

CONVERTIBLE DEBENTURE INDENTURE

DATED AS OF THE 30TH DAY OF JUNE, 2010

AMONG

ARMTEC INFRASTRUCTURE INCOME FUND

AND

COMPUTERSHARE TRUST COMPANY OF CANADA

PROVIDING FOR THE ISSUE OF DEBENTURES

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Schedule "A" - Form of Initial Debenture
 Schedule "B" - Form of Redemption Notice
 Schedule "C" - Form of Maturity Notice
 Schedule "D" - Form of Notice of Conversion

THIS INDENTURE made as of the 30th day of June, 2010.

AMONG:

ARMTEC INFRASTRUCTURE INCOME FUND, an unincorporated, open ended, limited purpose trust established under the laws of the Province of Ontario and having its head office in the City of Guelph, in the Province of Ontario (hereinafter called the "**Fund**")

AND

COMPUTERSHARE TRUST COMPANY OF CANADA, a trust company organized under the laws of Canada having an office in the City of Toronto, in the Province of Ontario (hereinafter called the "**Trustee**")

WITNESSETH THAT:

WHEREAS the Fund wishes to create and issue the Debentures in the manner and subject to the terms and conditions of this Indenture;

AND WHEREAS the Fund, under the laws relating thereto, is duly authorized to create and issue the Debentures to be issued as herein provided;

AND WHEREAS the Corporation is duly authorized to sign instruments on behalf of the Fund;

AND WHEREAS, when certified by the Trustee and issued as in this Indenture provided, all necessary steps in relation to the Fund have been duly enacted, passed and/or confirmed and other proceedings taken and conditions complied with to make the creation and issue of the Debentures proposed to be issued hereunder legal, valid and binding on the Fund in accordance with the laws relating to the Fund;

AND WHEREAS the foregoing recitals are made as representations and statements of fact by the Fund and not by the Trustee;

NOW THEREFORE THIS INDENTURE WITNESSES that in consideration of the respective covenants and agreements contained herein and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the Fund and the Trustee covenant and agree, for the benefit of each other and for the equal and rateable benefit of the holders, as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Indenture and in the Debentures, unless there is something in the subject matter or context inconsistent therewith, the expressions following shall have the following meanings, namely:

- (a) "**this Indenture**", "**this Convertible Debenture Indenture**", "**hereto**", "**herein**", "**hereby**", "**hereunder**", "**hereof**" and similar expressions refer to this Indenture and not to any particular

Article, Section, subsection, clause, subdivision or other portion hereof and include any and every instrument supplemental or ancillary hereto;

- (b) **"Additional Debentures"** means Debentures of any one or more series, other than the first series of Debentures, being the Initial Debentures, issued under this Indenture;
- (c) **"Applicable Securities Legislation"** means applicable securities laws (including rules, regulations, policies and instruments) in each of the applicable Provinces of Canada;
- (d) **"Auditors of the Fund"** means an independent firm of chartered accountants duly appointed as auditors of the Fund;
- (e) **"Bank Facility Indebtedness"** means all obligations, liabilities and indebtedness of the Fund and its Subsidiaries under or in respect of the fourth amended and restated credit agreement dated as of May 11, 2009 between The Bank of Nova Scotia, as administrative agent, Armtec Operating Trust, Armtec Limited Partnership, as borrowers, and the lenders party thereto from time to time, as such agreement has been amended to the date hereof and as it may be amended, restated, amended and restated, revised, supplemented or otherwise modified from time to time, together with any agreements which may replace it in the future;
- (f) **"Beneficial Holder"** means any person who holds a beneficial interest in a Global Debenture as shown on the books of the Depository or a Depository Participant as determined in accordance with MI 62-104;
- (g) **"Board of Directors"** means the board of trustees of the Fund or any committee thereof;
- (h) **"Business Day"** means any day other than a Saturday, Sunday or any other day that the Trustee in Toronto, Ontario is not generally open for business;
- (i) **"Change of Control"** means the occurrence or acquisition by any Person, or group of Persons acting jointly or in concert (within the meaning of MI 62-104), of voting control or direction over 66 2/3% or more of the votes attaching to the outstanding Fund Units, but shall not include a Corporate Conversion, provided that, in the case of a Corporate Conversion, no Person, or group of Persons acting jointly or in concert (within the meaning of MI 62-104), following completion of the Corporate Conversion has voting control or direction of an aggregate of more than 66 2/3% of the voting shares of the Continuing Corporation; provided that, beneficial ownership of the Fund Units and voting shares of the Continuing Corporation will be determined in accordance with MI 62-104;
- (j) **"Change of Control Notice"** has the meaning ascribed thereto in Section 2.4(j)(i);
- (k) **"Change of Control Purchase Date"** has the meaning ascribed thereto in Section 2.4(j)(i);
- (l) **"Change of Control Purchase Offer"** has the meaning ascribed thereto in Section 2.4(j)(i);
- (m) **"Continuing Corporation"** means the corporation resulting from a Corporate Conversion;
- (n) **"Conversion Price"** means the dollar amount for which each Fund Unit may be issued from time to time upon the conversion of Debentures or any series of Debentures which are by their terms convertible in accordance with the provisions of ARTICLE 6;

- (o) **"Corporate Conversion"** means any restructuring, reorganization, consolidation, amalgamation, merger, arrangement, exchange, redemption, reclassification, or another transaction (including, without limitation, the arrangement as described in the Fund's Information Circular dated May 18, 2010 relating to the annual and special meeting of unitholders to be held on June 24, 2010) (a) pursuant to which the Fund is "converted" to a corporation as contemplated by subsection 85.1(7) or subsection 107(3) of the *Income Tax Act (Canada)* or any similar transaction or series of transactions; or (b) any other transaction or series of transactions involving a reorganization of the Fund with the result that the Fund is not subject to the distribution tax set out in subsection 122(1) of the *Income Tax Act (Canada)*; provided in either case that (x) there is no change in the ultimate ownership of the business of the Fund as confirmed by the Trustee and (y) the Continuing Corporation assumes the Fund's obligations with respect to the Debentures;
- (p) **"Corporation"** means Armtec Holdings Limited, in its capacity of general partner of Armtec Limited Partnership, administrator of the Fund, or any successor entity thereto;
- (q) **"Counsel"** means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Trustee or retained or employed by the Fund and acceptable to the Trustee;
- (r) **"Current Market Price"** means the VWAP for the 20 consecutive trading days ending on the fifth trading day preceding the applicable date;
- (s) **"Date of Conversion"** has the meaning ascribed thereto in Section 6.4(b);
- (t) **"Debenture Liabilities"** has the meaning ascribed thereto in Section 5.1;
- (u) **"Debentureholders"** or **"holders"** means the Persons for the time being entered in the register for Debentures as registered holders of Debentures or any transferees of such Persons by endorsement or delivery;
- (v) **"Debentures"** means the debentures, notes or other evidence of indebtedness of the Fund issued and certified hereunder, or deemed to be issued and certified hereunder, including, without limitation, the Initial Debentures, and for the time being outstanding, whether in definitive, global or interim form;
- (w) **"Depository"** means, with respect to the Debentures of any series issuable or issued in the form of one or more Global Debentures, the person designated as depository by the Fund pursuant to Section 3.2(a) until a successor depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter **"Depository"** shall mean each person who is then a depository hereunder, and if at any time there is more than one such person, **"Depository"** as used with respect to the Debentures of any series shall mean each depository with respect to the Global Debentures of such series;
- (x) **"Depository Participant"** means a broker, dealer, bank, other financial institution or other person for whom, from time to time, a Depository effects book entry for a Global Debenture deposited with the Depository;
- (y) **"Designated Indebtedness"** means: (a) indebtedness of the Fund and its Subsidiaries for borrowed money (including, without limitation, the Bank Facility Indebtedness, but excluding any obligations, liabilities or indebtedness owing hereunder or under the Debentures); (b) obligations of the Fund and its Subsidiaries evidenced by bonds, debentures (other than the Debentures), notes or other similar instruments; (c) obligations of the Fund and its Subsidiaries

arising pursuant or in relation to bankers' acceptances, letters of credit and letters of guarantee (including payment and reimbursement obligations in respect thereof) or indemnities issued in connection therewith; (d) obligations of the Fund and its Subsidiaries under any swap, hedging or other similar contracts or arrangements; (e) obligations of the Fund and its Subsidiaries under Guarantees relating to any of the foregoing indebtedness and obligations; and (f) all renewals, extensions and refinancing of any of the foregoing;

- (z) **"Designated Indebtedness Creditor"** means a holder or holders of Designated Indebtedness and includes any representative or representatives, agent or agents or trustee or trustees of any such holder or holders;
- (aa) **"especially affected series"** has the meaning ascribed thereto in Section 13.2(b)(i);
- (bb) **"Event of Default"** has the meaning ascribed thereto in Section 8.1;
- (cc) **"Extraordinary Resolution"** has the meaning ascribed thereto in Section 13.12;
- (dd) **"Freely Tradeable"** means any trust units or shares, as the case may be, which: (i) are issuable without the necessity of filing a prospectus or any other similar offering document (other than such prospectus or similar offering document that has already been filed) under Applicable Securities Legislation; and (ii) can be traded by the holder thereof without any restriction under Applicable Securities Legislation, such as hold periods, except in the case of a distribution by a control person (as defined in Applicable Securities Legislation);
- (ee) **"Fully Registered Debentures"** means Debentures registered as to both principal and interest;
- (ff) **"Fund"** means Armtec Infrastructure Income Fund and includes any successor to or of the Fund which shall have complied with the provisions of ARTICLE 11;
- (gg) **"Fund Units"** means Fund Units in the capital of the Fund, as such Fund Units are constituted on the date of execution and delivery of this Indenture; provided that in the event of a change or a subdivision, redivision, reduction, combination or consolidation thereof, any reclassification, capital reorganization, consolidation, Corporate Conversion, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up, or such successive changes, subdivisions, redivisions, reductions, combinations or consolidations, reclassifications, capital reorganizations, consolidations, amalgamations, arrangements, mergers, sales or conveyances or liquidations, dissolutions or windings-up, then, subject to adjustments, if any, having been made in accordance with the provisions of Section 6.5, **"Fund Units"** shall mean the units or other securities or property resulting from such change, subdivision, redivision, reduction, combination or consolidation, Corporate Conversion, reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up;
- (hh) **"Fund Unit Bid Request"** means a request for bids to purchase Fund Units (to be issued by the Fund on the Fund Unit Delivery Date) made by the Trustee in accordance with the Fund Unit Interest Payment Election Notice and which shall make the acceptance of any bid conditional upon the acceptance of sufficient bids to result in aggregate proceeds from such issue and sale of Fund Units which, together with the cash payments by the Fund in lieu of fractional Fund Units, if any, equal the Interest Obligation;

- (ii) **"Fund Unit Delivery Date"** means a date, not more than 90 days and not less than one Business Day prior to the applicable Interest Payment Date, upon which Fund Units are issued by the Fund and delivered to the Trustee for sale pursuant to Fund Unit Purchase Agreements;
- (jj) **"Fund Unit Interest Payment Election"** means an election by the Fund to issue and solicit bids to sell sufficient Fund Units in order to raise funds to satisfy all or any part of an Interest Obligation on the applicable Interest Payment Date in the manner described in the Fund Unit Interest Payment Election Notice;
- (kk) **"Fund Unit Interest Payment Election Amount"** means the aggregate proceeds resulting from the sale of Fund Units on the Fund Unit Delivery Date pursuant to acceptable bids obtained pursuant to the Fund Unit Bid Requests, together with any amount paid by the Fund in respect of fractional Fund Units pursuant to Section 10.1(g), that is equal to the aggregate amount of the Interest Obligation in respect of which the Fund Unit Interest Payment Election Notice was delivered;
- (ll) **"Fund Unit Interest Payment Election Notice"** means a written notice made by the Fund to the Trustee specifying:
 - (i) the Interest Obligation to which the election relates;
 - (ii) the Fund Unit Interest Payment Election Amount;
 - (iii) the investment banks, brokers or dealers through which the Trustee shall seek bids to purchase the Fund Units and the conditions of such bids, which may include the minimum number of Fund Units, minimum price per Fund Unit, timing for closing for bids and such other matters as the Fund may specify; and
 - (iv) that the Trustee shall accept through the investment banks, brokers or dealers selected by the Fund only those bids which comply with such notice;
- (mm) **"Fund Unit Proceeds Investment"** has the meaning attributed thereto in Section 10.1(h);
- (nn) **"Fund Unit Purchase Agreement"** means an agreement in customary form among the Fund, the Trustee and the Persons making acceptable bids pursuant to a Fund Unit Bid Request, which complies with all applicable laws, including the Applicable Securities Legislation and the rules and regulations of any stock exchange on which the Debentures or Fund Units are then listed;
- (oo) **"Fund Unit Redemption Right"** has the meaning attributed thereto in Section 4.6(a);
- (pp) **"Fund Unit Repayment Right"** has the meaning attributed thereto in Section 4.10(a);
- (qq) **"generally accepted accounting principles"** or **"GAAP"** means generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants (including as further described in Section 1.16);
- (rr) **"Global Debenture"** means a Debenture that is issued to and registered in the name of the Depository, or its nominee, pursuant to Section 2.6 for purposes of being held by or on behalf of the Depository as custodian for participants in the Depository's book-entry only registration system;

- (ss) **"Government Obligations"** means securities issued or guaranteed by the Government of Canada or any province thereof;
- (tt) **"Guarantees"** means any guarantee, undertaking to assume, endorse, contingently agree to purchase, or to provide funds for the payment of, or otherwise become liable in respect of, any indebtedness, liability or obligation of any Person;
- (uu) **"Initial Debentures"** means the Debentures designated as "6.50% Convertible Unsecured Subordinated Debentures due June 30, 2017" and described in Section 2.4;
- (vv) **"Interest Account"** has the meaning ascribed thereto in Section 10.1(h);
- (ww) **"Interest Obligation"** means the obligation of the Fund to pay interest on the Debentures, as and when the same becomes due;
- (xx) **"Interest Payment Date"** means a date specified in a Debenture as the date on which interest on such Debenture shall become due and payable;
- (yy) **"Maturity Account"** means an account or accounts required to be established by the Fund (and which shall be maintained by and subject to the control of the Trustee) for each series of Debentures issued pursuant to and in accordance with this Indenture;
- (zz) **"Maturity Date"** means the date specified for maturity of any Debentures;
- (aaa) **"Maturity Notice"** has the meaning ascribed thereto in Section 2.4(g);
- (bbb) **"MI 62-104"** means Multilateral Instrument 62-104 – *Take-Over Bids and Issuer Bids*;
- (ccc) **"Normal Growth Guidelines"** means "normal growth" guidelines issued by the Minister of Finance (Canada) on December 15, 2006, as amended on December 4, 2008 and February 25, 2009, and as further amended from time to time;
- (ddd) **"Offer Price"** has the meaning ascribed thereto in Section 2.4(j)(i);
- (eee) **"Offeror's Notice"** has the meaning ascribed thereto in Section 12.3;
- (fff) **"Offering"** means the public offering by short form prospectus dated June 23, 2010 of \$40,000,000 in aggregate principal amount of Initial Debentures;
- (ggg) **"Officers' Certificate"** means a certificate of the Fund signed by any one authorized officer or directors of the Corporation, on behalf of the Fund, in his or her capacity as an officer or director of the Corporation, as the case may be, and not in his or her personal capacity;
- (hhh) **"Periodic Offering"** means an offering of Debentures of a series from time to time, the specific terms of which Debentures, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Fund upon the issuance of such Debentures from time to time;
- (iii) **"Person"** includes an individual, corporation, company, partnership, joint venture, association, trust, trustee, unincorporated organization or government or any agency or political subdivision thereof (and for the purposes of the definition of "Change of Control", in addition to the

foregoing, "Person" shall include any syndicate or group that would be deemed to be a "Person" under MI 62-104);

- (jjj) **"Privacy Laws"** has the meaning ascribed thereto in Section 15.19;
- (kkk) **"Redemption Date"** has the meaning ascribed thereto in Section 4.3;
- (lll) **"Redemption Notice"** has the meaning ascribed thereto in Section 4.3;
- (mmm) **"Redemption Price"** means, in respect of a Debenture, the amount, including accrued and unpaid interest up to, but excluding, the Redemption Date fixed for such Debenture, payable on the Redemption Date, which amount, except as specifically provided herein, may be payable by the issuance of Freely Tradeable Fund Units as provided for in Section 4.6;
- (nnn) **"representing party"** has the meaning ascribed thereto in Section 15.17;
- (ooo) **"Senior Creditor"** means a holder or holders of Senior Indebtedness and includes any representative or representatives, agent or agents or trustee or trustees of any such holder or holders;
- (ppp) **"Senior Indebtedness"** means all obligations, liabilities and indebtedness of the Fund and its Subsidiaries (including, without limitation, the Bank Facility Indebtedness, but excluding any obligations, liabilities or indebtedness owing hereunder or under the Debentures) which would, in accordance with GAAP, be classified upon a consolidated balance sheet of the Fund as liabilities of the Fund and its Subsidiaries and, whether or not so classified, shall include (without duplication): (a) indebtedness of the Fund and its Subsidiaries for borrowed money; (b) obligations of the Fund and its Subsidiaries evidenced by bonds, debentures (other than the Debentures), notes or other similar instruments; (c) obligations of the Fund and its Subsidiaries arising pursuant or in relation to bankers' acceptances, letters of credit and letters of guarantee (including payment and reimbursement obligations in respect thereof) or indemnities issued in connection therewith; (d) obligations of the Fund and its Subsidiaries under any swap, hedging or other similar contracts or arrangements; (e) obligations of the Fund and its Subsidiaries under Guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to the Senior Indebtedness or other obligations of any other person which would otherwise constitute Senior Indebtedness within the meaning of this definition; (f) all indebtedness of the Fund or its Subsidiaries representing the deferred purchase price of any property including, without limitation, purchase money mortgages; (g) accounts payable to trade creditors; (h) all renewals, extensions and refinancing of any of the foregoing; and (i) all costs and expenses incurred by or on behalf of the holder of any Senior Indebtedness in enforcing payment or collection of any such Senior Indebtedness, including enforcing any security interest securing the same. **"Senior Indebtedness"** shall not include any indebtedness that would otherwise be Senior Indebtedness if it is expressly stated to be subordinate to or rank *pari passu* with the Debentures;
- (qqq) **"Senior Security"** means all mortgages, liens, pledges, charges (whether fixed or floating), security interests or other encumbrances of any kind, contingent or absolute, held by or on behalf of any Senior Creditor and in any manner securing any Senior Indebtedness;
- (rrr) **"Serial Meeting"** has the meaning ascribed thereto in Section 13.2(b)(i);
- (sss) **"Subsidiary"** has the meaning ascribed thereto in National Instrument 45-106;

- (ttt) **"Time of Expiry"** means the time of expiry of certain rights with respect to the conversion of Debentures under Article 6 which is to be set forth separately in the form and terms for each series of Debentures which by their terms are to be convertible;
- (uuu) **"Total Offer Price"** has the meaning ascribed thereto in Section 2.4(j)(i);
- (vvv) **"trading day"** means, with respect to the Toronto Stock Exchange or other market for securities, any day on which such exchange or market is open for trading or quotation;
- (www) **"Trustee"** means Computershare Trust Company of Canada, or its successor or successors for the time being as trustee hereunder;
- (xxx) **"Unclaimed Funds Return Date"** has the meaning ascribed thereto in Section 2.4(j)(vii);
- (yyy) **"VWAP"** means the volume weighted average trading price of the Fund Units for the applicable period on the Toronto Stock Exchange (or if the Fund Units are no longer traded on the Toronto Stock Exchange, on such other exchange as the Fund Units are then traded) or if no such prices are available for such applicable period, "VWAP" shall be the fair value per Fund Unit as reasonably determined by the Board of Directors;
- (zzz) **"Written Direction of the Fund"** means an instrument in writing signed by any one officer or director of the Corporation on behalf of the Fund; and
- (aaaa) **"90% Redemption Right"** has the meaning ascribed thereto in Section 2.4(j)(ii).

1.2 Meaning of "Outstanding"

Every Debenture certified and delivered by the Trustee hereunder shall be deemed to be outstanding until it is cancelled, converted or redeemed or delivered to the Trustee for cancellation, conversion or redemption or monies and/or Fund Units, as the case may be, or the payment thereof shall have been set aside under Section 9.2, provided that:

- (a) Debentures which have been partially redeemed, purchased or converted shall be deemed to be outstanding only to the extent of the unredeemed, unpurchased or unconverted part of the principal amount thereof;
- (b) when a new Debenture has been issued in substitution for a Debenture which has been lost, stolen or destroyed, only one of such Debentures shall be counted for the purpose of determining the aggregate principal amount of Debentures outstanding; and
- (c) for the purposes of any provision of this Indenture entitling holders of outstanding Debentures to vote, sign consents, requisitions or other instruments or take any other action under this Indenture, or to constitute a quorum of any meeting of Debentureholders, Debentures owned directly or indirectly, legally or equitably, by the Fund shall be disregarded except that:
 - (i) for the purpose of determining whether the Trustee shall be protected in relying on any such vote, consent, requisition or other instrument or action, or on the holders of Debentures present or represented at any meeting of Debentureholders, only the Debentures which the Trustee knows are so owned shall be so disregarded; and

- (ii) Debentures so owned which have been pledged in good faith other than to the Fund shall not be so disregarded if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Debentures, sign consents, requisitions or other instruments or take such other actions in his discretion free from the control of the Fund or a Subsidiary of the Fund.

1.3 Interpretation

In this Indenture:

- (a) words importing the singular number or masculine gender shall include the plural number or the feminine or neuter genders, and vice versa;
- (b) all references to Articles and Schedules refer, unless otherwise specified, to articles of and schedules to this Indenture;
- (c) all references to Sections refer, unless otherwise specified, to Sections, subsections or clauses of this Indenture;
- (d) words and terms denoting inclusiveness (such as "**include**" or "**includes**" or "**including**"), whether or not so stated, are not limited by and do not imply limitation of their context or the words or phrases which precede or succeed them;
- (e) reference to any agreement or other instrument in writing means such agreement or other instrument in writing as amended, modified, replaced or supplemented from time to time;
- (f) unless otherwise indicated, reference to a statute shall be deemed to be a reference to such statute as amended, re-enacted or replaced from time to time; and
- (g) unless otherwise indicated, time periods within which a payment is to be made or any other action is to be taken hereunder shall be calculated by including the day on which the period commences and excluding the day on which the period ends.

1.4 Headings, Etc

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

1.5 Time of Essence

Time shall be of the essence of this Indenture.

1.6 Monetary References

Whenever any amounts of money are referred to herein, such amounts shall be deemed to be in lawful money of Canada unless otherwise expressed.

1.7 Invalidity, Etc.

Any provision hereof which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof.

1.8 Language

Each of the parties hereto hereby acknowledges that it has consented to and requested that this Indenture and all documents relating thereto, including, without limiting the generality of the foregoing, the form of Debenture attached hereto as Schedule A, be drawn up in the English language only.

