

This Amended and Restated Trust Agreement made as of the 20th day of January, 2015

BETWEEN:

2193914 CANADA LIMITED, a corporation incorporated under the laws of Canada ("**2193914**")

- and -

CIBC TRUST CORPORATION, a federally regulated trust company incorporated under the laws of Canada ("**CIBC**")

WHEREAS:

- A. 2193914 owns, and holds the regulatory authorizations allowing it to operate, the Pipeline, as defined herein;
- B. 2193914 is subject to regulation by the National Energy Board under the *National Energy Board Act* (Canada);
- C. On May 26, 2009, the National Energy Board issued the RH-2-2008 Reasons for Decision which required each person holding an authorization to operate a pipeline under the *National Energy Board Act* to file a proposed process and mechanism to set aside funds to pay for the Reclamation Obligations in respect of the sites in Canada used for the operation of a pipeline;
- D. On March 12, 2013, the National Energy Board issued MH-001-2013 Hearing Order, establishing how it would consider each set aside mechanism proposed;
- E. National Energy Board Order MO-030-2014 dated May 5, 2014 (the "**NEB Order**") requires 2193914 to set aside funds using a trust structure to pay for the Reclamation Obligations in respect of the sites in Canada used by 2193914 for the operation of the Pipeline;
- G. In satisfaction of the requirements imposed by the National Energy Board, 2193914 is creating pursuant hereto a trust to be referred to as the 2193914 Pipeline Abandonment Trust to hold and administer the Fund, as defined herein;
- H. 2193914 intends that the Trust qualify at all times as a Qualifying Environmental Trust within the meaning of Tax Legislation; and
- I. CIBC has agreed to act as trustee of the Trust and to hold, invest and otherwise administer the Fund in accordance with the provisions hereof.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, each of CIBC and 2193914 hereby agree and declare as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

The terms used herein including in the recitals hereto shall have the following meanings:

- (a) **"Abandon"** and **"Abandonment"** have the meaning set out in the definition of "abandon" in the *Onshore Pipeline Regulations (Canada)*;
- (b) **"Abandonment Charges"** means separate and identifiable charges for transportation services with respect to the Pipeline that the NEB will require shippers to pay and that the NEB will require to be contributed by the Company to the Trust pursuant to an NEB Decision, and includes tolls, toll surcharges and any other funds of any nature or kind, which are required to be contributed to the Trust;
- (c) **"Advisors"** has the meaning ascribed to it in section 11.3. For greater certainty, the Trustee shall in no circumstances appoint the Company or a Beneficiary or any Affiliates of either as an Advisor;
- (d) **"Affiliate"** means, with respect to a party, that party's affiliates within the meaning of the *Canada Business Corporations Act*, and for CIBC Trust Corporation includes, but is not limited to, CIBC World Markets Inc., CIBC Asset Management Inc., CIBC Mellon Trust Company and CIBC Mellon Global Securities Service Company (and also includes, for clarity, any division of any of the foregoing regardless of the name under which the business of such division is carried on);
- (e) **"Agreement"** means this Agreement, including any and all appendices hereto, as it may from time to time be amended, modified, supplemented or restated;
- (f) **"Applicable Law"** means, in respect of any particular matter or issue, all Canadian federal, provincial, territorial or municipal laws, statutes, rules, regulations, official directives and orders of governmental authorities (whether administrative, legislative, executive or otherwise), including judgments, orders and decrees of courts, commissions, boards or bodies exercising similar functions, that are applicable with respect to the matter in issue;
- (g) **"Authorized Party"** means any person or entity properly identified to the Trustee in accordance with section 6.3 as being entitled to consult with the Trustee on behalf of the Company or to provide Investment Advice;
- (h) **"Beneficiary"** or **"Beneficiaries"** mean the Person or Persons, including the Company, acting on its own capacity or acting on behalf of a partnership, having ~~while entitled to the benefit of the Fund,~~ Reclamation Obligations in respect of the Site;
- (i) **"Business Day"** means each day other than a Saturday, Sunday, a statutory holiday in Alberta or any day on which the principal chartered banks located in Calgary are not open for business during normal banking hours;
- (j) **"Clearinghouse Corporation"** means an institution that settles mutual indebtedness between a number of financial or market organizations, and is usually financed by membership subscriptions and other dues of the market;

- (k) **"Company"** means the person holding the regulatory authorization(s) for the time being to operate the pipeline described in Appendix A hereto whether on its own behalf or on behalf of one or more Persons;
- (l) **"Contribution"** means the Initial Contribution and all subsequent contributions of Abandonment Charges or other amounts made to the Trust by the Company or by any other person or entity from time to time;
- (m) **"Court"** means a court of competent jurisdiction in the adjudication of matters referred to herein;
- (n) **"Deactivate"** and **"Deactivation"** have the meaning set out in the definition of "deactivate" in the *Onshore Pipeline Regulations (Canada)*;
- (o) **"Decommission"** and **"Decommissioning"** have the meaning set out in the definition of "decommission" in the *Onshore Pipeline Regulations (Canada)*;
- (p) **"Default"** means an Insolvency Event;
- (q) **"Depository"** means a financial corporation that is officially authorized to receive securities, commonly financial instruments in the form of stocks and bonds, and to hold them secure for the depositor;
- (r) **"Fiscal Year"** means the period commencing on the day and year first written above and ending on the immediately following December 31 and thereafter the same as a calendar year;
- (s) **"Fund"** has the meaning ascribed to it in section 2.1;
- (t) **"Initial Contribution"** means the initial contribution of Property made by the Company to settle the Fund, as detailed in Appendix B hereto;
- (u) **"Insolvency Event"** means, in respect of a person, that:
 - (i) a judgment, decree or order of a Court is entered against such person:
 - (A) adjudging such person bankrupt or insolvent, or approving a petition seeking its reorganization or winding-up under the *Bankruptcy and Insolvency Act (Canada)*, the *Companies' Creditors Arrangement Act (Canada)* or any other bankruptcy, insolvency or analogous law;
 - (B) appointing a receiver, trustee, liquidator, or other person with like powers, over all, or substantially all, of the Property of such person;
 - (C) ordering the involuntary winding up or liquidation of the affairs of such person; or
 - (D) appointing any receiver or other person with like powers over all, or substantially all, of the Property of such person unless, in any such case, such judgment, petition, order or appointment is stayed within 30 days of its entry;
 - (i i) an order or a resolution is passed for the dissolution, winding-up, reorganization or liquidation of such person pursuant to Applicable Law, including the *Canada Business Corporations Act*;

