

## UNDERWRITING AGREEMENT

June 5, 2007

Carfinco Income Fund  
300, 4245 – 97 Street,  
Edmonton, Alberta, T6E 5Y7

Carfinco Inc.  
300, 4245 – 97 Street,  
Edmonton, Alberta, T6E 5Y7

Attention: Mr. Tracy A. Graf, CEO & Trustee, Carfinco Income Fund; President, Carfinco Inc.  
Mr. David Prussky, Trustee, Carfinco Income Fund  
Mr. Troy Graf, CFO, Carfinco Income Fund and Carfinco Inc.

Dear Sirs:

We understand that Carfinco Income Fund (the “**Fund**”) proposes to issue and sell 2,409,700 Trust Units (as hereinafter defined) of the Fund (the “**Purchased Units**”) at a price of \$4.15 per Purchased Unit (the “**Purchase Price**”). Upon and subject to the terms and conditions contained herein, GMP Securities L.P. (“**GMP**”), Blackmont Capital Inc. and Pacific International Securities Inc. (collectively the “**Underwriters**” and each individually, an “**Underwriter**”) hereby severally offer to purchase from the Fund in the respective percentages set forth in section 15 of this agreement (the “**Agreement**”), and the Fund hereby agrees to sell to the Underwriters, all but not less than all of the Purchased Units at the Purchase Price, for gross proceeds of \$10,000,255, and the Underwriters agree to act as agents to arrange for substituted purchasers for the Purchased Units resident in the Qualifying Jurisdictions (as hereinafter defined) or those jurisdictions outside Canada, including the United States, where the Purchased Units may be lawfully sold. The number of Purchased Units the Underwriters are obligated to purchase shall be reduced by the number of Purchased Units purchased by substituted purchasers.

The Fund hereby grants to the Underwriters an option (the “**Over-Allotment Option**”) for purposes of covering the Underwriters’ over-allocation position at Closing (as hereinafter defined), if any, to purchase severally and not jointly and offer for sale to the public pursuant hereto up to an additional 361,400 Trust Units (the “**Additional Units**” and together with the Purchased Units, the “**Units**”) upon the terms and conditions set forth herein and as more particularly described in section 14 hereof.

In consideration of the Underwriters’ agreement to purchase the Purchased Units which will result from the acceptance by the Fund of this offer and in consideration of the services to be rendered by the Underwriters in connection therewith, the Fund agrees to pay to the Underwriters an aggregate fee of \$600,015.30 (\$690,003.90 if the Over-Allotment Option is

exercised in full), being a fee equal to 6.0% of the aggregate gross proceeds of the sale of Units pursuant to the Offering, or \$0.249 per Unit (the “**Underwriting Fee**”). The Underwriting Fee shall be due and payable at the applicable Closing Time (as hereinafter defined) for the Purchased Units and Additional Units, respectively, against payment for the Purchased Units and Additional Units being issued at such times.

## DEFINITIONS

In this Agreement:

“**affiliate**”, “**distribution**”, “**material change**”, “**material fact**”, “**misrepresentation**” and “**person**” have the respective meanings given to them in the *Securities Act* (Ontario);

“**Agreement**” means the agreement resulting from the acceptance by the Fund of the offer made by the Underwriters by this letter;

“**Business Day**” means any day, other than a Saturday, Sunday or statutory holiday on which the chartered banks in Toronto, Ontario, are open for commercial banking business;

“**Canadian Securities Laws**” means all applicable securities laws in each of the Qualifying Jurisdictions and the respective rules, regulations, blanket orders and blanket rulings under such laws together with applicable published policies, policy statements and notices having the force of law of the Canadian Securities Regulators;

“**Canadian Securities Regulators**” means the applicable securities commission or securities regulatory authority in each of the Qualifying Jurisdictions;

“**Carfinco**” means Carfinco Inc., an amalgamated Ontario corporation;

“**Carfinco Group**” means collectively, the Fund, Holdings Trust, Carfinco and Carfinco LP;

“**Carfinco LP**” means Carfinco Limited Partnership, a limited partnership existing under the laws of the Province of Ontario pursuant to the Limited Partnership Agreement;

“**Claim**” has the meaning given to it in section 10(b);

“**Closing**” means the completion of the issue and sale of the Purchased Units and, if applicable, the Additional Units issued and sold pursuant to the exercise of the Over-Allotment Option;

“**Closing Date**” means (i) with respect to the Closing for the Purchased Units, June 21, 2007, or such other date as may be permitted under Canadian Securities Laws and agreed to in writing by the Fund and the Underwriters, or as may be changed pursuant to section 4(f) and, (ii) with respect to the Closing for the Additional Units, in the case of the exercise of the Over-Allotment Option, any date or dates on or before that date which is 30 days from the Closing for the Purchased Units;

**“Closing Time”** means 8:00 a.m. (Toronto time) on the Closing Date, or such other time on such date as may be agreed to in writing by the Fund and the Underwriters;

**“Continuing Underwriters”** has the meaning given to it in section 15;

**“Credit Agreement”** means the credit agreement between Bank of America, National Association (as lender), the Fund (as borrower), and Carfinco LP, Holdings Trust, and the predecessors of Carfinco, Carfinco Inc., Carfinco Acquisition Corp. and Canadian Automotive Finance Corporation (each as guarantor) dated November 27, 2002, as amended on March 17, 2003, August 27, 2003, July 30, 2004, January 31, 2005, February 9, 2005, June 30, 2005, October 14, 2005, June 1, 2006 and October 4, 2006;

**“Credit Facility”** means the credit facility issued to the Fund pursuant to the Credit Agreement;

**“Deed of Trust”** means the deed of trust dated August 26, 2002, as amended and restated on April 23, 2004, between Brent Channell as initial trustee and Wanda Marie Sanginesi as settlor, pursuant to which the Fund was established;

**“Defaulted Units”** has the meaning given to it in section 15;

**“distribution”** means “distribution” or “distribution to the public”, as the case may be, for the purposes of Canadian Securities Laws or any of them;

**“Documents Incorporated by Reference”** means all financial statements, management information circulars, annual information forms, material change reports, business acquisition reports or other documents issued by the Fund, whether before or after the date of this Agreement, that are required by National Instrument 44-101 to be incorporated by reference into the Prospectus;

**“Employment Laws”** has the meaning given to it in subsection 4(d)(xli);

**“Employee Plans”** has the meaning given to it in subsection 4(d)(xlili);

**“Final Prospectus”** means the (final) short form prospectus, including all of the Documents Incorporated by Reference, prepared by the Fund and relating to the distribution of the Units and for which a MRRS decision document has been issued by the Alberta Securities Commission on its own behalf and on behalf of each of the other Canadian Securities Regulators;

**“Financial Statements”** means the financial statements of the Fund included in the Documents Incorporated by Reference, including the notes to such statements and, where applicable, the auditors’ report thereon;

**“Holdings Trust”** means Carfinco Holdings Trust, an unincorporated, open ended, limited purpose trust established under the laws of the Province of Ontario pursuant to the Holdings Trust Deed of Trust;

**“Holdings Trustees”** means the trustees of Holdings Trust from time to time, and as of the date of this Agreement are Maurice Kagan, Brian Radmacher, David Rosenkrantz and Simon Serruya;

**“Holdings Trust Deed of Trust”** means the deed of trust dated August 26, 2002 between Brent Channell as settlor and Wanda Marie Sanginesi as initial trustee, pursuant to which Holdings Trust was established;

**“Holdings Units”** has the meaning given to it in subsection 4(d)(vi);

**“Indemnified Party”** has the meaning given to it in subsection 10(a);

**“Lien”** means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien (statutory or otherwise), charge, title retention agreement or arrangement, restrictive covenant or other encumbrance of any nature, or any other arrangement or condition which, in substance, secures payment or performance of an obligation;

**“Limited Partnership Agreement”** means the limited partnership agreement between Carfinco Inc., Canadian Automotive Finance Corporation and each and every person who is granted a limited partnership interest in Carfinco LP dated August 1, 2002;

**“Material Premises”** has the meaning given to it in subsection 4(d)(xxxix);

**“MRRS”** means the mutual reliance review system procedures provided for under NP 43-201;

**“NP 43-201”** means National Policy 43-201 – *Mutual Reliance Review System for Prospectuses and Annual Information Forms* adopted by the Canadian Securities Regulators and its related memorandum of understanding;

**“notice”** has the meaning given to it in section 21;

**“Offering”** means the issue and sale of the Purchased Units and, if applicable, any Additional Units issued pursuant to the exercise of the Over-Allotment Option, pursuant to this Agreement;

**“Preliminary Prospectus”** means the preliminary short form prospectus dated June 5, 2007, including all of the Documents Incorporated by Reference, prepared by the Fund and relating to the distribution of the Units and for which a preliminary MRRS decision document has been issued by the Alberta Securities Commission on its own behalf and on behalf of each of the other Canadian Securities Regulators;

**“Prospectus”** means, collectively, the Preliminary Prospectus and the Final Prospectus;

**“Prospectus Amendment”** means any amendment to the Preliminary Prospectus or the Final Prospectus;

**“Purchasers”** means, collectively, each of the purchasers of the Units pursuant to the Offering including, if applicable, the Underwriters;

**“Qualifying Jurisdictions”** means all of the provinces of Canada other than Québec;

**“Refusing Underwriter”** has the meaning given to it in section 15;

**“Related Agreements”** means the Deed of Trust, the Holdings Trust Deed of Trust, the Limited Partnership Agreement and the Credit Agreement;

**“Related Party Transactions”** has the meaning given to it in Ontario Securities Commission Rule 61-501, as the same may from time to time be amended;

**“Selling Firm”** has the meaning given to it in subsection 3(a);

**“subsidiary”** has the meaning given to it in the *Business Corporations Act* (Ontario);

**“Subsidiaries”** means Holdings Trust and Carfinco and includes Carfinco LP of which Carfinco is the sole general partner and Holdings Trust is the sole limited partner;

**“Tax Act”** means the *Income Tax Act* (Canada) and the regulations thereunder;

**“to the Fund’s and Carfinco’s knowledge”, “to the knowledge of the Fund and Carfinco”** and similar expressions regarding the Fund’s and Carfinco’s knowledge mean the knowledge of any one or more of the directors, officers or trustees of the Fund and Carfinco, as applicable, with such persons being deemed to have knowledge of all facts and matters which such persons in the reasonably prudent exercise of their duties, and after having made due inquiry of relevant employees and advisors of the Carfinco Group or any other applicable member of the Carfinco Group, should be aware;

**“Trustees”** means the trustees of the Fund from time to time, and as of the date of this Agreement are Tracy A. Graf, David Prussky, David Rosenkrantz, Simon Serruya, Maurice Kagan, J. Daryl MacLellan and Brent Channell;

**“Trust Units”** means the trust units of the Fund; and

**“TSX”** means the Toronto Stock Exchange.

All capitalized terms used but not otherwise defined herein have the meanings given to them in the Prospectus.

