

FACILITIES INCOME FUND

AMENDED AND RESTATED

DECLARATION OF TRUST

April 3, 2003
as amended to June 8, 2009

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KEYERA FACILITIES INCOME FUND

THIS DECLARATION OF TRUST dated April 3, 2003, as amended, is hereby amended and restated as of the 8th day of June 2009, between:

COMPUTERSHARE TRUST COMPANY OF CANADA, a corporation registered to carry on the business of a Trust Company in the Province of Alberta,

- and -

KEYERA ENERGY MANAGEMENT LTD., a corporation incorporated under the laws of Alberta (hereinafter called the “**Initial Unitholder**”) and all persons who after the date hereof become holders of units of the Trust (“**Trust Units**”) as herein provided.

WHEREAS the Trust constituted hereby was initially established under the name “KeySpan Facilities Income Fund” pursuant to a Declaration of Trust (the “**Initial Declaration of Trust**”) dated April 3, 2003 between the Initial Trustees and the Initial Unitholder, and the Initial Declaration of Trust was amended from time to time;

AND WHEREAS for the purpose of settling the Trust, the Initial Unitholder paid to the Initial Trustees an amount of \$10.00 in lawful money of Canada (the “**Initial Contribution**”);

AND WHEREAS the Initial Declaration of Trust, as amended, was amended and restated by an agreement dated November 1, 2005 and was further amended and restated by an agreement dated January 2, 2008 (the “**2008 Amended and Restated Declaration of Trust**”);

AND WHEREAS it is desirable that the 2008 Amended and Restated Declaration of Trust be further amended and restated by this Amended and Restated Declaration of Trust;

AND WHEREAS the amendments contained in this Amended and Restated Declaration of Trust have been approved by the Unitholders;

AND WHEREAS this Amended and Restated Declaration of Trust has been approved by the Board of Directors;

NOW THEREFORE THIS DECLARATION WITNESSETH THAT in consideration of the premises and the mutual and respective covenants and agreements contained herein, the Trustee declares, covenants and agrees with the Unitholders, and the Unitholders covenant and agree with the Trustee, as set forth below.

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Declaration of Trust including the recitals hereto, the following terms shall have the following meanings:

- (a) “**2007 Reorganization**” means the internal reorganization of the Trust and certain of its subsidiaries pursuant to a plan of arrangement effective January 2, 2008 and the transactions contemplated thereby;
- (b) “**Administration Agreement**” means the agreement made as of May 30, 2003 between, among others, the Administrator and the Trust pursuant to which the Administrator will provide certain administrative and support services to the Trust and other subsidiaries of the Trust, as such agreement may be amended, supplemented, restated or replaced from time to time;
- (c) “**Administrator**” means Keyera Energy Management Ltd., its successors and assigns as Administrator hereunder and under the Administration Agreement;
- (d) “**affiliate**” means, when used with reference to a specified person, any person that directly or indirectly controls or is controlled by or is under common control with the specified person;
- (e) “**associate**” has the meaning ascribed thereto in the *Securities Act* (Alberta), as amended from time to time;
- (f) “**Auditors**” means the firm of chartered accountants appointed as the auditor of the Trust from time to time in accordance with the provisions hereof and, initially, means Deloitte & Touche LLP, Chartered Accountants;
- (g) “**Board of Directors**” means the Board of Directors of the Administrator and “**Director**” means any member of the Board of Directors;
- (h) “**Book-Entry System**” means the record-entry securities transfer and pledge system known, as of the date hereof, by such name, which is administered by CDS in accordance with the operating rules and procedures of the securities settlement service of CDS in force from time to time, or any successor system which CDS may offer from time to time;
- (i) “**Business Day**” means a day which is not a Saturday, Sunday, bank holiday or holiday in Calgary, Alberta;
- (j) “**Cash Flow of the Trust**” shall be calculated in accordance with Section 5.1 and shall mean the amount so calculated;
- (k) “**CDS**” means CDS Clearing and Depository Services Inc. and its successors;

- (l) **“CDS Participant”** means a broker, dealer, bank, other financial institution or other person who, directly or indirectly, from time to time, effects book-based transfers with CDS and pledges of securities deposited with CDS;
- (m) **“Closing”** means a completion of the issue of Trust Units to the public pursuant to an Offering;
- (n) **“Counsel”** means a barrister or solicitor or firm of barristers and solicitors or other lawyers in an appropriate jurisdiction retained by the Trust;
- (o) **“Date of Closing”** means the date on which a Closing occurs;
- (p) **“Depository”** has the meaning specified in Section 13.1(a);
- (q) **“Distribution Payment Dates”** in respect of a Distribution Period means on or about, but no later than, the date that is 30 days immediately following the end of the Distribution Period or, if such day is not a Business Day, the next following Business Day, or such other dates determined from time to time by the Trustee;
- (r) **“Distribution Period”** in respect of Trust Units means each calendar month, or such other periods as may be hereafter determined from time to time by the Trustee from and including the first day thereof and to and including the last day thereof;
- (s) **“Distribution Record Date”** means the last Business Day of each Distribution Period, or such other date within a Distribution Period as may be determined from time to time by the Trustee;
- (t) **“Exchangeable Security”** or **“Exchangeable Securities”** means a unit or units, a share or shares or other security or securities which are convertible into or exchangeable for Trust Unit(s) (directly or indirectly) without the payment of additional consideration therefor, whether or not issued by the Trust;
- (u) **“Global Trust Unit Certificate”** has the meaning specified in Section 13.1(a);
- (v) **“in specie Redemption Price”** has the meaning ascribed thereto in Section 6.5;
- (w) **“Income of the Trust”** has the meaning ascribed thereto in Section 5.2(a);
- (x) **“Indemnified Party”** and **“Indemnified Parties”** shall have the meaning ascribed thereto under Section 9.10;

- (y) “**Initial Contribution**” means the amount of \$10.00 paid by the Initial Unitholder to the Initial Trustees on the date hereof for the purpose of settling the trust constituted by the Trust;
- (z) “**Initial Trustees**” means those persons named as the first trustees of the Trust in the Declaration of Trust dated April 3, 2003, relating to the Trust;
- (aa) “**Initial Unitholder**” means Keyera Energy Management Ltd. (formerly KeySpan Canada Management Ltd.), the settlor of the trust constituted hereby;
- (bb) “**KCT**” means Keyera Facilities Commercial Trust an unincorporated open-ended trust that was established under the laws of Alberta;
- (cc) “**KEP LP**” means Keyera Energy Limited Partnership, a limited partnership established under the laws of Alberta, formerly known as Keyera Energy Partnership;
- (dd) “**KEP LP GP**” means Keyera GP Ltd., a corporation subsisting under the laws of Alberta and the general partner of KEP LP;
- (ee) “**Keyera Corporate Subsidiary**” means a corporation, including the Administrator, the voting shares of which are owned directly by the Trust;
- (ff) “**Keyera Entities**” means KEP LP, Keyera Energy Facilities Limited, Keyera Energy Ltd., KEP LP GP, any Keyera Corporate Subsidiary and any person, the equity interests of which are owned, directly or indirectly, from time to time by the Trust, and “**Keyera Entity**” means any one of them;
- (gg) “**Net Realized Capital Gains**” has the meaning ascribed thereto in Section 5.2(b);
- (hh) “**Non-resident**” has the meaning ascribed thereto in Section 13.5;
- (ii) “**non-tendering offeree**” means, where a take-over bid is made for all of the Trust Units (including Trust Units issuable upon conversion, exercise or exchange of Exchangeable Securities) other than those held by or issuable to the offeror, a Unitholder or holder of Exchangeable Securities who does not accept the takeover bid and includes a subsequent holder of that Trust Unit or Exchangeable Security who acquires it from the first mentioned holder;
- (jj) “**Offer**” means an offer to purchase Trust Units or all or substantially all of the Trust Assets;
- (kk) “**Offering**” means any issuance or offering of debt securities, Trust Units or any rights, warrants or other securities to purchase, to convert into or exchange into Trust Units on a public or private basis in Canada or elsewhere, any issuance or offering of any securities issued by any person controlled,

directly or indirectly, from time to time by the Trust, or any offering of securities of any other person held by the Trust or any person controlled, directly or indirectly, from time to time by the Trust;

- (ll) **“Offering Document”** means any one or more of a prospectus (including the Prospectus), information memorandum, private placement memorandum and similar public or private offering document or any understanding, commitment or agreement relating to an Offering;
- (mm) **“Offeror”** means a person other than an agent, who makes a take-over bid and includes two or more persons who, directly or indirectly;
 - (i) make a take-over bid jointly or in concert; or
 - (ii) intend to exercise jointly or in concert voting rights attached to the securities for which a take-over bid is made;
- (nn) **“Ordinary Resolution”** means
 - (i) a resolution passed by more than 50% of the votes cast, either in person or by proxy, at a meeting of Unitholders, at which a quorum was present, duly convened for the purpose of approving such resolution, or
 - (ii) a resolution approved in writing, in one or more counterparts, by holders of more than 50% of the votes represented by the Units entitled to be voted on such resolution;
- (oo) **“person”** means individuals, corporations, limited partnerships, general partnerships, joint stock companies, limited liability corporations, joint ventures, associations, companies, trusts, banks, trust companies, pension funds, business trusts or other organizations, whether or not legal entities and government and agencies and political subdivisions thereof;
- (pp) **“Preliminary Prospectus”** means the preliminary prospectus of the Trust with respect to the initial Offering, including any amendment or amendments thereof;
- (qq) **“Prospectus”** means the (final) prospectus of the Trust providing for the initial Offering, including any amendment or amendments thereto;
- (rr) **“Redemption Notes”** means subordinated promissory notes issued, in series or otherwise, by the Trust pursuant to a note indenture or otherwise and issued to redeeming Unitholders in principal amounts equal to the in specie Redemption Price of the Trust Units to be redeemed and having the following terms and conditions (and such other terms and conditions as the Trustee may determine):

- (i) be unsecured,
 - (ii) bear interest from and including the issue date of each such note at a rate equal to the prime rate of interest of a Canadian chartered bank determined at the time of issuance by the Trustee plus 1% per annum and payable monthly in arrears (with interest after as well as before maturity, default and judgment, and interest on overdue interest at such rate),
 - (iii) be subordinated and postponed to all senior indebtedness which may be subject to specific subordination and postponement agreements to be entered into by the trustee under the note indenture with the holders of senior indebtedness or other similar agreements,
 - (iv) be subject to a right of early repayment,
 - (v) be due and payable on the 10th anniversary of the date of issuance, and
 - (vi) be subject to such other terms and conditions as the Trustee or the Board of Directors may determine;
- (ss) “**Redemption Price**” has the meaning ascribed thereto in Section 6.3(a);
- (tt) “**Replacement Trustee**” means Computershare Trust Company of Canada;
- (uu) “**Special Non-Voting Units**” means the special non-voting trust units of the Trust referred to as such in Section 3.1(a) and described in Section 3.1(c), which are authorized and issued hereunder;
- (vv) “**Special Resolution**” has the meaning ascribed thereto in Section 12.6;
- (ww) “**Special Trust Units**” means the special trust units of the Trust referred to as such in Section 3.1(a) and described in Section 3.1(d), which are authorized and issued hereunder;
- (xx) “**Subsequent Investments**” means any of the investments which the Trust may make pursuant to Sections 4.1(a) or 4.1(b);
- (yy) “**take-over bid**” has the meaning ascribed to such term in the *Securities Act* (Alberta), as amended from time to time;
- (zz) “**Tax Act**” means the *Income Tax Act*, R.S.C. 1985 (5th Supp.) c. 1, the Income Tax Regulations and the Income Tax Application Rules, as each may be amended from time to time;
- (aaa) “**this Declaration of Trust**”, “**this Declaration**”, “**hereto**”, “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**” and similar expressions refer to this

instrument and not to any particular Article, Section or portion hereof, and include any and every instrument supplemental or ancillary hereto;

- (bbb) “**Time of Closing**” means the time on the Date of Closing at which a Closing occurs;
- (ccc) “**Transfer Agent**” means such company as may from time to time be appointed by the Trust to act as registrar and transfer agent of the Units, together with any sub-transfer agent duly appointed by the Transfer Agent;
- (ddd) “**Trust**” means the trust constituted by this Declaration of Trust as the same may be amended or restated from time to time;
- (eee) “**Trust Assets**”, at any time, means such of the following monies, properties and other assets as are at such time held by the Trust or by the Trustee on behalf of the Trust:
 - (i) the Initial Contribution;
 - (ii) all funds, securities or property derived from the issuance or sale of Units or other cash received by the Trust;
 - (iii) securities of Keyera Entities;
 - (iv) any Subsequent Investments;
 - (v) any proceeds of disposition, maturity or redemption of any of the foregoing property;
 - (vi) any permitted investments in which funds may from time to time be invested pursuant to Section 4.3; and
 - (vii) all income, interest, dividends, distributions, profit, return of capital, gains and accretions and all substituted assets, rights and benefits of any kind or nature whatsoever arising directly or indirectly from or in connection with or accruing to such foregoing property or such proceeds of disposition;
- (fff) “**Trust Liabilities**” has the meaning ascribed thereto in Section 2.8(a);
- (ggg) “**Trust Unit Certificate**” means a certificate, in form approved by the Trustee, evidencing one or more Trust Units, issued and certified in accordance with the provisions hereof;
- (hhh) “**Trust Units**” means the trust units of the Trust referred to as such in Section 3.1(a), and described in Section 3.1(b), which are authorized and issued hereunder;

- (iii) “**Trustee**” means at any time a person who is, in accordance with the provisions hereof, a Trustee of the Trust at that time including, at the appropriate times, the Initial Trustees and the Replacement Trustee;
- (jjj) “**Underwriting Agreement**” means any underwriting, agency or similar agreement entered into by or on behalf of the Trust and investment dealers and such other persons relating to an Offering;
- (kkk) “**Unit Certificate**” means a certificate, in the form approved by the Trustee, evidencing one or more Units, issued and certified in accordance with the provisions hereof;
- (lll) “**Unitholders**” means at any time the holders at that time of one or more Units;
- (mmm) “**Units**” means the Trust Units, the Special Non-Voting Units and the Special Trust Units; and
- (nnn) “**Voting Exchangeable Securities**” means, collectively, each of those Exchangeable Securities which, in accordance with the rights and attributes attaching or attributable thereto, provide (among other things) the holder of such particular Exchangeable Security the right to vote at all meetings of Unitholders.

1.2 References to Acts Performed by the Trust

For greater certainty, where any reference is made in this Declaration of Trust to an act to be performed by the Trust, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by the Trustee on behalf of the Trust or by some other person duly authorized to do so by the Trustee or pursuant to the provisions hereof and where reference is made in this Declaration of Trust to actions, rights or obligations of the Trustee, such reference shall be construed and applied for all purposes to refer to actions, rights or obligations of the Trustee in its capacity as Trustee of the Trust, and not in its other capacities, unless the context otherwise requires.

1.3 Tax Act

Any reference herein to a particular provision of the Tax Act shall include a reference to that provision as it may be renumbered or amended from time to time. Where there are proposals for amendments to the Tax Act which have not been enacted into law or proclaimed into force on or before the date on which such proposals are to become effective, the Trustee may take such proposals into consideration and apply the provisions hereof as if such proposals had been enacted into law and proclaimed into force.

1.4 Number and Gender

In this Declaration of Trust, unless herein otherwise expressly provided or unless the context otherwise requires, words importing the singular number include the plural, and vice

versa; and words importing a gender shall include the feminine, masculine and neuter genders.

1.5 Headings for Reference Only

The division of this Declaration of Trust into Articles and Sections, the provision of a Table of Contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Declaration of Trust.

1.6 Day Not a Business Day

In the event that any day on which any amount is to be determined or any action is required to be taken hereunder is not a Business Day, then such amount shall be determined or such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day. This Section is not applicable to Sections 5.1, 5.2, 5.3 and 5.4.

1.7 Time of the Essence

Time shall be of the essence in this Declaration of Trust.

1.8 Governing Law

This Declaration of Trust and the Unit Certificates shall be construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein and shall be treated in all respects as Alberta contracts. The parties hereto hereby irrevocably submit and attorn to the jurisdiction of the courts of the Province of Alberta.

ARTICLE 2 DECLARATION OF TRUST

2.1 Establishment of Trust

The Trustee hereby declares and agrees to hold the Trust Assets in trust for the use and benefit of Unitholders, their successors, permitted assigns and personal representatives, and subject to the terms and conditions hereinafter declared and set forth, such trust to constitute the Trust hereunder.

2.2 Initial Contribution

It is acknowledged and agreed that the Initial Unitholder has paid, concurrently with the execution of the Initial Declaration of Trust, the Initial Contribution to the Initial Trustees for the purpose of settling the Trust, and the Initial Unitholder was issued one Trust Unit in the Trust.

2.3 Name of Trust

- (a) The Trust shall be known and designated as the “KEYERA FACILITIES INCOME FUND” and, whenever practicable, lawful and convenient, the property of the Trust shall be held and the affairs of the Trust shall be conducted and transacted under that name.
- (b) If the Trustee determines that the use of such name is not practicable, legal or convenient, the Trust may use such other designation or may adopt such other name as the Trustee deems appropriate, and the Trust may hold property and conduct and transact its affairs under such other designation or name.