1.9 Successors and Assigns

All covenants and agreements of the Fund in this Indenture and the Debentures shall bind its successors and assigns, whether so expressed or not. All covenants and agreements of the Trustee in this Indenture shall bind its successors.

1.10 Severability

In case any provision in this Indenture or in the Debentures shall be invalid, illegal or unenforceable, such provision shall be deemed to be severed herefrom or therefrom and the validity, legality and enforceability of the remaining provisions shall not in any way be affected, prejudiced or impaired thereby.

1.11 Entire Agreement

This Indenture and all supplemental indentures and Schedules hereto and thereto, and the Debentures issued hereunder and thereunder, together constitute as of the date hereof the entire agreement between the parties hereto with respect to the indebtedness created hereunder and thereunder and under the Debentures and supersedes as of the date hereof all prior memoranda, agreements, negotiations, discussions and term sheets, whether oral or written, with respect to the indebtedness created hereunder or thereunder and under the Debentures.

1.12 Benefits of Indenture

Nothing in this Indenture or in the Debentures, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any paying agent, the holders of Debentures, the Senior Creditors (to the extent provided in ARTICLE 5 only), and (to the extent provided in Section 8.11) each of the Persons referenced in Section 8.11, any benefit or any legal or equitable right, remedy or claim under this Indenture.

1.13 Applicable Law and Attornment

This Indenture, any supplemental indenture and the Debentures shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and shall be treated in all respects as Ontario contracts. With respect to any suit, action or proceedings relating to this Indenture, any supplemental indenture or any Debenture, the Fund, the Trustee and each holder irrevocably submit and attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.

1.14 Currency of Payment

Unless otherwise indicated in a supplemental indenture with respect to any particular series of Debentures, all payments to be made under this Indenture or a supplemental indenture shall be made in Canadian dollars.

1.15 Non-Business Days

Whenever any payment to be made hereunder shall be due, any period of time would begin or end, any calculation is to be made or any other action is to be taken on, or as of, or from a period ending on, a day other than a Business Day, such payment shall be made, such period of time shall begin or end, such calculation shall be made and such other action shall be taken, as the case may be, unless otherwise specifically provided herein, on or as of the next succeeding Business Day without any additional interest, cost or charge to the Fund.

1.16 Accounting Terms

Except as hereinafter provided or as otherwise indicated in this Indenture, all calculations required or permitted to be made hereunder pursuant to the terms of this Indenture shall be made in accordance with GAAP. For greater certainty, GAAP shall include any accounting standards, including International Financial Reporting Standards, that may from time to time be approved for general application by the Canadian Institute of Chartered Accountants.

1.17 Calculations

The Fund shall be responsible for making all calculations called for hereunder including, without limitation, calculations of Current Market Price. The Fund shall make such calculations in good faith and, absent manifest error, the Fund's calculations shall be final and binding on holders and the Trustee. The Fund will provide a schedule of its calculations to the Trustee and the Trustee shall be entitled to rely conclusively on the accuracy of such calculations without independent verification.

1.18 Schedules

The following Schedules are incorporated into and form part of this Indenture:

Schedule "A" – Form of Initial Debenture
Schedule "B" – Form of Redemption Notice
Schedule "C" – Form of Maturity Notice
Schedule "D" – Form of Notice of Conversion

In the event of any inconsistency between the provisions of any Section of this Indenture and the provisions of the Schedules which form a part hereof, the provisions of this Indenture shall prevail to the extent of the inconsistency.

ARTICLE 2 THE DEBENTURES

2.1 Limit of Debentures

Subject to the limitation in respect of the Initial Debentures set out in Section 2.4(a), the aggregate principal amount of Debentures authorized to be issued under this Indenture is unlimited, but Debentures may be issued only upon and subject to the conditions and limitations herein set forth.

2.2 Terms of Debentures of any Series

The Debentures may be issued in one or more series. There shall be established herein or in or pursuant to one or more indentures supplemental hereto, prior to the initial issuance of Debentures of any particular series:

- (a) the designation of the Debentures of the series (which need not include the term "Debentures"), which shall distinguish the Debentures of the series from the Debentures of all other series;
- (b) any limit upon the aggregate principal amount of the Debentures of the series that may be certified and delivered under this Indenture (except for Debentures certified and delivered upon registration of, transfer of, amendment of, or in exchange for, or in lieu of, other Debentures of the series pursuant to Sections 2.9, 2.10, 3.2, 3.3, 3.6, ARTICLE 4 and ARTICLE 6);
- (c) the date or dates on which the principal of the Debentures of the series is payable;
- (d) the rate or rates at which the Debentures of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable and on which record date, if any, shall be taken for the determination of holders to whom such interest shall be payable and/or the method or methods by which such rate or rates or date or dates shall be determined;
- (e) the place or places where the principal of and any interest on Debentures of the series shall be payable or where any Debentures of the series may be surrendered for registration of transfer or exchange;
- (f) the right, if any, of the Fund to redeem Debentures of the series, in whole or in part, at its option and the period or periods within which, the price or prices at which and any terms and conditions upon which, Debentures of the series may be so redeemed;
- (g) the obligation, if any, of the Fund to redeem, purchase or repay Debentures of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a holder thereof and the price or prices at which, the period or periods within which, the date or dates on which, and any terms and conditions upon which, Debentures of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligations;
- (h) if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which Debentures of the series shall be issuable;
- (i) subject to the provisions of this Indenture, any trustee, Depositories, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Debentures of the series;

- (j) any other events of default or covenants with respect to the Debentures of the series;
- (k) whether and under what circumstances the Debentures of the series will be convertible into or exchangeable for securities of any Person;
- (l) the form and terms of the Debentures of the series;
- (m) if applicable, that the Debentures of the series shall be issuable in whole or in part as one or more Global Debentures and, in such case, the Depository or Depositories for such Global Debentures in whose name the Global Debentures will be registered, and any circumstances other than or in addition to those set forth in Section 2.9 or 3.1 or those applicable with respect to any specific series of Debentures, as the case may be, in which any such Global Debenture may be transferred to and registered in the name of a person other than the Depository for such Global Debentures or a nominee thereof;
- (n) if other than Canadian currency, the currency in which the Debentures of the series are issuable; and
- (o) any other terms of the Debentures of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Debentures of any one series shall be substantially identical, except as may otherwise be established herein or by or pursuant to a resolution of the Board of Directors, Officers' Certificate or in an indenture supplemental hereto. All Debentures of any one series need not be issued at the same time and may be issued from time to time, including pursuant to a Periodic Offering, consistent with the terms of this Indenture, if so provided herein, by or pursuant to such resolution of the Board of Directors, Officers' Certificate or in an indenture supplemental hereto.

2.3 Form of Debentures

Except in respect of the Initial Debentures, the form of which is provided for herein, the Debentures of each series shall be substantially in such form or forms (not inconsistent with this Indenture) as shall be established herein or by or pursuant to one or more resolutions of the Board of Directors (or to the extent established pursuant to, rather than set forth in, a resolution of the Board of Directors, in an Officers' Certificate detailing such establishment) or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or to conform to general usage, all as may be determined by the directors or officers of the Corporation executing such Debentures on behalf of the Fund, as conclusively evidenced by their execution of such Debentures.

2.4 Form and Terms of Initial Debentures

- (a) The first series of Debentures (the "**Initial Debentures**") authorized for issue immediately is limited to an aggregate principal amount of \$40,000,000 and shall be designated as "6.50% Convertible Unsecured Subordinated Debentures, due June 30, 2017".

- (b) The Initial Debentures shall be dated as of the date of the closing of the Offering (or such other date as the Fund may request) and shall mature June 30, 2017 (the "**Maturity Date**" for the Initial Debentures).
- (c) The Initial Debentures shall bear interest from the date of the Initial Debentures at the rate of 6.50% per annum (based on a year of 365 days (or 366 days in the case of a leap year)), payable in equal (with the exception of the first interest payment which will include interest from and including the date of closing of the Offering as set forth below) semi-annual payments in arrears on June 30 and December 31 in each year, the first such payment to fall due on December 31, 2010 and the last such payment (representing interest payable from the last Interest Payment Date to, but excluding, the Maturity Date of the Initial Debentures) to fall due on June 30, 2017, payable after as well as before maturity and after as well as before default, with interest on amounts in default at the same rate, compounded semi-annually. For certainty, the first interest payment will include interest accrued from and including the date of closing of the Offering to, but excluding December 31, 2010, which will be equal to \$32.50 each \$1,000 principal amount of Initial Debentures. The record dates for the payment of interest on the Initial Debentures will be June 15 and December 15 in each year (or the first Business Day prior to such date if not a Business Day).
- (d) The Initial Debentures will be redeemable in accordance with the terms of ARTICLE 4, provided that the Initial Debentures will not be redeemable before July 1, 2013, except in the event of the satisfaction of certain conditions after a Change of Control has occurred as outlined herein. On and after July 1, 2013 and prior to July 1, 2015, provided that the Current Market Price at the time of the Redemption Notice is at least 125% of the Conversion Price, the Initial Debentures may be redeemed at the option of the Fund in whole or in part from time to time on notice as provided for in Section 4.3 for the Redemption Price. On and after July 1, 2015 and prior to the Maturity Date, the Initial Debentures may be redeemed at the option of the Fund in whole or in part from time to time on notice as provided for in Section 4.3 for the Redemption Price. The Redemption Notice for the Initial Debentures shall be substantially in the form of Schedule B. In connection with the redemption of the Initial Debentures, the Fund may, at its option and subject to the provisions of Section 4.6 and subject to regulatory approval and the Normal Growth Guidelines, elect to satisfy its obligation to pay all or a portion of the aggregate Redemption Price of the Initial Debentures to be redeemed by issuing and delivering to the holders of such Initial Debentures, such number of Freely Tradeable Fund Units as is obtained by dividing the aggregate Redemption Price by 95% of the Current Market Price in effect on the Redemption Date. If the Fund elects to exercise such option, it shall so specify and provide details in the Redemption Notice.
- (e) The Initial Debentures will be subordinated to the Senior Indebtedness of the Fund in accordance with the provisions of ARTICLE 5. In accordance with Section 2.12, the Initial Debentures will rank *pari passu* with each other series of Debentures issued under this Indenture or under indentures supplemental to this Indenture (regardless of their actual date or terms of issue) and, except as prescribed by law, with all other existing and future unsecured indebtedness of the Fund other than Senior Indebtedness.
- (f) Upon and subject to the provisions and conditions of ARTICLE 6 and Section 3.7, the holder of each Initial Debenture shall have the right at such holder's option, prior to the close of business on the earlier of (i) the Business Day immediately preceding the Maturity Date of the Initial Debentures; or (ii) if the Initial Debentures are called for redemption, on the Business Day immediately preceding the date specified by the Fund for redemption of the Initial Debentures, by notice to the holders of Initial Debentures in accordance with Sections 2.4(d) and 4.3 (the earlier of which will be the "**Time of Expiry**" for the purposes of ARTICLE 6 in respect of the Initial

Debentures), to convert any part, being \$1,000 or an integral multiple thereof, of the principal amount of a Debenture into Freely Tradeable and fully paid and non-assessable Fund Units at the Conversion Price in effect on the Date of Conversion. To the extent a redemption is a redemption in part only of the Initial Debentures, such right to convert, if not exercised prior to the applicable Time of Expiry, shall survive as to any Initial Debentures not redeemed or converted and be applicable to the next succeeding Time of Expiry.

The Conversion Price in effect on the date hereof for each Fund Unit to be issued upon the conversion of Initial Debentures shall be equal to \$26.90 such that 37.1747 Fund Units shall be issued for each \$1,000 principal amount of Initial Debentures so converted. Except as provided herein, no adjustment in the number of Fund Units to be issued upon conversion will be made for dividends or distributions on Fund Units issuable upon conversion, the record date for the payment of which precedes the date upon which the holder becomes a holder of Fund Units in accordance with ARTICLE 6, or for interest accrued on Initial Debentures surrendered for conversion. The Conversion Price applicable to and the Fund Units, securities or other property receivable on the conversion of the Initial Debentures is subject to adjustment pursuant to the provisions of Section 6.5.

Holders converting their Initial Debentures will receive, in addition to the applicable number of Fund Units, accrued and unpaid interest (less any taxes required to be deducted) in respect of the Initial Debentures surrendered for conversion up to but excluding the Date of Conversion from, and including, the most recent Interest Payment Date in accordance with Section 6.4(e). For clarity, payment of such interest, may, at the option of the Fund, be paid on the next regularly scheduled Interest Payment Date following the Date of Conversion.

Holders of Initial Debentures surrendered for conversion during the period from the close of business on any regular record date for the payment of interest on the Initial Debentures to the opening of business on the next succeeding Interest Payment Date will receive the semi-annual interest payable on such Initial Debentures on the corresponding Interest Payment Date notwithstanding the conversion. In the event that a holder of Debentures exercises their conversion right following a Redemption Notice by the Fund and during the period from the close of business on any regular record date for the payment of interest on the Initial Debentures to the opening of business on the next succeeding Interest Payment Date, such holder will be entitled to receive accrued and unpaid interest, in addition to the applicable number of Fund Units to be received on conversion, for the period from the last Interest Payment Date to (but excluding) the date of conversion.

Notwithstanding any other provisions of this Indenture, if a Debenture is surrendered for conversion on an Interest Payment Date or during the five preceding Business Days, the person or persons entitled to receive Fund Units in respect of the Debenture so surrendered for conversion shall not become the holder or holders of record of such Fund Units until the Business Day following such Interest Payment Date.

A Debenture which has been tendered for purchase by its holder pursuant to a Change of Control Purchase Offer pursuant to the provisions of Section 2.4(j) may be surrendered for conversion only if such Change of Control Purchase Offer is withdrawn in accordance with this Indenture.

- (g) On maturity of the Initial Debentures, the Fund may, at its option and subject to the provisions of Section 4.10, as applicable, and subject to regulatory approval, elect to satisfy its obligation to pay all or a portion of the aggregate principal amount of the Initial Debentures due on maturity, together with all accrued but unpaid interest thereon, by issuing and delivering to such holders of

Initial Debentures Freely Tradeable Fund Units pursuant to the provisions of Section 4.10. If the Fund elects to exercise such option, it shall provide details in the maturity notice (the "**Maturity Notice**") to the holders of the Initial Debentures not more than 60 days and not less than 30 days before the Maturity Date in substantially the form of Schedule C and provide the necessary details.

- (h) The Initial Debentures shall be issued in denominations of \$1,000 and integral multiples of \$1,000. Each Initial Debenture and the certificate of the Trustee endorsed thereon shall be issued in substantially the form set out in Schedule A, with such insertions, omissions, substitutions or other variations as shall be required or permitted by this Indenture, and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or to conform with general usage, all as may be determined by the directors or officers of the Corporation executing such Initial Debenture on behalf of the Fund in accordance with Section 2.7 hereof, as conclusively evidenced by their execution of an Initial Debenture.

Each Initial Debenture shall additionally bear such distinguishing letters and numbers as the Trustee shall approve. Notwithstanding the foregoing, an Initial Debenture may be in such other form or forms as may, from time to time, be, approved by a resolution of the Board of Directors, or as specified in an Officers' Certificate. The Initial Debentures may be engraved, lithographed, printed, mimeographed or typewritten or partly in one form and partly in another.

The Initial Debentures shall be issued as a Global Debenture and the Global Debenture will be registered in the name of the Depository which, as of the date hereof, shall be CDS Clearing and Depository Services Inc. (or any nominee of the Depository). No beneficial holder will receive definitive certificates representing their interest in Debentures. A Global Debenture may be exchanged for Debentures in registered form that are not Global Debentures, or transferred to and registered in the name of a person other than the Depository for such Global Debentures or a nominee thereof, as provided in Section 3.1.

- (i) Upon and subject to the provisions of ARTICLE 10 and the Normal Growth Guidelines, the Fund may elect, from time to time, to issue and solicit bids to sell sufficient Fund Units in order to raise funds to satisfy its Interest Obligation on the Initial Debentures on any Interest Payment Date (including, for greater certainty, following conversion or upon maturity or redemption) by delivering Fund Units to the Trustee pursuant to the Fund Unit Interest Payment Election.
- (j) Within 30 days following the occurrence of a Change of Control, and subject to the provisions and conditions of this Section 2.4(j), the Fund shall be obligated to offer to purchase all of the Initial Debentures then outstanding. The terms and conditions of such obligation are set forth below:
 - (i) Within 30 days following the occurrence of a Change of Control, the Fund shall deliver to the Trustee, and the Trustee shall promptly deliver to the holders of the Initial Debentures, a notice stating that there has been a Change of Control and specifying the date on which such Change of Control occurred and the circumstances or events giving rise to such Change of Control (a "**Change of Control Notice**") together with an offer in writing (the "**Change of Control Purchase Offer**") to purchase, on the Change of Control Purchase Date (as defined below), all (or any portion actually tendered to such offer) of the Initial Debentures then outstanding from the holders thereof made in

accordance with the requirements of Applicable Securities Legislation at a price per Initial Debenture equal to 101% of the principal amount thereof (the "**Offer Price**") plus accrued and unpaid interest on such Initial Debentures up to, but excluding, the Change of Control Purchase Date (collectively, the "**Total Offer Price**"). If such Change of Control Purchase Date is after a record date for the payment of interest on the Initial Debentures but on or prior to an Interest Payment Date, then the interest payable on such date will be paid to the holder of record of the Debentures on the relevant record date. The "**Change of Control Purchase Date**" shall be the date that is 30 days after the date that the Change of Control Notice and Change of Control Purchase Offer are delivered or mailed to holders of Initial Debentures.

- (ii) If 90% or more in aggregate principal amount of Initial Debentures outstanding on the date the Fund provides the Change of Control Notice and the Change of Control Purchase Offer to holders of the Initial Debentures have been tendered for purchase and not withdrawn pursuant to the Change of Control Purchase Offer on the expiration thereof, the Fund has the right upon written notice provided to the Trustee within 10 days following the expiration of the Change of Control Purchase Offer, to redeem all the Initial Debentures remaining outstanding on the expiration of the Change of Control Purchase Offer at the Total Offer Price as at the Change of Control Purchase Date (the "**90% Redemption Right**").
- (iii) Upon receipt of notice that the Fund has exercised or is exercising the 90% Redemption Right and is acquiring the remaining Initial Debentures, the Trustee shall promptly provide written notice to each Debentureholder that did not previously accept the Offer that:
 - (A) the Fund has exercised the 90% Redemption Right and is purchasing all outstanding Initial Debentures effective on the expiry of the Change of Control Purchase Offer at the Total Offer Price, and shall include a calculation of the amount payable to such holder as payment of the Total Offer Price as at the Change of Control Purchase Date;
 - (B) each such holder must transfer their Initial Debentures to the Trustee on the same terms as those holders that accepted the Change of Control Purchase Offer and must send their respective Initial Debentures (if not then represented by a global certificate), duly endorsed for transfer, to the Trustee within 10 days after the sending of such notice; and
 - (C) the rights of such holder under the terms of the Initial Debentures and this Indenture cease effect as of the date of expiry of the Change of Control Purchase Offer provided the Fund has, on or before the time of notifying the Trustee of the exercise of the 90% Redemption Right, paid the Total Offer Price to, or to the order of, the Trustee and thereafter the Initial Debentures shall not be considered to be outstanding and the holder shall not have any right except to receive such holder's Total Offer Price upon surrender and delivery of such holder's Initial Debentures in accordance with the Indenture.
- (iv) The Fund shall, on or before 11:00 a.m., Toronto Time, on the Business Day immediately prior to the Change of Control Purchase Date, deposit with the Trustee or any paying agent to the order of the Trustee, such sums of money as may be sufficient to pay the Total Offer Price of the Initial Debentures to be purchased or redeemed by the Fund on

the Change of Control Purchase Date (less any tax required to be deducted in respect of accrued and unpaid interest), provided the Fund may elect to satisfy this requirement by providing the Trustee with a certified cheque or wire transfer for such amounts required under this Section 2.4(j)(iv) post-dated to the date of expiry of the Change of Control Purchase Offer. The Fund shall also deposit with the Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Trustee in connection with such purchase. Every such deposit shall be irrevocable, except as provided herein. From the sums so deposited, the Trustee shall pay or cause to be paid to the holders of such Initial Debentures, the Total Offer Price to which they are entitled (less any tax required to be deducted in respect of accrued and unpaid interest) on the Fund's purchase.

- (v) In the event that one or more of such Initial Debentures being purchased in accordance with this Section 2.4(j) becomes subject to purchase in part only, upon surrender of such Initial Debentures for payment of the Total Offer Price, the Fund shall execute and the Trustee shall certify and deliver without charge to the holder thereof or upon the holder's order, one or more new Initial Debentures for the portion of the principal amount of the Initial Debentures not purchased.
- (vi) Initial Debentures for which holders have accepted the Change of Control Purchase Offer and Initial Debentures which the Fund has elected to redeem in accordance with this Section 2.4(j) shall become due and payable at the Total Offer Price in cash on the Change of Control Purchase Date, in the same manner and with the same effect as if it were the date of maturity specified in such Initial Debentures, anything therein or herein to the contrary notwithstanding, and from and after the Change of Control Purchase Date, if the money necessary to purchase or redeem the Initial Debentures shall have been deposited as provided in this Section 2.4(j) and affidavits or other proofs satisfactory to the Trustee as to the publication and/or mailing of such notices shall have been lodged with it, interest on the Initial Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Trustee whose decision shall be final and binding upon all parties in interest.
- (vii) In case the holder of any Initial Debenture to be purchased or redeemed in accordance with this Section 2.4(j) shall fail on or before the Change of Control Purchase Date so to surrender such holder's Initial Debenture or shall not within such time accept payment of the monies payable, or give such receipt therefor, if any, as the Trustee may require, such monies may be set aside in trust, without interest, either in the deposit department of the Trustee or in a chartered bank, and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the sum so set aside and the Debentureholder shall have no other right except to receive payment of the monies so paid and deposited, upon surrender and delivery up of such holder's Initial Debenture. In the event that any money required to be deposited hereunder with the Trustee or any depository or paying agent on account of principal or interest, if any, on Initial Debentures issued hereunder shall remain so deposited for a period of six years from the Change of Control Purchase Date, then such monies, or certificates representing Fund Units, together with any accumulated interest thereon, or any distributions paid thereon, shall at the end of such period be paid over or delivered over by the Trustee, or such depository or paying agent, to the Fund and the Trustee shall not be responsible to Debentureholders for any amounts owing to them and subject to applicable laws thereafter the holder of the Debenture in respect of which such money was so repaid to the Fund shall have no rights in respect thereof except to obtain payment due from the Fund, subject to any limitation period provided by the laws

of the Province of Ontario. Notwithstanding the foregoing, the Trustee will pay any remaining funds deposited hereunder on the date that is six years after the Change of Control Purchase Date (the "**Unclaimed Funds Return Date**") to the Fund upon receipt from the Fund of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds as security for the Fund's continuing obligations hereunder, including the payment of any amounts due to holders of Debentures. If the remaining funds are paid to the Fund prior to the Unclaimed Funds Return Date, the Fund shall reimburse the Trustee for any amounts required to be paid by the Trustee to a holder of a Debenture pursuant to the Change of Control Purchase Offer after the date of such payment of the remaining funds to the Fund but prior to the Unclaimed Funds Return Date.