The division of this Agreement into sections, subsections, paragraphs and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or the interpretation of this Agreement.

Unless otherwise expressly provided in this Agreement: (i) words importing only the singular number include the plural and vice versa and words importing gender include all genders; (ii) all references to dollars or "\$" are to Canadian dollars; and (iii) any reference in this Agreement to a section or subsection refer to a section or subsection of this Agreement.

The following is the schedule to this Agreement, which schedule is deemed to be a part hereof and is hereby incorporated by reference herein:

Schedule "A" - Form of Opinion of Counsel to Fund and Carfinco Inc.

## **TERMS AND CONDITIONS**

### **1. Filing of Prospectus.**

(a) The Fund shall:

- (i) not later than the close of business on June 5, 2007, have prepared and filed the Preliminary Prospectus and other required documents with the Canadian Securities Regulators under the Canadian Securities Laws pursuant to NP 43-201 and designated the Province of Alberta as the principal regulator thereunder and have obtained a preliminary MRRS decision document from the Alberta Securities Commission, as principal regulator under NP 43-201, evidencing that a receipt has been issued with respect for the Preliminary Prospectus from the Canadian Securities Regulators in each of the Qualifying Jurisdictions; and
- (ii) forthwith after any comments with respect to the Preliminary Prospectus have been received from the Canadian Securities Regulators but not later than 5:00 p.m. (Calgary time) on June 15, 2007 (or such later date as may be agreed to in writing by the Fund and GMP on behalf of the Underwriters), have prepared and filed the Final Prospectus and have obtained a final MRRS decision document from the Alberta Securities Commission, as principal regulator under NP 43-201, evidencing that a receipt has been issued for the Final Prospectus from the Canadian Securities Regulators and otherwise fulfilled all legal requirements to enable the Units to be offered and sold to the public in each of the Qualifying Jurisdictions through the Underwriters or any other investment dealer or broker registered in the applicable Qualifying Jurisdictions.

(b) The Fund hereby agrees to ensure compliance by the Fund with all Canadian Securities Laws on a timely basis in connection with the distribution of the Units to the

Purchasers resident in the Qualifying Jurisdictions. Subject to being notified by the Underwriters of the requirements thereof and upon request of the Underwriters, the Fund also agrees to file within the periods stipulated under applicable securities laws outside of Canada and, at the Fund's expense, all private placement forms required to be filed by the Fund and the Purchasers, respectively, in connection with the Offering and paying all filing fees required to be paid in connection therewith so that the distribution of the Units outside of Canada may lawfully occur without the necessity of filing a prospectus or any similar document under the applicable securities laws outside of Canada. The Underwriters agree to assist the Fund in all reasonable respects to secure compliance with all regulatory requirements in connection with the Offering.

## **2. Due Diligence**

Prior to the filing of the Preliminary Prospectus and the Final Prospectus, the Fund shall have permitted the Underwriters to review each of the Preliminary Prospectus and the Final Prospectus and shall allow the Underwriters to conduct any due diligence investigations which each of them reasonably requires in order to fulfill each of their obligations as an underwriter under the Canadian Securities Laws and in order to enable each of them to responsibly execute the certificate in the Preliminary Prospectus and the Final Prospectus required to be executed by each of them.

## **3. Distribution and Certain Obligations of the Underwriters**

(a) The Underwriters shall, and shall require any investment dealer or broker (a "**Selling Firm**") to comply with the Canadian Securities Laws in connection with the distribution of the Units and shall offer the Units for sale to the public directly and through Selling Firms upon the terms and conditions set out in the Prospectus and this Agreement. The Underwriters shall, and shall require any Selling Firm to agree to, distribute the Units in a manner which complies with and observes all applicable laws and regulations in each jurisdiction into and from which they may offer to sell the Units or distribute the Prospectus or any Prospectus Amendment in connection with the distribution of the Units and will not, directly or indirectly, offer, sell or deliver any Units or deliver the Prospectus or any Prospectus Amendment to any person in any jurisdiction other than in the Qualifying Jurisdictions except in a manner which will not require the Fund to comply with the registration, prospectus, filing or other similar requirements under the applicable securities laws of such other jurisdictions.

(b) The Underwriters shall (i) use their reasonable efforts to terminate distribution as promptly as possible, and (ii) give prompt written notice to the Fund when, in the opinion of the Underwriters, they have ceased distribution and, (iii) give prompt notice to the Fund after they have ceased distribution of the total proceeds realized in each of the Qualifying Jurisdictions from the distribution.

(c) For the purposes of this section 3, the Underwriters shall be entitled to assume that the Units are qualified for distribution in any Qualifying Jurisdiction where a final MRRS decision document or similar document for the Prospectus shall have been obtained from the applicable Canadian Securities Regulators following the filing of the Prospectus.

(d) Notwithstanding the foregoing paragraphs of this section 3, an Underwriter will not be liable to the Fund under this section with respect to a default by any other Underwriter under this section if the former Underwriter is not also in default.

(e) In connection with the distribution of the Units, the Underwriters may effect transactions which stabilize or maintain the market price of the Purchased Units at levels other than those which might otherwise prevail in the open market, but in each case as permitted by applicable Canadian Securities Laws. Such stabilizing transactions, if any, may be discontinued by the Underwriters at any time.

#### **4. Prospectus Matters and Representations and Warranties of the Fund**

##### **(a) Deliveries on Filing**

The Fund shall deliver or cause to be delivered to each of the Underwriters:

- (i) at their respective time of filing, a copy of the Preliminary Prospectus and the Final Prospectus signed and certified as required by the Canadian Securities Laws;
- (ii) at the Closing Time, a copy of any other document required to be filed by the Fund under the Canadian Securities Laws in connection with the filing of the Prospectus;
- (iii) concurrently with the filing of the Final Prospectus with the Canadian Securities Regulators, a “long-form” comfort letter of the auditors of the Fund, dated the date of the Final Prospectus (with the requisite procedures to be completed by such auditors within two Business Days of the date of the such letter), in form and substance satisfactory to the Underwriters, acting reasonably, addressed to the Underwriters and the Trustees, with respect to certain financial and accounting information relating to the Fund in the Final Prospectus, which letter shall be in addition to the auditors’ report incorporated by reference in the Final Prospectus and the auditors’ comfort letters, if any, addressed to the Canadian Securities Regulators; and
- (iv) prior to the filing of the Final Prospectus, evidence satisfactory to the Underwriters of the conditional approval by the TSX of the listing and posting for trading on the TSX of the Units, subject only to satisfaction by the Fund of customary post-closing conditions imposed by the TSX in similar circumstances.

##### **(b) Prospectus Amendments**

In the event that the Fund is required by Canadian Securities Laws to prepare and file a Prospectus Amendment, the Fund shall prepare and deliver promptly to the Underwriters signed and certified copies of such Prospectus Amendment. Any Prospectus Amendments shall be in

form and substance satisfactory to the Underwriters, acting reasonably. Concurrently with the delivery of any Prospectus Amendment, the Fund shall deliver to the Underwriters, with respect to such Prospectus Amendment, documents similar to those referred to in subparagraphs 4(a)(ii) and (iii), as applicable.

**(c) Representations as to Prospectus and Prospectus Amendments**

Delivery of the Preliminary Prospectus, Final Prospectus and any Prospectus Amendment shall constitute a representation and warranty by the Fund to the Underwriters that as at their respective dates and as at the date of filing:

- (i) all information and statements (except information and statements relating solely to the Underwriters and provided by the Underwriters) contained in the Preliminary Prospectus, Final Prospectus and any Prospectus Amendment are true and correct in all material respects, contain no misrepresentation (within the meaning of such term under applicable Canadian Securities Laws) and constitute full, true and plain disclosure of all material facts relating to the Fund and the Units as required by applicable Canadian Securities Laws in the Qualifying Jurisdictions;
- (ii) no material fact or information has been omitted from such disclosure (except facts or information relating solely to the Underwriters and provided by the Underwriters) which is required to be stated in such disclosure or is necessary to make the statements or information contained in such disclosure not misleading in light of the circumstances under which they were made;
- (iii) such documents comply in all material respects with the requirements of Canadian Securities Laws; and
- (iv) except as set forth or contemplated in the Prospectus or any Prospectus Amendment or as has otherwise been publicly disclosed, there has been no adverse material change (actual, anticipated or threatened) in the business, affairs, business prospects, operations, assets, liabilities (contingent or otherwise), capital or ownership of the Fund (on a consolidated basis) since the end of the period covered by the Financial Statements.

Such deliveries shall also constitute the Fund's consent to the Underwriters' use of the Preliminary Prospectus, the Final Prospectus and any Prospectus Amendment in connection with the distribution of the Units in compliance with this Agreement unless the Fund otherwise advises in writing.

