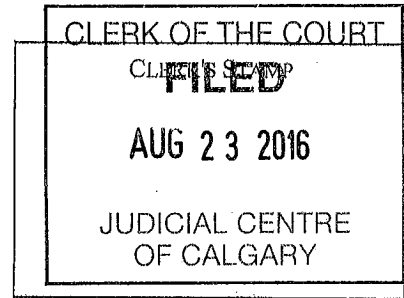


FORM 49  
[RULE 13.19]



COURT FILE NUMBER 1601-01675  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

**IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36, as amended**

**AND IN THE MATTER OF A PLAN OF  
ARRANGEMENT OF ARGENT ENERGY TRUST,  
ARGENT ENERGY (CANADA) HOLDINGS INC.  
and ARGENT ENERGY (US) HOLDINGS INC.**

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855 – 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Sean Zweig  
Telephone No.: 403.298.3323 / 416.777.6254  
Fax No.: 403.265.7219 / 416.863.1716  
Client File No.: 68859.14

**AFFIDAVIT NO. 5 OF SEAN BOVINGDON**

**Sworn on August 23, 2016**

I, Sean Bovingdon, of the City of Calgary, in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am the President and Chief Financial Officer of each of Argent Energy Trust (the "Trust"), Argent Energy (Canada) Holdings Inc. ("Argent Canada"), and Argent Energy (US) Holdings Inc. ("Argent US", and together with the Trust and Argent Canada,

"**Argent**"). As such, I have personal knowledge of the matters hereinafter deposed to, save where stated to be based on information and belief, in which case I verily believe the same to be true.

2. I previously swore Affidavits in this Action on February 16, 2016 (my "**First Affidavit**"), on February 29, 2016 (my "**Second Affidavit**"), on April 14, 2016 (my "**Third Affidavit**"), and on June 17, 2016 (my "**Fourth Affidavit**"). Where I use capitalized terms in this Affidavit No. 5, but do not define them, I intend them to bear their meanings as defined in my First Affidavit, my Second Affidavit, my Third Affidavit, or my Fourth Affidavit, as applicable. Attached hereto as **Exhibits "1", "2", "3" and "4"**, respectively, are copies of my First Affidavit, my Second Affidavit, my Third Affidavit and my Fourth Affidavit (collectively referred to herein as "**my Previous Affidavits**"), without exhibits.
3. All references to dollar amounts contained herein are to Canadian Dollars unless otherwise stated.
4. Capitalized terms not otherwise defined herein shall have the meanings as defined in my Previous Affidavits.
5. Argent Energy Limited is the administrator of the Trust, and the trustee of the Trust is Computershare Trust Company of Canada ("**Computershare**"). The Trust was formed pursuant to a trust indenture between Computershare and Argent Energy Limited, dated January 31, 2012, and is an unincorporated limited purpose open-ended trust established pursuant to the laws of the Province of Alberta on January 31, 2012. The Trust Indenture is attached hereto as **Exhibit "5"**.
6. This Affidavit is sworn in support of an application by Argent for an order that, *inter alia*:
  - (a) deems service of this application good and sufficient, and dispenses with further service of this application, including upon the holders of units of the Trust;
  - (b) authorizes Argent Canada to make an assignment into bankruptcy pursuant to the BIA and appoints FTI Consulting Canada Inc. as bankruptcy trustee of the Trust

and of Argent Canada upon their respective assignments into bankruptcy (the "**Bankruptcy Trustee**");

- (c) approves the resignations of the directors and officers of Argent US and of Argent Canada effective August 30, 2016;
- (d) grants enhanced powers to FTI Consulting Canada Inc. (the "**Monitor**") with respect to Argent US, including but not limited to:
  - (i) authorizing and directing the Monitor to dissolve Argent US and terminate the CCAA Proceedings with respect to Argent US at such time as the Monitor deems appropriate; and
  - (ii) authorizing the directing the Monitor to administer the plan of dissolution of Argent US, in accordance with the laws of the State of Delaware;
- (e) terminates these proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA Proceedings**") with respect to the Trust and Argent Canada, effective as of the earlier of:
  - (i) 11:59 p.m. MDT on August 31, 2016; and
  - (ii) the time at which the assignment into bankruptcy of the Trust and of Argent Canada pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") is filed for each of the Trust and Argent Canada;(such time being the "**CCAA Termination Time**");
- (f) extends the stay of proceedings with respect to Argent US to March 31, 2017;
- (g) maintains the Administration Charge with respect to Argent US, over funds held by the beneficiaries of the Administration Charge as retainers for professional fees;
- (h) approves the activities of the Monitor to date, and approves the fees and disbursements of the Monitor and its counsel in the CCAA Proceedings to date;

- (i) discharges FTI Consulting Canada Inc. as the Monitor of the Trust and of Argent Canada as of the CCAA Termination Time, subject only to certain continued obligations of the Monitor; and
- (j) authorizes the Bankruptcy Trustee to distribute excess funds to the Syndicate, if applicable;

and further, Argent and Computershare seek an order that:

- (k) deems the Trust terminated and discharges the trustee of the Trust from its duties immediately upon the Trust making an assignment into bankruptcy pursuant to the BIA.

7. Argent also seeks an Order:

- (a) establishing a claims procedure for the identification of claims against the current and former directors and officers of Argent and of Argent Energy Limited (the administrator of the Trust) (the "**D&O Claims Process**");
- (b) authorizing the Monitor to continue to hold in trust the funds pursuant to the Directors' Charge pending the completion of the D&O Claims Process; and
- (c) upon the completion of the D&O Claims Process, authorizing the Bankruptcy Trustee to distribute the funds held by it in relation to the Directors' Charge in accordance with any claims proven pursuant to the D&O Claims Process, with any excess funds to be distributed to the Syndicate, as defined in the Initial Order, or alternatively, to pay the funds held by it in relation to the Directors' Charge into Court, in accordance with the D&O Claims Process.

### *Overview*

8. On May 17, 2016, Argent US closed the sale of its assets to BXP, as was approved by this Court and the US Bankruptcy Court. The proceeds of the sale transaction are insufficient to fully repay the Syndicate the amounts owing under the pre-filing Credit Agreement.

9. Since the closing of the Transaction, Argent and the Monitor have diligently worked on post-closing matters, including preparation and resolution of a final statement of adjustments, transfers of operatorship of the Wyoming assets of Argent US to BXP, and other transfers of operatorship in relation to other assets of Argent US that have been purchased, and working to resolve lien and tax claims against Argent US.
10. The directors of Argent Energy Limited resigned on June 30, 2016. Steve Hicks and I remain directors of each of Argent Canada and Argent US, and, along with Mathew Wong, officers of Argent Energy Limited (and therefore effectively the Trust), Argent US and Argent Canada. We all intend to resign from our positions as directors and officers on August 30, 2016. Insperity, Inc., the professional employer organization used by Argent US in the U.S., will be advised of this. The Applicants will no longer have any employees as of August 30, 2016.
11. As the directors of Argent Energy Limited, which administered the Trust, have resigned, certain powers of Argent Energy Limited in its role as administrator of the Trust have been granted to the Monitor, pursuant to the Order of this Honourable Court granted June 27, 2016. A copy of the Order granted June 27, 2016 is attached hereto as **Exhibit "6"**. Pursuant to paragraphs 6(h) and 7 of that Order, the Monitor is authorized and directed to assign the Trust into bankruptcy at such time as the Monitor deems appropriate.
12. Argent seeks this Honourable Court's approval to terminate the CCAA Proceedings with respect to the Trust and Argent Canada, and to authorize Argent Canada to make an assignment into bankruptcy pursuant to the BIA, with FTI Consulting Canada Inc. to be appointed as the Bankruptcy Trustee of both Argent Canada and the Trust upon their respective assignments into bankruptcy.
13. Argent is not seeking to terminate the CCAA Proceedings with respect to Argent US at this time, as there are several ongoing matters to be dealt with. In particular, Argent US is still engaged in the process to finalize the statement of adjustments with BXP, is still awaiting response and receipt of a tax refund from a tax refund application made through Tax Consultants of Texas ("**T-COT**"), certain changes of operatorship to BXP are still being processed by the relevant Wyoming authorities, and Argent US is still working to resolve

lien claims of Baker Hughes Incorporated (or its subsidiaries). Argent US seeks an extension of the stay of proceedings in its favour to March 31, 2017, and is hopeful that any tax refund by the U.S. taxing authorities will have been made and disbursed by that time (with all of the other above-mentioned steps anticipated to be completed well in advance of that).

14. In addition to its work as set out in paragraph 9, above, Argent US has taken the following steps since the previous stay extension was granted on June 27, 2016:
  - (a) cooperating with the Monitor to facilitate its monitoring of Argent's business and operations;
  - (b) communicating with various stakeholder groups and/or their advisors; and
  - (c) continuing to operate and manage the business of Argent US, in the context of winding down the company, in accordance with the Orders granted in these CCAA Proceedings and the Chapter 15 Proceedings.
  
15. Argent seeks an Order granting the Monitor enhanced powers with respect to Argent US. This will ensure that, in the absence of any directors of Argent US, the Monitor has the power to preserve, protect, and maintain control of the property of Argent US, receive funds on behalf of Argent US, make distributions or payments by Argent US, execute documents with respect to the property of Argent US, provide instructions to advisors of Argent US, and oversee and direct the preparation of cash flow statements and assist in the dissemination of information in these proceedings with respect to Argent US. In particular, this will allow the Monitor, on behalf of Argent US, to:
  - (a) finalize the final statement of adjustments process and final accounting statement with BXP, in accordance with the Sale Agreement;
  - (b) finalize all transfers of operatorship of assets of Argent US that have been purchased to the purchasers;
  - (c) finalize the release of all operator bonds in favour of Argent US, upon the release of the same by the relevant government authorities in the U.S.;

- (d) resolve, either by agreement or through the U.S. Bankruptcy Court as previously ordered, all outstanding lien claims of Baker Hughes Incorporated or its subsidiaries against Argent US, and release all holdbacks maintained by the Monitor with respect to those claims; and
- (e) receive and disburse any tax refund received from the U.S. taxing authorities.

***Termination of the CCAA Proceedings With Respect to the Trust and Argent Canada***

- 16. Argent does not have sufficient assets to repay the Syndicate's pre-filing secured debt, which exceeds the net proceeds of sale received from BXP as a result of the court-approved Transaction. Accordingly, a CCAA Plan of Arrangement is not warranted or feasible and there is no further purpose or benefit from the CCAA Proceedings with respect to the Trust or Argent Canada.
- 17. Argent is therefore seeking an Order terminating the CCAA Proceedings with respect to the Trust and Argent Canada at the CCAA Termination Time. In addition, Argent is seeking relief that authorizes Argent Canada to make an assignment into bankruptcy, and Argent and Computershare seek an order deeming the Trust terminated on the date of its bankruptcy assignment with a corresponding discharge of Computershare as the trustee of the Trust.
- 18. I believe that the Trust and Argent Canada have duly complied with their obligations and carried out their duties under the CCAA, the Initial Order, the Amended and Restated Initial Order, and the subsequent orders granted by this Court and by the US Bankruptcy Court. I understand from the Monitor that it will be filing a report outlining its compliance with its obligations and providing the background required for the approval of its activities and its fees and disbursements and those of its counsel, to date.
- 19. Notwithstanding the termination of the CCAA Proceedings with respect to the Trust and Argent Canada, Argent is mindful that matters that are ancillary or incidental to the CCAA Proceedings may arise after the CCAA Proceedings with respect to the Trust and Argent Canada have been terminated. To the extent that these types of issues require the oversight of this Honourable Court in relation to the Trust and Argent Canada, Argent is requesting

that this Court remains seized of any matter incidental to the termination of the CCAA Proceedings with respect to those entities, notwithstanding the termination of the CCAA Proceedings in relation to the Trust and Argent Canada. This will also permit the Monitor to administer the D&O Claims Process, as defined below.

### **CCAA Charges and D&O Claims Process**

20. The Amended and Restated Initial Order provided for the following charges: Administration Charge, Ad Hoc Committee First Charge, Interim Lenders' Charge, Directors' Charge, KERP and KEIP Charge, and Ad Hoc Committee Second Charge. The Interim Lenders' Charge and the KERP and KEIP Charge have been paid in full. The Ad Hoc Committee Second Charge is subordinate to the Syndicate's pre-filing security, and, as there are insufficient funds to repay the Syndicate the amounts owing under its pre-filing security, there are no funds available to pay the Ad Hoc Committee Second Charge. Otherwise:
- (a) **Administration Charge:** It is anticipated that any fees secured by the Administration Charge will be paid on or before the assignment into bankruptcy of the Trust and Argent Canada. However, Argent seeks the continuation of the Administration Charge in the CCAA Proceedings of Argent US, over funds held by the beneficiaries of the Administration Charge as retainers for professional fees;
  - (b) **Ad Hoc Committee First Charge:** I understand from my counsel that the Monitor has requested that counsel for the Ad Hoc Committee provide an invoice for its professional fees; however, counsel for the Ad Hoc Committee has failed to do so. As such, it is my understanding that the Monitor will seek to pay those funds that it holds in trust pursuant to the Ad Hoc Committee First Charge into Court, subject to further Order of the Court;
  - (c) **Directors' Charge:** Argent requests that a claims procedure be established for the identification of claims against the current and former directors and officers of Argent and of Argent Energy Limited (the administrator of the Trust) (the "**D&O Claims Process**"), and, upon completion of the D&O Claims Process, that the Monitor, pursuant to its residual powers with respect to the Trust and Argent



Canada as sought in this application and pursuant to its continued role as Monitor of Argent US, be authorized to distribute the funds held by it pursuant to the Directors' Charge in accordance with any claims proven pursuant to the D&O Claims Process, with any excess funds to be distributed to the Syndicate, or, in the alternative, if any claims cannot be resolved by the Monitor, or if the claims exceed, in the aggregate, US \$200,000, that the Monitor be authorized to pay those funds into Court, subject to resolution of those claims between the parties thereto. The D&O Claims Process is a reasonable process that will allow the Monitor to determine whether there are any claims against the beneficiaries of the Directors Charge, so that the Directors' Charge can be discharged and the Monitor can make distributions of the funds held in relation to it or otherwise pay those funds into Court.

21. The reason for the D&O Claims Process is to provide the beneficiaries of the Directors' Charge sufficient protection in the event that post-filing CCAA liability is crystallized following the bankruptcy of the Trust and of Argent Canada. For example, although the Trust and Argent Canada have paid all amounts that they believe were owed for GST, they will not be in a position to confirm that these amounts are not disputed by Canada Revenue Agency until an audit is completed and a claim is filed and finally determined in the BIA Proceedings, or the limitation period has passed. Further, while the directors and officers of Argent are not aware of any environmental or other liabilities that are or may become due and owing by them personally, the D&O Claims Process will identify, and, if possible, determine and resolve any such claims.
22. The Directors' Charge is currently secured against funds being held by the Monitor in the amount of US \$200,000. It is anticipated that this amount would be maintained by the Monitor, and would be held in trust by it for the benefit of the beneficiaries of the Directors' Charge until the completion of the D&O Claims Process. The funds held by the Monitor would be distributed in accordance with any claims proven in the D&O Claims Process, and any residual amounts would be distributed by the Monitor to the Syndicate, up to the amount of the value of the Syndicate's pre-filing secured debt pursuant to its Credit Agreement, or otherwise paid into Court as set out above.

*Distribution to Syndicate*

23. To the extent that Argent Canada and the Trust hold funds in excess of the amount of the levy payable to the Superintendent of Bankruptcy following the satisfaction and discharge of the Charges (as defined in the Initial Order and in the Amended and Restated Initial Order, provided that such funds are not held in trust or are not otherwise required to fund any claim in priority to the Syndicate) (the "**Excess Funds**"), Argent is seeking authorization to distribute such Excess Funds to the Syndicate up to the amount of the value of the Syndicate's pre-filing secured debt pursuant to its Credit Agreement. If this amount is known on or before the commencement of the BIA Proceedings, it will be paid by Argent or the Monitor, or thereafter by the Bankruptcy Trustee.
24. The Monitor's counsel previously conducted a security review on the Syndicate (as described in the Monitor's Third Report to the Court dated June 21, 2016) and counsel advised that the Syndicate's secured debt is a valid security interest in the right, title and interest of the real and personal property of Argent, except for deposit accounts, money (which can only be perfected by possession) and motor vehicles ("**Rolling Stock**").

*Dispensing with Service Upon the Unitholders*

25. Argent seeks an Order dispensing with service of this Application on the unitholders of the Trust (the "**Unitholders**"). The units of the Trust have been traded widely on the TSX since 2012. Service of this Application upon each of the individual Unitholders would result in significant delay and expense to the process which would, in turn, exacerbate the already significant shortfall in recovery being faced by the Syndicate. There are and will be no funds available for distribution to the Unitholders.
26. Argent has issued press releases advising the public, including the Unitholders, of the commencement and status of these CCAA Proceedings and the Chapter 15 Proceedings in the U.S. These include a press release dated May 17, 2016, advising the public, including the Unitholders, of the approval of the Transaction and that no funds are available for distribution to the Unitholders. Attached hereto as **Exhibit "7"** is a true copy of the press release dated May 17, 2016.


27. In addition, these and all previous application materials are and will be posted on the Monitor's website, which is accessible by the public, including all Unitholders.

***Conclusion***


28. The Trust and Argent Canada have completed the stated objective of the CCAA Proceedings and there is no need for those entities to continue to operate in CCAA protection. Moreover, Argent does not have sufficient assets to repay the Syndicate's pre-filing secured debt. Consequently, I believe that it is now appropriate to terminate the CCAA Proceedings with respect to the Trust and Argent Canada and to discharge FTI Consulting Canada Inc. from its role as Monitor regarding those two entities. I am advised by counsel to Argent and believe that the bankruptcy of Argent Canada and of the Trust, with FTI Consulting Canada Inc. as Bankruptcy Trustee, will provide an efficient and orderly process for the final wind-up of Argent Canada and the Trust. It is intended that the Monitor will be granted enhanced powers with respect to Argent US, including but not limited to authorization and direction by this Court to the Monitor to dissolve Argent US, in accordance with the laws of the State of Delaware, being the state where it was incorporated, at such time as the Monitor deems appropriate. Argent US seeks an extension of the stay of proceedings in its favour to March 31, 2017.

29. This Affidavit is sworn in support of the application for relief under the CCAA and for no other or improper purpose.

SWORN BEFORE ME at the City of )  
Calgary, in the Province of Alberta, on the )  
23<sup>rd</sup> day of August, 2016. )  
)  
)  
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)

  
\_\_\_\_\_  
A Commissioner for Oaths  
In and for the Province of Alberta )

**Kelsey Meyer  
Barrister & Solicitor**

  
\_\_\_\_\_  
**SEAN BOVINGTON**

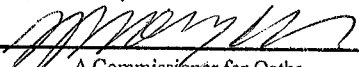
# EXHIBIT 1

THIS IS EXHIBIT " 1 "  
referred to in the Affidavit of Declaration

Sean Bevington

Sworn before me this 23rd

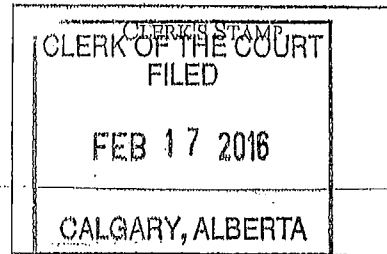
day of August A.D. 20 16



A Commissioner for Oaths  
in and for the Province of Alberta

Kelsey Meyer  
Barrister & Solicitor

FORM 49  
[RULE 13.19]



COURT FILE NUMBER

1601 - 01075

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36, as amended

AND IN THE MATTER OF A PLAN OF  
ARRANGEMENT OF ARGENT ENERGY TRUST,  
ARGENT ENERGY (CANADA) HOLDINGS INC.  
and ARGENT ENERGY (US) HOLDINGS INC.

DOCUMENT

AFFIDAVIT

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BENNETT JONES LLP  
Barristers and Solicitors  
4500 Bankers Hall East  
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Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Sean Zweig  
Telephone No.: 403.298.3323 / 416.777.6254  
Fax No.: 403.265.7219 / 416.863.1716  
Client File No.: 68859.14

**AFFIDAVIT OF SEAN BOVINGDON**

Sworn on February 16, 2016

I, SEAN BOVINGDON, of Calgary, Alberta, SWEAR AND SAY THAT:

1. Argent Energy Trust (the "Trust"), Argent Energy (Canada) Holdings Inc. ("Argent Canada"), and Argent Energy (US) Holdings Inc. ("Argent US", and together with the Trust and Argent Canada, the "Applicants" or "Argent"), bring an application seeking

relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA").

2. I am the President and Chief Financial Officer of each of the Applicants. As such, I have personal knowledge of the matters hereinafter deposed to, save where stated to be based on information and belief, in which case I verily believe the same to be true.
3. All references to dollar amounts contained herein are to Canadian Dollars unless otherwise stated.
4. For clarity, Argent Energy Ltd. ("AEL"), which is a company described and referred to below, is not a CCAA applicant in this proceeding and no relief is being sought in respect of AEL. Certain background information with respect to AEL is being provided in this Affidavit for additional context only.

**I. RELIEF REQUESTED**

5. This Affidavit is made in support of an application by Argent for an Order (the "**Initial Order**") pursuant to the CCAA, among other things:
  - (a) declaring that the Applicants are entities to which the CCAA applies;
  - (b) staying all proceedings and remedies taken or that might be taken in respect of the Applicants or any of their property, except as otherwise set forth in the Initial Order or otherwise permitted by law;
  - (c) authorizing the Applicants to carry on business in a manner consistent with the preservation of their property and business;
  - (d) appointing FTI Consulting Canada Inc. as the Monitor (the "**Monitor**") of the Applicants in these proceedings;
  - (e) granting the Administration Charge (as defined below), the Directors' Charge (as defined below), the Interim Lender's Charge (as defined below), and the KERP and KEIP Charge (as defined below);

- (f) authorizing Argent US to borrow funds under the Interim Loan (as defined below);
  - (g) approving the Applicants' Key Employee Retention Plan ("KERP") and Key Employee Incentive Plan ("KEIP"), each as described herein;
  - (h) authorizing the Applicants to, with the consent of the Monitor and the Syndicate (as defined below), pay for certain goods and services supplied to the Applicants prior to the date of the Initial Order;
  - (i) approving a proposed sale solicitation process (the "**Sale Solicitation Process**") and authorizing and directing The Oil & Gas Asset Clearinghouse, LLC ("**OGAC**"), the Monitor and the Applicants to perform their obligations thereunder;
  - (j) approving the Letter Agreement entered into between OGAC, Argent US and Argent Canada dated January 15, 2016;
  - (k) requesting the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to the Initial Order;
  - (l) authorizing FTI Consulting Canada Inc. to act as the foreign representative in respect of the within proceedings for the purposes of having the CCAA proceedings of Argent US and Argent Canada recognized in the United States pursuant to Chapter 15 of Title 11 of the United States Bankruptcy Code ("**Chapter 15**");
  - (m) sealing on the Court file certain confidential information referred to herein; and
  - (n) deeming service of the Application for the Initial Order to be good and sufficient.
6. The Syndicate, which is the Applicants' only secured creditor, supports the relief sought in this application, including the charges proposed to be granted herein.



## II. BACKGROUND

### A. Corporate Structure

7. An organization chart of the Applicants is attached as **Exhibit "1"** to this Affidavit.

### B. The Trust

8. The Trust, which is the parent entity in the Argent structure, is an unincorporated limited purpose open-ended trust established under the laws of Alberta on January 31, 2012.

9. The Trust was formed pursuant to a Trust Indenture dated January 31, 2012 between Computershare Trust Company of Canada, as trustee (the "**Trustee**"), and AEL (as amended and restated from time to time, the "**Trust Indenture**"). A copy of the Trust Indenture is attached as **Exhibit "2"** to this Affidavit.

10. The Trustee has been notified of the Applicants' intention to bring this application and has reviewed, and has had the opportunity to comment upon, the materials.

11. The Trust was established to indirectly acquire an interest in Argent US through its acquisition of the shares of Argent Canada. The Trust currently constitutes a "mutual fund trust" under the *Income Tax Act*.

12. The Trust's units (the "**Units**") are currently listed for trading on the Toronto Stock Exchange ("**TSX**") under the symbol "AET.UN" and the Trust's Subordinated Debentures (as defined and described below) are traded on the TSX under the symbol "AET.DB" and "AET.DB.A". On February 2, 2016, the TSX issued a notice that the TSX is reviewing the Units and the Subordinated Debentures with respect to the meeting of the TSX's continued listing requirements. A copy of the TSX notice is attached as **Exhibit "3"** to this Affidavit.

13. The beneficiaries of the Trust are the holders of the Units (the "**Unitholders**"). The Unitholders are entitled to receive non-cumulative distributions from the Trust if, as and when declared by the Trust. As described below, the last distribution declared and paid

was in respect of the period from and including March 1, 2015 to March 31, 2015 for Unitholders of record on March 31, 2015.

14. While the Trustee is the trustee of the Trust, pursuant to the terms of an administrative services agreement dated May 9, 2012 between the Trustee and AEL (the "**Administrative Services Agreement**"), the Trustee has delegated a number of the management, administrative and governance duties relating to the Trust to AEL, as the administrator of the Trust. As a result, the directors of AEL fulfill the majority of the oversight and governance role for the Trust, with the balance of those duties remaining with the Trustee. A copy of the Administrative Services Agreement is attached as **Exhibit "4"** to this Affidavit.

**C. Argent Canada**

15. Argent Canada is a corporation incorporated under the laws of the Province of Alberta on May 4, 2012. A copy of Argent Canada's certificate of incorporation is attached as **Exhibit "5"** to this Affidavit.
16. Argent Canada is a direct wholly-owned subsidiary of the Trust. It was created to form, acquire, and hold all of the issued and outstanding shares of Argent US and to pass distributions from Argent US through to the Trust, to the extent available. Argent Canada is a holding company, and does not carry on any operations.
17. The principal and head office of the Trust and Argent Canada is located at Suite 500, 321 – 6th Avenue S.W. Calgary, Alberta, T2P 3H3. The registered office of Argent Canada is located at 4500 Bankers Hall East, 855 – 2<sup>nd</sup> Street S.W., Calgary, Alberta, T2P 4K7.

**D. Argent US**

18. Argent US is a corporation incorporated under the laws of the State of Delaware on May 4, 2012. The sole shareholder of Argent US is Argent Canada. Argent US was created to acquire, operate and manage long-life petroleum properties in the United States. A copy of Argent US's certificate of incorporation is attached as **Exhibit "6"** to this Affidavit.

19. Argent US is the only Applicant that has active operations, and it directly owns all of the Applicants' petroleum properties.
20. The principal office of Argent US is located at 909 Fannin Street, 10<sup>th</sup> Floor, Houston, Texas 77010. Its registered office is located at The Corporate Trust Center, 1209 Orange Street, Wilmington, County of New Castle, Delaware, 19801.

**E. Directors and Executive Officers**

21. The officers of each of AEL (and therefore effectively the Trust) and Argent Canada are:
  - (a) Sean Boyingdon – President & Chief Financial Officer;
  - (b) R. Steven Hicks – Chief Operating Officer; and
  - (c) Mathew Wong - Vice President of Finance.
22. The officers of Argent US are the same individuals as for AEL and Argent Canada; however, Mr. Wong also holds the title of Secretary for Argent US.
23. The directors of each of Argent Canada and Argent US are myself and Mr. Hicks.
24. The Trust does not have directors; the Trustee is the trustee of the Trust, and as discussed above, the Trustee has delegated a number of the management, administrative and governance duties relating to the Trust to AEL. The directors of AEL are John Brussa, William D. Robertson, and Glen C. Schmidt.

**F. Employees**

25. The Applicants have 46 employees. With the exception of 2 employees that are employed by AEL and the Trust, all of the employees are employed by Argent US.
26. Argent previously had more than 75 employees but it has proactively reduced its workforce over the past 12 months in connection with cost-reduction measures to reduce ongoing operating, general and administrative expenses.
27. Argent does not operate a pension plan for its employees.

### III. BUSINESS OF THE APPLICANTS

#### A. General

28. The Trust is an energy trust created to provide investors with a publicly traded, oil and natural gas focused, distribution-producing investment. The strategy of the Trust is to acquire, exploit, and develop, indirectly through Argent US, long-life crude oil and natural gas reserves in established producing basins located primarily in the US.

#### B. Oil and Gas Properties

29. Argent owns interests in oil and gas assets (the "Assets") in three states: Texas, Wyoming and Colorado. The Assets include: (i) the Austin Chalk and Eagle Ford Shale Oil Assets, (ii) the South Texas Natural Gas Assets, (iii) the South Texas Oil Assets, (iv) the Wyoming Oil Assets, and (v) the Colorado Assets.

##### *i. Austin Chalk and Eagle Ford Shale Oil Assets*

30. The Austin Chalk and Eagle Ford Shale Oil Assets include interests in approximately 16,376 gross (10,319 net) acres in the Austin Chalk and Eagle Ford Shale oil formation in Texas, mainly in Fayette and Gonzales Counties. As per Argent's 2014 Reserve Report, proved plus probable reserves attributed to the Austin Chalk and Eagle Ford Shale Oil Assets totalled 3,283 Mboe.
31. Argent operates 8 producing horizontal oil wells in the Austin Chalk oil formation and 12 producing horizontal oil wells in the Eagle Ford Shale oil formation, all of which were drilled prior to 2015. Argent owns a 100% interest in the 20 wells.
32. In December 2015, production from the Austin Chalk and Eagle Ford Shale Oil Assets averaged 576 boe/d to Argent's working interest before royalties.

##### *ii. South Texas Natural Gas Assets*

33. The South Texas Natural Gas Assets include interests in 4,388 gross (3,472 net) acres located in South Texas. These assets are primarily natural gas weighted and are anchored

by the South Escobas Field in Zapata County, Texas. Proved plus probable reserves attributed to the South Texas Natural Gas Assets in Argent's 2014 Reserve Report totalled 10,478 Mboe.

34. The South Texas Natural Gas Assets consist of 23 producing wells, 16 of which are operated by Argent, with various working interests of between 20% and 100%. Most of these assets produce from the Wilcox/Lobo formations, with some of the production from the Frio/Vicksburg formation.
35. Production from the South Texas Natural Gas Assets in December 2015 averaged approximately 966 boe/d before royalties.

*iii. South Texas Oil Assets*

36. The South Texas Oil Assets are comprised of the Newton, Livingston, Double A Wells North, Baffin Bay and Peeler Ranch Fields in southern Texas. The South Texas Oil Assets include operated interests in 25,333 gross (16,947 net) acres. All of the leases are held by production with an average working interest for Argent US of 100% in Newton, 99.25% in Livingston, 61% in Double A Wells North, and between 9% and 43% for the Baffin Bay and Peeler Ranch Fields. Proved plus probable reserves to Argent's gross working interest attributed to the South Texas Oil Assets in Argent's 2014 Reserve Report total 9,077 Mboe.
37. There are 73 producing wells in the South Texas Oil Assets, and 11 active water disposal wells. In December 2015, the average production attributable to Argent's working interest before royalties was approximately 1,078 boe/d.

*iv. Wyoming Oil Assets*

38. The Wyoming Oil Assets are comprised of high operated working interests in the Mellott Ranch, Reno, Reel and certain other minor fields and non-operated interests at House Creek and House Creek North fields in Wyoming. The Wyoming Oil Assets include operated interests in approximately 66,000 gross (46,850 net) acres. Proved plus probable

reserves to Argent's gross working interest attributed to the Wyoming Oil Assets in Argent's 2014 Reserve Report total 9,141 Mboe.

39. Argent operates 51 gross producing wells and 21 gross active injection wells in Wyoming. Argent owns further interests in approximately 216 gross non-operated wells in the Wyoming Oil Assets. In December 2015, the average production attributable to Argent's working interest before royalties was approximately 1,073 boe/d.

*v. Colorado Assets*

40. The Colorado Assets consist of 17 gross active producing wells and 2 gross active injection wells in the non-operated Mull Unit, and 3,546 gross (1,855 net) acres of land in Cheyenne County. Argent has a 19% working interest in the Mull Unit which is operated by Mull Drilling Company. Proved plus probable reserves to Argent's gross working interest attributed to the Colorado Assets in Argent's 2014 Reserve Report total 395 Mboe.
41. In December 2015, the average production attributable to Argent's working interest before royalties from the Colorado Assets was approximately 86 boe/d.

**C. Bank Accounts and Cash Management**

42. All of the Applicants' bank accounts are either with a member of the Syndicate or an affiliate of a member of the Syndicate. Each of the Applicants has a bank account in Canada.
43. All of Argent's revenues are received by Argent US, which, together with funds borrowed under the Credit Facility (as defined below) and the Intercompany Notes (as defined below), are used to pay all of Argent US's operating and administrative costs and expenses.

**IV. CURRENT CIRCUMSTANCES**

44. Argent prepares its public financial disclosure on a going concern basis in accordance with International Financial Reporting Standards ("IFRS"), which assumes that Argent

will continue in operation and will be able to realize its assets and discharge its liabilities in the normal course of business. The financial statements are prepared on a consolidated basis in accordance with IFRS.

45. A copy of Argent's audited financial statements for the year ended December 30, 2014 are attached as **Exhibit "7"** to this Affidavit. Argent's most recent interim unaudited financial statements, as at September 30, 2015, are attached as **Exhibit "8"** to this Affidavit.

**A. Assets**

46. As at September 30, 2015, Argent had total assets with a book value of \$262,210,000. The assets included current assets with a book value of \$33,608,000 and non-current assets with a book value of \$228,602,000.

47. Current assets included cash (\$1,334,000), trade and other receivables (\$11,150,000), risk management (representing the then mark-to-market value of hedges) (\$19,981,000) and prepaid expenses and deposits (\$1,143).

48. Non-current assets included primarily the Applicants' oil and gas properties (\$222,624,000).

49. As referred to above, the asset value is substantially owned by Argent US.

50. With respect to the oil and gas property assets, I do not believe that the current book values of the assets bears any resemblance to the realistic realization value of those assets as a result of the significant deterioration of commodity prices that has occurred since September 30, 2015.

**B. Liabilities**

51. As at September 30, 2015, Argent had total liabilities of \$180,790,000. Although that is less than the book value of Argent's assets, I believe that it is materially higher than the realizable value of Argent's assets today.

52. Of those liabilities, \$80,067,000 was in respect of the Credit Facility (as defined below) and \$44,625,000 was in respect of the Subordinated Debentures (as defined below) (representing the then mark-to-market value of the Subordinated Debentures).
53. Given that, as described below, Argent is in default under its Credit Facility and its Subordinated Debentures, I believe that the full amount of the Credit Facility (which is now approximately USD \$51.9 million) and the Subordinated Debentures (which is now approximately \$153.44 million, inclusive of due but unpaid interest), as opposed to just the current portions, should be considered current liabilities.
54. Other significant liabilities as at September 30, 2015 included trade and other payables (\$30,792,000) and a decommissioning liability (\$19,081,000).

*i. Credit Facility*

55. Pursuant to the Amended and Restated Credit Agreement dated October 25, 2012 (as amended from time to time, the "**Credit Agreement**"), Argent US entered into a credit facility with a lending syndicate comprised of The Bank of Nova Scotia, Canadian Imperial Bank of Commerce, Royal Bank of Canada, and Wells Fargo Bank, N.A., Canadian Branch (collectively, the "**Syndicate**"), with The Bank of Nova Scotia acting as the Administration Agent. A copy of the Credit Agreement (without exhibits and schedules) is attached as **Exhibit "9"** to this Affidavit.
56. The Credit Agreement provides for two tranches of financings which rank *pari passu* to one another:
- (a) a revolving term credit facility provided by the Syndicate for acquisition, exploration, development, and production of oil and gas properties in the United States; and
  - (b) a revolving operating term credit facility provided by The Bank of Nova Scotia for general corporate purposes (collectively, the "**Credit Facility**").
57. The Credit Facility is subject to a borrowing base valuation of Argent US's oil and gas assets, and may be drawn in either US or Canadian dollars.



