

BRUNSWICK PIPELINE RECLAMATION TRUST AGREEMENT

made as of

the 2nd day of September, 2014

between

Emera Brunswick Pipeline Company Ltd.

and

Royal Trust Corporation of Canada

governing the Trust Fund

in respect of the

Reclamation of the Brunswick Pipeline

TABLE OF CONTENTS

ARTICLE I INTERPRETATION	2
1.1 DEFINITIONS	2
1.2 SINGULAR, PLURAL AND GENDER.....	6
1.3 HEADINGS	6
1.4 CONSULTATION	7
ARTICLE II ESTABLISHMENT AND ACCEPTANCE OF TRUST FUND; APPOINTMENT OF TRUSTEE AS CUSTODIAN.....	7
2.1 ESTABLISHMENT OF TRUST FUND, APPOINTMENT OF TRUSTEE AND CUSTODIAN, AND ACCEPTANCE OF TRUST	7
2.2 PURPOSE OF THE PRT	7
2.3 SITUS, MIND AND MANAGEMENT.....	8
2.4 QUALIFYING ENVIRONMENTAL TRUST	8
ARTICLE III DISTRIBUTIONS.....	8
3.1 DISBURSEMENT OF FUNDS.....	8
3.2 PAYMENTS FROM THE TRUST FUND	9
3.3 SALE OF THE PIPELINE OR A PORTION THEREOF	9
ARTICLE IV CONCERNING THE TRUSTEE	9
4.1 FULL POWER AND AUTHORITY.....	9
4.2 DUTIES AND RESPONSIBILITIES OF THE TRUSTEE	9
4.3 NO IMPLIED DUTIES.....	10
4.4 STANDARD OF CARE	10
4.5 TRUSTEE LIMITATION OF LIABILITY	11
4.6 INDEMNIFICATION	11
ARTICLE V POWERS OF THE TRUSTEE.....	12
5.1 POWERS OF THE TRUSTEE.....	12
5.2 SELF-DEALING.....	14
5.3 LIMITATIONS - BORROWING	15
ARTICLE VI TAX OBLIGATIONS	15
6.1 TAX OBLIGATIONS.....	15
ARTICLE VII REPORTING AND RECORD KEEPING.....	16
7.1 ACCOUNTS AND RECORDS.....	16
7.2 REVIEW OF REPORTS	17
7.3 CONTRACTUAL INCOME	17
7.4 CONTRACTUAL SETTLEMENT	17
ARTICLE VIII THIRD PARTIES	17
8.1 LIABILITY FOR AGENTS	17
8.2 RIGHTS OF AGENTS.....	18
8.3 SUBCUSTODIANS.....	18
8.4 DEPOSITORIES.....	18

ARTICLE IX CONCERNING THE COMPANY, THE CONTRIBUTOR AND THE PRIMARY BENEFICIARY..... 18

9.1 FULL POWER AND AUTHORITY..... 18

9.2 RESPONSIBILITIES OF THE CONTRIBUTOR AND PRIMARY BENEFICIARY..... 18

ARTICLE X INVESTMENTS 19

10.1 INVESTMENT OF TRUST FUND 19

10.2 APPOINTMENT OF INVESTMENT MANAGER..... 19

10.3 CASH BALANCES 20

10.4 SETTLEMENT OF TRANSACTIONS..... 20

ARTICLE XI COMMUNICATIONS..... 20

11.1 AUTHORIZED PARTIES 20

11.2 AUTHORIZED INSTRUCTIONS 20

11.3 ERRORS, OMISSIONS IN AUTHORIZED INSTRUCTIONS 21

11.4 METHODS OF COMMUNICATION 21

11.5 DEEMED DELIVERY 22

ARTICLE XII RESIGNATION, REMOVAL, APPOINTMENT OF SUCCESSOR, QUALIFICATIONS, AND REMUNERATION OF TRUSTEE..... 22

12.1 RESIGNATION..... 22

12.2 REMOVAL WITHOUT NOTICE 23

12.3 REMOVAL WITH NOTICE 23

12.4 SUCCESSOR TRUSTEE 23

12.5 OBLIGATIONS UPON RESIGNATION OR REMOVAL 24

12.6 QUALIFICATIONS OF TRUSTEE..... 24

12.7 FEES AND EXPENSES..... 24

ARTICLE XIII AMENDMENT AND TERMINATION..... 24

13.1 AMENDMENT 24

13.2 TERMINATION OF THE TRUST FUND AND DISTRIBUTION OF SURPLUS..... 24

13.3 MERGER OF THE TRUST FUND 26

13.4 DIVISION OF THE TRUST FUND 26

13.5 BINDING ON SUCCESSOR CONTRIBUTOR OR BENEFICIARY 26

ARTICLE XIV DEFAULT 27

14.1 DEFAULT..... 27

ARTICLE XV MISCELLANEOUS..... 27

15.1 NECESSARY PARTIES 27

15.2 NO THIRD PARTY BENEFICIARIES 27

15.3 SEVERANCE OF ILLEGAL OR INVALID PROVISION 27

15.4 RIGHT NOT TO ACT..... 28

15.5 ASSIGNMENT..... 28

15.6 CONFIDENTIALITY AND PRIVACY 28

15.7 EXECUTION IN COUNTERPARTS 29

15.8 GOVERNING LAW 29

15.9 FORCE MAJEURE..... 29

15.10 BUSINESS RECOVERY PLAN..... 29

15.11 REVIEW OF AGREEMENT 29

15.12 RESIDENCE..... 29

15.13 ENTIRE AGREEMENT..... 29

APPENDIX A: DESCRIPTION OF THE PIPELINE

APPENDIX B: QUALIFIED INVESTMENTS

**APPENDIX C: AUTHORIZED INSTRUCTION WITH RESPECT TO RECLAMATION
WORK CERTIFICATE FOR THE BRUNSWICK PIPELINE
RECLAMATION TRUST**

THIS TRUST AGREEMENT (the "**Agreement**") is made as of the 2nd day of September, 2014.

BETWEEN:

EMERA BRUNSWICK PIPELINE COMPANY LTD., a company
subsisting under the laws of Canada (hereinafter referred to as the
"**Company**")

OF THE FIRST PART

AND:

ROYAL TRUST CORPORATION OF CANADA, a trust company
subsisting under the laws of Canada, (hereinafter referred to as the
"**Royal Trust**")

OF THE SECOND PART

WHEREAS:

- A. the Company holds the regulatory authorization allowing it to operate the pipeline commonly known as the "Brunswick Pipeline" (the "**Pipeline**"), as described in Appendix "A" to this Agreement;
- B. the Pipeline is subject to regulation by the National Energy Board under the *National Energy Board Act* (Canada) ("the **NEB Act**");
- C. on 26 May 2009 the National Energy Board (the "**NEB**") issued the RH-2-2008 Reasons for Decision, which required each person holding an authorization to operate a pipeline under the NEB Act or the *Canada Oil and Gas Operations Act* (Canada) 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. the NEB has ordered the Company to set aside funds using a trust structure to pay for the reclamation obligations in respect of the sites in Canada used by the Company for the operation of the Pipeline;
- E. in satisfaction of the requirements of the NEB, the Company has created the Brunswick Pipeline Reclamation Trust and accompanying Appendices (the "**PRT**") for the benefit of the Beneficiaries, as defined in Article I, for the purpose of funding its Reclamation Obligations, as defined herein, in relation to the Pipeline;
- F. Royal Trust has agreed to hold the reclamation funds in accordance with the terms and conditions of this Agreement and the NEB has approved the appointment of Royal Trust as Trustee; and
- G. the Company and the Trustee intend that the PRT will constitute a Qualifying Environmental Trust, as defined in Article I.

NOW THEREFORE, the parties each intending to be legally bound, hereby covenant and agree as follows:

ARTICLE I
INTERPRETATION

1.1 Definitions

In this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the meanings ascribed to them below:

- Abandon and Abandonment:** shall, with respect to the Pipeline, have the meanings ascribed to them by the *Onshore Pipeline Regulations*, as amended from time to time, pursuant to the NEB Act.
- Affiliate:** shall mean, with respect to a party, that party's affiliated companies within the meaning of the *Canada Business Corporations Act*.
- Agent:** shall have the meaning ascribed thereto by section 5.1.7.
- Agreement:** shall mean this agreement, including any and all amendments and appendices hereto and thereto.
- Annual Contribution Amount** shall mean the amount collected annually to fund future Reclamation Obligations.
- Applicable Laws:** shall mean all existing or future Canadian federal, provincial, territorial or non-Canadian laws, statutes and regulations applicable to the Trustee or the PRT and all orders or binding directives made under statutory authority by any governmental or regulatory body having jurisdiction over the PRT.
- Authorized Instructions:** shall mean all directions and instructions from any person or entity properly identified to the Trustee in accordance with section 11.1, respecting payments from and distributions of the Trust Fund to a Beneficiary for Reclamation Work, provided in accordance with sections 11.2.2 and 11.4, the form of which is attached as Appendix C hereto.
- Beneficiary:** shall mean: (a) any person that has Reclamation Obligations in respect of the Pipeline from time to time, including initially the Company, provided that for greater certainty any such person shall lose its status as a Beneficiary when the NEB notifies the Trustee in writing that such person no longer has Reclamation Obligations; (b) an Orphan Pipeline Fund; and (c) the Crown in right of Canada.
- Business Day:** shall mean any day on which the Toronto Stock Exchange is open for business.
- Business Recovery Plan:** shall mean a plan or program to ensure the continued availability of essential services, operations and programs, including all applicable resources, which plans are activated during, or immediately after, an emergency or disruption and are aimed at permitting the rapid and cost effective resumption of critical functions.
- Company:** shall mean the first party specified above.