(d) **Representations and Warranties of the Fund and Carfinco**

The Fund and Carfinco represent and warrant to each of the Underwriters and acknowledge that each of the Underwriters is relying upon such representations and warranties in purchasing the Units, that:

- (i) the Fund has been duly created and is existing as a trust under the laws of the Province of Ontario pursuant to the Deed of Trust and the Trustees are the duly appointed trustees of the Fund;
- (ii) Holdings Trust has been duly created and is existing as a trust under the laws of the Province of Ontario pursuant to the Holdings Trust Deed of Trust and the Holdings Trustees are the duly appointed trustees of Holdings Trust;
- (iii) Carfinco LP has been duly created and is existing as a limited partnership under the laws of the Province of Ontario pursuant to the Limited Partnership Agreement;
- (iv) Carfinco is a corporation duly amalgamated and existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it currently carries on business and has all requisite corporate power and authority to carry on its business and to own, lease and operates its property and assets;
- (v) the beneficial interests in the Fund are divided into interests of one class, described and designated as Trust Units and the aggregate number of Trust Units which are authorized and may be issued pursuant to the Deed of Trust are unlimited, of which 20,561,296 Trust Units are validly issued and outstanding as fully paid as at the date hereof;
- (vi) the beneficial interests in Holdings Trust are divided into interests of one class, described and designated as units (the “**Holdings Units**”), and the aggregate number of Holdings Units which are authorized and may be issued pursuant to the Holdings Trust Deed of Trust are unlimited, of which 10 Holdings Units are validly issued and outstanding as fully paid as at the date hereof;
- (vii) the authorized capital of Carfinco LP consists of an unlimited number of partnership units;
- (viii) the authorized capital of Carfinco consists of an unlimited number of common shares and all of the outstanding securities of Carfinco are owned of record and beneficially by the Fund;
- (ix) (A) the Fund is the registered and beneficial holder of all of the outstanding Holdings Units of Holdings Trust and (B) all of the outstanding partnership units

of Carfinco LP are owned by Carfinco (beneficially and of record) as to approximately 9.53% and by Holdings Trust (beneficially and of record) as to approximately 90.47%, respectively; all free and clear of all Liens, other than Liens arising under the Credit Facility and the Credit Agreement;

- (x) the Fund has all requisite power and authority through the Trustees to own its properties and assets and carry on its business and affairs as described in the Prospectus and to perform its obligations under each of the Related Agreements to which it is a party and to enter into and deliver this Agreement and to perform its obligations hereunder, all in compliance with the terms and provisions of the Deed of Trust;
- (xi) Holdings Trust has all requisite power and authority through the Holdings Trustees to own its properties and assets and carry on its business and affairs as described in the Prospectus and to perform its obligations under each of the Related Agreements to which it is a party, all in compliance with the terms and provisions of the Holdings Deed of Trust;
- (xii) Carfinco LP has all requisite power, capacity and authority through Carfinco, its general partner, to own its properties and assets and to carry on its business and affairs as described in the Prospectus and to perform its obligations under each of the Related Agreements to which it is a party, all in compliance with the terms and provisions of the Limited Partnership Agreement;
- (xiii) Carfinco has all requisite power, capacity and authority to own its properties and assets and to carry on its business and affairs as described in the Prospectus and to perform its obligations under each of the Related Agreements to which it is a party and to execute and deliver this Agreement and perform its obligations hereunder;
- (xiv) none of the entities comprising the Carfinco Group are insolvent and no proceedings have been instituted or, to the knowledge of the Fund and Carfinco, are pending for the dissolution or liquidation of the Fund or any of the Subsidiaries;
- (xv) other than the Subsidiaries, the Fund does not own, directly or indirectly, or exercise control or direction over, and has not agreed to acquire outstanding securities of any other person or options to acquire securities of any other person (other than marketable securities held in the ordinary course of business) or a participating interest in any other person;
- (xvi) the Fund has all requisite power and authority to execute and deliver each of the Preliminary Prospectus, the Final Prospectus and any Prospectus Amendment and to file such documents, as applicable, with the Canadian Securities Regulators, and all necessary action has been taken by the Fund to authorize the execution and

delivery of the Preliminary Prospectus, the Final Prospectus and any Prospectus Amendment and the filing of the Preliminary Prospectus, the Prospectus and any Prospectus Amendment with the Canadian Securities Regulators;

- (xvii) except as contemplated herein, no person, firm or corporation has or will have at the Closing Date any agreement or option, or right or privilege (whether pre-emptive or contractual) capable of becoming an agreement or option, for the purchase from the Fund of any unissued securities of the Fund except as described in the Prospectus;
- (xviii) other than as set out in the Prospectus, there is no agreement in force or effect which in any manner affects or will affect the voting or control of any of the securities of the Fund or any of the Subsidiaries;
- (xix) no default exists under and no event has occurred which, after notice or lapse of time or both, or otherwise, would constitute a default under or breach of, by any member of the Carfinco Group or any other person, any material obligation, agreement, covenant or condition contained in any contract, indenture, trust, deed, mortgage, loan agreement, note, lease or other agreement or instrument to which the Fund, Carfinco, Holdings or Carfinco LP is a party or by which any of them or any of their respective properties may be bound, including without limitation, the Credit Agreement or any other Related Agreements and neither of the Fund or Carfinco is aware of any such default or breach by the Bank of America under the Credit Agreement;
- (xx) except as disclosed in the Prospectus, none of the officers or employees of the Fund or any of the Subsidiaries, any person who owns, directly or indirectly, more than 10% of any securities of the Fund or securities of any person exchangeable for more than 10% of any securities of the Fund, or any associate or affiliate of any of the foregoing, had or has any material interest, direct or indirect, in any transaction or any proposed transaction (including, without limitation, any loan made to or by any such person) with the Fund or any of the Subsidiaries which, as the case may be, materially affects, is material to or will materially affect the Fund on a consolidated basis;
- (xxi) since December 31, 2006, there has been no material adverse change (actual, contemplated or threatened) in the condition (financial or otherwise) or business of the Carfinco Group except as reflected in the Financial Statements or as otherwise set forth in the Prospectus;
- (xxii) other than the Credit Agreement, there is not in any other Related Agreement or any other agreement, any restriction upon or impediment to the declaration of distributions by the Trustees or the Holdings Trustees or the payment of distributions by the Fund to the holders of Trust Units or by Holdings Trust to the Fund;

- (xxiii) Grant Thornton LLP are independent public accountants as required by Canadian Securities Laws and there has never been any reportable disagreement or event (within the meaning of National Instrument 51-102 – *Continuous Disclosure Obligations*) with Grant Thornton LLP or, to the Fund's knowledge, any former auditors of the Fund or any member of the Carfinco Group (including any predecessor entities);
- (xxiv) the Financial Statements:
  - (A) have been prepared in accordance with Canadian generally accepted accounting principles applied on a basis consistent with those of preceding fiscal periods;
  - (B) present fairly and correctly, in all material respects, the assets, liabilities and financial condition of the Fund as at the dates thereof and the results of its operations and the changes in its cash flows for the periods then ended; and
  - (C) contain and reflect adequate provision or allowance for all reasonably anticipated liabilities, expenses and losses of the Fund;
- (xxv) neither the Fund nor Carfinco is in violation of, and the execution and delivery of this Agreement and the performance by the Fund and Carfinco of their obligations under this Agreement will not result in any breach or violation of, or be in conflict with, or constitute a default under, or create a state of facts which after notice or lapse of time, or both, would constitute a default under any term or provision of the constating documents of the Fund or Carfinco or any resolution of the Trustees, the unitholders of the Fund, or the directors or shareholders of Carfinco or any material contract (including any of the Related Agreements), mortgage, note, indenture, joint venture or partnership arrangement, agreement (written or oral), instrument, lease, judgment, decree, order, statute, rule, licence or regulation applicable to the Fund or Carfinco;
- (xxvi) each entity comprising the Carfinco Group has (A) filed all federal, provincial, state, local and foreign tax returns that are required to be filed or have requested extensions thereof (except in the case in which the failure to do so would not have a material adverse effect on the Carfinco Group, taken as a whole), (B) paid all taxes required to be paid and any other assessment, fine or penalty levied against any entity in the Carfinco Group, to the extent that any of the foregoing is due and payable, except as disclosed to the Underwriters in writing and except for any such assessment, fine or penalty that is currently being contested in good faith, (C) withheld or collected and remitted in a timely manner to the relevant taxation authority all taxes or other amounts required to be withheld or collected and remitted by them, and (D) established on their respective books and records reserves that are adequate for the payment of all taxes not yet due and payable,

and there are no liens for taxes on the assets of any entity comprising the Carfinco Group;

- (xxvii) no domestic or foreign taxation authority has asserted or, to the best of the Fund's or Carfinco's knowledge, threatened to assert any assessment, claim or liability for taxes due or to become due in connection with any review or examination of the tax returns of any entity comprising the Carfinco Group (including, without limitation, any predecessor companies) filed for any year which would have a material adverse effect on the Carfinco Group, taken as a whole;
- (xxviii) each of the Fund and Holdings Trust qualifies, and will qualify at the Closing Time, as a "unit trust" under section 108(2)(a) of the Tax Act and the Fund qualifies and will qualify at the Closing Time, as a "mutual fund trust" under section 132(6) of the Tax Act;
- (xxix) no approval, authorization, consent or other order of, and no filing, registration or recording with, any governmental authority or other person is required of the Fund in connection with the execution and delivery or with the performance by the Fund of this Agreement except (A) as disclosed in the Prospectus, (B) in compliance with the Canadian Securities Laws with regard to the distribution of the Units, if any, in the Qualifying Jurisdictions, and (C) those which have been obtained and provided to the Underwriters or their counsel;
- (xxx) this Agreement has been duly authorized, executed and delivered by each of the Fund and Carfinco and constitutes a legal, valid and binding obligation of each of the Fund and Carfinco, enforceable against the Fund and Carfinco in accordance with its terms, except as enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought and subject to the fact that rights of indemnity and contribution may be limited by applicable law;
- (xxxi) all actions required to be taken by or on behalf of each of the Fund and Carfinco, including the passing of all requisite resolutions of the Trustees, unitholders, directors, shareholders, as applicable, necessary to carry out each of the Fund's and Carfinco's obligations hereunder, have been or will, by the Closing Time, be completed;
- (xxxii) the Units to be issued as described in this Agreement and in the Prospectus, when issued, delivered and paid for in full, will be validly issued as fully paid Trust Units of the Fund, and the Units will conform in all material respects to the description thereof in the Prospectus and will not have been issued in violation of or subject to any pre-emptive rights or contractual rights to purchase securities issued by the Fund;