58. The Credit Facility is guaranteed by the Trust and Argent Canada. It is secured by a first priority security interest on substantially all of the property and assets of Argent US, including all of its oil and natural properties, and substantially all of the property and assets of the Trust and Argent Canada, including the shares of Argent US owned by Argent Canada.
59. The current amount owing under the Credit Facility is approximately USD \$51.9 million.
60. The Credit Agreement is governed by the laws of the Province of Alberta.

*ii. Convertible Subordinated Debenture Indenture*

61. The Trust issued \$75 million of 6.00% convertible debentures on June 4, 2013 and an additional \$11.25 million of 6.00% convertible debentures on June 12, 2013 (collectively, the “**6.00% Subordinated Debentures**”). On October 31, 2013, the Trust issued \$60 million of 6.50% convertible debentures and an additional \$3 million of 6.50% convertible debentures on November 29, 2013 (collectively, the “**6.50% Subordinated Debentures**”, and together with the 6.00% Subordinated Debentures, the “**Subordinated Debentures**”). The interest payable on the Subordinated Debentures is payable in equal installments semi-annually on June 30 and December 31 in each year, and the Subordinated Debentures mature on December 31, 2018.
62. The 6.00% Subordinated Debentures were issued pursuant to a convertible debenture indenture dated as of June 4, 2013 between the Trust and Computershare Trust Company of Canada (the “**Debenture Indenture**”). The 6.50% Subordinated Debentures were issued pursuant to a first supplemental indenture dated as of October 31, 2013 (the “**Supplemental Debenture Indenture**”). Copies of the Debenture Indenture and the Supplemental Debenture Indenture are attached as **Exhibit “10”** to this Affidavit.
63. The Subordinated Debentures are unsecured obligations of the Trust and rank equally with one another. Neither Argent Canada nor Argent US is an obligor in respect of the Subordinated Debentures.

64. On July 9, 2014, \$500,000 of the 6.00% Subordinated Debentures were converted at the option of the debentureholder into 35,971 Units.
65. Pursuant to the Debenture Indenture, (i) the Subordinated Debentures are subordinate to the full and final payment of the Credit Facility and all other Senior Indebtedness (as defined in the Debenture Indenture, which includes ordinary trade debt of the Trust), and (ii) in the event of a default under the Credit Facility, the holders of the Subordinated Debentures are prohibited by the terms of the Debenture Indenture from taking any enforcement proceedings against the Trust until the default under the Credit Facility has been cured, waived or ceases to exist.
66. The closing prices of the 6.00% Subordinated Debentures and the 6.50% Subordinated Debentures on February 12, 2016 were \$1.20 per \$100.00 and \$1.50 per \$100.00, respectively.
67. The Debenture Indenture and the Supplemental Debenture Indenture are governed by the laws of the Province of Alberta.

*iii. Intercompany Notes*

68. Argent US issued four series of intercompany notes (the "Intercompany Notes") to Argent Canada from time to time in 2012. As at the date hereof, the total principal amount of Intercompany Notes outstanding is approximately \$183.1 million.
69. Although the Intercompany Notes were initially issued to Argent Canada, they were distributed to the Trust concurrently or immediately following each issuance, such that, at all material times, the indebtedness owing under the Intercompany Notes has been owing by Argent US to the Trust.
70. The Intercompany Notes mature ten years after issuance with principal payments amortized over the ten year period. They bear interest at the rate of 9.50%, payable monthly, in arrears.
71. Payment of the principal amount and interest on the Intercompany Notes is subordinated in right of payment to the prior payment in full of the principal of and accrued and unpaid

interest on, all other amounts owing in respect of all senior indebtedness, which is defined as all indebtedness, liabilities and obligations of Argent US (other than trade payables) that, by the terms of the instrument creating or evidencing such indebtedness, is not expressed to rank in right of payment in subordination to or *pari passu* with the Intercompany Notes. The Intercompany Notes rank *pari passu* with Argent US's trade payables.

72. Effective as of October 1, 2015, the Trust, in its capacity as holder of the Intercompany Notes, executed a Waiver pursuant to which the Trust waived, in advance, all future interest that would have otherwise, but for the Waiver, accrued and become payable under each Intercompany Note. Pursuant to the Waiver, the Trust has no legal right to any accrual or payment of such waived interest and interest will no longer accrue and be payable on the indebtedness evidenced by the Intercompany Notes until the date the Trust provides a notice to Argent US that the Waiver is no longer in effect. In all other respects, the Trust expressly reserved all of its rights under each Intercompany Note, and the indebtedness evidenced by the Intercompany Notes remains in full force and effect.

*iv. No Equipment Lessors or Other Secured Parties*

73. The Syndicate is the only secured creditor of the Applicants. Alberta Personal Property Security Act registrations (“PPSA Registrations”) do not reveal the existence of any Canadian secured equipment lessors or other secured interests. The PPSA Registrations, which are attached as Exhibit “11” to this Affidavit, do not list any secured creditors of the Applicants apart from the Syndicate.
74. Searches were also conducted under the Uniform Commercial Code (“UCC”) in Delaware, Texas and Wyoming, and the only registrations are in respect of the Syndicate. Copies of the UCC searches are attached as Exhibit “12” to this Affidavit.

**C. Commodity Hedges**

75. As part of Argent US's strategy to mitigate the impact of fluctuating commodity prices on its funds flowing from operations, it from time to time entered into various hedging

agreements with The Bank of Nova Scotia and Wells Fargo Bank, N.A., both of which are members of the Syndicate.

76. Given the recent plummeting of commodity prices, the hedges provided significant and important cash flow to Argent. At current prices, Argent remained cash flow positive from operations with the hedges in place, but cash flow negative without them.
77. On January 28, 2016, in accordance with the terms of the hedge agreements, each of The Bank of Nova Scotia and Wells Fargo Bank, N.A. terminated the hedges. The aggregate termination payment that was owing to Argent US as a result of the terminations was approximately USD \$12.38 million, which amount was set-off by the Syndicate against the Credit Facility. Copies of the termination notices received are attached as **Exhibit "13"** to this Affidavit.
78. Accordingly, as at the date hereof, Argent no longer has any hedges and is cash flow negative.

**D. Legal Proceedings**

79. To the best of my knowledge, the Applicants are not parties to any lawsuits, claims, or proceedings.

**V. EVENTS LEADING TO THE APPLICANTS' CURRENT CIRCUMSTANCES**

**A. Decline in the Oil Industry**

80. The global decline of oil and gas prices is what has caused Argent to become insolvent. The severe decline in commodity prices has led to a significant reduction in the value of Argent's reserves, such that the current market value of the assets is now significantly less than Argent's outstanding liabilities.
81. In addition, the oversupply of global oil production, coupled with weakened demand for fuel in the global economy, has compressed the margins that oil and gas suppliers like Argent can command. Consequently, earnings are down for historically profitable oil and

gas companies, leading to a reduction in drilling activity, payroll cuts, and in some instances, insolvency.

**B. Strategic Review Process, Asset Sales and Other Initiatives**

82. On October 1, 2014, Argent announced a decision to initiate a process to explore a range of strategic alternatives (the “**Strategic Review Process**”). BMO Capital Markets was engaged to assist Argent with that process. A copy of the October 1, 2014 press release announcing the Strategic Review Process is attached as **Exhibit “14”** to this Affidavit.
83. As part of the Strategic Review Process, Argent considered all alternatives, including (i) a sale of a material portion of Argent's assets, (ii) a sale of Argent, either in one transaction or in a combination of transactions, (iii) a merger or other business combination, (iv) or a joint venture or a farmout on a material portion of Argent's assets.
84. As a result of the Strategic Review Process, effective January 1, 2015 Argent sold its interests in the Manvel Field, Texas for gross proceeds of USD \$20.5 million, which proceeds were used to pay down the Credit Facility.
85. On March 31, 2015, Argent announced that the Strategic Review Process was a well-attended process which resulted in the receipt of a significant number of bids ranging from individual fields to the entire set of assets. However, with the then-recent plunge in commodity prices, bid levels failed to achieve an acceptable level and the Strategic Review process was concluded. The March 31, 2015 press release also announced that in order to preserve cash and maintain compliance and liquidity in the low commodity price environment, the Trust was suspending all monthly distributions to Unitholders commencing with the month of April, 2015. A copy of the March 31, 2015 press release is attached as **Exhibit “15”** to this Affidavit.
86. Notwithstanding the conclusion of the Strategic Review Process, Argent continued to market a combination of certain assets with the goal to utilize proceeds to pay down the Credit Facility. On July 1, 2015, Argent announced the sale of its interests in Oklahoma and Kansas for gross proceeds of USD \$20 million. The proceeds of the sale were used to further pay down the Credit Facility.

87. In addition to the asset sales completed, Argent implemented various other cost-savings initiatives, including:

- (a) reducing its technical and administrative staff by approximately 30% between April, 2015 and August, 2015;
- (b) reducing its capital expenditure budget for 2015 to USD \$12 million from an original amount of USD \$39.5 million announced in November 12, 2014;
- (c) reducing its operating costs from USD \$12.57 per boe in Q3, 2014 to USD \$9.37 per boe in Q3, 2015; and
- (d) the members of AEL's board of directors agreed to, and did, defer all of their compensation since March 2014. The directors of Argent Canada and Argent US were never entitled to, and never received, compensation in their capacities as directors.

88. In or around August, 2015, Argent and its counsel began to engage with an ad hoc committee of holders of Subordinated Debentures (the "**Ad Hoc Committee**") and its counsel with respect to various alternatives, including a potential debt-for-equity transaction and different sale alternatives.

89. Argent proposed certain transactions which had the support of Argent and the Syndicate, but Argent and the Ad Hoc Committee were not able to agree on any transaction.

90. Argent has continued to have discussions with the Ad Hoc Committee and its counsel from time to time, but the Ad Hoc Committee has to date not been prepared to provide further financing to Argent in order to provide additional liquidity and runway to the Applicants.

**C. Defaults under the Credit Agreement and the Debenture Indenture**

91. On November 27, 2015, Argent US received a notice from The Bank of Nova Scotia, as administration agent under the Credit Agreement, that the borrowing base had been re-determined in accordance with the Credit Agreement to be USD \$45.0 million, effective

immediately. That was an immediate reduction in the borrowing base, in the amount of USD \$35.0 million. At such time, Argent US's borrowings were USD \$66.3 million (inclusive of a letter of credit), which meant that there was a borrowing base shortfall of USD \$21.3 million. Argent US had 60 days to cure the borrowing base shortfall, failing which there would be an Event of Default under the Credit Agreement.

92. On December 31, 2015, the Trust failed to make its semi-annual interest payments due in respect of the Subordinated Debentures. As a result of Argent's borrowing base shortfall under the Credit Facility, the Trust was prohibited by the terms of the Credit Agreement from making the interest payments in respect of the Subordinated Debentures. The Debenture Indenture provides for a 30 day cure period in which the Trust may make the interest payments.
93. The 60 day cure period under the Credit Agreement expired on January 26, 2016 without the borrowing base shortfall having been cured. The 30 day cure period under the Debenture Indenture expired on January 31, 2016 without the interest payments having been made. Accordingly, there is now an Event of Default under both the Credit Agreement and the Debenture Indenture.

**D. Re-financing Process**

94. In anticipation of the borrowing base redetermination that Argent received formal notice of on November 27, 2015, the Trust sought proposals in or around October, 2015, from a number of investment bankers to assist Argent in seeking new financing to either (i) refinance the Credit Facility in full, or (ii) provide a new second lien facility that would, among other things, cure the borrowing base shortfall.
95. After considering various proposals and consulting with the Ad Hoc Committee, the Trust engaged Durham Capital Canada Corporation ("**Durham**") for that role pursuant to an agreement dated October 30, 2015.
96. Durham ran a targeted process and contacted approximately 36 parties regarding the potential refinancing, and 16 of those parties signed non-disclosure agreements and conducted significant due diligence.

97. However, there has been significant volatility in oil prices since the start of the Durham process (when oil was at approximately USD \$46/bbl). Almost immediately after the announcement from OPEC in early-December that it would not cut production, all but one of the parties in the Durham process lost interest in the refinancing opportunity and declined to make a proposal.
98. The Durham process has not resulted in any satisfactory refinancing offers to date, but Durham remains engaged and available to assist Argent if circumstances change such that a re-financing becomes a viable option again.
99. Given the inability to sell assets or refinance the Credit Facility, and the fact that Argent is now cash flow negative at current commodity prices (after the termination of the hedges), Argent has no ability to continue to operate without additional funding, which the Syndicate has said that it is not willing to provide other than in the context of a sales process within the contemplated insolvency proceedings. As provided above, the Ad Hoc Committee has not expressed any interest in providing additional funding.
100. In an effort to preserve option value for the Subordinated Debentures and other stakeholders that rank junior to the Syndicate, and notwithstanding Argent's recognition of the Syndicate's legal rights, Argent, along with its legal and financial advisors, attempted to convince (i) The Bank of Nova Scotia and Wells Fargo Bank, N.A. not to terminate the hedges, and (ii) the Syndicate to forbear from exercising remedies until commodity prices improve and/or to provide a non-confirming tranche to the Credit Facility to cure the borrowing base shortfall. But the Syndicate, in accordance with my understanding of its legal rights, was not prepared to do so.
101. Instead, the Syndicate has worked co-operatively with Argent with respect to these consensual CCAA proceedings, including agreeing to fund the process by way of the Interim Loan.
102. On February 16, 2016, the Syndicate accelerated the Credit Facility, demanded repayment thereof, and issued notices of intention to enforce security to the Trust and Argent Canada. As at that date approximately USD \$51.9 million is outstanding under



the Credit Facility, and Argent is unable to repay the amounts owing. Attached as **Exhibit "16"** to this Affidavit are copies of the demand letters and the notices of intention to enforce security received by the Applicants.

103. If the Applicants did not bring this CCAA application, the Syndicate would be in a position to initiate enforcement steps to sell the Assets in accordance with its legal rights, and I believe that such an enforcement would have resulted in worse recoveries for Argent's creditors than the process being proposed in this CCAA application. Accordingly, given the current circumstances, I believe the Applicants had no choice but to initiate these proceedings and attempt to complete a sale transaction.

#### **VI. SUMMARY OF THE APPLICANTS' EXPECTED CCAA PROCEEDING**

104. The Applicants have been working cooperatively with their first-ranking creditor (the Syndicate) in order to best maximize value in the circumstances. The Applicants of course would have preferred to keep the hedges in place and not to be attempting to realize on the assets in this environment; however, Argent acknowledges that it is in default under the Credit Facility (and in respect of the Subordinated Debentures) and that it has no available option to cure those defaults.
105. The Applicants are therefore proposing to run a comprehensive and transparent sale process through coordinated insolvency proceedings in Canada and the United States that is intended to yield the best offer(s) available in these difficult circumstances.
106. The immediate objective of the proceeding is to repay the Syndicate in full, and Argent is hopeful that there could be value for other junior creditors.

#### **VII. THE APPLICANTS MEET THE CCAA STATUTORY REQUIREMENTS**

##### **A. The Applicants are "Companies" under the CCAA**

107. The Trust is an "income trust" to which the CCAA applies, and Argent Canada is a corporation incorporated under the ABCA. Accordingly, both the Trust and Argent Canada are "companies" to which the CCAA applies. Lastly, Argent US is a corporation incorporated in Delaware and has assets in Canada.

**B. The Applicants have Claims Against them in Excess of \$5 Million**

108. As discussed above, each of the Trust, Argent Canada and Argent US have claims against them well in excess of \$5 million.

**C. The Applicants are Insolvent**

109. I am advised by Sean Zweig of Bennett Jones LLP that under section 2 of the *Bankruptcy and Insolvency Act* ("BIA"), an insolvent person is one whose liabilities to creditors exceeds \$1,000 and (i) is for any reason unable to meet his obligations as they generally become due, (ii) has ceased paying his current obligations in the ordinary course of business as they generally become due, or (iii) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.

110. As a result of the Credit Facility becoming due and owing (in addition to other liabilities), each of the Applicants is unable to meet its obligations as they come due.

**VIII. URGENT NEED FOR RELIEF UNDER THE CCAA**

111. The Applicants do not have sufficient liquid assets to repay all amounts owing in respect of the Credit Facility, which is now due and owing. Accordingly, a stay of proceedings is essential to maintain the *status quo* in order to preserve the value of the Applicants' business and assets, and to ensure that no creditor of the Applicants obtains preferred treatment relative to other creditors.

112. On February 16, 2016, the respective directors of the Applicants (and the directors of AEL in the case of the Trust), resolved to grant authority to management to, among other things, approve the commencement of these proceedings under the CCAA.

**A. Stay of Proceedings**

113. The Applicants need a stay of proceedings to (i) maintain the *status quo* in order to preserve the value of the Applicants and to ensure that no creditor of the Applicants

obtains preferred treatment relative to other creditors, and (ii) provide the Applicants with the opportunity to complete the Sale Solicitation Process for the benefit of all of the Applicants' stakeholders.

**B. Appointment of Monitor**

114. I believe that FTI Consulting Canada Inc. is qualified and competent to act as Monitor in the CCAA proceedings of the Applicants and as the foreign representative for Argent US and Argent Canada in the Chapter 15 proceedings.
115. Attached as **Exhibit "17"** to this Affidavit is a copy of a Consent to Act as Monitor signed by FTI Consulting Canada Inc.
116. I understand that FTI Consulting Canada Inc. will be filing a Pre-Filing Report with this Honourable Court as proposed Monitor in conjunction with the Applicants' request for relief under the CCAA.

**C. Payments During CCAA Proceeding**

117. During the course of this CCAA proceeding, the Applicants intend to make payments for goods and services supplied post-filing as set out in the cash flow projections referred to below and as permitted by the Initial Order.
118. Additionally, the Applicants seek the Court's approval to pay certain critical suppliers for the provision of goods and services prior to the date of the Initial Order in an aggregate amount not to exceed USD \$315,000. Any such payments would only be made with the consent of the Monitor and the Syndicate.
119. There are a small number of goods and services suppliers that are critical to the ongoing operations of the Applicants, and whose continued, uninterrupted provision of goods and services is crucial to allowing the Applicants to continue their business operations and preserve the value of the business operations.
120. In my view, given the importance of these critical suppliers in allowing the Applicants to continue operations, the potential disruption to the business operations should they not

continue to be paid in the ordinary course (and possibly withhold their goods and services while C.O.D. terms or other arrangements were put in place) could be material and could affect the cash flow forecast in a very material and negative way.

121. The Interim Lender and the Syndicate are prepared to support such payments being made, if required and approved by the Monitor.

**D. Administration Charge**

122. It is contemplated that the Monitor, counsel to the Monitor, counsel to the Applicants and the Syndicate's advisors would be granted a first priority Court-ordered charge on the assets, property and undertakings of the Applicants in priority to all other charges (the "**Administration Charge**") up to the maximum amount of USD \$500,000 in respect of their respective fees and disbursements in connection with these proceedings. The Applicants believe the Administration Charge is fair and reasonable in the circumstances.

123. The Applicants require the expertise, knowledge and continuing participation of the proposed beneficiaries of the Administration Charge in order to complete a successful restructuring. I believe the Administration Charge is necessary to ensure their continued participation.

**E. Interim Financing & Interim Lender's Charge**

124. As set out in the cash flow forecast attached as **Exhibit "18"** to this Affidavit, the Applicants' principal use of cash during these proceedings will consist of the payment of ongoing day-to-day operational expenses, office related expenses, and the professional fees and disbursements in connection with the CCAA and Chapter 15 proceedings. As indicated in the cash flow forecast, it is projected that the Applicants will require additional credit during the CCAA proceedings, notwithstanding that the Applicants are seeking to complete these proceedings as quickly as reasonably possible in order to minimize costs and maximize recoveries for their stakeholders.

125. Argent US proposes to obtain such additional credit pursuant to an interim financing loan facility (the "**Interim Loan**") from the Syndicate, including The Bank of Nova Scotia, in

its capacity as agent for and on behalf of the Syndicate (collectively, in such capacities, the "**Interim Lender**") pursuant to the Interim Financing Credit Agreement attached as **Exhibit "19"** to this Affidavit (the "**Interim Financing Credit Agreement**"), the material terms of which include, among other things:

- (a) An initial maximum credit amount of up to USD \$7,300,000 (the "**Maximum Amount**");
- (b) An interest rate equal to the U.S. Base Rate (as defined in the Credit Agreement) plus 4.00%;
- (c) A maturity date of June 3, 2016;
- (d) An upfront fee equal to 200 bps of the Maximum Amount; and
- (e) Secured guarantees provided by each of the Trust and Argent Canada.

126. It is contemplated that the Interim Lender would be granted a second priority Court-ordered charge on the assets, property and undertakings of the Applicants in priority to all other charges other than the Administration Charge (the "**Interim Lender's Charge**"). I have been advised by the Interim Lender that it will not provide the Interim Loan if the Interim Lender's Charge is not granted.

127. The financing provided by the Interim Lender is essential to a successful restructuring of the Applicants. Given the current financial situation of the Applicants (including its cash position and the lack of availability of alternate financing), the Applicants believe the Interim Loan is the best alternative for the Applicants and its stakeholders in the circumstances. Accordingly, the directors of the Applicants (including the directors of AEL in respect of the Trust) exercised their business judgment to accept the terms in the Interim Financing Credit Agreement. The Applicants believe the Interim Financing Credit Agreement and the Interim Lender's Charge is fair and reasonable in the circumstances.

**F. Directors' Charge**

128. It is contemplated that the Applicants' directors and officers (including the directors of AEL given their role, as discussed above) would be granted a third priority Court-ordered charge (the "**Directors' Charge**") on the assets, property and undertakings of the Applicants in priority to all other charges other than the Administration Charge and the Interim Lender's Charge up to the maximum amount of USD \$200,000. The Applicants believe the Directors' Charge is fair and reasonable in the circumstances.
129. A successful restructuring of the Applicants will only be possible with the continued participation of the beneficiaries of the Directors' Charge. These individuals have specialized expertise and relationships with Argent's stakeholders. In addition, the directors and officers have gained significant knowledge that cannot be easily replicated or replaced.
130. The Applicants maintain an insurance policy in respect of the potential liability of their directors and officers (the "**D&O Insurance Policy**"). Although the D&O Insurance Policy insures the directors and officers for certain claims that may arise against them in their capacity as directors and/or officers, coverage is subject to several exclusions and limitations and there is a potential for insufficient coverage in respect of potential director and officer liabilities. The directors and officers have expressed their desire for certainty with respect to potential personal liability if they continue in their current capacities in the context of a CCAA proceeding.

**G. KERP, KEIP and KERP and KEIP Charge**

131. In connection with my appointment as President and Mr. Hicks's appointment as Chief Operating Officer, on April 19, 2015, we were each entitled to a retention payment that would be payable on July 1, 2016.
132. In addition, in or around June, 2014, the Trust and Argent US put in place a key employee retention plan for other Canadian and US employees (which for certainty does not include myself or Mr. Hicks).

133. The retention plans were designed to incentivize key employees to remain in their employment during an anticipated restructuring. Without the retention of key employees, the Applicants' ability to successfully maintain their business operations and preserve asset value while they restructure, would be seriously compromised.
134. The total amount of retention payments that could become payable under the retention plans put in place in June, 2014 and April, 2015 to all current employees (including myself and Mr. Hicks) is approximately USD \$840,000.
135. In addition, pursuant to employment agreements for each of myself, Mr. Hicks and Mr. Wong entered into upon commencement of our respective employments, and separate severance agreements entered into on or around June, 2015 by Argent US with certain other US employees, severance amounts are payable in the event of termination for any reason other than cause.
136. In anticipation of the Applicants' insolvency proceedings, the Applicants and the Syndicate agreed to the following KERP and KEIP to replace the Applicants' current retention and severance programs.
137. The key elements of the KERP are:
  - (a) eligible participants will receive a specific cash retention payment on the earlier of June 1, 2016, the date on which they are terminated without cause, and the date on which there is a sale of a material portion of the Applicants' assets;
  - (b) employees who resign or who are terminated with cause are not eligible to participate;
  - (c) the maximum aggregate amount of cash retention payments to all beneficiaries is USD \$840,000, and if an employee quits or is terminated for cause, such employee's retention payment will be re-allocated to other beneficiaries of the KERP in recognition of the additional work that will be required of the remaining employees;

- (d) the Applicants will fund their insurance provider to provide health benefits for the 90 days following the termination of each of Argent US's employees, the amount of which shall not exceed USD \$90,000; and
  - (e) the directors of AEL will be entitled to certain payments in respect of part of their previously deferred fees (as described below) and their ongoing duties and support of Argent in the CCAA proceedings, to a maximum amount of USD \$105,000 in the aggregate.
138. The KEIP provides a percentage recovery to the beneficiaries of the KEIP based on the proceeds obtained by Argent through the Sale Solicitation Process, a completed refinancing or any similar transaction. The percentage ranges from 2% - 4%, and there is a minimum threshold of sale or other proceeds that must be obtained before any amount is payable under the KEIP.
139. Now shown to me and marked as **Exhibit "20"** to this Affidavit is a copy of a spreadsheet that contains further details about the KEIP and details of the names of key employees, their annual salaries and the payments that will be made to them under the KERP (the "**Confidential Summary**"). The Confidential Summary contains sensitive commercial information, the disclosure of which would be very harmful to the Applicants' commercial interests, the Sale Solicitation Process, and the privacy interests of the Applicants' employees. Therefore, the Applicants are asking that the Confidential Summary in **Exhibit "20"** be sealed on the Court file.
140. The Syndicate and the Monitor have indicated their support for the KERP and KEIP.
141. It is contemplated that the beneficiaries under the KERP and KEIP would be granted a fourth priority Court-ordered charge on the assets, property and undertakings of the Applicants in priority to all other charges other than the Administration Charge, the Interim Lender's Charge and the Directors' Charge up to the maximum amount of USD \$1,035,000 in respect of the KERP plus any additional amounts that become payable under the KEIP (the "**KERP and KEIP Charge**"). The Applicants believe the KERP and KEIP Charge is fair and reasonable in the circumstances.



142. Based on the books and records of the Applicants and the PPSA Registrations and UCC searches conducted by counsel to the Applicants, the only secured creditor which is likely to be affected by the Administration Charge, the Interim Lender's Charge, the Directors' Charge and the KERP and KEIP Charge is the Syndicate, which in the circumstances supports the charges being sought.

#### **H. Sale Solicitation Process**

143. In or around mid-December, 2015, Argent contacted eight parties who specialize in acquisition and divestiture services to solicit proposals to assist Argent with a potential sale process to be run either in or outside of a formal insolvency proceeding. Three parties declined to submit proposals due to Argent's size. The other five parties submitted proposals.
144. Argent considered all proposals received and on or about January 15, 2016, Argent US, Argent Canada and The Oil & Gas Asset Clearinghouse, LLC ("OGAC") entered into a letter agreement whereby OGAC will assist Argent in soliciting and evaluating offers for a sale of (i) all of the equity interests of Argent US held by Argent Canada, or (ii) some or all of Argent US's oil and gas properties. A copy of the letter agreement is attached as **Exhibit "21"** to this Affidavit.
145. The Sale Solicitation Process will include broad marketing to all potential purchasers.
146. I believe it is critically important that the Sale Solicitation Process be approved at this time, primarily because the Applicants' financing under the Interim Financing Credit Agreement is conditional on the Sale Solicitation Process being approved at this time and Argent has no alternative source of financing or liquidity.
147. The Sale Solicitation Process will be a fair and transparent process run by OGAC, under the oversight of the Monitor. It is intended to maximize value for the Applicants and all of their stakeholders.

148. The marketing of the assets began formally on February 11, 2016, with initial bids due to be received by OGAC on or before March 17, 2016. The timeline contemplated by the Sale Solicitation Process is as follows:

March 17, 2016	Initial bid deadline
March 24, 2016	Final bid deadline
March 25, 2016 – April 13, 2016	Confirmatory title and environmental diligence
April 14, 2016	Sign purchase and sale agreement(s)
On or around April 25, 2016	Obtain CCAA sale approval order
On or around May 10, 2016	Obtain order in Chapter 15 proceeding recognizing CCAA sale approval order
On or around May 13, 2016	Close sale transaction(s)

149. I am advised by Harrison Williams of OGAC, who has over 25 years of experience selling oil and gas assets, that the timeline for the Sale Solicitation Process is reasonable and consistent with other current sale processes in the US oil and gas market.
150. I also understand that the Monitor, who had input into the development of the Sale Solicitation Process, believes it is reasonable in the circumstances.

**I. Chapter 15 Proceedings**

151. Argent US and Argent Canada anticipate seeking a recognition order under Chapter 15 in the United States Bankruptcy Court for the Southern District of Texas, Corpus Christi Division (the "US Court") to ensure that they are protected from creditor actions in the United States and elsewhere and to assist with the implementation of any sale transaction to be completed pursuant to these CCAA proceedings. Given that substantially all of Argent's assets are in the United States, the Applicants expect that a purchaser will likely require approval from the US Court to be comfortable that it is getting good and clean title to the assets.
152. The Applicants are accordingly seeking authorization in the Initial Order under the CCAA for FTI Consulting Canada Inc. to act as a foreign representative for the purposes of having the proceedings of Argent US and Argent Canada recognized in the United States pursuant to Chapter 15.

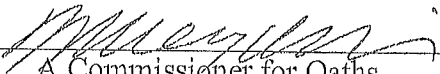
153. The Applicants intend that the initial relief that would be requested in the Chapter 15 proceeding will include, among other things:
- (a) recognition of each of the CCAA proceedings of Argent US and Argent Canada as a "Foreign Main Proceeding", or in the alternative as a "Foreign Non-Main Proceeding";
  - (b) confirmation of FTI Consulting Canada Inc. as foreign representative;
  - (c) a stay of execution;
  - (d) interim recognition of the DIP Loan and the DIP Lender's Charge; and
  - (e) recognition of the Initial Order in the United States.

#### **IX. CASH FLOW PROJECTIONS**

154. As set out in the cash flow forecast previously attached, the Applicants' principal uses of cash during the next 13 weeks will consist of the payment of ongoing day-to-day operational expenses, such as payroll and office related expenses, and professional fees and disbursements in connection with the CCAA and Chapter 15 proceedings.
155. As at February 16, 2016, the Applicants had approximately USD \$1.1 million available cash on hand. The Applicants' cash flow forecast projects that, subject to obtaining the relief outlined herein (including approval of the Interim Loan), it will have sufficient cash to fund its projected operating costs until the end of the stay period.
156. The Monitor has reviewed the cash flow forecast and I expect that the Monitor will report on the forecast in its Pre-Filing Report.

**X. CONCLUSION**

157. I swear this Affidavit in support of an application for the relief set out in paragraph 5 of this Affidavit.

SWORN (OR AFFIRMED) BEFORE ME )  
at Calgary, Alberta this 16<sup>th</sup> )  
day of February, 2016. )  
 )  
A Commissioner for Oaths )  
in and for the Province of Alberta )

  
SEAN BOVINGTON

Kelsey Meyer  
Barrister & Solicitor

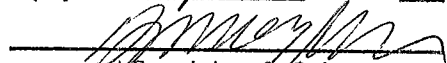
# EXHIBIT 2

THIS IS EXHIBIT " 2 "  
referred to in the Affidavit of Declaration

Sean Bowington

Sworn before me this 23<sup>rd</sup>

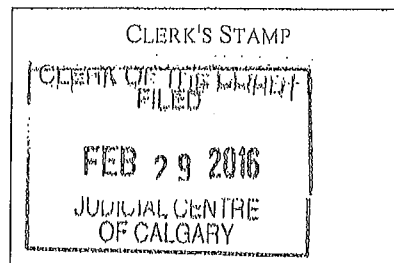
day of August A.D. 20 16



A Commissioner for Oaths  
in and for the Province of Alberta

Kelsey Meyer  
Barrister & Solicitor

FORM 49  
[RULE 13.19]



COURT FILE NUMBER 1601 - 01675  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36, as amended

AND IN THE MATTER OF A PLAN OF  
ARRANGEMENT OF ARGENT ENERGY TRUST,  
ARGENT ENERGY (CANADA) HOLDINGS INC.  
and ARGENT ENERGY (US) HOLDINGS INC.

DOCUMENT AFFIDAVIT

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855 - 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Sean Zweig  
Telephone No.: 403.298.3323 / 416.777.6254  
Fax No.: 403.265.7219 / 416.863.1716  
Client File No.: 68859.14

**AFFIDAVIT NO. 2 OF SEAN BOVINGDON**

Sworn on February 29, 2016

I, SEAN BOVINGDON, of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am the President and Chief Financial Officer of each of the Applicants, Argent Energy Trust (the "Trust"), Argent Energy (Canada) Holdings Inc. ("Argent Canada"), and Argent Energy (US) Holdings Inc. ("Argent US", and together with the Trust and Argent Canada, the "Applicants" or "Argent"). As such, I have personal knowledge of the

matters hereinafter deposed to, save where stated to be based on information and belief, in which case I verily believe the same to be true.

2. I previously swore an Affidavit in this Action on February 16, 2016 (my "First Affidavit"). Where I use capitalized terms in this Affidavit No. 2, but do not define them, I intend them to bear their meanings as defined in my First Affidavit. Attached hereto as **Exhibit "1"** is a copy of my First Affidavit, without exhibits.
3. All references to dollar amounts contained herein are to Canadian Dollars unless otherwise stated.

**I. EXTENSION OF THE STAY**

4. I make this Affidavit No. 2 in support of an application to extend the stay of proceedings granted in favour of Argent in the Initial Order granted by this Honourable Court on February 17, 2016 (the "**Initial Order**") to May 17, 2016, and for other relief as set out in the application filed herewith.
5. I am advised by the Monitor and do verily believe that the Monitor supports this application to extend the stay of proceedings. Further, I am advised by counsel for the Syndicate and do verily believe that the Syndicate also supports this application to extend the stay of proceedings.
6. Since the commencement of these CCAA proceedings, the Applicants have been actively engaged in advancing the restructuring proceedings for the benefit of all stakeholders. Among other things, the Applicants and/or their counsel have:
  - (a) cooperated with the Monitor to facilitate its monitoring of the Applicants' business and operations;
  - (b) communicated, in some cases very extensively, with various stakeholder groups and/or their advisors, including the Syndicate, the ad hoc committee of holders of Subordinated Debentures (the "**Ad Hoc Committee**"), critical suppliers, trade creditors, employees, contractors and others;



- (c) worked with the Monitor and OGAC to pursue the sale solicitation process which was approved in the Initial Order;
  - (d) liaised with U.S. counsel and attended in Court in the U.S. regarding the Chapter 15 proceedings under the U.S. Bankruptcy Code that were commenced in respect of Argent Canada and Argent US; and
  - (e) continued to operate and manage Argent's business in the ordinary course, subject to the terms of the Initial Order.
7. I believe that the Applicants have been acting in good faith and with due diligence in these proceedings and I believe it is in the best interests of the Applicants and all their stakeholders that the Stay Period be extended to May 17, 2016, and that such an extension is appropriate in the circumstances.
8. Attached hereto as **Exhibit "2"** are true copies of press releases issued by Argent on or after February 17, 2016, the date that the Initial Order was applied for and granted.
9. On February 23, 2016, the TSX wrote to counsel for the Trust to advise that it has determined to delist the Units and the Subordinated Debentures effective at the close of market on March 24, 2016 for failure by the Trust to meet the continued listing requirements of the TSX. Attached hereto as **Exhibit "3"** is a true copy of the letter from the TSX.

## II. COMMUNICATIONS WITH COUNSEL FOR THE AD HOC COMMITTEE

10. As is set out below in this my Affidavit No. 2, counsel for the Ad Hoc Committee has advised of its intent to oppose the granting of the Initial Order at the hearing of Argent's application to extend the stay of proceedings.