- Consequential Losses:** shall have the meaning ascribed thereto by section 4.6.1.
- Contributor:** shall mean the Company in its capacity as the initial contributor of Reclamation Charges pursuant to section 2.1.4, and any other party which from time to time is obliged by NEB order or direction to contribute Reclamation Charges.
- Deactivate and Deactivation:** shall, with respect to the Pipeline, have the meanings ascribed to them by the *Onshore Pipeline Regulations*, as amended from time to time, pursuant to the NEB Act.
- Decommission and Decommissioning:** shall, with respect to the Pipeline, have the meanings ascribed to them by the *Onshore Pipeline Regulations*, as amended from time to time, pursuant to the NEB Act.
- Default:** shall have the meaning ascribed thereto in Article XIV.
- Depository:** shall mean any authorized domestic or foreign depository or clearing or settlement agency or system, including a transnational book-based system, and shall include The Canadian Depository for Securities Limited and The Depository Trust Company.
- Event of Default:** shall mean, with respect to the Contributor, the Contributor failing to contribute to the PRT Reclamation Charges in accordance with NEB order or direction, until such Reclamation Charges have been so contributed, and means with respect to a particular Beneficiary, that such Beneficiary has failed to comply with any of its material duties hereunder, and such failure has continued for 90 days after receipt of written notice thereof, or upon such Beneficiary becoming insolvent, for so long as such insolvency continues, provided that insolvency shall be deemed to occur in the following circumstances:
- (a) a judgment, decree or order of a court of competent jurisdiction is entered against such Beneficiary: (i) adjudging such Beneficiary 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; (ii) appointing a receiver, trustee, liquidator, or other person with like powers, over all, or substantially all, of the property of such Beneficiary; (iii) ordering the involuntary winding up or liquidation of the affairs of such Beneficiary; or (iv) appointing any receiver or other person with like powers over all, or substantially all, of the property of such Beneficiary unless, in any such case, such judgment, petition, order or appointment is stayed within 30 days of its entry;
 - (b) an order or a resolution is passed for the dissolution, winding-up, reorganization or liquidation of such Beneficiary;
 - (c) such Beneficiary 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;

- (d) such Beneficiary consents to the filing of any petition under any such law or to the appointment of a receiver, or other person with like powers, over all, or substantially all, of any of their property;
- (e) such Beneficiary makes a general assignment for the benefit of creditors, or becomes unable to pay its debts generally as they become due or its liabilities are greater than the value of its assets;
- (f) such Beneficiary takes or consents to any action in furtherance of any of the aforesaid purposes; or
- (g) such Beneficiary ceases or proposes to cease carrying on business, or a substantial part thereof, or makes or threatens to make a bulk sale of its property, provided that any shutdown of facilities for maintenance purposes will not constitute a ceasing or threatening to cease to carry on business, and provided further that a proposal to cease carrying on business shall not be deemed insolvency if such proposal is in relation to the Beneficiary's final Reclamation Work of the last remaining Pipeline which such Beneficiary is responsible to abandon in relation to the Trust Fund.

Fiscal Year: shall mean with respect to the Trust Fund, 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.

Investment Manager: shall mean any person appointed by the Trustee pursuant to section 10.2 hereof to manage the investment of all or a portion of the Trust Fund. In the event that an Investment Manager has not been appointed to manage the investment of all or any portion of the Trust Fund, the Trustee shall be deemed to have assumed the responsibilities of an Investment Manager in respect of such portion of the Trust Fund.

NEB: shall mean the National Energy Board, established pursuant to the NEB Act, or any successor to the National Energy Board.

NEB Act: shall mean the *National Energy Board Act* (Canada), as amended from time to time.

Orphan Pipeline Fund: shall mean a not-for-profit organization established pursuant to a statute of the Parliament of Canada the purpose of which includes paying any part of the cost to Abandon, Deactivate, and Decommission a pipeline constructed or operated under a statute of the Parliament of Canada.

Person: includes a partnership.

- Pipeline:** shall have the meaning ascribed thereto in Appendix A hereof.
- Primary Beneficiary:** shall mean the Beneficiary that, from time to time, has the most significant Reclamation Obligation with respect to the Pipeline, as designated by the NEB in writing to the Trustee, provided that the Company shall be the Primary Beneficiary until such time as the NEB notifies the Trustee in writing that another Beneficiary is the Primary Beneficiary.
- Property:** shall mean all tangible and intangible assets and rights of any nature or type and includes without limitation cash and Qualified Investments.
- PRT:** shall have the meaning ascribed thereto by recital E above.
- Qualifying Environmental Trust:** shall have the meaning ascribed thereto in section 211.6 of the Tax Act, or any successor provision thereto, as amended and/or restated from time to time.
- Qualified Investments:** shall mean all or any of those investments that from time to time are qualified investments for a "qualifying environmental trust" as defined in the Tax Act, and for greater certainty, such investments on the date hereof include only those types of property described in paragraphs (a), (b), (c), (c.1), (d), and (f) of the definition of "qualified investment" in section 204 of the Act that are not a "prohibited investment" as defined in subsection 211.6(1) of the Tax Act, and as described in Appendix B hereto.
- Reclamation Charges:** shall mean the Annual Contribution Amount.
- Reclamation Obligation:** shall mean with respect to the Site, the duty to:
- (a) carry out the Abandonment, Decommissioning or Deactivation of the Pipeline; including without limitation the obligation to satisfy any conditions imposed by the NEB in any order or direction approving such Decommissioning or Deactivation or granting leave to Abandon the Pipeline;
 - (b) develop Abandonment plans with respect to the Pipeline, and prepare applications for leave to Abandon or for approval of the Deactivation or Decommissioning of the Pipeline; and
 - (c) carry out post-abandonment monitoring and remediation of the Pipeline, where post-abandonment refers to the period of time after the conditions of an order or direction issued by the NEB granting leave to Abandon have been satisfied.
- Reclamation Work:** shall mean all activities reasonably necessary, incidental or related to the satisfaction of Reclamation Obligations.
- Reclamation Work Certificate:** shall mean the certificate set out in Appendix C to this Agreement.
- Royal Trust:** shall mean the second party specified above.

- Site:** shall mean any location or locations in Canada used primarily for the operation of the Pipeline.
- Standard of Care:** shall have the meaning ascribed thereto in section 4.4.
- Statement of Investment Policies and Procedures:** shall mean a written statement of investment policies and procedures approved by the Primary Beneficiary prior to implementation, in respect of the Trust Fund's portfolio of investments, and shall set out broad policies and procedures for the Qualified Investments of the Fund, which may include: categories of investments; diversification of the investment portfolio; asset mix and rate of return expectations; liquidity of investments; the retention or delegation of voting rights acquired through Fund investments; and the method of, and basis for, the valuation of investments.
- Tax Act:** shall mean the *Income Tax Act*, RSC 1985, c 1 (5th Supp), as amended from time to time.
- Tax Obligations:** shall mean taxes, fees, premiums, assessments, levies, and other charges of any kind whatsoever, including all interest, penalties, fines, additions to tax or other additional amounts imposed in respect thereof, and further including without limitation those levied on, or measured by, or referred to as income, gross receipts, profits, capital, transfer, land transfer, goods and services, harmonized sales, use, value-added, stamp, withholding, premium, taxes on insurance premiums, business, property, ad valorem, surtaxes, and registration fees.
- Trustee:** shall mean a trust company that is (a) resident in Canada for purposes of the Tax Act; (b) licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, including for greater certainty under the *Trust and Loan Companies Act* (Canada); (c) and appointed under this Agreement to hold the office of trustee, and shall initially be Royal Trust.
- Trust Fund:** shall mean the Property held pursuant to this Agreement as shall exist from time to time together with any earnings, profits, increments and accruals arising therefrom, including all amounts delivered to and accepted by the Trustee from any prior trustee or Contributor, less any amounts properly paid or distributed in accordance with the terms of this Agreement or otherwise.

1.2 Singular, Plural and Gender

Whenever the singular, plural, masculine, feminine, neuter or body corporate is used in this Agreement, the same shall be construed as meaning the singular, plural, masculine, feminine, neuter or body corporate where the facts, context or contents so requires.

1.3 Headings

The headings used in this Agreement are included solely for convenience of reference, and shall not in any way affect the interpretation of the provisions of this Agreement.

1.4 Consultation

Where the Trustee is required in this Agreement to consult with a Beneficiary in respect of a decision, the Trustee shall, irrespective of the outcome of such consultation, retain the discretion otherwise provided in this Agreement.