- (xxxiii) the form and terms of the certificates for the Units have been approved and adopted by the Trustees and comply with the requirements of the Deed of Trust;
- (xxxiv) to the knowledge of the Fund and Carfinco, no securities commission, stock exchange or comparable authority has issued any order preventing or suspending the use or effectiveness of the Preliminary Prospectus, the Final Prospectus, or any Prospectus Amendment or preventing the distribution of the Units, if any, in any Qualifying Jurisdiction nor instituted proceedings for that purpose and, to the knowledge of the Fund and Carfinco, no such proceedings are pending or contemplated;
- (xxxv) Equity Transfer & Trust Company at its principal office in the City of Toronto has been duly appointed as registrar and transfer agent for the Trust Units;
- (xxxvi) there are no actions, suits, judgments, investigations or government or other proceedings of any kind whatsoever outstanding, pending or, to the knowledge of the Fund, threatened against or affecting the Fund or any entity comprising the Carfinco Group, or their respective trustees, directors or officers (as the case may be), at law or in equity or before any court or before or by any federal, provincial, state, municipal or other governmental or public department, commission, board, agency or body, domestic or foreign, (and neither the Fund nor Carfinco knows of any basis therefor) against, or involving the assets, properties or business of the Carfinco Group nor are there any matters under discussion with any governmental authority relating to taxes, governmental charges or assessments asserted by any such authority which, in view of the quantum of the amounts claimed and the insurance coverage maintained by the Carfinco Group in respect of these matters, would materially adversely affect the value or the operation of such assets or properties or the business, results of operations or condition (financial or otherwise) of the Carfinco Group, taken as a whole, and none of the Fund or any entity comprising the Carfinco Group is subject to any judgment, order, writ, injunction, decree, award, rule, policy or regulation of any governmental authority which, either separately or in the aggregate, may have a material adverse effect on the assets and properties, business, results of operations, or conditions (financial or otherwise) of the Carfinco Group on a consolidated basis; or would adversely affect the ability of the Fund or Carfinco to perform its obligations under this Agreement;
- (xxxvii) each of the entities comprising the Carfinco Group has conducted and is conducting its business in compliance with all applicable laws, rules and regulations of each jurisdiction in which it carries on business (except where non-compliance with such laws, rules or regulations would not have a material adverse effect on the assets and properties, business, results of operations, or conditions (financial or otherwise) of the Carfinco Group on a consolidated basis), and holds all licenses, registrations, qualifications, permits and consents which are material to the Carfinco Group on a consolidated basis in all jurisdictions in which it

carries on business all such licenses, registrations or qualifications are valid and existing and in good standing except where such invalidity or non-existence would not have a material adverse effect on the assets and properties, business, results of operations, or conditions (financial or otherwise) of the Carfinco Group on a consolidated basis;

- (xxxviii) except as provided herein, there is no person, firm or corporation acting for the Fund entitled to any brokerage or finder's fee in connection with this Agreement or any of the transactions contemplated hereunder;
- (xxxix) the minute books and records of each of the entities comprising the Carfinco Group made available to counsel for the Underwriters in connection with its due diligence investigation of the Fund and its Subsidiaries are all of the minute books and records of the each of such entities and contain copies of all material proceedings (or certified copies thereof) of the securityholders, the trustees, the boards of directors and all committees of the boards of directors of each of such entities, as applicable, that have been minuted or resolved and there have been no other meetings, resolutions or proceedings of the securityholders, trustees, boards of directors or any committee thereof not reflected in such minute books and other records, other than those which are not material in the context of the Fund and the Subsidiaries, taken as a whole;
- (xl) with respect to each premises which is material to the Fund on a consolidated basis and which the Fund occupies, whether as owner or as tenant (the "**Material Premises**"), the Fund occupies the Material Premises and has the exclusive right to occupy and use the Material Premises and each of the leases pursuant to which the Fund occupies the Material Premises is in good standing and in full force and effect;
- (xli) to the knowledge of the Fund and Carfinco, no entity comprising the Carfinco Group is in material violation of, in connection with the ownership, use, maintenance or operation of any of property and assets of the Carfinco Group, including the Material Premises, any applicable federal, provincial, state, municipal or local laws, by-laws, regulations, orders, policies, permits, licences, certificates or approvals having the force of law, domestic or foreign, relating to environmental, health or safety matters which would have a material adverse effect on the Carfinco Group, taken as a whole;
- (xlii) there has not been in the last two years and there is not currently any labour disruption, grievance, arbitration proceeding or other conflict which could reasonably be expected to materially adversely affect the carrying on of the Fund's and the Subsidiaries' business, taken as a whole, and the Fund is in compliance with all provisions of all federal, provincial, local and foreign laws and regulations respecting employment and employment practices, terms and conditions of employment and wages and hours (collectively, "**Employment Laws**"), except

where non-compliance with any such provisions would not have a material adverse effect on the business, operations or financial condition of the Fund;

- (xliv) no union has been accredited or otherwise designated to represent any employees of the Fund or the Subsidiaries and, to the Fund's knowledge, no accreditation request or other representation question is pending with respect to the employees of the Fund or the Subsidiaries and no collective agreement or collective bargaining agreement or modification thereof has expired or is in effect in any of the Fund's facilities and none is currently being negotiated by the Fund or the Subsidiaries;
- (xlv) other than usual and customary health and related benefit plans for employees, the Documents Incorporated by Reference disclose to the extent required by applicable Canadian Securities Laws each material plan for retirement, bonus, stock purchase, profit sharing, stock option, deferred compensation, severance or termination pay, insurance, medical, hospital, dental, vision care, drug, sick leave, disability, salary continuation, legal benefits, unemployment benefits, vacation, incentive or otherwise contributed to, or required to be contributed to, by the Fund for the benefit of any current or former director, officer, employee or consultant of the Fund (collectively, the "**Employee Plans**"), each of which has been maintained in all material respects with its terms and with the requirements prescribed by any and all statutes, orders, rules and regulations that are applicable to such Employee Plans;
- (xlv) all material accruals for unpaid vacation pay, premiums for unemployment insurance, health premiums, pension plan premiums, accrued wages, salaries and commissions and employee benefit plan payments have been recorded in accordance with Canadian generally accepted accounting principles and are reflected on the books and records of the Fund;
- (xlvi) the Fund maintains a system of internal accounting controls sufficient to provide reasonable assurances that (1) transactions are executed in accordance with management's general or specific authorization, and (2) transactions are recorded as necessary to permit preparation of financial statements in conformity with Canadian generally accepted accounting principles and to maintain accountability for assets;
- (xlvii) Carfinco LP is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are customary in the business in which the Carfinco Group engages, and neither the Fund nor Carfinco has any reason to believe that Carfinco LP will not be able to renew its existing insurance coverage as and when such coverage expires or obtain similar coverage from similar insurers as may be necessary to continue the business of the Carfinco Group at a similar cost to that of the existing coverage;

- (xlviii) neither the Fund nor Carfinco is aware of any legislation, or proposed legislation (published by a legislative body), which it anticipates will materially and adversely affect the business, affairs, operations, assets, liabilities (contingent or otherwise) or prospects of the Carfinco Group, taken as a whole, other than the October 31 Proposals (as such term is defined in the Prospectus);
- (xlix) Carfinco LP owns or has the right to use all of the patents, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks and trade names and other intellectual property of any nature whatsoever which are necessary for the lawful conduct of its business as now conducted or presently proposed to be conducted, and neither the Fund or Carfinco is aware of nor has any of the entities comprising the Carfinco Group received any notice that the ownership or use of any of such intellectual property infringes, has infringed or is alleged to infringe the intellectual property rights of any third party;
  - (l) the data processing systems used by Carfinco LP adequately meet the data processing needs of the business and operations of Carfinco LP as presently conducted. Carfinco LP has taken appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to system application programs and data files used in the data processing systems to protect against unauthorized access, use, copying, modification and theft and destruction of such programs and files. The data storage facilities of Carfinco LP are adequate and properly protected;
  - (li) the Fund is a reporting issuer not in default under the applicable Canadian Securities Laws of each of the provinces of Canada, other than Quebec, and where applicable, the Fund is in compliance with its timely disclosure obligations under the Canadian Securities Laws in all of the Qualifying Jurisdictions and under the rules of the TSX and, without limiting the generality of the following, there has not occurred any material adverse change in the business, affairs, operations, assets, liabilities (contingent or otherwise) or capital of the Fund and the Subsidiaries (taken together as a whole) which has not been publicly disclosed; all the statements set forth in the public disclosure documents which have been filed pursuant to the "continuous disclosure" requirements of the Canadian Securities Laws are true, correct, and complete in all material respects and do not contain any misrepresentation as of the date of such statements and the Fund has not filed any confidential material change reports since the date of such statements which remain confidential at the date hereof;
  - (lii) the Trust Units are listed and posted for trading on the TSX and all necessary notices and filings have been made and all necessary consents, approvals and authorizations obtained by the Fund to ensure that, subject to satisfying standard listing conditions, the Units will be listed and posted for trading on the TSX upon their issuance and no hold, restricted or seasoning period shall apply;

- (liii) upon listing of the Units on the TSX, the Units will constitute qualified investments for trusts governed by registered retirement savings plans ("RRSPs"), registered retirement income funds ("RRIFs"), registered education savings plans ("RESPs") and deferred profit sharing plans ("DPSPs") under the Tax Act and the regulations thereto;
- (liv) all information which has been prepared by the Fund relating to the Carfinco Group and its business, property and liabilities and either publicly disclosed, provided or made available to the Underwriters, including the Prospectus and all financial, marketing, sales and operational information provided to the Underwriters is, as of the date of such information, true and correct in all material respects, taken as whole, and no fact or facts have been omitted therefrom which would make such information materially misleading;
- (lv) to the knowledge of the Fund and Carfinco, the Trustees and officers of the Fund who have participated in any due diligence session with the Underwriters have answered every question asked by the Underwriters and their counsel at such session accurately and truthfully, to the best of their knowledge;
- (lvi) the Fund has not completed any "significant acquisition", "significant disposition" nor is it proposing any "probable acquisitions" (as such terms are defined in National Instrument 44-101 – *Short Form Prospectus Distributions*) that would require the inclusion of any additional financial statements or pro forma financial statements in the Prospectus pursuant to Canadian Securities Laws that are not otherwise incorporated by reference into the Prospectus;
- (lvii) the Fund is eligible to file a short form prospectus in each of the Qualifying Jurisdictions pursuant to applicable Canadian Securities Laws and on the date of and upon filing of the Final Prospectus there will be no documents required to be filed under the Canadian Securities Laws in connection with the Offering that will not have been filed as required; and
- (lviii) to the knowledge of the Fund and Carfinco, none of the Fund, its officers or Trustees is aware of any circumstances presently existing under which liability is or could reasonably be expected to be incurred under Part XXIII – Civil Liability for Secondary Market Disclosure of the *Securities Act* (Ontario).