### *Service*

11. I attended Argent's application in this Honourable Court on February 17, 2016 for the Initial Order that was granted on that date. At that time, counsel for Argent advised this

Honourable Court that the Ad Hoc Committee had not been served with notice of the application:

- (a) the Syndicate, being the sole secured creditor of Argent, had been served, and supported the application;
- (b) the Trust issued a press release prior to markets opening on the morning of February 17, 2016, advising of the application that morning; and
- (c) as a courtesy, counsel for Argent contacted counsel for the Ad Hoc Committee to advise of the press release regarding the application that morning and to invite discussion of the same.

Attached hereto at the first 3 pages of **Exhibit "2"** is a true copy of the press release issued at 6:00 a.m. MST on February 17, 2016. Attached hereto as **Exhibit "4"** is a true copy of email correspondence exchanged between counsel for Argent and counsel for the Ad Hoc Committee on the morning of February 17, 2016. I am advised by Argent's counsel that counsel for the Ad Hoc Committee did not speak to Argent's counsel in advance of the application, despite the fact that Argent's counsel offer twice to speak, nor did counsel for the Ad Hoc Committee seek to appear at the application by way of telephone. Attached hereto as **Exhibit "5"** is a true copy of the transcript of the hearing of the application for the CCAA Initial Order on February 17, 2016, page 15, lines 6-22 of which include the submissions of Argent's counsel on this point.

*Correspondence between Counsel*

12. I believe that Argent disclosed all of the pertinent facts in relation to its application for the Initial Order, by way of my First Affidavit. Notwithstanding that, I am advised by counsel for Argent and do verily believe that since the granting of the Initial Order on February 17, 2016, counsel for the Ad Hoc Committee has raised a number of complaints regarding the Initial Order. I am advised by counsel for Argent and do verily believe that as at today's date, counsel for Argent and counsel for the Ad Hoc Committee have had the following communications since the Initial Order was granted on February 17, 2016

(along with a letter from counsel for the Monitor as described below and attached hereto as Exhibit "13");

- (a) email correspondence from counsel for Argent to counsel for the Ad Hoc Committee, attaching the Originating Application, my First Affidavit, the Monitor's First Report, the draft form of CCAA Initial Order, and the Bench Brief, as well as confirmation of the filing of the same, dated February 17, 2016, attached hereto as Exhibit "6" (without enclosures);
- (b) email correspondence from counsel for Argent to counsel for the Ad Hoc Committee, attaching a service letter and the issued Initial Order, dated February 17, 2016, attached hereto as Exhibit "7";
- (c) email correspondence attaching a letter from counsel for the Ad Hoc Committee to the Monitor, its counsel, and Argent's counsel dated February 17, 2016, attached hereto as Exhibit "8";
- (d) counsel for Argent contacted counsel for the Ad Hoc Committee by telephone on the morning of February 18, 2016, to discuss the CCAA filing and the concerns of the Ad Hoc Committee. Argent's counsel reiterated that Argent is interested in seeking a consensual resolution if possible, and invited specific comments regarding the Initial Order or the Argent insolvency process generally. I am advised by Argent's counsel and do verily believe that to date, they have not received any specific suggestions or proposals from counsel for the Ad Hoc Committee that would, with certainty, effectively address Argent's immediate and urgent liquidity crisis.
- (e) email correspondences between counsel for the Ad Hoc Committee and counsel for Argent wherein: (i) on February 18, 2016, counsel for the Ad Hoc Committee requested a copy of Confidential Exhibit "20" to my First Affidavit, being the KERP/KEIP summary; (ii) counsel negotiated and, on February 19, 2016, counsel for the Ad Hoc Committee entered into a non-disclosure agreement such that Confidential Exhibit "20" could be provided to counsel for the Ad Hoc

Committee; and (iii) on February 20, 2016, counsel for Argent provided counsel for the Ad Hoc Committee with a copy of Confidential Exhibit "20", as well as a filed copy of the Notice of Confidential Exhibit confirming the filing of the same;

- (f) email correspondence dated February 18, 2016 between counsel for the Ad Hoc Committee and counsel for Argent wherein (i) counsel for Argent confirmed that the hearing on March 8, 2016 would be a "true comeback" hearing, and (ii) it was debated whether Argent should continue to pursue the Sale Solicitation Process in accordance with the Initial Order in advance of the March 8 hearing, attached hereto as **Exhibit "9"**;
- (g) email correspondence attaching a letter from counsel for the Ad Hoc Committee to the Monitor, its counsel, and Argent's counsel dated February 18, 2016, attached hereto as **Exhibit "10"**;
- (h) email correspondence attaching a letter from Argent's counsel to counsel for the Ad Hoc Committee dated February 19, 2016, attached hereto as **Exhibit "11"**;
- (i) email correspondence attaching a letter from counsel for the Ad Hoc Committee to Argent's counsel dated February 19, 2016, attached hereto as **Exhibit "12"**;
- (j) email correspondence attaching a letter from the Monitor's counsel to counsel for the Ad Hoc Committee dated February 22, 2016, which was copied to Argent's counsel, attached hereto as **Exhibit "13"**;
- (k) email correspondence from Argent's counsel to counsel for the Ad Hoc Committee dated February 22, 2016, attached hereto as **Exhibit "14"**;
- (l) email correspondence attaching a letter from Argent's counsel to counsel for the Ad Hoc Committee dated February 23, 2016, with enclosures, attached hereto as **Exhibit "15"**;
- (m) email correspondence attaching a letter from counsel for the Ad Hoc Committee to Argent's counsel dated February 24, 2016, attached hereto as **Exhibit "16"**;

- (n) email correspondence attaching a letter from Argent's counsel to counsel for the Ad Hoc Committee dated February 25, 2016, attached hereto as **Exhibit "17"** (without enclosures);
  - (o) email correspondences exchanged between counsel for the Ad Hoc Committee and Argent's counsel dated February 26, 2016, attached hereto as **Exhibit "18"**;
  - (p) email correspondence attaching a letter from Argent's counsel to counsel for the Ad Hoc Committee dated February 26, 2016, attached hereto as **Exhibit "19"**; and
  - (q) email correspondence from US counsel to the Ad Hoc Committee to US counsel for Argent Canada and others, attaching requests for documents, interrogatories and depositions in the Chapter 15 proceedings; attached hereto as **Exhibit "20"**.
13. I also had a without prejudice call with the members of the Ad Hoc Committee and a representative of the administration agent for the Syndicate on February 25, 2016.
14. In addition, I am advised by the Monitor and do verily believe that the Monitor and its counsel have had at least three discussions with counsel for the Ad Hoc Committee since the Initial Order was granted, in response to the letters and other emails and calls from counsel for the Ad Hoc Committee to the Monitor and its counsel. Counsel for the Syndicate and a representative of the administration agent for the Syndicate were also present for one of those discussions.
15. As is confirmed in the correspondence attached hereto as **Exhibit "13"**, as a result of the concerns raised by counsel to the Ad Hoc Committee, and its request that Argent not proceed with the Chapter 15 proceedings under the U.S. Bankruptcy Code (the "**Chapter 15 Proceedings**") without consultation with the Ad Hoc Committee and a comeback hearing before this Court, the Monitor (being the foreign representative for the purpose of the Chapter 15 Proceedings), Argent and the Syndicate agreed to delay the initial hearing in the Chapter 15 Proceedings from Friday, February 19, 2016 to the following week, to give the Ad Hoc Committee time to discuss its concerns. I am advised by the Monitor's



**Offer**"), which was acceptable to Argent and the Syndicate (as it would have paid the Syndicate in full), but which the Ad Hoc Committee rejected. That offer, if consummated, would have resulted in the Subordinated Debentures owning a significant percentage of the equity in a restructured Argent and would have permitted the business to continue as a going concern (an earlier and less favourable offer from the same offeror had also been made and rejected by the Ad Hoc Committee on October 10, 2015);

- (b) The Wapiti Offer (and the earlier offer on less favourable terms from the same offeror) are the only offers for the purchase of shares or assets of Argent that Argent has received in the last six months, other than an offer from another third party in the same structure as the Wapiti Offer but for a lower amount, which was rejected by Argent in favour of the Wapiti Offer;
- (c) My First Affidavit addresses, at paragraphs 94 to 98, the Durham process to seek re-financing for Argent. As stated therein, only one participant in the Durham process made a refinancing proposal (the "**Melody Offer**"). The Melody Offer was unacceptable to the Syndicate, due to a number of terms that were problematic. In addition, the offer was for approximately US \$55 Million, whereas the Syndicate was owed approximately US \$65 Million at that time. Despite that, a representative of the administration agent for the Syndicate spoke with the offeror (with a representative of Argent present) to determine if the offer could be structured in a way that would be acceptable to the Syndicate; however, despite those efforts, no solution was found. The Melody Offer was conditional upon the hedges remaining in place; those hedges were terminated on or about January 26, 2016. At that point, the Melody Offer was no longer available, and there had been a precipitous decline in WTI since the Melody Offer had been made, along with continued volatility in the market, which caused the Syndicate concern in the circumstances where further due diligence remained to be conducted in that volatile market. In those circumstances, the offeror was no longer interested in pursuing a transaction with Argent;

- (d) On November 27, 2015, in accordance with the terms of the Credit Agreement, the borrowing base for the Credit Facility was re-determined to be USD \$45.0 million, which reflected the natural deterioration of the assets over time, and the plummeting of commodity prices. At that time, Argent US's borrowings were USD \$66.3 million (inclusive of a letter of credit), resulting in a borrowing base shortfall;
- (e) In November, 2015, I had discussions with representatives of members of the Ad Hoc Committee, and asked whether the Ad Hoc Committee would cure the borrowing base shortfall. They advised that they "were not prepared to put more money in" and that the Syndicate "should be prepared to fund or forbear the shortfall", while waiting for prices to recover;
- (f) On December 31, 2015, the Trust failed to make its scheduled interest payments due in respect of the Subordinated Debentures. The Trust was contractually prohibited from making the interest payments as a result of the borrowing base shortfall. Further, even if the Trust had not been contractually prohibited from making the interest payments and had, in fact, made the interest payments, that would not have addressed the borrowing base shortfall and would have further contributed to the liquidity crisis;
- (g) Argent, with the assistance of Durham, attempted to (i) refinance the Credit Facility in full, or (ii) raise a new second lien facility that would, among other things, cure the borrowing base shortfall. Argent was not successful in doing so at that time (when commodity prices were higher than they are today);
- (h) Argent and its advisors attempted to convince (i) the hedge lenders not to terminate the hedges, and (ii) the Syndicate to forbear from exercising remedies until commodity prices improve and/or to provide a non-conforming tranche to the Credit Facility;



- (i) On January 28, 2016, in accordance with the terms of the hedge agreements, Argent US's hedges were terminated. As a result, Argent became cash flow negative in this commodity environment;
  - (j) In accordance with its rights, the Syndicate would not provide Argent with additional funding other than in the context of a sales process within formal insolvency proceedings. The Ad Hoc Committee has to date not expressed any interest to Argent or its counsel in providing additional funding; and
  - (k) On February 16, 2016, the Syndicate accelerated the Credit Facility, demanded repayment thereof, and issued notices of intention to enforce security to the Trust and Argent Canada. As at that date, approximately USD \$51.9 million was outstanding under the Credit Facility, and Argent is unable to repay the amounts owing.
19. As such, Argent had no option available to it that would allow it to continue to operate and carry on business, other than to seek the Initial Order, including approval of the Sale Solicitation Process.
20. The Subordinated Debentureholders (including the members of the Ad Hoc Committee) are unsecured creditors of the Trust only. They are not creditors of Argent US or of Argent Canada, the two entities that are subject to the Chapter 15 Proceedings.

*Argent's Response to Complaints Raised by the Ad Hoc Committee*

21. On reviewing the emails and letters attached hereto as **Exhibits "6" to "20"**, in addition to the Objection attached hereto as **Exhibit "21"**, it appears to me that the complaints of the Ad Hoc Committee can be summarized as follows:
- (a) the Ad Hoc Committee was not served with advance notice of the application for the Initial Order;
  - (b) the Ad Hoc Committee does not believe that the Sale Solicitation Process (attached as Schedule "A" to the Initial Order) protects and balances the interests of stakeholders and should not have been granted as part of the Initial Order;

- (c) The Chapter 15 Proceedings are not the appropriate forum;
  - (d) The KERP and KEIP should not have been approved in the Initial Order; and
  - (e) Argent's objective is to provide a "quick exit for secured lenders at the expense of unsecured creditors".
22. With respect to the issue of service of the Ad Hoc Committee, I am advised by counsel for Argent and do verily believe that there was no requirement under the CCAA for Argent to serve notice of the application for the Initial Order upon the Subordinated Debentureholders or the Ad Hoc Committee. In addition, given that the Trust is a reporting issuer and was publicly traded as at February 17, 2016, Argent had serious disclosure concerns about serving the Ad Hoc Committee members or their counsel, none of which were subject to an ongoing non-disclosure agreement with Argent.
23. I refer specifically to paragraphs 143 to 150 of my First Affidavit regarding the need for, and the appropriateness of, the Sale Solicitation Process. I am advised by Argent's counsel and do verily believe that despite the complaints of counsel for the Ad Hoc Committee that the Sale Solicitation Process does not protect and balance the interests of stakeholders, there have been no proposals or suggestions by the Ad Hoc Committee that provide a commitment to finance Argent for any alternative processes. That is despite numerous requests for proposals by Argent's counsel, the Monitor and counsel to the Syndicate. The approval of the Sale Solicitation Process in the Initial Order was a condition of the Interim Financing, which Argent desperately needs to continue its business and operations during this restructuring process. I am advised by Argent's counsel and do verily believe that Canadian courts have approved sale processes as part of initial orders granted in other CCAA proceedings, without notice to unsecured creditors of the applicants.
24. I also understand from Harrison Williams at OGAC, and do verily believe, that he always believed that the Sale Solicitation Process (including the timelines therein) is fair and reasonable in the circumstances, and that the early results of the Sale Solicitation Process have been very positive. More than 60 parties have executed a confidentiality agreement,

and no party has expressed any concern with respect to the timelines or any other aspect of the Sale Solicitation Process. I understand that Mr. Williams will be swearing an Affidavit in support of this application with additional details regarding the Sale Solicitation Process and the results to date.

25. The Sale Solicitation Process is intended to be a fair and transparent process run by the OGAC, under the oversight of the Monitor, to maximize value for Argent and all of its stakeholders. In terms of value available to the Subordinated Debentureholders from the sale of Argent's assets, I note that there has been a significant decline in the value of oil and gas assets over the past year, and notably in the last five months as the forward curve pricing has decreased. Attached hereto as Exhibit "23" is a true copy of the price deck used by GLJ Petroleum Consultants in preparation of their draft reserve report effective December 31, 2015. This can be compared to GLJ's redraft of the reserve report, effective December 31, 2015, using a price deck as at February 1, 2016. A true copy of that price deck is attached hereto as Exhibit "24". A comparison of those price decks demonstrates the significant difference in price, particularly in the years going forward.
26. With respect to the Ad Hoc Committee's complaint that the Chapter 15 Proceedings are not the appropriate forum, the Subordinated Debentureholders are not even creditors of either of the companies that are subject to the Chapter 15 Proceedings (Argent US and Argent Canada). The Subordinated Debentureholders are creditors of the Trust, only.
27. Regarding the KERP and KEIP, I refer to paragraphs 131 to 142 of my First Affidavit. I am advised by Argent's counsel and do verily believe that Canadian courts have approved KERPs and KEIPs and KERP and KEIP priority charges as part of initial orders granted in other CCAA proceedings, without notice to unsecured creditors of the applicants, and that notice to unsecured creditors is not required.
28. With respect to the suggestion that Argent is attempting to provide a "quick exit for secured lenders at the expense of unsecured creditors", that is simply not substantiated by the facts. Argent has been diligently working on restructuring efforts since October 2014, as is addressed in my First Affidavit (paragraphs 82 to 103). Argent is in default with the Syndicate and has no ability to repay the significant amounts that are now owing

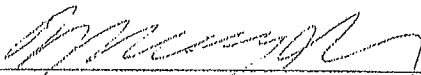
under the Credit Facility. Accordingly, Argent engaged OGAC to run a robust sale process that is designed to maximize value in the circumstances. As I said in my First Affidavit, the objective of these proceedings is to repay the Syndicate and to create value for junior creditors if possible. I believe that if there is value for junior creditors (including the Ad Hoc Committee and the other Subordinated Debentureholders), the Sale Solicitation Process is the best method to realize that value in the circumstances.

29. Argent is committed to discussing and, where possible, resolving the concerns of its stakeholders. However, despite the repeated requests of Argent's counsel that counsel for the Ad Hoc Committee contact them to discuss any proposals that the Ad Hoc Committee has, none of the letters or emails from counsel for the Ad Hoc Committee disclose, nor am I aware of counsel for the Ad Hoc Committee otherwise communicating to Argent's counsel, any proposals to address, with certainty, Argent's urgent liquidity and cash flow crises that precipitated the application for the Initial Order. As a result, it appears as though the Ad Hoc Committee is simply disappointed with the situation, which I understand and can appreciate, but has nothing constructive to add to the process. Of course, if the Ad Hoc Committee does have anything constructive to add, Argent would be pleased to discuss that in the hope of finding a consensual resolution.

**III. CONCLUSION**

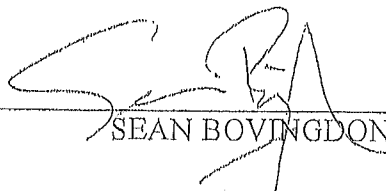
30. I swear this Affidavit in support of an application for the relief set out in paragraph 4 of this Affidavit.

SWORN (OR AFFIRMED) BEFORE ME )  
at Calgary, Alberta this 29<sup>th</sup> )  
day of February, 2016. )



A Commissioner for Oaths  
in and for the Province of Alberta

Kelsey Meyer.  
Barrister & Solicitor

  
SEAN BOVINGTON

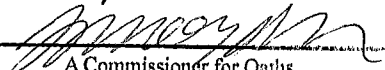
# EXHIBIT 3

THIS IS EXHIBIT " 3  
referred to in the Affidavit of Declaration

Sean Bavingdon

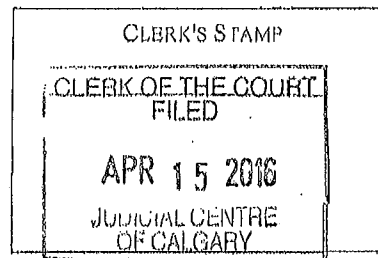
Sworn before me this 23rd

day of August A.D. 2016

  
A Commissioner for Oaths  
in and for the Province of Alberta

Kelsey Meyer  
Barrister & Solicitor

FORM 49  
[RULE 13.19]



COURT FILE NUMBER 1601 - 01675  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36, as amended

AND IN THE MATTER OF A PLAN OF  
ARRANGEMENT OF ARGENT ENERGY TRUST,  
ARGENT ENERGY (CANADA) HOLDINGS INC.  
and ARGENT ENERGY (US) HOLDINGS INC.

DOCUMENT

AFFIDAVIT

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855 - 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Sean Zweig  
Telephone No.: 403.298.3323 / 416.777.6254  
Fax No.: 403.265.7219 / 416.863.1716  
Client File No.: 68859.14

**AFFIDAVIT OF SEAN BOVINGDON No. 3**

Sworn on April 14, 2016

I, SEAN BOVINGDON, of Calgary, Alberta, SWEAR AND SAY THAT:

- I am the President and Chief Financial Officer of each of the Applicants, Argent Energy Trust (the "Trust"), Argent Energy (Canada) Holdings Inc. ("Argent Canada"), and Argent Energy (US) Holdings Inc. ("Argent US", and together with the Trust and Argent Canada, the "Applicants" or "Argent"). As such, I have personal knowledge of the

matters hereinafter deposed to, save where stated to be based on information and belief, in which case I verily believe the same to be true.

2. I previously swore Affidavits in this Action on February 16, 2016 (my "**First Affidavit**") and on February 29, 2016 (my "**Second Affidavit**"). Where I use capitalized terms in this Affidavit No. 3, but do not define them, I intend them to bear their meanings as defined in my First Affidavit or my Second Affidavit, as applicable. Attached hereto as **Exhibits "1" and "2"**, respectively, are copies of my First Affidavit and my Second Affidavit, without exhibits.
3. All references to dollar amounts contained herein are to Canadian Dollars unless otherwise stated.

#### *Relief Sought*

4. I make this Affidavit No. 3 in support of an Application:
  - (a) for a Sale Approval and Vesting Order, in relation to the sale and vesting of assets of Argent US to BXP Partners IV, L. P. ("**BXP**" or the "**Purchaser**");
  - (b) for an Order distributing the proceeds of the sale or otherwise reserving the proceeds of the sale for distribution at a later date;
  - (c) An order extending the Stay of Proceedings granted in favour of Argent to June 30, 2016; and
  - (d) Such further and other relief as set out in the Application filed herewith.
5. I am advised by the Monitor and do verily believe that the Monitor supports this Application.

#### *Stay Extension*

6. Since the commencement of these CCAA proceedings, and of particular relevance in this Application, since the Amended and Restated Initial Order was granted in these CCAA proceedings on March 9, 2016, the Applicants have been actively engaged in advancing



the restructuring proceedings for the benefit of all of their stakeholders. Among other things, the Applicants and/or their counsel have:

- (a) cooperated with the Monitor to facilitate its monitoring of the Applicants' business and operations;
- (b) communicated, in some cases very extensively, with various stakeholder groups and/or their advisers, including the Syndicate, the Ad Hoc Committee, critical suppliers, trade creditors, employees, contractors and others;
- (c) worked with the Monitor and OGAC to pursue the Sale Solicitation Process which was approved in the Initial Order granted in the CCAA proceedings on February 17, 2016, and further approved and confirmed in the Amended and Restated Initial Order granted March 9, 2016;
- (d) entered into a letter of intent and purchase and sale agreement with BXP for sale of the assets of Argent US to BXP, in accordance with the terms of the Court-approved Sale Solicitation Process;
- (e) continued to investigate alternative financing with Durham Capital as Argent's advisor;
- (f) liaised with US counsel and attended in Court in the US regarding the Chapter 15 Proceedings under the U.S. Bankruptcy Code that were commenced in respect of Argent Canada and Argent US, including obtaining an Order for recognition of the CCAA proceedings from the U.S. Bankruptcy Court, which recognition Order, among other things, recognized the approval of the Sale Solicitation Process; and
- (g) continued to operate and manage Argent's business in the ordinary course, subject to the terms of the Initial Order and the Amended and Restated Initial Order.

7. I believe that the Applicants have been acting in good faith and with due diligence in these proceedings and believe it is in the best interest of the Applicants and all of their

stakeholders that the Stay Period be extended to June 30, 2016, and that such an extension is appropriate in the circumstances.

*Chapter 15 Proceedings*

8. On March 11, 2016, the U.S. Bankruptcy Court for the Southern District of Texas, Corpus Christi Division, granted Argent Canada and Argent US an Order, among other things, recognizing the CCAA Proceedings as a foreign main proceeding, or, in the alternative, as a foreign non-main proceeding. Attached hereto and marked as **Exhibit "3"** is a true copy of the Order.

*The Sale Solicitation Process*

9. The Sale Solicitation Process has continued in accordance with the Sale Solicitation Process as set out in Schedule "A" of the Amended and Restated Initial Order granted by this Honourable Court on March 9, 2016.
10. I am advised by Harrison Williams, CEO of OGAC, that the Sale Solicitation Process was a success. In total:
  - (a) over 10,000 potentially interested parties were contacted by OGAC and were sent the teaser;
  - (b) over 100 interested parties entered into confidentiality agreements allowing them to access the virtual data room ("VDR");
  - (c) over 100 interested parties entered into the VDR; and
  - (d) 7 potential bidders received data room presentations (at which OGAC engineers and geologists took the potential bidder through the data to explain the assets and the potential value); and
  - (e) 19 interested parties submitted conforming bids in accordance with the Sale Solicitation Process, six of which were for all (or substantially all) assets of Argent US.

*Bids Received*

11. The deadline for bids pursuant to the Sale Solicitation Process was March 17, 2016 at 5:00 p.m. Central time (the "**Bid Deadline**"). Bids were received and reviewed by OGAC, the Monitor and Argent at that time.
12. In accordance with the Sale Solicitation Process, Argent and OGAC worked with the bidders to maximize the value to Argent. Attached hereto as **Confidential Exhibit "4"** is a true copy of a summary chart showing, on an anonymous basis, the initial bids received through the Sale Solicitation Process and the revised bid amounts, as a result of the efforts of Argent and OGAC in working with the bidders. Due to the commercially sensitive and competitive nature of the information contained in Confidential Exhibit "4", Argent seeks a Sealing Order in relation to Confidential Exhibit "4".

*Communications with the Syndicate*

13. Pursuant to the Interim Financing Credit Facility between Argent and the Syndicate, Argent has provided the Syndicate with regular (and at least weekly) updates regarding these CCAA proceedings and the Sale Solicitation Process, and otherwise in accordance with the terms of the Interim Financing Credit Facility.
14. Further, in accordance with the Sale Solicitation Process, Argent, along with OGAC and the Monitor, consulted with the Syndicate regarding the bids received through that process, and regarding the selection of the Successful Bid, as defined in the Sale Solicitation Process.

*Communications with the Ad Hoc Committee*

15. On March 18, 2016, counsel for the Ad Hoc Committee requested that the Monitor provide information regarding potential bids that were received by the Bid Deadline. Attached hereto as **Exhibit "5"** is a true copy of an email from counsel for the Monitor to Argent's counsel dated March 18, 2016 forwarding the request of counsel for the Ad Hoc Committee dated March 18, 2016.

16. The following day, on March 19, 2016, Argent's counsel wrote to counsel for the Monitor and advised that provided that counsel for the Ad Hoc Committee (i) confirmed that the Ad Hoc Committee would not attempt to bid or participate in any bid or otherwise attempt to directly or indirectly acquire the assets of Argent; and (ii) executed a non-disclosure agreement satisfactory to Argent to deal with non-disclosure of the information, Argent was prepared to send counsel for the Ad Hoc Committee a redacted summary of the bids received through the Sale Solicitation Process, which redacted summary would show the proposed purchase price and purchase assets for each bid, but would not identify the names of any bidders. Attached hereto as **Exhibit "6"** is a true copy of the email dated March 19, 2016. Similar terms were also agreed to by the Syndicate, including in the Court-approved Sale Solicitation Process.
17. On March 21, 2016, counsel for the Monitor advised Argent's counsel by email that the Ad Hoc Committee had advised that it would agree to the confidentiality restriction but that it would not agree to the restriction on participation. Attached hereto as **Exhibit "7"** is a true copy of the email from counsel to the Monitor dated March 21, 2016.
18. On March 23, 2016, counsel for Argent emailed counsel for the Ad Hoc Committee directly to set out its position regarding disclosure of information regarding the bids received through the Court-approved Sale Solicitation Process. Up until that time, all communications on this issue had flowed through the Monitor, due to the fact that counsel for the Ad Hoc Committee had communicated through the Monitor. Attached hereto as **Exhibit "8"** is a true copy of the email dated March 23, 2016.
19. Counsel for Argent, counsel for the Monitor, the Monitor and counsel for the Ad Hoc Committee had a conference call to discuss the disclosure of information received through the Sale Solicitation Process on March 24, 2016.
20. On March 25, 2016 (Good Friday), counsel for the Ad Hoc Committee emailed counsel for the Monitor and counsel for Argent to follow up on the conference call the previous day with regard to the disclosure of information regarding the bids, and information on the recent work of Durham Capital, pursuant to the Durham Capital refinancing process described in my First Affidavit. Counsel for Argent responded later that morning via

email advising that Argent was prepared to disclose to counsel for the Ad Hoc Committee the amount of the highest bid received in the Sale Solicitation Process, subject to the following two conditions:

- (a) counsel for the Ad Hoc Committee was required to enter into a non-disclosure agreement satisfactory to Argent with respect to the said information. Further, to the extent any of the Ad Hoc Committee members wanted to see the said information as well, they were also required to enter into a non-disclosure agreement satisfactory to Argent; and
- (b) counsel for the Ad Hoc Committee was required to confirm, on behalf of his clients, that the Ad Hoc Committee members would not participate as bidders in the Sale Solicitation Process.

21. Attached hereto as **Exhibits "9" and "10"** are true copies of email correspondence exchanges between counsel for Argent and counsel for the Ad Hoc Committee regarding the terms of disclosure of the highest bid amount. Counsel for Argent provided a form of non-disclosure agreement to counsel for the Ad Hoc Committee that same day, (Good Friday, March 25, 2016). Counsel for Argent next heard from counsel for the Ad Hoc Committee on March 28, 2016, at which time it provided an executed non-disclosure agreement and, by subsequent email, confirmation on behalf on the members of the Ad Hoc Committee that they would not participate as Bidders in the Sale Solicitation Process (each as defined in the Amended and Restated Initial Order). Attached hereto and marked as **Exhibit "11" and "12"** are true copies of the email correspondence exchanges between counsel for the Ad Hoc Committee and counsel for Argent on March 28, 2016.
22. Upon receipt of the signed non-disclosure agreement and the confirmation that the Ad Hoc Committee members would not participate as Bidders in the Sale Solicitation Process, counsel for Argent provided counsel for the Ad Hoc Committee with the amount of the highest bid received in the Sale Solicitation Process, and confirmed that the bid did not contain any material deviations from the terms in the Sale Solicitation Process, and that the only material condition would be court approval. Further, and in accordance with

the Sale Solicitation Process, once the Purchase and Sale Agreement was signed, that agreement would no longer be conditional on environmental or title diligence. Attached hereto as **Confidential Exhibit "13"** is a true copy of the email from counsel for Argent to counsel for the Ad Hoc Committee dated March 28, 2016. As the email includes the purchase price for the assets, Argent seeks a Sealing Order in relation to that Confidential Exhibit "13".

23. Counsel for the Ad Hoc Committee then requested further information regarding amounts owed to the Syndicate, including a sources and uses summary sheet, and again requested further information regarding the progress of the Durham Capital Process. Attached hereto as **Exhibit "14"** is a true copy of the email correspondence exchanges between counsel for the Ad Hoc Committee and counsel for Argent on March 28, 2016.
24. Two of the members of the Ad Hoc Committee also signed non-disclosure agreements, and were thereby permitted access to the confidential information that had been provided to their counsel.
25. On March 29, 2016, counsel for Argent responded to the requests of counsel for the Ad Hoc Committee for information regarding how the Purchase Price was expected to be allocated, and updated counsel for the Ad Hoc Committee regarding the Durham Capital Process seeking re-financing for Argent. Attached hereto as **Confidential Exhibit "15"** is a true copy of the email from counsel for Argent to counsel for the Ad Hoc Committee dated March 29, 2016. As the allocation summary includes the purchase price for the assets, Argent seeks a Sealing Order in relation to that Exhibit.
26. On March 29, 2016, counsel for the Ad Hoc Committee requested that counsel for Argent provide updated reserve runs based on current strip pricing as well as actual interim financing amounts utilized versus budgeted period. Attached hereto and marked as **Exhibit "16"** is a true copy of the email correspondence from counsel for the Ad Hoc Committee dated March 29, 2016.
27. On March 30, 2016, Argent emailed counsel for the Ad Hoc Committee and provided the latest reserve run, using pricing as at March 17, which was close to the current strip, and

using an effective date of April 1. The email also indicated the amounts drawn on the interim financing compared to the expected budget. Attached hereto as **Confidential Exhibit "17"** is a true copy of the email from Argent to counsel for the Ad Hoc Committee dated March 30, 2016, which includes the requested reserve run. Confidential Exhibit "17" contains commercially sensitive and confidential information, and accordingly, Argent seeks a sealing order in relation to this Confidential Exhibit. Argent and its counsel also confirmed that counsel for the Ad Hoc Committee could provide the reserve run to its clients, in accordance with and subject to the non-disclosure agreements executed by them.

28. Argent has accordingly made all efforts to respond to the queries and requests of the Ad Hoc Committee since the Amended and Restated Initial Order was granted on March 9, 2016. Further, counsel for Argent responded to most of these requests the same day they were made. Despite the comments from counsel to the Ad Hoc Committee that the confidential information provided to him and to certain of his clients was required in order for them to propose a restructuring plan, I am advised by counsel for Argent and by the Monitor and do verily believe that from March 30, 2016 until April 12, 2016, neither counsel for Argent nor the Monitor heard anything further from counsel for the Ad Hoc Committee. I am further advised by counsel for Argent, Sean Zweig, that on April 12, 2016, he left a voice mail message for counsel for the Ad Hoc Committee to follow up with him with respect to the proposed transaction and whether the Ad Hoc Committee has any proposed alternatives. After Mr. Zweig and counsel for the Ad Hoc Committee exchanged further emails in an attempt to find a time to speak, counsel for the Ad Hoc Committee responded, in a chain of emails, summarized as follows:

- That there has been no dialogue between Argent and the Ad Hoc Committee (as set out in this my Affidavit, there have been considerable communications between Argent's counsel and counsel for the Ad Hoc Committee, and repeated offers by Argent's counsel to discuss any proposed alternatives that the Ad Hoc Committee may have);

- That Argent should not be entering into a sale agreement without having meaningful discussions with the Ad Hoc Committee (as set out in this my Affidavit, and in my Second Affidavit, Argent and its counsel have made numerous attempts to communicate with the Ad Hoc Committee, and have repeatedly invited discussions; however, not once has the Ad Hoc Committee responded with any proposal that would address Argent's urgent liquidity situation, and in fact, since the Amended and Restated Initial Order was granted, and despite all information requested by counsel for the Ad Hoc Committee being provided to it, in a timely manner, the Ad Hoc Committee has not put forth any proposals whatsoever); and
- That Argent is obligated to pursue other paths and has done nothing to create value for stakeholders (along with pursuing the Sale Solicitation Process and the Durham Capital process to seek refinancing, as described herein, as well as all of the alternatives pursued by Argent prior to the filing of these CCAA proceedings as described in my First Affidavit, Argent has repeatedly advised counsel for the Ad Hoc Committee that it is willing to consider alternative proposals, none of which have been forthcoming).

Further, counsel for the Ad Hoc Committee continues to object to the Sale Solicitation Process and objects to this Application proceeding on April 25th. The Ad Hoc Committee has had all information requested by it from Argent since March 30, 2016, but has failed to present or discuss any viable alternatives to it. Attached hereto as **Exhibit "18"** is a true copy of the emails exchanged between counsel for Argent and counsel for the Ad Hoc Committee between April 12 and 14, 2016.

### *The Durham Capital Process*

29. My First Affidavit addresses the process run by Durham Capital, beginning in the fall of 2015, to seek refinancing for Argent. That process has been ongoing since that time. Since the granting of the Initial Order in these CCAA Proceedings on February 17, 2016:



- (a) Durham Capital has continued to reach out to potential financing parties – both those contacted in advance of the filing of the CCAA application (the "CCAA Filing") and others. On the morning of March 29<sup>th</sup>, Argent signed another non-disclosure agreement with a party identified by Durham Capital;
- (b) After the CCAA filing, Durham Capital contacted all parties that were contacted prior to the filing to advise of the filing, that the process permitted Argent to seek debt financing alternatives, and that parties should contact Durham Capital, Argent, the Monitor or OGAC if they had any interest in a debt re-financing or an asset purchase transaction;
- (c) Several parties indicated to Durham Capital that they were working with third parties who were considering purchasing the assets through the Sale Solicitation Process;
- (d) Durham Capital has had recent and repeated contact with multiple potential financing parties;
- (e) On April 1, 2016, another potential financing party signed a non-disclosure agreement, and has since expressed interest in providing hedges to the Purchaser through the Sale Solicitation Process;
- (f) According to Durham Capital, the feedback is that since the hedges were terminated, potential financing parties are only willing to loan on an amount less than the PDP PV-10 value, even if they obtain a significant equity stake as well;
- (g) Notwithstanding that, Durham Capital continues to be in regular contact with potential financing parties and is continuing to try to find debt solutions for Argent despite the challenging low commodity price and forward curve outlook.