ARTICLE II ESTABLISHMENT AND ACCEPTANCE OF TRUST FUND; APPOINTMENT OF TRUSTEE AS CUSTODIAN

2.1 Establishment of Trust Fund, Appointment of Trustee and Custodian, and Acceptance of Trust

- 2.1.1 By the payment of a Ten (\$10.00) Dollar Canadian bill bearing serial number FTC6813572 to the Trustee, the receipt and sufficiency of which the Trustee acknowledges, the Company hereby establishes the PRT with the Trustee and hereby appoints the Trustee as trustee of the PRT consisting solely of such Property as shall from time to time be paid or delivered to the Trustee with respect to the PRT.
- 2.1.2 The Trustee hereby agrees to be the trustee of the PRT and the Trustee hereby accepts the trust herein set out and agrees to hold, invest, distribute and administer the PRT and the Trust Fund upon the terms and conditions of this Agreement.
- 2.1.3 The Trustee shall have no liability or responsibility for any Property until it is in fact received by it or any subcustodian.
- 2.1.4 The Contributor shall contribute the Reclamation Charges to the PRT as required by NEB order or direction. Contributions made by the Contributor shall be irrevocable and shall not revert to the Contributor except as otherwise provided by this Agreement.
- 2.1.5 The Trustee shall establish a custody account or accounts in the name of the Trustee or the subcustodian appointed under this Agreement, for the account of the Trust Fund in which the Trustee shall deposit or cause to be deposited the Property of the Trust Fund as the Trustee may from time to time determine.

2.2 Purpose of the PRT

- 2.2.1 The sole purpose of the PRT is to provide the funds necessary to carry out Reclamation Work.
- 2.2.2 Until such Reclamation Work is complete, to the maximum extent permitted by Applicable Laws, and subject to section 2.4, the PRT shall be administered so that all contributions to and income or gains of the PRT shall only be used to:
 - (a) accumulate and disburse the funds required to defray all costs incurred with respect to carrying out Reclamation Work;
 - (b) compensate the Trustee or its Agents (in accordance with an agreement entered into between the Trustee and the Primary Beneficiary) for services rendered or expenses incurred in accordance with this Agreement; and

- (c) discharge the PRT's Tax Obligations.

2.3 Situs, Mind and Management

The Trustee shall:

- 2.3.1 manage and administer the affairs of the PRT from one or more of its offices in the Province of Alberta;
- 2.3.2 only appoint trust officers who are resident in Alberta to have authority to make investment or administrative decisions respecting the Trust Fund;
- 2.3.3 to the extent reasonably possible, only appoint Agents who shall manage and administer the affairs of the PRT from offices in the Province of Alberta and shall comply with section 2.3.2 *mutatis mutandis*, and in any event, only delegate authority with regard to material investment or administrative decisions respecting the Trust Fund to Agents who shall manage the affairs of the PRT from office in the Province of Alberta and shall comply with section 2.3.2 *mutatis mutandis*;
- 2.3.4 hold meetings as required concerning the affairs of the PRT, hold all such meetings in the Province of Alberta, and keep appropriate minutes of such meetings;
- 2.3.5 keep all books and records pertaining to the Trust Fund in the Province of Alberta; and
- 2.3.6 take all other such steps as are reasonably possible to maintain the situs, mind and management of the PRT in the Province of Alberta.

2.4 Qualifying Environmental Trust

- 2.4.1 It is the express intention of the parties that the PRT settled hereby constitutes a Qualifying Environmental Trust as defined in the Tax Act, and this Agreement shall be read and interpreted to the greatest extent possible to comply with such definition. The Company, the Contributor, the Primary Beneficiary and the Trustee shall take (or avoid taking, as the case may be) all actions as are reasonably possible and as may be required to ensure that the PRT is a Qualifying Environmental Trust.
- 2.4.2 Any amendments to this Agreement that are required in order for the PRT to constitute a Qualifying Environmental Trust, shall be deemed to have been made as of the day and year first written above, to the extent that such amendments do not render the PRT in breach of any other Applicable Laws.

ARTICLE III
DISTRIBUTIONS

3.1 Disbursement of Funds

The Trustee shall only disburse funds from the Trust Fund:

- 3.1.1 to a Beneficiary, solely for the purpose described in section 2.2.1, provided that the Trustee is in receipt of an NEB order and Authorized Instructions from the Primary

Beneficiary that comply with Article XI, including without limitation section 11.2.2 and Appendix C hereto;

- 3.1.2 to any third party designated by the NEB, for the purpose described in section 2.2.1, provided that the Trustee is in receipt of a written direction or an order from the NEB, with such direction or order confirming the amount to be disbursed from the Trust Fund, and the timing of the disbursement; or
- 3.1.3 to the maximum extent permitted by Applicable Laws (for greater certainty, subject to the Trustee having received notice pursuant to section 9.2.3) and subject to section 2.4, to pay such other amounts described in paragraphs (b) and (c) of section 2.2.2.

3.2 Payments from the Trust Fund

Upon payment being made by the Trustee pursuant to this Article III, the Property removed from the Trust Fund thereby shall no longer constitute a part of the Trust Fund.

3.3 Sale of the Pipeline or a Portion Thereof

The Trustee shall distribute the Trust Fund or a portion thereof in accordance with any order or direction from the NEB in connection with a sale, transfer or other disposition of the Pipeline, or an interest therein, or a portion thereof.

ARTICLE IV CONCERNING THE TRUSTEE

4.1 Full Power and Authority

The Trustee represents and warrants that it has full power and authority to enter into this Agreement, and to perform all of its obligations hereunder.

4.2 Duties and Responsibilities of the Trustee

In administering and investing the Trust Fund, the Trustee shall:

- 4.2.1 **Custody of the Trust Fund.** Hold as custodian or appoint or cause to be appointed domestic or foreign subcustodians as to part or all of the Trust Fund.
- 4.2.2 **Recording of Assets.**
 - (a) Register the Property of the Trust Fund in its own name as Trustee, or in the names of its nominees or in the name of, or nominees of, any subcustodian or sub-subcustodian appointed under this Agreement or of any Depository authorized under this Agreement, or hold the investment in bearer form if the investment is not registrable or if it would not be in the best interest of the Beneficiaries of the Trust Fund to do otherwise.
 - (b) Clearly record all assets of the Trust Fund at all times and in all circumstances in the books and records of the Trustee so as to show that the beneficial ownership of such assets is vested in the Beneficiaries.

- (c) Where any Property of the Trust Fund is held by a subcustodian, identify in the books and records of the Trustee that such Property is being held on behalf of the Trust Fund by that subcustodian.

4.2.3 **Segregation of Trust Funds.** Keep the Trust Fund distinct from its own assets and from those of any other person in the accounts and records kept by the Trustee and, if for any reason, the assets of the Trust Fund should become mixed with the assets of the Trustee in the books and records kept by the Trustee, the entire resulting mixed fund shall be deemed to be held by the Trustee in trust hereunder to the extent necessary to satisfy the Trust Fund's claim on such mixed fund. The Trustee may, however, through the use of a Depository authorized pursuant to this Agreement, commingle the Trust Fund with assets of other customers of the Trustee (but not with assets held for the Trustee's own account), in which case the Beneficiaries shall be entitled, in common with those other customers, to its proportionate share of assets so held and/or the rights thereto.

4.2.4 **Collection of Income and Proceeds.** Take all reasonable steps to collect and receive all income, principal, dividends and other payments and distributions due to the Trust Fund, promptly credit all such receipts received by it to the Trust Fund and sign on behalf of the Trust Fund 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 Property, which may mature, provided that whenever any Property offers the Trustee the option of receiving dividends in shares or cash, the Trustee is authorized to select the cash option, provided that the Trustee shall not be responsible for the failure to receive payment of (or late payment of) distributions with respect to the Property held in the Trust Fund.

4.2.5 **Appointment of Agents.** Meet the Standard of Care with respect to the selection, appointment, supervision and continued retention of any Agent it retains, and shall cause each Agent to agree to comply with a commercially reasonable standard of care that is as analogous as reasonably possible in the circumstances to the Standard of Care.

4.3 **No Implied Duties**

The Trustee shall have only such duties and responsibilities as are specifically set forth in this Agreement and in accordance with Applicable Laws.

4.4 **Standard of Care**

In exercising its powers and performing its duties hereunder, the Trustee shall act honestly and in good faith with the degree of care and diligence that a Canadian trust company would exercise in dealing with similar property of another person and shall employ all relevant knowledge and skill which the Trustee possesses or ought to possess by reason of its profession or business (the "**Standard of Care**"). For greater certainty, any exclusion or limitation or relief or protection from liability, duty or responsibility described elsewhere in the Agreement shall not absolve the Trustee of its responsibility to adhere to the Standard of Care, except where the Trustee is acting in accordance with the substance of Authorized Instructions and has complied with the Standard of Care with respect to the carrying out of same.

4.5 Trustee Limitation of Liability

- 4.5.1 **Trust Fund Losses.** The Trustee shall not be liable for any loss to or diminution of the Trust Fund resulting from:
- (a) subject to section 4.6.2, any act or omission of the Trustee in connection with the affairs of the Trust Fund;
 - (b) breach of any Applicable Law respecting which the Trustee has not received notice as provided by section 9.2.2; or
 - (c) the failure of the Contributor or Primary Beneficiary to provide notice of a change in the Contributor or Primary Beneficiary's relationships with certain parties in accordance with section 9.2.4.
- 4.5.2 Contributions to PRT.
- (a) The Trustee shall have no duty or responsibility for:
 - (i) determining the amount or timing of, or
 - (ii) collecting from the Contributor,the Reclamation Charges or any other contribution, or for the compliance of same with Applicable Laws.
- 4.5.3 **Sufficiency of Funds.** Subject to section 4.6.2, the Trustee shall not be responsible for the sufficiency of the Trust Fund to meet and discharge any payments and liabilities under the PRT.
- 4.5.4 **Trustee Not to Expend Own Funds.** For greater certainty, subject to section 4.6.2, no provision of this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.
- 4.5.5 **Non Fund Assets.** The duties of the Trustee shall be limited to the Property held in the Trust Fund, and the Trustee shall have no duties or obligations with respect to Property held by any other person including, without limitation, any other trustee for the PRT. The Primary Beneficiary hereby acknowledges that the Trustee shall not serve as, and shall not be deemed to be, a co-trustee under any circumstances.
- 4.5.6 **Survival.** The provisions of this section 4.5 shall survive the termination of this Agreement and the Trust Fund.