(e) **Commercial Copies**

The Fund shall cause commercial copies of the Preliminary Prospectus and the Final Prospectus to be delivered to the Underwriters without charge, in such quantities and in such cities as the Underwriters may reasonably request by oral instructions to the printer of such documents. Such delivery of the Preliminary Prospectus and the Final Prospectus shall be effected as soon as possible after filing thereof with the Canadian Securities Regulators but, in any event on or before noon (local time at the place of delivery) on the first Business Day after the filing thereof. The Fund shall similarly cause to be delivered commercial copies of any Prospectus Amendment.

The Fund shall cause to be provided to the Underwriters, without cost, such number of copies of any Documents Incorporated by Reference as the Underwriters may reasonably request for use in connection with the distribution of the Units.

**(f) Change of Closing Date**

Subject to the right of any Underwriter to terminate its obligations under this Agreement in accordance with the termination provisions contained in section 9, if a material change or change in a material fact occurs prior to the Closing Date, the Closing Date shall be, unless the Fund and the Underwriters otherwise agree in writing or unless otherwise required under Canadian Securities Laws, the sixth Business Day following the later of:

- (i) the date on which all applicable filings or other requirements of Canadian Securities Laws with respect to such material change or change in a material fact have been complied with in all Qualifying Jurisdictions and any appropriate MRRS decision documents obtained for such filings and notice of such filings from the Fund or its counsel have been received by the Underwriters; and
- (ii) the date upon which the commercial copies of any Prospectus Amendments have been delivered in accordance with section 4(e).

**5. Covenants of the Fund**

**(a) Material Change During Distribution**

During the period of distribution of the Units, the Fund covenants and agrees with the Underwriters that it shall promptly notify the Underwriters in writing of:

- (i) any material change (actual, anticipated, contemplated or threatened, financial or otherwise) in the business, affairs, operations, assets, liabilities (contingent or otherwise) or capital of the Fund and its Subsidiaries taken as a whole;
- (ii) any material fact which has arisen or has been discovered and would have been required to have been stated in the Preliminary Prospectus or Final Prospectus had the fact arisen or been discovered on, or prior to, the date of such document; and
- (iii) any change in any material fact (which for the purposes of this Agreement shall be deemed to include the disclosure of any previously undisclosed material fact) contained in the Preliminary Prospectus, the Final Prospectus or any Prospectus Amendment which fact or change is, or may be, of such a nature as to render any statement in the Preliminary Prospectus, the Final Prospectus or any Prospectus Amendment misleading or untrue or which would result in a misrepresentation in the Preliminary Prospectus, the Final Prospectus or any Prospectus Amendment or which would result in the Preliminary Prospectus, the Final Prospectus or any

Prospectus Amendment not complying (to the extent that such compliance is required) with Canadian Securities Laws.

The Fund shall promptly, and in any event within any applicable time limitation, comply, to the satisfaction of the Underwriters, acting reasonably, with all applicable filings and other requirements under the Canadian Securities Laws as a result of such fact or change. The Fund shall in good faith discuss with the Underwriters any fact or change in circumstances (actual, anticipated, contemplated or threatened, financial or otherwise) which is of such a nature that there is reasonable doubt whether written notice need be given under this section.

**(b) Change in Canadian Securities Laws**

If during the period of distribution of the Units there shall be any change in Canadian Securities Laws which, in the opinion of the Underwriters, acting reasonably, requires the filing of a Prospectus Amendment, upon written notice from the Underwriters, the Fund covenants and agrees with the Underwriters that it shall, to the satisfaction of the Underwriters, acting reasonably, promptly prepare and file such Prospectus Amendment with the appropriate Canadian Securities Regulator where such filing is required.

**(c) Post-Closing Matters**

The Fund covenants and agrees with the Underwriters, and acknowledges that the Underwriters are relying on such covenants in purchasing the Units that the Fund shall:

- (i) use its commercially reasonable efforts to maintain its status as a “reporting issuer” (or the equivalent thereof) not in default of the requirements of Canadian Securities Laws in each of the Qualifying Jurisdictions which have such a concept for a period of not less than one year from the Closing Date;
- (ii) use its commercially reasonable efforts to maintain the listing of the Trust Units on the TSX or such other recognized stock exchange or quotation system as GMP may approve, acting reasonably, for a period of not less than one year following the Closing Date; and
- (iii) use the net proceeds of the Offering in the manner specified in the Prospectus under the heading “Use of Proceeds”.

**6. Services Provided by Underwriters and Underwriting Fee**

In consideration for the Underwriters’ services in acting as financial advisors to the Fund, assisting in the preparation of the Prospectus (and any Prospectus Amendments), advising on the final terms and conditions of the Units, performing and managing banking, selling or other groups for the sale of the Units, distributing the Units, both directly and to other registered dealers as brokers, and performing administrative work in connection with the distribution of the Units, the Fund agrees to pay the Underwriters at the Closing Time the Underwriting Fee with respect to the Units. The Underwriting Fee shall be payable as provided for in section 7.

## **7. Delivery of Purchase Price, Underwriting Fee and Certificates**

The purchase and sale of the Purchased Units and, if applicable, the Additional Units issued and sold pursuant to the exercise of the Over-Allotment Option shall be completed at the Closing Time at the offices of Bennett Jones LLP in Calgary, Alberta, or at such other place as the Underwriters, the Fund and Carfinco may agree upon. At the Closing Time for the Purchased Units, the Fund shall duly and validly deliver to the Underwriters one or more definitive certificate(s) representing the Purchased Units registered in such name or names as the Underwriters may notify the Fund in writing not less than 24 hours prior to the Closing Time, against payment by the Underwriters to the Fund of the Purchase Price for the Purchased Units, less an amount equal to the Underwriting Fee and a reasonable estimate of the out-of-pocket expenses of the Underwriters and their counsel payable pursuant to section 13, by wire transfer, certified cheque or bank draft, together with a receipt signed by GMP on behalf of the Underwriters for such definitive certificate(s) and for the Underwriting Fee and such expenses.

## **8. Underwriters' Obligation to Purchase**

The Underwriters' obligation to purchase the Units at the applicable Closing Time shall be subject to the accuracy of the representations and warranties of the Fund contained in this Agreement as of the date of this Agreement and as of the applicable Closing Date, the performance by the Fund of its obligations under this Agreement and the following conditions:

### **(a) Delivery of Opinions**

the Underwriters shall have received at the Closing Time favourable legal opinions dated the Closing Date, in form and substance satisfactory to counsel to the Underwriters, acting reasonably, addressed to the Underwriters from Bennett Jones LLP, counsel to the Fund, as to matters of the laws of Canada, Alberta and Ontario, and where appropriate, local counsel in the Qualifying Jurisdictions (other than Alberta and Ontario), which counsel may rely as to matters of fact on certificates of the auditors of the Fund, public and stock exchange officials and officers of the Fund, with respect to the matters set out in Schedule "A";

### **(b) Delivery of Comfort Letter**

the Underwriters shall have received at the Closing Time a letter dated the Closing Date, in form and substance satisfactory to the Underwriters, addressed to the Underwriters and the Trustees from the auditors of the Fund, confirming the continued accuracy of the comfort letter to be delivered to the Underwriters and to the Trustees pursuant to subsection 4(a)(iii) with such changes as may be necessary to bring the information in such letter forward to a date not more than two Business Days prior to the Closing Date, which changes shall be acceptable to the Underwriters, acting reasonably;

(c) **Delivery of Certificates**

- (i) the Underwriters shall have received at the Closing Time a certificate dated the Closing Date, addressed to the Underwriters and signed by appropriate officers of the Fund, with respect to the constating documents of the Fund and Carfinco, all resolutions of the Trustees and the board of directors of Carfinco relating to this Agreement, the incumbency and specimen signatures of signing officers of the Fund and Carfinco and such other matters as the Underwriters may reasonably request;
- (ii) the Underwriters shall have received at the Closing Time a certificate dated the Closing Date, addressed to the Underwriters and signed on behalf of the Fund by the Chief Executive Officer and the Chief Financial Officer of the Fund or other officers of the Fund acceptable to the Underwriters, certifying for and on behalf of the Fund after having made due enquiry and after having carefully examined the Prospectus and any Prospectus Amendments, that:
  - (A) no order, ruling or determination having the effect of suspending the sale or ceasing the trading of the Units or any other securities of the Fund has been issued by any regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or are pending or, to the knowledge of such officers, contemplated or threatened under any of the Canadian Securities Laws or by any other regulatory authority;
  - (B) since the respective dates as of which information is given in the Final Prospectus as amended by any Prospectus Amendments that (1) there has been no material change (actual, anticipated, contemplated or threatened, whether financial or otherwise) in the business, affairs, operations, assets, liabilities (contingent or otherwise) or capital of the Fund and the Subsidiaries on a consolidated basis, and (2) no transaction has been entered into by any of the Fund or the Subsidiaries which is material to the Fund and the Subsidiaries taken as a whole, other than as disclosed in the Final Prospectus or the Prospectus Amendments, as the case may be;
  - (C) there has been no change in any material fact (which includes disclosure of any previously undisclosed material fact) contained in the Final Prospectus which fact or change is, or may be, of such a nature as to render any statement in the Final Prospectus misleading or untrue in any material respect or which would result in a misrepresentation in the Final Prospectus or which would

result in the Final Prospectus not complying with Canadian Securities Laws;

- (D) the Fund has complied with and satisfied the covenants, terms and conditions of this Agreement on its part to be complied with and satisfied up to the Closing Time;
  - (E) the representations and warranties of the Fund contained in this Agreement are true and correct as of the Closing Time with the same force and effect as if made at and as of the Closing Time after giving effect to the transactions contemplated by this Agreement;
  - (F) each of the conditions of closing set out in section 8(d) have been satisfied; and
  - (G) such other matters as the Underwriters may reasonably request.
- (iii) the Underwriters shall have received a certificate of status or the equivalent in respect of Carfinco issued by the appropriate regulatory authority;
  - (iv) the Underwriters shall have received a certificate from each Canadian Securities Regulator (as applicable) confirming that the Fund is a reporting issuer or the equivalent in each Qualifying Jurisdiction;
  - (v) the Fund shall have provided the Underwriters with a certificate dated the Closing Date addressed to the Underwriters stating that the Fund meets the requirements of a mutual fund trust under the Tax Act;
- (d) **Other Conditions of Closing**
- (i) the Units shall have been conditionally approved for listing on the TSX on the Business Day immediately preceding the Closing Date, subject only to the standard listing conditions, and no restricted, hold or seasoning period shall apply; and
  - (ii) the Underwriters shall have received a certificate from Equity Transfer & Trust Company as to the number of Trust Units issued and outstanding as at a date no more than two Business Days prior to the Closing Date.