- (viii) Subject to the provisions above related to Initial Debentures purchased in part, all Initial Debentures redeemed and paid under this Section 2.4(j) shall forthwith be delivered to the Trustee and cancelled and no Initial Debentures shall be issued in substitution therefor.
- (ix) The Fund shall promptly give notice to the Trustee of a Change of Control.
- (x) The Fund will publicly announce the results of the purchases made pursuant to Section 2.4(j) as soon as practicable from the Change of Control Purchase Date.
- (xi) The Fund will comply with all Applicable Securities Legislation in the event that the Fund is required to repurchase Initial Debentures pursuant to Section 2.4(j).
- (k) The Trustee shall be provided with the documents and instruments referred to in Sections 2.5(b), (c) and (d) with respect to the Initial Debentures prior to the issuance of the Initial Debentures.

2.5 Certification and Delivery of Additional Debentures

Subject to the terms and conditions attached to any series of Debentures, the Fund may from time to time request the Trustee to certify and deliver Additional Debentures of any series by delivering to the Trustee the documents referred to below in this Section 2.5 whereupon the Trustee shall certify such Debentures and cause the same to be delivered in accordance with the Written Direction of the Fund referred to below or pursuant to such procedures acceptable to the Trustee as may be specified from time to time by a Written Direction of the Fund. The maturity date, issue date, interest rate (if any) and any other terms of the Debentures of such series shall be set forth in or determined by or pursuant to such Written Direction of the Fund and procedures. In certifying such Debentures, the Trustee shall be entitled to receive and shall be fully protected in relying upon, unless and until such documents have been superseded or revoked:

- (a) an Officers' Certificate and/or executed supplemental indenture by or pursuant to which the form and terms of such Additional Debentures were established;
- (b) a Written Direction of the Fund requesting certification and delivery of such Additional Debentures and setting forth delivery instructions, provided that, with respect to Debentures of a series subject to a Periodic Offering:
 - (i) such Written Direction of the Fund may be delivered by the Fund to the Trustee prior to the delivery to the Trustee of such Additional Debentures of such series for certification and delivery;

- (ii) the Trustee shall certify and deliver Additional Debentures of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount, if any, established for such series, pursuant to a Written Direction of the Fund or pursuant to procedures acceptable to the Trustee as may be specified from time to time by a Written Direction of the Fund;
 - (iii) the maturity date or dates, issue date or dates, interest rate or rates (if any) and any other terms of Additional Debentures of such series shall be determined by an executed supplemental indenture or by Written Direction of the Fund or pursuant to such procedures; and
 - (iv) if provided for in such procedures, such Written Direction of the Fund may authorize certification and delivery pursuant to oral or electronic instructions from the Fund which oral or electronic instructions shall be promptly confirmed in writing;
- (c) an opinion of Counsel, in form and substance satisfactory to the Trustee, acting reasonably, to the effect that all requirements imposed by this Indenture and by law in connection with the proposed issue of Additional Debentures have been complied with, subject to the delivery of certain documents or instruments specified in such opinion; and
- (d) an Officers' Certificate (which Officers' Certificate shall be in such form that satisfies all applicable laws) certifying that the Fund is not in default under this Indenture, that the terms and conditions for the certification and delivery of Additional Debentures (including those set forth in Section 15.5), have been complied with subject to the delivery of any documents or instruments specified in such Officers' Certificate and that no Event of Default exists or will exist upon such certification and delivery.

2.6 Issue of Global Debentures

- (a) The Fund may specify that the Debentures of a series are to be issued in whole or in part as one or more Global Debentures registered in the name of a Depository, or its nominee, designated by the Fund in the Written Direction of the Fund delivered to the Trustee at the time of issue of such Debentures, and in such event the Fund shall execute and the Trustee shall certify and deliver one or more Global Debentures that shall:
- (i) represent an aggregate amount equal to the principal amount of the outstanding Debentures of such series to be represented by one or more Global Debentures;
 - (ii) be delivered by the Trustee to such Depository or pursuant to such Depository's instructions; and
 - (iii) bear a legend substantially to the following effect:

"This Debenture is a Global Debenture within the meaning of the Indenture herein referred to and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.

Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. ("CDS") to Armtec Infrastructure Income Fund (the "Issuer"), its successor or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & Co., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & Co. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & Co., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate."

- (b) Each Depository designated for a Global Debenture must, at the time of its designation and at all times while it serves as such Depository, be a clearing agency registered or designated under the securities legislation of the jurisdiction where the Depository has its principal offices.

2.7 Execution of Debentures

All Debentures shall be signed (either manually or by facsimile signature) by any one authorized director or officer of the Corporation, on behalf of the Fund holding office at the time of signing. A facsimile signature upon a Debenture shall for all purposes of this Indenture be deemed to be the signature of the person whose signature it purports to be. Notwithstanding that any person whose signature, either manual or in facsimile, appears on a Debenture as a director or officer may no longer hold such office at the date of the Debenture or at the date of the certification and delivery thereof, such Debenture shall be valid and binding upon the Fund and entitled to the benefits of this Indenture.

2.8 Certification

No Debenture shall be issued or, if issued, shall be obligatory or shall entitle the holder to the benefits of this Indenture, until it has been manually certified by or on behalf of the Trustee substantially in the form set out in this Indenture, in the relevant supplemental indenture, or in some other form approved by the Trustee. Such certification on any Debenture shall be conclusive evidence that such Debenture is duly issued, is a valid obligation of the Fund and the holder is entitled to the benefits hereof.

The certificate of the Trustee signed on the Debentures, or interim Debentures hereinafter mentioned, shall not be construed as a representation or warranty by the Trustee as to the validity of this Indenture or of the Debentures or interim Debentures or as to the issuance of the Debentures or interim Debentures and the Trustee shall in no respect be liable or answerable for the use made of the Debentures or interim Debentures or any of them or the proceeds thereof. The certificate of the Trustee on the Debentures or interim Debentures shall, however, be a representation and warranty by the Trustee that the Debentures or interim Debentures have been duly certified by or on behalf of the Trustee pursuant to the provisions of this Indenture.

2.9 Interim Debentures or Certificates

Pending the delivery of definitive Debentures of any series to the Trustee, the Fund may issue and the Trustee certify in lieu thereof interim Debentures in such forms and in such denominations and signed in such manner as provided herein, entitling the holders thereof to definitive Debentures of the series when the same are ready for delivery; or the Fund may execute and the Trustee certify a temporary Debenture for the whole principal amount of Debentures of the series then authorized to be issued hereunder and deliver the same to the Trustee and thereupon the Trustee may issue its own interim

certificates in such form and in such amounts, not exceeding in the aggregate the principal amount of the temporary Debenture so delivered to it, as the Corporation, on behalf of the Fund and the Trustee may approve entitling the holders thereof to definitive Debentures of the series when the same are ready for delivery; and, when so issued and certified, such interim or temporary Debentures or interim certificates shall, for all purposes but without duplication, rank in respect of this Indenture equally with Debentures duly issued hereunder and, pending the exchange thereof for definitive Debentures, the holders of the interim or temporary Debentures or interim certificates shall be deemed without duplication to be Debentureholders and entitled to the benefit of this Indenture to the same extent and in the same manner as though the said exchange had actually been made. Forthwith after the Fund shall have delivered the definitive Debentures to the Trustee, the Trustee shall cancel such temporary Debentures, if any, and shall call in for exchange all interim Debentures or certificates that shall have been issued and forthwith after such exchange shall cancel the same. No charge shall be made by the Fund or the Trustee to the holders of such interim or temporary Debentures or interim certificates for the exchange thereof. All interest paid upon interim or temporary Debentures or interim certificates shall be noted thereon as a condition precedent to such payment unless paid by cheque to the registered holders thereof.

2.10 Mutilation, Loss, Theft or Destruction

In case any of the Debentures issued hereunder shall become mutilated or be lost, stolen or destroyed, the Fund, in its discretion, may issue, and thereupon the Trustee shall certify and deliver, a new Debenture upon surrender and cancellation of the mutilated Debenture, or in the case of a lost, stolen or destroyed Debenture, in lieu of and in substitution for the same, and the substituted Debenture shall be in a form approved by the Trustee and shall be entitled to the benefits of this Indenture and rank equally in accordance with its terms with all other Debentures issued or to be issued hereunder. In case of loss, theft or destruction the applicant for a substituted Debenture shall furnish to the Fund and to the Trustee such evidence of the loss, theft or destruction of the Debenture as shall be satisfactory to them in their discretion and shall also furnish an indemnity and surety bond satisfactory to them in their discretion. The applicant shall pay all reasonable expenses incidental to the issuance of any substituted Debenture.

2.11 Concerning Interest

- (a) All Debentures issued hereunder, whether originally or upon exchange or in substitution for previously issued Debentures which are interest bearing, shall bear interest (i) from and including their issue date, or (ii) from and including the last Interest Payment Date to which interest shall have been paid or made available for payment on the outstanding Debentures of that series, whichever shall be the later, or, in respect of Debentures subject to a Periodic Offering, from and including their issue date or from and including the last Interest Payment Date to which interest shall have been paid or made available for payment on such Debentures, in all cases, to and excluding the next Interest Payment Date.
- (b) Unless otherwise specifically provided in the terms of the Debentures of any series, interest shall be computed on the basis of a year of 365 days (or 366 days in the case of a leap year). With respect to any series of Debentures, whenever interest is computed on the basis of a year (the "**deemed year**") which contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.

2.12 Debentures to Rank *Pari Passu* With One Another

The Debentures will be direct unsecured obligations of the Fund. Each Debenture issued hereunder shall rank *pari passu* with one another, without discrimination, preference or priority. The payment of the principal of and interest on the Debentures is expressly subordinated to the prior payment in full of Senior Indebtedness to the extent and in the manner hereinafter set forth in ARTICLE 5.

2.13 Payments of Amounts Due on Maturity

Except as may otherwise be provided herein or in any supplemental indenture in respect of any series of Debentures and subject to Section 4.10, payments of amounts due upon maturity of the Debentures will be made in the following manner. The Fund will establish and maintain with the Trustee a Maturity Account for each series of Debentures. Each such Maturity Account shall be maintained by and be subject to the control of the Trustee for the purposes of this Indenture. On or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to each Maturity Date for Debentures outstanding from time to time under this Indenture, the Fund will deliver to the Trustee a certified cheque or wire transfer for deposit in the applicable Maturity Account in an amount sufficient to pay the cash amount payable in respect of such Debentures (including the principal amount together with any accrued and unpaid interest thereon less any tax required to be deducted), provided the Fund may elect to satisfy this requirement by providing the Trustee with a certified cheque for such amounts required under this Section 2.13 post-dated to the applicable Maturity Date. The Trustee, on behalf of the Fund, will pay to each holder entitled to receive payment the principal amount of and accrued and unpaid interest on a Debenture, upon surrender of such Debenture at the main branch of the Trustee in Toronto, Ontario and any other branch of the Trustee designated for such purpose from time to time by the Fund and the Trustee. The delivery of such funds to the Trustee for deposit to the applicable Maturity Account will satisfy and discharge the liability of the Fund for the Debentures to which the delivery of funds relates to the extent of the amount delivered (plus the amount of any tax deducted as aforesaid) and such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the money so delivered or made available the amount to which it is entitled.

Subject to applicable law, any monies or Fund Units, if applicable, set aside under this Section and not claimed by and paid to holders of Debentures as provided in this Section within six years after the date of such setting aside shall be repaid and delivered to the Fund by the Trustee and thereupon the Trustee shall be released from all further liability with respect to such monies or Fund Units, if applicable, and thereafter the holders of the Debentures in respect of which such monies or Fund Units, if applicable, were so repaid to the Fund shall have no rights in respect thereof except to obtain payment and delivery of the monies or Fund Units, if applicable, from the Fund subject to any limitation provided by the laws of the Province of Ontario. Notwithstanding the foregoing, the Trustee will pay any remaining funds prior to the expiry of six years after the setting aside described in this Section to the Fund upon receipt from the Fund, of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds as security for the Fund's continuing obligations hereunder, including the payments of any amounts due to holders of Debentures. If the remaining funds are paid to the Fund prior to the expiry of six years after such setting aside, the Fund shall reimburse the Trustee for any amounts so set aside which are required to be paid by the Trustee to a holder of a Debenture after the date of such payment of the remaining funds to the Fund but prior to six years after such setting aside.

2.14 Payment of Interest

The following provisions shall apply to Debentures, except as otherwise provided in Section 2.4(c) or specified in a resolution of the Board of Directors, an Officers' Certificate or a supplemental indenture relating to a particular series of Additional Debentures:

- (a) As interest becomes due on each Debenture (except, on conversion or on redemption, when interest may at the option of the Fund be paid upon surrender of such Debenture) the Fund, either directly or through the Trustee or any agent of the Trustee, shall send or forward by prepaid ordinary mail, electronic transfer of funds or such other means as may be agreed to by the Trustee, payment of such interest (less any tax required to be withheld therefrom) to the order of the registered holder of such Debenture appearing on the registers maintained by the Trustee at the close of business on the fifth Business Day prior to the applicable Interest Payment Date and addressed to the holder at the holder's last address appearing on the register, unless such holder otherwise directs. If payment is made by cheque, such cheque shall be forwarded at least three days prior to each date on which interest becomes due and if payment is made by other means (such as electronic transfer of funds, provided the Trustee must receive confirmation of receipt of funds prior to being able to wire funds to holders), such payment shall be made in a manner whereby the holder receives credit for such payment on the date such interest on such Debenture becomes due. The mailing of such cheque or the making of such payment by other means shall, to the extent of the sum represented thereby, plus the amount of any tax withheld as aforesaid, satisfy and discharge all liability for interest on such Debenture, unless in the case of payment by cheque, such cheque is not paid at par on presentation. In the event of non-receipt of any cheque for or other payment of interest by the person to whom it is so sent as aforesaid, the Fund will issue to such person a replacement cheque or other payment for a like amount upon being furnished with such evidence of non-receipt as it shall reasonably require and upon being indemnified to its satisfaction. Notwithstanding the foregoing, if the Fund is prevented by circumstances beyond its control (including, without limitation, any interruption in mail service) from making payment of any interest due on each Debenture in the manner provided above, the Fund may make payment of such interest or make such interest available for payment in any other manner acceptable to the Trustee with the same effect as though payment had been made in the manner provided above.
- (b) Notwithstanding Section 2.14(a), if a series of Debentures or any portion thereof is represented by a Global Debenture, then all payments of interest on the Global Debenture shall be made by electronic funds transfer made payable to the Depository or its nominee on the day interest is payable for subsequent payment to Beneficial Holders of the applicable Global Debenture, unless the Fund and the Depository otherwise agree. None of the Fund, the Trustee or any agent of the Trustee for any Debenture issued as a Global Debenture will be liable or responsible to any person for any aspect of the records related to or payments made on account of beneficial interests in any Global Debenture or for maintaining, reviewing, or supervising any records relating to such beneficial interests.

2.15 Limitation on Non-Resident Ownership

- (a) At no time may non-residents of Canada and/or partnerships that are not Canadian partnerships for purposes of the *Income Tax Act* (Canada) (or any combination thereof) (collectively "non-residents") be the beneficial owners (on either a basic or fully-diluted basis) of more than 49% of the Fund Units, whether by way of conversion of Debentures into Fund Units, repayment of Debentures by issuance of Fund Units, or otherwise, and the Fund has notified the Trustee, if necessary, and the transfer agent of the Fund Units (the "**Transfer Agent**") of this restriction in

writing. The Trustee shall, upon receipt of a Written Direction of the Fund, deliver to the registered owners of Debentures a form of declaration (which form shall be prepared by the Fund) as to the jurisdictions in which beneficial owners of Debentures are resident and shall require the completion and return of such declaration from each registered owner. If the Fund notifies the Trustee in writing that, as a result of such declarations as to beneficial ownership, the beneficial owners (on either a basic or fully diluted basis), of at least 49% of the Fund Units then outstanding are, or may be, non-residents or that such a situation is imminent, the Fund may require the Trustee to make a public announcement thereof (the form and content of which shall be prepared by the Fund) and the Fund may instruct, in writing, the Trustee not to accept a subscription for Debentures from or issue or register a transfer of Debentures to a Person unless the Person provides a declaration that the Person is not a non-resident and does not hold his or her Debentures for the benefit of a non-resident. If, notwithstanding the foregoing, the Fund notifies the Trustee in writing that beneficial owners (on either a basic or fully diluted basis) of at least 49% of the Fund Units are non-residents, the Fund may instruct the Trustee in writing to, or the trustees of the Fund may, send a notice (which notice shall be prepared by the Fund) to non-resident holders of Debentures and holders of Debentures for the benefit of non-residents, chosen in inverse order to the order of acquisition or registration of the Debentures or in such manner as the Trustee or the trustees of the Fund may consider equitable and practicable, requiring them to sell their Debentures or a portion thereof within a specified period of not more than 60 days. If the Debentureholders receiving such notice have not sold the specified number of Debentures or provide the Fund and the Trustee with satisfactory evidence that they are not non-residents and do not hold Debentures for the benefit of a non-resident within such period, the Fund may give written instructions to the Trustee that it shall, on behalf of such Debentureholder, and each such Debentureholder hereby grants a power of attorney to the Trustee and the Fund to, sell or redeem such Debentures and, in the interim, suspend the rights attached to such Debentures. Upon such sale or redemption, the affected holders shall cease to be holders of Debentures and their rights shall be limited to receiving the net proceeds of sale or redemption upon surrender of such Debentures.

- (b) No liability shall accrue to the Fund or the Trustee if a Debenture owned by a non-resident of Canada is sold at a loss to such person.
- (c) Unless and until the Trustee shall have been required to do so under the terms hereof, the Trustee shall not be bound to do or take any proceeding or action with respect to this Section 2.15 by virtue of the powers conferred on it hereby. The Trustee shall not be deemed to have notice of any violation of this Section 2.15 unless and until it has been given written notice of such violation by the Fund and shall act only as required by this Indenture once an indemnity is provided. The Trustee shall not be required to actively monitor the foreign holdings of the Debentures. It is acknowledged that the Trustee cannot monitor the non-resident holders of the debentures if the Debentures are registered in the name of "CDS & CO". The Trustee shall not be liable for any violation of the non-resident ownership restriction which may occur during the term of the Fund.

ARTICLE 3

REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP

3.1 Fully Registered Debentures

- (a) With respect to each series of Debentures issuable as Fully Registered Debentures, the Fund shall cause to be kept by and at the principal office of the Trustee in Toronto, Ontario and by the Trustee or such other registrar as the Fund, with the approval of the Trustee, may appoint at such

other place or places, if any, as may be specified in the Debentures of such series or as the Fund may designate with the approval of the Trustee, a register in which shall be entered the names and addresses of the holders of Fully Registered Debentures and particulars of the Debentures held by them respectively and of all transfers of Fully Registered Debentures. Such registration shall be noted on the Debentures by the Trustee or other registrar unless a new Debenture shall be issued upon such transfer.

- (b) No transfer of a Fully Registered Debenture shall be valid unless made on such register referred to in Section 3.1(a) by the registered holder or such holder's executors, administrators or other legal representatives or an attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Trustee or other registrar upon surrender of the Debentures together with a duly executed form of transfer acceptable to the Trustee and upon compliance with such other reasonable requirements as the Trustee or other registrar may prescribe, or unless the name of the transferee shall have been noted on the Debenture by the Trustee or other registrar.

3.2 Global Debentures

- (a) With respect to each series of Debentures issuable in whole or in part as one or more Global Debentures, the Fund shall cause to be kept by and at the principal offices of the Trustee in Toronto, Ontario and by the Trustee or such other registrar as the Fund, with the approval of the Trustee, may appoint at such other place or places, if any, as the Fund may designate with the approval of the Trustee, a register in which shall be entered the name and address of the holder of each such Global Debenture (being the Depository, or its nominee, for such Global Debenture) as holder thereof and particulars of the Global Debenture held by it, and of all transfers thereof. If any Debentures of such series are at any time not Global Debentures, the provisions of Section 3.1 shall govern with respect to registrations and transfers of such Debentures.
- (b) Notwithstanding any other provision of this Indenture, a Global Debenture may not be transferred by the registered holder thereof and accordingly, no definitive certificates shall be issued to Beneficial Holders except in the following circumstances or as otherwise specified in a resolution of the trustee, a resolution of the Board of Directors, Officers' Certificate or supplemental indenture relating to a particular series of Additional Debentures:
 - (i) Global Debentures may be transferred by a Depository to a nominee of such Depository or by a nominee of a Depository to such Depository or to another nominee of such Depository or by a Depository or its nominee to a successor Depository or its nominee;
 - (ii) Global Debentures may be transferred at any time after the Depository for such Global Debentures (i) has notified the Trustee, or the Fund has notified the Trustee, that it is unwilling or unable to continue as Depository for such Global Debentures, or (ii) ceases to be eligible to be a Depository under Section 2.6(b), provided that at the time of such transfer the Fund has not appointed a successor Depository for such Global Debentures;
 - (iii) Global Debentures may be transferred at any time after the Fund has determined, in its sole discretion, to terminate the book-entry only registration system in respect of such Global Debentures and has communicated such determination to the Trustee in writing;
 - (iv) Global Debentures may be transferred at any time after the Trustee has determined that an Event of Default has occurred and is continuing with respect to the Debentures of the

series issued as a Global Debenture, provided that Beneficial Holders representing, in the aggregate, not less than 25% of the aggregate principal amount of the Debentures of such series advise the Depository in writing, through the Depository Participants, that the continuation of the book-entry only registration system for such series of Debentures is no longer in their best interest and also provided that at the time of such transfer the Trustee has not waived the Event of Default pursuant to Section 8.3;

- (v) Global Debentures may be transferred if required by applicable law; or
 - (vi) Global Debentures may be transferred if the book-entry only registration system ceases to exist.
- (c) With respect to the Global Debentures, unless and until definitive certificates have been issued to Beneficial Holders pursuant to Section 3.2(a):
- (i) the Fund and the Trustee may deal with the Depository for all purposes (including paying interest on the Debentures) as the sole holder of such series of Debentures and the authorized representative of the Beneficial Holders;
 - (ii) the rights of the Beneficial Holders shall be exercised only through the Depository and shall be limited to those established by law and agreements between such Beneficial Holders and the Depository or the Depository Participants;
 - (iii) the Depository will make book-entry transfers among the Depository Participants; and
 - (iv) whenever this Indenture requires or permits actions to be taken based upon instruction or directions of Debentureholders evidencing a specified percentage of the outstanding Debentures, the Depository shall be deemed to be counted in that percentage only to the extent that it has received instructions to such effect from the Beneficial Holders or the Depository Participant, and has delivered such instructions to the Trustee.
- (d) Whenever a notice or other communication is required to be provided to Debentureholders, unless and until definitive certificate(s) have been issued to Beneficial Holders pursuant to this Section 3.1, the Trustee shall provide all such notices and communications to the Depository and the Depository shall deliver such notices and communications to such Beneficial Holders in accordance with Applicable Securities Legislation. Upon the termination of the book-entry only registration system on the occurrence of one of the conditions specified in Section 3.2(a) with respect to a series of Debentures issued hereunder, the Trustee shall notify all applicable Depository Participants and Beneficial Holders, through the Depository, of the availability of definitive Debenture certificates. Upon surrender by the Depository of the certificate(s) representing the Global Debentures and receipt of new registration instructions from the Depository, the Trustee shall deliver the definitive Debenture certificates for such Debentures to the holders thereof in accordance with the new registration instructions and thereafter, the registration and transfer of such Debentures will be governed by this ARTICLE 3.