4.6 Indemnification

- 4.6.1 **Indemnification of Trustee.** The Trustee and its respective officers, directors, employees and agents are hereby indemnified and held harmless by the Trust Fund, and to the extent the assets of the Trust Fund are insufficient to pay such indemnification, by the Contributor and Beneficiaries, as applicable, from any and all taxes, claims, liabilities, damages, costs and expenses of any kind, including

reasonable legal and expert's fees and expenses (but excluding "**Consequential Losses**", which term shall be interpreted as including, but not be limited to, loss of profit, loss of revenue, and loss of opportunity) arising out of:

- (a) the performance of its or their obligations, as applicable, under this Agreement, except as a result of a breach of the Standard of Care or failure to comply with the terms of this Agreement; or
- (b) the Trustee relying and acting in accordance with Authorized Instructions, except as a result of a breach of the Standard of Care with respect to the execution of same.

4.6.2 **Indemnification of Contributor and Beneficiaries.** Subject to sections 4.5.1(b), 4.5.1(c) and 4.5.2, the Trustee hereby indemnifies and holds harmless the Contributor and Beneficiaries, as applicable, and their respective officers, directors, employees, and the Trust Fund, from any and all claims, liabilities, damages, costs and expenses of any kind, including reasonable legal and expert's fees and expenses but excluding Consequential Losses, arising out of the Trustee's breach of the Standard of Care, failure to comply with the terms of this Agreement, or as otherwise specified by this Agreement, including without limitation pursuant to Article VIII.

4.6.3 **Survival.** The indemnifications set out in this section 4.6 shall survive the termination of this Agreement and the Trust Fund.

ARTICLE V

POWERS OF THE TRUSTEE

5.1 Powers of the Trustee

The Trustee shall have and exercise the following powers and authority in the administration of the Trust Fund:

5.1.1 Purchase and Sale of Property.

- (a) Subject to Article X, purchase and sell and engage in other transactions, including receipts and deliveries, exchanges, exercises, conversions, subscriptions, and other voluntary corporate actions, with respect to any Property, whether income producing or not.
- (b) Sell or otherwise dispose of any Property held by it at any time (by any means considered reasonable by the Trustee) for cash or on credit, or partly for cash and partly on credit, and receive the consideration and grant discharges therefor.

5.1.2 Exercise of Rights.

- (a) Where applicable, vote upon any securities or other Property; to give general or special proxies or powers of attorney with or without power of substitution.

- (b) Subject to Article X, exercise any conversion privileges, subscription rights, warrants or other rights or options available in connection with any Property held at any time by the Trustee, and make any payments incidental thereto.
- (c) Consent to, or otherwise participate in or dissent from, the reorganization, consolidation, amalgamation or merger of any corporation, company or association, or to the sale, mortgage, pledge or lease of the property of any corporation, company or association, any of the securities of which may be held by it at any time, and do any act with reference thereto, including the delegation of discretionary powers, the exercise of options, the making of agreements or subscriptions and the payment of expenses, assessments or subscriptions which it may deem necessary or advisable in connection therewith.
- (d) Renew or extend or participate in the renewal or extension of any Property, upon such terms as it may deem advisable.
- (e) Agree to a reduction in the rate of interest on any Property or of any guarantee pertaining thereto, in any manner and to any extent that it may deem advisable.
- (f) Waive any default whether in the performance of any covenant or condition of any Property, or in the performance of any guarantee, or enforce rights in respect of any such default in such manner and to such extent as it may deem advisable.

Exercise and enforce any and all rights of foreclosure, bid on property on sale or foreclosure, take a conveyance in lieu of foreclosure with or without paying a consideration therefor and, in connection therewith, release the obligation on the covenant secured by such security and exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies in respect of any such security or guarantee pertaining thereto.

- 5.1.3 **Dealing with Claims.** Commence, defend, adjust or settle suits, administrative or legal proceedings in connection with the Trust Fund, and represent the Trust Fund in any such suits, administrative or legal proceedings and keep the Primary Beneficiary informed; provided, however, that the Trustee shall not be obliged or required to do so unless it has first been indemnified to its satisfaction against all expenses and liabilities sustained or anticipated by the Trustee by reason thereof, except where such suits, administrative or legal proceedings directly result from a breach by the Trustee of the Standard of Care.
- 5.1.4 **Hold Property in Trust.** Hold in trust any Property that it may acquire hereunder and generally to exercise any of the powers of an owner with respect to the Property held in the Trust Fund.
- 5.1.5 **Foreign Exchange.** Enter into and settle foreign exchange transactions for the purpose of facilitating the transactions of the Trust Fund with such counterparties as the Trustee may determine, including its Affiliates.

- 5.1.6 **Asset Dispositions.** Dispose of any Property of the Trust Fund on such terms as the Trustee may determine, in order to pay any outstanding obligations imposed on the Trust Fund, provided that the Primary Beneficiary has been provided with prior written notice of the Trustee's intention to do so.
- 5.1.7 **Agents.** Retain such external counsel, auditors, advisors, agents or other persons as the Trustee may deem necessary from time to time for the purpose of discharging its duties ("**Agents**"), including for greater certainty, subcustodians and Investment Managers, provided that the Trustee shall not enter into, amend, terminate or waive performance under contracts or agreements for service with an Agent unless the Trustee has first consulted with the Primary Beneficiary in regard thereto.
- 5.1.8 **Redemption of Property.** Present for redemption or exchange any Property 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.
- 5.1.9 **Executing Instruments.** Make, execute, acknowledge and deliver any and all deeds, conveyances, contracts, waivers, releases or other documents of transfer and any and all other instruments in writing that may be necessary or proper for the accomplishment of any of the powers herein granted.
- 5.1.10 **Power to do any Necessary Act.** Generally take all action, whether or not expressly authorized, which the Trustee may deem necessary or desirable, 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 a court of competent jurisdiction with respect to any matter concerning the PRT.
- 5.1.11 **Powers Inexhaustible.** The exercise of any one (1) or more of the powers provided in this Article V or any combination thereof from time to time shall not be deemed to exhaust the rights of the Trustee to exercise such power or powers or combination of them thereafter from time to time.

5.2 **Self-Dealing**

- 5.2.1 The Trustee's services with respect to the PRT are not exclusive and, subject to the limitations otherwise provided in this Agreement on the power and authorities of the Trustee, the Trustee may from time to time in its discretion appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, including without limitation, itself and any of its Affiliates whether on its own account or for the account of another (in a fiduciary capacity or otherwise), without being liable to account therefor and such actions in and of themselves shall not result in breach of this Agreement, provided always that the Trustee shall comply with the terms of this Agreement, including without limitation sections 2.2 and 2.4.
- 5.2.2 Without limiting the generality of and subject to the foregoing, the Trustee may act hereunder notwithstanding that the Trustee or any of its divisions, branches or Affiliates may:

- (a) have a material interest in the transaction or that circumstances are such that the Trustee may have a potential conflict of duty or interest including the fact that the Trustee or any of its Affiliates may:
 - (i) purchase, hold, sell, invest in or otherwise deal with Property of the same class and nature as may be held in the Trust Fund, whether on its own account or for the account of another (in a fiduciary capacity or otherwise);
 - (ii) act as a market maker for any Property that forms part of the Trust Fund;
 - (iii) act as financial advisor to the issuer of any Property that forms part of the Trust Fund;
 - (iv) provide brokerage services to other clients;
 - (v) act as agent for more than one (1) client with respect to the same transaction;
 - (vi) have a material interest in the issue of any Property that forms part of the Trust Fund;
 - (vii) use in other capacities, knowledge, procedures, systems, processes or other expertise gained in its capacity as Trustee hereunder, subject to the provisions of section 15.6 hereof; provided that such use is not detrimental to the best interests of the Beneficiaries of the Trust Fund; and
 - (viii) invest the assets of the Trust Fund in the securities or other assets of, or property offered for purchase as an investment by, any of its Affiliates; and
- (b) earn profits from any of the activities listed herein;

without being liable to account therefor and without being in breach of this Agreement.

5.3 Limitations - Borrowing

Notwithstanding anything to the contrary elsewhere contained herein, the PRT shall not borrow and the Trustee, or its successors, shall not have the authority to borrow on behalf of the PRT.

ARTICLE VI TAX OBLIGATIONS

6.1 Tax Obligations

6.1.1 Subject to section 2.4.1, the Beneficiary and the Trustee acknowledge that it is intended that Tax Obligations payable in relation to the Trust Fund, shall be paid by the Trustee out of the Trust Fund.

- 6.1.2 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 Act or any other Tax Obligation, a trustee of the PRT is required to file or issue in respect of each taxation year of the PRT, including the Fiscal Year ending on termination of the PRT.