## 9. Termination

### (a) Rights of Termination

Each Underwriter shall be entitled to terminate its obligation to purchase the Units by written notice to that effect given to the Fund at or prior to the Closing Time if:

- (i) *material change* – there shall be any material change in the affairs of the Fund or the Subsidiaries, taken as a whole, or there should be discovered any previously undisclosed material fact required to be disclosed in the Preliminary Prospectus, Final Prospectus or any amendment thereto or there should occur a change in a material fact contained in the Preliminary Prospectus, Final Prospectus or any amendment thereto, in each case which, in the reasonable opinion of the Underwriters (or any of them), has or would be expected to have a significant adverse effect on the market price or value of the Trust Units;
- (ii) *disaster out* – any inquiry, action, suit, investigation or other proceeding (whether formal or informal) (including matters of regulatory transgression or unlawful conduct) is commenced, announced or threatened or any order made by any federal, provincial, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality including, without limitation, the TSX or any securities regulatory authority or any law or regulation is enacted or changed which in the opinion of the Underwriters (or any of them), acting reasonably, could operate to prevent or materially restrict the trading of the Trust Units or materially and adversely affects or will materially and adversely affect the market price or value of the Trust Units; or (ii) if there should develop, occur or come into effect or existence any event, action, state, condition or major financial occurrence of national or international consequence (including terrorism) or any new law or regulation which in the reasonable opinion of the Underwriters seriously adversely affect, or involve, or will, or would reasonably be expected to, seriously adversely affect, the financial markets or the business, operations or affairs of the Fund and the Subsidiaries taken as a whole; or
- (iii) *breach* – the Fund is in breach of any term, condition or covenant of this Agreement or any representation or warranty given by the Fund in the Agreement becomes false.

### (b) Exercise of Termination Rights

The rights of termination contained in subsections 9(a)(i), (ii) and (iii) may be exercised by any of the Underwriters and are in addition to any other rights or remedies any of the Underwriters may have in respect of any default, act or failure to act or non-compliance by the Fund or

Carfinco in respect of any of the matters contemplated by this Agreement or otherwise. Notwithstanding the foregoing sentence, in the event of any such termination, there shall be no further liability on the part of the Underwriters to the Fund or Carfinco or on the part of the Fund or Carfinco to the Underwriters except in respect of any liability which may have arisen prior to or which may arise after such termination under sections 10, 11, and 13. A notice of termination given by an Underwriter under subsections 9(a)(i), (ii) or (iii) shall not be binding upon any other Underwriter.

## **10. Indemnity**

### **(a) Rights of Indemnity**

The Fund and Carfinco jointly and severally agree to indemnify and save harmless each of the Underwriters and each of their respective affiliates, and each of their respective directors, officers, partners, employees and agents (collectively, the “**Indemnified Parties**” and individually, an “**Indemnified Party**”) from and against all liabilities, claims, losses, costs, damages and reasonable expenses (including without limitation any reasonable legal fees or other expenses reasonably incurred by such Underwriters in connection with advising with respect to or defending any of the above) but excluding any loss of profits, in any way caused by, or arising directly or indirectly from, or in consequence of any Claim made by a third party against the Indemnified Parties as a result of:

- (i) the performance of professional services rendered to the Fund by any Indemnified Party or otherwise in connection with the Offering and the matters referred to in this Agreement;
- (ii) any information or statement (except any statement relating solely to the Underwriters and provided by the Underwriters) contained in the Prospectus, any Prospectus Amendments or in any certificate or other document of the Fund filed or delivered pursuant to this Agreement which at the time and in the light of the circumstances under which it was made contains or is alleged to contain a misrepresentation;
- (iii) any omission or alleged omission to state in the Prospectus, any Prospectus Amendments or any certificate or other document of the Fund filed or delivered pursuant to this Agreement any material fact (except facts relating solely to the Underwriters and provided by the Underwriters), required to be stated in such document or necessary to make any statement in such document not misleading in light of the circumstances under which it was made;
- (iv) any order made or enquiry, investigation or proceedings commenced or threatened by any securities regulatory authority or other competent authority based upon any untrue statement or omission or alleged untrue statement or alleged omission or any misrepresentation or alleged misrepresentation (except a statement or omission or alleged statement or omission relating solely to the

Underwriters and provided by or not provided by the Underwriters, as the case may be) contained in the Prospectus, any Prospectus Amendments or in any certificate or other document of the Fund filed or delivered pursuant to this Agreement or based upon any failure to comply with the Canadian Securities Laws (other than any failure or alleged failure to comply by the Underwriters), preventing or restricting the trading in or the sale or distribution of the Units in any of the Qualifying Jurisdictions;

- (v) the non-compliance or alleged non-compliance by the Fund with any of the Canadian Securities Laws including the Fund's or Carfinco's non-compliance with any statutory requirement to make any document available for inspection; or
- (vi) any breach by the Fund or Carfinco of their representations, warranties, covenants or obligations to be complied with under this Agreement,

provided, however, that this indemnity shall not apply to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that: (a) an Indemnified Party has been negligent or dishonest or have committed any fraudulent act in the course of such performance; and (b) the expenses, losses, claims, damages or liabilities, as to which indemnification is claimed, were directly caused by the negligence, dishonesty or fraud referred to in (a).

The Fund and Carfinco also agree to reimburse the Underwriters for all reasonable costs, fees, charges and expenses as incurred which any of them may incur or pay in connection with investigating or disputing any Claim or action relating thereto.

The rights of indemnity contained in this section 10 will not enure to the benefit of the Underwriters if the Fund and Carfinco, as applicable, have complied with the provisions of paragraphs 4(b), 4(e) and 5 and the person asserting any Claim contemplated by this section 10 was not provided with a copy of any Prospectus or Prospectus Amendment which corrects any untrue statement or information, misrepresentation or omission which is the basis of such Claim and which is required under Canadian Securities Laws to be delivered to that person by the Underwriters or any Selling Firms.

(b) **Notification of Claims**

If any matter or thing contemplated by section 10(a) (any such matter or thing being referred to as a "**Claim**") is asserted against any person or entity in respect of which indemnification is or might reasonably be considered to be provided, the Indemnified Party will notify the Fund and Carfinco, as soon as possible of the nature of such Claim (but the omission or delay to so notify the Fund or Carfinco of any potential Claim shall not relieve the Fund or Carfinco from any liability which it may have to any Indemnified Party and any omission or delay to so notify the Fund or Carfinco of any actual claim shall affect the Fund's or Carfinco's liability only to the extent that it is prejudiced by that omission or delay). The Fund and Carfinco shall be entitled (but not required) to participate in and, to the extent that they shall wish, to assume the defence of

any suit brought to enforce such Claim; provided, however, that the defence shall be conducted through legal counsel acceptable to the Indemnified Party, acting reasonably, that no settlement of any such Claim or admission of liability may be made by the Fund, Carfinco or the Indemnified Party without the prior written consent of the other parties, acting reasonably, unless such settlement: (i) includes an unconditional release of the Indemnified Party from all liability arising out of such action or claim; and (ii) does not include a statement as to any admission of fault, culpability or failure to act, by or on behalf of any Indemnified Party and the Fund or Carfinco.

**(c) Right of Indemnity in Favour of Others**

With respect to any Indemnified Party who is not a party to this Agreement, it is the intention of the Fund and Carfinco to constitute the Underwriters as trustees for such Indemnified Party of the rights and benefits of this section 10 and the Underwriters agree to accept such trust and to hold the rights and benefits of this section in trust for and on behalf of such Indemnified Party.

**(d) Retaining Counsel**

In any such Claim, the Indemnified Party shall have the right to retain other counsel to act on his or its behalf, and the Fund and Carfinco shall not have the right to assume the defence of such suit on behalf of the Indemnified Party but shall be liable to pay the reasonable fees and expenses of counsel for the Indemnified Party, provided that the reasonable fees and disbursements of such counsel shall only be paid by the Fund and/or Carfinco only if: (i) the Fund, Carfinco and the Indemnified Party shall have mutually agreed to the retention of the other counsel; (ii) the named parties to any such Claim (including any added third or impleaded party) include both the Indemnified Party, the Fund and Carfinco and those parties have been advised in writing by counsel that the representation of both parties by the same counsel would be inappropriate due to the actual or potential differing interests between them or additional defences are available to an Indemnified Party; or (iii) the Fund and Carfinco shall not have retained counsel within 10 Business Days following receipt by the Fund and Carfinco of notice of any such Claim from the Indemnified Party.

**11. Contribution**

**(a) Rights of Contribution**

In order to provide for a just and equitable contribution in circumstances in which the indemnity provided in section 10 would otherwise be available in accordance with its terms but is, for any reason, held to be unavailable to or unenforceable by an Indemnified Party or enforceable otherwise than in accordance with its terms or insufficient to hold any Indemnified Party harmless, the Fund and Carfinco shall contribute to the aggregate of all Claims of a nature contemplated by section 10 and suffered or incurred by an Indemnified Party, whether or not the Fund, Carfinco or the Indemnified Party have been sued together or separately, (i) in such proportion as is appropriate to reflect the relative benefits received by the Fund and Carfinco on the one hand, and the Indemnified Party on the other hand, from the Offering pursuant to this

Agreement, or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Fund and Carfinco on the one hand, and the Indemnified Party on the other hand, in connection with the actions or omissions which resulted in such Claims, as well as any other relevant equitable considerations. The Fund and Carfinco shall in any event be liable to contribute to the amount paid or payable by an Indemnified Party as a result of a Claim, any amounts in excess of the Underwriting Fee or any portion of such fee actually received by an Indemnified Party, provided, however, that: (a) the Underwriters shall not in any event be liable to contribute, in the aggregate, any amounts in excess of such aggregate fee or any portion of such fee actually received; and (b) no party who has engaged in any fraud, fraudulent misrepresentation or gross negligence shall be entitled to claim contribution from any person who has not engaged in such fraud, fraudulent misrepresentation or gross negligence.