2.4 Head Office

The head office of the Trust hereby created shall be located at 600, 144 – 4th Avenue S.W., Calgary, Alberta, T2P 3N4 or such other place or places in Canada as the Trustee may from time to time designate.

2.5 Nature of the Trust

The Trust is an unincorporated open-ended trust, established for the purposes specified in Section 4.1. The Trust is not, shall not be deemed to be and shall not be treated as, a general partnership, limited partnership, syndicate, association, joint venture, company, corporation or joint stock company, nor shall the Trustee or the Unitholders or any of them or any person be, or be deemed to be, treated in any way whatsoever as liable or responsible hereunder as partners or joint venturers. The Trustee is not and shall not be, or be deemed to be, an agent of the Unitholders. The relationship of the Unitholders to the Trustee shall be solely that of beneficiaries of the Trust and their rights shall be limited to those conferred upon them by this Declaration of Trust.

2.6 Rights of Unitholders

The rights of each Unitholder to call for a distribution or division of assets, monies, funds, income and capital gains held, received or realized by the Trustee are limited to those contained herein. Except as provided herein, no Unitholder shall be entitled to call for any partition or division of the Trust Assets or for a distribution of any particular asset forming part of the Trust Assets or of any particular monies or funds received by the Trustee. The legal ownership of the assets of the Trust and the right to conduct the activities of the Trust are vested exclusively in the Trustee, or such other persons as the Trustee may determine, and no Unitholder has or is deemed to have any right of ownership in any of the Trust Assets, except as specifically provided herein. Except as specifically provided herein, no Unitholder or Unitholders shall be entitled to interfere with or give any direction to the Trustee with respect to the affairs of the Trust or in connection with the exercise of any powers or authorities conferred upon the Trustee under this Declaration of Trust. The Units shall be personal property and shall confer upon the holders thereof only the interest and rights specifically set forth in this Declaration of Trust.

2.7 Unitholders Bound

This Declaration of Trust shall be binding upon all persons who become Unitholders from time to time. By acceptance of a Unit Certificate representing any Units or, during use of the Book-Entry System for the Units, upon completion of a purchase of a Unit, the Unitholder thereof shall be deemed to agree to be bound, and shall be so bound, by this Declaration of Trust.

2.8 Liability of Unitholders

- (a) No Unitholder, in its capacity as such, shall incur or be subject to any liability, direct or indirect, absolute or contingent, in contract or in tort or of any other kind to any person, and no resort shall be had to, nor shall recourse or satisfaction be sought from the private property of any Unitholder for any liability whatsoever in connection with:
 - (i) the Trust Assets or the ownership, use, operation, acquisition or disposition thereof or exercise or enjoyment of the rights, privileges, conditions or benefits attached thereto, associated therewith or derived therefrom;
 - (ii) the obligations or the activities or affairs of the Trust;
 - (iii) any actual or alleged act or omission of the Trustee, the Administrator or by any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust);
 - (iv) any act or omission of the Trustee, the Administrator or any other person in the performance or exercise, or purported or attempted performance or exercise, of any obligation, power, discretion or authority conferred upon the Trustee, the Administrator or such other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust);
 - (v) any transaction entered into by the Trustee, the Administrator or by any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust);
or
 - (vi) any taxes, levies, imposts or charges or fines, penalties or interest in respect thereof payable by the Trust or by the Trustee, the Administrator or by any other person on behalf of or in connection with the activities or affairs of the Trust,(collectively, “**Trust Liabilities**”).
- (b) No Unitholder, in its capacity as such, shall be liable to indemnify the Trustee or any other person with respect to any Trust Liabilities.

- (c) To the extent that, notwithstanding the provisions of this Section 2.8, any Unitholder, in its capacity as such, may be determined by a judgment of a court of competent jurisdiction to be subject to or liable in respect of any Trust Liabilities, such judgment and any writ of execution or similar process in respect thereof, shall be enforceable only against, and shall be satisfied only out of, the Unitholder's share of the Trust Assets represented by its Units.

ARTICLE 3 ISSUE AND SALE OF UNITS

3.1 Nature of Units

- (a) The beneficial interests in the Trust shall be divided into interests of three classes, described and designated as “Trust Units”, “Special Non-Voting Units” and “Special Trust Units”, respectively, which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein, and the interest of each Unitholder shall be determined by the number of Trust Units, Special Non-Voting Units and/or Special Trust Units registered in the name of the Unitholder.
- (b) Subject to Section 6.5, each Trust Unit represents an equal undivided beneficial interest in any distribution from the Trust (whether of Income of the Trust, Net Realized Capital Gains or other amounts) and in any net assets of the Trust in the event of termination or winding-up of the Trust. All Trust Units shall rank among themselves equally and rateably without discrimination, preference or priority. Each Trust Unit shall entitle the holder of record thereof to one vote at all meetings of Unitholders or in respect of any written resolution of Unitholders.
- (c) Each Special Non-Voting Unit shall not be entitled to any interest or share in the distributions or net assets of the Trust. Special Non-Voting Units may only be issued as part of or in connection with the 2007 Reorganization. Special Non-Voting Units shall not entitle the holder thereof to receive notice of or vote at any meeting of Unitholders or in respect of any written resolution of Unitholders. Each Special Non-Voting Unit shall be redeemable by the Trust and shall be retractable by the holder thereof, in either case on demand by written notice and at a price of \$0.01 per Special Non-Voting Unit. Each Special Non-Voting Unit (to the extent not previously redeemed or retracted and in lieu of any subsequent payment) shall be entitled to a payment of \$0.01 per Special Non-Voting Unit in the event of termination or winding-up of the Trust. For greater certainty, holders of Special Non-Voting Units shall not be entitled to any distributions of any nature whatsoever from the Trust or have any beneficial interests in any assets of the Trust on termination or winding-up of the Trust.

- (d) Each Special Trust Unit shall not be entitled to any interest or share in the distributions or net assets of the Trust. Special Trust Units may be issued in series and shall only be issued in connection with or in relation to Exchangeable Securities on such terms and conditions as may be determined by the Trustee. A Special Trust Unit shall be issued in tandem with each Exchangeable Security issued. Each Special Trust Unit shall entitle the holder of record thereof to a number of votes at all meetings of Unitholders or in respect of any written resolution of Unitholders equal to the number of Trust Units into which the Exchangeable Security to which such Special Trust Unit relates is, directly or indirectly, exchangeable, or convertible (other than in respect of Exchangeable Securities which have been so exchanged or converted and are held by the Trust or an affiliate thereof). For greater certainty, holders of Special Trust Units shall not be entitled to any distributions of any nature whatsoever from the Trust or have any beneficial interests in any assets of the Trust on termination or winding-up of the Trust.
- (e) Concurrently with the issuance of any Exchangeable Securities and associated Special Trust Units, the Trust shall enter into such agreements, including voting and exchange trust agreements and exchangeable security support agreements, as may be necessary or desirable to properly provide for the terms of the Exchangeable Securities, including to provide for voting of such Special Trust Units.

3.2 Authorized Number of Units

The aggregate number of Trust Units, Special Non-Voting Units and Special Trust Units which is authorized and may be issued hereunder is unlimited.

3.3 Issue of Units

- (a) Units may be issued by the Trust at the times, to the persons, for the consideration and on the terms and conditions that the Trustee determines including pursuant to any unitholder rights plan, distribution reinvestment plan or any incentive option or other compensation plan established by the Trust, and, without limiting the generality of the foregoing, the Trustee may authorize the Trust to pay a reasonable commission to any person in consideration of such person purchasing or agreeing to purchase Units from the Trust or from any other person or procuring or agreeing to procure purchasers for Units. Without limitation of the foregoing, the Trustee may create and issue rights, warrants (including so-called “special warrants” or “subscription receipts” which may be exercisable for no additional consideration) or options to subscribe for Units which rights, warrants or options or other convertible securities may be exercisable at such subscription price or prices and at such time or times as the Trustee may determine. The rights, warrants or options so created may be issued for such consideration or for no consideration, all as the Trustee may determine. A right, warrant or option shall not be a Unit and the holder thereof shall not be a Unitholder.

- (b) Units are only to be issued as fully paid in money, property, including an obligation to pay consideration in instalments, or past services, and are not to be subject to future calls or assessments, except that Units to be issued under an offering may be issued for a consideration payable in instalments and the Trust may take a security interest over such Units for unpaid instalments.

3.4 No Fractional Units

Fractions of Units may only be issued pursuant to distributions of additional Units to all Unitholders pursuant to Section 5.7 and in connection with the 2007 Reorganization. Fractions of Units will not be entitled to vote at meetings of Unitholders.

3.5 Re-Purchase of Initial Trust Unit by Trust

Immediately after the Closing for the initial Offering pursuant to the Prospectus, the Trust will purchase the initial Trust Unit from the Initial Unitholder, and the Initial Unitholder shall sell the initial Trust Unit to the Trust, for a purchase price of \$10.00 and, upon the completion of such purchase and sale, the initial Trust Unit shall be cancelled and shall no longer be outstanding for any of the purposes of this Declaration of Trust.

3.6 Consolidation of Trust Units

- (a) Immediately after the conversion of the Special Non-Voting Units into Trust Units as part of the 2007 Reorganization:
 - (i) the number of outstanding Trust Units will automatically be consolidated such that each holder will hold after the consolidation the same number of Trust Units as such holder held immediately before the 2007 Reorganization; and
 - (ii) each Trust Unit Certificate representing a number of Trust Units prior to the 2007 Reorganization shall be deemed to represent the same number of Trust Units.
- (b) Immediately after any pro rata distribution of additional Trust Units to all holders of Trust Units pursuant to Section 5.7, the number of the outstanding Trust Units will automatically be consolidated such that each such holder will hold after the consolidation the same number of Trust Units as such holder held before the distribution of additional Trust Units. In this case, each Trust Unit Certificate representing a number of Trust Units prior to the distribution of additional Trust Units is deemed to represent the same number of Trust Units after the distribution of additional Trust Units and the consolidation.
- (c) Notwithstanding the foregoing, where tax is required to be withheld in respect of a Unitholder's share of the distribution, the Trust shall withhold from the cash portion of such distribution, if any, or the Unitholder shall make a cash payment to the Trust, of an amount equal to the amount of tax required to be remitted to the appropriate taxation authority by the Trust, or, if such

withholding cannot be made by the Trust or such payment is not made by the Unitholder:

- (i) the consolidation of the Trust Units held by such Unitholder will result in such Unitholder holding that number of Trust Units equal to the number of Trust Units held by such Unitholder prior to the distribution minus the number of Trust Units withheld by the Trust on account of withholding taxes payable by the Unitholder in respect of the distribution; and
- (ii) the consolidation shall not apply to any Trust Units so withheld.

Any Trust Units so withheld shall either be delivered to the appropriate taxation authority or sold, in which case the net proceeds shall be remitted to the appropriate taxation authority. Such Unitholder will be required to surrender the Trust Unit Certificates, if any, representing such Unitholder's original Trust Units, in exchange for a Trust Unit Certificate representing such Unitholder's post-consolidation Trust Units other than the withheld Trust Units.

3.7 No Pre-Emptive Rights

No person shall be entitled, as a matter of right, to subscribe for or purchase any Unit.

ARTICLE 4 INVESTMENTS OF TRUST

4.1 Purpose of the Trust

The Trust is a limited purpose trust and its operations and activities shall be restricted to:

- (a) investing in securities (whether debt or equity) of whatever nature or kind of, or issued by, a Keyera Entity, or of, or issued by, any other corporation, partnership, trust or other person involved, directly or indirectly, in the business of gathering, processing, transporting, buying, storing and selling petroleum, natural gas, natural gas liquids and other related products, electricity and thermal energy and other related businesses;
- (b) investing in securities (whether debt or equity) of whatever nature or kind of, or issued by, any corporation, partnership, trust or other person involved, directly or indirectly, in the business of acquiring, developing and producing petroleum and natural gas reserves and other related products;
- (c) acquiring, holding, maintaining, improving, leasing or managing any real property (or interest in real property) that is capital property of the Trust for purposes of the Tax Act;

- (d) borrowing funds and issuing debt securities for the purposes, directly or indirectly, set forth in Section 4.1(a), (b) and (c) and entering into hedging arrangements in relation thereto;
- (e) temporarily holding cash and other short term investments in connection with and for the purposes of the Trust's activities, including paying administration and trust expenses, paying any amounts required in connection with the redemption of Trust Units and making distributions to Unitholders entitled to receive same;
- (f) issuing Units and other securities of the Trust (including Exchangeable Securities, or warrants, options, subscription receipts or other rights to acquire Units or other securities of the Trust), for the purposes of:
 - (i) obtaining funds to conduct the activities described above, including raising funds for further acquisitions;
 - (ii) repayment of any indebtedness or borrowings of the Trust;
 - (iii) establishing and implementing unitholder rights plans, distribution reinvestment plans, Trust Unit purchase plans, incentive option plans or other compensation plans, if any, established by the Trust;
 - (iv) carrying out any of the transactions contemplated by the Prospectus or the 2007 Reorganization; and
 - (v) making non-cash distributions to holders of Trust Units as contemplated by this Declaration of Trust including in specie redemptions and distributions pursuant to distribution reinvestment plans, if any, established by the Trust;
- (g) guaranteeing the obligations of any Keyera Entity pursuant to any debt for borrowed money or any other obligation incurred by such entity in good faith for the purpose of carrying on its business, and pledging securities and other property owned by the Trust as security for any obligations of the Trust, including obligations under any such guarantee;
- (h) repurchasing or redeeming securities of the Trust, including Units, subject to the provisions of this Declaration of Trust and applicable law;
- (i) engaging in all activities ancillary or incidental to any of those activities set forth in paragraphs (a) through (h) above; and
- (j) undertaking such other activities or taking such actions including investing in securities as shall be approved by the Trustee from time to time,

provided that the Trust shall not, in any event, undertake any activity, take any action, or make any investment which would result in the Trust not being considered a “unit trust” or a “mutual fund trust” for purposes of the Tax Act.

4.2 Investment of Proceeds of Offering

At and immediately after the Time of Closing for the initial Offering pursuant to the Prospectus, the Trust shall use the proceeds from the sale of Trust Units issued on the initial Offering, net of expenses associated with the initial Offering, to subscribe for and acquire units and notes of KCT and shares of the Administrator all as more particularly described in the Prospectus.

4.3 Other Investments

To the extent that any monies or other property received by the Trust or the Trustee are not to be immediately used by the Trustee for the purpose of making distributions under Article 5 hereof, the Trustee is hereby authorized and, where prudent to do so, shall invest such monies in: (i) obligations issued or guaranteed by the Government of Canada or a province of Canada or any agency or instrumentality thereof; (ii) short term commercial paper obligations of a corporation whose short term commercial paper is rated R-1 or higher by Dominion Bond Rating Service Limited or A-1 or higher by Standard & Poor's, division of The McGraw-Hill Companies, Inc.; or (iii) term deposits, interest-bearing accounts, certificates of deposit or banker's acceptances of or guaranteed by one of the six largest (in terms of total assets) Canadian chartered banks. For the purpose hereof, “short term” shall mean having a date of maturity or call for payment not more than 60 days from the date on which the investment is made.

ARTICLE 5 DISTRIBUTIONS

5.1 Computation of Cash Flow of the Trust

The “Cash Flow of the Trust”, for, or in respect of, any Distribution Period, shall be:

- (a) all cash amounts which are received by the Trust for, or in respect of, the Distribution Period, including, without limitation, interest, dividends, distributions, proceeds from the disposition of securities, returns of capital and repayments of indebtedness;
- (b) plus the proceeds of any issuance of Units or any other securities of the Trust, net of the expenses of distribution, and, if applicable, the use of proceeds of any such issuance for the intended purpose;
- (c) less all amounts which relate to the redemption of Trust Units and which have become payable in cash by the Trust in such Distribution Period and any expenses of the Trust, in such Distribution Period.

5.2 Computation of Income and Net Realized Capital Gains

- (a) The “Income of the Trust” for any taxation year of the Trust shall be the net income for the year determined pursuant to the provisions of the Tax Act having regard to the provisions thereof which relate to the calculation of income of a trust, and taking into account such adjustments thereto as are determined by the Trustee in respect of dividends received from taxable Canadian corporations, amounts paid or payable by the Trust to Unitholders and such other amounts as may be determined in the discretion of the Trustee; provided, however, that capital gains and capital losses shall be excluded from the computation of net income.
- (b) The “Net Realized Capital Gains” of the Trust for any taxation year of the Trust shall be determined as the amount, if any, by which the aggregate of the capital gains of the Trust in the year exceeds (i) the aggregate of the capital losses of the Trust in the year, (ii) any capital gains which are realized by the Trust as a result of a redemption of Trust Units pursuant to Article 6, and (iii) the amount determined by the Trustee in respect of any net capital losses for prior taxation years which the Trust is permitted by the Tax Act to deduct in computing the taxable income of the Trust for the year.

