighted average trading price on such date; (ii) an amount equal to the closing price of a Unit if there was a trade on the Redemption Date, and the exchange or market provides only a closing price; (iii) an amount equal to the simple average of the highest and lowest trading prices of Units if there was trading on the Redemption Date and the exchange or other market provides only the highest and lowest trading prices of Units traded on a particular day; or (iv) the simple average of the last bid and last ask prices of the Units if there was no trading on the Redemption Date.
- (e) For the purposes hereof, the principal exchange or principal market on which Units are listed or quoted for trading shall be the exchange or market on which the greatest volume