The relative benefits received by the Fund and Carfinco on the one hand and the Underwriters on the other hand in connection with the Offering pursuant to this Agreement will be deemed to be in the same respective proportions as the total net proceeds from the Offering pursuant to this Agreement (before deducting expenses) received by the Fund and Carfinco and the total Underwriting Fee received by the Underwriters, bear to the aggregate gross proceeds of the Offering.

The relative fault of the Fund and Carfinco on the one hand and the Underwriters on the other hand will be determined by reference to, among other things, whether any Claim relates to information supplied by the Fund, Carfinco or the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Fund, Carfinco and the Underwriters agree that it would not be just and equitable if contribution pursuant to this section 11(a) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this section (a).

The Underwriters' respective obligations to contribute pursuant to this section 11(a) are joint in the proportions set forth opposite their respective names in section 15 and not several.

**(b) Rights of Contribution in Addition to Other Rights**

The rights to contribution provided in section 11(a) shall be in addition to and not in derogation of any other right to contribution which the Underwriters may have by statute or otherwise at law.

**(c) Notice**

If the Underwriters have reason to believe that a claim for contribution may arise, they shall give the Fund and Carfinco notice of such claim in writing, as soon as reasonably possible, but failure or delay to notify the Fund or Carfinco shall not relieve the Fund or Carfinco of any obligation

which it may have to the Underwriters under this section except to the extent that failure or delay prejudices the Fund.

**(d) Right of Contribution in Favour of Others**

With respect to any Indemnified Party who is not a party to this Agreement, it is the intention of the Fund and Carfinco to constitute the Underwriters as trustees for such Indemnified Party of the rights and benefits of this section and the Underwriters agree to accept such trust and to hold the rights and benefits of this section in trust for an on behalf of such Indemnified Party.

**12. Severability**

If any provision of this Agreement is determined to be void or unenforceable in whole or in part, it shall be deemed not to affect or impair the validity of any other provision of this Agreement and such void or unenforceable provision shall be severable from this Agreement.

**13. Expenses**

Whether or not the Offering shall be completed, except as specifically provided below, all expenses of or incidental to the issue, sale and delivery of the Units and all expenses of or incidental to all other matters in connection with the Offering shall be borne by the Fund directly including, without limitation, fees and expenses payable in connection with the qualification of the Units for distribution, the fees relating to listing the Units on the TSX, the fees and expenses of counsel to the Fund, all fees and expenses of local counsel to the Fund, all fees and expenses of the Fund's auditors, all costs incurred in connection with the preparation and printing of the Preliminary Prospectus, Final Prospectus or any Prospectus Amendments and certificates representing the Units, all costs incurred related to road shows and marketing activities, filing fees, and all reasonable out-of-pocket expenses of the Underwriters (including their reasonable travel expenses in connection with due diligence and marketing meetings) and any taxes thereon, and fees and disbursements of Underwriters' counsel (subject to a limit of \$75,000 plus disbursements and GST). In the event that the Offering is not completed, the Fund shall pay the reasonable out-of-pocket expenses of the Underwriters and the fees and disbursements of Underwriters' counsel promptly upon receipt of an invoice therefor.

**14. Over-Allotment Option**

- (a) The Fund hereby grants to the Underwriters, for the purpose of covering the Underwriter's allocation position at Closing, if any, the Over-Allotment Option to purchase the Additional Units. The Over-Allotment Option is exercisable in whole or in part at any time or times on or before 5:00 p.m. (Toronto time) on the 30<sup>th</sup> day following the Closing Date. For greater certainty, the Underwriters shall be paid the Underwriting Fee in respect of the issue and sale of any Additional Units purchased pursuant to the exercise of the Over-Allotment Option. GMP, on behalf of the Underwriters, may exercise the Over-Allotment Option from time to time, in whole or in part, during the currency thereof by delivering written notice to the Fund (the

“**Over-Allotment Notice**”) specifying the number of Additional Units which the Underwriters wish to purchase. If the Underwriters exercise the Over-Allotment Option, the Underwriters shall, on the Closing Date, which shall be a date that is not less than two Business Days and not more than five Business Days after the date of the Over-Allotment Notice (such day to be specified by the Underwriters in their sole discretion), pay to the Fund the aggregate Purchase Price for the Additional Units so purchased by wire transfer, certified cheque or bank draft in Canadian currency payable at par in Edmonton, Alberta against delivery of one or more certificates in definitive form representing the Additional Units, registered in such name or names as the Underwriters may notify the Fund in writing not less than 24 hours prior to the Closing Time. The applicable terms, conditions and provisions of this Agreement (including, without limitation, the provisions of section 8 relating to closing deliveries unless otherwise agreed to by the Underwriters and the Fund) shall apply *mutatis mutandis* to the issuance of any Additional Units pursuant to any exercise of the Over-Allotment Option and to the Additional Units.

- (b) In the event that the Fund shall subdivide, consolidate, reclassify or otherwise change the Trust Units during the period in which the Over-Allotment Option is exercisable, appropriate adjustments will be made to the Purchase Price and to the number of Additional Units issuable on exercise thereof such that the Underwriters are entitled to arrange for the sale of the same number and type of securities that the Underwriters would have otherwise arranged for had they exercised such Over-Allotment Option immediately prior to such subdivision, consolidation, reclassification or change.

## 15. **Rights to Purchase**

The Underwriters’ obligations under this Agreement are several and not joint. Accordingly, subject to the terms of this Agreement, each of the Underwriters shall be obligated to purchase only that percentage of the Purchased Units, and, if applicable, any Additional Units issuable upon exercise of the Over-Allotment Option, set opposite its name below:

GMP	-	80.0%
Blackmont Capital Inc.	-	15.0%
Pacific International Securities Inc.	-	5.0%

If an Underwriter (a “**Refusing Underwriter**”) does not complete the purchase and sale of the Units which that Underwriter has agreed to purchase under this Agreement (other than in accordance with section 9) (the “**Defaulted Units**”), GMP may delay the Closing Date for not more than five (5) days and the remaining Underwriters (the “**Continuing Underwriters**”) will be entitled, at their option, to purchase all but not less than all of the Defaulted Units pro rata according to the number of Units to have been acquired by the Continuing Underwriters under this Agreement or in any proportion agreed upon, in writing, by the Continuing Underwriters. If the Continuing Underwriters do not elect to purchase the balance of the Units pursuant to the foregoing:

- (a) the Continuing Underwriters shall not be obligated to purchase any of the Units;
- (b) the Fund will not be obligated to sell less than all of the Units; and
- (c) the Fund will be entitled to terminate its obligations under this Agreement arising from its acceptance of this offer,

in which event there will be no further liability on the part of the Fund or the Continuing Underwriters, except pursuant to the provisions of sections 10, 11 and 13.

#### **16. Restrictions on Further Issuances**

The Fund agrees not to issue any Trust Units or any securities convertible into or exchangeable for or exercisable to acquire Trust Units for a period of 90 days from the Closing Date without the prior written consent of GMP on behalf of the Underwriters.

#### **17. Survival of Representations and Warranties**

The representations, warranties, covenants and agreements of the Fund and Carfinco contained in this Agreement and in any certificate delivered pursuant to this Agreement or in connection with the purchase and sale of the Units shall survive the purchase of the Units and shall continue in full force and effect unaffected by any subsequent disposition of the Units by the Underwriters or the termination of the Underwriters' obligations and shall not be limited or prejudiced by any investigation made by or on behalf of the Underwriters in connection with the preparation of the Prospectus, any Prospectus Amendments or the distribution of the Units. The provisions of this section will not apply if the Underwriters do not purchase any of the Units in which case there shall be no further liability of the Fund to the Underwriters except in respect of any liability of the Fund which may have arisen or may thereafter arise under sections 10, 11 or 13.

#### **18. Press Releases and Advertisements**

The Fund and Carfinco agree, if so requested, to include a reference to the Underwriters and their role in any press release or other public communication issued by the Fund with respect to the Offering. Any such press release or public communication will contain the following legend: "Not for distribution or dissemination in the United States or to U.S. news wire services." Provided that the Offering is completed as herein contemplated, each of the Underwriters shall have the right to publish, at its own expense, such advertisements or announcements relating to the services provided hereunder in such newspaper or other publications as it considers appropriate and subject to the Fund's written approval, which shall not be unreasonably withheld. The Fund also agrees to consult with GMP prior to issuing any press releases during the term of this Agreement.

**19. Time**

Time is of the essence in the performance of the parties' respective obligations under this Agreement.

**20. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**21. Notice**

Unless otherwise expressly provided in this Agreement, any notice or other communication to be given under this Agreement (a "**notice**") shall be in writing addressed as follows:

If to the Fund, addressed and sent to:

Carfinco Inc.  
300, 4245 – 97 Street,  
Edmonton, Alberta, T6E 5Y7

Attention: Tracy A. Graf  
Facsimile: 1-888-486-7456

If to Carfinco, addressed and sent to:

Carfinco Income Fund  
300, 4245 – 97 Street,  
Edmonton, Alberta, T6E 5Y7

Attention: Tracy A. Graf  
Facsimile: 1-888-486-7456

with a copy (but not as notice) to:

Bennett Jones LLP  
4500 Bankers Hall East  
855 2nd Street SW  
Calgary, Alberta T2P 4K7  
Attention: John H. Kousinioris  
Facsimile: (403) 265-7219

If to GMP, addressed and sent to:

GMP Securities L.P.  
145 King Street West, Suite 300  
Toronto, Ontario M5H 4A6  
Attention: Neil Selfe  
Facsimile: (416) 943-6100

If to Blackmont Capital Inc., addressed and sent to:

Blackmont Capital Inc.  
440 – 2nd Avenue S.W., Suite 2200  
Calgary, Alberta T2P 5E9  
Attention: John Peltier  
Facsimile: (403) 260-5751

If to Pacific International Securities Inc., addressed and sent to:

Pacific International Securities Inc.  
1900-666 Burrard Street  
Vancouver, British Columbia V6C 3N1  
Attention: James P. Defer  
Facsimile: (604) 664-3660

with a copy (but not as notice) to:

Wildeboer Dellelce LLP  
Suite 800, Wildeboer Dellelce Place  
365 Bay Street  
Toronto, Ontario M5H 2V1  
Attention: Robert Wortzman  
Facsimile: (416) 361-1790

or to such other address as any of the parties may designate by giving notice to the others in accordance with this section. Each notice shall be personally delivered to the addressee or sent by fax to the addressee and:

- (a) a notice which is personally delivered shall, if delivered on a Business Day, be deemed to be given and received on that day and, in any other case, be deemed to be given and received on the first Business Day following the day on which it is delivered; and
- (b) a notice which is sent by fax shall be deemed to be given and received on the first Business Day following the day on which it is sent.