- (i i i) such person institutes proceedings to be adjudicated bankrupt or insolvent or consents to the institution of bankruptcy or insolvency proceedings against it under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any other bankruptcy, insolvency or analogous law;
 - (i v) such person consents to the appointment of a receiver, or other person with like powers, over all or substantially all of their Property;
 - (v) such person makes a general assignment for the benefit of creditors or becomes unable to pay its debts generally as they become due; or
 - (v i) such person takes or consents to any action in furtherance of any of the purposes referred to in clauses (ii), (iii) or (iv);
- (v) **"Investment Advice"** is applicable only if an Investment Manager has been appointed by the Trustee to assist in the investment and reinvestment of the Fund pursuant to section 5.2, and means all advice provided to the Trustee by an Authorized Party of an Investment Manager in accordance with sections 6.3 and 6.4 with respect to the investment of the Fund in Qualified Investments;
- (w) **"Investment Manager"** means an investment advisor or manager with respect to the Fund or any portion thereof which has been appointed by the Trustee as provided in section 5.2. For greater certainty, the Trustee shall in no circumstances appoint the Company or a Beneficiary or any Affiliates of either as Investment Manager;
- (x) **"NEB"** means, subject to section 1.4(b), the National Energy Board, established pursuant to the NEB Act;
- (y) **"NEB Act"** means the *National Energy Board Act* (Canada);
- (z) **"NEB Decision"** means an applicable decision, order, direction or other determination of the NEB relating to Abandonment, Reclamation Obligations or the Trust;
- (aa) **"NEB Order"** has the meaning ascribed in the recitals;
- (aa.i) **"New Trust"** shall have the meaning ascribed thereto in section 13.2 of this Agreement.
- (bb) **"Orphan Pipeline Fund"** means a not-for-profit ~~organization to~~corporation that will be established pursuant to a statute of the Parliament of Canada ~~whose purpose includes paying for the cost to Abandon a pipeline constructed or operated under a statute of the Parliament of Canada~~and will maintain funds for the purpose of funding reclamation of abandoned pipelines in Canada, consistent with the NEB's Reasons for Decision MH-001-2013;
- (cc) **"Pipeline"** means the pipeline system currently owned and operated by the Company as more particularly described in Appendix A hereto;
- (dd) **"Person"** includes a partnership;
- (ee) **"Property"** means all tangible and intangible assets and rights of any nature or type and includes without limitation cash and securities within the meaning ascribed to that term for purposes of the *Securities Act* (Alberta);

- (ff) **"Qualifying Environmental Trust"** means a trust that meets the requirements of that term as it is defined in subsection 211.6(1) of the Tax Act and as it is or may hereafter be defined in any other Tax Legislation applicable to the Trust;
- (gg) **"Qualified Investments"** means those investments which from time to time are qualified investments for a Qualifying Environmental Trust and that are not encompassed within the definition of "prohibited investment" in subsection 211.6(1) of the Tax Act, and which as of the date hereof include only those types of property described in paragraphs (a), (b), (c), (c.1), (d) and (f) of the definitions of "qualified investment" in section 204 of the Tax Act, all as more particularity described in Appendix C hereto; and **"Qualified Investment"** means any one of them;
- (hh) **"Reclamation Obligations"** means
- (i) the duty to carry out the physical Abandonment, Decommissioning or Deactivation of the Pipeline, including costs incurred to satisfy any conditions imposed by the NEB in any order or direction approving the Decommissioning or Deactivation of the Pipeline or granting leave to Abandon the Pipeline;
 - (i i) the duty to develop an Abandonment plan, and to prepare an application for leave to Abandon or for approval of the Deactivation or Decommissioning of the Pipeline; and
 - (i i i) the duty to carry out post-abandonment monitoring and remediation of the Site, where post-abandonment refers to the period of time after a Company has satisfied the conditions of an order or direction issued by the NEB (as defined hereafter) granting leave to Abandon, and all costs incurred and consequent thereon;
- (i i) **"Site"** means the location or locations in Canada used by a company for the operation of the Pipeline;
- (j j) **"Standard of Care"** has the meaning ascribed to that term in section 12.1;
- (k k) **"Statement of Investment Policies and Procedures"** has the meaning ascribed to that term in section 5.1(a);
- (l l) **"Tax Act"** means the *Income Tax Act* (Canada) and the regulations thereto;
- (m m) **"Tax Legislation"** means the Tax Act, the *Corporate Tax Act* (Alberta) and the corresponding legislation of all applicable Canadian provinces;
- (n n) **"Tax Obligations"** means the obligation to pay taxes that have been imposed on and are payable by the Trust, and to comply with all certification, reporting and filing requirements with respect thereto, including without limitation the exercise of rights with respect to claiming exemptions or refunds related to taxes on behalf of the Trust;
- (o o) **"Trust"** means the relationship between the Trustee and a Beneficiary or Beneficiaries, including the obligations of the Trustee towards the Beneficiary or Beneficiaries both personal and with regard to the Fund, and the corresponding rights of a Beneficiary, whether those obligations and rights are created at law or by the terms of this trust agreement; and in the context of this trust instrument, means a discretionary trust for the purpose of reclamation in favour of the one or several Beneficiaries that have Reclamation Obligations with regard to the Site;

- (pp) **"Trust and Loan Companies Act"** means the *Trust and Loan Companies Act (Canada)*;
- (qq) **"Trust Expenses"** means all fees and expenses which the Trustee is entitled to receive or recover hereunder pursuant to Article 10; and all other costs, expenses and charges of any kind whatsoever reasonably incurred by or on behalf of the Trustee in connection with the investment of the Fund and the administration of the Trust in respect of which the Trustee is entitled to be reimbursed in accordance with the express provisions hereof; and
- (rr) **"Trustee"** means CIBC Trust Corporation, a trust company duly incorporated under the *Trust and Loan Companies Act* and registered as a trust company in the Province of Alberta or any other trust company licenced under the *Trust and Loan Companies Act (Canada)* appointed from time to time under this Agreement to hold the office of trustee.

1.2 Currency

All references to currency in this Agreement are to Canadian dollars, unless otherwise specifically indicated.

1.3 Headings and References

The division of this Agreement into articles, sections and appendices and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. Unless otherwise specified, references to articles, sections and appendices are to articles and sections of and appendices to this Agreement.

1.4 Construction

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) references to any statute, rule, regulation, official directive or order of any governmental authority or any provision thereof refer to such instrument or provisions as from time to time amended, supplemented, restated or replaced; and
- (c) references to the NEB or any other governmental authority refer to the governmental authority for the time being exercising the relevant powers and authorities thereof or having the relevant responsibilities thereof under Applicable Law with respect to the Pipeline, including but not limited to the right to require and oversee Abandonment of the Pipeline or a part thereof, notwithstanding any change in the name, organization or constitution thereof or any amendment, replacement or repeal of any legislation creating or governing such governmental authority, and including (if applicable) governmental authorities created or governed by the laws of any Province of Canada.

1.5 Appendices

The following Appendices form a part of this Agreement:

- Appendix A - Description of Pipeline
- Appendix B - Initial Contribution

ARTICLE 2 CREATION OF THE TRUST

2.1 Settlement of Fund

The Company hereby irrevocably transfers to and settles upon the Trustee the Initial Contribution to be held and administered by the Trustee, together with the balance of the Fund, in trust upon the terms and subject to the conditions set out in this Agreement (such Initial Contribution together with (i) all additional Contributions made hereunder from time to time, (ii) all interest, returns, gains, dividends, distributions or other proceeds of any investment of any such amounts and of any such proceeds from time to time, and (iii) all other amounts and Property held from time to time by the Trustee hereunder, of any nature or kind, being referred to collectively herein as the "**Fund**"). The Trustee acknowledges receipt of such Initial Contribution.

2.2 Declaration of Trust

The Trustee accepts the trust hereby constituted and agrees to own legal title to, hold, use and administer the Fund in trust for the benefit of the Beneficiaries, their permitted assigns and representatives, in accordance with and subject to the terms and conditions hereinafter declared and set forth, such trust to constitute the Trust hereunder. The Trustee shall have no liability or responsibility for any Property until such Property is received by the Trustee from the Company.