*The Successful Bid*

30. BXP was the Successful Bidder pursuant to the Sale Solicitation Process. Attached hereto and marked as **Confidential Exhibit "19"** is a true executed copy of the letter of intent between Argent US and BXP. As the letter of intent includes confidential

information regarding the purchase price for the Argent US assets, Argent seeks a Sealing Order in relation to that Exhibit.

31. Attached hereto as **Confidential Exhibit "20"** is a true copy of the Purchase and Sale Agreement between BXP and Argent US, which was executed by the parties on April 14, 2016 (the "PSA"). The PSA includes confidential information regarding the value of the assets, and accordingly, Argent seeks a Sealing Order in relation to that Confidential Exhibit "19".
32. Attached hereto as **Exhibit "21"** is a true copy of a redacted version of the Purchase and Sale Agreement between BXP and Argent US, without exhibits and schedules (the confidential information therein has been redacted).

*Factors in Support of Approval of the Sale*

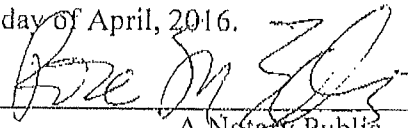
33. The process leading to the proposed sale of the assets of Argent US was the Sale Solicitation Process which was approved by this Honourable Court on February 17, 2016 in the Initial Order, and again on March 9, 2016.
34. The Monitor and the Syndicate both supported the approval of the Sale Solicitation Process.
35. I am advised by the Monitor and do verily believe that the Monitor supports the proposed sale, and is of the opinion that the proposed sale would be more beneficial to the creditors of Argent than a sale or disposition under a bankruptcy.
36. Creditors, including the Syndicate (being the sole secured creditor of Argent) and the Ad Hoc Committee were consulted and actively engaged with respect to and during the Sale Solicitation Process. Argent has reported to and been in communication with the Syndicate at least weekly since the Amended and Restated Order was granted. Further, in addition to the communications with the Ad Hoc Committee and its counsel as referenced in this my Affidavit No. 3, Argent provided information regarding the bids received through the Sale Solicitation Process to the Syndicate and its advisors, in

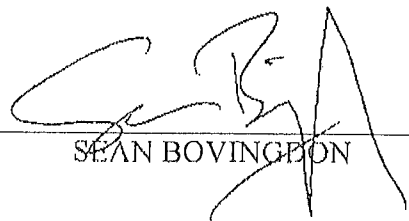
accordance with the express terms of the Sale Solicitation Process and of the Interim Financing Credit Agreement.

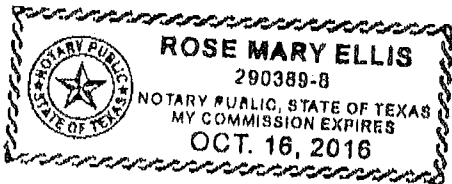
37. In the circumstances where Argent undertook a thorough Sale Solicitation Process that had been approved by the Court and that generated considerable interest and participation, I believe that the proposed sale will maximize the value of the assets of Argent.
38. In consideration of the competitive and confidential negotiated bid process undertaken by Argent through the Sale Solicitation Process, and the number of bids received by way of that process, it is my opinion that the consideration to be received for the assets pursuant to the PSA is reasonable and fair, taking into account fair market value.
39. The Syndicate, which, based on the results of the Sale Solicitation Process, is Argent's fulcrum creditor, is supportive of the transaction between BXP and Argent US (the "**Transaction**"), notwithstanding that the Syndicate will not be repaid in full as a result of the Transaction.
40. Given that the Transaction is a going concern sale of all of Argent's business, it is a positive outcome for many of Argent's counterparties and other parties with which Argent has a commercial relationship.
41. BXP is not a related person to Argent, as defined in subsection 36(5) of the CCAA.
42. The boards of directors of Argent US has approved the Transaction. Attached hereto as **Exhibit "22"** is a true copy of the resolution of the board of directors of Argent US.
43. As described in paragraphs 73 and 74 of my First Affidavit and Exhibits "11" and "12" thereto, the Syndicate was the sole secured creditor of Argent. Counsel for Argent recently became aware of mines and minerals liens that have been registered against certain assets of Argent US, in the months of March and April, 2016. Attached hereto as **Exhibit "23"** is a summary of the lien registrations. As the validity, amounts, and priority of these liens has not been determined, Argent seeks to reserve funds from the proceeds of sale of the assets in the amount of the lien claims (the total amount of the lien

claims set out on Exhibit "23" hereto is US \$96,114.47), and to seek determinations of the validity, amounts and priority of the lien claims from the U.S. Court.

- 44. Following the commencement of these CCAA proceedings, the Syndicate became the Applicants' Interim Lender pursuant to the Interim Financing Credit Agreement, which was approved by the Court.
- 45. Pursuant to the Interim Financing Credit Agreement, the Maturity Date of the Interim Financing Credit Agreement (as defined in Section 1.1 therein) is the earlier of five dates, the earliest of which is anticipated to be the closing of the Transaction. Pursuant to Section 4.1 of the Interim Financing Credit Agreement, Argent US is required to pay all Borrowings, as defined in Section 1.1 of the Interim Financing Credit Agreement, and all accrued and unpaid interest and fees then outstanding, on the Maturity Date. As such, Argent seeks an Order authorizing and directing the Monitor to distribute the net sale proceeds from the Transaction, in accordance with the Amended and Restated Initial Order, and otherwise to reserve funds from the net sale proceeds to be distributed at a later date, as set out in the draft form of Order attached as a Schedule to Argent's Application filed herewith.
- 46. I make this Affidavit in support of an Application for a Sale Approval and Vesting Order, a Distribution Order, and to extend the Stay of Proceedings in this Action.

SWORN BEFORE ME )  
 at Houston, Texas this 14<sup>th</sup> )  
 day of April, 2016. )  
 )  
 \_\_\_\_\_ )  
 A Notary Public )  
 in and for the State of Texas )

 )  
 \_\_\_\_\_ )  
 SEAN BOVINGTON )




# EXHIBIT 4

THIS IS EXHIBIT " 4 "  
referred to in the Affidavit of Declaration

Sean Bovingdon

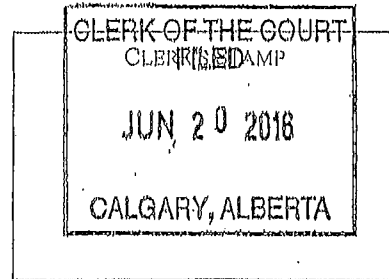
Sworn before me this 23<sup>rd</sup>

day of August A.D. 20 16

  
A Commissioner for Oaths  
in and for the Province of Alberta

Kelsey Meyer  
Barrister & Solicitor

FORM 49  
[RULE 13.19]



COURT FILE NUMBER 1601 - 01675  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36, as amended

AND IN THE MATTER OF A PLAN OF  
ARRANGEMENT OF ARGENT ENERGY TRUST,  
ARGENT ENERGY (CANADA) HOLDINGS INC.  
and ARGENT ENERGY (US) HOLDINGS INC.

DOCUMENT AFFIDAVIT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
BENNETT JONES LLP  
Barristers and Solicitors  
4500 Bankers Hall East  
855 - 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Sean Zweig  
Telephone No.: 403.298.3323 / 416.777.6254  
Fax No.: 403.265.7219 / 416.863.1716  
Client File No.: 68859,14

AFFIDAVIT OF SEAN BOVINGDON No. 4

Sworn on June 17, 2016

I, SEAN BOVINGDON, of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am the President and Chief Financial Officer of each of the Applicants, Argent Energy Trust (the "Trust"), Argent Energy (Canada) Holdings Inc. ("Argent Canada"), and Argent Energy (US) Holdings Inc. ("Argent US", and together with the Trust and Argent Canada, the "Applicants" or "Argent"). As such, I have personal knowledge of the

matters hereinafter deposed to, save where stated to be based on information and belief, in which case I verily believe the same to be true.

2. I previously swore Affidavits in this Action on February 16, 2016 (my "First Affidavit"), on February 29, 2016 (my "Second Affidavit") and on April 14, 2016 (my "Third Affidavit"). Where I use capitalized terms in this Affidavit No. 4, but do not define them, I intend them to bear their meanings as defined in my First Affidavit, my Second Affidavit, or my Third Affidavit, as applicable. Attached hereto as Exhibits "1", "2", and "3", respectively, are copies of my First Affidavit, my Second Affidavit, and my Third Affidavit (collectively referred to herein as "my Previous Affidavits"), without exhibits.
3. All references to dollar amounts contained herein are to Canadian Dollars unless otherwise stated.
4. Capitalized terms not otherwise defined herein shall have the meanings as defined in my Previous Affidavits.

*Relief Sought*

5. I make this Affidavit No. 4 in support of an Application for:
  - (a) If necessary, an Order abridging the time for service of this Application and the supporting materials and declaring service to be good and sufficient;
  - (b) An Order extending the stay of proceedings, as ordered and defined in paragraph 2 of the Initial Order filed February 17, 2016 and as extended pursuant to the Order (Stay Extension) granted herein on May 5, 2016, to August 31, 2016;
  - (c) An Order approving the intended actions of the Monitor in distributing the net proceeds of the Transaction to the Syndicate in accordance with the Order (Interim Distribution); and



- (d) An Order granting enhanced powers to the Monitor with respect to the Trust and directing the Monitor to assign the Trust into bankruptcy at such time as the Monitor deems appropriate.
6. I am advised by the Monitor and do verily believe that the Monitor supports this Application.

*Steps Taken Since the Granting of the Order (Stay Extension) on May 5, 2016*

7. Since the commencement of these CCAA proceedings, and of particular relevance in this Application, since the Order (Stay Extension) was granted in these CCAA proceedings on May 5, 2016, the Applicants have been actively engaged in advancing the restructuring proceedings.
8. Since the granting of the Order (Stay Extension) on May 5, 2016, the Applicants have taken, among others, the following steps to advance the restructuring:
- (a) Cooperating with the Monitor to facilitate its monitoring of the Applicants' business and operations;
  - (b) Communicating with various stakeholder groups and/or their advisors, including the Syndicate, critical suppliers, trade creditors, employees, contractors and others;
  - (c) Liaising with US counsel and appearing in the U.S. Bankruptcy Court regarding the Chapter 15 Proceedings in respect of Argent Canada and Argent US;
  - (d) Obtaining an Order from the U.S. Bankruptcy Court which recognized the approval of the Transaction and the Sale Agreement;
  - (e) Working with the Monitor, Oil & Gas Asset Clearinghouse, LLC ("OGAC"), and BXP Partners IV, L.P. ("BXP") to close the Transaction and the Sale Agreement as between Argent US and BXP (the Transaction closed on May 20, 2016; the Applicants have continued and are continuing to work with the Monitor, OGAC and BXP on post-closing matters);

- (f) Working with the Monitor with respect to distributions of the net proceeds of the sale from the Transaction, in accordance with the Order (Interim Distribution) granted herein and filed on May 10, 2016, including working with the Monitor to distribute the KERP and KEIP to employees of Argent;
- (g) Working with the Monitor and potential lien claimants to determine the validity, priority and amounts of the liens as set out in Schedule "B" of the Order (Interim Distribution);
- (h) Working with the Monitor and with parties to contracts with Argent US regarding the assumption and assignments of the contracts assumed by and assigned to BXP from Argent US pursuant to the Sale Agreement and the Order of the U.S. Bankruptcy Court, and in distributing cure costs in relation to the same;
- (i) Working with the Monitor and potential tax claimants to determine the validity, priority and amounts of certain secured tax claims asserted against Argent US;
- (j) Working with the Monitor with respect to winding down Argent US, the CCAA Proceedings and the Chapter 15 Proceedings; and
- (k) Continuing to operate and manage Argent's business in the ordinary course, subject to the terms of the Amended and Restated Initial Order and the other Orders granted in the CCAA Proceedings and the Chapter 15 Proceedings.

9. I believe that the Applicants have been acting in good faith and with due diligence in these proceedings and that it is in the best interests of the Applicants and their stakeholders that the Stay Period be extended to August 31, 2016, and that such an extension is appropriate in the circumstances.

#### *Chapter 15 Proceedings*

10. On May 11, 2016, the U.S. Bankruptcy Court granted an Order recognizing the Order (Sale Approval and Vesting) and the Order (Interim Distribution) granted by this Honourable Court on May 10, 2016 and approving the Transaction and the Sale

Agreement. A true copy of the Order granted by the U.S. Bankruptcy Court and entered on May 11, 2016 is attached hereto as **Exhibit "4"** (without the attachments thereto).

*Further Steps to be Taken by Argent*

11. The Transaction closed on May 20, 2016.
12. Pursuant to Section 9.02 (c) and (d) of the Sale Agreement (a true redacted copy of which is attached as Exhibit "21" to my Third Affidavit), Argent US has ninety days after the Closing Date (as defined in the Sale Agreement) of the Transaction to furnish to BXP a final accounting statement setting forth the adjustments and pro-rating of any amounts provided for in the Sale Agreement (the "**Final Accounting Statement**") documentation. BXP then has seven business days after receipt of the Final Accounting Statement to deliver to Argent US a written report (together with reasonable supporting documentation) containing any changes that BXP proposes be made to the Final Accounting Statement (the "**Dispute Note**"). The parties then have five days to agree on the final adjustment amounts and a further five days for the final adjustment amounts to be paid. If no agreement is reached, then Argent US and BXP are required to submit summaries of their respective positions, along with other documentation, to the U.S. Bankruptcy Court within a further two days, and any decision made by the U.S. Bankruptcy Court regarding the final adjustment amounts is final, conclusive and binding.
13. As such, if the Final Accounting Statement is agreed to by Argent US and BXP without the need for a further court application, the process to agree to the final adjustment amounts could take up to August 30, 2016 (with a further five days for payment of the agreed amounts after that).
14. Argent US has been diligently working to effect the change in operatorship of its assets in Wyoming which have been purchased by BXP. The process of effecting the change in operatorship in Wyoming is expected to take a few months, simply due to the regulators' required process in that jurisdiction.

15. As such, an extension of the stay of proceedings to August 31, 2016 will allow Argent to address (and hopefully conclude) the statement of adjustments process in relation to the Transaction, and will allow it to continue to work toward effecting the change in operatorship of the Wyoming assets.
16. Argent US, through its authorized agent, Tax Consultants of Texas ("T-COT") has applied for certain tax refunds. I am advised by representatives of T-COT and do verily believe that it can take several months for the taxing authorities to process these applications. Argent US and T-COT have agreed that any tax refunds received on behalf of Argent US as a result of its application will be paid directly to the Monitor. The Monitor will distribute any such funds to the Syndicate in accordance with the Order (Interim Distribution).
17. Otherwise, Steve Hicks, the Chief Operating Officer of Argent, the remaining staff of Argent, and I have been working diligently on the post-closing matters relating to the Transaction, including other matters relating to changes of operatorship to purchasers of Argent's assets, and work in that regard is expected to continue over the next few months.

*Distributions of Net Proceeds of the Transaction*

18. Since May 20, 2016, the Monitor has distributed the net proceeds of the Transaction in accordance with the Order (Interim Distribution) granted and filed with this Honourable Court on May 10, 2016, subject to holdbacks of funds as set out in that Order. The Monitor currently holds the following holdbacks:
  - (a) Approximately US \$900,000 is held by the Monitor in respect of Completion Costs, as defined in the Order (Interim Distribution);
  - (b) US \$500,000 is held by the Monitor in respect of Administration Charges, as defined in the Initial Order and in the Amended and Restated Initial Order;
  - (c) US \$300,000 is held by the Monitor in respect of the Ad Hoc Committee First Charge, as defined in the Amended and Restated Initial Order;

- (d) US \$200,000 is held by the Monitor in respect of the Directors' Charge, as defined in the Initial Order and in the Amended and Restated Initial Order;
  - (e) US \$160,737 is held by the Monitor in respect of lien claims registered against the assets of Argent US on or before May 20, 2016;
  - (f) US \$4,650 is held by the Monitor in respect of tax claims registered against the assets of Argent US on or before May 20, 2016; and
  - (g) US \$525,000 is held by the Monitor in respect of security granted in favour of the Syndicate for rolling stock and for certain leases where the pre-CCAA security was not perfected by the Syndicate, as discussed below.
19. Attached hereto and marked as Exhibits "5" and "6" are true copies of the Monitor's Proposed Interim Distribution and the Sale Solicitation Process Sources and Uses.
20. I am advised by the Monitor and do verily believe that it (with the assistance of its Canadian and US counsel) has reviewed the pre-CCAA security granted by Argent in favour of the Syndicate and has determined it to be valid; however, the security over the rolling stock of Argent US and over certain of its leasehold interests was not perfected by the Syndicate.
21. As all of the assets of Argent US are secured in favour of the Syndicate by way of the Interim Lender's Charge, and as the Initial Order and the Amended and Restated Initial Order granted herein do not require such security in relation to the Interim Financing to be registered or perfected, I understand the Monitor's view is that the rolling stock and all leasehold interests of Argent US are, as a result of the Initial Order and the Amended and Restated Initial Order, properly secured, and that the Monitor accordingly seeks an Order approving its intended action of paying out to the Syndicate the amounts held by it in relation to the rolling stock and the said leasehold interests.
22. The Order Granting Emergency Application for Provisional Relief pursuant to Sections 105(a) and 1519 of the Bankruptcy Code granted by the U.S. Bankruptcy Court and entered on February 24, 2016 (the "Initial Recognition Order") confirms that the

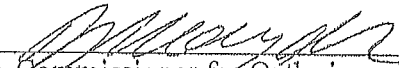
Interim Lender's Charge and priorities as set out in the Initial Order are enforced against the DIP Collateral, as it is defined in that Order, in accordance with the Terms of Initial Order. The terms of the Initial Recognition Order were extended on a final basis pursuant to paragraph 5 of the Order Granting Recognition as a Foreign Main Proceeding, or in the alternative as a Foreign Nonmain Proceeding, granted by the U.S. Bankruptcy Court and entered on March 11, 2016 (the "**Final Recognition Order**"). A true copy of the Initial Recognition Order is attached hereto as **Exhibit "7"**. A true copy of the Final Recognition Order is attached hereto as **Exhibit "8"**.

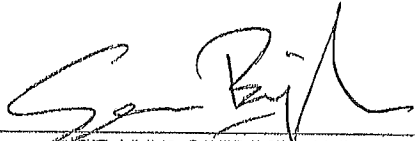
*Enhanced Powers of the Monitor*

23. The directors of Argent Energy Ltd. ("AEL"), the administrator of the Trust, intend to resign on June 30, 2016. As such, as of that date, Argent seeks an Order granting enhanced powers to the Monitor to authorize it to act on behalf of the Trust. This will ensure that, in the absence of any directors of AEL, the Monitor has the power to preserve, protect, and maintain control of the property of the Trust, receive funds on behalf of the Trust, make distributions or payments by the Trust, execute documents with respect to the property of the Trust, provide instructions to advisors of the Trust, and oversee and direct the preparation of cash flow statements and assist in the dissemination of information in these proceedings with respect to the Trust.
24. It is anticipated that Argent will be assigned into bankruptcy at the time that these CCAA proceedings are terminated. In the circumstances where the Trust Indenture (attached as Exhibit "2" to my First Affidavit) does not provide for an orderly windup or termination of the Trust, other than by special resolution of the unitholders thereto (which will be impractical to obtain), and where the trustee of the Trust, Computershare Trust Company of Canada ("**Computershare**") wishes to ensure that its obligations as trustee are discharged, Argent seeks an Order granting the Monitor the power to assign the Trust into bankruptcy, and further, directing the Monitor to assign the Trust into bankruptcy at such time that the Monitor deems appropriate.

25. I make this Affidavit in support of the relief sought in the application filed herewith.

SWORN BEFORE ME at the City of )  
Calgary, in the Province of Alberta this 17<sup>th</sup> )  
day of June, 2016. )

  
\_\_\_\_\_  
A Commissioner for Oaths in and for the )  
Province of Alberta )

  
\_\_\_\_\_  
SEAN BOVINGTON

Kelsey Meyer  
Barrister & Solicitor

# EXHIBIT 5



THIS IS EXHIBIT " 5 "  
referred to in the Affidavit of Declaration

Sean Bovington  
Sworn before me this 23rd

day of August A.D. 20 16

[Signature]  
A Commissioner for Oaths  
in and for the Province of Alberta

Kelsey Meyer  
Barrister & Solicitor

EXECUTION COPY

ARGENT ENERGY TRUST  
AMENDED AND RESTATED TRUST INDENTURE

Made as of December 3, 2013

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**ARGENT ENERGY TRUST**

**AMENDED AND RESTATED TRUST INDENTURE**

THIS TRUST INDENTURE is amended and restated as of the 3rd day of December, 2013.

**BETWEEN:**

**COMPUTERSHARE TRUST COMPANY OF CANADA**, a trust company incorporated under the laws of Canada, with offices in the City of Calgary, in the Province of Alberta (hereinafter called the "Trustee"),

OF THE FIRST PART

- and -

**ARGENT ENERGY LTD.**, a corporation incorporated under the laws of Alberta, with offices in the City of Calgary, in the Province of Alberta (hereinafter called the "Corporation"),

OF THE SECOND PART

**RECITALS**

**WHEREAS** on January 31, 2012, the Trust was created and settled pursuant to the Original Indenture for the purpose of acquiring and holding certain investments, including securities of Can Holdco (as hereinafter defined);

**AND WHEREAS** the Trustee has agreed to hold and use the \$5.00 in lawful money of Canada, which has been paid by the Corporation, as the Initial Unitholder (as hereinafter defined), to the Trustee (the "Initial Contribution") in exchange for the one Unit (as hereinafter defined), and all amounts and assets subsequently received under this Trust Indenture upon the trusts and in accordance with the provisions hereinafter set forth;

**AND WHEREAS** the Original Indenture was first amended and restated on May 9, 2012;

**AND WHEREAS** the Corporation has agreed to act as the administrator of the Trust (as hereinafter defined) pursuant to the Administrative Services Agreement;

**AND WHEREAS** it is intended that the beneficiaries of the Trust shall be the holders of Units and that each such Unit shall rank equally in all respects with every other Unit;

**AND WHEREAS** it is intended that the Trust will offer the Units for sale to members of the public from time to time;

**AND WHEREAS** it is desirable that the Trust shall, at all times, be prohibited from investing in any "non-portfolio property" and shall, at all times following the IPO (as hereinafter defined), qualify as a "mutual fund trust" and not constitute a "SIFT trust" (as such terms are hereinafter defined).



- (iii) any trust or estate in which the Other Person has a substantial beneficial interest or in respect of which the Other Person serves as trustee or in a similar capacity;
- (iv) in the case where the Other Person is an individual, a relative of that individual, including:
  - (A) the spouse or adult interdependent partner of that individual, if the relative has the same residence as that individual; or
  - (B) a relative of that individual's spouse or adult interdependent partner, if the relative has the same residence as that individual;
- (i) "Auditors" means any firm of chartered accountants appointed as the auditors of the Trust from time to time in accordance with the provisions hereof;
- (j) "Beneficial Unitholder" means the beneficial owner of a Unit;
- (k) "Beneficiary" has the meaning ascribed thereto in subsection 12.5(a);
- (l) "Bid Units" has the meaning ascribed thereto in subsection 3.28(a);
- (m) "Book-Entry System" means, collectively, the book-based record-entry securities transfer and pledge systems, which are administered by CDS or DTC, as may be changed, supplemented, replaced or otherwise modified from time to time;
- (n) "Business Day" means any day other than a Saturday, Sunday or a day on which the principal chartered banks located at Calgary, Alberta are not open for business;
- (o) "Can Holdco" means Argent Energy (Canada) Holdings Inc., a corporation incorporated under the laws of the Province of Alberta;
- (p) "Can Holdco Shares" means the common shares in the capital of Can Holdco;
- (q) "Cash Redemption Price" has the meaning ascribed thereto in Section 6.3;
- (r) "CDS" means CDS Clearing and Depository Services Inc., or its successor;
- (s) "Closing" means the completion of the issue of Units to the public pursuant to the IPO and "Closing Date" means the date on which Closing occurs;
- (t) "closing market price" has the meaning ascribed thereto in Section 6.3;
- (u) "Compensation Plans" means the incentive and compensation plan or plans to be entered into between the Trust and certain of the Administrator's, and/or the Trust's affiliates', directors, officers, employees and consultants (or directors, officers and employees of such consultants);
- (v) "control", and related terms including "controlling" and "controlled", shall mean the possession, directly or indirectly, by or on behalf of a person or group of persons acting jointly or in concert, of the following in respect of another person:

- (i) in the case where the other person is a corporation, the power to vote more than 50% of the securities having ordinary voting power for the election of directors of such corporation;
- (ii) in the case where the other person is a limited partnership, the power to control the general partner of the limited partnership; and
- (iii) in the case where the other person is other than a corporation or limited partnership, any of:
  - (A) the power to exercise more than 50% of the voting rights in such person; or
  - (B) the right to receive more than 50% of the distributions made by that person;
- (w) **"Counsel"** means a barrister and solicitor or firm of barristers and solicitors or other lawyers in an appropriate jurisdiction retained by the Trust;
- (x) **"Credit Facilities"** means all credit facilities and agreements entered into by the Trust or any of its affiliates, from time to time, which set forth the terms and conditions of any debt financing obtained by the Trust, or by any one of its affiliates (as the case may be), from any person or persons not affiliated with the Trust, and, for further certainty, shall include all agreements pertaining to issuances of debentures or other debt securities to the public;
- (y) **"Depository"** has the meaning ascribed thereto in Section 3.10;
- (z) **"Depository 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 a Depository and pledges of securities deposited with a Depository;
- (aa) **"discretion"** means the absolute and sole discretion of the party exercising same;
- (bb) **"Distributable Cash Flow"** has the meaning ascribed thereto in Section 5.1;
- (cc) **"Distribution Payment Date"** means such date or dates as may be determined from time to time by the Trustee or the Administrator on which Distributable Cash Flow is distributed to Unitholders (initially to be the 23rd day of the calendar month which immediately follows the corresponding Distribution Record Date, or if such day is not a Business Day, the following Business Day);
- (dd) **"Distribution per Unit"** has the meaning ascribed thereto in subsection 5.3(c);
- (ee) **"Distribution Period"** means, in respect of the initial distribution, the period commencing on and including the Closing Date and ending on and including the last day of the month following the month in which the Closing occurs, and thereafter means each calendar month in each calendar year, or such other periods as may hereafter be determined from time to time by the Trustee or the Administrator;

- (ff) "Distribution Record Date" means, in respect of a Distribution Period, the last Business Day of the Distribution Period or such other dates as may be determined from time to time by the Trustee or the Administrator;
- (gg) "DTC" means The Depository Trust Company, or its successor;
- (hh) "Environmental Liabilities" means all liabilities, losses, costs, charges, damages, expenses, and penalties (including costs and expenses of abatement and remediation of spills or releases of contaminants and all liabilities 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, including foreseeable and unforeseeable consequential damages) sustained, suffered or incurred in connection with or as a result of:
- (i) the administration of the Trust; or
  - (ii) the exercise or performance by the Trustee or the Administrator of any rights or obligations hereunder or under any other contracts, and which, in either case, result from or relate, directly or indirectly, to:
    - (A) the presence or release or threatened presence or release of any contaminants, by any means or for any reason, on or in respect of any properties of the Trust, 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 such property;
    - (B) any contaminant present on or released from any property adjacent to or in the proximate area of any properties of the Trust;
    - (C) the breach or alleged breach of any federal, provincial, state 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
    - (D) any misrepresentation or omission of a known fact or condition made by the Administrator relating to any property;
- (ii) "Experts" has the meaning ascribed thereto in subsection 12.2(a);
- (jj) "Global Unit Certificate" means the certificate(s) representing Units and registered in the name of CDS, DTC or their respective nominees, as custodians thereof;
- (kk) "Governing Authority" means any stock exchange or any court or governmental department, regulatory agency or body, commission, board, bureau, agency, or instrumentality of Canada, or of any state, province, territory, county, municipality, city, town or other political jurisdiction whether domestic or foreign and whether now or in the future constituted or existing;
- (ll) "Income of the Trust" has the meaning ascribed thereto in subsection 5.2(a);
- (mm) "Indemnified Party" has the meaning ascribed thereto in subsection 12.6(a);

- (nn) "Indenture Conferred Duties" means all authorities, rights, powers, responsibilities and duties conferred upon, granted to or delegated to the Administrator pursuant to the terms of this Trust Indenture;
- (oo) "Initial Contribution" has the meaning ascribed thereto in the recitals to this Trust Indenture;
- (pp) "Initial Subscription Amount" means the amount of \$5.00 paid by the Corporation to the Trustee as the subscription price for the Initial Unit;
- (qq) "Initial Unit" means the one Unit issued to the Corporation in consideration of the Initial Subscription Amount;
- (rr) "*in Specie* Redemption Price" has the meaning ascribed thereto in subsection 6.6(a);
- (ss) "Internal Reorganization" means the sale, lease, exchange or other transfer of the Trust Property (whether or not involving all or substantially all of the Trust Property) as a result of which the Trust has substantially the same interest, whether direct or indirect, in the Trust Property that it had prior to the reorganization and, for greater certainty, includes an amalgamation, arrangement or merger of the Trust and one or more of its affiliates with any entities;
- (tt) "IPO" means the initial distribution to the public of Units pursuant to the Prospectus, as described therein under the section entitled "Plan of Distribution";
- (uu) "market price" has the meaning ascribed thereto in Section 6.3;
- (vv) "meeting of Unitholders" shall mean and include, as the circumstances require, both an annual meeting of Unitholders and any other meeting of Unitholders called and conducted in accordance with the provisions of this Trust Indenture;
- (ww) "mutual fund trust" means a mutual fund trust as defined in section 132 of the Tax Act;
- (xx) "NCI System" means a non-certificated inventory system for Units maintained by a Depository, as may be changed, supplemented, replaced or otherwise modified from time to time;
- (yy) "Net Realized Capital Gains" has the meaning ascribed thereto in subsection 5.2(b);
- (zz) "Non-certifying Unitholder" means a Unitholder or Beneficial Unitholder who, after 30 days from receipt of a request of the Trustee or Administrator under subsection 3.8(b), fails to comply with the request to furnish a Taxation Certification, or fails to use reasonable efforts to obtain a Taxation Certification from each Beneficial Unitholder beneficially owning Units registered or held in such Unitholder's name;
- (aaa) "non-portfolio property" means non-portfolio property as defined in section 122.1 of the Tax Act;
- (bbb) "Non-resident" means a Beneficial Unitholder who at the relevant time, for the purposes of the Tax Act, is not resident in Canada and is not deemed to be a resident in Canada, or is a partnership that is not a Canadian partnership within the meaning of the Tax Act;

- (ccc) "non-tendering offeree" means, in the case of a take-over bid made for Bid Units, a holder of Bid Units who does not accept the take-over bid, and includes a subsequent holder of such Bid Units who acquires them from the first mentioned holder;
- (ddd) "offeree" means a person to whom a take-over bid is made;
- (eee) "Offering" means any issuance or offering of Units or Other Trust Securities;
- (fff) "offeror" means a person, other than an agent, who makes a take-over bid, and includes two or more persons who, directly or indirectly, make a take-over bid jointly or in concert;
- (ggg) "Ordinary Resolution" means:
  - (i) a resolution passed by more than 50% of the votes cast by those Unitholders entitled to vote on such resolution, whether cast in person or by proxy, at a meeting of Unitholders, at which a quorum was present, called (at least in part) 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 those Units entitled to be voted on such resolution;
- (hhh) "Original Indenture" means the trust indenture, dated as of January 31, 2012, between the Corporation, as settler of the Trust, and Computershare Trust Company of Canada, as trustee, pursuant to which the Trust was settled;
- (iii) "Other Trust Securities" means any type of securities of the Trust, other than Units, including notes (including Redemption Notes), options, rights, warrants or other securities convertible into or exercisable for Units or other securities of the Trust (including convertible debt securities, subscription receipts and installment receipts);
- (jjj) "person" includes individuals, corporations, limited partnerships, general partnerships, joint stock companies, limited liability companies, joint ventures, associations, companies, trusts, estates, banks, trust companies, pension funds, business trusts and other organizations, (whether or not legal entities) and governments and agencies and political subdivisions thereof;
- (kkk) "Prospectus" means the final prospectus of the Trust relating to the IPO filed with various securities commissions or similar authorities in Canada to qualify the issue and distribution of the Units, and includes any amendment to such final prospectus;
- (lll) "Redemption Date" has the meaning ascribed thereto in Section 6.2;
- (mmm) "Redemption Gains" has the meaning ascribed thereto in subsection 5.2(c);
- (nnn) "Redemption Income" has the meaning ascribed thereto in subsection 5.2(c);
- (ooo) "Redemption Notes" means promissory notes issued in series, or otherwise, by the Trust pursuant to a note indenture, or otherwise, and having the following terms and conditions:

- (i) unsecured and bearing interest from and including the issue date of each such note at a market rate determined at the time of issuance, based on the advice of an independent financial advisor, and payable monthly in arrears (with interest after as well as before maturity, default and judgment, and interest on overdue interest at such rate);
  - (ii) subordinated and postponed to all Senior Indebtedness and which may be subject to specific subordination and postponement agreements entered into by the Trustee with holders of Senior Indebtedness;
  - (iii) subject to earlier prepayment, being due and payable on the 5th anniversary of the date of issuance or such other date as is determined at the date of issuance; and
  - (iv) such other terms and conditions as the Administrator may determine necessary or desirable;
- (ppp) "Register" and "Registers" have the meanings ascribed thereto in Section 3.18;
- (qqq) "Securities Act" means the *Securities Act*, R.S.A. 2000, c. S-4, as amended from time to time, including the rules, regulations and instruments promulgated thereunder;
- (rrr) "security", as applicable in the particular context, has the meaning ascribed thereto in the Securities Act, and "securities" has a corresponding meaning;
- (sss) "Seed Capital Private Placement" means the distribution of up to 600,000 Units on a private placement basis to be completed in one or more tranches prior to the Closing on such terms and conditions as are approved by the Administrator Directors;
- (ttt) "Senior Indebtedness" shall mean, at any time, all indebtedness, liabilities and obligations of the Trust which, by the terms of the instrument creating or evidencing the same, is not expressed to rank in right of payment in subordination to, or *pari passu* with, the indebtedness evidenced by the Redemption Notes or any of them;
- (uuu) "SIFT Rules" means the provisions of the Tax Act that apply to a SIFT trust as defined in section 122.1 of the Tax Act;
- (vvv) "SIFT trust" means a SIFT trust as defined in section 122.1 of the Tax Act;
- (www) "Special Resolution" means:
- (i) a resolution passed by more than 66% of the votes cast by those Unitholders entitled to vote on such resolution, whether cast in person or by proxy, at a meeting of Unitholders, at which a quorum was present, called (at least in part) for the purpose of approving such resolution; or
  - (ii) a resolution approved in writing, in one or more counterparts, by holders of more than 66% of the votes represented by those Units entitled to be voted on such resolution;

- (xxx) "Standard of Care" means, in respect of any person or company performing duties on behalf of the Trust, the obligation to:
- (i) exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Trust and the Unitholders; and
  - (ii) exercise the degree of care, diligence and skill that a reasonably prudent trustee or administrator, as applicable, would exercise in the circumstances;
- (yyy) "subsidiary" has the meaning ascribed thereto in the *Business Corporations Act* (Alberta);
- (zzz) "Subsidiary Securities" has the meaning ascribed thereto in subsection 8.2(bb);
- (aaaa) "take-over bid" has the meaning ascribed to such term in Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* of the Canadian Securities Administrators, but without reference to the jurisdiction of residence of the person to whom an offer to acquire securities is made;
- (bbbb) "Tax Act" means the *Income Tax Act*, R.S.C. 1985 (5th Supp.), C-1 and the *Income Tax Regulations* thereunder as amended from time to time;
- (cccc) "Taxation Certification" means: (i) a properly completed and duly executed United States Internal Revenue Service Form W-8BEN or W-9 (as applicable), or such successor form to such forms as the Internal Revenue Service shall adopt; and (ii) if the Unitholder or Beneficial Unitholder is a resident of a jurisdiction (other than the United States or Canada) that is determined by the Trustee or the Administrator not to have a tax treaty with the United States that fully exempts a United States payor from withholding obligations on interest payments made to residents in such jurisdiction, a properly completed and duly executed certification that such person does not beneficially own directly or indirectly 10% or more of the total issued and outstanding Units.
- (dddd) "Transfer Agent" means such person 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 appointed by such Transfer Agent; provided that where the Trust has not appointed a person to act as registrar and transfer agent of the Units, then the Administrator, or failing that the Trustee, shall act as registrar and transfer agent of the Units;
- (eeee) "Trust" means Argent Energy Trust, as constituted by this Trust Indenture, and includes reference to the Trustee acting in its capacity as Trustee for the Trust;
- (ffff) "Trust Indenture", "Indenture", "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to this Trust Indenture, as the same may be further amended, restated or modified from time to time, and includes every instrument supplemental or ancillary to or in implementation of this Trust Indenture and, except where the context otherwise requires, does not refer to any particular Article, Section, subsection or other portion hereof or thereof;
- (gggg) "Trust Liabilities" has the meaning ascribed thereto in subsection 12.5(a);

- (hhhh) "Trust Property", at any time, means all of the money, properties and other assets of any nature or kind whatsoever as are, at such time, held by the Trust or by the Trustee on behalf of the Trust, and any reference to "property" or "property of the Trust" or "assets" or "assets of the Trust" includes, in each case, the Trust Property;
- (iii) "Trustee" means at any time, a corporation that is, in accordance with the provisions hereof, the trustee of the Trust;
- (jjj) "Trustee's Regulations" has the meaning ascribed thereto in Section 8.3;
- (kckk) "Unit Certificate" means a certificate, in the form approved by the Administrator from time to time, evidencing one or more Units, issued and certified in accordance with the provisions hereof, and includes a Global Unit Certificate;
- (lll) "Unitholder" means, at any time, a holder of one or more Units, as shown on any of the Registers;
- (mmmm) "Units" means the trust units of the Trust created and designated as "Units" pursuant to Section 3.1(a) hereof, having the rights, privileges, restrictions and conditions as provided for in this Indenture; and "Unit" means any Unit;
- (nnnn) "U.S. Opco" means Argent Energy (US) Holdings Inc., a corporation formed pursuant to the laws of Delaware and a wholly-owned subsidiary of Can Holdco;
- (oooo) "U.S. Opco Notes" means the subordinated unsecured promissory notes issued by U.S. Opco and held by the Trust or any subsidiary of the Trust; and
- (pppp) "Voting Agreement" means the voting agreement, dated May 9, 2012, among the Trustee, the Administrator and the shareholder of the Administrator which provides, among other things, the Unitholders, through the Trustee as agent, with control over the election of the Administrator Directors, as the same may be amended, supplemented or amended and restated from time to time.