**22. Authority of GMP**

GMP is hereby authorized by each of the other Underwriters to act on its behalf and the Fund and Carfinco shall be entitled to and shall act on any notice given in accordance with section 21 or agreement entered into by or on behalf of the Underwriters by GMP which represents and warrants that it has irrevocable authority to bind the Underwriters, except in respect of any consent to a settlement pursuant to subsection 10(b), which consent shall be given by the Indemnified Party, a notice of termination pursuant to section 9 which notice may be given by any of the Underwriters. GMP shall consult with the other Underwriters concerning any matter in respect of which it acts as representative of the Underwriters.

**23. Assignment**

Neither this Agreement nor any rights or obligations under this Agreement will be assignable (1) by the Fund or Carfinco without the prior written consent of GMP, or (2) by any Underwriter without the prior written consent of the Fund and Carfinco. The terms and provisions of this Agreement will be binding upon and enure to the benefit of the Fund, Carfinco and each Underwriter and their respective successors and permitted assigns.

**24. Entire Agreement**

The parties hereby acknowledge and agree that the terms and conditions of this Agreement supersede any previous verbal or written agreement between the Underwriters, the Fund and Carfinco with respect to this offering and including, without limitation, the letter agreement between GMP, the Fund and Carfinco dated May 30, 2007.

**25. Counterparts**

This Agreement may be executed by the parties to this Agreement in counterpart and may be executed and delivered by facsimile and all such counterparts and facsimiles shall together constitute one and the same agreement.

**[The remainder of this page has deliberately been left blank.]**

If the foregoing is in accordance with your understanding and is agreed to by you, please signify your acceptance by executing the enclosed copies of this letter where indicated below and returning the same to GMP Securities L.P. upon which this letter as so accepted shall constitute an Agreement among us.

Yours very truly,

**GMP SECURITIES L.P.**

Per: "Neil Selfe"  
Neil Selfe  
Managing Director

**BLACKMONT CAPITAL INC.**

Per: "John Peltier"  
John Peltier  
Director, Investment Banking

**PACIFIC INTERNATIONAL SECURITIES INC.**

Per: "James P. Defer"  
James P. Defer  
Vice President, Corporate Finance

The foregoing is hereby accepted on the terms and conditions therein set forth.

**DATED** as of the 5<sup>th</sup> day of June, 2007.

**CARFINCO INCOME FUND**

Per: "Tracy A. Graf"  
Tracy A. Graf  
Trustee and Chief Executive Officer

Per: "David Prussky"  
David Prussky  
Trustee

**CARFINCO INC.**

Per: "Tracy A. Graf"  
Tracy A. Graf  
Director and President

Per: "Troy Graf"  
Troy Graf  
Director and Chief Financial Officer

## SCHEDULE "A"

### Opinions of Counsel to the Fund

*This is Schedule "A" to the underwriting agreement (the "**Underwriting Agreement**") by and between Carfinco Income Fund, Carfinco Inc., GMP Securities L.P., Blackmont Capital Inc. and Pacific International Securities Inc. made as of June 5, 2007. All capitalized terms that are used in this Schedule and not otherwise defined shall have the meaning ascribed thereto in the Underwriting Agreement.*

1. the Fund has been duly created and is existing as a trust under the laws of the Province of Ontario pursuant to the Deed of Trust and the Trustees are the duly appointed trustees of the Fund and the Fund has all requisite power and authority through the Trustees to own its properties and assets and carry on its business and affairs as described in the Prospectus, in compliance with the terms and provisions of the Deed of Trust;
2. Holdings Trust has been duly created and is existing as a trust under the laws of the Province of Ontario pursuant to the Holdings Trust Deed of Trust and the Holdings Trustees are the duly appointed trustees of Holdings Trust and Holdings Trust has all requisite power and authority through the Holdings Trustees to own its properties and assets and carry on its business and affairs as described in the Prospectus, in compliance with the terms and provisions of the Holdings Deed of Trust;
3. Carfinco LP has been duly created and is existing as a limited partnership under the laws of the Province of Ontario pursuant to the Limited Partnership Agreement and has all requisite power, capacity and authority through Carfinco, its general partner, to own its properties and assets and to carry on its business and affairs as described in the Prospectus, all in compliance with the terms and provisions of the Limited Partnership Agreement;
4. Carfinco is a corporation duly amalgamated and existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it currently carries on business and has all requisite corporate power and authority to carry on its business as described in the Prospectus and to own, lease and operates its property and assets;
5. the terms of the Deed of Trust, the Holdings Trust Deed of Trust and the Limited Partnership Agreement are consistent in all material respects with the description thereof in the Prospectus;
6. the beneficial interests in the Fund are divided into interests of one class, described and designated as Trust Units, and the aggregate number of Trust Units which are

authorized and may be issued pursuant to the Deed of Trust are unlimited, of which 20,561,296 Trust Units are validly issued and fully paid as at the date hereof;

7. the beneficial interests in Holdings Trust are divided into interests of one class, described and designated as Holdings Units;
8. the authorized capital of Carfinco LP consists of an unlimited number of partnership units, and the aggregate number of Holdings Units which are authorized and may be issued pursuant to the Holdings Trust Deed of Trust are unlimited, of which 10 Holdings Units are validly issued and fully paid as at the date hereof;
9. the authorized capital of Carfinco consists of one class of shares designated as "common shares" and all outstanding common shares of Carfinco are registered in the name of the Fund;
10. (A) the Fund is the registered and beneficial holder of all of the outstanding Holdings Units of Holdings Trust and (B) all of the outstanding partnership units of Carfinco LP are owned by Carfinco (beneficially and of record) as to approximately 9.53% and by Holdings Trust (beneficially and of record) as to approximately 90.47%, respectively; all free and clear of all Liens, other than Liens arising under the Credit Facility and the Credit Agreement;
11. the Units have been duly authorized and validly allotted and issued by the Fund to the Underwriters and the Units are outstanding as fully paid and non-assessable;
12. all necessary actions have been taken by the Trustees to validly issue, sell and deliver the Units to the Underwriters;
13. the attributes and characteristics of the Trust Units conform in all material respects with the description thereof contained in the Final Prospectus;
14. all necessary corporate action has been taken by the Fund to authorize and approve the Preliminary Prospectus and the Final Prospectus and the filing thereof with the Canadian Securities Regulators and the execution thereof and each has been duly executed by the Fund;
15. the form and terms of the definitive certificates representing the Units have been approved and adopted by the Trustees and comply with the terms and conditions of the Deed of Trust and applicable law and the certificates representing the Units issued at the Closing Time have been duly executed and delivered by or on behalf of the Trustees;
16. the TSX has conditionally approved the listing of the Units, subject to the Fund fulfilling all of the requirements of the TSX, and no restricted or seasoning period will be imposed by the TSX;

17. the Fund is a “reporting issuer”, or its equivalent, in each of the Qualifying Jurisdictions and it is not included in a list of defaulting reporting issuers maintained by any of the Canadian Securities Regulators in the Qualifying Jurisdictions, to the extent such jurisdictions have such concept;
18. Equity Transfer & Trust Company has been duly appointed as the transfer agent and registrar for the Trust Units;
19. each of the Fund and Carfinco have the power and capacity to enter into and deliver the Underwriting Agreement, to perform each of their obligations thereunder and to carry out the transactions contemplated thereby, and the Underwriting Agreement has been duly authorized, executed and delivered on behalf of the Fund and Carfinco, as the case may be, and constitutes a legal, valid and binding obligation of the Fund and Carfinco, enforceable against each of the Fund and Carfinco in accordance with its terms;
20. the execution and delivery of the Underwriting Agreement and the performance by the Fund and Carfinco of each of their obligations thereunder do not and will not create a state of facts which, after notice or lapse of time or both, will result in a breach of, and do not and will not conflict with the constating documents of the Fund (including the Deed of Trust) or Carfinco;
21. no consent, approval, authorization or order of or filing, registration or qualification with any court, governmental agency or body or regulatory authority having jurisdiction is required at this time for the execution and delivery by the Fund or Carfinco of the Underwriting Agreement and the performance of its obligations thereunder, except for such as have been made or obtained;
22. all approvals, permits, consents, orders and authorizations have been obtained, all necessary documents have been filed and all other legal requirements have been fulfilled under applicable Canadian Securities Laws to qualify the issuance or distribution and sale of the Units to the public in each of the Qualifying Jurisdictions and to grant the Over-Allotment Option to the Underwriters and to permit the issuance, sale and delivery of such Units to the public through dealers registered under the applicable laws of each of the Qualifying Jurisdictions who have complied with the relevant provisions of such laws and the terms of their registration;
23. provided the Units are listed on a prescribed stock exchange at the relevant time and subject to the provisions of any particular plan, the Units will, as of the date they are issued, be “qualified investments” under the Tax Act and the regulations thereunder for trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans and deferred profit sharing plans;

24. subject to the qualifications set out therein, the statements in the Prospectus under the heading "Canadian Federal Income Tax Considerations" constitute, as at the date hereof, our opinion of the principal Canadian federal income tax consequences arising under the Tax Act to persons who hold Units as capital property and who deal at arm's length and are not affiliated, with the Carfinco Group.