3.3 Transferee Entitled to Registration

The transferee of a Debenture shall be entitled, after the appropriate form of transfer is lodged with the Trustee or other registrar and upon compliance with all other conditions in that behalf required by this Indenture or by law, to be entered on the register as the owner of such Debenture free from all equities or rights of set-off or counterclaim between the Fund and the transferor or any previous

holder of such Debenture, save in respect of equities of which the Fund is required to take notice by statute or by order of a court of competent jurisdiction.

3.4 No Notice of Trusts

Neither the Fund nor the Trustee nor any registrar shall be bound to take notice of or see to the execution of any trust (other than that created by this Indenture) whether express, implied or constructive, in respect of any Debenture, and may transfer the same on the direction of the person registered as the holder thereof, whether named as trustee or otherwise, as though that person were the beneficial owner thereof.

3.5 Registers Open for Inspection

The registers referred to in Section 3.1 shall at all reasonable times be open for inspection by the Fund, the Trustee or any Debentureholder. Every registrar, including the Trustee, shall from time to time when requested so to do by the Fund or by the Trustee, in writing, furnish the Fund or the Trustee, as the case may be, with a list of names and addresses of holders of registered Debentures entered on the register kept by them and showing the principal amount and serial numbers of the Debentures held by each such holder, provided the Trustee shall be entitled to charge a reasonable fee to provide such a list.

3.6 Exchanges of Debentures

- (a) Subject to Section 3.7, Debentures in any authorized form or denomination, other than Global Debentures, may be exchanged for Debentures in any other authorized form or denomination, of the same series and date of maturity, bearing the same interest rate and of the same aggregate principal amount as the Debentures so exchanged.
- (b) In respect of exchanges of Debentures permitted by Section 3.6(a), Debentures of any series may be exchanged only at the principal office of the Trustee in Toronto, Ontario or at such other place or places, if any, as may be specified in the Debentures of such series and at such other place or places as may from time to time be designated by the Fund with the approval of the Trustee. Any Debentures tendered for exchange shall be surrendered to the Trustee. The Fund shall execute and the Trustee shall certify all Debentures necessary to carry out exchanges as aforesaid. All Debentures surrendered for exchange shall be cancelled.
- (c) Debentures issued in exchange for Debentures which at the time of such issue have been selected or called for redemption at a later date shall be deemed to have been selected or called for redemption in the same manner and shall have noted thereon a statement to that effect.

3.7 Closing of Registers

- (a) Neither the Fund nor the Trustee nor any registrar shall be required to:
 - (i) make transfers or exchanges or convert any of Fully Registered Debentures on any Interest Payment Date for such Debentures or during the five proceeding Business Days;
 - (ii) make transfers or exchanges of, or convert any Debentures on the day of any selection by the Trustee of Debentures to be redeemed or during the five preceding Business Days; or

- (iii) make exchanges of any Debentures which will have been selected or called for redemption unless upon due presentation thereof for redemption such Debentures shall not be redeemed.
- (b) Subject to any restriction herein provided, the Fund with the approval of the Trustee may at any time close any register for any series of Debentures, other than those kept at the principal office of the Trustee in Toronto, Ontario, and transfer the registration of any Debentures registered thereon to another register (which may be an existing register) and thereafter such Debentures shall be deemed to be registered on such other register. Notice of such transfer shall be given to the holders of such Debentures.

3.8 Charges for Registration, Transfer and Exchange

For each Debenture exchanged, registered, transferred or discharged from registration, the Trustee or other registrar, except as otherwise herein provided, may make a reasonable charge for its services and in addition may charge a reasonable sum for each new Debenture issued (such amounts to be agreed upon from time to time by the Trustee and the Fund), and payment of such charges and reimbursement of the Trustee or other registrar for any stamp taxes or governmental or other charges required to be paid shall be made by the party requesting such exchange, registration, transfer or discharge from registration as a condition precedent thereto. Notwithstanding the foregoing provisions, no charge shall be made to a Debentureholder hereunder:

- (a) for any exchange, registration, transfer or discharge from registration of any Debenture applied for within a period of two months from the date of the first delivery of Debentures of that series or, with respect to Debentures subject to a Periodic Offering, within a period of two months from the date of delivery of any such Debenture;
- (b) for any exchange of any interim or temporary Debenture or interim certificate that has been issued under Section 2.9 for a definitive Debenture;
- (c) for any exchange of a Global Debenture as contemplated in Section 3.1; or
- (d) for any exchange of any Debenture resulting from a partial redemption under Section 4.2.

3.9 Ownership of Debentures

- (a) Unless otherwise required by law, the person in whose name any registered Debenture is registered shall for all the purposes of this Indenture be and be deemed to be the owner thereof and payment of or on account of the principal of and premium, if any, on such Debenture and interest thereon shall be made to such registered holder.
- (b) The registered holder for the time being of any registered Debenture shall be entitled to the principal and interest evidenced by such instrument free from all equities or rights of set-off or counterclaim between the Fund and the original or any intermediate holder thereof and all persons may act accordingly and the receipt of any such registered holder for any such principal and interest shall be a good discharge to the Trustee, any registrar and to the Fund for the same and none shall be bound to inquire into the title of any such registered holder.
- (c) Where Debentures are registered in more than one name, the principal and interest from time to time payable in respect thereof may be paid to the order of all such holders, failing written

instructions from them to the contrary, and the receipt of any one of such holders therefor shall be a valid discharge, to the Trustee, any registrar and to the Fund.

- (d) In the case of the death of one or more joint holders of any Debenture the principal and interest from time to time payable thereon may be paid to the order of the survivor or survivors of such registered holders and the receipt of any such survivor or survivors therefor shall be a valid discharge to the Trustee and any registrar and to the Fund.

ARTICLE 4

REDEMPTION AND PURCHASE OF DEBENTURES

4.1 Applicability of Article

Subject to regulatory approval, Section 2.4(d) and ARTICLE 5, the Fund shall have the right at its option to redeem, either in whole at any time or in part from time to time before maturity, either by payment of money, by issuance of Freely Tradeable Fund Units as provided in Section 4.6 or any combination thereof, any Debentures issued hereunder of any series which by their terms are made so redeemable (subject, however, to any applicable restriction on the redemption of Debentures of such series) and on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debentures and as shall have been expressed in this Indenture, in the Debentures, in an Officers' Certificate, or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in the Written Direction of the Fund requesting the certification and delivery thereof.

Subject to regulatory approval and ARTICLE 5, the Fund shall also have the right at its option to repay, either in whole or in part, on maturity, either by payment of money in accordance with Section 2.13, by issuance of Freely Tradeable Fund Units as provided in Section 4.10 or any combination thereof, any Debentures issued hereunder of any series which by their terms are made so repayable on maturity (subject however, to any applicable restriction on the repayment of the principal amount of the Debentures of such series) on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debenture and shall have been expressed in this Indenture, in the Debentures, in an Officers' Certificate, or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in the Written Direction of the Fund requesting the certification and delivery thereof.

4.2 Partial Redemption

If less than all the Debentures of any series for the time being outstanding are at any time to be redeemed, or if a portion of the Debentures being redeemed are being redeemed for cash and a portion of such Debentures are being redeemed by the payment of Freely Tradeable Fund Units pursuant to Section 4.6, the Debentures to be so redeemed shall be selected by the Trustee on a *pro rata* basis to the nearest multiple of \$1,000 in accordance with the principal amount of the Debentures registered in the name of each holder or in such other manner as the Trustee deems equitable, subject to the approval of the Toronto Stock Exchange or such other exchange on which the Debentures are then listed, as may be required from time to time. Unless otherwise specifically provided in the terms of any series of Debentures, no Debenture shall be redeemed in part unless the principal amount redeemed is \$1,000 or a multiple thereof. For this purpose, the Trustee may make, and from time to time vary, regulations with respect to the manner in which such Debentures may be drawn for redemption and regulations so made shall be valid and binding upon all holders of such Debentures notwithstanding that as a result thereof one or more of such Debentures may become subject to redemption in part only. In the event that one or more of such Debentures becomes subject to redemption in part only, upon surrender of any such Debentures

for payment of the Redemption Price, together with interest accrued to but excluding the Redemption Date, the Fund shall execute and the Trustee shall certify and deliver without charge to the holder thereof or upon the holder's order one or more new Debentures for the unredeemed part of the principal amount of the Debenture or Debentures so surrendered or, with respect to a Global Debenture, the Depository shall make notations on the Global Debenture of the principal amount thereof so redeemed. Unless the context otherwise requires, the terms "**Debenture**" or "**Debentures**" as used in this ARTICLE 4 shall be deemed to mean or include any part of the principal amount of any Debenture which in accordance with the foregoing provisions has become subject to redemption.

4.3 Notice of Redemption

Notice of redemption (the "**Redemption Notice**") of any series of Debentures shall be given to the holders of the Debentures so to be redeemed not more than 60 days nor less than 30 days (40 days if the Fund exercises the Fund Unit Redemption Right) prior to the date fixed for redemption (the "**Redemption Date**") in the manner provided in Section 14.2. Every such notice shall specify the aggregate principal amount of Debentures called for redemption, the Redemption Date, the Redemption Price and the places of payment and shall state that interest upon the principal amount of Debentures called for redemption shall cease to be payable from and after the Redemption Date. In addition, unless all the outstanding Debentures are to be redeemed, the Redemption Notice shall specify:

- (a) the distinguishing letters and numbers of the registered Debentures which are to be redeemed (or of such thereof as are registered in the name of such Debentureholder);
- (b) in the case of a published notice, the distinguishing letters and numbers of the Debentures which are to be redeemed or, if such Debentures are selected by terminal digit or other similar system, such particulars as may be sufficient to identify the Debentures so selected;
- (c) in the case of a Global Debenture, that the redemption will take place in such manner as may be agreed upon by the Depository, the Trustee and the Fund; and
- (d) in all cases, the principal amounts of such Debentures or, if any such Debenture is to be redeemed in part only, the principal amount of such part.

In the event that all Debentures to be redeemed are registered Debentures, publication shall not be required.

4.4 Debentures Due on Redemption Dates

Notice having been given as aforesaid, all the Debentures so called for redemption shall thereupon be and become due and payable at the Redemption Price on the Redemption Date specified in such notice, in the same manner and with the same effect as if it were the date of maturity specified in such Debentures, anything therein or herein to the contrary notwithstanding, and from and after such Redemption Date, if the monies necessary to redeem, or the Fund Units to be issued to redeem, such Debentures shall have been deposited as provided in Section 4.5 and affidavits or other proof satisfactory to the Trustee as to the publication and/or mailing of such notices shall have been lodged with it, interest upon the Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Trustee whose decision shall be final and binding upon all parties in interest.

4.5 Deposit of Redemption Monies or Fund Units

Redemption of Debentures shall be provided for by the Fund depositing with the Trustee or any paying agent to the order of the Trustee, on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the Redemption Date specified in such notice, such sums of money, or certificates representing such Fund Units, or both as the case may be, as may be sufficient to pay the Redemption Price of the Debentures so called for redemption, provided the Fund may elect to satisfy this requirement by providing the Trustee with a certified cheque or wire transfer for such amounts required under this Section 4.5 post-dated to the Redemption Date. The Fund shall also deposit with the Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Trustee in connection with such redemption. Every such deposit shall be irrevocable. From the sums so deposited, or certificates so deposited, or both, the Trustee shall pay or cause to be paid, or issue or cause to be issued, to the holders of such Debentures so called for redemption, upon surrender of such Debentures, the principal and interest (if any) to which they are entitled on redemption.

4.6 Right to Repay Redemption Price in Fund Units

- (a) Subject to the receipt of any required regulatory approvals and to the Normal Growth Guidelines, the provisions governing any series of Debentures and the other provisions of this Section 4.6, the Fund may, at its option, in exchange for or in lieu of paying the Redemption Price in money, elect to satisfy its obligation to pay all or any portion of the Redemption Price by issuing and delivering to holders on the Redemption Date that number of Freely Tradeable Fund Units obtained by dividing the Redemption Price (or applicable portion thereof to be satisfied by the issuance and delivery of Freely Tradeable Fund Units) by 95% of the Current Market Price of the Fund Units on the Redemption Date (the "**Fund Unit Redemption Right**").
- (b) The Fund shall exercise the Fund Unit Redemption Right by so specifying in the Redemption Notice and shall also specify the aggregate principal amount of Debentures in respect of which it is exercising the Fund Unit Redemption Right in such notice.
- (c) The Fund's right to exercise the Fund Unit Redemption Right shall be conditional upon the following conditions being met on the Business Day preceding the Redemption Date:
 - (i) the issuance of the Fund Units on the exercise of the Fund Unit Redemption Right shall be made in accordance with Applicable Securities Legislation and subject to the Normal Growth Guidelines and such Fund Units shall be issued as Freely Tradeable Fund Units;
 - (ii) such additional Freely Tradeable Fund Units shall be listed on the Toronto Stock Exchange or a national securities exchange or quoted in an inter-dealer quotation system of any registered national securities association;
 - (iii) the Fund shall be a reporting issuer in good standing under Applicable Securities Legislation in all jurisdictions in which the Fund is a reporting issuer on the date of the Indenture;
 - (iv) no Event of Default shall have occurred and be continuing;
 - (v) the Trustee shall have received an Officers' Certificate stating that conditions (i), (ii), (iii) and (iv) above have been satisfied and setting forth the number of Fund Units to be delivered for each \$1,000 principal amount of Debentures and the Current Market Price of the Fund Units on the Redemption Date; and

- (vi) the Trustee shall have received an opinion of Counsel to the effect that such Fund Units have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment of the Redemption Price, will be validly issued as fully paid and non-assessable, that conditions (i) and (ii) above have been satisfied and that, relying exclusively on certificates of good standing issued by the relevant securities authorities, condition (iii) above is satisfied, except that the opinion in respect of condition (iii) need not be expressed with respect to those provinces where certificates are not issued.

If the foregoing conditions are not satisfied prior to the close of business on the Business Day preceding the Redemption Date, the Fund shall pay the Redemption Price in cash in accordance with Section 4.5 unless the Debentureholder waives the conditions which are not satisfied.

- (d) In the event that the Fund duly exercises its Fund Unit Redemption Right, upon presentation and surrender of the Debentures for payment on the Redemption Date, at any place where a register is maintained pursuant to ARTICLE 3 or any other place specified in the Redemption Notice, the Fund shall on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the Redemption Date make the delivery to the Trustee for delivery to and on account of the holders, of certificates representing the Freely Tradeable Fund Units to which such holders are entitled. The Fund shall also deposit with the Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Trustee in connection with the Fund Unit Redemption Right. Every such deposit shall be irrevocable. The delivery of such certificates to the Trustee will satisfy and discharge the liability of the Fund for the redeemed Debentures to which the delivery of certificates relates to the extent of the amount delivered (plus the amount of any certificates sold to pay applicable taxes in accordance with this Section 4.6) and upon completion of the redemption of such Debentures, such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the certificates so delivered, the certificate(s) to which it is entitled.
- (e) No fractional Freely Tradeable Fund Units shall be delivered upon the exercise of the Fund Unit Redemption Right but, in lieu thereof, the Fund shall pay to the Trustee for the account of the holders, at the time contemplated in Section 4.6(d), the cash equivalent thereof determined on the basis of the Current Market Price of the Fund Units on the Redemption Date (less any tax required to be deducted, if any).
- (f) A holder shall be treated as the unitholder of record of the Freely Tradeable Fund Units issued on due exercise by the Fund of its Fund Unit Redemption Right effective immediately after the close of business on the Redemption Date, and shall be entitled to all substitutions therefor, all income earned thereon or accretions thereto and all dividends or distributions (including distributions and dividends in kind) thereon and arising thereafter, and in the event that the Trustee receives the same, it shall hold the same in trust for the benefit of such holder.
- (g) The Fund shall at all times reserve and keep available out of its authorized Fund Units (if the number thereof is or becomes limited), solely for the purpose of issue and delivery upon the exercise of the Fund's Fund Unit Redemption Right as provided herein, and shall issue to Debentureholders to whom Freely Tradeable Fund Units will be issued pursuant to exercise of the Fund Unit Redemption Right, such number of Freely Tradeable Fund Units as shall be issuable in such event. All Freely Tradeable Fund Units which shall be so issuable shall be duly and validly issued as fully paid and non-assessable.

- (h) The Fund shall comply with all Applicable Securities Legislation regulating the issue and delivery of Freely Tradeable Fund Units upon exercise of the Fund Unit Redemption Right and shall cause to be listed and posted for trading such Fund Units on each stock exchange on which the Fund Units are then listed.
- (i) The Fund shall from time to time promptly pay, or make provision satisfactory to the Trustee for the payment of, all taxes and charges which may be imposed by the laws of Canada or any province thereof (except income tax, withholding tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Freely Tradeable Fund Units to holders upon exercise of the Fund Unit Redemption Right pursuant to the terms of the Debentures and of this Indenture.
- (j) If the Fund elects to satisfy its obligation to pay all or any portion of the Redemption Price by issuing Freely Tradeable Fund Units in accordance with this Section 4.6 and if the Redemption Price (or any portion thereof) to which a holder is entitled is subject to withholding taxes and the amount of the cash payment of the Redemption Price, if any, is insufficient to satisfy such withholding taxes, the Trustee, on the Written Direction of the Fund but for the account of the holder, shall sell, through the investment banks, brokers or dealers selected by the Fund, out of the Freely Tradeable Fund Units issued by the Fund for this purpose, such number of Freely Tradeable Fund Units that together with the cash payment of the Redemption Price, if any, is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and shall remit same on behalf of the Fund to the proper tax authorities within the period of time prescribed for this purpose under applicable laws.

4.7 Failure to Surrender Debentures Called for Redemption

In case the holder of any Debenture so called for redemption shall fail on or before the Redemption Date so to surrender such holder's Debenture, or shall not within such time accept payment of the redemption monies payable, or take delivery of certificates representing such Fund Units issuable in respect thereof, or give such receipt therefor, if any, as the Trustee may require, such redemption monies may be set aside in trust, or such certificates may be held in trust without interest, either in the deposit department of the Trustee or in a chartered bank, and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the sum or Fund Units so set aside and, to that extent, the Debenture shall thereafter not be considered as outstanding hereunder and the Debentureholder shall have no other right except to receive payment out of the monies so paid and deposited, or take delivery of the certificates so deposited, or both, upon surrender and delivery up of such holder's Debenture of the Redemption Price, as the case may be, of such Debenture. In the event that any money, or certificates representing Fund Units, required to be deposited hereunder with the Trustee or any depository or paying agent on account of principal and interest, if any, on Debentures issued hereunder shall remain so deposited for a period of six years from the Redemption Date, then such monies or certificates representing Fund Units, together with any accumulated interest thereon or any distribution paid thereon, shall at the end of such period be paid over or delivered over by the Trustee or such depository or paying agent to the Fund on its demand, and thereupon the Trustee shall not be responsible to Debentureholders for any amounts owing to them and subject to applicable law, thereafter the holder of a Debenture in respect of which such money was so repaid to the Fund shall have no rights in respect thereof except to obtain payment of the money or certificates due from the Fund, subject to any limitation period provided by the laws of the Province of Ontario. Notwithstanding the foregoing, the Trustee will pay any remaining funds prior to the expiry of six years after the Redemption Date to the Fund upon receipt from the Fund, of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds as security for the Fund's continuing obligations hereunder, including the payments of any amounts due to holders of Debentures. If the remaining funds are paid to the Fund

prior to the expiry of six years after the Redemption Date, the Fund shall reimburse the Trustee for any amounts required to be paid by the Trustee to a holder of a Debenture pursuant to the redemption after the date of such payment of the remaining funds to the Fund but prior to six years after the redemption.

4.8 Cancellation of Debentures Redeemed

Subject to the provisions of Sections 4.2 and 4.9 as to Debentures redeemed or purchased in part, all Debentures redeemed and paid under this ARTICLE 4 shall forthwith be delivered to the Trustee and cancelled and no Debentures shall be issued in substitution for those redeemed.

4.9 Purchase of Debentures by the Fund

Unless otherwise specifically provided with respect to a particular series of Debentures, the Fund may, if it is not at the time in default hereunder, at any time and from time to time, purchase Debentures in the open market (which shall include purchases from or through an investment dealer or a firm holding membership on a recognized stock exchange) or by tender at any price or by contract or by private agreement. All Debentures so purchased will be delivered to the Trustee and shall be cancelled and no Debentures shall be issued in substitution therefor.

If, upon an invitation for tenders, more Debentures are tendered at the same lowest price than the Fund is prepared to accept, the Debentures to be purchased by the Fund shall be selected by the Trustee on a *pro rata* basis or in such other manner consented to by the Toronto Stock Exchange or such other exchange on which the Debentures are then listed which the Trustee considers appropriate, from the Debentures tendered by each tendering Debentureholder who tendered at such lowest price. For this purpose the Trustee may make, and from time to time amend, regulations with respect to the manner in which Debentures may be so selected, and regulations so made shall be valid and binding upon all Debentureholders, notwithstanding the fact that as a result thereof one or more of such Debentures become subject to purchase in part only. The holder of a Debenture of which a part only is purchased, upon surrender of such Debenture for payment, shall be entitled to receive, without expense to such holder, one or more new Debentures for the unpurchased part so surrendered, and the Trustee shall certify and deliver such new Debenture or Debentures upon receipt of the Debenture so surrendered or, with respect to a Global Debenture, the Depository shall make notations on the Global Debenture of the principal amount thereof so purchased.

4.10 Right to Repay Principal Amount and Accrued Interest in Fund Units

- (a) Subject to the receipt of any required regulatory approvals and the Normal Growth Guidelines, the provisions governing any series Debentures and the other provisions of this Section 4.10, the Fund may, at its option, in exchange for or in lieu of repaying the Debentures in money, elect to satisfy its obligation to repay the principal amount of all or any portion of the principal amount of the Debentures outstanding, together with all accrued and unpaid interest thereon, by issuing and delivering to holders on the Maturity Date of such Debentures that number of Freely Tradeable Fund Units obtained by dividing the principal amount of the Debentures (or applicable portion thereof to be satisfied by the issuance and delivery of Freely Tradeable Fund Units) together with accrued and unpaid interest, by 95% of the Current Market Price of the Fund Units on the Maturity Date (the "**Fund Unit Repayment Right**").
- (b) The Fund shall exercise the Fund Unit Repayment Right by so specifying in the Maturity Notice, which shall be delivered to the Trustee and the holders of Debentures not more than 60 days and not less than 30 days prior to the Maturity Date, and which shall also specify the aggregate

principal amount of Debentures in respect of which it is exercising the Fund Unit Repayment Right on the Maturity Date.