## 1.2 References to Acts Performed by the Trust

For greater certainty, where any reference is made in this Trust Indenture to:

- (a) an act to be performed or not to be performed by the Trust or to rights of the Trust, such reference shall be construed and applied for all purposes to refer to (i) an act to be performed or not 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 or the Administrative Services Agreement; or (ii) rights of the Trustee, in its capacity as Trustee of the Trust, as the case may be; and
- (b) 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 requires otherwise, and where any actions or obligations of the Trustee are delegated to the Administrator or some other person, then the Administrator or such other person shall also be entitled to the rights of the Trustee associated with such actions and obligations.



### 1.3 Interpretation

In this Trust Indenture, 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. Where the word "including" or "includes" is used in this Trust Indenture it means "including without limitation" or "includes without limitation", respectively. Any reference to any document shall include a reference to any schedule, amendment or supplement thereto or any agreement in replacement thereof, all as permitted under such document.

### 1.4 Statutory References

A reference herein to any statute includes every regulation (and other similar ancillary instrument having the force of law) made pursuant thereto, all amendments to the statute or to any such regulation (or other similar ancillary instrument) in force from time to time, and any statute or regulation (or other similar ancillary instrument) which supplements or supersedes such statute or regulation (or other similar ancillary instrument); and a reference to any section or provision of a statute includes all amendments to such section or provision, as made from time to time, and all sections or provisions which supplement or supersede such section or provision referred to herein.

### 1.5 Accounting Principles

Wherever in this Trust Indenture reference is made to International Financial Reporting Standards, generally accepted accounting principles or other similar terms ("Accounting Principles"), such reference shall be deemed to be to such Accounting Principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable to the Trust as at the date on which such calculation is made or required to be made in accordance with Accounting Principles. Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made for the purpose of this Trust Indenture or any document, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with the applicable Accounting Principles applied on a consistent basis.

### 1.6 Headings for Reference Only

The division of this Trust Indenture 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 Trust Indenture. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and subsections are to Articles, Sections and subsections of this Trust Indenture.

### 1.7 Day Not a Business Day

Except as otherwise set out herein, in the event that any day on which any amount is to be determined or any other determination is to be made or any action is required to be taken hereunder is not a Business Day, then such amount shall be determined, or such other determination shall be made, 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 5.2, 5.3, 5.4 and 5.8 and to defined terms used in such Sections (except with respect to the definition of, and action to be taken on, the determination of Distribution Payment Date in Section 5.3 and subsection 5.4(c)).

1.8 Time of the Essence

Time shall be of the essence in this Trust Indenture.

1.9 Governing Law

This Trust Indenture and the Unit Certificates shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. The parties hereto hereby irrevocably submit and attorn to the jurisdiction of the courts of the Province of Alberta.

1.10 Currency

Unless otherwise specified, all references herein to currency shall be references to currency of Canada.

ARTICLE 2  
DECLARATION OF TRUST

2.1 Declaration of Trust

The Trustee hereby agrees to act as trustee on behalf of, and to hold legal title and use and administer the Trust Property in trust for the benefit of, the Unitholders, their successors, permitted assigns and personal representatives upon the trusts and subject to the terms and conditions hereinafter declared and set forth, such trust to constitute the Trust hereunder.

2.2 Initial Unitholder

As settlement of the Trust, the Corporation paid the Initial Subscription Amount to the Trustee and in consideration therefor the Corporation was issued the Initial Unit.

2.3 Name of the Trust

The Trust shall be known and designated as "Argent Energy Trust" and, whenever lawful and convenient, the Trust Property shall be held and the affairs of the Trust shall be conducted and transacted under that name. The Trust may use such other designation or may adopt such other name as the Trustee (with the consent of the Administrator), or the Administrator alone, deems appropriate, and the Trust may hold property and conduct and transact its affairs under such other designation or name. The Trustee (with the consent of the Administrator), or the Administrator alone, may approve and use a version of any name or designation used by the Trust in any language other than English.

2.4 Situs, Mind and Management and Head Office

The situs, mind and management of the Trust shall be in the Province of Alberta and the head office of the Trust shall be located at Calgary, Alberta, or such other place or places in Canada as the Administrator may from time to time designate and will initially be located at Suite 500, 321 - 6<sup>th</sup> Avenue S.W., Calgary, Alberta, T2P 3H3.

2.5 Nature of the Trust

The Trust is an unincorporated limited purpose open-ended mutual fund trust, established for the purposes specified in Section 4.1. The Trust is not, is not intended to be, shall not be deemed to be and shall not be treated as, a general partnership, limited partnership, society, syndicate, association, joint venture, company, corporation or joint stock company; further, neither the Trustee, nor the Administrator, nor the

Unitholders, nor any of them, shall be, or be deemed to be, treated in any way whatsoever as liable or responsible hereunder as partners or joint venturers. Except as expressly specified herein, neither the Trustee nor the Administrator shall be, or be deemed to be, agents 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 expressly conferred upon them by this Trust Indenture and Applicable Laws.

## 2.6 Mutual Fund Trust Election

In respect of the Trust's first taxation year, the Trust shall elect pursuant to subsection 132(6.1) of the Tax Act that the Trust be deemed to be a mutual fund trust for purposes of the Tax Act for the entire year.

## 2.7 Rights of Unitholders and Ownership of Assets of the Trust

- (a) Except as otherwise expressly provided for herein, no Unitholder shall be entitled to interfere with, or give any direction to, the Trustee or the Administrator with respect to the affairs of the Trust or in connection with the exercise of any powers or authorities conferred upon the Trustee or the Administrator under, or by virtue of, this Trust Indenture or the Administrative Services Agreement.
- (b) The legal ownership of the Trust Property is vested exclusively in the Trustee and the right to conduct the affairs of the Trust is, subject to the terms hereof, vested exclusively in the Trustee, or such other persons as the Trustee may determine or as are permitted in accordance with the terms hereof. The Unitholders shall have no interest or right of ownership in the Trust Property other than the interest specifically set forth in this Trust Indenture and they shall have no right to compel or call for any redemption of Units or any partition, division, dividend or distribution of the Trust Property, except as specifically provided herein.
- (c) Units shall be personal property and shall confer upon the holders thereof only the interest and rights as specifically set forth in this Trust Indenture.

## 2.8 Unitholders Bound

This Trust Indenture shall be binding upon all persons who have become or will become Unitholders from time to time. By acceptance of a Unit Certificate or other confirmation of ownership representing any Units or, during use of the Book-Entry System for any of the Units, upon completion of a purchase of any such Units (which may be evidenced by a confirmation of purchase, direct registration statement, certificate or similar procedure), the Unitholder thereof shall be deemed to agree to be bound, and shall be so bound, by this Trust Indenture. Furthermore, where applicable, this Trust Indenture shall be binding upon all persons who from time to time hold Other Trust Securities, and acceptance of a certificate or confirmation of purchase of such Other Trust Securities in whatever manner shall result in such holder of Other Trust Securities being deemed to agree to be bound, and shall be so bound, by the applicable provisions of this Trust Indenture.

# ARTICLE 3 CREATION, ISSUE AND SALE OF UNITS

## 3.1 Nature of Units

- (a) The beneficial interests in the Trust shall be represented and constituted by one class of trust units described and designated as "Units". Each holder of a Unit shall be entitled to

the rights and be subject to the limitations, restrictions and conditions pertaining to the Units as set out in this Trust Indenture, including those set forth in this Section 3.1, and the interest of each Unitholder shall be determined by the number of Units registered in the name of such holder.

- (b) Each Unit represents an equal, undivided beneficial interest in the Trust Property and all Units shall rank among themselves equally and ratably without discrimination, preference or priority.
- (c) In addition to the rights, privileges and restrictions set forth elsewhere herein, the Units shall have the following rights, privileges and restrictions:
  - (i) each Unit shall entitle the holder thereof to one vote at all meetings of Unitholders or in respect of written resolutions of the Unitholders;
  - (ii) each Unit shall entitle the holder thereof to participate equally with respect to any and all distributions made by the Trust respecting the Units, including distributions of Income of the Trust, Net Realized Capital Gains or other amounts pursuant to Article 5;
  - (iii) on liquidation or termination of the Trust, each Unit shall entitle the holder thereof to participate equally with respect to the distribution of the remaining Trust Property after payment of the Trust's debts, liabilities and liquidation or termination expenses;
  - (iv) there shall be no pre-emptive rights attaching to Units;
  - (v) there shall be no liability for future calls or assessments attaching to Units; and
  - (vi) each Unit shall entitle the holder thereof to require the Trust to redeem the Unit as provided for, and subject to the limitations, in Article 6.
- (d) The Trustee may, in its discretion at any time and from time to time but at all times subject to the provisions of this Trust Indenture:
  - (i) subdivide the Units outstanding at any time so that the number of outstanding Units may be increased, or
  - (ii) consolidate the Units outstanding at any time so that the number of outstanding Units may be decreased.

### 3.2 Authorized Number of Trust Securities

The aggregate number of Units which are authorized and may be issued hereunder by the Trustee is unlimited. The aggregate number of Other Trust Securities which are authorized and may be issued hereunder by the Trustee is unlimited.

### 3.3 Issue of Securities

- (a) Such number of Units as are: (i) distributed pursuant to the Seed Capital Private Placement; and/or (ii) qualified for distribution by the Prospectus, are hereby authorized

for issuance by the Trustee on such terms and conditions as are approved by the Administrator Directors and, in the case of (ii) above, as are set forth and described in the Prospectus, any related transaction documents, and an underwriting agreement (as applicable) to be entered into prior to the Closing with such brokers or dealers as may be determined by the Administrator, and the Administrator is hereby authorized to enter into such underwriting agreement in connection with the IPO on behalf of the Trust on such terms as the Administrator in its discretion may determine.

- (b) Subsequent to the issuances authorized in subsection 3.3(a) above, any Units or Other Trust Securities may be created, issued, sold and/or delivered at the times, to the persons (subject to any limitations adopted pursuant to Section 3.8(c)(iii)), in the jurisdictions, for the consideration and on the terms and conditions that the Trustee determines, including pursuant to Unitholder rights plans, distribution reinvestment plans or Compensation Plans, and without limiting the generality of the foregoing, the Trustee may authorize the payment of a reasonable commission to any person in consideration of such person purchasing, or agreeing to purchase, Units or Other Trust Securities from the Trust or from any other person, or procuring or agreeing to procure purchasers for Units or Other Trust Securities or may allow for discounts to persons as consideration for such persons subscribing, or agreeing to subscribe, whether absolutely or conditionally, for Units or Other Trust Securities or as consideration for such persons agreeing to procure subscriptions for Units or Other Trust Securities, whether absolute or conditional.

#### 3.4 Units Fully Paid and Non-Assessable

Unless otherwise indicated in this Section 3.4, Units are only to be issued by the Trustee when fully paid in money, property or past services, provided however that:

- (a) Units may be issued for consideration payable in installments if the Trust takes security over any such Units as security for unpaid installments; and
- (b) the consideration for any Unit issued by the Trust shall be paid in money or in property or in past services that are not less in value than the fair equivalent of the money that the Trust would have received if the Unit had been issued for money, provided that property shall not include a promissory note or promise to pay given by the allottee. In determining whether property or past services are the fair equivalent of monetary consideration, the Trustee or the Administrator may take into account reasonable charges and expenses of organization and reorganization and payments for property and past services reasonably expected to benefit the Trust, and the resolution of the Administrator allotting and issuing those Units shall express the fair equivalent in money of the non-cash consideration received.

#### 3.5 No Conversion, Retraction, Redemption or Pre-Emptive Rights

No person shall be entitled, as a matter of right, to subscribe for or purchase any Unit, and except as otherwise set forth in this Trust Indenture, there are no conversion, retraction, redemption or pre-emptive rights attaching to the Units.

#### 3.6 Re-Purchase of Initial Unit

On or immediately after the completion of the Seed Capital Private Placement, the Trustee may purchase the Initial Unit from the Corporation, and in such event the Corporation shall sell the Initial Unit to the

Trust for a purchase price of \$5.00 and upon the completion of such purchase and sale, the Initial Unit shall be cancelled and shall no longer be outstanding for any of the purposes of this Trust Indenture.

### 3.7 Consolidation of Units

Immediately after any distribution of additional Units to Unitholders pursuant to subsection 5.8(a), the number of the outstanding Units will be consolidated without further act or approval of the Trustee or Unitholders such that each Unitholder will hold after the consolidation the same number of Units as the Unitholder held before the distribution of such additional Units. In this case, each Unit Certificate or other non-certificated ownership position representing a number of Units prior to the distribution of additional Units is deemed to represent the same number of Units after the distribution of such additional Units and the consolidation. Notwithstanding the foregoing, where the Trust is required to withhold tax in respect of a Unitholder's share of the distribution it shall comply with Section 5.9 hereof and:

- (a) the consolidation of the Units held by such Unitholder will result in such Unitholder holding the number of Units that, but for the operation of this Section 3.7, would have been held by such Unitholder minus the number of Units sold because of withholding taxes payable by the Unitholder in respect of the distribution; and
- (b) in the event of a sale of Units on behalf of a Unitholder, such Unitholder will be required to surrender the Unit Certificates, if any, representing such Unitholder's original Units, in exchange for a Unit Certificate representing such Unitholder's post-consolidation Units.

### 3.8 Declaration as to Beneficial Owners and U.S. Taxation Certifications

- (a) Notwithstanding anything herein, if the Tax Act is (or is proposed to be) amended in a manner which places new restrictions on Non-residents beneficially owning Units, the Trustee, upon the recommendation of the Administrator, acting reasonably, may take any action it considers necessary to ensure, to the extent practicable, that the Trust maintains its status as a mutual fund trust.
- (b) The Trustee or Administrator may require any Unitholder as shown on the register of Unitholders to:
  - (i) provide a declaration, in such form as prescribed by the Trustee or Administrator or any applicable Governing Authority, as to the Beneficial Unitholder owning Units in such Unitholder's name, the jurisdiction in which such beneficial owner is resident for Canadian or United States income tax purposes, and such other related information as may be reasonably required; and
  - (ii) upon request of the Trustee or Administrator, furnish a Taxation Certification, and use reasonable efforts to obtain Taxation Certifications from each Beneficial Unitholder beneficially owning Units registered or held in such Unitholder's name, and the Unitholders and Beneficial Unitholders shall comply with any such request.
- (c) The Administrator (or any delegate thereof) may (at the expense of the Trust), at any time and from time to time, take all such actions as it determines in its discretion are reasonable and practicable in the circumstances in order to ensure that the Trust maintains, at all times, its status as a mutual fund trust, including:

- (i) obtaining declarations from Unitholders, Beneficial Unitholders and holders of Other Trust Securities as to whether such securities held thereby are held by or for the benefit of Non-residents, or declarations from Unitholders, Beneficial Unitholders or holders of Other Trust Securities as to the jurisdictions in which beneficial owners of such securities of the Trust are resident for Canadian income tax purposes;
- (ii) performing residency searches of securityholder and beneficial holder mailing address lists to determine or estimate, to the extent practicable, the residence for Canadian income tax purposes of Beneficial Unitholders and holders of Other Trust Securities; and
- (iii) placing such limits on the ownership of securities of the Trust by Non-residents, as the Administrator may deem necessary in its discretion to maintain the Trust's status as a mutual fund trust.

### 3.9 Unit Certificates and Direct Registration of Ownership

Each holder of Units shall be entitled to be directly registered as a Unitholder on the register of Unitholders maintained by the Transfer Agent, which registration shall be evidenced by, at the election of the Administrator, a Unit Certificate or a direct registration statement representing such Units.

### 3.10 Global Unit Certificate and Non-Certificated Inventory System

Subject to the rights of Unitholders set out in Section 3.9, Units will be represented electronically through the NCI System or in the form of one or more Global Unit Certificates representing, in aggregate, the number of Units so issued. Each such interest in a Unit shall be transferred either electronically through the NCI System or by a Global Unit Certificate in the name of, and deposited by the Transfer Agent with, or on behalf of, CDS or DTC (or a nominee thereof) (each, a "Depository"), and shall be registered by the Transfer Agent in the name of the applicable Depository. Beneficial interests in a Unit recorded through the NCI System or represented by a Global Unit Certificate will be represented only through the Book-Entry System. Transfers of Units between Depository Participants shall occur in accordance with the applicable Depository's rules and procedures.

Notwithstanding anything to the contrary set out herein, all physical Unit Certificates or Global Unit Certificates issued to a Depository may be surrendered to the Transfer Agent for an electronic position on the register of Unitholders to be maintained by the Transfer Agent in accordance with Section 3.18. All Units maintained in such electronic position will be valid and binding obligations of the Trust, entitling the registered holders thereof to the same benefits as those registered holders who hold Units in physical form. This Indenture and the provisions contained herein will apply, *mutatis mutandis*, to such Units held in such electronic position.

Notwithstanding anything to the contrary set out herein, the Trustee, the Administrator or the Transfer Agent may adopt such policies and procedures and require such documents and evidence as they may determine necessary or desirable in order to facilitate the adoption and maintenance of a Unit registration system by electronic, book-based or other non-certificated means.

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

All references herein to actions by, notices given or payments made to, Unitholders shall, in the case of Unitholders where such Units are held through a Depository, refer to actions taken by, or notices given or

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

### 3.12 Termination of Book-Entry System

If any Depository resigns or is removed from its responsibilities as Depository and the Trust is unable or does not wish to locate a qualified successor, or if either of the Administrator or the Trust elects, or is required by law, to terminate the Book-Entry System with respect to the Units, or if Unitholders representing more than 66% of the aggregate votes entitled to be voted at a meeting of Unitholders vote to discontinue the Book-Entry System, each resigning or removed Depository shall electronically deliver such Units through the NCI System, or surrender each Global Unit Certificate, to the Transfer Agent with instructions from the applicable Depository for registration of such Units in the names and in the amounts specified by such Depository and thereupon the Trustee shall issue, and the Trustee and Transfer Agent shall execute and deliver, definitive Unit Certificates or direct registration statements in the names and amounts specified by such Depository.

### 3.13 Unit Certificates for Jointly or Commonly Held Units

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

### 3.14 Execution of Unit Certificates

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



### 3.15 Certificate Fee

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

### 3.16 Form of Unit Certificate

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

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

- (a) the name of the Trust and the words "A trust created under the laws of the Province of Alberta by a Trust Indenture dated as of January 31, 2012, as amended or amended and restated from time to time (the "Trust Indenture")" or words of like effect;
- (b) the words "The Units represented by this certificate are issued upon the terms and subject to the conditions of the Trust Indenture, which Trust Indenture is binding upon all holders of Units and, by acceptance of this certificate, the holder assents to the terms and conditions of the Trust Indenture. A copy of the Trust Indenture pursuant to which this certificate and the Units represented thereby are issued may be obtained by a Unitholder on demand and without fee from the head office of the Trust" or words of like effect; and
- (c) the words "For information as to the personal liability of a Unitholder, see the reverse side of this certificate" or words of like effect.

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

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

For greater certainty, any statement of registration issued in connection with a non-certificated ownership position in Units shall carry a notation that substantially reproduces the language to be included on a Unit Certificate as provided for in this Section 3.16.

### 3.17 Fractional Units

If, as a result of any act of the Trustee hereunder, any person becomes entitled to a fraction of a Unit, such person shall not be entitled to receive a Unit Certificate therefor. Fractional Units shall not, except to the

extent that they may represent in the aggregate one or more whole Units held by the same holder, entitle the holders thereof to notice of, or to attend or to vote at, meetings of Unitholders. Subject to the foregoing, such fractional Units shall have attached thereto the rights, restrictions, conditions and limitations attaching to whole Units in the proportion that they bear to a whole Unit.

### 3.18 Unit Register and Transfer Ledgers to be Maintained

A register (the "Register" and where more than one, the "Registers") shall be kept by, or on behalf and under the direction of, the Trustee, and each Register shall contain the names and addresses of Unitholders, the respective numbers of Units held by such Unitholders, the certificate numbers of the Unit Certificates held by them (if a Unit Certificate was issued evidencing such position), and a record of all transfers and redemptions thereof.

A Transfer Agent shall be appointed to act as transfer agent and registrar for the Units and to provide for the transfer of Units in Alberta and at such other places in Canada or the United States as required by Applicable Laws and the Trustee may request and the Transfer Agent has offices. The Trustee shall designate which branch registers will be maintained, if any. The Trustee may, in its discretion, remove and replace the Transfer Agent for the Units.

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

### 3.19 Entry on Register

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

### 3.20 Transfer of Units

Subject to any limitations adopted pursuant to Section 3.8(c)(iii), Units shall be transferable at any time and from time to time by the Unitholder, including through applicable Depository Participants while such Units are held through the Book-Entry System. Subject to any limitations adopted pursuant to Section 3.8(c)(iii), Units represented by a Unit Certificate (in the event of the termination of the Book-Entry System or otherwise) shall be transferable at any time and from time to time by the Unitholder by endorsement and delivery of the Unit Certificates representing such Units or, if not represented by a Unit Certificate, by executing and delivering such other documents as are required to give effect to the transfer of Units held in non-certificated form, in each case subject to such provisions and conditions as may be prescribed by the Trustee from time to time. No such transfer shall be recorded on the Registers unless the transferor has executed the instrument of transfer required to be completed by it, the transferor has satisfied any requirements of the Administrator pertaining to removal of legends or endorsements (if any), and, where applicable, the transferee has delivered to the Transfer Agent a Unit Certificate representing the Units so transferred and, if requested by the Trustee, a declaration as to residency status under the Tax Act and any applicable tax convention in a form satisfactory to the Trustee. Subject to the foregoing, such transfers shall be recorded on the Registers and, where applicable, a new Unit Certificate for the Units so transferred shall be issued to the transferee and, in case of a transfer of only part of the Units

represented by any Unit Certificate, a new Unit Certificate for the remaining Units shall be issued to the transferor.

### 3.21 Successors in Interest to Unitholders

Subject to any limitations adopted pursuant to Section 3.8(c)(iii), upon a person becoming entitled to any Units as a consequence of the death, bankruptcy or incapacity of any Unitholder or otherwise by operation of law, and upon production by such person of such documentation as the Trustee may reasonably require in order to evidence such entitlement of such person, such person shall be recorded in the Registers as the holder of such Units and shall receive (but subject first to the Book-Entry System not being applicable to, or having been terminated in respect of, such Units), a new Unit Certificate or direct registration statement therefor upon production of evidence of such entitlement satisfactory to the Trustee and delivery of the existing Unit Certificate, if applicable, to the Transfer Agent, but until such record is made, the Unitholder of record shall continue to be and be deemed to be the holder of such Units for all purposes whether or not the Trust, the Trustee, the Administrator or the Transfer Agent shall have actual or other notice of such death, bankruptcy, incapacity or other event.

### 3.22 Units Held Jointly or in Fiduciary Capacity

The Trust may treat two or more persons holding any Unit as joint owners of the entire interest therein unless the ownership is expressly otherwise recorded on the Registers, but no entry shall be made in the Registers or on any Unit Certificate that any person is in any other manner entitled to any future, limited or contingent interest in any Unit; provided, however, that any person recorded in the Registers as a Unitholder may, subject to the provisions herein contained, be described in the Registers or on any Unit Certificate as a fiduciary of any kind and any customary words may be added to the description of the holder to identify the nature of such fiduciary relationship; provided further that none of the Trust, the Trustee, the Administrator or the Transfer Agent shall be required to recognize a person as having any interest in the Unit, other than the person recorded in the Registers as the holder of such Unit.

### 3.23 Performance of Trusts

None of the Trustee, the Administrator, the Unitholders, the Transfer Agent or other agent of the Trust shall have a duty to inquire into any claim that a transfer of a Unit was or would be wrongful or that a particular adverse person is the owner of or, subject to Section 3.28, has an interest in the Unit or any other adverse claim, or be bound to see to or ensure the performance of any trust, express, implied or constructive, or of any charge, pledge or equity to which any of the Units or any interest therein are or may be subject, or to ascertain or inquire whether any sale or transfer of any such Units or interest therein by any Unitholder or their personal representatives is authorized by such trust, charge, pledge or equity, or to recognize any person as having any interest therein, except for the person recorded as Unitholder of such Unit.

### 3.24 Lost Unit Certificates

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

from an insurer or insurers a blanket lost certificate security bond or bonds in respect of the replacement of lost, stolen, destroyed or mutilated Unit Certificates. The Trust shall pay all premiums and other sums of money payable for such purpose out of the property of the Trust with such contribution, if any, by those insured as may be determined by the Trustee or the Transfer Agent in their discretion. If such blanket lost certificate security bond is acquired, the Trustee may authorize and direct (upon such terms and conditions as it may from time to time impose) the Transfer Agent, or others to whom the indemnity of such bond extends, to take such action to replace such lost, stolen, destroyed or mutilated Unit Certificates without further action or approval by the Trustee.

### 3.25 Death of Unitholders

The death of a Unitholder during the continuance of the Trust shall not terminate the Trust or any of the mutual or respective rights and obligations created by or arising under this Indenture or give the personal representatives or the heirs of the estate of the deceased Unitholder a right to an accounting or to take any action in the courts or otherwise against other Unitholders or the Trustee, the Administrator or the Trust Property, but shall only entitle the personal representatives or the heirs of the estate or succession of the deceased Unitholder, in accordance and upon compliance with the provisions of Section 3.21, to succeed to all rights of the deceased Unitholder under this Trust Indenture.

### 3.26 Unclaimed Payments

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

### 3.27 Repurchase of Securities

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

3.28 Take-Over Bids

- (a) If there is a take-over bid for all of the outstanding Units and, within 120 days after the date of such take-over bid, the bid is accepted by holders holding not less than 90% of the Units (collectively, such Units subject to the bid are herein referred to as the "Bid Units"), other than Bid Units held by or on behalf of, or issuable to, the offeror or an affiliate or associate of the offeror on the date of the take-over-bid, the offeror is entitled, on complying with this Section 3.28, to acquire the Bid Units held by the non-tendering offerees.
- (b) An offeror may acquire Bid Units held by a non-tendering offeree by sending by registered mail within 60 days after the date of termination of the take-over bid and in any event within 180 days after the date of the take-over bid, an offeror's notice to each non-tendering offeree stating that:
  - (i) offerees holding not less than 90% of the Bid Units accepted the take-over bid;
  - (ii) the offeror has taken up and paid for the Bid Units of the offerees who accepted the takeover bid;
  - (iii) a non-tendering offeree is required to transfer his Bid Units to the offeror on the terms on which the offeror acquired the Bid Units of the offerees who accepted the take-over bid; and
  - (iv) a non-tendering offeree who is a Unitholder and who does not transfer his Bid Units within 20 days after it receives the offeror's notice hereunder is deemed to have elected to transfer, and to have transferred, his Bid Units on the same terms that the offeror acquired Bid Units from the offerees who accepted the take-over bid.
- (c) Concurrent with sending the offeror's notice under subsection 3.28(b), the offeror shall send to the Trust a notice of adverse claim disclosing the name and address of the offeror and the name of the non-tendering offeree with respect to each Bid Unit held by a non-tendering offeree.
- (d) A non-tendering offeree to whom an offeror's notice is sent under subsection 3.28(b) shall, within 20 days after it receives that notice, send its Bid Units, or cause same to be sent, to the Trust.
- (e) Within 20 days after the offeror sends an offeror's notice under subsection 3.28(b), the offeror shall pay or transfer to the Trust the amount of money or other consideration that the offeror would have had to pay or transfer to a non-tendering offeree if the non-tendering offeree had tendered under the take-over bid.
- (f) The Trust is deemed to hold on behalf of the non-tendering offeree the money or other consideration it receives under subsection 3.28(e), and the Trust shall deposit the money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation (or any successor thereof), and shall place the other consideration in the custody of a bank or such other body corporate. No such monies or other consideration shall form any part of the Trust Property.

- (g) If the money or other consideration is deposited with the Trust as required by subsection 3.28(f) above, then:
- (i) with respect to each of those non-tendering offerees who have complied with subsection 3.28(d), Bid Units held by a non-tendering offeree shall be deemed to be cancelled and the Trust shall, without delay upon being satisfied that the Bid Units have been received by or transferred to the Trust in accordance with subsection 3.28(d), send to such non-tendering offeree the portion of the money or other consideration deposited with the Trust as required by subsection 3.28(e) above and to which such non-tendering offeree is entitled, and
  - (ii) with respect to each of those non-tendering offerees who have not complied with subsection 3.28(d), send to each such non-tendering offeree a notice stating that:
    - (A) his or her Bid Units have been transferred to the offeror;
    - (B) the Trustee or some other person designated in such notice are holding in trust the consideration for such Bid Units; and
    - (C) the Trustee, or such other person, will send the consideration to such non-tendering offeree as soon as practicable after receiving such non-tendering offeree's Bid Units, together with such other documents as the Trustee or such other person may require;

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

- (h) The provisions of subsections 3.28(a) to (g) shall apply *mutatis mutandis* to an offer to acquire any class of Other Trust Securities that are convertible into or exchangeable for Units.

### 3.29 Power of Attorney

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

- (a) this Trust Indenture and any other instrument required or desirable to qualify, continue and keep in good standing the Trust as a mutual fund trust in all jurisdictions that the Trustee deems appropriate and to ensure that the Trust is not a SIFT trust in all jurisdictions that the Trustee deems appropriate;
- (b) any instrument, deed, agreement or document in connection with carrying on the affairs of the Trust as authorized in this Trust Indenture, including all conveyances, transfers and other documents required to facilitate any sale of Units or in connection with any disposition of Units required by the Trust Indenture;

- (c) all conveyances, transfers and other documents required in connection with the dissolution, liquidation or termination of the Trust in accordance with the terms of this Trust Indenture;
- (d) any and all elections, determinations or designations whether jointly with third parties or otherwise, under the Tax Act or any other taxation or other legislation or similar laws of Canada or of any other jurisdiction in respect of the affairs of the Trust or of a Unitholder's interest in the Trust;
- (e) any instrument, certificate and other documents necessary or appropriate to reflect and give effect to any amendment to this Trust Indenture which is authorized from time to time as contemplated by Article 9; and
- (f) all transfers, conveyances and other documents required to facilitate the acquisition of Bid Units or Other Trust Securities of non-tendering offerees pursuant to Section 3.28.

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

#### ARTICLE 4 PURPOSE AND INVESTMENTS OF THE TRUST

##### 4.1 Purpose of the Trust

The Trust is a limited purpose trust and the undertaking of the Trust is restricted to investing its funds in property (other than real property or an interest in real property or an immovable or a real right in an immovable) which is not non-portfolio property. The Trust is also subject to the restrictions set out in Section 4.3. Subject to the foregoing, the Trust may:

- (a) acquire, hold, transfer, dispose of, invest in, and otherwise deal with assets, securities (whether debt or equity) and other interests or properties of whatever nature or kind including securities: (i) of, or issued by, Can Holdco or any associate or affiliate thereof, or any other business entity in which Can Holdco has an interest, direct or indirect; or (ii) of, or issued by any other person involved, directly or indirectly, in the business of, or the ownership, lease or operation of assets or property in connection with energy related businesses;
- (b) temporarily hold cash and other investments in connection with, and for the purposes of, the Trust's activities, including paying liabilities of the Trust (including administration

and trust expenses), paying any amounts required in connection with the redemption of Units, and making distributions to Unitholders;

- (c) dispose of any part of the Trust Property or mortgage, pledge, charge, grant a security interest in or otherwise encumber all or any part of the Trust Property;
- (d) issue Units and Other Trust Securities for the purposes of: (i) conducting, or facilitating the conduct of, the activities and undertaking of the Trust (including for the purpose of raising funds for acquisitions); (ii) repayment of any indebtedness or borrowings of the Trust or any affiliate thereof; (iii) establishing and implementing Unitholder rights plans, distribution reinvestment plans, Unit purchase plans, and Compensation Plans of the Trust, if any; (iv) satisfying obligations to deliver securities of the Trust, including Units, pursuant to the terms of securities convertible into or exchangeable for such securities of the Trust, whether or not such convertible or exchangeable securities have been issued by the Trust; (v) carrying out any of the transactions contemplated by the Prospectus and satisfying all obligations in connection with such transactions; and (vi) making non-cash distributions to Unitholders, including *in specie* redemptions;
- (e) repurchase, redeem or otherwise acquire Units or Other Trust Securities, including pursuant to any issuer bid made by the Trust, subject to the provisions of this Trust Indenture and Applicable Laws;
- (f) guarantee any obligations or liabilities, present or future, direct or indirect, absolute or contingent, whether matured or not, of any person for, or in pursuit of, any of the purposes set forth in this Section 4.1, and pledge securities and other property of the Trust as security for any obligations of the Trust, including obligations under any such guarantees;
- (g) carry out any of the transactions, and enter into and exercise and perform any of the rights and obligations of the Trust under any agreements, contemplated by the Prospectus or in connection with pursuing the permitted activities and purposes of the Trust hereunder;
- (h) borrow funds and issue debt securities, provided recourse shall be limited to the Trust Property, including entering into hedges for purposes of managing the Trust's exposure to commodity prices, foreign exchange or interest rates, at any time and from time to time, for any of the purposes set forth in this Section 4.1;
- (i) enter into and perform its obligations under the Voting Agreement; and
- (j) engage in all activities ancillary or incidental to any of those activities set forth in subsections 4.1(a) through (i) above.