5.3 Distributions of Cash Flow of the Trust

The Trustee may, on or before each Distribution Record Date, declare payable to the holders of Trust Units on such Distribution Record Date, all or any part of the Cash Flow of the Trust for the Distribution Period which includes such Distribution Record Date. The proportionate share for each Trust Unit of the amount of such Cash Flow of the Trust (or portion thereof declared payable) shall be determined by dividing such amount by the number of issued and outstanding Trust Units on such Distribution Record Date. The share of such Cash Flow of the Trust (or portion thereof declared payable) attributable to each holder of Trust Units shall be an amount equal to the proportionate share for each Trust Unit of the amount of such Cash Flow of the Trust (or portion thereof declared payable) multiplied by the number of Trust Units owned of record by each such holder of Trust Units on such Distribution Record Date. Subject to Section 5.7, Cash Flow of the Trust which has been declared to be payable to holders of Trust Units in respect of a Distribution Period shall be paid in cash on the Distribution Payment Date in respect of such Distribution Period.

5.4 Other Distributions

- (a) In addition to the distributions which are made payable to holders of Trust Units pursuant to Section 5.3, the Trustee may, subject to Section 3.1, declare to be payable and make distributions to Unitholders, from time to time, out of Income of the Trust, Net Realized Capital Gains, the capital of the Trust or otherwise, in any year, in such amount or amounts, and on such dates as the Trustee may determine.
- (b) **Intentionally Deleted.**

- (c) The proportionate share of each Trust Unit of the amount of any distribution made pursuant to Section 5.4(a) shall be determined by dividing such amount by the number of issued and outstanding Trust Units on the applicable record date. Each holder of Trust Units' share of the amount of any such distribution shall be an amount equal to the proportionate share of each Trust Unit of such amount multiplied by the number of Trust Units owned of record by each such holder of Trust Units on such applicable record date. Subject to Section 5.7, amounts which have been declared to be payable to holders of Trust Units pursuant to Section 5.4(a) shall be paid in cash on the Distribution Payment Date which immediately follows the applicable record date.
- (d) In addition to the distributions which are made payable to holders of Trust Units, the Trustee may designate any capital gain realized by the Trust as a result of the redemption of Trust Units pursuant to Section 6.5 to the redeeming holders of Trust Units in accordance with that Section.

5.5 Character of Distributions and Designations

In accordance with and to the extent permitted by the Tax Act, the Trustee in each year shall make designations in respect of the amounts payable to Unitholders for such amounts that the Trustee considers to be reasonable in all of the circumstances, including, without limitation, designations relating to taxable dividends received by the Trust in the year on shares of taxable Canadian corporations (or designated in respect of the Trust where the Trust is a beneficiary of another trust), net capital gains realized by the Trust in the year (or designated in respect of the Trust where the Trust is a beneficiary of another trust) and foreign source income of the Trust for the year, as well as elect under Subsections 104(13.1) and/or (13.2) of the Tax Act that income be taxed to the Trust, rather than to such Unitholders. Distributions payable to Unitholders pursuant to this Article 5 shall be deemed to be distributions of Income of the Trust, Net Realized Capital Gains, trust capital or other items in such amounts as the Trustee shall, in its absolute discretion, determine. For greater certainty, it is hereby declared that any distribution of Net Realized Capital Gains shall include the nontaxable portion of the capital gains of the Trust which are encompassed in such distribution. Without limiting the generality of the foregoing, the Trustee may designate any capital gain realized by the Trust as a result of the redemption of Units pursuant to Section 6.5 to the redeeming Unitholders in accordance with that Section 6.5.

5.6 Enforceability of Right to Receive Distributions

Subject to Section 2.8(c), for greater certainty, it is hereby declared that each Unitholder shall have the legal right to enforce payment of any amount payable to such Unitholder as a result of any distribution which is declared payable to such Unitholder pursuant to this Article 5.

5.7 Method of Payment of Distributions

- (a) Where the Trustee determines that the Trust does not have available cash in an amount sufficient to make payment of the full amount of any distribution

which has been declared to be payable pursuant to this Article 5 on the due date for such payment, the payment may, at the option of the Trustee, include the issuance of additional Trust Units, or fractions of Trust Units, if necessary, having a value equal to the difference between the amount of such distribution and the amount of cash which has been determined by the Trustee to be available for the payment of such distribution.

- (b) The value of each Trust Unit which is issued pursuant to Section 5.7(a) shall be the closing market price (as defined in Section 6.3) of the Trust Units on the applicable Distribution Record Date in respect of a distribution pursuant to Section 5.3 or on the applicable Distribution Record Date in respect of a distribution under Section 5.4(a), provided that if the particular date is not a Business Day then the closing market price (as defined in Section 6.3) shall be determined on the last Business Day which precedes such particular date.

5.8 Withholding Taxes

The Trustee may deduct or withhold from distributions payable to any holder of Units all amounts required by law to be withheld from such distribution. In addition, non-Resident Unitholders will be required to pay all withholding taxes payable in respect of any distributions in the form of additional Trust Units under Section 5.7.

5.9 Definitions

Unless otherwise specified or the context otherwise requires, any term in this Article 5 which is defined in the Tax Act shall have for the purposes of this Article 5 the meaning that it has in the Tax Act.

5.10 Distribution Reinvestment and Unit Purchase Plan

Subject to any required regulatory approvals (and any Unitholder approval imposed by regulatory requirements), the Trustee may, acting in its sole discretion, establish one or more Unitholder rights plans, distribution reinvestment plans, Trust Unit purchase plans, Trust Unit option plans, incentive option plans or other compensation plans at any time and from time to time.

ARTICLE 6 REDEMPTION OF TRUST UNITS

6.1 Right of Redemption

Each holder of Trust Units shall be entitled to require the Trust to redeem at any time or from time to time at the demand of such Unitholder all or any part of the Trust Units registered in the name of such Unitholder at the prices determined and payable in accordance with the conditions hereinafter provided.

6.2 Exercise of Redemption Right

- (a) To exercise a right to require redemption of Trust Units under this Article 6, a duly completed and properly executed notice requesting the Trust to redeem Trust Units, in a form reasonably acceptable to the Trustee, specifying the number of Trust Units to be so redeemed, shall be sent by a holder of Trust Units to the Trust at the head office of the Trust and to CDS. No form or manner of completion or execution shall be sufficient unless the same is in all respects satisfactory to the Trustee and CDS and is accompanied by any further evidence that the Trustee or CDS may reasonably require with respect to the identity, capacity or authority of the person giving such notice.
- (b) Upon receipt by the Trust of the notice to redeem Trust Units, the Unitholder shall thereafter cease to have any rights with respect to the Trust Units tendered for redemption (other than to receive the redemption payment therefor unless the redemption payment is not made as provided for herein) including the right to receive any distributions thereon which are declared payable to the holders of Trust Units of record on a date which is subsequent to the day of receipt by the Trust of such notice. Trust Units shall be considered to be tendered for redemption on the date that the Trust and CDS have, to their satisfaction, received the notice and other required documents or evidence as aforesaid.

6.3 Cash Redemption

- (a) Subject to Section 6.4, upon receipt by the Trust of the notice to redeem Trust Units in accordance with Section 6.2, the holder of the Trust Units tendered for redemption shall be entitled to receive a price per Trust Unit (hereinafter called the “**Redemption Price**”) equal to the lesser of:
 - (i) 90% of the weighted average price per Trust Unit at which the Trust Units have traded on the principal stock exchange on which the Trust Units are listed (or, if the Trust Units are not listed on any such exchange, on the principal market on which the Trust Units are quoted for trading) during the period of the last 10 trading days during which the Trust Units traded on such exchange or market immediately prior to the date on which the Trust Units were tendered for redemption; and
 - (ii) 100% of the “closing market price” on the principal stock exchange on which the Trust Units are listed (or, if the Trust Units are not listed on any such exchange, on the principal market on which the Trust Units are quoted for trading) on the date that the Trust Units were tendered for redemption.

For the purposes of Section 6.3(a)(ii), the “closing market price” shall be: an amount equal to the closing price of the Trust Units if there was a trade on the date on which the Trust Units were tendered for redemption and the exchange

or market provides a closing price; an amount equal to the average of the highest and lowest prices of Trust Units on the date on which the Trust Units were tendered for redemption if there was trading and the exchange or other market provides only the highest and lowest trading prices of Trust Units traded on a particular day; or the average of the last bid and ask prices on the date if there was no trading on the date.

- (b) Subject to Sections 6.4 and 6.5, the Redemption Price payable in respect of the Trust Units surrendered for redemption during any calendar month shall be satisfied by way of cash payment within five days after the end of the calendar month in which the Trust Units were tendered for redemption. Payments made by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former holder of Trust Units unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former holders of Trust Units in respect of the Trust Units so redeemed.

6.4 No Cash Redemption in Certain Circumstances

Section 6.3(b) shall not be applicable to Trust Units tendered for redemption by a holder of Trust Units, if:

- (a) the total amount payable by the Trust pursuant to Section 6.3 in respect of such Trust Units and all other Trust Units tendered for redemption in the same calendar month exceeds \$50,000 (the “**Monthly Limit**”); provided that the Trustee may, in its sole discretion, waive such limitation in respect of all Trust Units tendered for redemption in any calendar month; Trust Units tendered for redemption in any calendar month in which the total amount payable by the Trust pursuant to Section 6.3(b) exceeds the Monthly Limit will be redeemed for cash pursuant to Section 6.3(b) and, unless any applicable regulatory approvals are required, by a distribution in specie under Section 6.5, on a pro rata basis;
- (b) at the time such Trust Units are tendered for redemption, the outstanding Trust Units are not listed for trading on the Toronto Stock Exchange or traded or quoted on any stock exchange or market which the Trustee considers, in its sole opinion, provides representative fair market value prices for the Trust Units;
- (c) the normal trading of the Trust Units is suspended or halted on any stock exchange on which the Trust Units are listed for trading or, if not so listed, on any market on which the Trust Units are quoted for trading, on the date that such Trust Units tendered for redemption were tendered to the Trust for redemption or for more than five trading days during the 10-day trading period prior to the date on which such Trust Units were tendered for redemption; or

- (d) the redemption of Trust Units will result in the delisting of the Trust Units on the principal stock exchange on which the Trust Units are listed.

6.5 In Specie Redemption

If, pursuant to Section 6.4, Section 6.3(b) is not applicable to Trust Units tendered for redemption by a holder of Trust Units, then such holder of Trust Units shall, instead of the Redemption Price per Trust Unit specified in Section 6.3, be entitled to receive a price per Trust Unit (the “**in specie Redemption Price**”) equal to the fair market value of a Trust Unit as determined by the Trustee in its discretion, and the in specie Redemption Price shall, subject to all necessary regulatory approvals, be paid and satisfied, at the discretion of the Trustee by way of:

- (i) the issuance to or to the order of the redeeming Unitholder such aggregate amount of Redemption Notes as is equal to the aggregate in specie Redemption Price payable to such Unitholder as determined in the discretion of the Trustee;
- (ii) the distribution, tender or transfer to or to the order of the redeeming Unitholder of Trust Assets, the value of which is equal to the aggregate in specie Redemption Price payable to such Unitholder as determined in the discretion of the Trustee; or
- (iii) in the event Section 6.4(a) applies, by any combination of the issuance of Redemption Notes, the distribution of Trust Assets and cash payment (by way of cheque), to or to the order of the redeeming Unitholder, the value of which, taken together, is equal to the aggregate in specie Redemption Price payable to such Unitholder as determined in the discretion of the Trustee.

Each Redemption Note issued to a redeeming Unitholder shall be in the principal amount of \$100. No fractional Redemption Notes shall be distributed and where the number of Redemption Notes to be received upon redemption by a redeeming Unitholder would otherwise include a fraction, that number shall be rounded down to the next lowest whole number.

In respect of any Trust Assets being transferred in payment of the in specie Redemption Price, the Trust shall be entitled to all interest paid or accrued and unpaid in respect of such Trust Assets (including any instruments on which interest is accruing), to and including the date of transfer thereof.

The in specie Redemption Price payable in respect of the Trust Units tendered for redemption during any calendar month shall be paid within five Business Days after the end of the calendar month in which the Trust Units were tendered for redemption.

Payments by the Trust of the in specie Redemption Price are conclusively deemed to have been made upon the mailing of the Redemption Notes, the documents evidencing ownership of the Trust Assets distributed and/or a cheque in the lawful money of Canada for

any cash payment, as the case may be, by registered mail in a postage prepaid envelope addressed to the former Unitholder. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder in respect of Trust Units so redeemed to the extent of the amount of such Redemption Notes, Trust Assets and/or cash payment, as the case may be.

6.6 Purchase for Cancellation

The Trust may from time to time purchase for cancellation some or all of the Units (or other securities of the Trust which may be issued and outstanding from time to time) in the market or upon any recognized stock exchange on which such Units are traded or pursuant to tenders received by the Trust upon request for tenders addressed to all holders of record of Units, provided in each case that the Trustee has determined that such purchases are in the best interests of the Trust.

6.7 Cancellation of all Redeemed Trust Units

All Trust Units which are redeemed under this Article 6 shall be cancelled and such Trust Units shall no longer be outstanding and shall not be reissued.

6.8 Withholdings by the Trustee

The Trustee may deduct or withhold from all payments or other distributions payable to any Unitholder pursuant to this Article 6 all amounts required by law to be so withheld.

6.9 Retraction of Special Trust Units

At such time as no Exchangeable Securities (other than Exchangeable Securities owned by the Trust and its affiliates) relating to a Special Trust Unit are outstanding, and no shares of stock, debt, options or other securities or agreements which could give rise to the issuance of any such Exchangeable Securities to any person (other than the Trust and its affiliates) exist, the applicable Special Trust Unit shall automatically be redeemed by the Trust and cancelled. Upon any such redemption or other purchase or acquisition of a Special Trust Unit by the Trust, such Special Trust Unit shall be deemed retired and cancelled and may not be reissued.

ARTICLE 7 TRUSTEE

7.1 Number and Term

There shall be one Trustee of the Trust. The appointment of the Replacement Trustee as Trustee is hereby ratified and confirmed. The term of office of the Trustee commences from the date on which its election or appointment becomes effective and shall continue until the earlier of the date of the termination of the Trust, the effective date of the Trustee's resignation in accordance with Section 8.3, the effective date of the removal of the Trustee by the Unitholders in accordance with Section 8.3, or the effective date of the removal of the Trustee by the Administrator in accordance with Section 8.3.

ARTICLE 8

APPOINTMENT, RESIGNATION AND REMOVAL OF THE TRUSTEE

8.1 Qualifications of the Trustee

The Trustee shall be a body corporate which shall at all times during which it is the Trustee:

- (a) be incorporated under the laws of Canada or of a province thereof;
- (b) be resident in Canada for the purposes of the Tax Act;
- (c) be authorized and registered under the laws of the Province of Alberta to carry on the business of a trust company; and
- (d) have reported on its audited consolidated financial statements for its then most recently completed financial year shareholders' equity of at least \$50 million, which audited financial statements shall be dated not more than 140 days after the end of such financial year.

8.2 Election of the Trustee

- (a) The Unitholders entitled to vote may at any time elect a body corporate that meets the qualification of Section 8.1 to be the Trustee for a specified term, or until the earlier of the date of the termination of the Trust, the effective date of the Trustee's resignation in accordance with Section 8.3, the effective date of the removal of the Trustee by the Unitholders in accordance with Section 8.3, or the effective date of the removal of the Trustee by the Administrator in accordance with Section 8.3 provided that neither the Trustee nor the Board of Directors shall have any obligations to call a meeting for the purpose of such an election.
- (b) In the event that the Trustee shall resign or be removed and the Unitholders shall not have elected a Trustee to take the place of the retiring Trustee, the Board of Directors may appoint a corporation which meets the qualification of Section 8.1 to be the Trustee.
- (c) The election or appointment of a Trustee (other than the appointment of the Replacement Trustee as Trustee upon the execution of the Supplemental Indenture appointing the Replacement Trustee) shall not become effective unless and until such person has, either before or after such election or appointment, executed and delivered to the Trust an acceptance substantially as follows:

“To: Keyera Facilities Income Fund
(the “**Trust**”)

And to: The Administrator thereof

The undersigned hereby accepts its election or appointment as the Trustee of the Trust and hereby agrees, upon the later of the date of this acceptance and the date of the undersigned's election or appointment as the Trustee of the Trust, to thereby become a party, as the Trustee, to the Declaration of Trust pursuant thereto.

Dated: _____

[print name] _____

[signature] _____

Upon the later of a person being elected or appointed as the Trustee hereunder and executing and delivering to the Trust an acceptance substantially as set forth above, such person shall become the Trustee hereunder and shall be deemed to be a party (as the Trustee) to this Declaration of Trust, as amended from time to time.

An act of the Trustee is valid notwithstanding an irregularity in the election or appointment of the Trustee or a defect in the qualifications thereof.

8.3 Resignation and Removal of the Trustee

- (a) The Trustee may resign its trust hereunder by giving to the Administrator not less than 90 days prior written notice of such resignation.
- (b) The Trustee may be removed at any time with or without cause by Ordinary Resolution passed in favour of the removal of the Trustee.
- (c) The Trustee may be removed at any time by the Administrator by notice in writing to the Trustee if, at any time:
 - (i) the Trustee shall no longer satisfy all the requirements of Section 8.1;
 - (ii) the Trustee shall be declared bankrupt or insolvent or shall enter into liquidation, whether compulsory or voluntary, to wind up its affairs;
 - (iii) all of the assets of the Trustee, or a substantial part thereof, shall become subject to seizure or confiscation; or
 - (iv) the Trustee shall otherwise become incapable of performing its responsibilities under this Declaration of Trust.
- (d) Any resignation or removal pursuant to Section 8.3(a), (b) or (c) shall take effect on the earlier of: (i) 90 days after the date notice of such resignation is duly given, such Ordinary Resolution is approved, or such notice of the Administrator is given, as the case may be, and (ii) the date a successor Trustee is appointed or elected.