2.3 Name of Trust

- (a) The Trust shall be known and designated as the "**2193914 Pipeline Abandonment Trust**" and, whenever lawful and convenient, the Fund shall be held and the affairs of the Trust shall be conducted and transacted under that name. The Trustee, with the consent of the Company, may adopt such other name or use such other designation as the Trustee deems appropriate, and in such case the Trustee may hold the Fund and conduct and transact the affairs of the Trust under such other name or designation.
- (b) If at any time neither 2193914 nor any of its Affiliates is the Company or a Beneficiary of the Trust, 2193914 may, by written notice to the Trustee, require that any reference to "2193914" in the name of the Fund be removed, and the Trustee hereby agrees that upon receipt of such notice the Trustee shall promptly proceed to take, or cause to be taken, all steps necessary or convenient to remove any reference to "2193914" in the name of the Trust.

2.4 Situs and Mind and Management

The situs, and mind and management, of the Trust shall be the Province of Alberta and the principal place of administration of the Trust shall be located at Calgary, Alberta, or such other place or places in the Province of Alberta as the Trustee may from time to time designate and will initially be located at 301 8th Avenue SW, Third Floor, Hollingsworth Building, Calgary, Alberta, T2P 1C5. Without limiting the generality of the foregoing, the Trust shall be and remain a resident of the Province of Alberta for purposes of the *Alberta Corporate Tax Act* and the Trustee shall not take or fail to take any action that would result in the Trust not so qualifying as a resident of the Province of Alberta.

2.5 Purpose of the Trust

- (a) It is the express intention of the parties hereto that the Trust created by this Agreement constitutes a Qualifying Environmental Trust. This Agreement shall be read and interpreted in light of and consistently with the definition of Qualifying Environmental Trust as in effect from time to time, and none of the Company, the Beneficiaries or the Trustee shall take any action, including making any filing under the Tax Act, which would jeopardize the status of the Trust as a Qualifying Environmental Trust.
- (b) Without limiting the generality of the foregoing, the Trust has been established and will be maintained for the sole purpose of satisfying the Reclamation Obligations of the Beneficiaries. The Trustee may make payment to or for the benefit of the appointed Beneficiary, that is, either to the Beneficiary, or to a person or persons named by the NEB to conduct work in the reclaiming of the Site. The Trust is not, ~~is not~~ intended to be, shall not be deemed to be and shall not be treated as, a general partnership, limited partnership, syndicate, association, joint venture, company, or corporation; further, neither the Trustee nor the Company shall be deemed to be treated in any way whatsoever as liable or responsible hereunder as partners or joint venturers.
- (c) In its first tax year, in filing a return of income for the Fund, the Fund shall complete and file Form T3M entitled "Environmental Trust Income Tax Return" under the Tax Act and any similar form required under other Tax Legislation.
- (d) To the maximum extent permitted by Applicable Laws, until the satisfaction of all Reclamation Obligations is achieved, the Fund shall be administered so that all amounts held by or distributed by the Trust shall be used to fund Reclamation Obligations of the Beneficiaries with respect to the Pipeline, to pay taxes imposed on and payable by the Trust and to pay Trust Expenses in accordance with Article 10.

ARTICLE 3 TRUSTEE

3.1 Appointment and Term of Trustee

The appointment of the Trustee as trustee of the Trust was approved by the NEB pursuant to OF-AF-SAC 04 dated 10 December 2014. The term of office of any body corporate holding office as Trustee hereunder commences from the date on which such trustee executes this Agreement and shall continue until the earlier of the date of the termination of the Trust or the effective date of the Trustee's resignation or removal as provided herein.

3.2 Qualifications of the Trustee

The Trustee shall at all times be a body corporate:

- (a) regulated under the *Trust and Loan Companies Act (Canada)*;
- (b) resident in Canada for the purpose of the Tax Act;
- (c) licensed or otherwise authorized under the laws of Canada and the province of Alberta to carry on in Canada and the province of Alberta the business of offering to the public its services as trustee; and
- (d) that has agreed to comply with section 2.4 and has offices and personnel in the Province of Alberta enabling it to comply with section 2.4.

3.3 Resignation or Removal of the Trustee

- (a) The Trustee may resign by giving the Company not less than 90 days' prior written notice of such resignation, unless a shorter or longer period of notice is agreed to between the parties hereto, provided that no such resignation shall be effective until the appointment of a replacement Trustee has become effective as provided below.
- (b) The Trustee may be removed as trustee of the Trust upon receipt of 60 days' prior written notice (unless a shorter or longer period of notice is agreed to between the parties hereto) of such removal being delivered to the Trustee by the Company, subject to and effective upon the appointment of a successor trustee becoming effective as provided below.
- (c) Notwithstanding section 3.3(b), if an Insolvency Event occurs in respect of the Trustee, or if the Trustee is convicted of an offence involving dishonest conduct, the Trustee may be removed as Trustee of the Trust by the Company without any period of prior notice to the Trustee, subject to and effective upon the appointment of a successor trustee becoming effective as provided below.
- (d) In the event of the removal or resignation of the Trustee, a replacement trustee shall be appointed by the Company provided that such appointment shall be conditional upon approval of the appointment by the NEB. Any such appointment shall be made in writing and the replacement trustee must meet the requirements of section 3.2.
- (e) In the event the Company fails to appoint a replacement trustee within 60 days of receipt of the written notice of resignation, the Trustee, at the expense of the Trust, shall have the right to seek appointment of a replacement trustee from the NEB or from a Court.
- (f) Upon completion of all of the following:
 - (i) a trust company qualified under section 3.2 being conditionally appointed as the replacement trustee by the Company;
 - (i i) the appointment of the replacement trust company by the Company, and approved by the NEB; and
 - (i i i) such trust company executing and delivering to the Company and the previous Trustee an acceptance of such appointment in form and substance satisfactory to the Company agreeing to be bound by the provisions of this Trust Agreement,the resignation or removal of the previous Trustee and the appointment of such replacement Trustee shall become effective for all purposes and such replacement Trustee shall have all of the same powers and duties as those conferred upon the Trustee by this Agreement.
- (g) Upon the appointment of the replacement Trustee becoming effective, the Trustee that has resigned or been removed shall immediately transfer title to and pay over all of the assets comprising the Fund to the replacement Trustee, less such reasonable amounts as the Trustee establishes are necessary to cover its unpaid fees and expenses and any other amount owing to it hereunder, and shall transfer all relevant books and records maintained by it for the purpose of its responsibilities under this Agreement to the replacement Trustee. The Trustee that has resigned or been removed shall have no duties, responsibilities or liability with respect to the acts or omissions of any replacement trustee appointed in accordance with the foregoing provisions.

- (h) Though the NEB shall approve all Trustee appointments, and the Trustee must be regulated under the *Trust and Loan Companies Act* (Canada), otherwise an act of the Trustee is valid notwithstanding an irregularity in the appointment of the Trustee or any defect thereof.

ARTICLE 4 CONTRIBUTIONS AND DISTRIBUTIONS

4.1 Contributions

The Company shall make Contributions to the Trust from time to time for an amount equivalent and at the same frequency of all amounts it collects as Abandonment Charges ~~that are required to be contributed to the Trust~~ and may from time to time contribute such other amounts to the Trust as may be required in order to comply with an NEB Decision or which the Company, in its discretion, decides to contribute to the Trust.