ARTICLE VII
REPORTING AND RECORD KEEPING

7.1 Accounts and Records

- 7.1.1 The Trustee shall maintain proper and accurate books, records and accounts required to be maintained by the Trustee in connection with this Agreement or as required by Applicable Law (for greater certainty, subject to section 9.2.3), including records of all transactions affected or controlled by the Trustee hereunder including, without limitation, the receipt, investment, reinvestment and disbursement of monies from the Trust Fund, and all records necessary to complete an audit of the PRT.
- 7.1.2 The Trustee shall provide the Primary Beneficiary with the following:
- (a) within fifteen (15) Business Days following the last day of each month, a statement of account or report showing all Property transferred to the Trustee during the immediately preceding month;
 - (b) within fifteen (15) Business Days following the close of:
 - (i) each quarterly period, including any quarterly period in which the Trustee has resigned or been removed in accordance with Article XII or in which the PRT has been terminated in accordance with Article XIII, and
 - (ii) each Fiscal Year;a statement of account or report showing all relevant information concerning the Property held by the Trustee including, without limitation, information detailing all investments made, reinvestment undertaken, investment income earned, and disbursement of funds for each quarterly period or part thereof, or Fiscal Year, as applicable;
 - (c) any other report or information as may otherwise require disclosure by Applicable Laws or that is reasonably requested by the NEB or the Primary Beneficiary.
- 7.1.3 The Trustee shall, on reasonable prior notice and during normal business hours, make available for inspection to:
- (a) the officers, employees and authorized agents of the NEB or the Primary Beneficiary; or
 - (b) any other person authorized by Applicable Law;

all books, records and accounts required to be maintained by the Trustee in connection with this Agreement or as required by Applicable Law 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.

7.1.4 No persons other than those described in section 7.1.2(c) shall have the right to demand or be entitled to an inspection of the books, records, and accounts required to be maintained by the Trustee, or bring any action against the Trustee with respect thereto.

7.2 Review of Reports

If, within one hundred and twenty (120) days after the Trustee sends to the Primary Beneficiary a report with respect to the Trust Fund, the Primary Beneficiary has not given the Trustee written notice of any exception or objection thereto, the report shall be deemed to have been approved.

7.3 Contractual Income

The Trustee shall credit the Trust Fund with income and maturity proceeds on any Property net of any taxes on the contractual payment date or upon actual receipt as determined by the Trustee. To the extent the Trustee credits income on a contractual payment date, the Trustee may reverse such accounting entries with back value to the contractual payment date if the Trustee reasonably believes that such amount shall not be received by it. The Trustee shall provide notice of such reversal in the next report to the Primary Beneficiary.

7.4 Contractual Settlement

The Trustee shall attend to the settlement of transactions on the basis of either contractual settlement day accounting or actual settlement day accounting, as determined by the Trustee. To the extent the Trustee settles certain Property transactions on the basis of contractual settlement date accounting, the Trustee shall be entitled to reverse with back value to the contractual settlement day any entry relating to such contractual settlement where the related transaction remains unsettled in accordance with established procedures. The Trustee shall provide notice of such reversal in the next report to the Primary Beneficiary.

ARTICLE VIII **THIRD PARTIES**

8.1 Liability for Agents

If the Trust Fund suffers a loss as a result of any act or omission of an Agent appointed by the Trustee, and if such loss is directly attributable to the failure of such Agent to comply with the standard of care specified by section 4.2.5 in the provision of any service to be provided by it with respect to this Agreement, or a breach of this Agreement, then the Trustee shall be liable for such loss, and shall indemnify the Trust Fund in accordance with section 4.6. The Trustee shall not otherwise be liable for any act or omission of any Agent appointed by the Trustee, including without limitation liability related to the insolvency of any Agent.

8.2 Rights of Agents

For greater certainty, any rights, powers, authorities, benefits, and limitations on liability or limitations on responsibility whatsoever granted to the Trustee under this Agreement or conferred upon the Trustee or otherwise at law shall be deemed to have been granted to any and all Agents appointed by the Trustee, and in furtherance thereof, any references to "the Trustee" herein shall be construed as references to such Agents.

8.3 Subcustodians

8.3.1 If assets of the Trust Fund are held by a subcustodian, such assets of the Trust Fund shall be maintained and clearly recorded by the subcustodian in an account holding only property for clients of the Trustee, and shall be transferred or dealt with by the subcustodian only on the instructions of the Trustee.

8.3.2 Upon request by the Primary Beneficiary, the Trustee shall provide the Primary Beneficiary with a list of its current subcustodians.

8.4 Depositories

8.4.1 The Trustee may utilize the services of one (1) or more Depositories on the terms of business of the operators of such Depositories, and may effect settlement and hold Property in accordance with the customary or established trading and processing practices and procedures in the jurisdiction or market in which any transaction in respect of the Trust Fund occurs.

8.4.2 In the event that a Depository is used to hold assets of the Trust Fund, such assets of the Trust Fund shall be identified by that Depository in its books as being held for the account of the Trustee on behalf of its clients. In the event that a subcustodian uses a Depository to hold assets of the Trust Fund, such assets of the Trust Fund shall be identified by that Depository in its books as being held for the account of the subcustodian on behalf of its clients.

8.4.3 For greater certainty, a Depository is not an Agent of the Trustee for the purposes of this Agreement, and the Trustee has no liability whatsoever for the selection or supervision of, or the acts or omissions of, Depositories.

ARTICLE IX

CONCERNING THE COMPANY, THE CONTRIBUTOR AND THE PRIMARY BENEFICIARY

9.1 Full Power and Authority

The Company represents and warrants that it has full power and authority to enter into this Agreement, and to perform all of its obligations hereunder.

9.2 Responsibilities of the Contributor and Primary Beneficiary

The Contributor and Primary Beneficiary shall:

9.2.1 ensure that any Authorized Instructions given in any capacity under this Agreement, are given in accordance with the provisions of this Agreement and Applicable Laws;

- 9.2.2 have full responsibility for compliance with unclaimed property legislation, as applicable, and shall direct the Trustee to provide information or remit unclaimed property as the case may be to the appropriate regulatory authority where required;
- 9.2.3 provide a written description to the Trustee on the date first written above, of all Applicable Laws which may affect the Trustee's administration of the PRT and are related to:
- (a) Reclamation Obligations or the distribution of Property from the PRT in that regard; or
 - (b) record keeping, reporting or other administrative obligations specifically applicable to pipeline reclamation trusts,
- and promptly notify the Trustee of any additions or changes thereto; and
- 9.2.4 promptly notify the Trustee of any change in the tax relationships contemplated in subparagraphs (b)(ii) and (iii) of the definition of "prohibited investment" in section 211.6 of the Tax Act, including without limitation:
- (a) persons with whom it is related, as defined in the Tax Act;
 - (b) partnerships with whom it is affiliated, as defined in the Tax Act; and
 - (c) persons or partnerships in which it holds a significant interest, as defined in the Tax Act.

ARTICLE X **INVESTMENTS**

10.1 Investment of Trust Fund

- 10.1.1 The Trustee shall hold, invest and reinvest the Trust Fund in Qualified Investments in accordance with Applicable Laws and the Statement of Investment Policies and Procedures and, for greater certainty, shall have and be vested with the powers regarding investment of the Trust Fund described in Article V.
- 10.1.2 The Trust shall consult with the Primary Beneficiary respecting the investment of the Trust Fund from time to time as required by the Primary Beneficiary.

10.2 Appointment of Investment Manager

The Trustee may from time to time appoint one or more Investment Managers, including any Affiliate of the Trustee, to direct the investment of any portion of the Trust Fund and, with respect to such portion, to direct the Trustee with respect to settling investment transactions on behalf of the Trust Fund and exercising such other powers as may be granted to Investment Managers. The Trustee shall give prompt written notice to the Primary Beneficiary of any such appointment.

10.3 Cash Balances

Subject to section 2.4, the Trustee may retain any cash balance in the Trust Fund and may, but need not, invest same in Qualified Investments; or may deposit same in or with the Trustee, any financial institution affiliated or related to the Trustee, or any agent of or advisor to the Trustee (collectively, "**Authorized Depositories**") notwithstanding that any of the Authorized Depositories may benefit therefrom, and the Authorized Depositories shall not be required to account for, or to give up, any such benefit. For greater certainty, it shall not be improper for the Trustee to deposit moneys or custody of the Property of the Trust Fund with the Trustee or its affiliated, subsidiary, holding or related companies, notwithstanding any benefit realized as a result, including retaining a profit in excess of interest paid (if any) on, or fees payable to any affiliated or related companies in respect of, such deposit or custody arrangement.

10.4 Settlement of Transactions

Settlements of transactions may be effected in accordance with trading and processing practices customary in the jurisdiction or market where the transaction occurs. The Contributor acknowledges that this may, in certain circumstances, require the delivery of cash, securities, or other Property without the concurrent receipt of cash, securities or other Property, and, subject to section 4.6.2, in such circumstances, the Trustee and its Agents shall have no responsibility for non delivery (or late delivery) of securities or other Property, or for non receipt of payment (or late payment) by the counterparty.

ARTICLE XI **COMMUNICATIONS**

11.1 Authorized Parties

11.1.1 The Primary Beneficiary shall issue Authorized Instructions to the Trustee governing payments from and distributions of the Trust Fund to a Beneficiary. Further, the Primary Beneficiary shall from time to time furnish the Trustee with a written list of the names, signatures and extent of authority of all persons authorized to issue Authorized Instructions to the Trustee and otherwise act on behalf of the Primary Beneficiary under the terms of this Agreement.

11.1.2 Subject to section 4.4, the Trustee shall be entitled to rely on, and shall be fully protected in giving effect to Authorized Instructions from persons or entities so identified until it has been notified in writing by the Primary Beneficiary of a change of the identity or authority of such person or entities.