- (c) The Fund's right to exercise the Fund Unit Repayment Right shall be conditional upon the following conditions being met on the Business Day preceding the Maturity Date:
- (i) the issuance of the Fund Units on the exercise of the Fund Unit Repayment Right shall be made in accordance with Applicable Securities Legislation and subject to the Normal Growth Guidelines and such Fund Units shall be issued as Freely Tradeable Fund Units;
 - (ii) such additional Freely Tradeable Fund Units shall be listed on the Toronto Stock Exchange or a national securities exchange or quoted in an inter-dealer quotation system of any registered national securities association;
 - (iii) the Fund shall be a reporting issuer in good standing under Applicable Securities Legislation in all jurisdictions in which the Fund is a reporting issuer on the date of this Indenture;
 - (iv) no Event of Default shall have occurred and be continuing;
 - (v) the Trustee shall have received an Officers' Certificate stating that conditions (i), (ii), (iii) and (iv) above have been satisfied and setting forth the number of Fund Units to be delivered for each \$1,000 principal amount of Debentures and the Current Market Price of the Fund Units on the Maturity Date; and
 - (vi) the Trustee shall have received an opinion of Counsel to the effect that such Fund Units have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment of the principal amount of the Debentures outstanding, together with all accrued and unpaid interest thereon, will be validly issued as fully paid and non-assessable, that conditions (i) and (ii) above have been satisfied and that, relying exclusively on certificates of good standing issued by the relevant securities authorities, condition (iii) above is satisfied, except that the opinion in respect of condition (iii) need not be expressed with respect to those provinces where certificates are not issued.

If the foregoing conditions are not satisfied prior to the close of business on the Business Day preceding the Maturity Date, the Fund shall pay the principal amount of the Debentures outstanding, together with all accrued and unpaid interest thereon, in cash in accordance with Section 2.13, unless the Debentureholder waives the conditions which are not satisfied.

- (d) In the event that the Fund duly exercises its Fund Unit Repayment Right, upon presentation and surrender of the Debentures for payment on the Maturity Date, at any place where a register is maintained pursuant to ARTICLE 3 or any other place specified in the Maturity Notice, the Fund shall on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the Maturity Date make the delivery to the Trustee for delivery to and on account of the holders, of certificates representing the Freely Tradeable Fund Units to which such holders are entitled. The Fund shall also deposit with the Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Trustee in connection with the Fund Unit Repayment Right. Every such deposit shall be irrevocable. From the certificates so deposited in addition to amounts payable by the Trustee pursuant to Section 2.13, the Trustee shall pay or cause to be paid, to the holders of such Debentures, upon surrender of such Debentures, the principal amount of to which they are entitled on maturity and deliver to such holders the certificates to which such

holders are entitled. The delivery of such certificates to the Trustee will satisfy and discharge the liability of the Fund for the Debentures to which the delivery of certificates relates to the extent of the amount delivered (plus the amount of any certificates sold to pay applicable taxes in accordance with this Section 4.10) and such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the certificates so delivered, the certificate(s) to which it is entitled.

- (e) No fractional Freely Tradeable Fund Units shall be delivered upon the exercise of the Fund Unit Repayment Right but, in lieu thereof, the Fund shall pay to the Trustee for the account of the holders, at the time contemplated in Section 4.10(d), the cash equivalent thereof determined on the basis of the Current Market Price of the Fund Units on the Maturity Date (less any tax required to be deducted, if any).
- (f) A holder shall be treated as the unitholder of record of the Freely Tradeable Fund Units issued on due exercise by the Fund of its Fund Unit Repayment Right effective immediately after the close of business on the Maturity Date, and shall be entitled to all substitutions therefor, all income earned thereon or accretions thereto and all dividends or distributions (including distributions and dividends in kind) thereon and arising thereafter, and in the event that the Trustee receives the same, it shall hold the same in trust for the benefit of such holder.
- (g) The Fund shall at all times reserve and keep available out of its authorized Fund Units (if the number thereof is or becomes limited), solely for the purpose of issue and delivery upon the exercise of the Fund's Fund Unit Repayment Right as provided herein, and shall issue to Debentureholders to whom Freely Tradeable Fund Units will be issued pursuant to exercise of the Fund Unit Repayment Right, such number of Freely Tradeable Fund Units as shall be issuable in such event. All Freely Tradeable Fund Units which shall be so issuable shall be duly and validly issued as fully paid and non-assessable.
- (h) The Fund shall comply with all Applicable Securities Legislation regulating the issue and delivery of Freely Tradeable Fund Units upon exercise of the Fund Unit Repayment Right and shall cause to be listed and posted for trading such Freely Tradeable Fund Units on each stock exchange on which the Fund Units are then listed.
- (i) The Fund shall from time to time promptly pay, or make provision satisfactory to the Trustee for the payment of, all taxes and charges which may be imposed by the laws of Canada or any province thereof (except income tax, withholding tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Freely Tradeable Fund Units to holders upon exercise of the Fund Unit Repayment Right pursuant to the terms of the Debentures and of this Indenture.
- (j) If the Fund elects to satisfy its obligation to pay all or any portion of the principal amount of Debentures due on maturity together with all accrued and unpaid interest thereon by issuing Freely Tradeable Fund Units in accordance with this Section 4.10 and if the amount (or any portion thereof) to which a holder is entitled is subject to withholding taxes and the amount of the cash payment of the amount due on maturity, if any, is insufficient to satisfy such withholding taxes, the Trustee, on the Written Direction of the Fund but for the account of the holder, shall sell, through the investment banks, brokers or dealers selected by the Fund, out of the Freely Tradeable Fund Units issued by the Fund for this purpose, such number of Freely Tradeable Fund Units that together with the cash component of the amount due on maturity is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and

shall remit same on behalf of the Fund to the proper tax authorities within the period of time prescribed for this purpose under applicable laws.

- (k) When the Fund determines the number of Fund Units issued pursuant to an election in accordance with Section 4.6 or 4.10, the Fund will issue a news release on a national newswire disclosing the number of Fund Units issued.

ARTICLE 5

SUBORDINATION OF DEBENTURES

5.1 Applicability of Article

The indebtedness, liabilities and obligations of the Fund hereunder (except as provided in Section 15.15) or under the Debentures, whether on account of principal, interest or otherwise, including any payment of cash in lieu of the issuance of Fund Units pursuant to Section 6.12, but excluding the issuance of Fund Units upon any conversion pursuant to ARTICLE 6, upon any redemption pursuant to ARTICLE 4, or at maturity pursuant to ARTICLE 4 (collectively, the "**Debenture Liabilities**"), shall be subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in the following Sections of this ARTICLE 5, to the full and final payment of all Senior Indebtedness, and each holder of any such Debenture by his acceptance thereof agrees to and shall be bound by the provisions of this ARTICLE 5.

5.2 Order of Payment

In the event of any insolvency or bankruptcy proceedings, or any receivership, creditor enforcement, realization, liquidation or similar proceedings relative to the Fund, or to its property or assets, whether voluntary or involuntary, partial or complete, or in the event of any proceedings for liquidation, dissolution or winding-up of the Fund (other than in respect of a Corporate Conversion), whether or not involving insolvency or bankruptcy and whether voluntary or involuntary, partial or complete, or any marshalling of the assets and liabilities of the Fund:

- (a) all Senior Indebtedness shall first be paid in full, or provision made for such payment, before any payment is made on account of Debenture Liabilities;
- (b) any payment or distribution of assets of the Fund, whether in cash, property or securities, to which the holders of the Debentures or the Trustee on behalf of such holders would be entitled except for the provisions of this ARTICLE 5, shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the holders of Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness; and
- (c) the Senior Creditors or a receiver or a receiver-manager of the Fund or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Fund's assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Debentureholders or the Trustee or any requirement to account to the Trustee or the Debentureholders.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by:

- (i) whether or not the Senior Indebtedness is secured;
- (ii) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of the Senior Security;
- (iii) the time or order of the attachment, perfection or crystallization of any security constituted by the Senior Security;
- (iv) the taking of any collection, enforcement or realization proceedings pursuant to the Senior Security;
- (v) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors, or any of them or the Debentureholders or any of them to any money or property of the Fund;
- (vi) the failure to exercise any power or remedy reserved to the Senior Creditors under the Senior Security or to insist upon a strict compliance with any terms thereof;
- (vii) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (viii) the date of giving or failing to give notice to or making demand upon the Fund; or
- (ix) any other matter whatsoever.

5.3 [Intentionally deleted.]

5.4 Obligation to Pay Not Impaired

Nothing contained in this ARTICLE 5 or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as between the Fund, its creditors other than the holders of Senior Indebtedness, and the holders of the Debentures, the obligation of the Fund, which is absolute and unconditional, to pay to the holders of the Debentures the principal of and interest on the Debentures, as and when the same shall become due and payable in accordance with their terms, or affect the relative rights of the holders of the Debentures and creditors of the Fund other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Trustee or the holder of any Debenture from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this ARTICLE 5 of the holders of Senior Indebtedness.

5.5 No Payment if Designated Indebtedness in Default

Upon the maturity of any Designated Indebtedness by lapse of time, acceleration or otherwise, or any other enforcement of any Designated Indebtedness, then, except as provided in Section 5.8, all such Designated Indebtedness shall first be paid in full, or shall first have been duly provided for, before any payment is made on account of the Debenture Liabilities.

In case of a circumstance constituting a default or event of default with respect to any Designated Indebtedness permitting (whether at that time or upon notice, lapse of time, or satisfaction of any other condition precedent) a Designated Indebtedness Creditor to demand payment or accelerate the maturity thereof where the notice of such default or event of default has been given by or on behalf of any of the holders of any Designated Indebtedness to the Fund or the Fund otherwise has knowledge thereof, unless and until such default or event of default shall have been cured or waived or shall have ceased to exist, no payment (by purchase of Debentures or otherwise) shall be made by the Fund with respect to the Debenture Liabilities and neither the Trustee nor the holders of Debentures shall be entitled to demand, institute proceedings for the collection of (which shall, for certainty include proceedings related to an adjudication or declaration as to the insolvency or bankruptcy of the Fund and other similar creditor proceedings), or receive any payment or benefit (including without limitation by set-off, combination of accounts or otherwise in any manner whatsoever) on account of the Debentures after the happening of such a default or event of default (except as provided in Section 5.8), and unless and until such default or event of default shall have been cured or waived or shall have ceased to exist, such payments shall be held in trust for the benefit of, and, if and when such Designated Indebtedness shall have become due and payable, shall be paid over to, the holders of the Designated Indebtedness or their representative or representatives or, if applicable, to the trustee or trustees under any indenture under which any instruments evidencing an amount of Designated Indebtedness remaining unpaid, until all such Designated Indebtedness shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Designated Indebtedness.

The fact that any payment hereunder is prohibited by this Section 5.5 shall not prevent the failure to make such payment from being an Event of Default hereunder.

5.6 Payment on Debentures Permitted

Nothing contained in this ARTICLE 5 or elsewhere in this Indenture, or in any of the Debentures, shall affect the obligation of the Fund to make, or prevent the Fund from making, at any time except as prohibited by Sections 5.2 or 5.5, any payment of principal of or interest on the Debentures. The fact that any such payment is prohibited by Sections 5.2 or 5.5 shall not prevent the failure to make such payment from being an Event of Default hereunder. Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall prevent the conversion of the Debentures or, except as prohibited by Sections 5.2 or 5.5, the application by the Trustee of any monies deposited with the Trustee hereunder for the purpose, to the payment of or on account of the Debenture Liabilities.

5.7 Confirmation of Subordination

Each holder of Debentures by his acceptance thereof authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to effect the subordination as provided in this ARTICLE 5 and appoints the Trustee his attorney-in-fact for any and all such purposes. Upon request of the Fund, and upon being furnished an Officers' Certificate stating that one or more named persons are Senior Creditors and specifying the amount and nature of the Senior Indebtedness of such Senior Creditor, the Trustee shall enter into a contractual subordination agreement or agreements with the Fund and the person or persons named in such Officers' Certificate providing that such person or persons are entitled to all the rights and benefits of this ARTICLE 5 as a Senior Creditor and for such other matters, including those in addition to the provisions of this ARTICLE 5, such as an agreement not to amend the provisions of this ARTICLE 5 and the definitions herein without the consent of such Senior Creditor, as the Senior Creditor may reasonably request. Such agreement shall be conclusive evidence that the indebtedness specified therein is Senior Indebtedness, however, nothing herein shall impair the rights of any Senior Creditor who has not entered into such an agreement.

5.8 Knowledge of Trustee

Notwithstanding the provisions of this ARTICLE 5 or any provision in this Indenture or in the Debentures contained, the Trustee will not be charged with knowledge of any Senior Indebtedness or of any default in the payment thereof, or of the existence of any Event of Default or any other fact that would prohibit the making of any payment of monies to or by the Trustee, or the taking of any other action by the Trustee, unless and until the Trustee has received written notice thereof from the Fund, any Debentureholder or any Senior Creditor.

5.9 Trustee May Hold Senior Indebtedness

The Trustee is entitled to all the rights set forth in this ARTICLE 5 with respect to any Senior Indebtedness at the time held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture deprives the Trustee of any of its rights as such holder.

5.10 Rights of Holders of Senior Indebtedness Not Impaired

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Fund or by any non-compliance by the Fund with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

5.11 Altering Senior Indebtedness

The holders of any Senior Indebtedness have the right to extend, renew, modify or amend the terms of such Senior Indebtedness or any security therefor and to release, sell or exchange such security and otherwise to deal freely with the Fund, all without notice to or consent of the Debentureholders or the Trustee and without affecting the liabilities and obligations of the parties to this Indenture or the Debentureholders.

5.12 Additional Indebtedness

This Indenture does not restrict the Fund from incurring additional indebtedness for borrowed money or other obligations or liabilities (including Senior Indebtedness) or mortgaging, pledging or charging its properties to secure any indebtedness or obligations or liabilities.

5.13 Right of Debentureholder to Receive Fund Units Not Impaired

The subordination of the Debentures to the Senior Indebtedness under this ARTICLE 5 and the other provisions of this ARTICLE 5 do not impair in any way the right of a Debentureholder to receive Fund Units in respect of principal and interest upon any conversion pursuant to ARTICLE 6, upon any redemption pursuant to ARTICLE 4 or at maturity pursuant to ARTICLE 4.

5.14 Invalidated Payments

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this ARTICLE 5 shall be reinstated and the provisions of this Article shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give

the Senior Creditors any rights or recourses against the Trustee or the Debentureholders for amounts paid to the Debentureholders subsequent to such payment or satisfaction in full and prior to such reinstatement.

5.15 Contesting Security

The Trustee, for itself and on behalf of the Debentureholders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Indebtedness, the Senior Security, or the relative priority of the Senior Security.

ARTICLE 6 CONVERSION OF DEBENTURES

6.1 Applicability of Article

Any Debentures issued hereunder of any series which by their terms are convertible (subject, however, to any applicable restriction of the conversion of Debentures of such series) will be convertible into Freely Tradeable Fund Units or other securities of the Fund, at such conversion rate or rates, and on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debentures and shall have been expressed in this Indenture, in such Debentures, in an Officers' Certificate, or in a supplemental indenture authorizing or providing for the issue thereof.

Such right of conversion shall extend only to the maximum number of whole Fund Units into which the aggregate principal amount of the Debenture or Debentures surrendered for conversion at any one time by the holder thereof may be converted. Fractional interests in Fund Units shall be adjusted for in the manner provided in Section 6.6.

6.2 Notice of Expiry of Conversion Privilege

Notice of the expiry of the conversion privileges of the Debentures shall be given by or on behalf of the Fund, not more than 60 days and not less than 30 days prior to the date fixed for the Time of Expiry, in the manner provided in Section 14.2.

6.3 Revival of Right to Convert

If the redemption of any Debenture called for redemption by the Fund is not made or the payment of the purchase price of any Debenture which has been tendered in acceptance of an offer by the Fund to purchase Debentures for cancellation is not made, in the case of a redemption upon due surrender of such Debenture or in the case of a purchase on the date on which such purchase is required to be made, as the case may be, then, provided the Time of Expiry has not passed, the right to convert such Debentures shall revive and continue as if such Debenture had not been called for redemption or tendered in acceptance of the Fund's offer, respectively.

6.4 Manner of Exercise of Right to Convert

- (a) The holder of a Debenture desiring to convert such Debenture in whole or in part into Fund Units shall surrender such Debenture to the Trustee at its principal office in the City of Toronto, Ontario together with the conversion notice attached hereto as Schedule D or any other written notice in a form satisfactory to the Trustee, in either case duly executed by the holder or his executors or administrators or other legal representatives or his or their attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Trustee,

exercising his right to convert such Debenture in accordance with the provisions of this Article; provided that with respect to a Global Debenture, the obligation to surrender a Debenture to the Trustee shall be satisfied if the Trustee makes notation on the Global Debenture of the principal amount thereof so converted and the Trustee is provided with all other documentation which it may request. Thereupon such Debentureholder or, subject to payment of all applicable stamp or security transfer taxes or other governmental charges and compliance with all reasonable requirements of the Trustee, his nominee(s) or assignee(s) shall be entitled to be entered in the books of the Fund as at the Date of Conversion (or such later date as is specified in Section 6.4(b)) as the holder of the number of Fund Units into which such Debenture is convertible in accordance with the provisions of this Article and, as soon as practicable thereafter, the Fund shall deliver to such Debentureholder or, subject as aforesaid, his nominee(s) or assignee(s), a certificate or certificates for such Fund Units and make or cause to be made any payment of interest to which such holder is entitled in accordance with Section 6.4(e) hereof.

- (b) For the purposes of this Article, a Debenture shall be deemed to be surrendered for conversion on the date (herein called the "**Date of Conversion**") on which it is so surrendered when the register of the Trustee is open and in accordance with the provisions of this Article or, in the case of a Global Debenture which the Trustee received notice of and all necessary documentation in respect of the exercise of the conversion rights and, in the case of a Debenture so surrendered by post or other means of transmission, on the date on which it is received by the Trustee at its office specified in Section 6.4(a); provided that if a Debenture is surrendered for conversion on a day on which the register of Fund Units is closed, the person or persons entitled to receive Fund Units shall become the holder or holders of record of such Fund Units as at the date on which such registers are next reopened.
- (c) Any part, being \$1,000 or an integral multiple thereof, of a Debenture in a denomination in excess of \$1,000 may be converted as provided in this Article and all references in this Indenture to conversion of Debentures shall be deemed to include conversion of such parts.
- (d) The holder of any Debenture of which only a part is converted shall, upon the exercise of his right of conversion surrender such Debenture to the Trustee in accordance with Section 6.4(a), and the Trustee shall cancel the same and shall without charge forthwith certify and deliver to the holder a new Debenture or Debentures in an aggregate principal amount equal to the unconverted part of the principal amount of the Debenture so surrendered or, with respect to a Global Debenture, the Depository shall make notations on the Global Debentures of the principal amount thereof so converted.
- (e) The holder of a Debenture surrendered for conversion in accordance with this Section 6.4 shall be entitled (subject to any applicable restriction on the right to receive interest on conversion of Debentures of any series) to receive accrued and unpaid interest in respect thereof, in cash, up to but excluding the Date of Conversion and the Fund Units issued upon such conversion shall rank only in respect of distributions or dividends declared in favour of unitholders of record on and after the Date of Conversion or such later date as such holder shall become the holder of record of such Fund Units pursuant to Section 6.4(b), from which applicable date they will for all purposes be and be deemed to be issued and outstanding as fully paid and non-assessable Fund Units.

6.5 **Adjustment of Conversion Price**

The Conversion Price in effect at any date shall be subject to adjustment from time to time as set forth below.

- (a) If and whenever at any time prior to the Time of Expiry the Fund shall (i) subdivide or redivide the outstanding Fund Units into a greater number of units, (ii) reduce, combine or consolidate the outstanding Fund Units into a smaller number of units, or (iii) issue Fund Units to the holders of all or substantially all of the outstanding Fund Units by way of a dividend or distribution (other than the issue of Fund Units to holders of Fund Units who have elected to receive dividends or distributions in the form of Fund Units in lieu of cash dividends or cash distributions paid in the ordinary course on the Fund Units), the Conversion Price in effect on the effective date of such subdivision, redivision, reduction, combination or consolidation or on the record date for such issue of Fund Units by way of a dividend or distribution, as the case may be, shall be adjusted immediately after such effective date or such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such effective date or record date, as applicable, by a fraction, of which the numerator shall be the total number of Fund Units outstanding prior to such effective date or record as applicable date, and of which the denominator shall be the total number of Fund Units resulting from such subdivision, redivision, reduction, combination or consolidation or issuance of Fund Units by way of a dividend or distribution, as the case may be. Such adjustment shall be made successively whenever any event referred to in this Section 6.5(a) shall occur. Any such issue of Fund Units by way of a dividend or distribution shall be deemed to have been made on the record date for the dividend or distribution for the purpose of calculating the number of outstanding Fund Units under subsections (b) and (d) of this Section 6.5.
- (b) If and whenever at any time prior to the Time of Expiry the Fund shall fix a record date for the issuance of options, rights or warrants to all or substantially all the holders of its outstanding Fund Units entitling them, for a period expiring not more than 45 days after such record date, to subscribe for or purchase Fund Units (or securities convertible into Fund Units) at a price per unit (or having a conversion or exchange price per unit) less than 95% of the Current Market Price of a Fund Unit on such record date, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Fund Units outstanding on such record date plus a number of Fund Units equal to the number arrived at by dividing the aggregate price of the total number of additional Fund Units offered for subscription or purchase (or the aggregate conversion or exchange price of the convertible securities so offered) by such Current Market Price per Fund Unit, and of which the denominator shall be the total number of Fund Units outstanding on such record date plus the total number of additional Fund Units offered for subscription or purchase (or into which the convertible securities so offered are convertible). Such adjustment shall be made successively whenever such a record date is fixed. To the extent that any such options, rights or warrants are not so issued or any such options, rights or warrants are not exercised prior to the expiration thereof, the Conversion Price shall be re-adjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon the number of Fund Units (or securities convertible into Fund Units) actually issued upon the exercise of such options, rights or warrants were included in such fraction, as the case may be.
- (c) Subject to the terms of this Indenture, if and whenever at any time prior to the Time of Expiry the Fund shall fix a record date for the making of a distribution to all or substantially all the holders of its outstanding Fund Units of (i) units of any class other than Fund Units or other securities and other than securities distributed to holders of Fund Units who have elected to receive dividends or distributions in the form of such units in lieu of dividends or distributions paid in the ordinary course, (ii) rights, options or warrants (excluding rights, options or warrants entitling the holders thereof as at a specified date to subscribe for or purchase Fund Units or securities convertible into

Fund Units for a period of not more than 45 days after such date), (iii) evidences of its indebtedness, or (iv) other assets (excluding dividends or distributions paid in the ordinary course) then, in each such case, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Fund Units outstanding on such record date multiplied by the Current Market Price per Fund Unit on such record date, less the fair market value (as determined by the directors of the Corporation, on behalf of the Fund, with the approval of the Debenture Trustee, which determination shall be conclusive) of such units, other securities, rights, options, warrants, evidences of indebtedness or assets so distributed, and of which the denominator shall be the total number of Fund Units outstanding on such record date multiplied by such Current Market Price per Fund Unit. Such adjustment shall be made successively whenever such a record date is fixed. To the extent that such distribution is not so made, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect if only such units, rights, options, warrants, evidences of indebtedness or assets actually distributed were included in such fraction, as the case may be. In clause (iv) of this subsection (c) the term "dividends or distributions paid in the ordinary course" shall include the value of any securities or other property or assets distributed in lieu of cash dividends or distributions paid in the ordinary course at the option of unitholders.