4.2 Distributions

No distributions or payments shall be made from the Fund by the Trustee other than as follows:

- (a) to pay Trust Expenses as and when due and payable;
- (b) to pay all taxes imposed on and payable by the Trust under Applicable Law, including all taxes determined to be imposed on and payable pursuant to the tax returns filed by the Trustee in compliance with Article 7;

Further, the Trustee may disburse funds:

- (c) to a Beneficiary for the Reclamation Obligations upon presentation of:
 - (i) a written direction or order from the NEB ~~which confirms~~ issued in the name of the Beneficiary confirming the amount to be disbursed from the Fund and the timing of the disbursement ~~and the identity of the Beneficiary to receive the funds~~; and
 - (i i) a certificate of an officer of the Beneficiary referred to above confirming that it is not in Default and that, to the officer's knowledge, the Beneficiary will not suffer Default within a year following the date of the certificate of the officer; or
- (d) to a third party designated by the NEB for the purposes of funding the discharge of a Beneficiary's Reclamation Obligations upon presentation of a written direction or order from the NEB ~~which confirms~~ issued in the name of the third party confirming the amount to be disbursed from the Fund and the timing of the disbursement.

Upon payment being made by the Trustee pursuant to this section 4.2, the amount thereof shall no longer constitute a part of the Fund.

ARTICLE 5 INVESTMENT

5.1 Investment of the Fund

- (a) The Company has on the date hereof established and delivered to the Trustee a statement of the investment policies and procedures to be applicable to the Trust and, subject to subsections (b) and (c), the Company may from time to time hereafter amend, modify, supplement or restate the policies and procedures and such policies and

procedures as from time to time so amended, supplemented, restated or replaced are referred to herein as the "**Statement of Investment Policies and Procedures**".

- (b) In all events and at all times, the Statement of Investment Policies and Procedures shall provide that the Fund may only be invested in Qualified Investments (without limiting the ability of the Company to specify in any Statement of Investment Policies and Procedures that the investments in which the Fund may be invested shall be further restricted).
- (c) Prior to amending, supplementing, restating or replacing the Statement of Investment Policies and Procedures, the Company shall provide prior written notice of such changes within the period and containing the information stipulated from time to time by the NEB.
- (d) The Trustee is responsible for receiving, holding, investing and releasing the Fund. The Trustee shall control and hold the Funds and have complete control of the Fund's investment management.
- (e) The Fund shall be held, invested and reinvested by the Trustee, assisted as to investment and reinvestment by one or more Investment Managers, in accordance with the Statement of Investment Policies and Procedures from time to time in effect, whether or not any such investment is of a character authorized by laws concerning investments by trustees, provided that the Trustee shall ensure that at all times the Fund is invested solely in Qualified Investments. The Trustee shall invest the principal and income of the Fund without distinction between principal and income in such investments as it may select in accordance with the provisions hereof.
- (f) Provided that it has complied with the Statement of Investment Policies and Procedures and acted in accordance with the Standard of Care, the Trustee shall not be responsible for the title, validity or genuineness of any Property or evidence of title thereto received by it or any defect in ownership or title of any Property from time to time forming part of the Fund.

5.2 Investment Manager

The Trustee may from time to time, after consultation with the Company, delegate and appoint one or more Investment Managers to assist in the investment and reinvestment of the Fund in Qualified Investments, and to exercise any powers or functions relating to the investment and reinvestment of such assets in such manner, and on such terms and conditions, and for such remuneration payable from the Trust, as the Trustee, in the Trustee's absolute discretion, considers advisable, and as the Trustee shall specify in writing, including, without limitation, the power at any time and from time to time to choose, acquire, dispose of or change any such investment or reinvestments and to sub-delegate to another any such powers or functions so conferred on it by the Trustee. Subject to section 5.1, the Trustee is hereby further authorized to act on the opinion, advice or information obtained from the Investment Manager, and shall not be responsible for any loss occasioned by so acting or by not so acting as the case may be, nor shall the Trustee be responsible nor incur any liability for any loss that may be occasioned by any investment decision or delegation of investment decisions authorized herein and made by the Trustee or by the Investment Manager.

With respect to any appointment made under section 5.2, such Investment Manager shall be required to have an office and personnel in the Province of Alberta and must ensure that all investment decisions in respect of the Fund are made in the Province of Alberta unless (i) the Trustee has obtained, at its expense, a binding advance ruling under all applicable Tax Legislation (including the Tax Act and the Tax Legislation of the jurisdiction where such Investment Manager proposes to make investment decisions affecting the Fund) to the effect that the manner and location in which the Investment Manager proposes

to make such investment decisions will not subject the Trust, the Company or the Beneficiary to any Tax Obligations to which they would not have been subject if the Investment Manager had an office and personnel in the Province of Alberta and ensured that all investment decisions in respect of the Fund were made in the Province of Alberta and (ii) such Investment Manager at all times manages the Fund or such specified portion in compliance with the terms of such advance ruling.

With respect to the assets allocated to an Investment Manager, the Trustee shall have no liability for any investment made by the Investment Manager or in accordance with Investment Advice provided by the Investment Manager so long as the selection and retention of the Investment Manager was undertaken in accordance with the Standard of Care.

5.3 Fund to be Segregated

In carrying out its duties and obligations hereunder, the Trustee shall ensure that the Fund shall always be kept separate and distinct from the general assets of the Trustee, except to the extent expressly permitted by section 6.1(m). If the assets of the Fund become mixed with the assets of the Trustee, the resulting mixed fund shall be deemed to be held in trust on behalf of the Beneficiaries but only to the extent necessary to satisfy the Trust's claim on such mixed fund.

ARTICLE 6 CONCERNING THE TRUSTEE

6.1 General Powers and Duties

In administering and investing the Fund, the Trustee shall be specifically authorized, in respect of the following matters, to:

- (a) **Hold Investments.** Hold or cause to be held any Qualified Investment in nominee name, in bearer form, or in book entry form, in a Clearinghouse Corporation or in a Depository (including an Affiliate of the Trustee), provided that the Trustee's records clearly indicate that the assets held are a part of the Fund and provided that the Trustee shall not be responsible for any losses resulting from the deposit or maintenance of any Qualified Investment (in accordance with market practice, custom or regulation) with any recognized domestic clearing facility, book entry system, centralized custodial Depository, or similar organization provided that it acts in accordance with the Standard of Care.
- (b) **Collect Income and Proceeds.** Collect and reinvest income payable to and distributions due to the Trust and sign on behalf of the Trust any declarations, affidavits, certificates of ownership and other documents required to collect income and principal payments, including but not limited to, tax reclamations, rebates and other withheld amounts and collect proceeds from any Qualified Investment, which may mature, provided that whenever a Qualified Investment offers the Trustee the option of receiving interest, dividends or other returns in cash or in shares or other Property, the Trustee shall select the cash option unless the Trustee is otherwise directed by the Statement of Investment Policies and Procedures then in effect.
- (c) **Redeem Securities.** Present for redemption or exchange any Qualified Investment which may be called, redeemed, withdrawn or retired provided that timely receipt of written notice of the same is received by the Trustee from the issuer.
- (d) **Employ Advisors.** Employ or retain Advisors for the purposes of fulfilling the Trustee's duties and obligations and exercising its powers in respect of the Trust, and as part of its reimbursable expenses under this Agreement, pay their reasonable fees and expenses.

The Trustee shall be responsible for selecting such Advisors in accordance with the Standard of Care.