#### 4.2 Investments

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



#### 4.3 Investment Restrictions

- (a) The Trustee shall ensure that the Trust:
- (i) complies at all times with the requirements of subsections 132(6) and (7) of the Tax Act;
  - (ii) does not take any action, or acquire or retain any investment, that would result in the Trust not being considered a mutual fund trust;
  - (iii) does not take any action, or acquire, retain or hold any investment in any entity or other property that would result in the Trust being a SIFT trust; and
  - (iv) does not hold any non-portfolio property.
- (b) The Trustee may consult with and receive direction from the Administrator with respect to any investment or activity to ensure compliance with the foregoing subsection 4.3(a) and may, prior to any investment or activity, request that the Administrator obtain an opinion of Counsel confirming that the investment or activity will not: (i) affect the Trust's status as a mutual fund trust; (ii) affect the Trust's ability to comply with the provisions of subsection 132(7) of the Tax Act; or (iii) constitute an investment in non-portfolio property.

### ARTICLE 5 DISTRIBUTIONS

#### 5.1 Distributable Cash Flow

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

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

- (a) "Income of the Trust" for any taxation year shall be determined in accordance with the provisions of the Tax Act (other than paragraph 82(1)(b) and subsection 104(6) thereof) regarding the calculation of income for tax purposes and on the basis that all amounts available for deduction in the period will be deducted, provided, however, that capital gains or capital losses (other than business investment losses) shall be excluded.
- (b) The "Net Realized Capital Gains" of the Trust for any year shall equal the amount, if any, by which the capital gains realized by the Trust in the year exceeds the aggregate of: (i) the capital losses incurred by the Trust in the year; and (ii) the amount of any net capital losses for prior taxation years which the Trust is permitted by the Tax Act to deduct in computing the taxable income of the Trust for the year.
- (c) Notwithstanding subsections 5.2(a) and (b), Income of the Trust and Net Realized Capital Gains shall not include any income ("Redemption Income") or capital gains ("Redemption Gains"), respectively, which are realized by, or allocated to, the Trust, in accordance with the Tax Act, in connection with a distribution of Trust Property to a Unitholder pursuant to an *in specie* redemption of the Unitholder's Units under Section 6.6.

5.3 Regular Distributions

- (a) Unitholders shall be entitled to receive non-cumulative distributions if, as and when declared by the Trustee in accordance with the provisions of this Section 5.3.
- (b) The Trustee, on behalf of the Trust, in respect of each Distribution Period, shall declare payable to Unitholders of record as at the close of business on the Distribution Record Date for such Distribution Period, all, any part or none of the Distributable Cash Flow for such Distribution Period.
- (c) Each Unit issued and outstanding on the Distribution Record Date for a particular Distribution Period shall be entitled, without preference or priority, to an equal share of the amount of the Distributable Cash Flow which is declared payable to Unitholders pursuant to subsection 5.3(b) above for such particular Distribution Period, which share shall be determined by dividing the amount of such Distributable Cash Flow declared payable by the number of issued and outstanding Units on such Distribution Record Date (the "Distribution Per Unit"). The share of such Distributable Cash Flow distributable to a particular Unitholder shall be an amount equal to the Distribution Per Unit multiplied by the number of Units owned of record by such Unitholder on such Distribution Record Date.
- (d) Subject to Section 5.8, any distributions which have been declared to be payable to Unitholders in respect of a Distribution Period shall be paid in cash on the Distribution Payment Date which immediately follows the Distribution Record Date for such Distribution Period.

5.4 Other Distributions

- (a) In addition to the distributions which are payable to Unitholders pursuant to Section 5.3, the Trustee may, in its discretion, declare to be payable and make distributions to Unitholders, from time to time, whether out of Income of the Trust, Net Realized Capital Gains, the capital of the Trust or otherwise, in any year, in such amount or amounts, and on such dates as the Trustee may determine.
- (b) To ensure the allocation and distribution to Unitholders of all of the Income of the Trust, Net Realized Capital Gains and any other applicable amounts so that the Trust will not have any liability for tax under Part I of the Tax Act in any taxation year, the following amounts will, without any further actions on the part of the Trustee, be due and payable to Unitholders of record immediately before the end of December 31 in each taxation year:
  - (i) the amount of Income of the Trust and Redemption Income for such taxation year not previously paid or made payable to Unitholders in such year, less the amount of any "non-capital losses" as defined in the Tax Act of the Trust that may be deducted in computing the taxable income of the Trust for such year; and
  - (ii) the amount of Net Realized Capital Gains and Redemption Gains for such taxation year not previously paid or made payable to Unitholders in such year, except to the extent of: (i) Net Realized Capital Gains that would not be subject to tax in the Trust by reason of the deduction of any loss of the Trust in such year or any "net capital losses" or "non-capital losses" as defined in the Tax Act of the

Trust that may be deducted in computing the taxable income of the Trust for such year; and (ii) Net Realized Capital Gains in respect of which the tax payable by the Trust would be refunded as a "capital gains refund" as defined in the Tax Act for such year,

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

- (c) Each Unit's proportionate share of the amount of any distribution made pursuant to either or both of subsections 5.4(a) or (b) shall be determined by dividing the amount of such distribution by the number of issued and outstanding Units as at the close of business on the applicable Distribution Record Date in respect of a distribution pursuant to subsection 5.4(a) and as of immediately before the end of December 31 in respect of a distribution pursuant to subsection 5.4(b). The share of the amount of any such distribution distributable to a particular Unitholder shall be an amount equal to each Unit's proportionate share of such amount multiplied by the number of Units owned of record by such particular Unitholder on such applicable Distribution Record Date or December 31 in the year of such distribution, as the case may be. Subject to Section 5.8, amounts which have been declared to be payable to Unitholders pursuant to subsection 5.4(a) shall be paid in cash on the Distribution Payment Date which immediately follows the applicable Distribution Record Date in respect of a distribution pursuant to subsection 5.4(a) and amounts which are to be distributed pursuant to subsection 5.4(b) shall be payable on December 31 in such year and shall be paid forthwith and in no event later than January 30 of the following year.
- (d) In addition to the distributions which are made payable to Unitholders otherwise hereunder, the Trustee shall allocate any Redemption Income and Redemption Gains realized by, or allocated to, the Trust in connection with the redemption of Units of a particular Unitholder, to that Unitholder, so that an amount equal to such Redemption Income and Redemption Gains shall be allocated to and shall be treated as an amount paid to the redeeming Unitholder. In addition, one-half (or any other proportion that may be provided for from time to time under section 38 of the Tax Act) of such Redemption Gains shall be designated as taxable capital gains of that Unitholder under subsection 104(21) of the Tax Act, and any portion of the Redemption Income and Redemption Gains in respect of that Unitholder as may be income from a source in a country other than Canada, within the meaning of subsection 104(22) of the Tax Act, shall be designated as that Unitholder's income from that source in accordance with that subsection.

### 5.5 Character of Distribution

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

#### 5.6 Designation of Taxable Capital Gains and Other Amounts

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

#### 5.7 Enforceability of Right to Receive Distributions

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

#### 5.8 Method of Payment of Distributions

- (a) The Trust shall make payment, in cash, of distributions which have been declared to be payable pursuant to this Article, provided that where the Administrator determines that the Trust does not have cash in an amount sufficient to make payment of the full amount of any distribution which has been declared to be payable pursuant to this Article on the due date for such payment, the payment may, at the option of the Administrator, include the issuance of additional Units, or fractions of Units, if necessary, having an aggregate value equal to the difference between the amount of the distribution in question and the amount of cash which has been determined by the Administrator to be available for the payment of such distribution.
- (b) The value of each Unit which is issued pursuant to subsection 5.8(a) shall be deemed to be the "market price" (as defined in Section 6.3) of a Unit on the applicable Distribution Record Date in respect of a distribution pursuant to Section 5.3, on the applicable Distribution Record Date in respect of a distribution pursuant to subsection 5.4(a), or on December 31 in respect of a distribution under subsection 5.4(b), provided that if the particular date is not a Business Day then the "market price" (as defined in Section 6.3) shall be determined on the last Business Day which precedes such particular date.

#### 5.9 Withholding Taxes

The Trustee shall deduct or withhold from payments and distributions (including in respect of any redemptions) payable to any Unitholder all amounts required by Applicable Laws to be withheld from such payment or distribution, whether such payment or distribution is in the form of cash, additional Units or otherwise. To the extent that amounts are so deducted or withheld, such amounts shall be treated for all purposes as having been paid to the Unitholder in respect of which such deduction and withholding was made. In the event of a distribution in the form of additional Units, the Trustee shall sell all or a portion of the additional Units otherwise to be distributed to a Unitholder and the proceeds from such sale (less the Trustee's reasonable expenses) shall firstly be used to satisfy the Trust's withholding obligations under the Tax Act and shall be remitted to the appropriate taxation authority. The balance, if any, remaining shall be paid to such Unitholder. Any such sale shall be made on any stock exchange on which the Units are then listed and upon that sale, the affected Unitholder shall cease to be the holder of those Units. No liability shall accrue to the Trust, the Trustee or the Administrator if Units or other assets sold or disposed of pursuant to this Section 5.9 are sold at a loss to such affected Unitholder or the Beneficial Unitholder of such Units or if Units or other assets so sold or disposed of are sold or disposed of for an amount which may be less than might otherwise have been obtained if sold or disposed of at a different

point in time or in different circumstances. For greater certainty, for purposes of all transactions that may be required with respect to this Section 5.9, the Trustee shall have the power of attorney of the Unitholder in accordance with the provisions of Section 3.29 and the provisions of Sections 3.27 and 6.4 shall also apply *mutatis mutandis* in this regard.

#### 5.10 Unit Plans

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

### ARTICLE 6 REDEMPTION

#### 6.1 Right of Redemption by Unitholders

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

#### 6.2 Exercise of Redemption Right

- (a) To exercise a Unitholder's right to require redemption of Units under this Article 6, a duly completed and properly executed notice requiring the Trust to redeem Units, in a form reasonably acceptable to the Trustee, shall be sent to the Trust at the head office of the Trust and to CDS or DTC, as applicable, (if the Units are held through the Book-Entry System), together with written instructions as to the number of Units to be redeemed and together with any Unit Certificate or Unit Certificates representing the Units to be redeemed (other than a Global Unit Certificate). No form or manner of completion or execution of such notice and other documents shall be sufficient unless the same is in all respects satisfactory to the Trustee and is accompanied by any further evidence that the Trustee may reasonably require with respect to the identity, capacity or authority of the person giving such notice.
- (b) Upon the tender of Units of a Unitholder for redemption, the Unitholder shall thereafter cease to have any rights with respect to the Units tendered for redemption (including no right to receive distributions in respect of Units where such distributions are declared payable to Unitholders of record on a date which is on or subsequent to the date upon which the Units of the Unitholder have been tendered for redemption), other than the right to receive the Cash Redemption Price or *in Specie* Redemption Price therefor, as the case may be, and the right to receive any distributions thereon which have been declared payable to Unitholders of record on a date which is prior to the date upon which the Units of the Unitholder have been tendered for redemption. Units shall be considered to be tendered for redemption on the date (the "Redemption Date") the Trust has, to the satisfaction of the Trustee, received the notice, Unit Certificates, if any, the written instructions as to the number of Units to be redeemed and all other required documents or evidence as aforesaid.

### 6.3 Cash Redemption Price

Subject to Section 6.5, upon the tendering for redemption of Units in accordance with Section 6.2, the holder of the Units tendered for redemption shall be entitled to receive a price per Unit (hereinafter called the "Cash Redemption Price") equal to the lesser of:

- (a) 90% of the "market price" of a Unit on the principal stock exchange on which the Units are listed (or, if the Units are not listed on any such exchange, on the principal market on which the Units are quoted for trading) during the period of the last ten (10) consecutive trading days ending immediately prior to the Redemption Date; and
- (b) 100% of the "closing market price" of a Unit on the principal stock exchange on which the Units are listed (or, if the Units are not listed on any such exchange, on the principal market on which the Units are quoted for trading) on the Redemption Date.

For the purposes of this Indenture, the "market price" of a Unit shall be: (a) an amount equal to the volume weighted average trading price of a Unit for each of the ten (10) consecutive trading days preceding the date of determination; (b) if the applicable exchange or market does not provide information necessary to compute a volume weighted average trading price, an amount equal to the volume weighted average of the closing prices of a Unit for each of the ten (10) consecutive trading days on which there was a closing price; provided that if the applicable exchange or market does not provide a closing price, but only provides the highest and lowest prices of the Units traded on a particular day, the "market price" shall be an amount equal to the volume weighted average of the average of the highest and lowest prices for each of the ten (10) consecutive trading days on which there was a trade; and (c) if there was trading on the applicable exchange or market for fewer than five (5) of the ten (10) consecutive trading days, the "market price" shall be the volume weighted average of the following prices established for each of the ten (10) consecutive trading days: (i) the average of the last bid and last asking prices for each day on which there was no trading; (ii) the closing price of the Units for each day that there was trading if the exchange or market provides a closing price; and (iii) the average of the highest and lowest prices of the Units for each day that there was trading, if the exchange or market provides only the highest and lowest prices of Units traded on a particular day.

For the purposes of this Indenture, "closing market price" shall be: (a) an amount equal to the volume weighted average trading price of a Unit on the Redemption Date, if the applicable exchange or market provides information necessary to compute a volume weighted average trading price on such date; (b) an amount equal to the closing price of a Unit if there was a trade on the Redemption Date, and the exchange or market provides only a closing price; (c) an amount equal to the simple average of the highest and lowest trading prices of Units if there was trading on the Redemption Date and the exchange or other market provides only the highest and lowest trading prices of Units traded on a particular day; or (d) the simple average of the last bid and last ask prices of the Units if there was no trading on the Redemption Date.

For the purposes hereof, the principal exchange or principal market on which Units are listed or quoted for trading shall be the exchange or market on which the greatest volume of Units were traded during the relevant period or, if such is not determinable, the exchange or market designated by the Administrator in its discretion. If the principal exchange or market on which the Units are listed or quoted for trading was not open for trading on the Redemption Date, then the reference date shall be the last day on which such principal exchange or market was open for trading.

#### 6.4 Payment of Cash Redemption Price

Subject to Section 6.5, the Cash Redemption Price payable in respect of the Units tendered for redemption during any month shall be paid by cheque, drawn on a Canadian chartered bank or trust company in lawful money of Canada, payable to, or to the order of, the Unitholder who exercised the right of redemption, on or before the fifth Business Day after the end of the calendar month following the calendar month in which the Units were tendered for redemption. Payments made by the Trust of the Cash Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former Unitholder at its last address appearing on the Registers unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder in respect of the Units so redeemed, except with respect to any outstanding payments in respect of such Units pertaining to distributions declared payable thereon to such former Unitholder while still a Unitholder of record on a date which was prior to the Redemption Date (as defined in section 6.2) upon which such Units were tendered for redemption.

#### 6.5 No Cash Redemption in Certain Circumstances

Section 6.4 shall not be applicable to Units tendered for redemption by a Unitholder if:

- (a) the total amount payable by the Trust pursuant to Section 6.3 in respect of such Units and all other Units tendered for redemption in the same calendar month exceeds \$100,000; provided that the Trustee may, in its discretion, waive such limitation in respect of Units tendered for redemption in any calendar month;
- (b) at the time such Units are tendered for redemption, the outstanding Units are not listed for trading on the Toronto Stock Exchange and are not traded or quoted on any other stock exchange or market which the Trustee considers, in its discretion, provides representative fair market value prices for the Units;
- (c) the normal trading of the outstanding Units is suspended or halted on any stock exchange on which the Units are listed for trading or, if not so listed, on any market on which the Units are quoted for trading, on the Redemption Date or for more than five trading days during the ten consecutive trading-day period immediately prior to the Redemption Date; or
- (d) the Trust or any affiliate thereof is, or after such redemption would be, in default under any of the Credit Facilities.

#### 6.6 In Specie Redemption

- (a) If, pursuant to Section 6.5, Section 6.4 is not applicable to Units tendered for redemption by a Unitholder, then such Unitholder shall be entitled to receive, instead of the Cash Redemption Price per Unit specified in Section 6.3, a price per Unit (hereinafter called the "*In Specie Redemption Price*") equal to the fair market value of a 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 by way of a distribution *in specie* of Trust Property (other than Can Holdco Shares, US Opco Notes or any other securities or property of US Opco except as made in compliance with applicable United States federal and state securities laws) as determined in the discretion of the Trustee. To the extent that the Trust does not hold Trust Property (other than Can Holdco Shares, US Opco Notes or other securities or property of US Opco that may not be distributed in

compliance with applicable United States federal and state securities laws), having a sufficient amount outstanding to effect full payment of the *in Specie* Redemption Price the Trust may effect such payment by issuing Redemption Notes, to the Unitholders who exercise the right of redemption, having an aggregate principal amount equal to any such shortfall.

- (b) The *in Specie* Redemption Price payable in respect of Units tendered for redemption during any month shall be paid by the transfer of Trust Property determined as aforesaid, to or to the order of the Unitholder who exercised the right of redemption, on or before the fifth Business Day after the end of the calendar month following the calendar month in which the Units were tendered for redemption. In respect of any Trust Property 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 Property (including on any instruments on which interest is accruing), to and including the date of transfer thereof. Payments by the Trust of the *in Specie* Redemption Price are conclusively deemed to have been made upon the mailing of the documents evidencing ownership of the property so distributed by registered mail in a postage prepaid envelope addressed to the former Unitholder at its last address appearing on the Registers. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder in respect of the Units so redeemed.
- (c) Notwithstanding anything to the contrary contained in this Trust Indenture, if the Trust has, pursuant to Section 4.1, granted security on any of its assets, then such assets may be distributed directly or indirectly (including via another entity) in such manner as is considered appropriate by the Administrator so as to preserve such security interest while giving redeeming Unitholders directly or indirectly the *pro rata* interest they are entitled to.

#### 6.7 Redemption of Units from Non-certifying Unitholders

- (a) At any time after a Unitholder or a Beneficial Unitholder becomes a Non-certifying Unitholder, the Trustee shall have the option, upon notice to the Trustee by the Administrator as provided below, to redeem the Units of such Non-certifying Unitholder as follows:
  - (i) If the Administrator elects to exercise the redemption option under this Section 6.7 with respect to a Non-certifying Unitholder, the Administrator shall, not later than the 30th day before the date fixed for redemption, give written notice of redemption to the Trustee and the Trustee shall send the Non-certifying Unitholder by registered or certified mail, postage prepaid, in the case of a registered Unitholder, at its last address designated on the Registers, or in case of a Beneficial Unitholder who owns Units in the name of a Unitholder, to the last address designated in the Registers of the Unitholder in which the Units of such Non-certifying Unitholder are registered. The notice shall be deemed to have been given when so mailed. The notice shall specify the number of Units being redeemed, the date fixed for redemption, the place of payment, that payment of the redemption price will be made upon surrender of the Unit Certificate or other documentation evidencing such Units being redeemed, and that on and after the date fixed for redemption no further allocations or distributions to which such Non-certifying Unitholder would otherwise be entitled in respect of the Units being redeemed will accrue, be made, or be otherwise payable.



- (ii) The aggregate redemption price for Units shall be the Cash Redemption Price. The Cash Redemption Price shall be paid by cheque, drawn on a Canadian chartered bank or trust company in lawful money of Canada, payable to, or to the order of, the Unitholder whose Units are being redeemed (or the Unitholder in whose name the Units being redeemed are registered in respect of a Beneficial Unitholder), on or before the fifth Business Day after the end of the calendar month following the calendar month in which the notice of redemption was mailed. Payments made by the Trust of the Cash Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former Unitholder (or the Unitholder in whose name the Units being redeemed in respect of a Beneficial Unitholder), at its last address appearing on the Registers unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder (or the Unitholder in whose name the Units being redeemed are registered in respect of a Beneficial Unitholder), in respect of the Units so redeemed, except with respect to any outstanding payments of such Units pertaining to distributions declared payable thereon to such former Unitholder while still a Unitholder of record on a date which was prior to the notice of redemption.
- (iii) Units redeemed in respect of a Non-certifying Unitholder who is a Beneficial Unitholder owning Units in the name of a Unitholder shall be redeemed from the Unitholder owning the Units of record, and if the number of redeemed Units is less than the entire Unit ownership position of the Unitholder of record, the redemption shall be treated as a redemption of Units owned by such Unitholder of record only to the extent of the number of Units beneficially owned by the underlying Non-certifying Unitholder beneficially owning such Units, and the Trustee and the Administrator shall take such actions necessary to effect such partial redemption of Units.
- (iv) Upon surrender by or on behalf of the Non-certifying Unitholder, at the place specified in the notice of redemption, of (A) with respect to any Units subject to redemption, if certificated, the Unit Certificate evidencing the Units being redeemed, duly endorsed in blank or accompanied by an assignment duly executed in blank or (B) with respect to any Units subject to redemption, if uncertificated, upon receipt of evidence satisfactory to the Administrator of the ownership of the Units, such Unitholder or its duly authorized representative shall be entitled to receive the payment therefor.
- (v) After the redemption date, the Units held by or on behalf of such Non-certifying Unitholder shall no longer constitute issued and outstanding Units.
- (vi) At any time prior to the date fixed for redemption as provided in the notice, the Administrator in its sole discretion shall have the right to withdraw and cancel a proposed redemption of Units for which notice has been given pursuant to this Section 6.7 by delivering written notice of such withdrawal and cancellation to the Trustee, whereupon the redemption of such Units notified for redemption pursuant to this Section 6.7 shall be cancelled with the effect of such Units remaining outstanding, and notice of such withdrawal and cancellation shall be sent by the Trustee to the persons receiving such redemption notice at addresses set forth in Section 6.7(a)(i).

- (b) Nothing in this Section 6.7 shall prevent the recipient of a notice of redemption from transferring its Units before the redemption date if such transfer is otherwise permitted under this Indenture. Upon receipt of notice of such a transfer, the Administrator shall instruct the Trustee to withdraw the notice of redemption, provided that the transferee of such Units provides a Taxation Certification to the Administrator and the Trustee within 30 days of such transfer. If the transferee fails to deliver such a Taxation Certification, such redemption shall be effected from the transferee on the original redemption date.

**6.8 Cancellation of Certificates for all Redeemed Units**

All Units redeemed under this Article 6 shall be cancelled (whether such Units were held in certificated or non-certificated form) and such Units shall no longer be outstanding and shall not be reissued.

**ARTICLE 7  
TRUSTEE**

**7.1 Number and Term**

There shall be one Trustee of the Trust. Computershare Trust Company of Canada is hereby appointed as the Trustee on the date hereof. The term of office of the Trustee hereunder 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 resignation of the Trustee in accordance with Section 7.3, the effective date of the removal of the Trustee by the Unitholders in accordance with Section 7.3, or the effective date of the removal of the Trustee by the Administrator in accordance with Section 7.3.

**7.2 Qualifications of the Trustee**

- (a) The Trustee shall be a body corporate, which shall at all times during which it is the Trustee:
- (i) be incorporated under the laws of Canada or of a province thereof;
  - (ii) be resident in Canada for the purposes of the Tax Act; and
  - (iii) be authorized and registered under the laws of the Province of Alberta to carry on the business of a trust company.

**7.3 Resignation and Removal of the Trustee**

- (a) Subject to Section 7.8, the Trustee may resign from the office of trustee hereunder by giving to the Administrator not less than 90 days' prior written notice of such resignation, unless the Administrator agrees to a shorter period of notice.
- (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 also 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 of the requirements of Section 7.2;

- (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 or refuses to perform its responsibilities under this Trust Indenture, as determined in the discretion of the Administrator.
- (d) No resignation or removal pursuant to subsections 7.3(a), (b) or (c) shall take effect until the date upon which the last of the following occurs: (i) a successor Trustee is appointed or elected pursuant to Section 7.5; and (ii) the new successor Trustee has accepted such election or appointment and has legally and validly assumed all obligations of the trustee hereunder.
- (e) Upon the taking effect of any resignation or removal of the Trustee under the terms of this Section 7.3, the outgoing Trustee shall:
- (i) cease to have rights, privileges, powers and authorities of the Trustee hereunder;
  - (ii) execute and deliver such documents as the Administrator shall reasonably require for the conveyance, to a successor Trustee of any Trust Property held in the outgoing Trustee's name, and provide for or facilitate the transition of the Trust's activities and affairs to such successor Trustee;
  - (iii) account to the Administrator as the Administrator may require for all property, including the Trust Property, which the outgoing Trustee held or then holds as trustee; and
  - (iv) cease to be a party to the Administrative Services Agreement and the Voting 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 such outgoing Trustee as a party to such agreements and to assign its right, title and interest in such agreements to such successor Trustee as may be appointed or elected.
- (f) Upon the outgoing Trustee ceasing to hold office as such hereunder, the outgoing Trustee shall cease to be a party (as the Trustee) to this Trust Indenture provided, however, that such outgoing Trustee shall continue to be entitled to payment of any amounts owing by the Trust to the Trustee which accrued prior to vacating of the office of Trustee; and provided further that such outgoing Trustee and each of its directors, officers, employees and agents shall continue to be entitled, with respect to all liabilities relating to the period of time when the outgoing Trustee held office as trustee hereunder, 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 outgoing Trustee and its directors, officers, employees and agents (as the case may be).
- (g) The resignation or removal of the outgoing Trustee, or the outgoing Trustee otherwise ceasing to be the Trustee, shall not affect any liabilities of the outgoing Trustee in respect

of or in any way arising under or out of this Indenture which have accrued prior to such resignation, removal or termination.

7.4 Vacancies

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

7.5 Appointment/Election of Successor Trustee

- (a) A successor trustee to an outgoing Trustee which has been removed: (i) by an Ordinary Resolution of Unitholders under subsection 7.3(b); or (ii) by the Administrator under subsection 7.3(c) shall be appointed by an Ordinary Resolution at a meeting of Unitholders duly called for that purpose, provided the successor meets the requirements of Section 7.2.
- (b) The Administrator may appoint a successor to any Trustee which has been removed: (i) by an Ordinary Resolution of Unitholders under subsection 7.3(b); or (ii) by the Administrator under subsection 7.3(c), if the Unitholders fail to do so at such meeting contemplated under subsection 7.5(a) above, provided the successor meets the requirements of Section 7.2.
- (c) Subject to Section 7.2, the Administrator may appoint a successor to any Trustee which has given a notice of resignation under subsection 7.3(a) or Section 7.8.
- (d) If no successor Trustee has been appointed or elected within 60 days of: (i) the Trustee's notice of resignation (whether deemed notice or otherwise) under subsection 7.3(a) or Section 7.8; (ii) the approval of the Ordinary Resolution referred to in subsection 7.3(b); or (iii) the giving of notice by the Administrator to remove the Trustee under subsection 7.3(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.
- (e) Notwithstanding anything herein contained, the election or appointment of the Trustee (other than the appointment of Computershare Trust Company of Canada as Trustee upon the execution of this Trust Indenture) shall not become effective unless and until such corporation has, either before or after such election or appointment, executed and delivered to the Trust an acceptance substantially as follows:

"To: Argent Energy Trust (the "Trust")

And to: The Administrator of the Trust

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 Amended and Restated Trust Indenture made as of May 9, 2012, as the same may be amended from time to time, governing the Trust (the "Trust Indenture"), and the undersigned further agrees to act as Trustee of the Trust in accordance with the terms of the Trust Indenture.

Dated:           •,•

Name of Company

[Print Name]

[Signature]"

- (f) 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 corporation shall become the Trustee hereunder and shall be deemed to be a party (as the Trustee) to this Trust Indenture, as amended from time to time.
- (g) An act of any Trustee is valid notwithstanding an irregularity in the election or appointment of such Trustee or a defect in the qualifications thereof.

#### 7.6 Right of Successor Trustee

The rights of the Trustee, subject to the terms hereof, to control and exclusively administer the Trust and to have the title to the Trust Property drawn up in its name and all other rights of the Trustee at law 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 shall vest in the Trustee whether or not conveyancing or transfer documents have been executed and delivered pursuant to Section 7.3 or otherwise.

#### 7.7 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, either directly or indirectly; and
- (c) fair and reasonable remuneration for services rendered to the Trust in any other capacity, which services may include services as the Transfer Agent.

A Trustee shall have a priority over distributions to Unitholders pursuant to Article 5 or Section 11.6 in respect of amounts payable or reimbursable to the Trustee pursuant to this Section 7.7.

#### 7.8 Trustee Not Bound to Act

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

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

## ARTICLE 8 TRUSTEE'S POWERS AND DUTIES

### 8.1 General Powers

- (a) The Trustee, subject only to any specific limitations contained in this Trust Indenture and to any grant of powers to the Administrator contained in this Trust Indenture, shall have, without further or other action or consent, and free from any power or control on the part of the Unitholders, full, absolute and exclusive power, control and authority over the Trust Property and over the affairs of the Trust to the same extent as if the Trustee was the sole and absolute beneficial owner of the Trust Property in its own right, to do all such acts and things as in its discretion are necessary or incidental to, or desirable for, carrying out the trust created hereunder. The Trustee has no obligations to Unitholders beyond those set forth herein, except as may be mandated by law.
- (b) In construing the provisions of this Trust Indenture, presumption shall be in favour of the granted powers and authority to the Trustee. The enumeration of any specific power or authority herein (including pursuant to Section 8.2) shall not be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustee.
- (c) To the maximum extent permitted by law but subject to the express limitations contained in this Indenture, including for greater certainty Sections 4.1 and 4.3, 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 trustees.

### 8.2 Specific Powers and Authorities

Subject only to the express limitations contained in this Trust Indenture, and in addition to any powers and authorities otherwise conferred on the Trustee or the Administrator by this Trust Indenture (including the general powers set forth in Section 8.1) or which the Trustee may have by virtue of any present or future statute or rule of law or in equity, 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 be exercised by it (or delegated by it) as herein provided, in its discretion and in such manner and upon such terms and conditions as it may from time to time deem proper:

- (a) to open, operate and close accounts and other similar credit, deposit and banking arrangements and to negotiate and sign banking and financing contracts and agreements;
- (b) to borrow money and request the issuance of letters of credit upon the credit of the Trust and the Trust Property;
- (c) to temporarily hold cash and other short term investments in connection with and for the purposes of the Trust's activities, including paying management, administration and other

- (p) to invest, hold shares, securities, units, beneficial interests, partnership interests, joint venture interests or other interests in any person necessary or useful to carry out the purpose of the Trust;
- (q) to cause legal title to any of the Trust Property to be held in the name of the Trustee or to be drawn up in the name of the Trustee or, to the extent permitted by Applicable Laws, in the name of the Trust;
- (r) to determine conclusively the allocation to capital, income or other appropriate accounts of all receipts, expenses and disbursements of the Trust;
- (s) to determine, among other things, the amount of Distributable Cash Flow, Income of the Trust and Net Realized Capital Gains for the purposes of distributions hereunder and to arrange for distributions to Unitholders pursuant to Article 5 and for redemptions of Units pursuant to Article 6;
- (t) to enter into any agreement or instrument to create or provide for the issue and sale of Units (including the Prospectus, any firm or best efforts underwriting agreement, and any registration rights agreement), to cause such Units or Other Trust Securities to be issued for such consideration (in cash or property in kind) as the Trustee in its discretion may deem appropriate, and to do all such things and take all such actions to qualify such Units or Other Trust Securities for sale in whatever jurisdictions they will be sold or offered for sale;
- (u) to enter into any agreement or instrument (including any firm or best efforts underwriting agreement, warrant agreement or other similar document) to create or provide for the issue of Other Trust Securities and such agreements or instruments may provide for any matter determined by the Trustee to be necessary or useful including provisions pertaining to securities certificates (form, manner of execution, and certification), maintenance of registers, use of book-based versus certificated system, repurchases, redemptions and transfers;
- (v) to cause Other Trust Securities to be issued and sold for such consideration as the Trustee, in its discretion, may deem appropriate, and to do all such things and take all such actions to qualify such Other Trust Securities for sale in whatever jurisdictions they are to be sold or offered for sale;
- (w) to adopt a Unitholder rights plan for the Trust which plan will be effective as of the date of such adoption if the Trustee determines in good faith that such action is appropriate;
- (x) to issue or provide for the issuance of Units on such terms and conditions and at such time or times as the Trustee may determine, including issuances in accordance with Section 5.8 and issuances in connection with Unitholder rights plans, Compensation Plans, and other plans established under Section 5.10;
- (y) to redeem or repurchase Units in accordance with the terms set forth in this Indenture;
- (z) to make or cause to be made application for the listing or quotation on any stock exchange or market of any Units or Other Trust Securities, and to do all things which in the opinion of the Trustee may be necessary or desirable to effect or maintain such listing or listings or quotation;

- (aa) to determine conclusively the value of any or all of the Trust Property from time to time and, in determining such value, to consider such information and advice as the Trustee in its sole judgment, may deem material and reliable;
- (bb) to possess and exercise all the rights, powers and privileges pertaining to the ownership of any securities held by the Trust ("Subsidiary Securities") 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 with respect to voting Subsidiary Securities, 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;
- (cc) to pay, out of the Trust Property, all reasonable fees, costs and expenses incurred, from time to time, in the management and administration of the Trust, including those in connection with any Offering (including the Seed Capital Private Placement and the IPO);
- (dd) where reasonably required, to engage or employ on behalf of the Trust any persons as administrators, managers, agents, advisors, representatives, employees, independent contractors or subcontractors (including the Administrator, investment advisors, registrars, underwriters, accountants, lawyers, engineers, appraisers, brokers or otherwise) in one or more capacities;
- (ee) to the extent not prohibited by Applicable Laws, to delegate any of the powers and duties of the Trustee to any one or more agents, representatives, officers, employees, independent contractors, subcontractors or other persons (including to the Administrator pursuant to the terms of the Administrative Services Agreement or otherwise) without liability to the Trustee except as provided in this Trust Indenture;
- (ff) to appear and respond to all orders issued by a Governing Authority or claims made by another person, to make all affidavits, sworn declarations and solemn affirmations with respect to such matters, to put in default, sue for and receive all sums of money or obligations due to the Trust, and to 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 Trust Property or the Trust's affairs, to enter into agreements therefor, whether or not any suit or proceeding is commenced or claim asserted and to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- (gg) to arrange for insurance contracts and policies insuring the Trust, the Trust Property, and/or the Trustee or the Unitholders, 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 to have been taken by the Trust, the Trustee, Administrator, Unitholders or otherwise, and to perform all of the obligations of the Trust under such insurance policies and contracts, the whole to the extent permitted by law;
- (hh) to determine the amount and purposes of reserves to be maintained out of the Distributable Cash Flow of the Trust, including for the purpose of undertaking future investments or other acquisitions of assets by the Trust or for payment of distributions;



- (ii) to do all such things and take all such action, and to negotiate, make, execute, acknowledge and deliver any and all deeds, instruments, contracts, waivers, releases or other documents, necessary or useful for the exercise or accomplishment of: (i) any of the powers herein granted to the Trustee; (ii) the purpose of the Trust as set forth in Section 4.1; and (iii) all of the rights and obligations of the Trustee hereunder; including, without limitation, the negotiation and execution of the Administrative Services Agreement and agreements in connection with the Trust's acquisition of Subsidiary Securities, the Seed Capital Private Placement, the IPO and all future Offerings;
- (jj) to postpone and subordinate, in right of payment, all present and future indebtedness, liabilities and obligations of a person owed to the Trust to payment in full of all present and future indebtedness, liabilities and obligations of such person to lenders and other creditors of such person, and to enter into any agreement or instrument to create or provide for such postponement and subordination in favour of such lenders and creditors;
- (kk) to indemnify, out of the Trust Property, any person against any and all liabilities, claims, actions, causes of action, judgments, orders, damages (including foreseeable consequential damages), costs, expenses, fines, penalties and losses (including sums paid by such person in settlement of claims and all reasonable consultant, expert and legal fees and expenses) or any resulting damages, harm or injuries to such person or property of any third parties arising from the investments or activities carried on by the Trust;
- (ll) to provide or cause to be provided to any bank, creditor, financial institution or any other person such guarantees, indemnities, postponements and subordinations, acknowledgements, assurances or other credit support, in any form whatsoever, as the Trustee, in its discretion, deems necessary, useful or desirable in connection with the establishment or arrangement of any and all debt or equity financings of affiliates and associates of the Trust, including any extensions, renewals, refinancings or replacements thereof, and to enter into any agreement, indenture, instrument or other document on such terms and conditions as the Trustee, in its discretion, may deem appropriate in the circumstances in connection with such financings; and
- (mm) to do all such other acts and things as are necessary, useful, incidental or ancillary to the foregoing and to exercise all powers and authorities which are necessary, useful, incidental or ancillary to carry on the affairs of the Trust, to promote any purpose for which the Trust is formed and to carry out the provisions of this Trust Indenture, including, without limitation, the negotiation and execution of the Administrative Services Agreement.