11.2 Authorized Instructions

11.2.1 Unless otherwise expressly provided, each Authorized Instruction shall continue in full force and effect until superseded or cancelled by another Authorized Instruction.

11.2.2 No amounts shall be made payable by the PRT to a Beneficiary or funds disbursed from the PRT to a Beneficiary for Reclamation Work, unless Authorized Instructions for such disbursement are in the form of a Reclamation Work Certificate in the form set out in Appendix C hereto and are delivered to the Trustee.

11.3 Errors, Omissions in Authorized Instructions

11.3.1 Any Authorized Instructions shall, as against the Primary Beneficiary as the circumstances require, and in favour of the Trustee, be conclusively deemed to be Authorized Instructions for the purposes of this Agreement, notwithstanding any error in the transmission thereof or that such Authorized Instructions may not be genuine, if believed to be genuine by the Trustee acting in accordance with the Standard of Care. If the Trustee declines to give effect to any Authorized Instructions as a result of its inadequacy of form or transmission, it shall notify the Contributor or Primary Beneficiary, as the circumstances require, within one (1) Business Day after it so declines. Notice by the Trustee shall include a description of the inadequacy and must be pursuant to the methods of communication described in section 11.4.1.

11.3.2 If the Trustee is not provided with Authorized Instructions when required hereunder, then the Trustee shall be fully protected and absolved from any liability arising from the failure to act in the absence of Authorized Instructions.

11.4 Methods of Communication

11.4.1 All communications hereunder (including, for greater certainty, Authorized Instructions) must be given by one of the following methods of communication:

- (a) personal or courier delivery;
- (b) prepaid ordinary mail; or
- (c) facsimile.

11.4.2 Communications should be addressed, as applicable, as follows:

- (a) in the case of the Trustee:

RBC Estate & Trust Services
335 8th Avenue SW, Suite 700
Calgary, Alberta
T2P 1C9
Facsimile: (403) 299-7383
Attention: Senior Trust Advisor

- (b) in the case of the Company:

Emera Brunswick Pipeline Company Ltd.
1 Germain Street, Suite 1204
Saint John, New Brunswick
E2L 4V1
Facsimile: (506) 658-0199
Attention: General Manager

With a copy to:

Emera Inc.
1223 Lower Water Street
Halifax, Nova Scotia
B3J 1A1
Facsimile: (902) 832-7998
Attention: Corporate Secretary

or at such other address and number as the party to whom such communication is to be given shall have last notified the party giving the same in the manner provided in this section.

11.5 Deemed Delivery

- 11.5.1 Any communication delivered personally shall be deemed to have been given and received on the day it is so delivered (or if that day is not a Business Day, on the next succeeding Business Day). Subject to disruptions in the postal service, any communication sent by prepaid ordinary mail shall be deemed to have been given and received on the fifth Business Day following the date of mailing. Any communication given by facsimile shall be deemed to have been given and received on the Business Day it is transmitted provided that it was received before 3:00 p.m. (Mountain time), and, if received after 3:00 p.m. (Mountain time), it shall be deemed to have been given and received on the Business Day following the day of transmission provided in each case that confirmation of transmission is available from the party giving the communication.
- 11.5.2 Nothing in this Agreement shall create an obligation for the Trustee to constantly monitor its electronic communication equipment, provided that reasonable monitoring is performed within business hours of the Trustee where communications are sent and the Trustee will not be held liable for an omission to act from not receiving electronically transmitted communications (including, without limitation, Authorized Instructions). In the event of any disagreement as to whether electronic communications (including, without limitation, Authorized Instructions) have been received by the Trustee, the sender will have the onus of proving that such electronic communications have been so received.

ARTICLE XII RESIGNATION, REMOVAL, APPOINTMENT OF SUCCESSOR, QUALIFICATIONS, AND REMUNERATION OF TRUSTEE

12.1 Resignation

In addition to its right to resign as provided in section 15.4, and subject to section 12.4, the Trustee may resign at any time after giving ninety (90) days' notice in writing to the Contributor and Primary Beneficiary, or after such shorter notice as may be mutually agreed by the Contributor and Primary Beneficiary, and the Trustee.

12.2 Removal Without Notice

With the consent in writing of the NEB, the Contributor and Primary Beneficiary shall have power exercisable in writing, to remove the Trustee without notice, at any time that:

- (a) the Trustee has failed to perform its obligations under this Agreement or under Applicable Laws;
- (b) the Trustee is convicted of an offence involving dishonest conduct;
- (c) the Trustee shall be declared bankrupt or shall be insolvent;
- (d) the assets or the business of the Trustee shall become liable to seizure or confiscation by any public or governmental authority; or
- (e) the Trustee shall cease to have the qualifications set out in section 12.6 hereof.

12.3 Removal With Notice

With the written consent of the NEB, the Contributor or Primary Beneficiary may remove the Trustee for any reason at any time upon ninety (90) days' notice in writing or upon such shorter period of notice as may be mutually agreed upon by the Contributor or Primary Beneficiary, and the Trustee.

12.4 Successor Trustee

- 12.4.1 In the event of resignation or removal of the Trustee under this Agreement or in the event a vacancy shall otherwise arise in the trusteeship of the Trust Fund, the Contributor or Primary Beneficiary shall, effective upon the receipt of written approval of the NEB, appoint a successor to the Trustee and shall ensure that such successor has the qualifications set out in section 12.6 hereof.
- 12.4.2 If a successor trustee has not been appointed at the conclusion of the period of notice required hereunder for resignation or removal of the Trustee, the Trustee may apply to the NEB to be relieved of its obligations under this Agreement.
- 12.4.3 Any corporation that has the qualifications set out in section 12.6 hereof, and which by merger, consolidation, purchase, or otherwise, succeeds to substantially all of the business relevant to this Agreement of the Trustee, as either or both the trustee or the custodian, or to which substantially all of the assets relevant to this Agreement of the Trustee, as either or both the trustee or the custodian, may be transferred, shall, subject to approval of the NEB, be the successor to the Trustee as the trustee or the custodian, as the case may be, hereunder, without any further act or formality with like effect as if such successor trustee or custodian had originally been named as the trustee or custodian herein. As soon as practicable following merger, consolidation or transfer, the Trustee or successor trustee, or the successor custodian, as the case may be, shall provide written notice thereof to the Contributor and Primary Beneficiary.

12.5 Obligations Upon Resignation or Removal

In the event of the resignation or removal of the Trustee, the Trustee shall, upon receiving written notice from the Contributor or Primary Beneficiary that a successor trustee has been appointed in accordance with the terms of this Agreement, transfer title to and pay over to the successor trustee appointed under section 12.4 hereof, all of the Property of the Trust Fund and all relevant books and records maintained by the Trustee for the purpose of its responsibilities under this Agreement. Upon such transfer, the Trustee shall be relieved of all future responsibilities under this Agreement.

12.6 Qualifications of Trustee

No person shall at any time be eligible to be appointed as Trustee hereunder other than a corporation resident in Canada that is licensed or otherwise authorized under the laws of a Province of Canada or of Canada, to carry on in Canada the business of offering to the public its services as a trustee, and provided that such corporation has undertaken in writing to discharge all of the obligations and responsibilities of the Trustee hereunder.

12.7 Fees and Expenses

To the maximum extent permitted by Applicable Laws, and subject to section 2.4, the Trustee shall be paid from the Trust Fund for all services under this Agreement, the fees and expenses as agreed from time to time in writing by the Trustee and the Primary Beneficiary, including, for greater certainty, those fees and expenses payable in accordance with the Qualified Environmental Trust Fee Agreement dated effective September 2, 2014, between the Trustee and the Company.

**ARTICLE XIII
AMENDMENT AND TERMINATION**

13.1 Amendment

The Contributor and Primary Beneficiary, and the Trustee may, with the written approval of the NEB, 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 herein, provided that 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 the parties hereto and approved by the NEB and no amendment or modification shall be effective to the extent that it is inconsistent with the PRT's purposes as set out in section 2.2.1 or not approved by the NEB. The Contributor and the Primary Beneficiary, and the Trustee shall not unreasonably withhold their written consent to any such waiver, amendment or modification.

13.2 Termination of the Trust Fund and Distribution of Surplus

13.2.1 The PRT may not be revoked by the Contributor or Beneficiaries, or the Trustee, provided that the NEB in its sole and absolute discretion may direct the termination of the PRT, and order such successive arrangements as are appropriate. For greater certainty, the rule in *Saunders v. Vautier* shall not be applicable to the PRT or the Trust Fund.