- (e) **Execute Instruments.** Make, execute and deliver any and all documents, agreements or other instruments in writing as are necessary or desirable for the accomplishment of any of the powers and duties in this Agreement.
- (f) **Determine Value.** Determine the fair market value of the Fund as required for purposes of compliance with section 8.2 or as otherwise reasonably requested by the Company from time to time, in accordance with methods consistently followed and uniformly applied provided that in determining fair market value of the Fund or any portion thereof, the Trustee shall be entitled to rely on and shall be protected in relying on values provided by any Investment Manager appointed in respect of the Fund or such portion thereof pursuant to section 5.2.
- (g) **Resolution of Certain Disputes.** Dispute any obligations of the Trust. In particular, and without limiting the generality of the foregoing, where a Tax Obligation is levied or assessed against the Trust in respect of the Fund, the Trustee shall give reasonable prior notice to the Company before paying or agreeing to pay such Tax Obligation. The Trustee may contest the validity of any such Tax Obligation on behalf of and at the expense of the Trust through such Advisors as it may elect to retain for such purpose if the Trustee determines that it is prudent to do so in accordance with the Standard of Care.
- (h) **Delivery of Securities.** Accept delivery of any Qualified Investment free of payment. With respect to any Investment Advice provided from an Investment Manager and accepted by the Trustee to receive a Qualified Investment in a transaction not placed through the Trustee, the Trustee shall have no duty or responsibility to take any steps to obtain delivery of the Qualified Investment from brokers or others either against payment or free of payment except that the Trustee shall accept delivery of the Qualified Investment in good, deliverable form in accordance with the applicable Investment Advice when presented by a delivering party. If the Investment Manager provides Investment Advice, and the Trustee acts on the Investment Advice, to receive a Qualified Investment and such Qualified Investment has not actually been received by the Trustee, the Trustee shall use its best efforts to notify the Investment Manager of such non-receipt.
- (i) **Power to do any Necessary Act.** Generally take all action, whether or not expressly authorized, which the Trustee may deem necessary or advisable, acting reasonably, for the fulfillment of its duties hereunder. Without limiting the generality of the foregoing, this may include seeking, in accordance with the Applicable Laws, the advice and direction of:
 - (i) the Court or the NEB with respect to the Beneficiary or Beneficiaries of the Trust at any particular time where the Beneficiary has ceased to exist or a Default exists in respect of the Beneficiary; or
 - (i i) the NEB with respect to the distribution or division of the Fund in the event of the sale of the Pipeline or a portion thereof.
- (j) **Self Dealing.** Deal on behalf of the Trust with any person which is an Affiliate of the Trustee, in which event neither the Trustee nor the Affiliate shall be accountable for any profit earned in the course of such dealing, provided that when the Trustee directly retains or appoints a person at the expense of the Fund who is an Affiliate of the Trustee or does not otherwise deal at arm's length from the Trustee within the meaning of the Tax Act, the terms of such appointment, retainer, or other dealing shall be as provided herein on a commercially reasonable basis.

- (k) **Purchase and Sale of Qualified Investments.** Purchase and sell and engage in other transactions, including receipts and deliveries, exchanges, exercises, conversions, subscriptions, and other voluntary corporate actions, with respect to Qualified Investments.
- (l) **Exercise of Owner's Rights.** Deal with any Qualified Investment which is held as part of the Fund. In doing so, the Trustee may exercise the voting rights attached to any Qualified Investment; give general or special proxies or powers of attorney with or without power of substitution with respect thereto; exercise any conversion privileges, subscription rights, or other options, and make any payments incidental thereto; oppose, or consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities that are Qualified Investments; and, in accordance with this Agreement, including section 5.2, delegate discretionary powers and generally exercise any of the powers of an owner with respect to all Qualified Investments held as part of the Fund.
- (m) **Cash Deposits.** At any time, and from time to time, deposit cash forming part of the Fund in interest bearing accounts in the deposit department of the Trustee, or any banking Affiliate of the Trustee, provided such deposits qualify at all times as Qualified Investments; and provided further that any such cash of the Fund so deposited may be commingled with other trust funds held by the Trustee from time to time, but only to the extent that such commingling is not contrary to or inconsistent with any NEB Decision or section 2.5(a).
- (n) **Pooled Funds.** Invest in any pooled or common investment fund, including a pooled or common investment fund maintained by the Trustee or any of its Affiliates, provided that such pooled or common investment fund is determined by the Trustee to be invested solely in Qualified Investments and an opinion of legal counsel is obtained by the Trustee that such method of investing in Qualified Investments is permitted for a Qualifying Environmental Trust.
- (o) **Dealing with Claims.** Settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust and commence or defend suits or legal or administrative proceedings and represent the Trust in all suits and legal and administrative proceedings in any court or before any other body or tribunal as the Trustee shall deem necessary to protect the Fund, provided that the Trustee shall not be obligated to do so until it has first been indemnified by the Company to its reasonable satisfaction against any fees and expenses or liabilities which it may incur as a result thereof. For greater certainty, funds to be used for the indemnification of the Trustee shall not be paid out of the Trust Fund.

Except as expressly provided in this section 6.1, the powers described in this section 6.1 may be exercised by the Trustee with or without consultation with the Company.

6.2 Proxies

The Trustee shall use reasonable efforts to submit or cause to be submitted, in a timely manner, to the Investment Manager, if any, charged with the investment responsibility for the asset to which the communication relates, for appropriate action any and all proxies, proxy statements, notices, requests, advice or other communications actually received by the Trustee (or its nominees) as the recorded owner of any Qualified Investment forming part of the Fund. If an Investment Manager has been appointed with respect to the relevant Qualified Investment, the Trustee shall be under no other duty to investigate, participate in or take affirmative action concerning attendance at meetings, voting, subscription, conversion or other rights attaching to or derived from any Qualified Investment forming part of the Fund

or concerning any merger, consolidation, reorganization, receivership, bankruptcy or insolvency proceedings, compromise or arrangement or the deposit of any Qualified Investment in connection therewith or otherwise unless and to the extent it is advised to do so by the Investment Manager appointed with respect to the relevant Qualified Investment, and the Trustee has accepted such advice.

6.3 Authorized Parties

- (a) The Company shall from time to time furnish the Trustee with a written list of the names, signatures and extent of authority of all persons having the authority to consult hereunder on behalf of the Company and otherwise act on behalf of the Company under the terms of this Agreement.
- (b) Upon an Investment Manager being appointed in writing under section 5.2, such Investment Manager may from time to time give Investment Advice to the Trustee governing the investment of the Fund to the extent of its appointment. Each such Investment Manager shall furnish the Trustee upon such appointment and from time to time thereafter with a written list of the names and signatures of the person or persons having the authority to issue Investment Advice on behalf of the Investment Manager under this Agreement.

6.4 Communication and Accounts

- (a) The Trustee shall use reasonable efforts to monitor its facsimile communication and electronic transmission facilities but Investment Advice, shall be deemed not to be received until the earliest of:
 - (i) the time they are brought to the attention of the officers of the Trustee to which they are addressed;
 - (ii) 3:00 p.m. on the day of transmission if sent before 3:00 p.m. (Mountain time) on a Business Day; or
 - (iii) 9:00 a.m. on the next Business Day if sent after 3:00 p.m. (Mountain time) on a Business Day or if sent on a day that is not a Business Day.
- (b) Upon consultation with the Company, the Trustee shall establish one or more custody accounts in the name of the Trustee for the account of the Trust in which the Trustee shall deposit or cause to be deposited the assets of the Fund. The Trustee shall thereafter provide the Company with the applicable custody account(s) information.

6.5 No Duty

The duties of the Trustee in respect of the Trust shall be limited to the Property forming part of the Fund, and the Trustee shall have no duties or obligations hereunder with respect to Property held by any other person.

6.6 Restrictions on the Powers of the Trustee

Notwithstanding any other provision hereof, the Fund must at all times be invested only in Qualified Investments and the Trustee shall not, and is not authorized at any time to, borrow any funds on behalf of the Trust or to permit the Trust to be in an overdraft position.