### 8.3 Further Powers of the Trustee

The Trustee shall have the power to prescribe any form of document or other instrument provided for or contemplated by this Trust Indenture and the Trustee may make, adopt, amend, or repeal regulations containing provisions relating to the conduct of the affairs of the Trust not inconsistent with law or with this Trust Indenture (the "Trustee's Regulations"). The Trustee shall also be entitled to make any reasonable decisions, designations or determinations not contrary to this Trust Indenture which it may determine are necessary or desirable in interpreting, applying or administering this Trust Indenture or in administering, managing or operating the Trust. Any Trustee's Regulations, decisions, designations or determinations made pursuant to this Section 8.3 shall be conclusive and binding upon all persons affected thereby. The Trustee shall also have such additional powers as may be approved by the Unitholders by Ordinary Resolution.

#### 8.4 Restrictions on the Trustee's Powers and their Exercise

In addition to any other provisions set forth herein requiring the approval of Unitholders in respect to certain matters, or as a condition precedent to taking certain actions, it is agreed that:

- (a) the Trustee shall not, without the approval of the Unitholders by Ordinary Resolution, take any of the following actions:
  - (i) as agent for the Unitholders, vote or instruct on the voting of any shares of the Administrator pursuant to the Voting Agreement with regard to the election of Administrator Directors; or
  - (ii) except in the event of a voluntary resignation by the Auditors, appoint or change the Auditors;
- (b) the Trustee shall not, without the approval of the Unitholders by Special Resolution, take any of the following actions:
  - (i) amend this Trust Indenture, except as permitted in Article 9;
  - (ii) sell, lease, exchange or transfer all or substantially all of the Trust Property, other than (A) pursuant to *in specie* redemptions permitted hereunder, (B) in order to acquire Can Holdco Shares and US Opco Notes in connection with pursuing the purpose of the Trust and completing the transactions described in the Prospectus, or (C) in conjunction with an Internal Reorganization; or
  - (iii) authorize the termination, liquidation or winding-up of the Trust, other than in the circumstances set forth in Section 11.1; and
- (c) the following matters, in order to become effective after the Closing Date, must be approved by a majority of the Administrator Directors:
  - (i) a change to the Administrative Services Agreement, the Voting Agreement or any extension thereof;
  - (ii) any amendment to the terms of any constituting document of a subsidiary of the Trust; and
  - (iii) the terms of any agreement entered into by the Trust, or any of its affiliates, with the Administrator or any affiliate thereof.

#### 8.5 Standard of Care

The exclusive Standard of Care required of the Trustee in exercising its powers and carrying out its functions under this Trust Indenture is the Standard of Care, provided that:

- (a) unless otherwise required by Applicable Laws, the Trustee shall not be required to give bond, surety or security in any jurisdiction for the performance of any duties or obligations hereunder;
- (b) the Trustee in its capacity as Trustee shall not be required to devote its entire time to the affairs of the Trust; and

- (c) to the extent that authority and responsibility for the performance of certain duties and activities has been granted to the Administrator in this Trust Indenture or the Administrative Services Agreement, the Trustee shall be deemed to have satisfied the Standard of Care in respect of the performance thereof.

#### 8.6 Reliance Upon the Trustee

Any person dealing with the Trust in respect of any matters pertaining to the Trust, the Trust Property or securities of the Trust shall be entitled to rely on a certificate or statutory declaration (including a certificate or statutory declaration as to the passing of a resolution of the Trustee or the Trust) executed by the Trustee or the Administrator or such other person as may be authorized by the Trustee as to the capacity, power and authority of the Trustee, the Administrator, or any other person, to act for and on behalf and in the name of the Trust. No person dealing with the Trustee shall be bound to see to the application of any money or property passing into the hands or control of the Trustee. The receipt by or on behalf of the Trustee of money or other consideration shall constitute receipt by the Trust and be binding thereon.

#### 8.7 Determinations Binding

All determinations of the Administrator and the Trustee and any person to whom the Trustee has delegated duties (including the Administrator), whether delegated hereunder or pursuant to any other agreement (including the Administrative Services Agreement), where such determinations are made in good faith with respect to any matters relating to the Trust, including whether any particular investment or disposition meets the requirements of this Trust Indenture, shall be final and conclusive and shall be binding upon the Trust and all Unitholders, Beneficial Unitholders and, where the Unitholder or Beneficial Unitholder is a registered retirement savings plan, registered retirement income fund, registered education savings plan, deferred profit sharing plan, registered disability savings plan, tax-free savings account or registered pension fund or plan (all as defined in the Tax Act), or such other fund or plan registered under the Tax Act, upon past, present or future fund, plan or account beneficiaries and fund, plan or account holders, and Units shall be issued and sold on the condition and understanding that any and all such determinations shall be final, conclusive and binding as aforesaid.

#### 8.8 Banking

Without limiting the generality of Sections 8.1 or 8.2, the banking activities of the Trust, or any part thereof, shall be transacted with such bank, trust company, or other firm or corporation carrying on a banking business as the Trustee may designate, appoint or authorize from time to time and all such banking activities, or any part thereof, shall be transacted on behalf of the Trust by the Trustee, the Administrator or such other person or persons as the Trustee may designate, appoint or authorize from time to time, including, without limitation, the following activities:

- (a) the operation of the accounts of the Trust;
- (b) 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;
- (c) the giving of receipts for orders relating to any property of the Trust;
- (d) the execution of any agreement or instrument relating to any property of the Trust; and

- (e) 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.

#### 8.9 Fees and Expenses

Without limiting the generality of Sections 8.1 or 8.2, the Trustee may pay or cause to be paid reasonable fees, costs, charges and expenses incurred in connection with the administration and management of the Trust and in connection with the discharge of any of the Trustee's duties herein, including, without limitation, fees, costs, charges and expenses of auditors, accountants, lawyers, appraisers and other professional advisors employed by, or on behalf of, the Trust (including the Administrator) and the cost of reporting and giving notices to Unitholders. All fees, costs, charges and expenses properly incurred by the Trustee on behalf of the Trust shall be payable out of the Trust Property.

#### 8.10 Payments to Unitholders

- (a) Except as may be otherwise provided herein, any cash payment required under the terms of this Trust Indenture to be made to a Unitholder shall be paid in Canadian dollars, unless otherwise determined by the Trustee or the Administrator, with such payment to be by cheque, bank draft or wire transfer to the order of the registered Unitholder and may be mailed by ordinary mail to the last address appearing on the books of the Trust in respect of such Unitholder but may also be paid in such other manner as such Unitholder has designated to the Trustee and the Trustee has accepted. In the case of joint registered Unitholders, any cash payment required hereunder to be made to a Unitholder shall be deemed to be required to be made to such Unitholders jointly and shall be paid by cheque, bank draft or wire transfer but may also be paid in such other manner as the joint registered Unitholders or any one of the joint registered Unitholders has designated to the Trustee and the Trustee has accepted. For greater certainty, a Unitholder or any one of the joint Unitholders may designate and the Trustee may accept that any payment required to be made hereunder shall be made by deposit to an account of such Unitholder or to a joint account of such Unitholder and any other person or in the case of joint registered Unitholders to an account of joint registered Unitholders or to an account of any one of the joint registered Unitholders. A cheque, bank draft or wire transfer shall, unless the joint registered Unitholders otherwise direct, be made payable to the order of all of the said joint registered Unitholders, and if more than one address appears on the books of the Trust in respect of such joint unitholding, the cheque, bank draft, wire transfer or payment in other acceptable manner as aforesaid may be sent to the address of any one of the joint registered Unitholders whose name and address appears on the books of the Trust. All payments made in the aforesaid manner shall satisfy and be a valid and binding discharge of all liability of the Trustee or the Trust for the amount so required to be paid unless the cheque or bank draft is not paid at par on presentation at Calgary, Alberta, or at any other place where it is by its terms payable. In the event of non-receipt of any such cheque or bank draft by the person to whom it was sent, the Trustee on proof of the non-receipt and upon satisfactory indemnity being given to it and to the Trust, shall issue to the person a replacement cheque or bank draft for a like amount.
- (b) The receipt, by the registered Unitholder, of any payment not mailed or paid in accordance with this Section 8.10 shall nonetheless be a valid and binding discharge to the Trust and to the Trustee for any payment made in respect of the registered Units, and if several persons are registered as joint registered Unitholders or, in consequence of the death, bankruptcy or incapacity of a Unitholder, one or several persons are entitled so to

be registered in accordance with Sections 3.21 and 3.22, respectively, receipt of payment by any one of them shall be a valid and binding discharge to the Trust and to the Trustee for any such payment.

#### 8.11 Conditions Precedent

The obligation of the Trustee to commence or continue any act, action, suit or proceeding for the purpose of performing its duties under this Indenture or enforcing the rights of the Trustee and of the Unitholders shall, if required by notice in writing by the Trustee, be conditional upon the Administrator, Unitholders or any other person furnishing sufficient funds to commence or continue such act, action or proceeding and furnishing an indemnity (in each case only to the extent sufficient funds for such purpose are not available, or might reasonably be expected not to be available, in the Trust) satisfactory to the Trustee, acting reasonably, to protect and hold harmless the Trustee against the costs, charges, expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof. None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless it is indemnified as aforesaid.

#### 8.12 Trustee to Declare Interest

Forthwith upon the Trustee becoming aware that it, or an officer or director of the Trustee, is a party to, or is a director or officer of or has a material interest in any person who is a party to, a material contract or proposed material contract with the Trust, the Trustee shall disclose in writing to the Trust and the Administrator the nature and extent of the interest, and, for greater certainty, upon the Trustee complying with this Section 8.12, neither the Trustee nor the subject officer or director of the Trustee (as the case may be) shall be subject to any liability to the Trust or the Unitholders with respect to the Trust entering or having entered into such material contract or proposed material contract as aforesaid.

#### 8.13 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 9 AMENDMENTS TO THE TRUST INDENTURE

#### 9.1 Amendment

The provisions of this Trust Indenture may only be amended by Special Resolution except where specifically otherwise provided herein, including pursuant to Sections 9.2 and 9.3.

#### 9.2 Amendment without Approval

Notwithstanding anything herein contained (but subject to Section 9.3), the provisions of this Trust Indenture may be amended by the Trustee at any time and from time to time, without the consent, approval or ratification of the Unitholders; any other person or any Governing Authority:

- (a) on or prior to the Closing, for any purpose by agreement between the Trustee and the Administrator; and

- (b) at any time for the purpose of:
- (i) ensuring continuing compliance, by the Trust, with Applicable Laws, regulations, requirements or policies of any Governing Authority having jurisdiction over the Trustee or the Trust;
  - (ii) providing, in the opinion of the counsel to the Trustee, additional protection for the Unitholders or to obtain, preserve or clarify the provision of desirable tax treatment to Unitholders;
  - (iii) making amendments hereto which, in the opinion of the Trustee, are necessary or desirable in the interests of the Unitholders as a result of changes in taxation laws or in their interpretation or administration;
  - (iv) making corrections, or removing or curing any conflicts or inconsistencies between the provisions of this Indenture or any supplemental indenture and any other agreement of the Trust or any Offering document with respect to the Trust, or any Applicable Laws or regulation of any jurisdiction, provided that in the opinion of the Trustee, based on the advice of Counsel, the rights of the Unitholders are not materially prejudiced thereby;
  - (v) providing for the electronic delivery by the Trust to Unitholders of documents relating to the Trust (including annual and quarterly reports, including financial statements, notices of Unitholder meetings and information circulars and proxy related materials) at such time as Applicable Laws have been amended to permit such electronic delivery in place of normal delivery procedures, provided that such amendments to the Indenture, based on the advice of Counsel, are not contrary to or do not conflict with such laws;
  - (vi) curing, correcting or rectifying any ambiguities, defective or inconsistent provisions, errors, mistakes or omissions herein, provided that, in the opinion of the Trustee, based on the advice of Counsel, the rights of the Unitholders are not materially prejudiced thereby;
  - (vii) making amendments hereto as are required to undertake an Internal Reorganization, provided that, in the opinion of the Trustee, based on the advice of Counsel, the rights of the Unitholders are not materially prejudiced thereby; and
  - (viii) making amendments hereto for any purpose provided that, in the opinion of the Trustee, based on the advice of Counsel, the rights of the Unitholders are not materially prejudiced thereby.

### 9.3 Further Restrictions on Amendments

No amendment shall be made to this Trust Indenture:

- (a) to modify the voting rights attributable to any Unit or reduce the fractional undivided beneficial interest in the net assets of the Trust represented by any Unit without obtaining the consent of the holder of such Unit; and

- (b) to amend Sections 9.2 or 9.3, except with the approval of the Unitholders by Special Resolution.

#### 9.4 Notification of Amendment

Following the making of any amendment pursuant to Section 9.2, the Trustee shall provide written notification of the substance of such amendment to each Unitholder, and such notification shall be delivered not later than concurrent with the next succeeding mailing of financial statements of the Trust (whether quarterly or annual financial statements) pursuant to Section 16.4.

#### 9.5 Further Acts Regarding Amendment

When a vote of the Unitholders approves an amendment to this Trust Indenture, then the Trustee and the Administrator (as applicable) shall sign such documents, on behalf of the Trust, as may be necessary to effect such amendment, provided that nothing herein contained shall be construed so as to:

- (a) obligate the Trustee to give effect to any amendment to this Trust Indenture which has an effect on any of the Trustee's rights, protections and obligations hereunder which is adverse to the Trustee; or
- (b) obligate the Administrator, acting on its own behalf and for its own account, to agree to any amendment to this Trust Indenture which has an effect on any of the Administrator's rights, protections and obligations hereunder or under the Administrative Services Agreement which is adverse to the Administrator.

### ARTICLE 10 MEETINGS OF UNITHOLDERS

#### 10.1 Annual Meeting

There shall be an annual meeting of Unitholders, commencing in 2013, for the purpose of:

- (a) presentation of the financial statements of the Trust for the immediately preceding fiscal year;
- (b) appointing the Auditors of the Trust for the ensuing year;
- (c) directing and instructing the Trustee how to vote (or how to compel the voting for) as agent for the Unitholders pursuant to the Voting Agreement for the election of the Administrator Directors; and
- (d) transacting such other business as the Trustee or the Administrator may determine or as may properly be brought before the meeting.

The annual meeting of Unitholders shall be held after delivery to the Unitholders of the annual financial statements referred to in subsection 10.1(a) and, in any event, within 180 days after the end of each fiscal year of the Trust.

#### 10.2 Other Meetings

- (a) *Called by the Trustee:* The Trustee shall have the power, at any time and for any purpose, to call special meetings of the Unitholders at such time and place as the Trustee may

determine or the Administrator may request (and, for greater certainty, the Trustee shall call a special meeting of Unitholders upon request of the Administrator).

- (b) *Requisition by Unitholders:* Unitholders holding in the aggregate not less than 20% 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 Units (and votes attached thereto which, in the aggregate, must not be less than 20% of all votes entitled to be voted at a meeting of Unitholders) held by, each person who is supporting the requisition, (C) state in reasonable detail the business to be transacted at the meeting, and (D) shall be sent to the Trustee at the Trustee's principal place of business in Alberta. Upon receiving a requisition complying with the foregoing, and receiving funding and being indemnified to its reasonable satisfaction by the Unitholder, 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 are listed for trading;
  - (ii) the Trustee has called a meeting of Unitholders and has given notice thereof pursuant to Section 10.3; or
  - (iii) in connection with the business as stated in the requisition:
    - (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 Unitholders or any affiliate of the Trust, or primarily for the purpose of promoting general economic, political, racial, religious, social or similar causes or primarily for a purpose that does not relate in a significant way to the activities 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 2 years 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 2 years preceding the receipt of such requisition and the matter covered by the requisition was defeated; or
    - (D) the rights conferred by this Section 10.2 are being abused to secure publicity.
- (c) *Failure to Call Meeting:* If there shall be no Trustee or 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 subsection 10.2(b) above), any



Unitholder who signed the requisition or the Administrator, as the case may be, may call the meeting in accordance with the provisions of Article 10, *mutatis mutandis*.

- (d) Unless the Unitholders resolve otherwise at a meeting called under subsection 10.2(b) above, the Trust shall reimburse the Unitholders for the expenses reasonably incurred by them in requisitioning, calling and holding such meeting.

### 10.3 Notice of Meeting of Unitholders

Notice of all meetings of the Unitholders shall be given or sent by the Trustee to:

- (a) each Unitholder at the address for such holder appearing in the applicable Register and given in the manner provided by Section 15.1; and
- (b) the Administrator, the Auditors and any other person required by Applicable Laws to be sent such notice,

provided that (notwithstanding the foregoing) such notice, in each case, is given in such manner as is prescribed by Applicable Laws and given not less than 21 nor more than 60 days before the meeting (or within such other time periods as required or permitted by Applicable Laws). The attendance of a Unitholder at a meeting (whether in person or by proxy) shall constitute a waiver of notice, or defect therein, with respect to such meeting except where a Unitholder attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened. Notice of any meeting of Unitholders shall set out the time when, and the place where, such meeting is to be held and shall state the purposes of the meeting. Any adjourned meeting may be held as adjourned without further notice. The accidental omission to give notice to or the non-receipt of such notice by any Unitholders shall not invalidate any resolution passed at any such meeting.

### 10.4 Quorum: Chairman

A quorum for any meeting of Unitholders shall be two or more persons present in person and being Unitholders or representing, by proxy, Unitholders, and who hold in the aggregate not less than 10% of all votes entitled to be voted at the meeting. 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 convened on requisition of Unitholders, shall be terminated and, if otherwise called, shall stand adjourned to a day not less than 14 days later and to such place and time as may be determined by the chairman of the meeting. If at such adjourned meeting a quorum as above defined is not present, the Unitholders entitled to vote at such meeting and 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. The Trustee shall appoint the chairman of each meeting.

### 10.5 Voting

- (a) Only Unitholders of record shall be entitled to vote at a meeting of Unitholders, either in person or by proxy.
- (b) Every question submitted to a meeting, other than questions to be decided by Special Resolution, shall, unless a poll vote is demanded, be decided by a show of hands on which every person present and entitled to vote shall be entitled to one vote. On a poll

vote at any meeting of Unitholders, each Unit shall be entitled to the number of votes set out in Section 3.1.

- (c) Any action taken or resolution passed in respect of any matter at a meeting of Unitholders shall be by Ordinary Resolution, unless the contrary is otherwise expressly provided under any specific provision of this Trust Indenture or required by Applicable Laws.
- (d) The chairman of any meeting of Unitholders shall not have a second or casting vote.

#### 10.6 Record Dates

The Trustee may fix a date not more than 60 days prior to the date of any meeting of Unitholders or any distribution or any other action to be taken by the Trust, as a record date for the determination of Unitholders entitled to receive notice of and to vote at such meeting or any adjournment thereof or to receive such distribution or to be treated as Unitholders of record for purposes of such other action, as the case may be. Any Unitholder who was a Unitholder at the record date so fixed shall be entitled to receive notice of and vote at such meeting or any adjournment thereof, or to receive such distribution, or to be treated as a Unitholder of record for purposes of such other action, even though he has since that date disposed of his Units, and no person who becomes a Unitholder after that date shall be entitled to receive notice of and vote at such meeting or any adjournment thereof, or to receive such distribution, or to be treated as a Unitholder of record for purposes of such other action. 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 Business Day immediately preceding the date upon which notice of the meeting is given in accordance with Article 10.

#### 10.7 Proxies

Whenever the vote or consent of Unitholders is required or permitted under this Trust Indenture, such vote or consent may be given either directly by the Unitholder or by a proxy in written form, electronic or other technologically enhanced form, or such other form as is acceptable to the Trustee acting reasonably. A proxy holder need not be a Unitholder.

Provided not contrary to Applicable Laws, the Trustee may adopt, amend or repeal such rules relating to proxies, including pertaining to the appointment of proxy holders and the solicitation, execution, validity, revocation and deposit of proxies, as it in its discretion from time to time determines and such rules may be contained in the Trustee's Regulations.

#### 10.8 Mandatory Solicitation of Proxies

The Trustee shall solicit proxies from Unitholders in connection with all meetings of Unitholders. In connection therewith, the Trustee shall comply with all mandatory provisions of Applicable Laws applicable to the solicitation of proxies.

**10.9 Resolution in Lieu of Meeting**

A resolution signed in writing by Unitholders holding a proportion of all the outstanding votes entitled to be voted at a meeting of Unitholders, where such proportion is equal to or greater than the proportion of votes required to be voted in favour of such resolution at a meeting of Unitholders to approve that resolution, is as valid as if it had been passed at a meeting of Unitholders duly called and convened for the purpose of approving that resolution.

**10.10 Voting of Units by Administrator**

Nothing herein contained shall prevent or diminish the right of the Administrator or its affiliates or associates to vote any Units which may be beneficially owned by it or them in its or their own capacity in its or their discretion.

**10.11 Binding Effect of Resolutions**

Every Ordinary Resolution and every Special Resolution passed in accordance with the provisions of this Indenture at a meeting of Unitholders shall be binding upon all the Unitholders whether present at or absent from such meeting, and each and every Unitholder shall be bound to give effect to every such Ordinary Resolution and Special Resolution.

**10.12 No Breach**

Notwithstanding any provisions of this Indenture, the Unitholders shall not have the power to effect any amendment hereto which would require the Trustee to take any action or conduct the affairs of the Trust in a manner which would constitute a breach or default by the Trust or the Trustee under any agreement binding on or obligation of the Trust or the Trustee.

**10.13 Resolutions Binding the Trustee**

- (a) Unitholders shall be entitled to pass resolutions that will bind the Trustee only with respect to the following matters:
  - (i) the election, appointment or removal of the Trustee;
  - (ii) as agent for the Unitholders, the election, appointment or removal of the Administrator Directors;
  - (iii) the appointment or removal of the Auditors;
  - (iv) amendments of this Trust Indenture;
  - (v) the termination or dissolution of the Trust;
  - (vi) any other matter referred to in subsection 8.4(a) or (b) hereof;
  - (vii) the ratification of any Unitholder rights plan, distribution reinvestment plan, distribution reinvestment and Unit purchase plan or Compensation Plan, to the extent Unitholder approval is required under Applicable Laws; and
  - (viii) any other matters required by the Voting Agreement or by Applicable Laws or by the Voting Agreement to be submitted to Unitholders for approval.

- (b) Except with respect to the above matters set out in this Section 10.13, no action taken by the Unitholders or any resolution of the Unitholders at any meeting shall in any way bind the Trustee.
- (c) For greater certainty, any resolution of the type referred to in subsection 10.13(a) hereof passed by Unitholders pertaining to, or otherwise directing, the manner in which any Subsidiary Securities are to be voted by the Trustee (or by the Administrator pursuant to the Administrative Services Agreement) in respect of a particular matter which is of the type referred to in subsection 10.13(a) hereof put forth to the holders of Subsidiary Securities for vote at a meeting (including by written resolution) of holders of Subsidiary Securities shall be deemed to be a direction to the Trustee and the Administrator in respect of the Subsidiary Securities to, as applicable, either: (i) vote (or cause to be voted) such Subsidiary Securities in favour of or in opposition to; or (ii) to vote or withhold from voting (or cause to be voted or withheld from voted on) in respect of, such matter in equal proportions to the votes cast by Unitholders in respect of the matter, and the Trustee (or the Administrator, as applicable) is hereby obligated to vote or cause to be voted, in respect of such matter, the Subsidiary Securities in accordance with such direction.

## ARTICLE 11 TERMINATION

### 11.1 Term of the Trust

Subject to the other provisions of this Trust Indenture, the Trust shall continue for a term ending 21 years after the date of death of the last surviving issue of Her Majesty, Queen Elizabeth II, alive on January 31, 2012. 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.

### 11.2 Termination with the Approval of Unitholders

The Trust shall be wound-up or terminated if the Unitholders pass a Special Resolution, authorizing such wind-up or termination, at a meeting of Unitholders duly called for the purpose of considering the wind-up or termination of the Trust. As soon as is reasonably practicable following the passage of such Special Resolution, the Trustee shall commence to wind-up or terminate (as the case may be) the affairs of the Trust. Such Special Resolution may contain such directions to the Trustee as the Unitholders determine, including a direction to distribute Trust Property *in specie*.

### 11.3 Procedure Upon Termination

Forthwith upon being required to commence to wind-up or terminate the affairs of the Trust, the Trustee shall give notice of such wind-up or termination 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.

### 11.4 Powers of the Trustee Upon Termination

After the date on which the Trustee is required to commence to wind-up or terminate the affairs of the Trust, the Trustee shall carry on no activities except for the purpose of winding-up or terminating (as the case may be) 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 Trust Indenture.

#### **11.5 Sale of Investments**

After the date referred to in Section 11.4, the Trustee shall proceed to wind-up or terminate, as the case may be, 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 wind-up or termination authorized under Section 11.2, sell and convert into money the Trust Property 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 wind-up or termination authorized under Section 11.2). If the Trustee is unable to sell all or any of the Trust Property or other assets which comprise part of the Trust by the date set for wind-up or termination, the Trustee may distribute undivided interests in the remaining Trust Property or other assets directly to the Unitholders on a pro rata basis in accordance with their respective interest in the Trust as determined by the number of Units held by each such respective Unitholder, subject to Applicable Laws and receipt of necessary regulatory approvals.

#### **11.6 Distribution of Proceeds**

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 an indemnity against any other outstanding liabilities and obligations, the Trustee shall distribute the remaining part of the proceeds of the sale of the Trust Property pro rata among the Unitholders in accordance with their respective interest in the Trust as determined by the number of Units held by each such respective Unitholder.

#### **11.7 Further Notice to Unitholders**

In the event that less than all of the Unitholders have surrendered their Units for cancellation within six (6) months after the time specified in the notice referred to in Section 11.3, the Trustee shall give further notice to the remaining Unitholders to surrender their Units for cancellation and if, within one (1) 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 the Units to receive their pro rata share of the remaining Trust Property, 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 may be entitled as aforesaid) or, in the discretion of the Trustee, the Trustee may pay such amounts into court in the province where the Trust has its head office (or to such other suitable government official or agency in the province where the Trust has its head office) whose receipt shall be a good release, acquittance and discharge of the obligations of the Trustee with respect to such amounts.

#### **11.8 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 Property after the date referred to in Section 11.4 and, after such sale, the sole obligation of the Trustee under this Trust Indenture shall be to collect, distribute and hold such proceeds in trust for distribution under this Article 11.

ARTICLE 12  
LIABILITY OF TRUSTEE, ADMINISTRATOR AND UNITHOLDERS AND OTHER  
MATTERS

12.1 Acting on Behalf of the Trust

The Trustee, the Administrator and the directors, officers, employees, shareholders, consultants and agents of the Trust, the Trustee and the Administrator, as the case may be, in incurring any debts, liabilities or obligations, or taking or omitting any other actions for or in connection with the affairs of the Trust are, and shall be conclusively deemed to be, acting for and on behalf of the Trust, and not in their own personal capacities.

12.2 General Limitations of Liability

- (a) *Reliance on Experts:* The Trustee and Administrator shall be entitled to rely on, and shall not be liable for acting or failing to act, in good faith, in relation to any matter relating to the Trust where such action or failure to act is based upon, statements from, the opinion or advice of, or information from the Auditors, Counsel or any valuator, engineer, surveyor, appraiser or other expert (herein "Experts") where it is reasonable to conclude that the matter in respect of which such statements are made, or opinion or advice given, ought to be within the expertise of such Expert, provided that, with respect to the retention of Experts, the Trustee or Administrator have satisfied its Standard of Care.
- (b) *Good Faith Reliance:* Neither the Trustee nor the Administrator shall be liable to any Beneficiary or other persons in relying in good faith upon statements or information from, the opinion or advice of, or instruments or directions given by an officer, director, trustee, employee or agent of the Administrator or of an affiliate of the Trust or by a broker, a custodian or any Beneficiary, or by such other parties as may be authorized to give instructions or directions to the Trustee. If required by the Trustee, the Administrator shall file with the Trustee a certificate of incumbency setting forth the names and titles of parties authorized to give instructions or directions to the Trustee together with specimen signatures of such persons and the Trustee shall be entitled to rely on the latest such certificate of incumbency filed with it. The Trustee, the Administrator and each affiliate of the Trust and their respective directors, officers, trustees, shareholders, employees and agents shall not be liable to any Beneficiary or other persons for, and shall each be fully protected from liability in respect to, acting upon any instrument, certificate or paper believed by it, in good faith, to be genuine and signed or presented by the proper person or persons.
- (c) *Tax Matters:* None of the Trust, the Administrator, or the Trustee shall be accountable or liable to any Beneficiary by reason of any act or acts of any such person consistent with the carrying out of any obligations or responsibilities imposed upon any such person under the Tax Act.

12.3 Limitation of Liability and Indemnity of Trustee

- (a) *Limit on Liability:* In addition to those limits on the liability of the Trustee set forth in Section 12.2, the Trustee, as trustee of the Trust, shall to the greatest extent permitted by Applicable Laws, have no liability whatsoever (whether direct or indirect, absolute or contingent) in tort, contract or otherwise to any Beneficiary or any other person and no resort shall be had to its property or assets for satisfaction of any obligation, liability or

claim against it as Trustee of the Trust, and the Trust Property shall only be subject to levy or execution in respect thereof, where such obligation, liability or claim arises out of or in connection with, directly or indirectly, the Trust Property or the conduct and undertaking of the activities and affairs of the Trust, including: (i) any action or failure to act by the Trustee in respect to its duties, responsibilities, powers, authorities and discretion under this Indenture (including failure to compel in any way any trustee to redress any breach of trust or any failure by the Administrator to perform its duties under, or delegated to it under, this Indenture, the Administrative Services Agreement, or any other contract); (ii) any error in judgment; (iii) any matters pertaining to the administration or termination of the Trust; (iv) any Environmental Liabilities; (v) any action or failure to act by the Administrator or any other person to whom the Trustee has, as permitted hereby, delegated any of its duties hereunder; and (vi) any depreciation of, or loss to, the Trust incurred by reason of the retention or sale of any Trust Property; unless any of the foregoing arises from or out of the willful misconduct, fraud or gross negligence by the Trustee or, including for greater certainty, the breach by the Trustee of the Standard of Care.

- (b) *Indemnity:* If, in circumstances where the Trustee is not liable pursuant to the provisions of Sections 12.2 and 12.3(a), the Trustee is held liable to any person, or its property or assets are subject to levy, execution or other enforcement resulting in personal loss to the Trustee, then the Trustee shall be entitled to indemnity and reimbursement out of the Trust Property, in accordance with Section 12.6, to the full extent of such liability and the costs of any action, suit or proceeding or threatened action, suit or proceeding, including the reasonable fees and disbursements of Counsel, and this indemnity shall survive the termination of this Indenture or the resignation of the Trustee.

#### 12.4 Limitation of Liability and Indemnity of Administrator

- (a) *Limit on Liability:* In addition to those limits on the liability of the Administrator set forth in Section 12.2, the Administrator shall to the greatest extent permitted by Applicable Law, have no liability whatsoever (whether direct or indirect, absolute or contingent) in tort, contract or otherwise to any Beneficiary or any other person, and no resort shall be had to its property or assets for satisfaction of any obligation, liability or claim against it, and the Trust Property shall only be subject to levy or execution in respect thereof, where such obligation, liability or claim arises out of or in connection with, directly or indirectly, the Trust Property or the conduct and undertaking of the activities and affairs of the Trust, including: (i) any action or failure to act by the Administrator in respect to its duties, responsibilities, powers, authorities and discretion under this Indenture or the Administrative Services Agreement; (ii) any error in judgment; (iii) any matters pertaining to the administration or termination of the Trust; (iv) any Environmental Liabilities; (v) any action or failure to act by any person to whom the Administrator has, as permitted hereby, delegated any of its duties hereunder; and (vi) any depreciation of, or loss to, the Trust incurred by reason of the retention or sale of any Trust Property; unless any of the foregoing arises from or out of the willful misconduct, fraud or gross negligence by the Administrator or the breach by the Administrator of the Standard of Care prescribed by Section 13.3.
- (b) *Indemnity:* If, in circumstances where the Administrator is not liable pursuant to the provisions of Sections 12.2 and 12.4(a), the Administrator is held liable to any person, or its property or assets are subject to levy, execution or other enforcement resulting in personal loss to the Administrator, then the Administrator shall be entitled to indemnity

and reimbursement out of the Trust Property, in accordance with Section 12.6, to the full extent of such liability and the costs of any action, suit or proceeding or threatened action, suit or proceeding, including the reasonable fees and disbursements of Counsel.

## 12.5 No Beneficiary Liability

- (a) *No Beneficiary Liability*: No Unitholder, Beneficial Unitholder, holder of Other Trust Securities or annuitant (collectively, a "Beneficiary"), in its capacity as such, shall be subject to any liability whatsoever (whether direct or indirect, absolute or contingent) in tort, contract or otherwise, and no resort shall be had to, nor shall recourse or satisfaction be sought from, the private property of any Beneficiary for any liability whatsoever in connection with the following (collectively, "Trust Liabilities"): (i) the Trust Property or the ownership, use, operation, acquisition or disposition thereof or the exercise or enjoyment of the rights, privileges, conditions or benefits attached thereto, associated therewith or derived therefrom; (ii) the obligations, liabilities, activities or affairs of the Trust; (iii) any actual or alleged act or omission of the Trustee, the Administrator or any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Trust Indenture); or (iv) except as otherwise provided in this Indenture, any taxes, levies, imposts or charges or fines, penalties or interest in respect thereof payable by the Trust, or by the Trustee or the Administrator (on behalf of the Trust), in connection with the activities or affairs of the Trust, provided that each Beneficiary is responsible for (and shall not be indemnified from) any liability for taxes assessed against him by reason of or arising out of his ownership of Units or Other Trust Securities, and liabilities in respect of the breach of investment and other restrictions related to ownership of the Units to which such Beneficiary may be subject as a result of Applicable Law, contract or otherwise, and other similar liabilities. No Beneficiary, in its capacity as such, shall be liable to indemnify the Trustee or any other person with respect to any Trust Liabilities. The Trustee hereby waives to the maximum extent possible any right to indemnification which it may have against any Beneficiary under any Applicable Laws.
- (b) *Indemnity*: If, in circumstances where there is to be no liability on a Beneficiary pursuant to the provisions of subsection 12.5(a), a Beneficiary, in its capacity as such, shall be held liable to any person, or its property or assets are subject to levy, execution or other enforcement resulting in loss to such Beneficiary, then the Beneficiary shall be entitled to indemnity and reimbursement out of the Trust Property, in accordance with Section 12.6, to the full extent of such liability and the costs of any action, suit or proceeding or threatened action, suit or proceeding, including the reasonable legal fees and disbursements of its Counsel.