- (e) If no successor Trustee has been appointed or elected within 60 days of (i) the Trustee's notice of resignation under Section 8.3(a), (ii) the approval of the Ordinary Resolution referred to in Section 8.3(b) or (iii) the giving of notice by the Administrator to remove the Trustee under Section 8.3(c), as the case may be, any Unitholder, the Trustee, the Administrator or any other interested person may apply to a court of competent jurisdiction for the appointment of a successor Trustee.
- (f) Upon the resignation or removal of the Trustee or the Trustee otherwise ceasing to be the Trustee, the Trustee shall cease to be a party to the Administration Agreement and shall execute and deliver all such documents and instruments and do all such acts and things as the Administrator may reasonably request in order to effectively remove the Trustee as a party to the Administration Agreement and to assign its right, title and interest therein to a successor Trustee appointed or elected.
- (g) Upon the resignation or removal of the Trustee, or the Trustee otherwise ceasing to be the Trustee, the Trustee shall:
 - (i) cease to have rights, privileges, powers and authorities of a Trustee hereunder;
 - (ii) execute and deliver such documents as the Administrator shall reasonably require for the conveyance, to a successor Trustee, of any Trust Assets held in the Trustee's name, and shall provide for or facilitate the transition of the Trust's activities and affairs to such successor Trustee; and
 - (iii) account to the Administrator as the Administrator may require for all property, including the Trust Assets, which the Trustee held or then holds as Trustee.
- (h) Upon the Trustee ceasing to hold office as such hereunder, the Trustee shall cease to be a party (as a Trustee) to this Declaration of Trust provided, however, that such Trustee shall continue to be entitled to payment of any amounts owing by the Trust to the Trustee which accrued prior to its ceasing to hold office as Trustee; and provided further that such Trustee and each of its directors, officers, employees, shareholders and agents shall continue to be entitled to the benefit of any indemnity and limitation of liability provisions which are expressly set out herein and by their terms are for the benefit of the Trustee and its directors, officers, employees, shareholders and agents (as the case may be).
- (i) The resignation or removal of the Trustee, or the Trustee otherwise ceasing to be the Trustee, shall not affect any liabilities of the Trustee in respect of or in any way arising under or out of the Declaration of Trust which have accrued prior to such resignation, removal or termination.

8.4 Vacancies

No vacancy in the office of the Trustee shall operate to annul this Declaration of Trust or affect the continuity of the Trust.

8.5 Successor Trustee

The rights of the Trustee, subject to the terms hereof, to control and administer the Trust, all other rights of the Trustee at law, and the interest of the Trustee, as trustee of the Trust, in the Trust Assets shall vest automatically in any person who may hereafter become the Trustee upon its due election or appointment and qualification, in accordance with the terms hereof, without any further act and it shall thereupon have all the rights, privileges, powers, authorities, obligations and immunities of the Trustee hereunder. Such rights and interest shall vest in the Trustee whether or not conveyancing or transfer documents have been executed and delivered pursuant to Section 8.3 or otherwise.

8.6 Compensation and Other Remuneration

The Trustee shall be entitled to receive for its services as Trustee:

- (a) such reasonable compensation as shall be negotiated between the Administrator on behalf of the Trust and the Trustee;
- (b) reimbursement of the Trustee's reasonable out-of-pocket expenses incurred in acting as the Trustee; and
- (c) fair and reasonable remuneration for services rendered to the Trust in any other capacity, which services may include, without limitation, services as the Transfer Agent for any securities issued by the Trust.

The Trustee shall, in respect of amounts payable or reimbursable to the Trustee pursuant to this Declaration of Trust, have a priority over distributions to Unitholders pursuant to Article 5 or Section 14.6.

ARTICLE 9 CONCERNING THE TRUSTEE

9.1 Powers of the Trustee and Delegation

- (a) The Trustee, subject to the specific limitations contained in this Declaration of Trust, shall have, without further or other action or consent, and free from any power or control on the part of the Unitholders, but subject to the delegation to the Administrator contained herein, full and absolute power, control and authority over the Trust Assets and over the affairs of the Trust to the same extent as if the Trustee were the sole and absolute beneficial owner of the Trust Assets in its own right, to do all such acts and things as in its judgment and discretion are necessary or incidental to, or desirable for, carrying out the

trust created hereunder. In construing the provisions of this Declaration of Trust, presumption shall be in favour of the granted powers and authority to the Trustee, and the delegation thereof to the Administrator. The enumeration of any specific power or authority herein (including in Section 9.2) shall not be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustee. To the maximum extent permitted by law, the Trustee shall, in carrying out investment activities, not be in any way restricted by the provisions of the laws of any jurisdiction limiting or purporting to limit investments which may be made by Trustee.

- (b) In performing its functions hereunder, the Trustee shall and hereby does delegate to the Administrator:
 - (i) the power, authority and responsibility to make all decisions required to be made by the Trustee from time to time in relation to the Trust including, without limitation, the power, authority and responsibility for any and all matters referred to in the Administration Agreement and all matters relating to the redemption of Units; the acquisition of Trust Assets by the Trust and the negotiation of agreements respecting thereto; and matters relating to any Offering including:
 - (A) the listing and maintaining of the listing on the Toronto Stock Exchange of the Trust Units or any other securities of the Trust or its affiliates;
 - (B) the filing of documents or obtaining of permission from any governmental or regulatory authority or the taking of any other step under federal or provincial law to enable securities which a Unitholder is entitled to receive to be properly and legally delivered and thereafter traded;
 - (C) ensuring compliance with all applicable laws;
 - (D) all matters relating to the content of any Offering Documents, the accuracy of the disclosure contained therein, and the certification thereof; and
 - (E) all matters concerning the terms of the sale or issuance of securities including without limitation all matters concerning any Underwriting Agreement; and
 - (ii) the consideration of, or response to an Offer, including:
 - (A) any Unitholder rights protection plan (or amendment or waiver thereof) either prior to or during the course of any Offer;

- (B) any defensive action either prior to or during the course of any Offer, the consideration of alternatives to any Offer which shall include continuing the Trust in its current form;
- (C) the preparation of any “Directors' Circular” in response to any Offer;
- (D) consideration on behalf of Unitholders and recommendations to Unitholders in response to any Offer;
- (E) any regulatory or court action in respect of any related matters; and
- (F) the carriage of all related and ancillary matters,

provided that notwithstanding the foregoing, the Trustee shall not be required to execute any “Directors' Circular” or similar public disclosure document. For greater certainty, the Trustee shall have no liability whatsoever for any of such actions, as they shall be exclusively within the authority of the Administrator;

- (iii) the matters described in Section 9.2;
- (iv) the powers and authorities of the Trust that are necessary or desirable to enable the Administrator to fully implement each decision made by it within the scope of the power, authority and responsibility delegated to it hereunder including, without limitation, the power to further delegate from time to time, such powers and authorities, or any of them, to such person or persons the Administrator determines appropriate and qualified to exercise such power and authorities.

The Administrator may, and if directed by the Administrator in writing, the Trustee shall, execute any agreements on behalf of the Trust as the Administrator shall have authorized within the scope of any authority delegated to it hereunder.

9.2 Specific Powers and Authorities

Subject to the specific limitations contained in this Declaration of Trust and in addition to any other powers and authorities conferred by this Declaration of Trust or which the Trustee may have by virtue of any present or future statute or rule of law, but subject to the delegation to the Administrator contained herein, the Trustee without any action or consent by the Unitholders shall have and may exercise at any time and from time to time the following powers and authorities which may or may not be exercised by the Trustee in such manner and upon such terms and conditions as it may from time to time determine proper including the powers and authorities to do the following or to cause the same to be done:

- (a) supervise the activities and manage the investments and affairs of the Trust;

- (b) maintain records and provide reports to Unitholders;
- (c) collect, sue for and receive all sums of money due to the Trust;
- (d) effect payment of distributions to Unitholders as provided in Article 5;
- (e) invest funds of the Trust as provided in Article 4;
- (f) possess and exercise all the rights, powers and privileges pertaining to the ownership of the securities of the Keyera Entities and all or any part of the Trust Assets, to the same extent that an individual might, unless otherwise limited herein, and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or actions generally or for any particular meeting or action and may include the exercise of discretionary power;
- (g) where reasonably required, engage or employ on behalf of the Trust any persons as agents, representatives, administrators, employees or independent contractors (including, without limitation, investment advisors, registrars, transfer agents, underwriters, accountants, lawyers, appraisers, brokers or otherwise) in one or more capacities;
- (h) except as prohibited by law, delegate any of the powers and duties of the Trustee to any one or more agents, representatives, administrators, officers, employees, independent contractors or other persons without liability to the Trustee, except as provided in this Declaration of Trust;
- (i) engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, disputes, claims, demands or other litigation or proceedings, regulatory or judicial, relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefor, whether or not any suit or proceeding is commenced or claim asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- (j) arrange for insurance contracts and policies insuring the Trust, its assets, the Keyera Entities, the Trustee, the Unitholders or the directors, officers, employees or agents of any of them, including against any and all claims and liabilities of any nature asserted by any person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustee, the Unitholders or any Keyera Entity or any director, officer, employee or agent of any of them;
- (k) cause legal title to any of the assets of the Trust to be held by and/or in the name of the Trustee, or except as prohibited by law, by and/or in the name of the Trust or any other custodian or person, on such terms, in such manner,

with such powers in such person as the Trustee may determine and with or without disclosure that the Trust or the Trustee is interested therein; provided, however, that should legal title to any of the Trust Assets be held by and/or in the name of any person or persons other than the Trustee or the Trust, the Trustee shall require such person or persons to execute a trust agreement acknowledging that legal title to such assets is held in trust for the benefit of the Trust;

- (l) issue Units, Exchangeable Securities or other rights, warrants, options or other securities convertible into or exchangeable for Units, for such consideration as the Trustee may deem appropriate in its sole discretion, such issuance to be subject to the terms and conditions of the Declaration of Trust;
- (m) do all such other acts and things as are incidental to the foregoing, and to exercise all powers which are necessary or useful to carry on the purpose and activities of the Trust, to promote any of the purposes for which the Trust is formed and to carry out the provisions of this Declaration of Trust;
- (n) enter into or perform the obligations of the Trust under and in respect of any and all agreements to which the Trust becomes a party including, but not limited to, the Administration Agreement;
- (o) approve the form of and sign the certificates for Units or other securities issued by the Trust;
- (p) in addition to the mandatory indemnification provided for in Sections 9.8 and 9.9, to the extent permitted by law, indemnify, or enter into agreements with respect to the indemnification of, any person with whom the Trust has dealings including, without limitation, the Trustee, the Depository, registrar and transfer agent or escrow agent, and the directors and officers of any Keyera Entity, to such extent as the Trustee shall determine;
- (q) with the approval or confirmation of Unitholders entitled to vote thereon, enact (and from time to time amend or repeal) by-laws consistent with this Declaration of Trust containing provisions relating to the Trust, the Trust Assets and the conduct of the affairs of the Trust;
- (r) without limit as to amount, issue any type of debt securities or convertible debt securities and borrow money or incur any other form of indebtedness for the purpose of carrying out the purposes of the Trust or for other expenses incurred in connection with the Trust and enter into hedging arrangements with respect thereto and for such purposes, draw, make, execute and issue promissory notes and other, negotiable and non-negotiable instruments or securities and evidences of indebtedness, secure the payment of sums so borrowed or indebtedness incurred and mortgage, pledge, assign or grant a security interest in any money owing to the Trust or in Trust Assets or engage in any other means of financing the Trust;

- (s) pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Trustee in connection with the Trust Assets, undertaking or income of the Trust, or imposed upon or against the Trust Assets, undertaking or income of the Trust, or any part thereof and to settle or compromise disputed tax liabilities and for the foregoing purposes to make such returns, take such deductions, and make such designations, elections and determinations in respect of Income of the Trust or Net Realized Capital Gains distributed to Unitholders in the year and any other matter as shall be permitted under the Tax Act (provided that to the extent necessary the Trustee will seek the advice of the Trust's counsel or the Auditor), and do all such other acts and things as may be deemed by the Trustee in its sole discretion to be necessary, desirable or convenient;
- (t) guarantee the obligations of any of the Keyera Entities and any subsidiary of any of them and any other subsidiary of the Trust pursuant to any debt for borrowed money or other obligation incurred by such entity in good faith for the purpose of carrying on its business, and pledging securities and other property owned by the Trust as security for such guarantee;
- (u) grant security, in any form, over any or all of the Trust Assets to secure any or all of the obligations of the Trust including its obligations under any guarantee;
- (v) vote in favour of the Trust's nominees to act as directors of any corporation directly owned by the Trust; and
- (w) do all such other acts and things which the Trustee is authorized to do under this Declaration of Trust and all other acts and things as are incidental to or related to any of the foregoing, and exercise all powers which are necessary or useful to carry on the purpose and activities of the Trust, to promote any of the purposes for which the Trust is formed and to carry out the provisions of this Declaration of Trust.

Each of the Trustee and the Administrator shall, except as may be prohibited by law or expressly by this Declaration of Trust, have the right to delegate or further delegate authority for the above-referenced matters where the Trustee or the Board of Directors determines in its sole discretion that such delegation is desirable to effect the administration of the Trust under this Declaration of Trust.

9.3 Securities Held by the Trust

Subject to the provisions hereof, the securities of the Keyera Entities and any other person held from time to time by the Trustee as part of the Trust Assets may be voted by the Trustee at any and all meetings of holders of such securities at which such holders are entitled to vote.

9.4 Restrictions on Trustee's Powers

- (a) Notwithstanding Section 9.3, the Trustee may not under any circumstances whatsoever vote or permit the voting of the securities of any Keyera Entity to authorize:
- (i) any sale, lease or other disposition of all or substantially all of the assets of KEP LP or a Keyera Corporate Subsidiary, except in conjunction with an internal reorganization or a pledge in accordance with Section 9.2(r);
 - (ii) any merger, amalgamation, arrangement, reorganization, recapitalization, business combination or similar transaction involving KEP LP or a Keyera Corporate Subsidiary, except in conjunction with an internal reorganization where the composition of the board of directors of the Keyera Corporate Subsidiary is the same immediately following the transaction as it was immediately before the transaction;
 - (iii) the winding-up, liquidation or dissolution of KEP LP or a Keyera Corporate Subsidiary prior to the end of the term of the Trust;
 - (iv) any material amendment to the limited partnership agreement of KEP LP or the articles of a Keyera Corporate Subsidiary, in a manner which may be prejudicial to the Trust; or
 - (v) any issue or transfer of voting securities of a Keyera Corporate Subsidiary to any person other than the Trust, except in conjunction with an internal reorganization where the composition of the board of directors of the Keyera Corporate Subsidiary is the same immediately following the transaction as it was immediately before the transaction;
- without the approval of the Unitholders by Special Resolution at a meeting of Unitholders called for that purpose.
- (b) Except as part of an internal reorganization pursuant to which the Trust has the same interest, whether direct or indirect, in the Trust Assets as the interest, whether direct or indirect, that it had prior to the reorganization, the Trustee shall have no power to:
- (i) issue Redemption Notes except pursuant to an in specie redemption under Section 6.5; or
 - (ii) sell all or substantially all of the Trust Assets or cause KEP LP to sell all or substantially all of its assets except with the approval of the Unitholders by Special Resolution at a meeting of Unitholders called for that purpose.

- (c) The Trustee shall not be entitled to, and shall not, vote the shares of a Keyera Corporate Subsidiary with respect to the election or removal of directors except in accordance with a resolution passed at a meeting of Unitholders called for that purpose, provided that:
 - (i) where the articles of the Keyera Corporate Subsidiary so provide, the board of directors of that Keyera Corporate Subsidiary may appoint one or more additional directors to serve on that board of directors until the next annual meeting of Unitholders, provided that the number of additional directors so appointed shall at no time exceed 1/3 of the number of directors who held office at the expiration of the last annual meeting of Unitholders; and
 - (ii) when there is a vacancy on the board of directors of a Keyera Corporate Subsidiary, a quorum of that board of directors may appoint a director to fill such vacancy but in no circumstances shall that board of directors be entitled to fill a vacancy resulting from an increase in the number or minimum number of directors or from a failure of the Unitholders to elect the number or minimum number of directors required by the articles of that Keyera Corporate Subsidiary.

9.5 Banking

The banking activities of the Trust, or any part thereof, including, but without restricting the generality of the foregoing, the operation of the Trust's accounts; the making, signing, drawing, accepting, endorsing, negotiation, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for orders relating to any property of the Trust; the execution of any agreement relating to any property of the Trust; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such banker to do any act or thing on the Trust's behalf to facilitate such banking activities, shall be transacted with such bank, trust company, or other firm or corporation carrying on a banking business as the Trustee or the Administrator may designate, appoint or authorize from time to time and shall be transacted on the Trust's behalf by one or more officers of the Trustee or the Administrator as the Trustee or the Administrator may designate, appoint or authorize from time to time.