- (d) If and whenever at any time prior to the Time of Expiry, there is a Corporate Conversion, reclassification of the Fund Units or a capital reorganization of the Fund other than as described in Section 6.5(a) or a consolidation, amalgamation, arrangement, binding securities exchange, merger of the Fund with or into any other Person or other entity or acquisition of the Fund or other combination pursuant to which the Fund Units are converted into or acquired for cash, securities or other property; or a sale or conveyance of the property and assets of the Fund as an entirety or substantially as an entirety to any other Person (other than a direct or indirect wholly-owned subsidiary of the Fund) or other entity or a liquidation, dissolution or winding-up of the Fund, any holder of a Debenture who has not exercised its right of conversion prior to the effective date of such Corporate Conversion, reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, securities exchange, acquisition, combination, sale or conveyance or liquidation, dissolution or winding-up, upon the exercise of such right thereafter, shall be entitled to receive and shall accept, in lieu of the number of Fund Units then sought to be acquired by it, such amount of cash or the number of shares or other securities or property of the Fund or of the Person or other entity resulting from such merger, amalgamation, arrangement, acquisition, combination or consolidation, or to which such sale or conveyance may be made or which holders of Fund Units receive pursuant to such liquidation, dissolution or winding-up, as the case may be, that such holder of a Debenture would have been entitled to receive on such Corporate Conversion, reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, securities exchange, acquisition, combination, sale or conveyance or liquidation, dissolution or winding-up, if, on the record date or the effective date thereof, as the case may be, the holder had been the registered holder of the number of Fund Units sought to be acquired by it and to which it was entitled to acquire upon the exercise of the conversion right. If determined appropriate by the Board of Directors, to give effect to or to evidence the provisions of this Section 6.5(d), the Fund, its successor, or such purchasing Person or other entity, as the case may be, shall, prior to or contemporaneously with any such Corporate Conversion, reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, securities exchange, acquisition, combination, sale or conveyance or liquidation, dissolution or winding-up, enter into an indenture which shall provide, to the extent possible, for the application of the provisions set forth in this Indenture with respect to the rights and interests thereafter of the holder of Debentures to the end that the provisions set

forth in this Indenture shall thereafter correspondingly be made applicable, as nearly as may reasonably be, with respect to any cash, shares or other securities or property to which a holder of Debentures is entitled on the exercise of its acquisition rights thereafter. Any indenture entered into between the Fund and the Trustee pursuant to the provisions of this Section 6.5(d) shall be a supplemental indenture entered into pursuant to the provisions of ARTICLE 16. Any indenture entered into between the Fund, any successor to the Fund or such purchasing Person or other entity and the Trustee shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 6.5(d) and which shall apply to successive Corporation Conversions, reclassifications, capital reorganizations, amalgamations, consolidations, mergers, securities exchanges, acquisitions, combinations, sales or conveyances.

- (e) In the event the Fund pays a dividend or makes a distribution to all or substantially all the holders of Fund Units consisting of capital stock, or similar equity interests in, a Subsidiary or other business unit of the Fund (the "**Spinoff Securities**"), the Conversion Price shall be adjusted, unless the Fund makes an equivalent distribution to the holders of Debentures, so that the same shall be equal to the rate determined by multiplying the Conversion Price in effect on the record date fixed for the determination of unitholders entitled to receive such distribution by a fraction, the denominator of which shall be the sum of (i) the product of (A) the VWAP for the 20 consecutive trading day period (the "**Spinoff Valuation Period**") commencing on and including the fifth trading day after the date on which ex-dividend trading commences for such distribution on the Toronto Stock Exchange, or such other national or regional exchange or market on which the Fund Units are then listed or quoted multiplied by (B) the number of Fund Units issued and outstanding and (ii) the product of (A) the volume weighted average price (calculated in substantially the same way as the Current Market Price is calculated for the Fund Units) over the Spinoff Valuation Period of the Spinoff Securities or, if no such prices are available, the fair market value of the Spinoff Securities as reasonably determined by the Board of Directors (which determination shall be conclusive and shall be evidenced by an Officers' Certificate delivered to the Trustee) multiplied by (B) the number of Spinoff Securities distributed in respect of one Fund Unit and the numerator of which shall be the product of (A) the VWAP over the Spinoff Valuation Period multiplied by (B) the number of Fund Units issued and outstanding, such adjustment to become effective immediately preceding the opening of business on the 25th trading day after the date on which ex-dividend trading commences; provided, however, that the Fund may in lieu of the foregoing adjustment elect to make adequate provision so that each holder of Debentures shall have the right to receive upon conversion thereof the amount of such Spinoff Securities that such holder of Debentures would have received if such Debentures had been converted on the record date with respect to such distribution.
- (f) If any issuer bid made by the Fund or any of its Subsidiaries for all or any portion of Fund Units shall expire, then, if the issuer bid shall require the payment to unitholders of consideration per Fund Unit having a fair market value (determined as provided below) that exceeds the Current Market Price per Fund Unit on the last date (the "**Expiration Date**") tenders could have been made pursuant to such issuer bid (as it may be amended) (the last time at which such tenders could have been made on the Expiration Date is hereinafter sometimes called the "**Expiration Time**"), the Conversion Price shall be adjusted so that the same shall equal the rate determined by multiplying the Conversion Price in effect immediately preceding the close of business on the Expiration Date by a fraction of which (i) the denominator shall be the sum of (A) the fair market value of the aggregate consideration (the fair market value as determined by the Board of Directors, whose determination shall be conclusive evidence of such fair market value and which shall be evidenced by an Officers' Certificate delivered to the Trustee) payable to unitholders based on the acceptance (up to any maximum specified in the terms of the issuer bid) of all Fund Units validly tendered and not withdrawn as of the Expiration Time (the Fund Units deemed so

accepted, up to any such maximum, being referred to as the "**Purchased Fund Units**") and (B) the product of the number of Fund Units outstanding (less any Purchased Fund Units) at the Expiration Time and the Current Market Price per Fund Unit on the Expiration Date and (ii) the numerator of which shall be the product of the number of Fund Units outstanding (including Purchased Fund Units) at the Expiration Time multiplied by the Current Market Price per Fund Unit on the Expiration Date, such adjustment to become effective immediately preceding the opening of business on the day following the Expiration Date. In the event that the Fund is obligated to purchase Fund Units pursuant to any such issuer bid, but the Fund is permanently prevented by applicable law from effecting any or all such purchases or any or all such purchases are rescinded, the Conversion Price shall again be adjusted to be the Conversion Price which would have been in effect based upon the number of Fund Units actually purchased, if any. If the application of this clause (f) of Section 6.5 to any issuer bid would result in a decrease in the Conversion Price, no adjustment shall be made for such issuer bid under this clause (f).

For purposes of this Section 6.5(f), the term "issuer bid" shall mean an issuer bid under Applicable Securities Legislation (other than an issuer bid which is exempt from the requirements of Part 2 of MI 62- 104) or a take-over bid (other than an take-over bid which is exempt from the requirements of Part 2 of MI 62-104) under Applicable Securities Legislation by a Subsidiary of the Fund for the Fund Units and all references to "purchases" of Fund Units in issuer bids (and all similar references) shall mean and include the purchase of Fund Units in issuer bids and all references to "tendered Fund Units" (and all similar references) shall mean and include Fund Units tendered in issuer bids.

- (g) In any case in which this Section 6.5 shall require that an adjustment shall become effective immediately after a record date for an event referred to herein, the Fund may defer, until the occurrence of such event, issuing to the holder of any Debenture converted after such record date and before the occurrence of such event the additional Fund Units issuable upon such conversion by reason of the adjustment required by such event; provided, however, that the Fund shall deliver to such holder an appropriate instrument evidencing such holder's right to receive such additional Fund Units upon the occurrence of the event requiring such adjustment and the right to receive any distributions made on such additional Fund Units declared in favour of holders of record of Fund Units on and after the Date of Conversion or such later date as such holder would, but for the provisions of this Section 6.5(g), have become the holder of record of such additional Fund Units pursuant to Section 6.4(b).
- (h) The adjustments provided for in this Section 6.5 are cumulative and shall apply to successive subdivisions, redivisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this Section, provided that, notwithstanding any other provision of this Section, no adjustment of the Conversion Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Conversion Price then in effect; provided however, that any adjustments which by reason of this Section 6.5(h) are not required to be made shall be carried forward and taken into account in any subsequent adjustment.
- (i) For the purpose of calculating the number of Fund Units outstanding, Fund Units owned by or for the benefit of the Fund shall not be counted.
- (j) In the event of any question arising with respect to the adjustments provided in this Section 6.5, such question shall be conclusively determined by a firm of nationally recognized chartered accountants appointed by the Fund and acceptable to the Trustee (who may be the Auditors of the

Fund); such accountants shall have access to all necessary records of the Fund and such determination shall be binding upon the Fund, the Trustee, and the Debentureholders.

- (k) In case the Fund shall take any action affecting the Fund Units other than action described in this Section 6.5, which in the opinion of the Board of Directors, would materially adversely affect the rights of Debentureholders, the Conversion Price shall be adjusted in such manner and at such time, by action of the Board of Directors, subject to the prior written consent of the Toronto Stock Exchange or such other exchange on which the Debentures are then listed, as the Board of Directors, in their sole discretion may determine to be equitable in the circumstances. Failure of the directors to make such an adjustment shall be conclusive evidence that they have determined that it is equitable to make no adjustment in the circumstances.
- (l) Subject to the prior written consent of the Toronto Stock Exchange or such other exchange on which the Debentures are then listed, no adjustment in the Conversion Price shall be made in respect of any event described in Sections 6.5(a), 6.5(b), 6.5(c), 6.5(d) or 6.5(f) other than the events described in 6.5(a)(i) or 6.5(a) (ii) if the holders of the Debentures are entitled to participate in such event on the same terms *mutatis mutandis* as if they had converted their Debentures prior to the effective date or record date, as the case may be, of such event.
- (m) Except as stated above in this Section 6.5, no adjustment will be made in the Conversion Price for any Debentures as a result of the issuance of Fund Units at less than the Current Market Price for such Fund Units on the date of issuance.
- (n) For greater certainty, if the Corporate Conversion is effected pursuant to the terms of the arrangement described in the Fund's Information Circular dated May 18, 2010 relating to the annual and special meeting of holders of Fund Units held on June 24, 2010 and duly approved by the holders of Fund Units at such meeting, including the reorganization of the Fund's income trust structure into a public corporation to be named "Armtec Infrastructure Inc." pursuant to which each holder of Fund Units and each holder of class B units of Armtec Exchangeable Partnership will become shareholders of Armtec Infrastructure Inc., exchanging, on a one for one basis, Fund Units and class B units of Armtec Exchangeable Partnership for common shares of Armtec Infrastructure Inc., the provisions of Section 6.5(d) of this Indenture will not result in an adjustment to the Conversion Price on account of the exchange of Fund Units or class B units of Armtec Exchangeable Partnership for common shares of Armtec Infrastructure Inc. pursuant to such arrangement (other than common shares of Armtec Infrastructure Inc. then being issuable upon a conversion pursuant to ARTICLE 6 of this Indenture in lieu of Fund Units).

6.6 No Requirement to Issue Fractional Fund Units

The Fund shall not be required to issue fractional Fund Units upon the conversion of Debentures pursuant to this Article. If more than one Debenture shall be surrendered for conversion at one time by the same holder, the number of whole Fund Units issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of such Debentures to be converted. If any fractional interest in a Fund Unit would, except for the provisions of this Section, be deliverable upon the conversion of any principal amount of Debentures, the Fund shall, in lieu of delivering any certificate representing such fractional interest, make a cash payment to the holder of such Debenture of an amount equal to the fractional interest which would have been issuable multiplied by the Current Market Price.

6.7 Fund to Reserve Fund Units

The Fund covenants with the Trustee that it will at all times reserve and keep available out of its authorized Fund Units (if the number thereof is or becomes limited), solely for the purpose of issue upon conversion of Debentures as in this Article provided, and conditionally allot to Debentureholders who may exercise their conversion rights hereunder, such number of Fund Units as shall then be issuable upon the conversion of all outstanding Debentures. The Fund covenants with the Trustee that all Fund Units which shall be so issuable shall be duly and validly issued as fully-paid and non-assessable.

6.8 Cancellation of Converted Debentures

Subject to the provisions of Section 6.4 as to Debentures converted in part, all Debentures converted in whole or in part under the provisions of this Article shall be forthwith delivered to and cancelled by the Trustee and no Debenture shall be issued in substitution for those converted.

6.9 Certificate as to Adjustment

The Fund shall from time to time immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Section 6.5, deliver an Officers' Certificate to the Trustee specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based, which certificate and the amount of the adjustment specified therein shall be verified by an opinion of a firm of nationally recognized chartered accountants appointed by the Fund and acceptable to the Trustee (who may be the Auditors of the Fund) and shall be conclusive and binding on all parties in interest. When so approved, the Fund shall, except in respect of any subdivision, redivision, reduction, combination or consolidation of the Fund Units, forthwith give notice to the Debentureholders in the manner provided in Section 14.2 specifying the event requiring such adjustment or readjustment and the results thereof, including the resulting Conversion Price; provided that, if the Fund has previously given notice covering all the relevant facts in respect of such event and if the Trustee approves, no such notice need be given under this Section 6.9.

6.10 Notice of Special Matters

The Fund covenants with the Trustee that so long as any Debenture remains outstanding, it will give notice to the Trustee, and to the Debentureholders in the manner provided in Section 14.2, of its intention to fix a record date for any event referred to in Section 6.5(a) (other than the subdivision, redivision, reduction, combination or consolidation of its Fund Units or in connection with a Corporate Conversion) which may give rise to an adjustment in the Conversion Price, and, in each case, such notice shall specify the particulars of such event and the record date and the effective date for such event; provided that the Fund shall only be required to specify in such notice such particulars of such event as shall have been fixed and determined on the date on which such notice is given. Such notice shall be given not less than fourteen (14) days in each case prior to such applicable record date.

In addition, the Fund covenants with the Trustee that so long as any Debenture remains outstanding, it will give notice to the Trustee, and to the Debentureholders in the manner provided in Section 14.2, at least 30 days prior to the (i) effective date of any transaction referred to in Section 6.5(d) stating the consideration into which the Debentures will be convertible after the effective date of such transaction, and (ii) Expiration Date of any transaction referred to in Section 6.5(f) stating the consideration paid per Fund Unit in such transaction.

6.11 Protection of Trustee

Subject to Section 15.3, the Trustee:

- (a) shall not at any time be under any duty or responsibility to any Debentureholder to determine whether any facts exist which may require any adjustment in the Conversion Price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed in making the same;
- (b) shall not be accountable with respect to the validity or value (or the kind or amount) of any Fund Units or of any shares or other securities or property which may at any time be issued or delivered upon the conversion of any Debenture; and
- (c) shall not be responsible for any failure of the Fund to make any cash payment or to issue, transfer or deliver Fund Units or share certificates upon the surrender of any Debenture for the purpose of conversion, or to comply with any of the covenants contained in this Article.

6.12 Payment of Cash in Lieu of Fund Units

Upon conversion, the Fund may offer and the converting Holder may agree to the delivery of cash for all or a portion of the Debentures surrendered in lieu of Fund Units.

ARTICLE 7 COVENANTS OF THE FUND

The Fund hereby covenants and agrees with the Trustee for the benefit of the Trustee and the Debentureholders, that so long as any Debentures remain outstanding:

7.1 To Pay Principal and Interest

The Fund will duly and punctually pay or cause to be paid to every Debentureholder the principal of and interest accrued on the Debentures of which it is the holder on the dates, at the places and in the manner mentioned herein and in the Debentures and will duly and punctually perform and carry out all other acts, obligations and other things to be done by it, all as provided hereunder and in the Debentures.

7.2 To Pay Trustee's Remuneration

The Fund will pay the Trustee reasonable remuneration for its services as Trustee hereunder and will repay to the Trustee on demand all monies which shall have been paid by the Trustee in connection with the execution of the trusts hereby created and such monies including the Trustee's remuneration, shall be payable out of any funds coming into the possession of the Trustee in priority to payment of any principal of the Debentures or interest thereon. Such remuneration shall continue to be payable until the trusts hereof be finally wound up and whether or not the trusts of this Indenture shall be in the course of administration by or under the direction of a court of competent jurisdiction.

7.3 To Give Notice of Default

The Fund shall notify the Trustee immediately upon obtaining knowledge of any Event of Default hereunder.

7.4 Preservation of Existence, etc.

Subject to the express provisions hereof, the Fund will carry on and conduct its activities, and cause its Subsidiaries to carry on and conduct their businesses, in a business-like manner and in accordance with good business practices; and, subject to the express provisions hereof, it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and rights; provided that the Fund shall be entitled to enter into any Corporate Conversion in compliance with ARTICLE 11.

7.5 Keeping of Books

The Fund will keep or cause to be kept proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Fund in accordance with GAAP.

7.6 Annual Certificate of Compliance

The Fund shall deliver to the Trustee, within 120 days after the end of each calendar year or upon reasonable request by the Trustee, an Officers' Certificate as to the knowledge of such officers of the Corporation who execute the Officers' Certificate of the Fund's compliance with all conditions and covenants in this Indenture certifying that after reasonable investigation and inquiry, the Fund has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which could, with the giving of notice, lapse of time or otherwise, constitute an Event of Default hereunder, or if such is not the case, setting forth with reasonable particulars the circumstances of any failure to comply and steps taken or proposed to be taken to eliminate such circumstances and remedy such Event of Default, as the case may be.

7.7 Performance of Covenants by Trustee

If the Fund shall fail to perform any of its covenants contained in this Indenture, the Trustee may notify the Debentureholders of such failure on the part of the Fund or may itself perform any of the covenants capable of being performed by it, but shall be under no obligation to do so or to notify the Debentureholders. All sums so expended or advanced by the Trustee shall be repayable as provided in Section 7.2. No such performance, expenditure or advance by the Trustee shall be deemed to relieve the Fund of any default hereunder.

7.8 No Distribution on Fund Units if Event of Default

The Fund shall not declare or pay any distribution to the holders of its issued and outstanding Fund Units after the occurrence of an Event of Default unless and until such default shall have been cured or waived or shall have ceased to exist.

7.9 Maintain Listing

The Fund will use reasonable efforts to maintain the listing of the Fund Units and the Debentures on the Toronto Stock Exchange, and to maintain the Fund's status as a "reporting issuer" not in default of the requirements of the Applicable Securities Legislation; provided that the foregoing covenant shall not prevent or restrict the Fund from carrying out a Corporate Conversion or a transaction to which ARTICLE 11 would apply if carried out in compliance with ARTICLE 11 and the Successor pursuant to such transaction is a reporting issuer not in default of the requirements of the Applicable Securities Legislation at all relevant times.

7.10 Reports

The Fund shall file with the Trustee within 15 days after the filing thereof with any securities regulatory authority in Canada, copies of the Fund's annual report and such information, documents and other reports that the Fund is required to file with such authorities and deliver to the Fund's unitholders. Notwithstanding that the Fund may not be required to remain subject to the reporting requirements of Canadian securities regulatory authorities, the Fund shall provide to the Trustee (a) within 90 days after the end of each fiscal year, an annual financial statement of the Fund, and (b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, interim financial statements of the Fund which shall, at a minimum, contain such information as is required to be provided in quarterly reports under the laws of Canada or any Province thereof to security holders of a company with securities listed on the Toronto Stock Exchange, whether or not the Fund has any of its securities so listed. Each of such reports will be prepared in accordance with applicable Canadian disclosure requirements and Canadian generally accepted accounting principles or international financial reporting standards. The Fund will provide copies of such information, documents and reports to holders of Debentures upon request.

7.11 Withholding Tax

- (a) Notwithstanding any other provision of this Indenture but subject to subsections (b), (c) and (d) below, the Fund shall withhold tax at a rate of 25% (or such other rate provided in the *Income Tax Act* (Canada) from time to time) to all payments of interest on the Debentures and deemed payments of interest under the *Income Tax Act* (Canada) that may arise on the Debenture (including any deemed payments of interest which may arise on a conversion or repayment of the Debentures) to non-residents for the purposes of the *Income Tax Act* (Canada).
- (b) The Fund shall not withhold pursuant to subsection (a) above if, after the date hereof and on or before the date of the payment or deemed payment of interest, the Fund is satisfied as a result of an amendment to the *Income Tax Act* (Canada), a decision of a court of competent jurisdiction in respect of which all appeal rights have expired or a published statement of the Canada Revenue Agency acceptable to the Fund that no withholding tax is payable under the *Income Tax Act* (Canada) with respect to such payment or deemed payment.
- (c) The Fund will not withhold pursuant to subsection (a) above with respect to a payment or deemed payment of interest to a Debentureholder where the Debentureholder has provided evidence satisfactory to the Fund that the Debentureholder is exempt from tax under an applicable tax treaty.
- (d) The Fund will reduce the rate of withholding tax set out in subsection (a) above with respect to a payment or deemed payment of interest to a Debentureholder where the Debentureholder has provided evidence satisfactory to the Fund that the Debentureholder is entitled to a reduced rate of withholding tax under an applicable tax treaty.
- (e) Where subsection (a) applies on a conversion or on a redemption or repayment of the Debentures with Fund Units or in any other circumstance where the Fund is not making a cash payment to a Debentureholder sufficient to satisfy the withholding required under subsection (a) after taking into account the operation of subsections (b), (c) and (d), the Trustee on the Written Direction of the Fund but for the account of such holder, shall provide reasonable assistance to effect the sale, through the investment banks, brokers or dealers selected by the Fund, out of the Freely Tradeable Fund Units issued by the Fund for this purpose, such number of Freely Tradeable Fund Units that is sufficient to yield net proceeds (after payment of all costs) to cover the amount of

taxes required to be withheld, and shall remit same on behalf of the Fund to the proper tax authorities within the period of time prescribed for this purpose under applicable laws. In the event the Trustee sells such Freely Tradeable Fund Units pursuant to this Section 7.11 the procedures set forth in ARTICLE 10 of this Indenture shall apply *mutatis mutandis* to such sale.