## 12.6 Indemnification and Reimbursement

- (a) Each person who is, or shall have been a Trustee, an Administrator or a Beneficiary (collectively, an "Indemnified Party") shall be indemnified, saved harmless and reimbursed by the Trust out of the Trust Property (to the full extent thereof) in respect of any and all liabilities, costs, charges, damages and expenses (including judgments, fines, penalties, amounts paid in settlement, and reasonable legal fees and disbursements) incurred in connection with, or arising directly or indirectly out of, any action, suit or proceeding to which any such Indemnified Party may be subject or made a party to, if pursuant to subsections 12.3(b), 12.4(b) or 12.5(b) such Indemnified Party is entitled to indemnification. An Indemnified Party shall not be entitled to satisfaction of any right of



indemnity or reimbursement granted herein, or otherwise existing at law, except out of the Trust Property, and no Beneficiary or Trustee or former Trustee shall be personally liable to any Indemnified Party with respect to any claim for such indemnity or reimbursement.

- (b) For purposes of this Article 12: (i) "action, suit or proceeding" shall include every action, suit or proceeding (whether civil, criminal or other), or other claim; (ii) the rights of indemnification conferred hereby shall extend to any threatened action, suit or proceeding; and (iii) advances in respect of the right to indemnification may be made by the Trustee, in its discretion, against costs, expenses and fees incurred in respect of the matter or matters as to which indemnification is claimed.
- (c) The foregoing right of indemnification shall not be exclusive of any other rights to which the Indemnified Party may be entitled as a matter of law or which may be lawfully granted to such person and the provisions of this Section 12.6 are severable, and if any provisions hereof shall for any reason be determined invalid or ineffective, the remaining provisions of this Indenture relating to indemnification and reimbursement shall not be affected thereby. This indemnity shall survive the resignation or replacement of the Trustee and the Administrator.

#### 12.7 Further Limitation on Indemnification

Notwithstanding any other provisions of this Indenture:

- (a) There shall be no recourse to the Trust Property to reimburse any person for transfer or other taxes or fees payable on the transfer of Units or any income, fees or other taxes assessed against any person by reason of ownership or disposition of Units.
- (b) Whether any such losses or damages are foreseeable or unforeseeable, the Trustee shall not be liable under any circumstances whatsoever for any:
  - (i) breach by any other party of securities law or other rule of any securities regulatory authority;
  - (ii) lost profits of any party; or
  - (iii) special, indirect, incidental, consequential, exemplary, aggravated or punitive losses or damages incurred by any party.

#### 12.8 Force Majeure

Except for the payment obligations of the Administrator contained herein, neither party shall be liable to the other, or held in breach of this Indenture, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.

### 12.9 Extended Meanings

For the purposes of Sections 12.2 to 12.6 (inclusive) references to the Trustee and the Administrator shall be deemed to include their respective directors, officers, shareholders, agents and employees; provided, for greater certainty, that for purposes of these provisions neither the Administrator nor any sub-delegate thereof shall be considered an agent of the Trustee.

### 12.10 Exculpatory Clauses in Instruments

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 and the Administrator shall make all reasonable commercial efforts to include as a specific term of such obligations or liabilities, except so far as the Trustee, Administrator or Beneficiary is entering into such obligations or liabilities in its personal capacity, a contractual provision substantially to the following effect:

The parties hereto acknowledge that the [Trustee/the Administrator] is entering into this agreement solely in its capacity as [trustee/administrator] on behalf of the Trust and the obligations of the Trust hereunder shall not be binding upon [the Trustee/Administrator] other than in its capacity as such nor shall it be binding upon any Unitholder, beneficial Unitholder or any "annuitant" as defined in the Trust Indenture of the Trust, such that any recourse against the Trust, the [Trustee/Administrator] or any Beneficiary in any manner in respect of any indebtedness, obligation or liability arising hereunder or arising in connection herewith or from the matters to which this agreement relates, including, without limitation, claims based on negligence or otherwise tortious behaviour, shall be limited to, and satisfied only out of, the Trust Property as defined in the Amended and Restated Trust Indenture of the Trust made as of May 9, 2012, as from time to time further amended, supplemented or restated.

The omission of such a provision from any such document or instrument shall not render the Trustee, the Administrator or a Beneficiary otherwise liable to any person, nor shall the Trustee, the Administrator or any Beneficiary be liable for such omission. If, notwithstanding this provision, the Trustee, the Administrator or any Beneficiary 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 Beneficiary shall be entitled to indemnity and reimbursement out of the Trust Property to the full extent of such liability.

### 12.11 Execution of Instruments and Apparent Authority

Any instrument executed in the name of the Trust, by the Trustee as trustee of the Trust, or on behalf of the Trust by the Administrator, shall constitute and shall be deemed to constitute a valid obligation of the Trust enforceable in accordance with its terms as if executed by the Trustee.

### 12.12 Interests of Consultants and Agents

Subject to any agreement to the contrary between the Trust and any consultant or agent of the Trust (including the Administrator), a consultant or agent of the Trust may, while so engaged and so long as it complies with this Indenture and any other applicable agreements:

- (a) acquire, hold and dispose of any property, real or personal, for its account even if such property is of a character which could be held by the Trust, and may exercise all rights of an owner of such property as if it were not a consultant or agent, as the case may be;
- (b) have business interests of any nature and may continue such business interests for its own account including the rendering of professional or other services and advice to other persons for gain; and
- (c) acquire, hold and sell Units or Other Trust Securities in its own capacity or as an affiliate of or fiduciary for any other person, and may exercise all rights of a holder thereof as if it were not a consultant or agent of the Trust, provided that it may not make use of any specific confidential or material undisclosed information for its own benefit or advantage that, if generally known, might reasonably be expected to significantly affect the market price of any of the Units or Other Trust Securities;

and such activities shall be deemed not to conflict with its duties as a consultant or agent of or to the Trust. Except as otherwise specifically agreed with the Trust, no consultant or agent of the Trust shall have any duty to present to the Trust any investment opportunity which it may receive in any capacity other than as consultant or agent of the Trust, and its failure to present to the Trust any such investment opportunity shall not make such consultant or agent liable in law or in equity, to pay, or account to the Trust, or to any Unitholder whether acting individually or on behalf of himself and other Unitholders as a class, for any benefit, profit or advantage derived therefrom.

#### ARTICLE 13

#### DELEGATION AND MATTERS PERTAINING TO THE ADMINISTRATOR

##### 13.1 Right to Delegate

- (a) Except as expressly prohibited by law, the Trustee may in its discretion delegate to any person such authority and such powers of the Trustee as are granted to it hereunder, as is necessary or desirable to carry out and effect the actual management and administration of the duties of the Trustee under this Trust Indenture, without regard to whether such authority is normally delegated by trustees.
- (b) Without limiting the generality of the foregoing, the Trustee is hereby authorized to appoint the Administrator to act as the administrator of the Trust pursuant to the terms of the Administrative Services Agreement or any other instrument of appointment, and the Trustee may delegate to such person (and in addition to those matters specifically granted or delegated to the Administrator in this Indenture) any of those duties of the Trustee hereunder that the Trustee deems appropriate. Without limiting the generality of the foregoing, the Trustee may grant broad discretion to the Administrator to administer and manage the day-to-day operations of the Trust, to act as agent for the Trust, to execute documents on behalf of the Trust, and to make decisions on behalf of the Trust. The Administrator shall have the powers and duties as may be expressly provided for herein and in the Administrative Services Agreement and may be given, without limitation, the power to further delegate management and administration of the Trust, as well as the power to retain and instruct such appropriate experts or advisors to perform those duties and obligations which it, in its opinion, is not best suited to perform. Notwithstanding any provision contained herein, the Trustee shall not have the authority to delegate to the Administrator its rights, powers, authorities and duties to act on behalf of the Trust and be responsible for:

- (i) the issue, certification, exchange or cancellation of Units on or after the Closing;
- (ii) the maintenance of registers of Unitholders on or after the Closing;
- (iii) making the distribution of payments or property to Unitholders and statements in respect thereof;
- (iv) any mailings to Unitholders of materials which are to be so mailed;
- (v) the execution of an amendment to the Trust Indenture or any amended and restated Trust Indenture following any amendment thereto;
- (vi) voting securities owned by the Trust at any and all meetings of holders of such securities, or exercise any rights to pass resolutions in lieu of securityholder meetings; and
- (vii) any matters ancillary or incidental to any of those set forth in paragraphs (i) - (v) above.

### 13.2 Specific Present Delegation of Power and Authority to Administrator

The Trustee hereby delegates to the Administrator full and absolute right, power and authority to undertake, perform and provide, for and on behalf of the Trust, all acts, duties and responsibilities as the Administrator considers, in its discretion, necessary or desirable in connection with, or for completion of, the Seed Capital Private Placement, the IPO and the transactions contemplated by and disclosed in the Prospectus, including:

- (a) accepting subscriptions and issuing Units in connection with the Seed Capital Private Placement;
- (b) preparing, approving, executing and delivering, on behalf of the Trust, the Prospectus and any amendments to the Prospectus in such form as the Administrator considers necessary or desirable;
- (c) preparing, approving, executing and delivering on behalf of the Trust (1) the underwriting agreement, (2) all agreements relating to the acquisitions of, or other investments in, the assets and other properties that will comprise the Trust Property immediately following Closing, and (3) all instruments, contracts and other documents determined by the Administrator to be necessary or desirable for execution by the Trust between the date hereof and the Closing Date, in each case in such form and containing such terms and conditions as the Administrator may approve; and
- (d) preparing, approving, executing and delivering such other contracts, documents, instruments and agreements, and making all applications and filings with any Governing Authorities (including any listing or other application with any stock exchange(s), any filings pursuant to the Competition Act (Canada), and all other documents or instruments relating to the foregoing), and taking such other actions as the Administrator considers appropriate.

### 13.3 Standard of Care

In carrying out all authorities, powers, rights, responsibilities and duties hereunder or under the Administrative Services Agreement, including the Indenture Conferred Duties, the Administrator shall discharge such authorities, powers, responsibilities and duties in accordance with the Standard of Care.

### 13.4 Grant of Power and Authority

The Administrator is hereby granted and, where applicable, delegated full and absolute right, power and authority to undertake, perform and provide, for and on behalf of the Trust, all of the Indenture Conferred Duties and to take and do, for and on behalf of the Trust, in connection with the provision of all such Indenture Conferred Duties, all such actions and all such things which the Administrator deems appropriate, in its discretion, including the right, power and authority to retain and instruct such appropriate experts or advisors to perform those duties and obligations granted to the Administrator which it, in its opinion, is not qualified to perform, to execute and deliver contracts, leases, licenses, and other documents, instruments and agreements, to make all applications and filings with Governmental Authorities, and to take such other actions as the Administrator considers appropriate, in the name of and on behalf of the Trust. The Administrator may execute, for and on behalf of the Trustee of the Trust, as its agent or attorney in fact, any instrument or document which the Administrator considers appropriate, in its discretion, in connection the provision of the Indenture Conferred Duties.

### 13.5 Terms and Conditions Pertaining to Performance of Duties

The terms, conditions and limitations applicable in respect to the exercise and performance, by the Administrator, of the Indenture Conferred Duties shall be supplemented by the Administrative Services Agreement, and the terms of the Administrative Services Agreement shall be deemed to have applied in all respects, from the effective date of this Indenture, to the Administrator in the exercise and performance of the Indenture Conferred Duties as fully as if such rights, restrictions and limitations were set forth herein. In the case of any conflict between the terms, conditions and limitations contained in this Indenture pertaining to the exercise and performance, by the Administrator, of the Indenture Conferred Duties and those contained in the Administrative Services Agreement, those contained in the Administrative Services Agreement shall govern.

### 13.6 Determinations of the Administrator Binding

All determinations of the Administrator which are made in good faith with respect to any Indenture Conferred Duties relating to the Trust shall be final and conclusive and shall be binding upon the Trust and all Unitholders, Beneficial Unitholders and, where the Unitholder or Beneficial Unitholder is a registered retirement savings plan, registered retirement income fund, registered education savings plan, deferred profit sharing plan, registered disability savings plan, tax-free savings account, or registered pension fund or plan (all as defined in the Tax Act), or such other fund or plan registered under the Tax Act, upon past, present or future fund, plan or account beneficiaries and fund, plan or account holders), and Units shall be issued and/or sold on the condition and understanding that any and all such determinations shall be binding as aforesaid.

### 13.7 Performance of Obligations

In the event that the Administrator is unable or unwilling to perform its obligations hereunder or under the Administrative Services Agreement, or there is no Administrator, the Trustee shall either perform all obligations of the Administrator hereunder and thereunder or shall be entitled to engage another person that is duly qualified to perform such obligations.

### 13.8 Services Not Exclusive

The Trustee acknowledges that the services of the Administrator, if any, and its officers, directors and employees may not be exclusive to the Trust, and nothing herein shall prevent the Administrator, its affiliates, officers, directors or employees from engaging in other activities apart from those services being provided to the Trust (whether or not those other activities are the same or similar to the activities being carried out on behalf of the Trust) that are in compliance with the Administrative Services Agreement.

### 13.9 No Partnership or Joint Venture

Neither the Trust, Trustee nor Unitholders are and they shall be deemed not to be partners or joint venturers with the Administrator or each other and nothing herein shall be construed so as to impose any liability as such on the Administrator. The Administrator shall perform the Indenture Conferred Duties as an independent contractor for and on behalf of the Trust (with its duties and obligations in respect thereto as expressly provided for herein and in the Administrative Services Agreement), and it is acknowledged and agreed that only where the Administrator undertakes execution of contracts or other instruments for and on behalf of the Trust may the Administrator then be acting as an agent of the Trust. In no circumstances shall the Administrator be, or be deemed to be, a fiduciary or trustee for any person, whether or not a party hereto, in connection with the discharge by the Administrator of such Indenture Conferred Duties.

### 13.10 Termination of Administrator as a Party Hereto

The Administrator shall continue as a party hereto for the purposes of providing the Indenture Conferred Duties as Administrator until the earlier of the date of termination of the Trust and such time as the Administrator ceases to be appointed as the administrator of the Trust, including through assignment or termination of the Administrative Services Agreement, at which time and without any further action required whatsoever on the part of the Trust, the Trustee, the Unitholders or the Administrator: (a) the Administrator shall immediately and unconditionally be deemed to have ceased to be a party hereto (as administrator hereunder) for all purposes; and (b) all obligations and duties of the Administrator, as Administrator hereunder shall immediately and unconditionally terminate and the Administrator shall be deemed to be released from all obligations and duties hereunder from and after such time (except in the case of an assignment to an affiliate of the Administrator, unless otherwise agreed to by the Administrator Directors); provided however that such Administrator, as outgoing Administrator, shall continue to be entitled to (i) payment of any amounts owing by the Trust to the Administrator, in its capacity as Administrator, which accrued prior to ceasing to be a party hereto, and (ii) the benefit of any indemnity and limitation of liability provisions, and other provisions which by their nature continue to have effect or application, whether set out herein or in the Administrative Services Agreement; and further provided that each of the Trust and the Trustee, at the Trust's cost, shall execute and deliver such further documents and instruments and do all such acts and things as the Administrator may reasonably request in order to effectively carry out, better evidence, give effect to or perfect the intent of this Section 13.10. The terms of this Section 13.10 shall not affect any liabilities of the Administrator, as Administrator in respect of or in any way arising under or out of this Indenture or the Administrative Services Agreement which have accrued prior to any cessation of the Administrator, as Administrator in respect of the Administrative Services Agreement or this Indenture. The provisions of this Section 13.10 shall apply *mutatis mutandis* to any person who is a successor in the office of Administrator and who has become a party to this Indenture by virtue of the Administrative Services Agreement.

ARTICLE 14  
SUPPLEMENTAL INDENTURES

14.1 Provision for Supplemental Indentures

The Trustee may, 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 Trust Indenture in the circumstances set forth in Article 9 where the Trustee may do so without the consent, approval or ratification of the Unitholders, any other person or any Governing Authority; and
- (b) modifying or amending any provisions of this Trust Indenture where the modification or amendment has been consented to, approved or ratified by some or all of the Unitholders (as the case may be) to the extent required in accordance with the provisions of this Trust Indenture.

ARTICLE 15  
NOTICES

15.1 Notices to Unitholders

- (a) Any notice, communication or other document required to be given or sent to Unitholders under this Trust Indenture or by Applicable Laws, shall be given or sent by personal service or through ordinary mail addressed to each registered holder at his or her last address appearing on the Registers or in any other manner from time to time permitted by Applicable Laws, including internet based or other electronic communications; provided that if any such notice or communication shall have been mailed and either prior to or subsequent to such mailing (but prior to delivery of such notice or communication) regular mail service shall have been interrupted by reason of a strike, lockout or other work stoppage, actual or threatened, involving postal employees, such notice or communication shall be deemed to have been received 48 hours after 12:01 a.m. (Calgary time) on the day following the resumption of normal mail service; provided further that during the period that regular mail service shall be interrupted, notice may be given by personal service, or by internet based or other electronic communication (provided done so in accordance with all requirements of Applicable Laws), 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 such notice may be given by publishing twice in the business section of a newspaper in each city where the Register(s) or a branch register is maintained.
- (b) For the avoidance of doubt, in connection with any notice, communication or other documents permitted by Applicable Laws to be given or sent by internet based or other electronic communication, the requirements of such Applicable Laws in respect of such delivery shall be complied with in all respects, including where required, receipt by the Trust of the prior consent of the recipient to the delivery of such notice, communication or other document in electronic or other technologically enhanced format.

- (c) Any notice given in the manner provided in subsection 15.1(a) shall be deemed to have been given and delivered: (i) in the case of notice given by mail, at the end of the third day following that on which the letter or other document was mailed; or (ii) in the case of notice given by publication, after publication of 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 on which such notice is given and (B) the earliest day and at the earliest time (as applicable) as is permissible in accordance with the law permitting the giving of notice via such internet based or other electronic communication. In proving notice was mailed, it shall be sufficient to prove that such letter or other document was properly addressed, stamped and mailed.

### 15.2 Notice to the Trustee or Administrator:

Any notice or other document or written communication to be given to the Trustee or the Administrator shall be addressed and sent as follows:

If to the Trustee:

Computershare Trust Company of Canada  
600, 530 - 8th Avenue SW  
Calgary, Alberta T2P 3S8

Attention: Manager Corporate Trust  
Facsimile: (403) 267-6598

If to the Administrator:

Argent Energy Ltd.  
Suite 500, 321-6<sup>th</sup> Avenue S.W.  
Calgary, Alberta T2P 3H3

Attention: Chief Executive Officer  
Facsimile: (403) 770-4850

and shall be deemed to have been given on the date of delivery or, if mailed, five (5) days from the date of mailing or, if sent by facsimile transmission, shall be deemed to have been given on the first Business Day thereafter. If any such notice or communication shall have been mailed and if regular mail service shall be interrupted by reason of a strike, lockout or other work stoppage, actual or threatened, involving postal employees, such notice or communication shall be deemed to have been received 48 hours after 12:01 a.m. (Calgary time) 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 delivered or given by personal delivery, facsimile transmission or other means of prepaid, transmitted or recorded communication.

### 15.3 Failure to Give Notice

The failure by the Trustee or Administrator, 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 neither the Trustee nor the Administrator shall be liable to any Unitholder, Beneficial Unitholder or Beneficiary for any such failure.



#### 15.4 Joint Holders

Any notice, communication or other document given or sent, pursuant to this Article, to any one of several joint Unitholders shall be deemed to be effectively given or sent to the other joint holders.

#### 15.5 Service of Notice

Any notice, communication or document given or sent to a Unitholder pursuant to this Article shall, notwithstanding the death, bankruptcy or incapacity of such Unitholder, and whether or not the Trustee has notice of such death, bankruptcy or incapacity, be deemed to have been fully given or sent and shall be deemed to have been sufficiently given or sent to all persons having an interest in the Units concerned.

### ARTICLE 16 RECORDS AND FINANCIAL INFORMATION

#### 16.1 Records

The Trustee shall prepare and maintain or cause to be prepared and maintained records containing (a) this Trust Indenture; (b) minutes of meetings and resolutions of Unitholders; (c) resolutions of the Trustee; and (d) the Registers. The Trust shall also prepare and maintain adequate accounting records. All such records shall be kept at the head office of the Trust or at such other place as the Trustee thinks fit.

#### 16.2 Information Available to Unitholders

Each Unitholder has the right to obtain, on demand and without fee, from the head office of the Trust: (a) a copy of this Trust Indenture and any amendments thereto; and (b) the minutes of the meetings of Unitholders and any written resolutions of Unitholders passed in lieu of holding a meeting of Unitholders, and will also be entitled to examine a list of the Unitholders, subject to providing an affidavit to the Administrator, all to the same extent and upon the same conditions, *mutatis mutandis*, as those which apply to shareholders governed by the *Business Corporations Act* (Alberta).

#### 16.3 Fiscal Year

The fiscal year of the Trust shall end on December 31 of each year.

#### 16.4 Financial Disclosure

The Trustee will send (or make available if sending is not required by Applicable Laws) to Unitholders:

- (a) at least 21 days prior to the date of each annual meeting of Unitholders and, in any event, on or before any earlier date prescribed by Applicable Laws, the annual consolidated financial statements of the Trust for the fiscal year ended immediately prior to such annual meeting, together with comparative consolidated financial statements for the preceding fiscal year, if any, and the report of the Auditors thereon; and
- (b) notwithstanding the foregoing, if the Trust is a "reporting issuer" as defined in the Securities Act, the annual consolidated financial statements of the Trust together with comparative consolidated financial statements for the preceding fiscal year, if any, and the report of the Auditors thereon referred to in Section 17.5 on or before any dated prescribed by Applicable Laws, and the unaudited quarterly consolidated financial statements of the Trust for a fiscal quarter, together with comparative consolidated

financial statements for the same fiscal quarter in the preceding fiscal year, if any, on or before any date prescribed by Applicable Laws;

such financial statements shall be prepared in accordance with Accounting Principles; provided that such statements and the obligation to deliver such statements may vary from such principles to the extent required to comply with Applicable Laws or to the extent permitted by applicable securities regulatory authorities.

#### 16.5 Taxation Information

On or before March 31 in each year, or such earlier date as may be required under Applicable Laws, the Trustee shall 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.

### ARTICLE 17 AUDITORS

#### 17.1 Qualification of Auditors

The Auditors shall be a recognized firm of chartered accountants which has an office in Canada and which is independent of the Trust, Trustee and the Administrator.

#### 17.2 Appointment of Auditors

PricewaterhouseCoopers LLP, Chartered Accountants, are hereby appointed as the initial Auditors of the Trust to hold such office until the first annual meeting of Unitholders. The Auditors will be appointed 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 be removed by the Trustee with the approval of Unitholders by way of Ordinary Resolution at a meeting of Unitholders duly called for the purpose and, upon such removal of the Auditors as aforesaid, new auditors may be appointed by the Trustee with the approval of the Unitholders by means of an Ordinary Resolution at a meeting duly called for that purpose. A vacancy created by the removal of the Auditors as aforesaid may be filled at the meeting of Unitholders at which the Auditors are removed or, if not so filled, may be filled pursuant to Section 17.4 below.

#### 17.4 Filling Vacancy

The Administrator shall enter into agreements with the Auditors that will permit the Auditors to at any time voluntarily resign, and in such event the Trustee shall forthwith fill the vacancy with such new auditors as are approved by the Administrator, and such new auditors shall act as auditors of the Trust for the unexpired term of the predecessor auditors of the Trust.

#### 17.5 Reports of Auditors

The Administrator shall enter into agreements with the Auditors that will require the Auditors 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 as set out in Section 16.4.

ARTICLE 18  
GENERAL

18.1 Trust Property to be Kept Separate

The Trustee shall maintain the Trust Property separate from all other property in its possession and not commingled, and to the extent that all or part of the Trust Property is placed in the possession of the Administrator or any other person on behalf of the Trust, the Trustee shall take such reasonable steps to ensure that such persons shall also keep such Trust Property separate from all other property of such persons and not commingled.

18.2 Trustee May Not Hold Units

- (a) No Trustee may be a Unitholder in its or his capacity as Trustee (except pursuant to a repurchase of Units pending their cancellation).
- (b) No Trustee may be a Unitholder in its personal capacity provided, however, that a Trustee may hold Units for the account of its clients generally and in other capacities, without any duty to account to the Unitholders therefor.

For greater certainty and notwithstanding the foregoing, affiliates of any Trustee may be Unitholders.

18.3 Privacy

The parties acknowledge that the Trustee may, in the course of providing services hereunder, collect or receive financial and other personal information about such parties and/or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes:

- (a) to provide the services required under this Indenture and other services that may be requested from time to time;
- (b) to help the Trustee manage its servicing relationships with such individuals;
- (c) to meet the Trustee's legal and regulatory requirements; and
- (d) if Social Insurance Numbers are collected by the Trustee, to perform tax reporting and to assist in verification of an individual's identity for security purposes.

Each party acknowledges and agrees that the Trustee may receive, collect, use and disclose personal information provided to it or acquired by it in the course of this Indenture for the purposes described above and, generally, in the manner and on the terms described in its Privacy Code, which the Trustee shall make available on its website or upon request, including revisions thereto. Further, each party agrees that it shall not provide or cause to be provided to the Trustee any personal information relating to an individual who is not a party to this Agreement unless that party has assured itself that such individual understands and has consented to the aforementioned uses and disclosures.

18.4 U.S. Securities Exchange Act Matters

The Trust confirms that as at the date of execution of this agreement it does not have a class of securities registered pursuant to Section 12 of the *U.S. Securities Exchange Act* or have a reporting obligation

pursuant to Section 15(d) of the *U.S. Securities Exchange Act*. The Trust covenants that in the event that: (a) any class of its securities shall become registered pursuant to Section 12 of the *U.S. Securities Exchange Act* or the Trust shall incur a reporting obligation pursuant to Section 15(d) of the *U.S. Securities Exchange Act*; or (b) any such registration or reporting obligation shall be terminated by the Trust in accordance with the *U.S. Securities Exchange Act*, the Trust shall promptly deliver to the Trustee an Officers' Certificate (in a form provided by the Trustee) notifying the Trustee of such registration or termination and such other information as the Trustee may require at the time. The Trust acknowledges that the Trustee is relying upon the foregoing representation and covenants in order to meet certain SEC obligations with respect to those clients who are filing with the SEC.

#### 18.5 Representation regarding Third Party Interests

Each party to this Indenture (in this paragraph referred to as a "representing party") hereby represents to the Trustee that any account to be opened by, or interest to be held by, the Trustee in connection with this Indenture, for or to the credit of such representing party, either: (a) is not intended to be used by or on behalf of any third party; or (b) is intended to be used by or on behalf of a third party, in which case such representing party hereby agrees to complete, execute and deliver forthwith to the Trustee a declaration in the Trustee's prescribed form or in such other form as may be satisfactory to it, as to the particulars of such third party.

#### 18.6 Execution and Effect of Restated Trust Indenture

A restated Trust Indenture, setting forth the terms of this Trust Indenture, as amended to the time of execution, may be executed at any time or from time to time by the Trustee and such restated Trust Indenture as so executed shall thereafter be effective and may thereafter be referred to in lieu of this Trust Indenture as so amended; provided, however, that no such execution of a restated Trust Indenture shall be deemed to constitute a termination of the Trust or this Trust Indenture.

#### 18.7 Consolidations

The Trustee may prepare consolidated copies of the Trust Indenture as it may from time to time be amended or amended and restated and may certify the same to be a true consolidated copy of the Trust Indenture, as amended or amended and restated.

#### 18.8 Severability

The provisions of this Trust Indenture are severable and if any provisions are in conflict with any Applicable Laws, the conflicting provisions shall be deemed never to have constituted a part of this Trust Indenture and shall not affect or impair any of the remaining provisions thereof. If any provision of this Trust Indenture 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 Trust Indenture in any jurisdiction.

#### 18.9 Successors and Assigns

The provisions of this Trust Indenture shall enure to the benefit of, and be binding upon, the parties and their respective personal representatives, executors, administrators, heirs, successors and assigns.

18.10 Counterparts


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

*[Remainder of Page Left Intentionally Blank]*

IN WITNESS WHEREOF the parties have hereunto executed this Trust Indenture as of the day and year first above written.

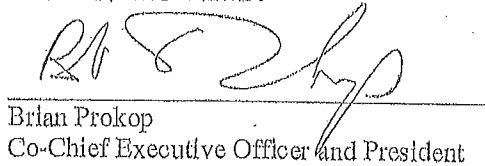
**COMPUTERSHARE TRUST COMPANY  
OF CANADA**

as trustee of  
**ARGENT ENERGY TRUST**

  
SHANNON GROVER  
CORPORATE TRUST OFFICER

  
PUI HONG  
CORPORATE TRUST OFFICER

**ARGENT ENERGY LTD.**

  
Brian Prokop  
Co-Chief Executive Officer and President

*[Remainder of Page Left Intentionally Blank]*

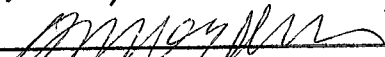
# EXHIBIT 6

THIS IS EXHIBIT " 6 "  
referred to in the Affidavit of ~~Declaration~~

Sean Bovingdon

Sworn before me this 23<sup>rd</sup>

day of August A.D. 20 16



A Commissioner for Oaths  
in and for the Province of Alberta

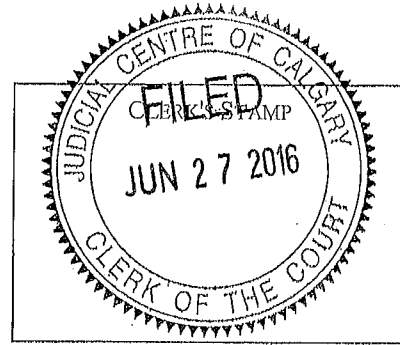
Kelsey Meyer  
Barrister & Solicitor



I hereby certify this to be a true copy of  
the original order

Dated this 27 day of June 2015

[Signature]  
for Clerk of the Court



COURT FILE NUMBER

1601-01675

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANTS

**IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C.  
1985, c. C-36, as amended**

**AND IN THE MATTER OF A PLAN OF  
ARRANGEMENT OF ARGENT ENERGY  
TRUST, ARGENT ENERGY (CANADA)  
HOLDINGS INC. and ARGENT ENERGY  
(US) HOLDINGS INC.**

DOCUMENT

**ORDER (STAY EXTENSION AND OTHER  
RELIEF)**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855 – 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Sean Zweig  
Telephone No.: 403.298.3323 / 416.777.6254  
Fax No.: 403.265.7219 / 416.863.1716  
Client File No.: 68859.14

DATE ON WHICH ORDER WAS  
PRONOUNCED:

Monday, June 27, 2016

LOCATION WHERE ORDER WAS  
PRONOUNCED:

Calgary Courts Centre

NAME OF JUSTICE  
WHO MADE THIS ORDER:

The Honourable Mr. Justice D.B. Nixon

UPON the application of Argent Energy Trust (the "Trust"), Argent Energy (Canada) Holdings Inc. ("Argent Canada"), and Argent Energy (US) Holdings Inc. ("Argent US", and

together with the Trust and Argent Canada, the "Applicants" or "Argent"); **AND UPON** having read the Application, the Affidavit No. 4 of Sean Bovingdon sworn June 17, 2016 (the "Bovingdon Affidavit No. 4"), the Third Report of FTI Consulting Canada Inc., the Court-appointed Monitor of the Applicants (the "Monitor"), and the Brief of the Applicants, all filed; **AND UPON** hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Syndicate (as defined in the Affidavit of Sean Bovingdon sworn February 16, 2016), and counsel for other interested parties;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

1. Service of this Application and supporting documents is hereby declared to be good and sufficient, the time for notice is hereby abridged to the time provided, and no other person is required to have been served with notice of this Application.
2. Capitalized terms not otherwise defined herein shall have the meanings as defined in the Affidavits of Sean Bovingdon sworn and filed in these proceedings.

*Stay Extension*

3. The Stay Period as ordered and defined in paragraph 2 of the Initial Order filed February 17, 2016 and as extended pursuant to the Order (Stay Extension) granted on May 6, 2016, is hereby extended until and including August 31, 2016.

*Distribution of Net Proceeds of the Transaction*

4. The Monitor's intended actions in distributing the net proceeds of the Transaction that are attributable to the rolling stock and the leasehold interests of Argent US to the Syndicate, in accordance with the Order (Interim Distribution) granted herein on May 10, 2016, are hereby approved.

*Expansion of the Monitor's Powers With Respect to the Trust*

5. The expansion of the Monitor's powers in respect of the Trust as set forth below is hereby authorized and approved, effective June 30, 2016, on the terms and conditions set

out herein. Nothing in this Order shall derogate from the powers of the Monitor as provided for in the Initial Order or the CCAA.

6. In addition to the powers and duties of the Monitor set out in the Initial Order and the CCAA, and without altering in any way the limitations and obligations of the Trust as a result of these proceedings, the Monitor be and is hereby authorized and empowered to:
- (a) preserve, protect and maintain control of the property of the Trust (the "Property"), or any parts thereof;
  - (b) oversee and direct the preparation of cash flow statements and to assist in the dissemination of financial and other information in these proceedings with respect to the Trust;
  - (c) receive, collect and take possession of all monies and accounts now owed or hereafter owing to the Trust, including proceeds payable pursuant to a sale of Property;
  - (d) execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Monitor's name or in the name and on behalf of the Trust;
  - (e) exercise any rights which the Trust may have;
  - (f) provide instruction and direction to the advisors of the Trust;
  - (g) make any distribution or payments by the Trust required under any Order in these proceedings;
  - (h) assign the Trust into bankruptcy; and
  - (i) to perform such other duties or take any steps reasonably incidental to the exercise of such powers and obligations conferred upon the Monitor by this Order or any further Order of this Court.

7. The Monitor is directed to assign the Trust into bankruptcy at such time as the Monitor deems appropriate.
8. No provision in this Order is intended to appoint the Monitor as an officer, director or employee of the Trust. Additionally, nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, or receiver and manager of the Trust and that any distribution made to creditors of the Trust will be deemed to have been made by the Trust.
9. The Monitor shall continue to have the benefit of all of the protections and priorities as set out in the Initial Order and the CCAA, and any such protections and priorities shall apply to the Monitor in fulfilling its duties under this Order or in carrying out the provisions of this Order.

"D. B. Nixon"  
The Honourable Mr. Justice B. Nixon  
J.C.C.Q.B.A.

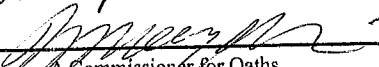
# EXHIBIT 7

THIS IS EXHIBIT " 7 "  
referred to in the Affidavit of Declaration

Sean Bovingdon

Sworn before me this 23rd

day of August A.D. 20 16

  
A Commissioner for Oaths  
in and for the Province of Alberta

Kelsey Meyer  
Barrister & Solicitor



# ARGENT ENERGY TRUST

## ARGENT ENERGY TRUST COMPLETES THE SALE OF SUBSTANTIALLY ALL ASSETS

### FOR IMMEDIATE RELEASE

Calgary, Alberta, May 17, 2016 – Argent Energy Trust ("Argent" or the "Trust") announces that it has completed the previously announced sale of substantially all of the assets of Argent Energy (U.S.) Holdings Inc., an indirect wholly-owned subsidiary of the Trust, to BXP Partners IV, L.P. (the "Transaction"). The Transaction was approved by the Court of Queen's Bench of Alberta and the United States Bankruptcy Court (collectively, the "Courts") on May 10, 2016 and May 11, 2016, respectively.

The Transaction is a result of the previously announced Court-approved sale solicitation process (the "Sale Solicitation Process") conducted within the *Companies' Creditors Arrangement Act* (Canada) and Chapter 15 of Title 11 of the United States Bankruptcy Code under the supervision of FTI Consulting Canada Inc. (the "Monitor"), the Court-appointed Monitor. The proceeds received from the Transaction are insufficient to provide any funds for distribution to unitholders or debentureholders of the Trust.

Additional details relating to the Transaction and the Sale Solicitation Process are available on the Monitor's website at <http://cfcanada.fticonsulting.com/argent>. The Monitor has also established an information hotline for enquiries regarding the CCAA proceedings at 1-877-754-5840.

### For further information concerning this press release, please contact:

Sean Bovingdon  
President & Chief Financial Officer  
Argent Energy Trust  
(403) 770-4809

Steve Hicks  
Chief Operating Officer  
Argent Energy Trust  
(281) 847-1888