9.6 Standard of Care and Duties

- (a) The Trustee shall act honestly and in good faith with a view to the best interests of the Trust and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The Trustee shall not be liable in carrying out its duties under this Declaration of Trust except in cases where the Trustee fails to act honestly and in good faith with a view to the best interests of the Trust or to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Unless otherwise

required by law, the Trustee shall not be required to give bond, surety or security in any jurisdiction for the performance of any duties or obligations hereunder. The Trustee shall not be required to devote its entire time to the investments or business or affairs of the Trust.

- (b) In exercising its powers and discharging its duties under this Declaration of Trust, the Administrator shall exercise the powers and discharge the duties conferred hereunder honestly, in good faith and in the best interests of the Trust and in connection therewith shall exercise that degree of care, diligence and skill that a reasonably prudent administrator having responsibilities of a similar nature would exercise in comparable circumstances.

9.7 Limitations on Liability of Trustee

- (a) Subject to the standard of care, diligence and skill set forth in Section 9.6, none of the Trustee nor any director, officer, employee or agent thereof shall be liable to any Unitholder for any action taken in good faith in reliance on any documents that are, prima facie, properly executed; for any depreciation of, or loss to, the Trust incurred by reason of the sale of any security; for the loss or disposition of monies or securities; or for any other action or failure to act including, without limitation, the failure to compel in any way any former trustee to redress any breach of trust or any failure by KEP LP to perform obligations or pay monies owed to the Trust, except for a breach of the standard of care, diligence and skill as set out in Section 9.6. If the Trustee has retained an appropriate expert or advisor with respect to any matter connected with its duties under this Declaration of Trust, the Trustee may act or refuse to act based on the advice of such expert or advisor and, notwithstanding any provision of this Declaration of Trust, including, without limitation, the standard of care, diligence and skill set out in Section 9.6 hereof, the Trustee shall not be liable for any action or refusal to act based on the advice of any such expert or advisor which it is reasonable to conclude is within the expertise of such expert or advisor to give.
- (b) Subject to the standard of care, diligence and skill set forth in Section 9.6, none of the Trustee nor any officer, director, employee or agent thereof shall be subject to any liability whatsoever in tort, contract or otherwise, in connection with Trust Assets or the affairs of the Trust, including, without limitation, in respect of any loss or diminution in value of any Trust Assets, to the Trust or to the Unitholders or to any other person for anything done or permitted to be done by the Trustee. The Trustee shall not be subject to any personal liability for any debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Trust arising out of anything done or permitted or omitted to be done in respect of the execution of the duties of the office of Trustee for or in respect to the affairs of the Trust. No property or assets of the Trustee, owned in its personal capacity or otherwise, will be subject to any levy, execution or other enforcement procedure with regard to any obligations under this Declaration

of Trust or under any other related agreements. No recourse may be had or taken, directly or indirectly, against the Trustee in its personal capacity. The Trust shall be solely liable therefor and resort shall be had solely to the Trust Assets for payment or performance thereof.

9.8 Indemnification of Trustee and others

Each Trustee, each officer of the Trust, each Director, officer, employee or agent of the Administrator or of any Keyera Entity, each director, officer, employee and agent of the Trustee and each person who formerly held any of such positions, (collectively, “**Indemnified Persons**”) shall be entitled to be and shall be indemnified and reimbursed out of the Trust Assets in respect of any and all taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon the Indemnified Person in consequence of his or her performance of his or her duties hereunder and in respect of any and all costs, charges and expenses, including amounts paid to settle an action or satisfy a judgment, reasonably incurred in respect of any civil, criminal or administrative action or proceeding to which the Indemnified Person is made a party by reason of being or having held such position or been, at the request of the Trust or any Keyera Entity, a trustee, director or officer of any entity in which a Keyera Entity has an interest; provided that an Indemnified Person shall not be indemnified out of the Trust Assets in respect of any such amounts that arise out of or as a result or in the course of his or her failure to act honestly and in good faith with a view to the best interests of the Trust, the Keyera Entity or such entity in which a Keyera Entity has an interest, as the case may be, or, in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, where the Indemnified Person did not have reasonable grounds for believing his or her conduct was lawful.

9.9 Indemnification of Trustee

The Trust (to the extent of the Trust Assets) is liable to, and shall indemnify and save harmless the Trustee and each of its directors, officers, employees, shareholders and agents in respect of:

- (a) any liability and all costs, charges, damages and expenses sustained, suffered or incurred in respect of any claim, action, suit or proceeding that is proposed or commenced against the Trustee or against such directors, officers, employees, shareholders or agents, as the case may be, for or in respect of any act, omission or error in respect of the Trust or the carrying out of any of the Trustee's duties and responsibilities under this Declaration of Trust or the exercise of any power, authority or discretion pertaining thereto;
- (b) any liability and all losses, damages, costs, charges and expenses sustained or incurred in respect of any action, suit or proceeding that is proposed or commenced against the Trustee or against such directors, officers, employees, shareholders or agents, as the case may be, for or in respect of the Administrator providing or omitting to provide services to the Trust or otherwise performing obligations pursuant to the Administration Agreement or as delegated or otherwise contemplated hereunder;

- (c) all other liabilities, losses, costs, charges, taxes, damages, expenses, penalties and interest in respect of unpaid taxes or other tax matters; and
- (d) all other expenses and liabilities sustained or incurred by the Trustee in respect of the administration or termination of the Trust;

in each case including the aggregate amount paid in reasonable settlement of any actions, suits, proceedings, investigations or claims and the reasonable fees and expenses of counsel to the indemnified parties that may be incurred in obtaining advice with respect to and defending any action, suit, proceedings, investigation or claim that may be made or threatened against any indemnified party, or that may be incurred in enforcing this indemnity, unless and to the extent any of the foregoing arise principally and directly out of the gross negligence, wilful default or fraud of the Trustee or any of its directors, officers, employees, shareholders or agents, in which case the provisions of this Section 9.9 shall not apply.

9.10 Environmental Indemnity

The Trust (to the extent of the Trust Assets) is liable to, and shall indemnify and save harmless, the Trustee, its directors, officers, employees, shareholders and agents and each of all of their respective heirs, executors, successors and assigns (collectively, the “**Indemnified Parties**” and individually an “**Indemnified Party**”) against all liabilities, asserted liabilities, losses, costs, charges, damages, expenses, and penalties (including strict liability and costs and expenses of abatement and remediation of spills or releases of contaminants and liabilities of the Indemnified Parties or any of them to third parties (including governmental agencies) in respect of bodily injuries, property damage, damage to or impairment of the environment or any other injury or damage and including liabilities of the Indemnified Parties, or any of them, to third parties for the third parties' foreseeable and unforeseeable consequential damages) sustained, suffered or incurred in connection with or as a result of:

- (a) the administration of the Trust created hereby; or
- (b) the exercise or performance by the Trustee of any rights or obligations hereunder or under any other contracts;

and which result from or relate, directly or indirectly, to

- (c) the presence or release or threatened presence or release of any contaminants, by any means or for any reason, on or in respect of the Properties, whether or not such presence or release or threatened presence or release of the contaminants was under the control, care or management of the Trust or the Administrator or of a previous owner or operator of a Property;
- (d) any contaminant present on or released from any property adjacent to or in the proximate area of the Properties;

- (e) the breach or alleged breach of any federal, provincial or municipal environmental law, regulation, by-law, order, rule or permit by the Trust or the Administrator, or an owner or operator of a Property; or
- (f) any misrepresentation or omission of a known fact or condition made by the Administrator relating to any Property.

For purposes of this Section:

- (g) “**liability**” shall include: (i) liability of an Indemnified Party for costs and expenses of abatement and remediation of spills and releases of contaminants; (ii) liability of an Indemnified Party to a third party to reimburse the third party for bodily injuries, property damage and other injuries or damages which the third party suffers, including (to the extent, if any, that the Indemnified Party is liable therefor) foreseeable and unforeseeable consequential damages suffered by the third party; and (iii) liability of the Indemnified Party for damage to or impairment of the environment; and
- (h) “**Property**” shall mean any interest in petroleum and natural gas rights, facilities, tangibles and other assets which may be owned by KEP LP, its subsidiaries or by any other entity in which the Trust has directly or indirectly invested from time to time.

Notwithstanding the foregoing, the Trust shall not be liable to indemnify an Indemnified Party against any loss, expense, claim, liability to the extent resulting principally and directly from the gross negligence, wilful default or fraud of the Indemnified Party.

9.11 Limitation on Indemnities

No Person shall be entitled to satisfy any right of indemnity or reimbursement granted herein, or otherwise existing under law, except out of the Trust Assets, and no Unitholder or Trustee or Indemnified Person shall be personally liable to any person with respect to any claim for such indemnity or reimbursement as aforesaid.

9.12 Contractual Obligations of Trust

In respect of any obligations or liabilities being incurred by the Trust or the Trustee or the Administrator on behalf of the Trust, the Trustee or the Administrator and the Trust shall make all reasonable efforts to include as a specific term of such obligations or liabilities a contractual provision to the effect that neither the Unitholders nor the Trustee nor the Administrator shall have any personal liability or obligations in respect thereof. The omission of such statement from any such document or instrument shall not render the Trustee or the Unitholders liable to any person, nor shall the Trustee, the Administrator or the Unitholders be liable for such omission. If, notwithstanding this provision, the Trustee, the Administrator or any Unitholder shall be held liable to any person by reason of the omission of such statement from any such agreement, undertaking or obligation such Trustee, the Administrator or Unitholder shall be entitled to indemnity and reimbursement out of the Trust Assets to the full extent of such liability.

9.13 Trustee May Have Other Interests

Subject to applicable securities laws, and without affecting or limiting the duties and responsibilities or the limitations and indemnities provided in this Declaration of Trust, the Trustee is hereby expressly permitted to:

- (a) be an associate or an affiliate of a person from or to whom assets of the Trust have been or are to be purchased or sold;
- (b) be, or be an associate or an affiliate of, a person with whom the Trust or the Administrator contracts or deals or which supplies services or extends credit to the Trust or the Administrator;
- (c) acquire, hold and dispose of, either for its own account or the accounts of its customers, any assets not constituting part of the Trust Assets, even if such assets are of a character which could be held by the Trust, and exercise all rights of an owner of such assets as if it were not a trustee;
- (d) carry on its business as a trust company in the usual course while it is the Trustee, including the rendering of trustee or other services to the Trust or to other trusts and other persons for gain, including acting as trustee, registrar and transfer agent for issues of securities of the Trust; and
- (e) derive direct or indirect benefit, profit or advantage from time to time as a result of dealing with the Trust or the relationships, matters, contracts, transactions, affiliations or other interests stated in this Section without being liable to the Trust or any Unitholder for any such direct or indirect benefit, profit or advantage.

Subject to applicable laws, none of the relationships, matters, contracts, transactions, affiliations or other interests permitted above shall be, or shall be deemed to be or to create, a material conflict of interest with the Trustee's duties hereunder.

9.14 Conditions Precedent

The obligation of the Trustee to commence or continue any act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding shall be conditional upon sufficient funds being available to the Trustee from the Trust Assets to commence or continue such act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding and an indemnity reasonably satisfactory to the Trustee to protect and hold harmless the Trustee against the costs, charges and expenses and liabilities to be incurred therein and any loss and damage it may suffer by reason thereof. None of the provisions contained in this Declaration of Trust shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of its duties or in the exercise of any of their rights or powers unless it is given an indemnity and funding satisfactory to the Trustee, acting reasonably.

9.15 Reliance Upon Trustee and Officers

Any person dealing with the Trust in respect of any matters pertaining to the Trust Assets and any right, title or interest therein or to the Trust or to securities of the Trust shall be entitled to rely on a certificate, statutory declaration or resolution executed or certified by the Trustee or any officer of the Trust appointed by the Trustee as to the capacity, power and authority of the Trustee or any other person to act for and on behalf and in the name of the Trust. No person dealing with the Trustee or officers of the Trust shall be bound to see the application of any funds or property passing into the hands or control of the Trustee or officers of the Trust. The receipt of the Trustee or officers of the Trust for monies or other consideration shall be binding upon the Trust.

9.16 Documents Held by Trustee

Any securities, documents of title or other instruments that may at any time be held by the Trustee subject to the trusts hereof may be placed in the deposit vaults of the Trustee or of any chartered bank in Canada, including an Affiliate of the Trustee, or deposited for safekeeping with any such bank.

ARTICLE 10 DELEGATION OF POWERS

10.1 The Administrator

Except as expressly prohibited by law, the Trustee is empowered to delegate to the Administrator such authority as the Trustee may in its sole discretion deem necessary or desirable to effect the actual administration of the duties of the Trustee under this Declaration of Trust, without regard to whether such authority is normally granted or delegated by trustees, and does so delegate as set out herein. The Administrator shall have the powers and duties expressly provided for in Article 9, in this Article 10, and elsewhere herein and in any other agreement providing for the management or administration of the Trust (including the Administration Agreement) including, without limitation, the power to retain and instruct such appropriate experts or advisors to perform those duties and obligations herein which it is not qualified to perform. The Trustee is authorized to enter into the Administration Agreement with the Administrator pursuant to the authority provided for hereunder, and to enter into any amendments thereto approved by the Administrator.

10.2 Public Disclosure Documents

Notwithstanding anything to the contrary contained herein, the Trustee shall have all power and authority with respect to the matters set forth in Section 9.1, however, the Trustee shall not have any liability or responsibility in respect of prospectuses, offering memoranda, rights offering circulars, financial statements, management's discussion and analysis, annual information forms, proxy or information circulars, takeover bid or issuer bid circulars, material change reports, press releases or other public disclosures or filings required by law or the rules or policies of securities regulatory authorities or stock exchanges, or any agreements related thereto (including, without limitation, stock exchange related matters,

underwriting and indemnity agreements and ancillary matters). Such matters shall be the sole and exclusive responsibility of the Administrator, not by way of a delegation but by way of an allocation of responsibilities under this Declaration of Trust. In furtherance thereof, where certification is required under securities laws, the Administrator (which may authorize any directors or officers of the Administrator to do so) shall execute such certification on behalf of the Trust, and shall seek not to have any certification on behalf of the Trust by the Trustee.

10.3 Liability of Trustee

The Trustee shall have no liability or responsibility for any matters delegated to the Administrator or to the Board of Directors hereunder or under the Administration Agreement, and the Trustee, in relying upon the Administrator and in entering into the Administration Agreement, shall be deemed to have complied with its obligations under Article 9 and shall be entitled to the benefit of the indemnities, limitations of liability and other protection provisions provided for herein.

10.4 Compliance

The Administrator shall be required to notify the Trustee of any defaults hereunder or under the Administration Agreement of which it becomes aware, and to provide an annual compliance certificate in form and substance satisfactory to the Trustee, acting reasonably, with respect to the satisfaction of its obligations under this Indenture and the Administration Agreement.

10.5 Special Duties of the Administrator

- (a) It shall be the responsibility of the Administrator to monitor compliance by the Trust with the requirements of the Tax Act relating to the maintenance of the Trust's "mutual fund trust status" pursuant to Subsection 132(6) of the Tax Act.
- (b) The Administrator shall use its commercially reasonable efforts to maintain the qualification of the Trust at all times as a mutual fund trust and, if the Administrator becomes aware that a situation has arisen or is imminent that may jeopardize the Trust's mutual fund trust status, it shall take such steps as are necessary or desirable in accordance with Section 13.5 to cause the Trust to maintain its mutual fund trust status.

ARTICLE 11 AMENDMENT

11.1 Amendment

The provisions of this Declaration of Trust, except where specifically provided otherwise, may only be amended by Special Resolution; provided that the provisions of this Declaration of Trust may be amended by the Trustee with the approval of the Board of

Directors, but without the consent, approval or ratification of the Unitholders or any other person, at any time:

- (a) for the purpose of ensuring continuing compliance with applicable laws, regulations, requirements or policies of any governmental authority having jurisdiction over the Trustee or the Trust;
- (b) in a manner which, in the opinion of the Board of Directors, provides additional protection for the Unitholders;
- (c) to remove any conflicts or inconsistencies in this Declaration of Trust or to make minor corrections which are, in the opinion of the Board of Directors, necessary or desirable and not prejudicial to the Unitholders;
- (d) in a manner which, in the opinion of the Board of Directors, is necessary or desirable as a result of changes in Canadian taxation laws; or
- (e) to change the situs of, or the laws governing, the Trust which, in the opinion of the Board of Directors is desirable in order to provide Unitholders with the benefit of any legislation limiting their liability,

but notwithstanding the foregoing, no such amendment shall modify the voting rights of any Unit or reduce the fractional undivided interest in the Trust Assets represented by any Trust Unit without the consent of the holder of such Unit, and no amendment shall reduce the percentage of votes required to be cast at a meeting of the Unitholders for the purpose of this Section 11.1 without the consent of the holders of all of the Units then outstanding.

11.2 Notification of Amendment

As soon as shall be practicable after the making of any amendment pursuant to Section 11.1 and in any event not later than the date the Trust is required to provide the financial disclosure in Section 16.7, the Trustee shall furnish notification of the substance of such amendment to Unitholders, whether as part of such financial disclosure or otherwise.