- 13.2.2 As long as the rule against perpetuities applies to the PRT under the laws of Alberta, the PRT shall continue for a term ending at the later of:
- (a) the conclusion of the perpetuity period as determined under the "wait and see" provisions specified by sections 4 and 5 of the *Perpetuities Act* (Alberta); or
 - (b) 21 years after the date of death of the last surviving issue of Her Majesty, Queen Elizabeth II, alive on September 2, 2014.
- 13.2.3 The Trustee shall have throughout the term described in section 13.2.2 all the powers and discretion, expressed and implied, conferred upon it by law and by this Agreement, and provided that there are outstanding Reclamation Obligations, within five years of the termination of the PRT and prior to such termination, the Trustee shall transfer all Property then constituting the Trust Fund as follows:
- (a) if the Primary Beneficiary is not in Default, to the Primary Beneficiary, provided the Primary Beneficiary shall have agreed in writing to comply with section 13.2.4;
 - (b) if the Primary Beneficiary is in Default or has not agreed to comply with section 13.2.4, to such other Beneficiary as the NEB designates in writing and has agreed in writing to comply with the provisions of section 13.2.4, or otherwise in accordance with the written direction of the NEB; and
 - (c) if the NEB does not so designate such Beneficiary or otherwise direct the transfer of such Property by the close of business thirty days prior to the termination of the PRT, to an Orphan Pipeline Fund or the Crown in right of Canada, provided that any transfer to the Crown in right of Canada be accompanied by the Trustee's written request such Property be used to for purposes consistent with the purposes of Orphan Pipeline Funds.
- 13.2.4 If either the Primary Beneficiary or a Beneficiary designated by the NEB under section 13.2.3(b) receives the Property described in section 13.2.3, it shall immediately:
- (a) establish a new irrevocable trust upon the terms and subject to the same conditions as this Agreement; and
 - (b) transfer all of such Property to such trust.
- 13.2.5 If pursuant to the laws of the Province of Alberta the rule against perpetuities does not apply to the PRT, and during the term established by section 13.2.2, the PRT shall terminate if either:
- (a) the NEB issues an order confirming that all Reclamation Work has been completed and directing the Trustee to distribute all Property then constituting the Trust Fund to one or more of the Beneficiaries, and the Trustee has completed such distribution in accordance with the terms of such order; or

- (b) a court of competent jurisdiction rules that there are no current or reasonably anticipated Reclamation Obligations, and the Trustee completes the distribution of all Property in the Trust Fund to an Orphan Pipeline Fund or the Crown in right of Canada, provided that any transfer to the Crown in right of Canada be accompanied by the Trustee's written request such Property be used to for purposes consistent with the purposes of Orphan Pipeline Funds.

13.3 Merger of the Trust Fund

- 13.3.1 With the written consent of the NEB, the Trust Fund may, subject to Applicable Laws (including without limitation all necessary regulatory approvals), be merged with any other trust or trusts or trust fund or trust funds and continue as one fund with or without termination of the PRT.
- 13.3.2 With the written consent of the NEB and subject to the Applicable Laws (including all necessary regulatory approvals), the terms of a merger described in (a) may provide for:
 - (a) the termination or continuation of all or any part of the Trust Fund;
 - (b) the consolidation of the assets and liabilities of the merged entities with or without any requirement to maintain a separate accounting in respect thereof; and
 - (c) the application of the assets of the Trust Fund or part thereof to the liabilities of such other entity with which it is merged.
- 13.3.3 For greater certainty, no merger shall derogate from or be effective to the extent that it is inconsistent with the purpose set out in section 2.2.1.

13.4 Division of the Trust Fund

- 13.4.1 With the written consent of the NEB, the Trust Fund may, subject to Applicable Laws (including without limitation all necessary regulatory approvals), be divided into two or more trust funds.
- 13.4.2 For greater certainty, no division shall derogate from or be effective to the extent that it is inconsistent with the purpose set out in section 2.2.1.

13.5 Binding on Successor Contributor or Beneficiary

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

ARTICLE XIV
DEFAULT

14.1 Default

- 14.1.1 The Contributor or a Beneficiary shall be in default ("**Default**") upon the occurrence of an Event of Default with respect to the Contributor or such Beneficiary and until such Event of Default has been cured in accordance with its terms or waived in writing by the NEB.
- 14.1.2 No income or capital distributions shall be made to a Beneficiary while such Beneficiary is in Default.
- 14.1.3 Each of the Contributor and Primary Beneficiary shall:
- (a) provide notice to the Trustee of any Event of Default of which they become aware, whether the Event of Default occurs with regard to themselves or any other Beneficiary; and
 - (b) Provide a written request to the NEB for the NEB to provide notice to the Trustee of any Event of Default of which it becomes aware.
- 14.1.4 The Trustee shall not be required to act in accordance with an Event of Default with respect to a Contributor or Beneficiary under this Agreement until the Trustee has received notice of such event, or otherwise becomes aware of same.

ARTICLE XV
MISCELLANEOUS

15.1 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, the Contributor, and the Primary Beneficiary 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 Trust 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.

15.2 No Third Party Beneficiaries

No account opened by, or interest to be held by the Trustee in connection with this Agreement, shall be used by or on behalf of any party not specified herein.

15.3 Severance of Illegal or Invalid Provision

If any term, provision or part of this Agreement shall be held illegal, invalid or unenforceable in whole or in part for any reason by a court of competent jurisdiction, such determination shall not affect the validity or enforcement of any other term, provision or part of this Agreement and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable term, provision or part had never been inserted herein.

15.4 Right Not to Act

The Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Trustee, acting reasonably, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Trustee, acting reasonably, determine at any time that its acting under this Agreement has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on ten (10) days written notice to the other party to this Agreement, provided that:

- 15.4.1 the Trustee's written notice shall describe the circumstances of such non-compliance; and
- 15.4.2 if such circumstances are rectified to the Trustee's satisfaction within such ten (10) day period, then such resignation shall not be effective.

15.5 Assignment

Subject to Article XII and section 13.5 hereof, neither party may assign this Agreement without the prior written consent of the other party hereto. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

15.6 Confidentiality and Privacy

- 15.6.1 The Trustee shall hold in confidence all information relating to the Trust Fund and may only release such information to others where required by Applicable Laws.
- 15.6.2 The parties acknowledge that Canadian federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, "**Privacy Laws**") applies to obligations and activities under this Agreement. Despite any other provision of this Agreement, no party shall take or direct any action that would contravene, or cause the others to contravene, applicable Privacy Laws. The parties shall, prior to transferring or causing to be transferred personal information to the Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Trustee shall use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws. Specifically, the Trustee agrees:
 - (a) to have a designated chief privacy officer;
 - (b) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry;
 - (c) to use personal information solely for the purposes of providing its services under or ancillary to this Agreement and not to use it for any other purpose except with the consent of or direction from the other parties or the individual involved;

- (d) not to sell or otherwise improperly disclose personal information to any third party; and
- (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

15.7 Execution in Counterparts

This Agreement may be executed by facsimile and in counterparts each of which when so executed shall be deemed to be an original and all counterparts together shall constitute one agreement. Notwithstanding the foregoing, the parties agree to exchange one fully executed original copy within a reasonable period of time after counterpart execution.

15.8 Governing Law

This Agreement shall be construed, administered and enforced according to the laws of the Province of Alberta and the laws of Canada applicable therein.

15.9 Force Majeure

Notwithstanding anything to the contrary herein, the Trustee shall not be liable or responsible for any loss or damages, whatsoever, resulting from official action (including nationalisation and expropriation), currency restrictions or devaluations, acts or threat of war or terrorism, insurrection, revolution or civil disturbance, acts of God, strikes or work stoppages, inability of any settlement system to settle transactions, interruptions in postal, telephone, telex and/or other communication systems or in power supply, or any other event or factor beyond the reasonable control of the Trustee.

15.10 Business Recovery Plan

The Trustee shall, at all times that this Agreement is in force, maintain a commercially reasonable Business Recovery Plan.

15.11 Review of Agreement

This Agreement shall be reviewed by the parties hereto and the NEB at least every five (5) years, or earlier if directed by the NEB.

15.12 Residence

Each of the Company and Royal Trust represents that it is a resident of Canada within the meaning of the Tax Act.

15.13 Entire Agreement

This Agreement and any appendices hereto constitute the whole and entire agreement between the parties in respect of the subject matter hereof and cancel and supersede any prior written or verbal agreements including undertakings, declarations or representations made with respect thereto.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

**EMERA BRUNSWICK PIPELINE
COMPANY LTD.**

**ROYAL TRUST CORPORATION OF
CANADA**

Per: _____
Christian C. Richard
General Manager

Per: _____
Leanne Kaufman
Vice-President, Professional Practice
Group

Per: _____
Michael van der Kooy
Vice-President, Estate & Trust Services

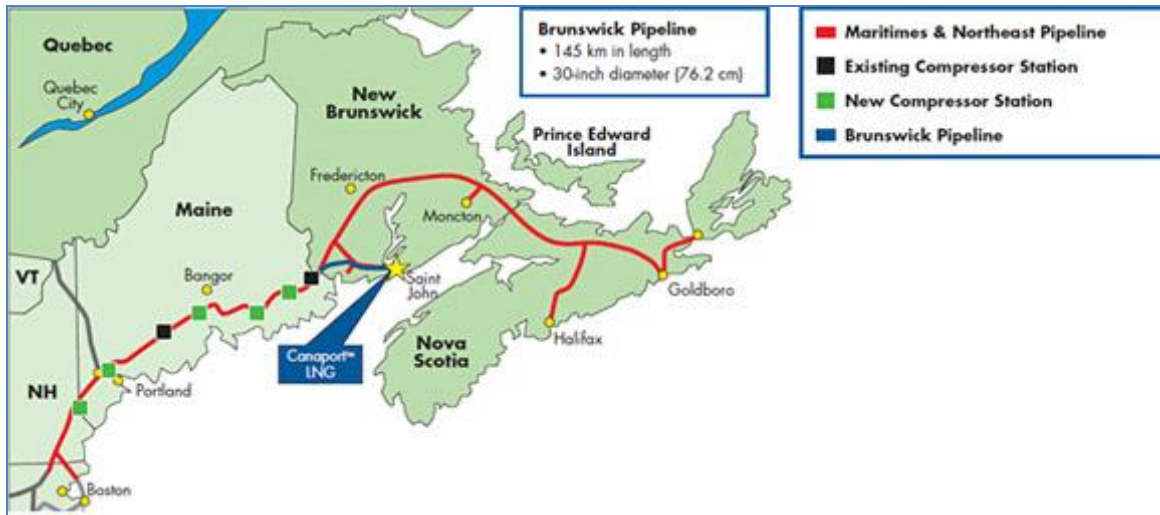
– APPENDIX A –

DESCRIPTION OF PIPELINE

The Brunswick Pipeline includes an approximately 145 kilometre (90 mile), 762 mm (30 inch) natural gas pipeline extending from the outlet of the Canaport™ Liquefied Natural Gas facility in Saint John, New Brunswick to an interconnection with the Maritimes & Northeast U.S. Pipeline system at the Canada-U.S. border near St. Stephen, New Brunswick.