ARTICLE 7 TAX OBLIGATIONS

7.1 Tax Obligations

- (a) The Company and the Trustee acknowledge that it is intended that the FundTrust will incur and pay Tax Obligations ~~in relation to~~of the FundTrust.
- (b) The Trustee shall prepare and file or issue, on a timely basis, all income tax returns, elections and other forms which, by virtue of the Tax Legislation, the Trustee is required to file or issue in respect of each taxation year of the Trust, including the fiscal year ending on termination of the Fund, and any such other returns and forms as may be required under Applicable Law. The Trustee may retain an Advisor in respect of all such returns and other filings, selected in accordance with the Standard of Care, provided that the Trustee shall be deemed to have met the Standard of Care if it retains the auditor of the Trust for such purpose.
- (c) The Trustee shall provide the Company with drafts of all such filings at least 30 days before they are due in order to permit the Company to comment thereon and shall provide copies of all such filings once made, to the Company.
- (d) Where a tax return, election or other form is required to be filed or issued or tax is payable as a result of any action of an Investment Manager, the Investment Manager shall inform the Trustee, the Company, and the Beneficiary in writing that such return or form must be filed or issued or that such tax is payable. To the extent the Trustee is responsible under any Applicable Law for any Tax Obligation and the Trustee does not have the necessary information for the performance of its obligations hereunder, the Company shall promptly upon request provide the Trustee with all information required by the Trustee in respect of such Tax Obligations. The Trustee shall not be required to prepare, file or issue any return or form unless it has the information necessary to prepare, file or issue such return or form.
- (e) The Trustee shall use all reasonable efforts (not including the payment of money), based upon available information, to assist the Company with respect to any Tax Obligations imposed or asserted against the Company which relate to the Fund or the income of the Fund. Provided that the Trustee abides by the Standard of Care, the Trustee shall have no responsibility or liability for any assistance provided to the Company for any Tax Obligations now or hereafter imposed on the Company or the Fund or the Trustee in respect of the Fund by any taxing authorities.

ARTICLE 8 REPORTING AND RECORDKEEPING

8.1 Accounts and Records

The Trustee shall keep and maintain accurate records with respect to the Trust and such records as they relate to the Trust shall be open to inspection during reasonable business hours by persons duly authorized by the Company, or the NEB provided that prior written notice is given to the Trustee and the Trustee may require that such inspection be conducted in the presence of a representative of the Trustee. To the extent the Trustee is legally obligated to permit any persons other than those authorized by the Company, or the NEB to have such access or if the Trustee becomes subject to legal process designed to require or permit such access, the Trustee shall promptly provide the Company with written notice thereof. Except as required by Applicable Law, no person other than the Company, or the NEB or a person acting

by or through any of them shall have the right to demand or be entitled to any accounting in respect of the Fund or to bring any action against the Trustee with respect thereto.

8.2 Reports and Audit

- (a) The Trustee shall appoint an auditor of the Trust.
- (b) The Trustee shall provide financial and other reports to the Company containing such information regarding the Fund and the investment thereof as the Company may from time to time reasonably require in order to fulfill their own recordkeeping and financial reporting functions, at such time or times as the Company may reasonably request.
- (c) Without limiting the generality of subsection 8.2(b), the Trustee shall furnish (or, as applicable, cause the Investment Manager to furnish) to the Company the financial information necessary to complete the annual reporting form that is required to be filed with the NEB by the Trust (as set forth in Appendix XV to the Reasons for Decision in MH-001-2013 released by the NEB in May 2014) within 15 days following the close of each Fiscal Year of the Trust, and within 15 days after the removal or resignation of the Trustee or termination of the Trust.
- (d) The Trustee shall furnish to the Company within 60 days following the close of each Fiscal Year of the Fund or such other period as maybe agreed upon between the Trustee and the Company, and within 60 days after the removal or resignation of the Trustee or termination of the Trust, audited financial statements for the Trust together with a written statement of account setting forth all investments, receipts, disbursements and other transactions effected by it during such period, along with any other information as may be agreed between the Company and the Trustee from time to time.
- (e) Together with the audited financial statements, the Trustee (or, if an Investment Manager has been appointed in respect of the Fund, the Investment Manager) shall provide an annual report to the Company confirming that at no time during the relevant Fiscal Year of the Trust has any part of the Fund been held or invested otherwise than in Qualified Investments.
- (f) The Trustee (or, if applicable with respect to the annual report, the Investment Manager) shall provide drafts of the annual financial statements and annual report referred to in sections 8.2(c) and (d) to the Company for comment at least 15 days before such statements and report are delivered pursuant to such sections.
- (g) The Trustee shall also provide (or cause the Investment Manager to provide) to the Company such other information or reports as may reasonably be requested by the Company from time to time.

ARTICLE 9 FORCE MAJEURE

9.1 Force Majeure

Notwithstanding anything in this Agreement to the contrary, the Trustee shall not be responsible or liable for its failure to perform under this Agreement or for any losses to the Fund resulting from any event beyond the reasonable control of the Trustee through its exercise of the Standard of Care, including but not limited to nationalization, strikes, expropriation, devaluation, seizure, or similar action by any governmental authority, de facto or de jure; or enactment, promulgation, imposition or enforcement by any such governmental authority of currency restrictions, exchange controls, levies or other charges affecting

the Fund's Property; or the breakdown, failure or malfunction of any utilities or telecommunications systems; or any order or regulation of any banking or securities industry including changes in market rules and market conditions affecting the execution or settlement of transactions; or acts of war, terrorism, insurrection or revolution; or acts of God; or any similar or third party event. This section shall survive the termination of this Agreement.

9.2 Business Recovery

The Trustee shall, at all times that this Agreement is in force, maintain a commercially reasonable business recovery programme.

ARTICLE 10 COMPENSATION AND EXPENSES

10.1 Fees and Expenses

Pursuant to section 4.2 and this Article 10, as part of the expenses of the Trust, the Trustee may pay or cause to be paid reasonable fees, costs and expenses incurred in connection with the administration and management of the Trust and in connection with the discharge of any of the Trustee's duties herein at such rates and on such terms and conditions as the Company and the Trustee may from time to time agree in writing, including fees, costs and expenses of Advisors employed by or on behalf of the Trust.

All costs, charges and expenses properly incurred by the Trustee on behalf of the Trust shall be payable out of the Fund unless otherwise expressly provided herein.

The Trustee, and every delegate of the Trustee, including any Investment Manager appointed pursuant to this Agreement, is to ensure that every expense item about to be incurred in the discharge of a Trustee duty or the exercise of a Trustee power is necessarily incurred and is demonstratively reasonable in cost, the intent of such prudence being to maximize the Trust Fund resources that are available for Reclamation Obligations.

10.2 Right to Fees and Expenses

- (a) Upon presentation of an invoice to the Company, the Trustee is authorized to charge to the Trust any and all fees and expenses in connection with services provided by the Trustee hereunder, and any other amounts owing to the Trustee hereunder, on a monthly basis and to deduct such amount from the Trust's assets 30 days after presentation of such invoice or on such earlier date as the Company and Trustee may from time to time agree in a written agreement or instrument unless the Company disputes in writing that any such fee or expense or any portion thereof is due or payable.
- (b) In the event of a dispute between the Trustee and the Company over the amount of fees and expenses, or a part thereof, to which the Trustee is entitled, the Company shall notify the Trustee and, if such notification is received prior to the agreed date of debit, the Trustee shall delay the deduction of the disputed amount and, in any event, the Trustee and the Company shall both work diligently to resolve such dispute. If such dispute cannot be resolved between the parties, then either party may submit the dispute to commercial arbitration, and such arbitration shall be conducted in accordance with the *Arbitration Act (Alberta)*.