ARTICLE 12 MEETINGS OF UNITHOLDERS

12.1 Annual and Special Meetings of Unitholders

- (a) Annual meetings of the Unitholders shall be called on a day on or before June 30 in each year, at a time and at a place in Canada set by the Board of Directors or, failing such direction, by the Trustee. The business transacted at such meetings shall include the presentation of the audited financial statements of the Trust for the immediately preceding year, the election of the board of directors of each Keyera Corporate Subsidiary for the ensuing year, the appointment of the auditors for the ensuing year in accordance with Article 17 and the transaction of such other business as Unitholders may be

entitled to vote upon as hereinafter in this Article 12 provided, or as the Trustee or the Board of Directors may determine or as may be properly brought before the meeting.

- (b) Special meetings of the Unitholders may be called at any time by the Trustee or by the Board of Directors.
- (c) Unitholders holding in the aggregate not less than 5% of all votes entitled to be voted at a meeting of Unitholders may requisition the Trustee to call a special meeting of Unitholders for the purposes stated in the requisition. The requisition shall (A) be in writing, (B) set forth the name and address of, and number of Trust Units, other Units entitled to vote at a meeting of Unitholders and Voting Exchangeable Securities (and votes attached thereto which, in the aggregate, must not be less than 5% of all votes entitled to be voted at a meeting of Unitholders) held by, each person who is supporting the requisition, and (C) shall state in reasonable detail the business to be transacted at the meeting and shall be sent to the Trustee and to the Board of Directors. Upon receiving a requisition complying with the foregoing, the Trustee shall call a meeting of Unitholders to transact the business referred to in the requisition, unless:
 - (i) a record date for a meeting of Unitholders has been fixed and notice thereof has been given to each stock exchange in Canada on which the Units entitled to vote at such meeting are listed for trading;
 - (ii) the Board of Directors or the Trustee has called a meeting of Unitholders and has given notice thereof pursuant to Section 12.2; or
 - (iii) in connection with the business as stated in the requisition, in the opinion of the Board of Directors:
 - (A) it clearly appears that a matter covered by the requisition is submitted by the Unitholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the Trust, the Trustee, the Administrator (or any associate or affiliate of the Administrator), the Directors, the Unitholders or one or more of the Keyera Entities, or primarily for the purpose of promoting general economic, political, religious, social or similar causes or primarily for a purpose that does not relate in a significant way to the business or affairs of the Trust;
 - (B) the Trust, at the Unitholder's request, had previously included a matter substantially the same as a matter covered by the requisition in an information circular relating to a meeting of Unitholders held within 30 months preceding the receipt of

such requisition and the Unitholder failed to present the matter, in person or by proxy, at the meeting;

- (C) substantially the same matter covered by the requisition was submitted to Unitholders in an information circular relating to a meeting of Unitholders held within 30 months preceding the receipt of such requisition and the matter covered by the requisition was defeated; or
 - (D) the rights conferred by this Section 12.1 are being abused to secure publicity.
- (d) If the Trustee does not, within 21 days after receiving the requisition, call a meeting (except where the grounds for not calling the meeting are one or more of those set forth in paragraph (c) above), any Unitholder who signed the requisition may call the meeting in accordance with the provisions of Article 12, *mutatis mutandis*.
 - (e) The chair of any annual or special meeting shall be the Chair of the Board of Directors or any other Director specified by resolution of the Board of Directors or, in the absence of any Director, any person appointed as chair of the meeting by the Unitholders present and entitled to vote thereat.
 - (f) The Trustee, the Directors, the officers of the Trust, officers of the Administrator, the Auditors and any other person approved by the Board of Directors, the chair of the meeting or by resolution passed by a majority of the votes cast by Unitholders represented at the meeting and entitled to vote thereat may attend meetings of the Unitholders.
 - (g) Any person entitled to attend a meeting of Unitholders may participate in the meeting, subject to and in accordance with applicable securities laws, if any, by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, if the Trust makes available such a communication facility. A person participating in a meeting by such means is deemed for the purposes of this Declaration of Trust to be present at the meeting.
 - (h) If the Trustee, the Board of Directors or the Unitholders call a meeting of Unitholders pursuant to this Declaration of Trust, the Trustee, the Board of Directors or those Unitholders, as the case may be, may determine that the meeting shall be held, subject to and in accordance with applicable securities laws, if any, entirely by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

12.2 Notice of Meetings

Notice of all meetings of Unitholders shall be given by unregistered mail, postage prepaid, addressed to each Unitholder entitled to receive notice thereof at his or her last address on the books of the Trust, mailed at least 21 days and not more than 50 days before the meeting. Such notice shall specify the time when, and the place where, such meeting is to be held and shall specify the nature of the business to be transacted at such meeting in sufficient detail to permit a Unitholder to form a reasoned judgment thereon, together with the text of any Special Resolution, at the time of mailing of the notice, proposed to be passed. Any adjourned meeting, other than a meeting adjourned for lack of a quorum under Section 12.3, may be held as adjourned without further notice. The accidental omission to give notice or the non-receipt of such notice by a Unitholder entitled to receive notice shall not invalidate any resolution passed at any such meeting. Notwithstanding the foregoing, a meeting of Unitholders may be held at any time without notice if all the Unitholders entitled to receive notice are present or represented thereat or those not so present or represented have waived notice. Any Unitholder (or a duly appointed proxy of a Unitholder) may waive any notice required to be given under the provisions of this Section 12.2, and such waiver, whether given before or after the meeting, shall cure any default in the giving of such notice.

12.3 Quorum

At any meeting of the Unitholders, subject as hereinafter provided, a quorum shall consist of two or more individuals present in person either holding personally or representing as proxies not less in aggregate than 5% of the votes attached to all outstanding Units. In the event of such quorum not being present at the appointed place on the date for which the meeting is called within 30 minutes after the time fixed for the holding of such meeting, the meeting, if called by request of Unitholders, shall be terminated and, if otherwise called, shall stand adjourned to such day being not less than 7 days later and to such place and time as may be appointed by the chair of the meeting. If at such adjourned meeting a quorum as above defined is not present, the Unitholders entitled to vote thereat then present either personally or by proxy shall form a quorum, and any business may be brought before or dealt with at such an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

12.4 Voting Rights of Unitholders

Only Unitholders of record shall be entitled to vote and each Unit entitled to vote thereat shall entitle the holder or holders of that Unit on a poll vote at any meeting of Unitholders to the voting rights set out herein. Every question submitted to a meeting, other than a Special Resolution, shall, unless a poll vote is demanded, be decided by a show of hands vote, on which every person present and entitled to vote shall be entitled to one vote. At any meeting of Unitholders, any Unitholder entitled to vote thereat may vote by proxy and a proxyholder need not be a Unitholder, provided that no proxy shall be voted at any meeting unless it shall have been received by the Transfer Agent for verification at least 48 hours prior to the commencement of such meeting. When any Unit entitled to vote thereat is held jointly by several persons, any one of them may vote at any meeting in person or by proxy in respect of such Unit, but if more than one of them shall be present at such meeting in person

or by proxy, and such joint owners or their proxies so present disagree as to any vote to be cast, such vote purporting to be executed by or on behalf of a Unitholder shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger.

12.5 Resolutions Binding the Trustee

- (a) Unitholders shall be entitled to pass resolutions that will bind the Trust only with respect to the following matters:
 - (i) the election or removal of the Trustee as provided in Article 8;
 - (ii) the election of the board of directors of any Keyera Corporate Subsidiary as provided in Section 12.1;
 - (iii) the appointment or removal of Auditors as provided in Article 17;
 - (iv) the appointment of an inspector as provided in Section 12.9;
 - (v) amendments of this Declaration of Trust as provided in Section 11.1;
 - (vi) the termination of the Trust as provided in Section 14.2;
 - (vii) the sale of all or substantially all of the Trust Assets;
 - (viii) the exercise of voting rights attached to the voting securities of KEP LP or a Keyera Corporate Subsidiary held by the Trust as provided in Section 9.4;
 - (ix) the dissolution of the Trust prior to the end of its term; and
 - (x) the ratification of any Unitholder rights plan, distribution reinvestment plan, Trust Unit purchase plan, Trust Unit option plan, incentive option plan or other compensation plan contemplated by Section 5.10 requiring Unitholder approval.
- (b) Except with respect to the above matters set out in this Section 12.5, no action taken by the Unitholders or any resolution of the Unitholders at any meeting shall in any way bind the Trustee. Any action taken or resolution passed in respect of any matter on which Unitholder approval is required under this Declaration of Trust shall be by Special Resolution, unless the contrary is otherwise expressly provided under any specific provision of this Declaration of Trust and except for the matters set out in Sections 12.5(a)(i), (ii), (iii) and (viii) above which matters may be dealt with by a resolution passed by a majority of the votes cast by Unitholders entitled to vote thereon represented at the meeting.

12.6 Meaning of “Special Resolution”

- (a) The expression “Special Resolution” when used in this Declaration of Trust means, subject to this Article 12, a resolution proposed to be passed as a special resolution at a meeting of Unitholders (including an adjourned meeting) duly convened for that purpose and held in accordance with the provisions of this Article 12 and passed by the affirmative votes of the holders of votes attached to more than 66 $\frac{2}{3}$ % of the Units represented at the meeting and voted on a poll upon such resolution.
- (b) Votes on a Special Resolution shall always be given on a poll and no demand for a poll on a Special Resolution shall be necessary.

12.7 Meaning of “Outstanding”

Every Unit issued, certified and delivered hereunder shall be deemed to be outstanding until it shall be cancelled or delivered to the Trustee or Transfer Agent for cancellation provided that:

- (a) when a new certificate has been issued in substitution for a Unit Certificate which has been lost, stolen, mutilated or destroyed, only the new certificates shall be counted for the purposes of determining the number of Units outstanding;
- (b) for the purpose of any provision of this Declaration of Trust entitling Unitholders to vote, sign consents, requisitions or other instruments or take any action under this Declaration of Trust, Units owned directly or indirectly, legally or equitably, by the Trust or any Keyera Entity shall be disregarded, except that:
 - (i) for the purpose of determining whether the Trustee shall be protected in relying on any such vote, consent, requisition or other instrument or action only the Units which the Trustee knows are so owned shall be so disregarded; and
 - (ii) Units so owned which have been pledged in good faith other than to the Trust or any Keyera Entity shall not be so disregarded if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Units in his or her discretion free from the control of the Trust or any Keyera Entity; and
- (c) for the purposes of Section 12.7(b), the Transfer Agent shall provide a certificate which will state the number of Units and the certificate numbers of certificates, if certificates are issued, held by the Trust or any Keyera Entity. The Trustee shall be entitled to rely on such certificate in order to disregard the votes of any of such parties.

12.8 Record Date for Voting

For the purpose of determining the Unitholders who are entitled to vote or act at any meeting or any adjournment thereof, the Trustee may fix a date not more than 60 days and not less than 21 days prior to the date of any meeting of Unitholders as a record date for the determination of Unitholders entitled to vote at such meeting or any adjournment thereof, and any Unitholder who was a Unitholder at the time so fixed shall be entitled to vote at such meeting or any adjournment thereof even though the Unitholder has since that time disposed of his or her Units, and no Unitholder becoming such after that time shall be so entitled to vote at such meeting or any adjournment thereof. In the event that the Trustee does not fix a record date for any meeting of Unitholders, the record date for such meeting shall be the date upon which notice of the meeting is given as provided under Section 12.2.

12.9 Appointment of Inspector

The Trustee shall call a meeting of Unitholders upon the written request of Unitholders holding in the aggregate not less than 25% of the votes attached to Units then outstanding for the purpose of considering the appointment of an inspector to investigate the performance by the Trustee of its responsibilities and duties in respect of the Trust. An inspector may be appointed for such purpose, at the expense of the Trust, at such meeting by a resolution approved by a majority of the votes cast at the meeting. Any such inspector shall on reasonable notice have reasonable access during normal business hours to (i) all books, records and accounts of the Trust and the Keyera Entities, (ii) the Trustee, directors, officers and senior management of the Trust and the Keyera Entities, and (iii) such financial and operating data and other information with respect to the Trust and the Keyera Entities as the inspector may reasonably request.

12.10 Resolutions in Writing

Notwithstanding any other provision of this Declaration of Trust, a resolution in writing executed by Unitholders entitled to vote thereon holding more than 66 $\frac{2}{3}$ % of the votes attached to outstanding Units at any time shall be as valid and binding for all purposes of this Declaration of Trust as if such Unitholders had exercised at that time all of the voting rights to which they were then entitled under Section 12.5 or 12.6 in favour of such resolution at a meeting of Unitholders duly called for the purpose.

12.11 Proviso

The provisions of this Article 12 shall not in any way alter the terms and conditions of the Special Non-Voting Units which do not entitle the holders thereof to receive notice of or vote at any meeting of Unitholders or on any written resolution of Unitholders.

ARTICLE 13

CERTIFICATES, REGISTRATION AND TRANSFER OF UNITS

13.1 Nature of Units

- (a) The provisions of this Article 13 shall not in any way alter the nature of Units or the relationships of a Unitholder to the Trustee and of one Unitholder to another but are intended only to facilitate the issuance of certificates evidencing the ownership of Units if desirable to issue them to Unitholders and the recording of all transactions in respect of Units and Unit Certificates whether by the Trust, securities dealers, stock exchanges, transfer agents, registrars or other persons. The Trust Units shall be evidenced by certificates in the form of a Trust Unit Certificate. One or more Global Trust Unit Certificates (a “**Global Trust Unit Certificate**”) may be issued in the name of, or the name of the nominee of, and deposited by the Transfer Agent with, or on behalf of, CDS or a successor (collectively, the “**Depository**”), as custodian of such Global Trust Unit Certificate and registered by the Transfer Agent in the name of the Depository or its nominee. No purchaser of Trust Units represented by a Global Trust Unit Certificate will be entitled to a certificate or other instrument from the Trust or the Depository evidencing that purchaser's ownership thereof except in the circumstances described in Section 13.1(d). Beneficial interests in a Global Trust Unit Certificate will be represented only through the Book-Entry System. Transfers of Trust Units between CDS Participants shall occur in accordance with the Depository's rules and procedures.
- (b) All references herein to actions by, notices given or payments made to holders of Trust Units shall, where such Trust Units are held through the Depository, refer to actions taken by, or notices given or payments made to, the Depository upon instruction from the CDS Participants in accordance with the Depository's rules and procedures. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of Unitholders evidencing a specified percentage of the aggregate Units outstanding, such direction or consent may be given, subject to the voting rights of the holders of Special Trust Units, by holders of Trust Units acting through the Depository and the CDS Participants. The rights of a Unitholder whose Trust Units are held through the Depository shall be exercised only through the Depository and the CDS Participants and shall be limited to those established by law and agreements between such Unitholders and the Depository and/or the CDS Participants or upon instruction from the CDS Participants. Each of the Transfer Agent and the Trustee may deal with the Depository for all purposes (including the making of payments) as the authorized representative of the respective holders of Trust Units and such dealing with the Depository shall constitute satisfaction or performance, as applicable, towards their respective obligations hereunder.

- (c) For so long as Trust Units are held through the Depository, if any notice or other communication is required to be given to holders of such Trust Units, the Trustee and the Transfer Agent will give all such notices and communications to the Depository.
- (d) If (i) the Trust determines that the Depository is no longer willing or able to discharge properly its responsibilities as depository with respect to the Units and the Trust is unable to locate a qualified successor, (ii) the Trust at its option elects, or is required by law, to terminate the Book-Entry System with respect to the Trust Units, or (iii) Unitholders determine by Special Resolution that the continuation of the Book-Entry System with respect to the Trust Units is no longer in the best interests of the Unitholders, then the Depository shall surrender the Global Trust Unit Certificate to the Transfer Agent with instructions from the Depository for registration of Trust Units in the name and in the amounts specified by the Depository and the Trust shall issue and the Trustee and Transfer Agent shall execute and deliver the aggregate number of Trust Units then outstanding in the form of definitive Trust Unit Certificates representing such Trust Units.
- (e) The issuance and transfer of Special Non-Voting Units, and the ownership thereof, shall be evidenced by registers maintained on behalf of the Trust in respect of such Special Non-Voting Units and no certificates will be issued for the Special Non-Voting Units.

13.2 Unit Certificates

- (a) Unit Certificates shall, subject to the provisions hereof, be in such form as is authorized from time to time by the Trustee.
- (b) If issued, Unit Certificates are issuable only in fully registered form.
- (c) The definitive form of the Unit Certificates shall:
 - (i) be in the English language;
 - (ii) be dated as of the date of issue thereof;
 - (iii) contain the CUSIP number (if any) for the Units; and
 - (iv) contain such distinguishing letters and numbers as the Trustee shall prescribe.
- (d) In the event that any Unit Certificate is translated into the French language and any provision of any Unit Certificates in the French language shall be susceptible of an interpretation different from the equivalent provision in the English language, the interpretation of such provision in the English language shall be determinative.

- (e) Each Unit Certificate shall be signed on behalf of the Trustee and the Transfer Agent of such Units. The signatures required to appear on such certificate may be printed, lithographed or otherwise mechanically reproduced thereon and, in such event, certificates so signed are as valid as if they had been signed manually. If a Unit Certificate contains a printed or mechanically produced signature of any person, then the Trust may issue the Unit Certificate even though the person has ceased to hold the office indicated on the Unit Certificate and such Unit Certificate is as valid as if the person continued to hold such office at the date of its issue.