The principal National Energy Board authorization under which the Brunswick Pipeline system operates is Certificate of Public Convenience and Necessity GC-110.

A map of the Brunswick Pipeline system is provided below.



– APPENDIX B –

QUALIFIED INVESTMENTS

The relevant paragraphs of the definition of "**qualified investment**" in section 204 of the Tax Act 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,*
 - (ii) *of the government of a province,*
 - (iii) *of an agent of a province,*
 - (iv) *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)¹ applies, or*

¹ The applicable paragraphs in subsection 149(1) of the Tax Act read as follows:

- (d) [**corporations owned by the Crown**] – a corporation, commission or association all of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more persons each of which is Her Majesty in right of Canada or Her Majesty in right of a province;
- (d.1) [**corporations 90% owned by the Crown**] – a corporation, commission or association not less than 90% of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more persons each of which is Her Majesty in right of Canada or Her Majesty in right of a province;
- (d.2) [**wholly-owned [by Crown corporation] corporations**] – a corporation all of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more persons each of which is a corporation, commission or association to which this paragraph or paragraph (d) applies for the period;
- (d.3) **90% [Crown] owned corporations** – a corporation, commission or association not less than 90% of the shares (except directors' qualifying shares) or of the capital of which was owned by:
 - (i) one or more persons each of which is Her Majesty in right of Canada or a province or a person to which paragraph (d) or (d.2) applies for the period, or
 - (ii) one or more municipalities in Canada in combination with one or more persons each of which is Her Majesty in right of Canada or a province or a person to which paragraph (d) or (d.2) applies for the period;
- (d.4) [**combined [Crown] ownership**] – a corporation all of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more persons each of which is a corporation, commission or association to which this paragraph or any of paragraphs (d) to (d.3) applies for the period;
- (d.5) [**municipally-owned corporation earning income with boundaries of entities**] – subject to subsections (1.2) and (1.3), a corporation, commission or association not less than 90% of the capital of which was owned by one or more entities each of which is a municipality in Canada, or a municipal or public body performing a function of government in Canada, if the income for the period of the corporation, commission or association from activities carried on outside the geographical boundaries of the entities does not exceed 10% of its income for the period;
- (d.6) [**subsidiaries of municipal corporations**] – subject to subsections (1.2) and (1.3), a particular corporation all of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more entities (referred to in this paragraph as "qualifying owners") each of which is, for the period, a corporation, commission or association to which

- (vi) *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,²
 - (ii) a corporation the shares of which are listed on a designated stock exchange outside Canada,³ or
 - (iii) an authorized foreign bank⁴ and payable at a branch in Canada of the bank,
- (c.1) debt obligations that meet the following criteria, namely,
 - (i) 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,⁵

paragraph (d.5) applies, a corporation to which this paragraph applies, a municipality in Canada, or a municipal or public body performing a function of government in Canada, if no more than 10% of the particular corporation's income for the period is from activities carried on outside

- (i) if a qualifying owner is a municipality in Canada, or a municipal or public body performing a function of government in Canada, the geographical boundaries of each such qualifying owner,
- (ii) if paragraph (d.5) applies to a qualifying owner, the geographical boundaries of the municipality, or municipal or public body, referred to in that paragraph in its application to each such qualifying owner, and
- (iii) if this paragraph applies to a qualifying owner, the geographical boundaries of the municipality, or municipal or public body, referred to in subparagraph (i) or paragraph (d.5), as the case may be, in their respective applications to each such qualifying owner.

² A "designated stock exchange" is defined in subsection 248(1) of the Tax Act as a "stock exchange, or that part of a stock exchange, for which a designation by the Minister of Finance under Section 262 of the Tax Act is in effect". Section 262 gives the Minister the authority to designate a stock exchange or part thereof for the purposes of the Tax Act. Pursuant to subsection 262(4) of the Tax Act, the Minister of Finance is required to post on the internet website of the Department of Finance or by any other means considered appropriate, the names of the stock exchanges or parts thereof that are designated under section 262. The current list can be found at <http://www.fin.gc.ca/act/fim-imf/dse-bvd-eng.asp>. In Canada, the designated stock exchanges include the Canadian National Stock Exchange (CNSX), the Montreal Exchange, the TSX Venture Exchange (Tiers 1 and 2) and the Toronto Stock Exchange.

³ *Ibid.* The Department of Finance website referred to also includes the list of designated stock exchanges outside Canada.

⁴ An "authorized foreign bank" is defined in subsection 248(1) of the Tax Act as having the meaning in Section 2 of the *Bank Act* (Canada), being "a foreign bank that is the subject of an order under subsection 524(1)". Subsection 524(1) states that on application by a foreign bank, the Minister may make an order permitting the foreign bank to establish a branch in Canada to carry on business in Canada under Part XII.1 of the *Bank Act* (Canada). The definition of "foreign bank" is found in Section 2 of the *Bank Act*. It reads:

"foreign bank", subject to Section 12, means an entity incorporated or formed by or under the laws of a country other than Canada that (a) is a bank according to the laws of any foreign country where it carries on business, (b) carries on a business in any foreign country that, if carried on in Canada, would be, wholly or to a significant extent, the business of banking, (c) engages, directly or indirectly, in the business of providing financial services and employs, to identify or describe its business, a name that includes the word "bank", "banque", "banking" or "bancaire", either alone or in combination with other words, or any word or words in any language other than English or French corresponding generally thereto, (d) engages in the business of lending money and accepting deposit liabilities transferable by cheque or other instrument, (e) engages, directly or indirectly, in the business of providing financial services and is affiliated with another foreign bank, (f) controls another foreign bank, or (g) is a foreign institution, other than a foreign bank within the meaning of any of paragraphs (a) to (f), that controls a bank incorporated or formed under this Act, but does not include a subsidiary of a bank named in Schedule I as that Schedule read immediately before the day section 184 of the *Financial Consumer Agency of Canada Act* comes into force, unless the Minister has specified that subsection 378(1) no longer applies to the bank.

- (B) the debt obligations have an investment grade rating with a prescribed credit rating agency,⁶ 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
- (ii) 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,⁷ and
- ...
- (f) 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 of the Tax Act currently 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,
 - (ii) 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
 - (iii) a particular person or partnership if

⁵ Pursuant to regulation 4900(2) of the *Income Tax Regulations* (Canada), the following are prescribed credit rating agencies for the purposes of section 204: A.M. Best Company Inc.; DBRS Limited; Fitch, Inc.; Moody's Investors Service Inc.; and Standard & Poor's Financial Services LLC.

⁶ *Ibid.*

⁷ *Supra* note 2.

- (A) another person or partnership holds a significant interest (within the meaning assigned by subsection 207.01(4) with any modifications that the circumstances require)⁸ 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.

⁸ Subsection 207.01(4) reads:

- (4) **[Significant interest]** – An individual has a significant interest in a corporation, partnership or trust at any time if
- (a) in the case of a corporation, the individual would, at that time, be a specified shareholder of the corporation...;
 - (b) in the case of a partnership, the individual, or the individual together with persons and partnerships with which the individual does not deal at arm's length, holds at that time interests as a member of the partnership that have a fair market value of 10% or more of the fair market value of the interests of all members in the partnership; and
 - (c) in the case of a trust, the individual, or the individual together with persons and partnerships with which the individual does not deal at arm's length, holds at that time interests as a beneficiary (in this paragraph, as defined in subsection 108(1)) under the trust that have a fair market value of 10% or more of the fair market value of the interests of all beneficiaries under the trust.

– APPENDIX C –

**AUTHORIZED INSTRUCTION WITH RESPECT TO RECLAMATION WORK CERTIFICATE
FOR THE [NAME] PIPELINE RECLAMATION TRUST**

To: *[Insert name of Trustee]*
 [Trustee Address in Alberta]

I, *[insert name]*, am *[insert title]* of *[insert name of Beneficiary]* (the "**Beneficiary**") and I certify that:

1. By order or direction dated _____, a copy of which is appended hereto as Appendix A, the NEB has authorized the Trustee to distribute *[insert dollar amount]* from the PRT to the Beneficiary for the purposes of Reclamation Work.

2. The Beneficiary is not in Default, as defined by the Trust Agreement, and it is not reasonable to conclude that the Beneficiary may be in Default during the twelve months immediately following the date hereof.

3. This Certificate is an Authorized Instruction, as defined by the Trust Agreement.

Capitalized terms not otherwise defined herein are defined in that certain Pipeline Reclamation Trust Agreement between Emera Brunswick Pipeline Company Ltd. and Royal Trust Corporation of Canada dated the ___ day of _____, 2014 (the "**Trust Agreement**") in relation to the **[Name]** Pipeline Reclamation Trust (the "**PRT**").

Dated this ___ day of _____, _____.

Signature

Witness Signature

Witness's name (printed)