**ARTICLE 11
RESPONSIBILITIES OF THE TRUSTEE**

11.1 Investment

The Trustee shall not be responsible for any loss or diminution of the Fund resulting from the making, retention or sale of any investment or reinvestment made by it (or by an Investment Manager appointed, in accordance with the Standard of Care, by the Trustee) in accordance with the Statement of Investment Policies and Procedures as herein provided.

11.2 Fund Administration

The Trustee shall not be responsible for the collection from the Company of Abandonment Charges or any contribution to the Fund or the compliance of the same with Applicable Laws or for the sufficiency of the Fund to meet and discharge any payments and liabilities under the Trust. Subject to Applicable Laws, the Trustee shall have no duty or responsibility for the determination of the amount of, or timing of, any contribution to the Fund.

11.3 Reliance on Advisors

The Trustee shall be permitted to rely upon and shall not be liable for actions taken or omitted to be taken on the advice or information of any expert including legal counsel, auditors, accountants, appraisers, agents or other professional advisors employed as herein provided ("**Advisors**"), provided that the Trustee has met the Standard of Care in the selection and continued retention of such Advisors.

11.4 Survival

The provisions of this Article 11 shall survive the termination of this Agreement and the Trust.

**ARTICLE 12
STANDARD OF CARE**

12.1 Standard of Care

The Standard of Care required of the Trustee in exercising its powers and carrying out its functions under this Agreement shall be that it exercise its powers and carry out its functions hereunder as Trustee honestly, in good faith with a view to the best interests of the Trust and the Beneficiaries and that in connection therewith it exercise that degree of care, diligence and skill that a reasonably prudent professional corporate trustee acting in like capacity would exercise in dealing with the property of another person (collectively, the "**Standard of Care**").

**ARTICLE 13
AMENDMENT AND TERM AND TERMINATION OF THE FUND**

13.1 Amendment

The Company and the Trustee may at any time, and from time to time, by an agreement in writing, amend or modify in whole or in part, any or all of the provisions of this Agreement, provided that:

- (a) no provision of this Agreement shall be deemed waived, amended or modified by any party unless such waiver, amendment or modification is in writing and signed by such party and accepted in writing by the other party;

- (b) no amendment or modification shall be effective to the extent that it is inconsistent with the Trust's purposes as set out in this Agreement;
- (c) the Trustee shall not withhold its consent to any such waiver, amendment or modification requested by the Company in writing unless the Trustee reasonably concludes that it will be adversely affected thereby; and
- (d) no waiver, amendment or modification will be effective without approval by an NEB Decision.

13.2 Termination of the Trust

This Agreement shall have no specific term but shall commence on the date first mentioned above and shall continue until terminated in writing by the Company, with the approval of the NEB.

In the event that

- (a) the Trust ceases to qualify as a Qualifying Environmental Trust, in circumstances other than those contemplated by section 13.3, Surplus Funds, or
- (b) the Trustee is of the view that the period permitted by the perpetuity legislation of Alberta may expire in not more than five years,

then, as soon as practicable,

- (c) if the Company is not in Default, the Trustee shall pay the Fund to the Company, and the Company covenants upon receipt of the Fund, to settle, at once, a new irrevocable trust that qualifies as a Qualifying Environmental Trust upon terms and conditions approved by the NEB (the "New Trust"), and to contribute to the New Trust an amount equal to the value of the Fund, and
- (d) in any other circumstance, the Trustee shall seek directions from the NEB on the successive arrangements which are appropriate in the circumstances in accordance with section 13.4, Trust Irrevocable, and
- (e) thereafter this Agreement and the Trust hereunder shall terminate.

13.3 Surplus Funds

If the Trust is terminated pursuant to ~~Section~~section 13.2~~(b)~~ and Property remains in the Fund after all Reclamation Obligations of the Beneficiaries has been completed and paid for, then the Trustee, with the approval of the NEB, may distribute the Fund or any part thereof among any of the Beneficiaries and if applicable, the Orphan Pipeline Fund, or, where such is the case, a single Beneficiary and the said Orphan Pipeline Fund, selected by the Trustee as the Trustee in its sole discretion sees fit.

13.4 Trust Irrevocable

The Trust may not be revoked by the Company, by the Beneficiaries acting as a whole or by the Trustee. Nonetheless, the NEB in the exercise of its statutory authority may direct the termination of the Trust, and order such successive arrangements as are appropriate in view of fulfilling the purpose of the Trust.

13.5 Sale of the Pipeline or a Portion Thereof

For greater certainty, ~~monies/assets~~ from the Fund may be ~~released or~~ transferred to another ~~qualifying environmental trust~~ Qualifying Environmental Trust in accordance with this Agreement upon the NEB's direction or order, including any such direction or order that is made part of the NEB's direction or order approving the sale, assignment, transfer or other disposition of the Pipeline or a portion thereof from a Beneficiary to another person pursuant to paragraphs 74(1)(a), (b) and (c) of the NEB Act.

13.6 Binding on Successor Company

Unless otherwise agreed, any entity resulting from any merger or consolidation to which the Company, may be a party or which succeeds to the business of the Company, or to which the Pipeline is transferred shall be the successor to the Company, as applicable, hereunder without any further act or formality with like effect as if such successor Company had originally been named as the Company herein.

13.7 Successor Trustee

Any corporation which shall by merger, consolidation, purchase, or otherwise, succeed to substantially all of the business relevant to this Agreement of the Trustee or to which substantially all of the assets of the Trustee relevant to this Agreement may be transferred, shall be the successor to the Trustee as the trustee hereunder, without any further act or formality with like effect as if such successor trustee had originally been named as the trustee herein. As soon as practicable following any such merger, consolidation or transfer, the Trustee or successor trustee, as the case may be, shall provide written notice thereof to the Company agreeing to be bound hereby as Trustee and confirming that the representations of the Trustee remain true and correct in all material respects and that section 2.4 is being and will be complied with together with an opinion of legal counsel satisfactory to the Company confirming compliance with this section to the satisfaction of the Company.

ARTICLE 14 NOTICE

14.1 Notices to the Company

Any notice, demand or other communication under this Agreement to the Company shall be in writing addressed to the Company as follows:

2193914 Canada Limited
500 Consumers Road
North York, Ontario
M2J 1P8

Attention: Tania Persad
Facsimile: (416) 495-5891
Email: tania.persad@enbridge.com

and to any successor Companies or Beneficiaries at the address first provided by them to the Trustee in accordance with this Article.

14.2 Notices to Trustee

Any notice, demand or other communication under this Agreement to the Trustee shall be in writing addressed to the Trustee as follows:

CIBC Trust Corporation
301 8th Avenue SW, Third Floor
Hollingsworth Building
Calgary, Alberta
T2P 1C5

Attention: Faith Gwatidah
Facsimile: (403) 221-2458
Email: Faith.Gwatidah@CIBC.com

14.3 Address of the NEB

Any communication with the NEB shall be addressed to the NEB as follows:

Secretary
National Energy Board
517 Tenth Avenue SW
Calgary, Alberta
T2R 0A8

14.4 Delivery

Notices, demands or other communications given pursuant to this Article 14 may be sent by personal delivery (including courier) during business hours or may be sent by ordinary mail, by facsimile or by email. Such notice shall be deemed to have been delivered at the time of personal delivery, or on the fifth (5th) Business Day following the day of mailing (unless delivery by mail is likely to be delayed by strike or slowdown of postal workers, in which case it shall be deemed to have been given when it would be delivered in the ordinary course of the mail allowing for such strike or slowdown), if sent by facsimile, on the day of receipt if sent before 3:00 p.m. (local time of the recipient) on a Business Day or on the next Business Day if sent after 3:00 p.m. or not on a Business Day, or if transmitted by email, will be deemed to have been received when the sender has received confirmation of receipt from the recipient by return email or other reliable means.