13.3 Contents of Unit Certificates

- (a) Until otherwise determined by the Trustee, each Unit Certificate shall legibly set forth on the face thereof, inter alia, the following:
 - (i) the name of the Trust and the words “A trust created under the laws of the Province of Alberta by a Declaration of Trust dated as of April 3, 2003 as amended or restated from time to time” or words of like effect;
 - (ii) the name of the person to whom the Unit Certificate is issued as Unitholder;
 - (iii) the number and class of Units represented thereby and whether or not the Units represented thereby are fully paid;
 - (iv) that the Units represented thereby are transferable;
 - (v) “The Units represented by this certificate are issued upon the terms and subject to the conditions of the Declaration of Trust, which Declaration of Trust is binding upon all holders of Units and, by acceptance of this certificate, the holder assents to the terms and conditions of the Declaration of Trust. A copy of the Declaration of Trust pursuant to which this certificate and the Units represented thereby are issued may be obtained by a Unitholder on demand and without fee from the head office of the Trust” or words of like effect; and
 - (vi) “For information as to personal liability of a Unitholder, see the reverse side of this certificate” or words of like effect.
- (b) Until otherwise determined by the Trustee, each such certificate shall legibly set forth on the face or the reverse side thereof, inter alia, the following:
 - (i) “The Declaration of Trust provides that no Unitholder shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the assets of the Trust or the obligations or the affairs of the Trust and all such persons shall look solely to the

assets of the Trust for satisfaction of claims of any nature arising out of or in connection therewith and the assets of the Trust only shall be subject to levy or execution”, or words of like effect; and

- (ii) appropriate forms of notice of exercise of the right of redemption and of powers of attorney for transferring Units.

The Unit Certificates may be engraved, printed or lithographed, or partly in one form and partly in another, as the Trustee may determine.

13.4 Register of Unitholders

If the Book-Entry System is discontinued in accordance with Section 13.1(d), or if not all Trust Units are represented by a Global Trust Unit Certificate(s), a register may be kept at the principal stock transfer offices in Calgary, Alberta of the Transfer Agent, which register, if maintained, shall contain the names and addresses of the Unitholders, the respective numbers of Units held by them, the certificate numbers of certificates representing such Units and a record of all transfers and redemptions thereof. Branch transfer registers shall be maintained at such other offices of the Transfer Agent as the Trustee may from time to time designate. Only Unitholders whose certificates are so recorded shall be entitled to receive distributions or to exercise or enjoy the rights of Unitholders hereunder. The Trustee shall have the right to treat the person registered as a Unitholder on the register of the Trust as the owner of such Units for all purposes, including, without limitation, payment of any distribution, giving notice to Unitholders and determining the right to attend and vote at meetings of Unitholders.

13.5 Limitation of Non-Resident Ownership

- (a) It is in the best interest of the Trust that it always qualify as a mutual fund trust (within the meaning of the Tax Act) and therefore, in accordance with the Tax Act, the Trust shall not be established or maintained primarily for the benefit of non-residents of Canada as defined in the Tax Act (“**Non-residents**”). Accordingly, for so long as required in order for the Trust to maintain its mutual fund trust status under the Tax Act, at no time may Non-residents be the beneficial owners of more than 49% of the Units then outstanding.
- (b) The Administrator may, at any time and from time to time, (at the expense of the Trust), take such actions as it determines in its discretion are reasonable and practicable in the circumstances in order to monitor compliance by the Trust with the restriction on Non-resident ownership of Units. Such actions may include, but are not limited to:
 - (i) conducting residency or other searches to determine or estimate, to the extent practicable, the residency of Unitholders and beneficial Unitholders for tax purposes; and

- (ii) obtaining declarations from Unitholders as to whether the Units held thereby are held for or for the benefit of Non-residents, or declarations from Unitholders or others as to the jurisdictions in which beneficial owners of Units are resident for Canadian income tax purposes.
- (c) If at any time the Administrator determines that it is in the best interest of the Trust, the Administrator may:
 - (i) require the Transfer Agent or registrar to refuse to accept a subscription for Units from, or issue or register a transfer of Units to, a person unless that person provides a declaration to the Administrator and the Transfer Agent that the Units to be issued or transferred to such person will not when issued or transferred be beneficially owned by a Non-resident;
 - (ii) send a notice to Non-resident Unitholders, chosen in such manner as the Administrator may consider equitable and practicable, requiring them to sell their Units or a portion thereof within a specified period of 60 days or such shorter period as may be required to preserve the status of the Trust as a mutual fund trust within the meaning of the Tax Act. If the Unitholders receiving such notice have not, within such period, sold the specified number of Units or provided the Administrator and the Transfer Agent with evidence satisfactory to the Administrator that the Units are not beneficially owned by Non-residents, the Administrator may suspend the voting and distribution rights, if any, attached to such Units until they are sold and may direct the Trustee, on behalf of such Unitholders, to sell such Units. Upon such sale, the affected Unitholders shall cease to be holders of the Units so disposed of and their rights shall be limited to receiving the net proceeds of sale (net of applicable taxes and costs of sale);
 - (iii) delist any listed securities of the Trust from any non-Canadian stock exchange; and
 - (iv) take such other actions as the Administrator determines, in its sole discretion, may be appropriate in the circumstances that will reduce or limit the number of Units held by Non-residents in order that the Trust is not established or maintained primarily for the benefit of Non-residents.
- (d) None of the Trust, the Administrator, the Trustee or the Transfer Agent shall have any liability for the sale of Units made pursuant to Section 13.5(c) or for amounts received pursuant thereto provided it has acted in good faith.
- (e) Subject to Sections 9.6 and 10.5, unless and until the Trustee or the Administrator shall have been required to do so under the terms hereof, the Trustee and the Administrator shall not be bound to do or take any proceeding

or action with respect to this Section 13.5 by virtue of the powers conferred on them hereby.

- (f) It is acknowledged the Trustee shall not be required to actively monitor the Non-resident Unit ownership levels of the Trust. It is further acknowledged that the ability of the Administrator to monitor compliance by the Trust with the Non-resident Unit ownership restriction will be limited due to the fact that the Units will be registered in the name of the Depository or other depositories and non-beneficial holders, and in this regard, the Administrator shall be entitled to rely on information respecting the residency of Unitholders provided to the Administrator by the Transfer Agent and CDS Participants. The Administrator may exercise its discretion in making any determination under this Section 13.5 and any reasonable and bona fide exercise of such discretion shall be binding for the purpose of this Section 13.5.
- (g) Neither the Trustee nor the Administrator shall be deemed to have notice of any violation of this Section 13.5 unless and until it has been given written notice of such violation and the Trustee shall act only as required by this Declaration of Trust once an indemnity is provided.
- (h) None of the Trust, Trustee, the Administrator or the Transfer Agent or any of their respective directors, officers, employees or agents, or any Unitholders shall be liable for a determination that the Trust is established and maintained primarily for the benefit of Non-residents as a result of an excess number of Units being held by Non-residents during the term of the Trust.
- (i) At any time, the Trustee or Administrator may require any Unitholder as shown on the register of Unitholders to provide a declaration, in such form as prescribed by the Trustee or Administrator, as to the beneficial owner of Units registered in such Unitholder's name and as to the jurisdiction in which such beneficial owner is resident for Canadian income tax purposes, and the Unitholders shall comply with any such request.

13.6 Transfer of Units

- (a) For so long as the Book-Entry System is in effect, transfers of ownership of Units represented by a Global Trust Unit Certificate(s) may be effected only through the records maintained by the Depository with respect to interests of CDS Participants, and on the records of CDS Participants with respect to interests of persons other than CDS Participants.
- (b) Trust Units shall not be transferable under any circumstances without the contemporaneous transfer of the associated Special Trust Units, and Special Trust Units shall not be transferable independently of the associated Trust Units.
- (c) Subject to the provisions of this Article 13, the Units shall be fully transferable as between persons.

- (d) If the Book-Entry System is discontinued in accordance with Subsection 13.1(d) then, subject to the provisions of this Article 13, or if not all Trust Units are represented by a Global Trust Unit Certificate(s), Units shall be transferable on the register or one of the branch transfer registers only by the Unitholders of record thereof or their executors, administrators or other legal representatives or by their agents or attorneys duly authorized in writing, and only upon delivery to the Trust or to the Transfer Agent of the certificate therefor, properly endorsed or accompanied by a duly executed instrument of transfer or power of attorney and accompanied by all necessary transfer or other taxes imposed by law, together with such evidence of the genuineness of such endorsement, execution and authorization and other matters that may reasonably be required by the Trustee or the Transfer Agent, and no transfer of Units shall be effective as against the Trustee or shall be in any way binding upon the Trustee until the transfer has been recorded on the register or one of the branch transfer registers maintained by the Trustee, the Trust or the Transfer Agent. Upon such delivery, the transfer shall be recorded on the register or branch transfer registers and a new certificate for the Units shall be issued to the transferee and a new certificate for the balance of Units not transferred shall be issued to the transferor.
- (e) Any person becoming entitled to any Units as a consequence of the death, bankruptcy or mental incompetence of any Unitholder, or otherwise by operation of law, shall be recorded as the holder of such Units (and, if the Book-Entry System has been duly discontinued, shall receive a new certificate therefor upon submission of the existing certificate for cancellation) only upon production of satisfactory evidence, but until such record is made the Unitholder of record shall continue to be and be deemed to be the holder of such Units for all purposes whether or not notice of such death or other event has been given.
- (f) If the Book-Entry System has been duly discontinued, or if not all Trust Units are represented by a Global Trust Unit Certificate(s), Unit Certificates representing any number or class of Units may be exchanged without charge for Unit Certificates representing an equivalent number and class of Units in the aggregate. Any exchange of Unit Certificates may be made at the offices of the Trust or the Transfer Agent where registers are maintained for Unit Certificates pursuant to the provisions of this Article 13. Any Unit Certificates tendered for exchange shall be surrendered to the Trustee or appropriate Transfer Agent and then shall be cancelled.

13.7 Units Held Jointly or in a Fiduciary Capacity

Except as herein provided, the Trustee may treat two or more persons holding any Units as joint owners of the entire interest therein unless their ownership is expressly otherwise recorded on the register of the Trust, but no entry shall be made in the register or on any certificate that any person is in any other manner entitled to any future, limited or contingent interest in any Units; provided, however, that any person recorded as a Unitholder

may, subject to the provisions hereinafter contained, be described in the register or on any certificate as a fiduciary of any kind and any customary words may be added to the description of the holder to identify the nature of such fiduciary relationship.

13.8 Performance of Trust

The Trustee and the Transfer Agent shall not be bound to be responsible for or otherwise inquire into or ensure the performance of any trust, express, implied or constructive, or of any pledge or equity to which any of the Units or any interest therein are or may be subject, or to ascertain or enquire whether any transfer of any such Units or interests therein by any such Unitholder or by his or her personal representatives is authorized by such trust, pledge, or equity, or to recognize any person as having any interest therein except for the person recorded as Unitholder.

13.9 Lost Certificates

In the event that any Unit Certificate is lost, stolen, destroyed or mutilated, the Trustee may authorize the issuance of a new certificate for the same number and class of Units in lieu thereof. The Trustee may in its sole discretion, before the issuance of such new certificate, require the owner of the lost, stolen, destroyed or mutilated certificate, or the legal representative of the owner, to make an affidavit or statutory declaration setting forth such facts as to the loss, theft, destruction or mutilation as the Trustee may deem necessary, to surrender any mutilated certificate and may require the applicant to supply to the Trust a "lost certificate bond" or a similar bond in such reasonable sum as the Trustee or the Transfer Agent may direct indemnifying the Trust for so doing.

13.10 Death of a Unitholder

The death of a Unitholder during the continuance of the Trust shall not terminate the Trust or any of the mutual or respective rights and obligations created by or arising under this Declaration of Trust nor give such Unitholder's personal representatives a right to an accounting or take any action in court or otherwise against other Unitholders or the Trustee or the Trust Assets, but shall merely entitle the personal representatives of the deceased Unitholder to demand and receive, pursuant to the provisions hereof, a new certificate for Units in place of the certificate held by the deceased Unitholder, if any, and upon the acceptance thereof such personal representatives shall succeed to all rights of the deceased Unitholder under this Declaration of Trust.

13.11 Unclaimed Distribution

In the event that the Trustee shall hold any distributable amount which is unclaimed or which cannot be paid for any reason, the Trustee shall be under no obligation to invest or reinvest the same but shall only be obliged to hold the same in a current interest bearing account pending payment to the person or persons entitled thereto. The Trustee shall, as and when required by law, and may at any time prior to such required time, pay all or part of such distributable amount so held, including interest earned thereon, if any, to the Public Guardian and Trustee (or other appropriate government official or agency) whose receipt shall be a good discharge and release of the Trustee.

13.12 Take-Over Bids

- (a) In the event of a take-over bid for Trust Units, any holder of Exchangeable Securities may, unless prohibited by the terms and conditions of the Exchangeable Security, convert, exercise or exchange such Exchangeable Security, as applicable, for the purpose of tendering Trust Units to such take-over bid on the condition that such Trust Units are taken up under such bid, unless an identical offer (in terms of price per Trust Unit issuable upon the conversion, exercise or exchange of the Exchangeable Security and percentage of outstanding securities to be taken up exclusive of securities owned immediately prior to the offer by the offeror, or associates or affiliates of the offeror and in all other material respects) is made concurrently by the offeror to purchase the Exchangeable Securities, which identical offer has no condition attached other than the right not to take up and pay for securities tendered if no securities are purchased pursuant to the offer for Trust Units. In the event that a holder of Exchangeable Securities elects to conditionally convert, exercise or exchange such Exchangeable Securities for the purpose of tendering Trust Units to such take-over bid, the tendering of a certificate issued by the Trust indicating that the Trust Unit is issuable upon and subject to completion of the take-over bid shall be good delivery under such bid and after payment of the consideration therefor to the former holder of the Exchangeable Security such holder shall cease to have any rights as a holder of Exchangeable Securities or Trust Units to the extent that the Trust Units issuable upon the conversion, exercise or exchange of such Exchangeable Securities have been taken up.
- (b) If, within 120 days after the date of a take-over bid for all of the outstanding Trust Units (including Trust Units issuable upon conversion, exercise or exchange of Exchangeable Securities), the bid is accepted by the holders of not less than 90% of the aggregate of outstanding Trust Units and the Trust Units issuable upon the conversion, exercise or exchange of the Exchangeable Securities, other than outstanding Trust Units and Exchangeable Securities held by or on behalf of, or issuable to, the offeror or an affiliate or associate of the offeror on the date of the take-over-bid, the offeror is entitled, on complying with this Section 13.12, to acquire the Trust Units and Exchangeable Securities held by the non-tendering offerees.
- (c) An offeror may acquire Trust Units and Exchangeable Securities held by a non-tendering offeree by sending by registered mail within 60 days after the date of termination of the take-over bid and in any event within 180 days after the date of the take-over bid, an offeror's notice to each non-tendering offeree stating that:
 - (i) offerees holding not less than 90% of the outstanding Trust Units and the Trust Units issuable upon the conversion, exercise or exchange of the Exchangeable Securities which the bid relates accepted the take-over bid;

- (ii) the offeror has taken up and paid for the Trust Units and Exchangeable Securities of the offerees who accepted the take-over bid;
 - (iii) a non-tendering offeree is required to transfer its Trust Units and/or Exchangeable Securities to the offeror on the terms on which the offeror acquired the Trust Units and Exchangeable Securities of the offerees who accepted the take-over bid; and
 - (iv) a non-tendering offeree which does not transfer its Trust Units and/or Exchangeable Securities in accordance with Section 13.2(b) within 20 days after it receives the offeror's notice is deemed to have elected to transfer, and to have transferred, its Trust Units on the same terms that the offeror acquired the Trust Units and/or Exchangeable Securities from the offerees who accepted the take-over bid.
- (d) Concurrently with sending the offeror's notice under Section 13.12(c), the offeror shall send to the Trust a notice of adverse claim disclosing the name and address of the offeror and the name of the non-tendering offeree with respect to each Trust Unit and/or Exchangeable Security held by a non-tendering offeree.
- (e) A non-tendering offeree to whom an offeror's notice is sent under Section 13.12(c) shall, within 20 days after it receives that notice, instruct its CDS Participant to cause its Trust Units and/or Exchangeable Securities to be sent to the Trust, or, if Unit Certificates have been issued to the non-tendering offeree, send the certificates representing such securities, duly endorsed for transfer, to the Trust.
- (f) Within 20 days after the offeror sends an offeror's notice under Section 13.12(c), the offeror shall pay or transfer to the Trust the amount of money or other consideration that the offeror would have had to pay or transfer to a non-tendering offeree if the non-tendering offeree had tendered under the take-over bid.
- (g) The Trust is deemed to hold on behalf of the non-tendering offeree the money or other consideration it receives under Section 13.12(f), and the Trust shall deposit the money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation (or any successor thereof), and shall place the other consideration in the custody of a bank or such other body corporate for safekeeping. No such monies or other consideration shall form any part of the Trust Assets.
- (h) Within 30 days after the date of the sending of an offeror's notice under Section 13.12(c), the Trustee, if the offeror has complied with Section 13.12(f), shall:

- (i) do all acts and things and execute and cause to be executed all instruments as in the Trustee's opinion may be necessary or desirable to cause the transfer of the Trust Units and/or Exchangeable Securities of the non-tendering offerees to the offeror;
- (ii) send to each non-tendering offeree who has complied with Section 13.12(e) the consideration to which such non-tendering offeree is entitled under this Section 13.12; and
- (iii) send to each non-tendering offeree who has not complied with Section 13.12(e) a notice stating that:
 - (A) his or her Trust Units and/or Exchangeable Securities have been transferred to the offeror;
 - (B) the Trustee or some other person designated in such notice are holding in trust the consideration for such Trust Units and/or Exchangeable Securities; and
 - (C) the Trustee, or such other person, will send the consideration to such non-tendering offeree as soon as practicable after receiving such non-tendering offeree's Trust Unit Certificate(s) or certificate(s) representing Exchangeable Securities (subject to the use of a Global Unit Certificate as contemplated in Article 13) or such other documents as the Trustee or such other person may require in lieu thereof;

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

The Trust shall cause the terms, conditions, restrictions, rights and obligations of Exchangeable Securities to contain corresponding provisions as may be reasonably necessary or desirable to give effect to this Section 13.12, including, without limitation, provisions to effect the automatic conversion, exercise or exchange of Exchangeable Securities by a non-tendering offeree holder thereof.