ARTICLE 8

DEFAULT

8.1 Events of Default

Each of the following events constitutes, and is sometimes referred to as, an "**Event of Default**"):

- (a) failure for 30 days to pay interest on the Debentures when due;
- (b) failure to pay principal or premium (whether by way of payment of cash or delivery of Fund Units) when due on the Debentures whether at maturity, upon redemption or a Change of Control, by declaration or otherwise;
- (c) default in the delivery, when due, of any Fund Units or other consideration, including any make whole premium, payable on conversion with respect to the Debentures, which default continues for 15 days;
- (d) default in the observance or performance of any covenant or condition of the Indenture by the Fund and the failure to cure (or obtain a waiver for) such default for a period of 30 days after notice in writing has been given by the Trustee or from holders of not less than 25% in aggregate principal amount of the Debentures to the Fund specifying such default and requiring the Fund to rectify such default or obtain a waiver for same;
- (e) if a decree or order of a Court having jurisdiction is entered adjudging the Fund a bankrupt or insolvent under the *Bankruptcy and Insolvency Act* (Canada) or any other bankruptcy, insolvency or analogous laws, or issuing sequestration or process of execution against, or against any substantial part of, the property of the Fund, or appointing a receiver of, or of any substantial part of, the property of the Fund or ordering the winding-up or liquidation of its affairs, and any such decree or order continues unstayed and in effect for a period of 60 days;
- (f) if the Fund institutes proceedings to be adjudicated a bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it under the *Bankruptcy and Insolvency Act* (Canada) or any other bankruptcy, insolvency or analogous laws, or consents to the filing of any such petition or to the appointment of a receiver of, or of any substantial part of, the property of the Fund or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due;
- (g) if a resolution is passed for the winding-up or liquidation of the Fund except in the course of carrying out or pursuant to a Corporate Conversion or a transaction in respect of which the conditions of Section 11.1 are duly observed and performed; or
- (h) if, after the date of this Indenture, any proceedings are taken by the Fund with respect to the Fund with respect to a compromise or arrangement, with respect to creditors of the Fund generally, under the applicable legislation of any jurisdiction;

then: (x) in each and every such event listed above, the Trustee may, in its discretion, and shall, upon receipt of a request in writing signed by the holders of not less than 25% in aggregate principal amount of the Debentures then outstanding, subject to the provisions of Section 8.3, by notice in writing to the Fund declare the principal of and interest on all Debentures then outstanding and all other monies outstanding hereunder to be due and payable and the same shall thereupon forthwith become immediately due and payable to the Trustee, and (y) on the occurrence of an Event of Default under Sections 8.1(e), (f) or (h), the principal of and interest on all Debentures then outstanding hereunder and all other monies outstanding hereunder, shall automatically without any declaration or other act on the part of the Trustee or any Debentureholder become immediately due and payable to the Trustee and, in either case, upon such amounts becoming due and payable in either (x) or (y) above, the Fund shall forthwith pay to the Trustee for the benefit of the Debentureholders such principal, accrued and unpaid interest and interest on amounts in default on such Debenture and all other monies outstanding hereunder, together with subsequent interest at the rate borne by the Debentures on such principal, interest and such other monies from the date of such declaration or event until payment is received by the Trustee, such subsequent interest to be payable at the times and places and in the manner mentioned in and according to the tenor of the Debentures. Such payment when made shall be deemed to have been made in discharge of the Fund's obligations hereunder and any monies so received by the Trustee shall be applied in the manner provided in Section 8.6.

For greater certainty, for the purposes of this Section 8.1, a series of Debentures shall be in default in respect of an Event of Default if such Event of Default relates to a default in the payment of principal or interest on the Debentures of such series in which case references to Debentures in this Section 8.1 refer to Debentures of that particular series.

For purposes of this ARTICLE 8, where the Event of Default refers to an Event of Default with respect to a particular series of Debentures as described in this Section 8.1, then this ARTICLE 8 shall apply *mutatis mutandis* to the Debentures of such series and references in this ARTICLE 8 to the Debentures shall mean Debentures of the particular series and references to the Debentureholders shall refer to the Debentureholders of the particular series, as applicable.

8.2 Notice of Events of Default

If an Event of Default shall occur and be continuing the Trustee shall, within 30 days after it receives written notice of the occurrence of such Event of Default, give notice of such Event of Default to the Debentureholders in the manner provided in Section 14.2, provided that notwithstanding the foregoing, unless the Trustee shall have been requested to do so by the holders of at least 25% of the principal amount of the Debentures then outstanding, the Trustee shall not be required to give such notice if the Trustee in good faith shall have determined that the withholding of such notice is in the best interests of the Debentureholders and shall have so advised the Fund in writing.

8.3 Waiver of Default

Upon the happening of any Event of Default hereunder:

- (a) the holders of the Debentures shall have the power (in addition to the powers exercisable by Extraordinary Resolution as hereinafter provided) by requisition in writing by the holders of more than 50% of the principal amount of Debentures then outstanding, to instruct the Trustee to waive any Event of Default and to cancel any declaration made by the Trustee pursuant to Section 8.1 except a default in the payment of principal or interest on any Debenture or in respect of a covenant or provision hereof that under this Indenture cannot be modified or amended without the consent of the holder of each outstanding Debenture of such series of Debentures affected and the

Trustee shall thereupon waive the Event of Default and cancel such declaration, or either, upon such terms and conditions as shall be prescribed in such requisition; provided that notwithstanding the foregoing if the Event of Default has occurred by reason of the non-observance or non-performance by the Fund of any covenant applicable only to one or more series of Debentures, then the holders of more than 50% of the principal amount of the outstanding Debentures of that series shall be entitled to exercise the foregoing power and the Trustee shall so act and it shall not be necessary to obtain a waiver from the holders of any other series of Debentures; and

- (b) the Trustee, so long as it has not become bound to declare the principal and interest on the Debentures then outstanding to be due and payable, or to obtain or enforce payment of the same, shall have power to waive any Event of Default if, in the Trustee's opinion, the same shall have been cured or adequate satisfaction made therefor, and in such event to cancel any such declaration theretofore made by the Trustee in the exercise of its discretion, upon such terms and conditions as the Trustee may deem advisable.

No such act or omission either of the Trustee or of the Debentureholders shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

8.4 Enforcement by the Trustee

Subject to the provisions of Section 8.3 and to the provisions of any Extraordinary Resolution that may be passed by the Debentureholders, if the Fund shall fail to pay to the Trustee, forthwith after the same shall have been declared to be due and payable under Section 8.1, the principal of and interest on all Debentures then outstanding, together with any other amounts due hereunder, the Trustee may in its discretion and shall upon receipt of a request in writing signed by the holders of not less than 25% in principal amount of the Debentures then outstanding and upon being funded and indemnified to its reasonable satisfaction against all costs, expenses and liabilities to be incurred, proceed in its name as trustee hereunder to obtain or enforce payment of such principal of and interest on all the Debentures then outstanding together with any other amounts due hereunder by such proceedings authorized by this Indenture or by law or equity as the Trustee in such request shall have been directed to take, or if such request contains no such direction, or if the Trustee shall act without such request, then by such proceedings authorized by this Indenture or by suit at law or in equity as the Trustee shall deem expedient.

The Trustee shall be entitled and empowered, either in its own name or as Trustee of an express trust, or as attorney-in-fact for the holders of the Debentures, or in any one or more of such capacities, to file such proof of debt, amendment of proof of debt, claim, petition or other document as may be necessary or advisable in order to have the claims of the Trustee and of the holders of the Debentures allowed in any insolvency, bankruptcy, liquidation or other judicial proceedings relative to the Fund or its creditors or relative to or affecting its property. The Trustee is hereby irrevocably appointed (and the successive respective holders of the Debentures by taking and holding the same shall be conclusively deemed to have so appointed the Trustee) the true and lawful attorney-in-fact of the respective holders of the Debentures with authority to make and file in the respective names of the holders of the Debentures or on behalf of the holders of the Debentures as a class, subject to deduction from any such claims of the amounts of any claims filed by any of the holders of the Debentures themselves, any proof of debt, amendment of proof of debt, claim, petition or other document in any such proceedings and to receive payment of any sums becoming distributable on account thereof, and to execute any such other papers and documents and to do and perform any and all such acts and things for and on behalf of such holders of the Debentures, as may be necessary or advisable in the opinion of the

Trustee, in order to have the respective claims of the Trustee and of the holders of the Debentures against the Fund or its property allowed in any such proceeding, and to receive payment of or on account of such claims; provided, however, that subject to Section 8.3, nothing contained in this Indenture shall be deemed to give to the Trustee, unless so authorized by Extraordinary Resolution, any right to accept or consent to any plan of reorganization or otherwise by action of any character in such proceeding to waive or change in any way any right of any Debentureholder.

The Trustee shall also have the power at any time and from time to time to institute and to maintain such suits and proceedings as it may be advised shall be necessary or advisable to preserve and protect its interests and the interests of the Debentureholders.

All rights of action hereunder may be enforced by the Trustee without the possession of any of the Debentures or the production thereof on the trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Trustee shall be brought in the name of the Trustee as trustee of an express trust, and any recovery of judgment shall be for the rateable benefit of the holders of the Debentures subject to the provisions of this Indenture. In any proceeding brought by the Trustee (and also any proceeding in which a declaratory judgment of a court may be sought as to the interpretation or construction of any provision of this Indenture, to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Debentures, and it shall not be necessary to make any holders of the Debentures parties to any such proceeding.

8.5 No Suits by Debentureholders

No holder of any Debenture shall have any right to institute any action, suit or proceeding at law or in equity for the purpose of enforcing payment of the principal or of interest on the Debentures or for the execution of any trust or power hereunder or for the appointment of a liquidator or receiver or for a receiving order under the Bankruptcy and Insolvency Act (Canada) or to have the Fund wound up or to file or prove a claim in any liquidation or bankruptcy proceeding or for any other remedy hereunder, unless: (a) such holder shall previously have given to the Trustee written notice of the happening of an Event of Default hereunder; and (b) the Debentureholders by Extraordinary Resolution or by written instrument signed by the holders of at least 25% in principal amount of the Debentures then outstanding shall have made a request to the Trustee and the Trustee shall have been afforded reasonable opportunity either itself to proceed to exercise the powers hereinbefore granted or to institute an action, suit or proceeding in its name for such purpose; and (c) the Debentureholders or any of them shall have furnished to the Trustee, when so requested by the Trustee, sufficient funds and security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and (d) the Trustee shall have failed to act within a reasonable time after such notification, request and offer of indemnity and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to any such proceeding or for any other remedy hereunder by or on behalf of the holder of any Debentures.

8.6 Application of Monies by Trustee

- (a) Except as herein otherwise expressly provided, any monies received by the Trustee from the Fund pursuant to the foregoing provisions of this ARTICLE 8, or as a result of legal or other proceedings or from any trustee in bankruptcy or liquidator of the Fund, shall be applied, together with any other monies in the hands of the Trustee available for such purpose, as follows:
 - (i) first, in payment or in reimbursement to the Trustee of its compensation, costs, charges, expenses, borrowings, advances or other monies furnished or provided by or at the

instance of the Trustee in or about the execution of its trusts under, or otherwise in relation to, this Indenture, with interest thereon as herein provided;

- (ii) second, but subject as hereinafter in this Section 8.6 provided, in payment, rateably and proportionately to the holders of Debentures, of the principal of and accrued and unpaid interest and interest on amounts in default on the Debentures which shall then be outstanding in the priority of principal first and then accrued and unpaid interest and interest on amounts in default unless otherwise directed by Extraordinary Resolution and in that case in such order or priority as between principal and interest as may be directed by such resolution; and
- (iii) third, in payment of the surplus, if any, of such monies to the Fund or its assigns;

provided, however, that no payment shall be made pursuant to clause (ii) above in respect of the principal or interest on any Debenture held, directly or indirectly, by or for the benefit of the Fund or any Subsidiary (other than any Debenture pledged for value and in good faith to a person other than the Fund or any Subsidiary but only to the extent of such person's interest therein) except subject to the prior payment in full of the principal and interest (if any) on all Debentures which are not so held.

- (b) The Trustee shall not be bound to apply or make any partial or interim payment of any monies coming into its hands if the amount so received by it, after reserving therefrom such amount as the Trustee may think necessary to provide for the payments mentioned in Section 8.6(a), is insufficient to make a distribution of at least 2% of the aggregate principal amount of the outstanding Debentures, but it may retain the money so received by it and invest or deposit the same as provided in Section 15.9 until the money or the investments representing the same, with the income derived therefrom, together with any other monies for the time being under its control shall be sufficient for the said purpose or until it shall consider it advisable to apply the same in the manner hereinbefore set forth. The foregoing shall, however, not apply to a final payment in distribution hereunder.

8.7 Notice of Payment by Trustee

Not less than 15 days notice shall be given in the manner provided in Section 14.2 by the Trustee to the Debentureholders of any payment to be made under this ARTICLE 8. Such notice shall state the time when and place where such payment is to be made and also the liability under this Indenture to which it is to be applied. After the day so fixed, unless payment shall have been duly demanded and have been refused, the Debentureholders will be entitled to interest only on the balance (if any) of the principal monies and interest (if any) due to them, respectively, on the Debentures, after deduction of the respective amounts payable in respect thereof on the day so fixed.

8.8 Trustee May Demand Production of Debentures

The Trustee shall have the right to demand production of the Debentures in respect of which any payment of principal, interest required by this ARTICLE 8 is made and may cause to be endorsed on the same a memorandum of the amount so paid and the date of payment, but the Trustee may, in its discretion, dispense with such production and endorsement, upon such indemnity being given to it and to the Fund as the Trustee shall deem sufficient.

8.9 Remedies Cumulative

No remedy herein conferred upon or reserved to the Trustee, or upon or to the holders of Debentures is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by law or by statute.

8.10 Judgment Against the Fund

The Fund covenants and agrees with the Trustee that, in case of any judicial or other proceedings to enforce the rights of the Debentureholders, judgment may be rendered against it in favour of the Debentureholders or in favour of the Trustee, as trustee for the Debentureholders, for any amount which may remain due in respect of the Debentures and the interest thereon and any other monies owing hereunder.

8.11 Immunity of Directors, Officers and Others

The Debentureholders and the Trustee hereby waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future officer, director, trustee, incorporator, unitholder, shareholder or employee of each of the Fund, the Corporation and each of the other Subsidiaries of the Fund, and each holder of Fund Units of the Fund or of any successor of any of the foregoing for the payment of the principal of or interest on any of the Debentures or any other amounts or on any covenant, agreement, representation or warranty by the Fund or the Corporation contained herein or in the Debentures.

ARTICLE 9 SATISFACTION AND DISCHARGE

9.1 Cancellation and Destruction

All Debentures shall forthwith after payment of all obligations thereunder be delivered to the Trustee and cancelled by it. All Debentures cancelled or required to be cancelled under this or any other provision of this Indenture shall be destroyed by the Trustee and, if required by the Fund, the Trustee shall furnish to it a destruction certificate setting out the designating numbers of the Debentures so destroyed.

9.2 Non-Presentation of Debentures

In case the holder of any Debenture shall fail to present the same for payment on the date on which the principal of or the interest thereon or represented thereby becomes payable either at maturity or otherwise or shall not accept payment on account thereof and give such receipt therefor, if any, as the Trustee may require:

- (a) the Fund shall be entitled to pay or deliver to the Trustee and direct it to set aside; or
- (b) in respect of monies or Fund Units in the hands of the Trustee which may or should be applied to the payment of the Debentures, the Fund shall be entitled to direct the Trustee to set aside; or
- (c) if the redemption was pursuant to notice given by the Trustee, the Trustee may itself set aside;

the monies or Fund Units, as the case may be, in trust to be paid to the holder of such Debenture upon due presentation or surrender thereof in accordance with the provisions of this Indenture; and thereupon the principal of or the interest payable on or represented by each Debenture in respect whereof such monies or Fund Units, if applicable, have been set aside shall be deemed to have been paid and the holder thereof shall thereafter have no right in respect thereof except that of receiving delivery and payment of the monies or Fund Units, if applicable, so set aside by the Trustee upon due presentation and surrender thereof, subject always to the provisions of Section 9.3.

9.3 Repayment of Unclaimed Monies or Fund Units

Subject to applicable law, any monies or Fund Units, if applicable, set aside under Section 9.2 and not claimed by and paid to holders of Debentures as provided in Section 9.2 within six years after the date of such setting aside shall be repaid and delivered to the Fund by the Trustee and thereupon the Trustee shall be released from all further liability with respect to such monies or Fund Units, if applicable, and thereafter the holders of the Debentures in respect of which such monies or Fund Units, if applicable, were so repaid to the Fund shall have no rights in respect thereof except to obtain payment and delivery of the monies or Fund Units, if applicable, from the Fund subject to any limitation provided by the laws of the Province of Ontario. Notwithstanding the foregoing, the Trustee will pay any remaining funds prior to the expiry of six years after the setting aside described in Section 9.2 to the Fund upon receipt from the Fund, of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds as security for the Fund's continuing obligations hereunder, including the payments of any amounts due to holders of Debentures. If the remaining funds are paid to the Fund prior to the expiry of six years after such setting aside, the Fund shall reimburse the Trustee for any amounts so set aside which are required to be paid by the Trustee to a holder of a Debenture after the date of such payment of the remaining funds to the Fund but prior to six years after such setting aside.

9.4 Discharge

The Trustee shall at the written request of the Fund release and discharge this Indenture and execute and deliver such instruments as it shall be advised by Counsel are requisite for that purpose and to release the Fund from its covenants herein contained (other than the provisions relating to the indemnification of the Trustee), upon proof being given to the reasonable satisfaction of the Trustee that the principal of and interest (including interest on amounts in default, if any), on all the Debentures and all other monies payable hereunder have been paid or satisfied or that all the Debentures having matured or having been duly called for redemption, payment of the principal of and interest (including interest on amounts in default, if any) on such Debentures and of all other monies payable hereunder has been duly and effectually provided for in accordance with the provisions hereof.

9.5 Satisfaction

- (a) The Fund shall be deemed to have fully paid, satisfied and discharged all of the outstanding Debentures of any series and the Trustee, at the expense of the Fund, shall execute and deliver proper instruments acknowledging the full payment, satisfaction and discharge of such Debentures, when, with respect to all of the outstanding Debentures or all of the outstanding Debentures of any series, as applicable:
 - (i) the Fund has deposited or caused to be deposited with the Trustee as trust funds or property in trust for the purpose of making payment on such Debentures, an amount in money or Fund Units, if applicable, sufficient to pay, satisfy and discharge the entire amount of principal of, premium, if any, and interest, if any, to maturity, or any

repayment date or Redemption Dates, or any Change of Control Purchase Date, or upon conversion or otherwise as the case may be, of such Debentures;

- (ii) the Fund has deposited or caused to be deposited with the Trustee as trust property in trust for the purpose of making payment on such Debentures:
 - (A) if the Debentures are issued in Canadian dollars, such amount in Canadian dollars of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada or Fund Units, if applicable; or
 - (B) if the Debentures are issued in a currency or currency unit other than Canadian dollars, cash in the currency or currency unit in which the Debentures are payable and/or such amount in such currency or currency unit of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada or the government that issued the currency or currency unit in which the Debentures are payable or Fund Units, if applicable;

as will, together with the income to accrue thereon and reinvestment thereof, be sufficient to pay and discharge the entire amount of principal of and accrued and unpaid interest to maturity or any repayment date or Redemption Date or any Change of Control Purchase Date, as the case may be, of all such Debentures;

so long as in any such event:

- (iii) the Fund has paid, caused to be paid or made provisions to the satisfaction of the Trustee for the payment of all other sums payable or which may be payable with respect to all of such Debentures (together with all applicable expenses of the Trustee in connection with the payment of such Debentures); and
- (iv) the Fund has delivered to the Trustee an Officers' Certificate stating that all conditions precedent herein provided relating to the payment, satisfaction and discharge of all such Debentures have been complied with.

Any deposits with the Trustee referred to in this Section 9.5 shall be irrevocable, subject to Section 9.6, and shall be made under the terms of an escrow and/or trust agreement in form and substance satisfactory to the Trustee and which provides for the due and punctual payment of the principal of and interest on the Debentures being satisfied.

- (b) Upon the satisfaction of the conditions set forth in this Section 9.5 with respect to all the outstanding Debentures, or all the outstanding Debentures of any series, as applicable, the terms and conditions of the Debentures, including the terms and conditions with respect thereto set forth in this Indenture (other than those contained in ARTICLE 2, ARTICLE 4, ARTICLE 6 and Section 8.4 and the provisions of ARTICLE 1 pertaining to ARTICLE 2, ARTICLE 4, ARTICLE 6 and Section 8.4) shall no longer be binding upon or applicable to the Fund.
- (c) Any funds or obligations deposited with the Trustee pursuant to this Section 9.5 shall be denominated in the currency or denomination of the Debentures in respect of which such deposit is made.
- (d) If the Trustee is unable to apply any money or securities in accordance with this Section 9.5 by reason of any legal proceeding or any order or judgment of any court or governmental authority

enjoining, restraining or otherwise prohibiting such application, the Fund's obligations under this Indenture and the affected Debentures shall be revived and reinstated as though no money or securities had been deposited pursuant to this Section 9.5 until such time as the Trustee is permitted to apply all such money or securities in accordance with this Section 9.5, provided that if the Fund has made any payment in respect of principal of or interest on Debentures or, as applicable, other amounts because of the reinstatement of its obligations, the Fund shall be subrogated to the rights of the holders of such Debentures to receive such payment from the money or securities held by the Trustee.

9.6 Continuanance of Rights, Duties and Obligations

Where trust funds or trust property have been deposited pursuant to Section 9.5, the holders of Debentures and the Fund shall continue to have and be subject to their respective rights, duties and obligations under Articles 2, 4 and 6.

ARTICLE 10 FUND UNIT INTEREST PAYMENT ELECTION

10.1 Fund Unit Interest Payment Election

- (a) Provided that there is no current Event of Default under this Indenture and that all applicable regulatory approvals have been obtained (including any required approval of any stock exchange on which the Debentures or Fund Units are then listed) and subject to Normal Growth Guidelines, the Fund shall have the right, from time to time (including following conversion, at the time of redemption or at the time of maturity), to make a Fund Unit Interest Payment Election in respect of all or any part of any Interest Obligation by delivering a Fund Unit Interest Payment Election Notice to the Trustee no later than the earlier of (i) the date required by applicable law or the rules of any stock exchange on which the Debentures or Fund Units are then listed, and (ii) the day which is 15 Business Days prior to the Interest Payment Date to which the Fund Unit Interest Payment Election relates.
- (b) Upon receipt of a Fund Unit Interest Payment Election Notice, the Trustee shall, in accordance with this ARTICLE 10 and such Fund Unit Interest Payment Election Notice, deliver Fund Unit Bid Requests to the investment banks, brokers or dealers identified by the Fund, in its absolute discretion, in the Fund Unit Interest Payment Election Notice. In connection with the Fund Unit Interest Payment Election, the Trustee shall: (i) accept delivery of the Fund Units from the Fund and process the Fund Units in accordance with the Fund Unit Interest Payment Election Notice; (ii) accept bids with respect to, and consummate sales of, such Fund Units, each as the Fund shall direct in its absolute discretion through the investment banks, brokers or dealers identified by the Fund in the Fund Unit Interest Payment Election Notice; (iii) invest the proceeds of such sales on the direction of the Fund in Government Obligations which mature prior to an applicable Interest Payment Date; (iv) use such proceeds to pay the Interest Obligation in respect of which the Fund Unit Interest Payment Election was made; and (v) perform any other action necessarily incidental thereto as directed by the Fund in its absolute discretion. The Fund Unit Interest Payment Election Notice shall direct the Trustee to solicit and accept only, and each Fund Unit Bid Request shall provide that the acceptance of any bid is conditional on the acceptance of, sufficient bids to result in aggregate proceeds from such issue and sale of Fund Units which, together with the cash payments by the Fund in lieu of fractional Fund Units, if any, equal the Interest Obligation on the Fund Unit Delivery Date.