14.5 Notice of Change of Address

Any person mentioned in sections 14.1, 14.2 or 14.3 may change its address for notices hereunder by giving notice to the other such persons in the manner set forth in this Article.

ARTICLE 15 MISCELLANEOUS

15.1 Power and Authority

Each party represents that it has the power and authority to enter into and perform its obligations under this Agreement, that the person or persons signing this Agreement on behalf of the named party are properly authorized and empowered to sign it and that the Agreement is valid and binding on the party and enforceable against the party in accordance with its terms. The Trustee represents and warrants that it meets the qualifications set forth in section 3.2 hereof and agrees that it will continue to so qualify so long as it remains the Trustee hereunder.

15.2 Entire Agreement

This Agreement as from time to time amended, supplemented or restated shall constitute the entire agreement between the parties with respect to all matters regarding the Trust.

15.3 Invalidity/Unenforceability

If any of the provisions of this Agreement becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

15.4 Necessary Parties

The Trustee reserves the right to seek a judicial or administrative determination as to its proper course of action under this Agreement. To the extent permitted by Applicable Laws, only the Trustee, and the Company shall be necessary parties in any application to the Courts for an interpretation of this Agreement, and no other person having any interest in the Fund shall be entitled to any notice or service of process. Any final judgment entered in such an action or proceeding shall, to the extent permitted by law, be conclusive upon all persons.

15.5 Execution In Counterparts

This Agreement may be executed by facsimile and in counterpart execution, with each such counterpart deemed to be an original and the counterparts taken together, constituting one and the same Agreement. Notwithstanding the foregoing, the parties agree to exchange one fully executed original copy within a reasonable period of time after counterpart execution.

15.6 Governing Law

This Agreement shall be construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. The parties hereto irrevocably submit and attorn to the jurisdiction of the courts of the Province of Alberta.

15.7 Review of Agreement

This Agreement shall be reviewed by the parties and the NEB at least every five years, or earlier if directed by the NEB.

[Remainder of page left intentionally blank; signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above by their duly authorized officers.

2193914 CANADA LIMITED

CIBC TRUST CORPORATION

By: _____
Name:
Title:

By: _____
Name: Arlene McGuire
Title: Director – Fiduciary Risk

By: _____
Name: Allison Ferrer
Title: Corporate Secretary

By: _____
Name: Mario Fruci
Title: Senior Trust Officer
Estate, Trust & Agency Services Group

APPENDIX A - DESCRIPTION OF PIPELINE

The pipeline owned by 2193914 Canada is located in Ontario and comprises 43.4 km of NPS 24 (610 mm) pipe. The pipeline extends from the City of Mississauga, through the City of Brampton, and into the City of Vaughan. A map of the 2193914 Canada system is provided below.

APPENDIX B - INITIAL CONTRIBUTION

The 2193914 Pipeline Abandonment Trust will be established upon the initial contribution of \$100.00 to the Trust.

APPENDIX C - QUALIFIED INVESTMENT

The relevant paragraphs of the definition of "qualified investment" in section 204 currently read as follows:

- (a) money (other than money the fair market value of which exceeds its stated value as legal tender in the country of issuance or money that is held for its numismatic value) and deposits (within the meaning assigned by the *Canada Deposit Insurance Corporation Act* or with a branch in Canada of a bank) of such money standing to the credit of the trust;
- (b) debt obligations described in paragraph (a) of the definition "fully exempt interest" in subsection 212(3) [being a bond, debenture, note, mortgage, hypothecary claim or similar debt obligation
 - (i) of, or guaranteed (otherwise than by being insured by the Canada Deposit Insurance Corporation) by, the Government of Canada,
 - (i i) of the government of a province,
 - (i i i) of an agent of a province,
 - (i v) of a municipality in Canada or a municipal or public body performing a function of government in Canada,
 - (v) of a corporation, commission or association to which any of paragraphs 149(1)(d) to (d.6) applies, or
 - (v i) of an educational institution or a hospital if repayment of the principal amount of the obligation and payment of the interest is to be made, or is guaranteed, assured or otherwise specifically provided for or secured by the government of a province];
- (c) debt obligations issued by
 - (i) a corporation, mutual fund trust or limited partnership the shares or units of which are listed on a designated stock exchange in Canada,
 - (i i) a corporation the shares of which are listed on a designated stock exchange outside Canada, or
 - (i i i) an authorized foreign bank and payable at a branch in Canada of the bank, (c.1) debt obligations that meet the following criteria, namely,
 - (i v) any of
 - A. the debt obligations had, at the time of acquisition by the trust, an investment grade rating with a prescribed credit rating agency,
 - B. the debt obligations have an investment grade rating with a prescribed credit rating agency, or
 - C. the debt obligations were acquired by the trust in exchange for debt obligations that satisfied the condition in clause (A) and as part of a proposal to, or an arrangement with, the creditors of the issuer of the debt obligations that has been approved by a court under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act*, and


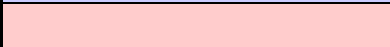

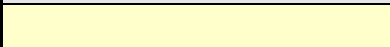

- (v) either:
 - A. the debt obligations were issued as part of a single issue of debt of at least \$25 million, or,
 - B. in the case of debt obligations that are issued on a continuous basis under a debt issuance program, the issuer of the debt obligations had issued and outstanding debt under the program of at least \$25 million,
- (d) securities (other than futures contracts or other derivative instruments in respect of which the holder's risk of loss may exceed the holder's cost) that are listed on a designated stock exchange, and
- (e) guaranteed investment certificates issued by a trust company incorporated under the laws of Canada or of a province.

The definition of "prohibited investment" in subsection 211.6(1) reads as follows: "prohibited investment", of a trust at any time, means a property that

- (a) at the time it was acquired by the trust, was described by any of paragraphs (c), (c.1) or (d) of the definition "qualified investment" in section 204; and
- (b) was issued by:
 - (i) a person or partnership that has contributed property to, or that is a beneficiary under, the trust,
 - (i i) a person that is related to, or a partnership that is affiliated with, a person or partnership that has contributed property to, or that is a beneficiary under, the trust, or
 - (i i i) a particular person or partnership if:
 - A. another person or partnership holds significant interest (within the meaning assigned by subsection 207.01(4) with any modifications that the circumstances require) in the particular person or partnership, and
 - B. the holder of that significant interest has contributed property to, or is a beneficiary under, the trust.

Document comparison by Workshare Compare on 24-Aug-15 4:05:52 PM

Input:	
Document 1 ID	interwovenSite://NDCDMS01.LAW.FIRM/NATDOCS/15499832/1
Description	#15499832v1<NATDOCS> - 2193914 Canada Limited - CIBC Trust Agreement
Document 2 ID	interwovenSite://NDCDMS01.LAW.FIRM/NATDOCS/15499832/2
Description	#15499832v2<NATDOCS> - v2 2193914 Canada Limited - CIBC Trust Agreement
Rendering set	Dentons Standard

Legend:	
	<u>Insertion</u>
	Deletion
	Moved from
	<u>Moved to</u>
	Style change
	Format change
	Moved deletion
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	40
Deletions	25
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	65