13.13 Power of Attorney

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

- (a) this Declaration of Trust and any other instrument required or desirable to qualify, continue and keep in good standing the Trust as a mutual fund trust;

- (b) any instrument, deed, agreement or document in connection with carrying on the affairs of the Trust as authorized in this Declaration of Trust including all conveyances, transfers and other documents required in connection with any disposition of Trust Units required under Section 13.5;
- (c) all conveyances, transfers and other documents required in connection with the dissolution, liquidation or termination of the Trust in accordance with the terms of this Declaration of Trust;
- (d) any and all elections, determinations or designations whether jointly with third parties or otherwise, under the Tax Act or any other taxation or other legislation or similar laws of Canada or of any other jurisdiction in respect of the affairs of the Trust or of a Unitholder's interest in the Trust;
- (e) any amendment to this Declaration of Trust which is authorized from time to time as contemplated by Article 11; and
- (f) all transfers, conveyances and other documents required to facilitate the acquisition of Trust Units and/or Exchangeable Securities of non-tendering offerees pursuant to Section 13.12.

The Power of Attorney granted herein is, to the extent permitted by applicable law, irrevocable and will survive the assignment by the Unitholder of all or part of the Unitholder's interest in the Trust and will extend to and bind the heirs, executors, administrators and other legal representatives and successors and assigns of the Unitholder.

ARTICLE 14 TERMINATION

14.1 Term of Trust

Subject to the other provisions of this Declaration of Trust, the Trust shall continue for a term ending on the earlier of:

- (a) 21 years after the date of death of the last surviving issue of Her Majesty, Queen Elizabeth II, alive on April 3, 2003; and
- (b) the date which is one day prior to the date, if any, the Trust would otherwise be void by virtue of any applicable rule against perpetuities then in force in Alberta.

For the purpose of terminating the Trust by such date, the Trustee shall commence to wind-up the affairs of the Trust on such date as may be determined by the Trustee, being not more than two years prior to the end of the term of the Trust.

14.2 Termination with the Approval of Unitholders

The Unitholders entitled to vote may vote by Special Resolution to terminate the Trust at any meeting of Unitholders duly called for the purpose of considering the termination of the Trust, following which the Trustee shall commence to wind-up the affairs of the Trust. Such Special Resolution may contain such directions to the Trustee as the Unitholders determine, including a direction to distribute the Redemption Notes, in specie to holders of Trust Units.

14.3 Procedure Upon Termination

Forthwith upon being required to commence to wind-up the affairs of the Trust, the Trustee shall give notice thereof to the Unitholders, which notice shall designate the time or times at which Unitholders may surrender their Units for cancellation and the date at which the registers of Units of the Trust shall be closed.

14.4 Powers of the Trustee Upon Termination

After the date on which the Trustee is required to commence to wind-up the affairs of the Trust, the Trustee shall undertake no activities except for the purpose of winding-up the affairs of the Trust as hereinafter provided and, for this purpose, the Trustee shall continue to be vested with and may exercise all or any of the powers conferred upon the Trustee under this Declaration of Trust.

14.5 Sale of Investments

After the date referred to in Section 14.3, the Trustee shall proceed to wind-up the affairs of the Trust as soon as may be reasonably practicable and for such purpose shall, subject to any direction to the contrary in respect of a termination authorized under Section 14.2, sell and convert into money the securities of the Keyera Entities and all other Trust Assets in one transaction or in a series of transactions at public or private sales and do all other acts appropriate to liquidate the Trust, and shall in all respects act in accordance with the directions, if any, of the Unitholders (in respect of a termination authorized under Section 14.2). If the Trustee is unable to sell all or any of the securities of the Keyera Entities or other Trust Assets by the date set for termination, the Trustee may, subject to obtaining all necessary regulatory approvals, distribute the remaining securities or other assets directly to the holders of Trust Units in accordance with their pro rata interests, subject to first satisfying the priority rights of the Special Non-Voting Units. The Trustee shall have no liability for any amounts received provided that they shall have acted in good faith.

14.6 Distribution of Proceeds or Assets

After paying, retiring or discharging or making provision for the payment, retirement or discharge of all known liabilities and obligations of the Trust and providing for indemnity against any other outstanding liabilities and obligations, the Trustee shall, subject to obtaining all necessary regulatory approvals, distribute the remaining part of the proceeds of the sale of the securities of the Keyera Entities and other assets together with any cash

forming part of the Trust Assets among the Unitholders in accordance with their pro rata interests and the rights attaching to each class and series of Units.

14.7 Further Notice to Unitholders

In the event that less than all of the Unitholders have surrendered their Units for cancellation within six months after the time specified in the notice referred to in Section 14.3, the Trustee shall give further notice to the remaining Unitholders to surrender their Units for cancellation and if, within one year after the further notice, all the Units shall not have been surrendered for cancellation, such remaining Units shall be deemed to be cancelled without prejudice to the rights of the holders of such Trust Units to receive their pro rata share of the remaining Trust Assets, and the Trustee may either take appropriate steps, or appoint an agent to take appropriate steps, to contact such Unitholders (deducting all expenses thereby incurred from the amounts to which such Unitholders are entitled as aforesaid) or, in the discretion of the Trustee or the Administrator, may pay such amounts into court.

14.8 Responsibility of the Trustee after Sale and Conversion

The Trustee shall be under no obligation to invest the proceeds of any sale of investments or other assets or cash forming part of the Trust Assets after the date referred to in Section 14.3 and, after such sale, the sole obligation of the Trustee under this Declaration of Trust shall be to hold such proceeds or assets in trust for distribution under Section 14.6.

ARTICLE 15 SUPPLEMENTAL INDENTURES

15.1 Provision for Supplemental Indentures for Certain Purposes

The Trustee may, without approval of the Unitholders and subject to the provisions hereof, and it shall, when so directed in accordance with the provisions hereof, execute and deliver indentures or instruments supplemental hereto which thereafter shall form part hereof, for any one or more or all of the following purposes:

- (a) modifying or amending any provisions of this Declaration of Trust in the circumstances set forth in Section 11.1 where the Trustee may do so without the consent, approval or ratification of the Unitholders or any other person; and
- (b) modifying or amending any provisions of this Declaration of Trust where the modification or amendment has been approved by Special Resolution or, if required, with the consent of the holders of all of the Units.

ARTICLE 16 GENERAL

16.1 Notices

- (a) Any notice, communication or other document required to be given or sent to Unitholders under this Declaration of Trust shall be given or sent through ordinary post addressed to each registered holder at his or her last address appearing on the register or in any other manner from time to time permitted by applicable law (including Canadian securities legislation), including without limitation, internet-based or other electronic communication; provided that if there is a general discontinuance of postal service due to strike, lockout or otherwise, such notice may be given by personal service or by internet-based or other electronic communications (provided it is done in accordance with applicable law) or by publication twice in the Report on Business section of the National Edition of The Globe and Mail or similar section of any other newspaper having national circulation in Canada; provided further that if there is no newspaper having national circulation, then by publishing twice in the business section of a newspaper in each city where the register or a branch register is maintained. Any notice so given shall be deemed to have been given and delivered (i) on the day following that on which the letter or circular was mailed or, (ii) in the case of notice being given by publication, after publishing such notice twice in the designated newspaper or newspapers, or (iii) in the case of notice given by internet-based or other electronic communication, on the later of (A) the Business Day following the day on which such notice is sent or made available, and (B) the earliest time and date as is permissible under applicable law governing the internet-based or other electronic communication. In proving notice was mailed, it shall be sufficient to prove that such letter or circular was properly addressed, stamped and mailed.
- (b) Any written notice or written communication given to the Trustee shall be addressed to the Trustee at the head office of the Trust, and shall be deemed to have been given on the date of delivery or, if mailed, five days from the date of mailing. If any such notice or communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities, such notice or communication shall be deemed to have been received 48 hours after 12:01 a.m. on the day following the resumption of normal mail service, provided that during the period that regular mail service shall be interrupted any notice or other communication shall be given by personal delivery or by cable, telegram, telex, facsimile or other means of prepaid, transmitted or recorded communication.

16.2 Failure to Give Notice

The failure by the Trustee, by accident or omission or otherwise unintentionally, to give any Unitholder any notice provided for herein shall not affect the validity, effect or

taking effect of any action referred to in such notice, and the Trustee shall not be liable to any Unitholder for any such failure.

16.3 Joint Holders

Service of a notice or document on any one of several joint holders of Units shall be deemed effective service on the other joint holders.

16.4 Service of Notice

Any notice or document sent by post to or left at the address of a Unitholder pursuant to this Article shall, notwithstanding the death or bankruptcy of such Unitholder, and whether or not the Trustee has notice of such death or bankruptcy, be deemed to have been fully served and such service shall be deemed sufficient service on all persons having an interest in the Units concerned.

16.5 Information Available to Unitholders

Each Unitholder shall have the right to obtain, on demand and without fee, from the head office of the Trust a copy of this Declaration of Trust and any amendments thereto relating to Units held by that Unitholder.

16.6 Fiscal Year

Each fiscal year of the Trust shall end on December 31 of such year.

16.7 Financial Disclosure

The Trust will furnish, in accordance with and subject to applicable securities law to Unitholders such consolidated financial statements of the Trust and other reports as are from time to time required by applicable law, including prescribed forms needed for the completion of Unitholders' tax returns. Without limiting the generality of the foregoing, the Trust will send to Unitholders:

- (a) within 140 days after the end of each Fiscal Year and at least 21 days prior to the date of each annual meeting of Unitholders (or within such shorter time as may be required by applicable securities laws), the annual financial statements of the Trust for the fiscal year ended immediately prior to such annual meeting, together with comparative financial statements for the preceding fiscal year, if any, and the report of the Auditors thereon referred to in Section 17.4; and
- (b) within 60 days after the end of each fiscal quarter of the Trust (other than the fourth quarter of each year) (or within such shorter time as may be required by applicable securities laws), unaudited quarterly financial statements of the Trust for such fiscal quarter, together with comparative financial statements for the same fiscal quarter in the preceding fiscal year, if any.

Such financial statements shall be prepared in accordance with Canadian generally accepted accounting principles as recommended from time to time in the Handbook of the Canadian Institute of Chartered Accountants; provided that such statements and the obligations to deliver such statements may vary from such principles to the extent required to comply with applicable securities laws or securities regulatory requirements or to the extent permitted by applicable securities regulatory authorities.

16.8 Unitholder Meeting Information

Prior to each meeting of Unitholders, the Trustee will provide to each Unitholder so entitled, together with the notice of the meeting:

- (a) a form of proxy which can be used by a Unitholder to appoint a proxy, who need not be a Unitholder, to attend and act at the meeting on behalf of the Unitholder, in the manner and to the extent authorized by the proxy; and
- (b) all information required by either applicable law or by this Declaration of Trust.

16.9 Taxation Information

On or before March 15 in each year, the Trust will provide to Unitholders who received distributions from the Trust in the prior calendar year, such information regarding the Trust required by Canadian law to be submitted to Unitholders for income tax purposes to enable Unitholders to complete their tax returns in respect of the prior calendar year.

16.10 Power of Attorney

The Trustee hereby grants to the Administrator a power of attorney constituting the Administrator, with full power of substitution, as their true and lawful attorney to act on behalf of the Trust with full power and authority in their name, place and stead, and to execute, under seal or otherwise, swear to, acknowledge, deliver, make or file or record when, as and where required, any instrument, deed, agreement or document in connection with carrying out the activities of the Trust in connection with the Offering including, without limitation, to execute on the Trust's behalf, the Preliminary Prospectus, the Prospectus and the Underwriting Agreement.

16.11 Unitholder List

- (a) Any person, on payment of a reasonable fee and on sending to the Trust or its agent the statutory declaration referred to in Section 16.11(e) may on application require the Trust or its agent to furnish within 10 days from the receipt of the statutory declaration a list, referred to in this section as the "basic list", made up to a date not more than 10 days before the date of receipt of the statutory declaration setting out:
 - (i) the names of the Unitholders;

- (ii) the number of Units owned by each Unitholder;
 - (iii) the address of each Unitholder;

as shown on the records of the Trust.
- (b) A person requiring the Trust to supply a basic list may, if the person states in the statutory declaration referred to in Section 16.11(a) that the person requires supplemental lists, require the Trust or its agent on payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the information provided in it for each business day following the date the basic list is made up to.
- (c) The Trust or its agent shall furnish a supplemental list required under Section 16.11(b):
 - (i) on the date the basic list is furnished, if the information relates to changes that took place prior to that date; and
 - (ii) on the Business Day following the day to which the supplemental list relates, if the information relates to changes that take place on or after the date the basic list is furnished.
- (d) A person requiring the Trust to supply a basic list or supplemental list may also require the Trust to include in that list the name and address of any known holder of an option or right to acquire Units of the Trust.
- (e) The statutory declaration required under Section 16.11(a) shall state:
 - (i) the name and address of the applicant;
 - (ii) the name and address for service of the body corporate if the applicant is a body corporate; and
 - (iii) that the basic list and any supplemental lists obtained pursuant to Section 16.11(b) will not be used except as permitted under Section 16.11(g).
- (f) If the applicant is a body corporate, the statutory declaration shall be made by a director or officer of the body corporate.
- (g) A list of Unitholders obtained under this Section 16.6 must not be used by any person except in connection with:
 - (i) an effort to influence the voting of Unitholders;
 - (ii) an offer to acquire Units of the Trust; or
 - (iii) any other matter relating to the affairs of the Trust.

ARTICLE 17 AUDITORS

17.1 Qualification of Auditors

The Auditors shall be an independent recognized firm of chartered accountants which has an office in Canada.

17.2 Appointment of Auditors

Deloitte & Touche LLP, Chartered Accountants are appointed as the auditor of the Trust, to hold such office until the first annual meeting of the Unitholders. The Auditors will be selected at each succeeding annual meeting of Unitholders. The Auditors will receive such remuneration as may be approved by the Trustee.

17.3 Change of Auditors

The Auditors may at any time voluntarily resign or be removed by the Trustee with the approval of a majority of the votes cast by Unitholders entitled to vote at a meeting of Unitholders duly called for the purpose and, upon the resignation or the removal of Auditors as aforesaid, a new auditor may be appointed by a majority of votes cast by Unitholders entitled to vote at a meeting duly called for the purpose or, in the absence of such meeting, by the Trustee.

17.4 Report of Auditors

The Auditors shall audit the accounts of the Trust at least once in each year and a report of the Auditors with respect to the annual financial statements of the Trust shall be provided to each Unitholder with the annual financial statements referred to in Section 16.7(a).

ARTICLE 18 MISCELLANEOUS

18.1 Counterparts

This Declaration of Trust may be simultaneously executed in several counterparts, each of which when executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterparts.

18.2 Severability

If any provision of this Declaration of Trust shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect or render invalid or unenforceable such

provision in any other jurisdiction or any other provision of this Declaration of Trust in any jurisdiction.

18.3 Amended and Restated Declaration of Trust

The Trust was initially established by the Initial Declaration of Trust dated April 3, 2003 among the Initial Trustees and the Initial Unitholder. This Amended and Restated Declaration of Trust gives effect, as of the date hereof, to amendments made since the Initial Declaration of Trust and to provide for the continuance of the Trust, which has existed since April 3, 2003, and does not create a new Trust.

18.4 Language

Les parties aux présentes ont exigés que la présente convention ainsi que tous les documents et avis qui s'y rattachent et/ou qui en découleront soient rédigés en la langue anglaise. The parties hereto have required that this Declaration of Trust and all documents and notices resulting herefrom be drawn up in English.

IN WITNESS WHEREOF each of the parties has caused these presents to be executed as of the date set out above.

COMPUTERSHARE TRUST COMPANY OF CANADA

By: (Signed) "Dan Sander"

By: (Signed) "Laura Leong"

KEYERA ENERGY MANAGEMENT LTD.

By: (Signed) "Jim Bertram"

By: (Signed) "Dean Setoguchi"