- (c) The Fund Unit Interest Payment Election Notice shall provide (a) confirmation that all necessary regulatory approvals have been obtained and (b) for, and all bids shall be subject to, the right of the Fund, by delivering written notice to the Trustee at any time prior to the consummation of such delivery and sale of the Fund Units on the Fund Unit Delivery Date, to withdraw the Fund Unit Interest Payment Election (which shall have the effect of withdrawing each related Fund Unit Bid Request), whereupon the Fund shall be obliged to pay in cash the Interest Obligation in respect of which the Fund Unit Interest Payment Election Notice has been delivered.
- (d) Any sale of Fund Units pursuant to this Article 10 may be made to one or more Persons whose bids are solicited, but all such sales with respect to a particular Fund Unit Interest Payment Election shall take place concurrently on the Fund Unit Delivery Date.
- (e) The amount received by a holder of a Debenture in respect of the Interest Obligation or the entitlement thereto will not be affected by whether or not the Fund elects to satisfy the Interest Obligation pursuant to a Fund Unit Interest Payment Election.
- (f) The Trustee shall inform the Fund promptly following receipt of any bid or bids for Fund Units solicited pursuant to the Fund Unit Bid Requests. The Trustee shall accept such bid or bids as the Fund, in its absolute discretion, shall direct by Written Direction of the Fund, provided that the aggregate proceeds of all sales of Fund Units resulting from the acceptance of such bids, together with the amount of any cash payment by the Fund in lieu of any fractional Fund Units, on the Fund Unit Delivery Date, must be equal to the related Fund Unit Interest Payment Election Amount in connection with any bids so accepted. The Fund, the Trustee (if required by the Fund in its absolute discretion) and the applicable bidders shall, not later than the Fund Unit Delivery Date, enter into Fund Unit Purchase Agreements and shall comply with all Applicable Securities Legislation, including the securities rules and regulations of any stock exchange on which the Debentures or Fund Units are then listed. The Fund shall pay all fees and expenses in connection with the Fund Unit Purchase Agreements including the fees and commissions charged by the investment banks, brokers and dealers and the fees of the Trustee.
- (g) Provided that: (i) all conditions specified in each Fund Unit Purchase Agreement to the closing of all sales thereunder have been satisfied, other than the deliver of the Fund Units to be sold thereunder against payment of the purchase price thereof; and (ii) the purchasers under each Fund Unit Purchase Agreement shall be ready, willing and able to perform thereunder, in each case on the Fund Unit Delivery Date, the Fund shall, on the Fund Unit Delivery Date, deliver to the Trustee the Fund Units to be sold on such date, an amount in cash equal to the value of any fractional Fund Units and an Officers' Certificate to the effect that all conditions precedent to such sales, including those set forth in this Indenture and in each Fund Unit Purchase Agreement, have been satisfied. Upon such deliveries, the Trustee shall consummate such sales on such Fund Unit Delivery Date by the delivery of the Fund Units to such purchasers against payment to the Trustee in immediately available funds of the purchase price therefor in an aggregate amount equal to the Fund Unit Interest Payment Election Amount (less any amount attributable to any fractional Fund Units), whereupon the sole right of a holder of Debentures to receive such holder's portion of the Fund Unit Interest Payment Election Amount will be to receive same from the Trustee out of the proceeds of such sales of Fund Units plus any amount received by the Trustee from the Fund attributable to any fractional Fund Units in full satisfaction of the Interest Obligation and the holder will have no further recourse to the Fund in respect of the Interest Obligation.
- (h) The Trustee shall, on the Fund Unit Delivery Date, use the sale proceeds of the Fund Units (together with any cash received from the Fund in lieu of any fractional Fund Units) to purchase,

on the direction of the Fund in writing, Government Obligations which mature prior to the applicable Interest Payment Date and which the Trustee is required to hold until maturity (the "**Fund Unit Proceeds Investment**") and shall, on such date, deposit the balance, if any, of such sale proceeds in an account established by the Fund (and which shall be maintained by and subject to the control of the Trustee) (the "**Interest Account**") for such Debentures. The Trustee shall hold such Fund Unit Proceeds Investment (but not income earned thereon) under its exclusive control in an irrevocable trust for the benefit of the holders of the Debentures. At least one Business Day prior to the Interest Payment Date, the Trustee shall deposit amounts from the proceeds of the Fund Unit Proceeds Investment in the Interest Account to bring the balance of the Interest Account to the Fund Unit Interest Payment Election Amount. On the Interest Payment Date, the Trustee shall pay the funds held in the Interest Account to the holders of record of the Debentures on the Interest Payment Date (less any tax required to be deducted, if any) and, provided that there is no Event of Default, shall remit amounts, if any, in respect of income earned on the Fund Unit Proceeds Investment or otherwise in excess of the Fund Unit Interest Payment Election Amount to the Fund.

- (i) Neither the making of a Fund Unit Payment Election nor the consummation of sales of Fund Units on a Fund Unit Delivery Date shall (i) result in the holders of the Debentures not being entitled to receive on the applicable Interest Payment Date cash in an aggregate amount equal to the Interest Obligation payable on such date or (ii) entitle such holders to receive any Fund Units in satisfaction of such Interest Obligation.
- (j) No fractional Fund Units will be issued in satisfaction of interest but in lieu thereof the Fund will satisfy such fractional interest by a cash payment equal to the market price of such fractional interest (less any tax required to be deducted, if any).

ARTICLE 11 SUCCESSORS

11.1 Fund may Consolidate, Etc., Only on Certain Terms

- (a) Subject to the provisions of ARTICLE 12, the Fund shall not enter into any transaction or series of transactions whereby all or substantially all of its undertaking, property or assets would become the direct or indirect property of any other person (herein called a "**Successor**") whether by way of reorganization, Corporate Conversion, consolidation, amalgamation, arrangement, merger, transfer, sale or otherwise, unless:
 - (i) prior to or contemporaneously with the consummation of such transaction the Fund and the Successor shall have executed such instruments and done such things as are necessary or advisable to establish that upon the consummation of such transaction:
 - (A) the Successor will have assumed all the covenants and obligations of the Fund under this Indenture in respect of the Debentures;
 - (B) the securities of the Successor to be issued upon the conversion, redemption or maturity of the Debentures will be freely tradeable under Applicable Securities Legislation and listed on the Toronto Stock Exchange;
 - (C) the Successor shall have reserved for issuance a sufficient number of securities to satisfy the Successor's obligations to issue such securities under this Indenture;

- (D) the Debentures will be valid and binding obligations of the Successor entitling the holders thereof, as against the Successor, to all the rights of Debentureholders under this Indenture; and
 - (E) in the case of an entity organized otherwise than under the laws of the Province of Ontario, the Successor shall attorn to the jurisdiction of the courts of the Province of Ontario;
- (ii) such transaction, in the opinion of Counsel, shall be on such terms as to substantially preserve and not impair any of the rights and powers of the Debenture Trustee or of the Debentureholders hereunder; and
 - (iii) no condition or event shall exist as to the Fund (at the time of such transaction) or the Successor (immediately after such transaction) and after giving full effect thereto or immediately after the Successor shall become liable to pay the principal monies, premium, if any, interest and other monies due or which may become due hereunder, which constitutes or would constitute an Event of Default hereunder.
- (b) For greater certainty and without limiting the generality of the foregoing, the Fund shall not undertake a Corporate Conversion, unless prior to or contemporaneously with the consummation of such Corporate Conversion the Fund and the Continuing Corporation shall have executed such instruments and done such things as are necessary or advisable to establish that upon the consummation of such Corporate Conversion:
- (i) the Continuing Corporation will have assumed all the covenants and obligations of the Fund under this Indenture in respect of the Debentures;
 - (ii) the securities of the Continuing Corporation to be issued upon the Corporate Conversion shall be issuable in lieu of Fund Units pursuant to the Debentures as fully paid, non-assessable securities that will be freely tradeable under Applicable Securities Legislation and listed on the Toronto Stock Exchange;
 - (iii) the Continuing Corporation shall have reserved for insurance a sufficient number of securities to satisfy the Continuing Corporation's obligations to issue such securities under this Indenture; and
 - (iv) the Debentures will be valid and binding obligations of the Continuing Corporation entitling the holders thereof, as against the Continuing Corporation, to all the rights of Debentureholders under this Indenture.

Notwithstanding any other provision in this Indenture, if the Fund undertakes a Corporate Conversion in compliance with the other provisions of this ARTICLE 11, in addition to the adjustment to the terms of the conversion privilege provided for in Section 6.5, the Debentures shall become debentures of the Continuing Corporation having the same terms as the Debentures, without the consent of any holders of Debentures and this Indenture shall be amended accordingly.

11.2 Successor Substituted

Upon any Corporate Conversion, consolidation of the Fund with, or amalgamation or merger of the Fund into, any other Person or any sale, conveyance, transfer or lease of all or substantially all of the properties and assets of the Fund and its Subsidiaries, taken as a whole, in accordance with

Section 11.1, the successor Person formed by such consolidation or into which the Fund is amalgamated or merged or to which such sale, conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Fund under this Indenture with the same effect as if such successor Person had been named as the Fund herein, and thereafter, the Fund shall be relieved of all obligations and covenants under this Indenture and the Debentures.

ARTICLE 12 COMPULSORY ACQUISITION

12.1 Definitions

In this Article:

- (a) **"Affiliate"** and **"Associate"** shall have their respective meanings set forth in the *Securities Act* (Ontario);
- (b) **"Dissenting Debentureholders"** means a Debentureholder who does not accept an Offer referred to in Section 12.2 and includes any assignee of the Debenture of a Debentureholder to whom such an Offer is made, whether or not such assignee is recognized under this Indenture;
- (c) **"Offer"** means an offer to acquire outstanding Debentures, which is a take-over bid or issuer bid for Debentures within the meaning ascribed thereto in MI 62-104, where as of the date of the offer to acquire, the Debentures that are subject to the offer to acquire, together with the Offeror's Debentures, constitute in the aggregate 20% or more of the outstanding principal amount of the Debentures;
- (d) **"offer to acquire"** includes an acceptance of an offer to sell;
- (e) **"Offeror"** means a person, or two or more persons acting jointly or in concert, who make an Offer to acquire Debentures;
- (f) **"Offeror's Debentures"** means Debentures beneficially owned, or over which control or direction is exercised, on the date of an Offer by the Offeror, any Affiliate or Associate of the Offeror or any person or company acting jointly or in concert with the Offeror; and
- (g) **"Offeror's Notice"** means the notice described in Section 12.3.

12.2 Offer for Debentures

If an Offer for all of the outstanding Debentures (other than Debentures held by or on behalf of the Offeror or an Affiliate or Associate of the Offeror) is made and:

- (a) within the time provided in the Offer for its acceptance or within 120 days after the date the Offer is made, whichever period is the shorter, the Offer is accepted by Debentureholders representing at least 90% of the outstanding principal amount of the Debentures, other than the Offeror's Debentures;
- (b) the Offeror is bound to take up and pay for, or has taken up and paid for the Debentures of the Debentureholders who accepted the Offer; and
- (c) the Offeror complies with Sections 12.3 and 12.5;

the Offeror is entitled to acquire, and the Dissenting Debentureholders are required to sell to the Offeror, the Debentures held by the Dissenting Debentureholder for the same consideration per Debenture payable or paid, as the case may be, under the Offer.

12.3 Offeror's Notice to Dissenting Debentureholders

Where an Offeror is entitled to acquire Debentures held by Dissenting Debentureholders pursuant to Section 12.2 and the Offeror wishes to exercise such right, the Offeror shall send by registered mail within 30 days after the date of termination of the Offer a notice (the "**Offeror's Notice**") to each Dissenting Debentureholder stating that:

- (a) Debentureholders holding at least 90% of the principal amount of all outstanding Debentures, other than Offeror's Debentures, have accepted the Offer;
- (b) the Offeror is bound to take up and pay for, or has taken up and paid for, the Debentures of the Debentureholders who accepted the Offer;
- (c) Dissenting Debentureholders must transfer their respective Debentures to the Offeror on the terms on which the Offeror acquired the Debentures of the Debentureholders who accepted the Offer within 21 days after the date of the sending of the Offeror's Notice; and
- (d) Dissenting Debentureholders must send their respective Debenture certificate(s) (or such other documents as the Trustee may require in lieu thereof) to the Trustee within 21 days after the date of the sending of the Offeror's Notice.

12.4 Delivery of Debenture Certificates

A Dissenting Debentureholder to whom an Offeror's Notice is sent pursuant to Section 12.3 shall, within 21 days after the sending of the Offeror's Notice, send his or her Debenture certificate(s) to the Trustee duly endorsed for transfer (or such other documents as the Trustee may require in lieu thereof).

12.5 Payment of Consideration to Trustee

Within 21 days after the Offeror sends an Offeror's Notice pursuant to Section 12.3, the Offeror shall pay or transfer to the Trustee, or to such other person as the Trustee may direct, the cash or other consideration that is payable to Dissenting Debentureholders pursuant to Section 12.2. The acquisition by the Offeror of all Debentures held by all Dissenting Debentureholders shall be effective as of the time of such payment or transfer.

12.6 Consideration to be held in Trust

The Trustee, or the person directed by the Trustee, shall hold in trust for the Dissenting Debentureholders the cash or other consideration they or it receives under Section 12.5. The Trustee, or such persons, shall deposit cash in a separate account in a Canadian chartered bank, or other body corporate, any of whose deposits are insured by the Canada Deposit Insurance Trust, and shall place other consideration in the custody of a Canadian chartered bank or such other body corporate.

12.7 Completion of Transfer of Debentures to Offeror

Within 30 days after the date of the sending of an Offeror's Notice pursuant to Section 12.3, the Trustee, if the Offeror has complied with Section 12.5, shall:

- (a) do all acts and things and execute and cause to be executed all instruments as in the Trustee's opinion may be necessary or desirable to cause the transfer of the Debentures of the Dissenting Debentureholders to the Offeror;
- (b) send to each Dissenting Debentureholder who has complied with Section 12.4 the consideration to which such Dissenting Debentureholder is entitled under this ARTICLE 12; and
- (c) send to each Dissenting Debentureholder who has not complied with Section 12.4 a notice stating that:
 - (i) his or her Debentures have been transferred to the Offeror;
 - (ii) the Trustee or some other person designated in such notice are holding in trust the consideration for such Debentures; and
 - (iii) the Trustee, or such other person, will send the consideration to such Dissenting Debentureholder as soon as possible after receiving such Dissenting Debentureholder's Debenture certificate(s) or such other documents as the Trustee or such other person may require in lieu thereof;

and the Trustee is hereby appointed the agent and attorney of the Dissenting Debentureholders for the purposes of giving effect to the foregoing provisions.

12.8 Communication of Offer to Fund

An Offeror cannot make an Offer unless, concurrent with the communication of the Offer to any Debentureholder, a copy of the Offer is provided to the Fund.

ARTICLE 13 MEETINGS OF DEBENTUREHOLDERS

13.1 Right to Convene Meeting

The Trustee or the Fund may at any time and from time to time, and the Trustee shall, on receipt of a Written Direction of the Fund or a written request signed by the holders of not less than 25% of the principal amount of the Debentures then outstanding and upon receiving funding and being indemnified to its reasonable satisfaction by the Fund or by the Debentureholders signing such request against the costs which may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Debentureholders. In the event of the Trustee failing, within 30 days after receipt of any such request and such funding of indemnity, to give notice convening a meeting, the Fund or such Debentureholders, as the case may be, may convene such meeting. Every such meeting shall be held in the City of Toronto or at such other place as may be approved or determined by the Trustee.

13.2 Notice of Meetings

- (a) At least 21 days notice of any meeting shall be given to the Debentureholders in the manner provided in Section 14.2 and a copy of such notice shall be sent by post to the Trustee, unless the meeting has been called by it. Such notice shall state the time when and the place where the meeting is to be held and shall state briefly the general nature of the business to be transacted thereat and it shall not be necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article. The accidental omission to give notice of a meeting to any holder of Debentures shall not invalidate any resolution passed at any such meeting. A holder may waive notice of a meeting either before or after the meeting.
- (b) If the business to be transacted at any meeting by Extraordinary Resolution or otherwise, or any action to be taken or power exercised by instrument in writing under Section 13.15, especially affects the rights of holders of Debentures of one or more series in a manner or to an extent differing in any material way from that in or to which the rights of holders of Debentures of any other series are affected (determined as provided in Sections 13.2(c) and (d)), then:
 - (i) a reference to such fact, indicating each series of Debentures in the opinion of the Trustee (or the Person calling the Meeting) so especially affected (hereinafter referred to as the "**especially affected series**") shall be made in the notice of such meeting, and in any such case the meeting shall be and be deemed to be and is herein referred to as a "**Serial Meeting**"; and
 - (ii) the holders of Debentures of an especially affected series shall not be bound by any action taken at a Serial Meeting or by instrument in writing under Section 13.15 unless in addition to compliance with the other provisions of this ARTICLE 13:
 - (A) at such Serial Meeting: (I) there are Debentureholders present in person or by proxy and representing at least 25% in principal amount of the Debentures then outstanding of such series, subject to the provisions of this ARTICLE 13 as to quorum at adjourned meetings; and (II) the resolution is passed by the affirmative vote of the holders of more than 50% (or in the case of an Extraordinary Resolution not less than 66 2/3%) of the principal amount of the Debentures of such series then outstanding voted on the resolution; or
 - (B) in the case of action taken or power exercised by instrument in writing under Section 13.15, such instrument is signed in one or more counterparts by the holders of not less than 66 2/3% in principal amount of the Debentures of such series then outstanding.
- (c) Subject to Section 13.2(d), the determination as to whether any business to be transacted at a meeting of Debentureholders, or any action to be taken or power to be exercised by instrument in writing under Section 13.15, especially affects the rights of the Debentureholders of one or more series in a manner or to an extent differing in any material way from that in or to which it affects the rights of Debentureholders of any other series (and is therefore an especially affected series) shall be determined by an opinion of Counsel, which shall be binding on all Debentureholders, the Trustee and the Fund for all purposes hereof.

(d) A proposal:

- (i) to extend the maturity of Debentures of any particular series or to reduce the principal amount thereof, the rate of interest or redemption premium thereon or to impair any conversion right thereof;
- (ii) to modify or terminate any covenant or agreement which by its terms is effective only so long as Debentures of a particular series are outstanding; or
- (iii) to reduce with respect to Debentureholders of any particular series any percentage stated in this Section 13.2 or Sections 13.4, 13.12 and 13.15;

shall be deemed to especially affect the rights of the Debentureholders of such series in a manner differing in a material way from that in which it affects the rights of holders of Debentures of any other series, whether or not a similar extension, reduction, modification or termination is proposed with respect to Debentures of any or all other series.

13.3 Chairman

A person, who need not be a Debentureholder, nominated in writing by the Trustee shall be chairman of the meeting and if no person is so nominated, or if the person so nominated is not present within 15 minutes from the time fixed for the holding of the meeting, a majority of the Debentureholders present in person or by proxy shall choose another person present to be chairman.

13.4 Quorum

Subject to the provisions of Section 13.12, at any meeting of the Debentureholders a quorum shall consist of Debentureholders present in person or by proxy and representing at least 25% in principal amount of the outstanding Debentures and, if the meeting is a Serial Meeting, at least 25% of the Debentures then outstanding of each especially affected series. If a quorum of the Debentureholders shall not be present within 30 minutes from the time fixed for holding any meeting, the meeting, if summoned by the Debentureholders or pursuant to a request of the Debentureholders, shall be dissolved, but in any other case the meeting shall be adjourned to the same day in the next week (unless such day is not a Business Day in which case it shall be adjourned to the next following Business Day thereafter) at the same time and place and no notice shall be required to be given in respect of such adjourned meeting. At the adjourned meeting, the Debentureholders present in person or by proxy shall, subject to the provisions of Section 13.12, constitute a quorum and may transact the business for which the meeting was originally convened notwithstanding that they may not represent 25% of the principal amount of the outstanding Debentures or of the Debentures then outstanding of each especially affected series. Any business may be brought before or dealt with at an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same. No business shall be transacted at any meeting unless the required quorum be present at the commencement of business.

13.5 Power to Adjourn

The chairman of any meeting at which a quorum of the Debentureholders is present may, with the consent of the holders of a majority in principal amount of the Debentures represented thereat, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.

13.6 Show of Hands

Every question submitted to a meeting shall, subject to Section 13.7, be decided in the first place by a majority of the votes given on a show of hands except that votes on Extraordinary Resolutions shall be given in the manner hereinafter provided. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact. The chairman of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Debentures, if any, held by him.

13.7 Poll

On every Extraordinary Resolution, and on any other question submitted to a meeting when demanded by the chairman or by one or more Debentureholders or proxies for Debentureholders, a poll shall be taken in such manner and either at once or after an adjournment as the chairman shall direct. Questions other than Extraordinary Resolutions shall, if a poll be taken, be decided by the votes of the holders of a majority in principal amount of the Debentures and of each especially affected series, if applicable, represented at the meeting and voted on the poll.

13.8 Voting

On a show of hands every person who is present and entitled to vote, whether as a Debentureholder or as proxy for one or more Debentureholders or both, shall have one vote. On a poll each Debentureholder present in person or represented by a proxy duly appointed by an instrument in writing shall be entitled to one vote in respect of each \$1,000 principal amount of Debentures of which he shall then be the holder. In the case of any Debenture denominated in a currency or currency unit other than Canadian dollars, the principal amount thereof for these purposes shall be computed in Canadian dollars on the basis of the conversion of the principal amount thereof at the applicable spot buying rate of exchange for such other currency or currency unit as reported by the Bank of Canada at the close of business on the Business Day next preceding the meeting. Any fractional amounts resulting from such conversion shall be rounded to the nearest \$100. A proxy need not be a Debentureholder. In the case of joint holders of a Debenture, any one of them present in person or by proxy at the meeting may vote in the absence of the other or others but in case more than one of them be present in person or by proxy, they shall vote together in respect of the Debentures of which they are joint holders.

13.9 Proxies

A Debentureholder may be present and vote at any meeting of Debentureholders by an authorized representative. The Fund (in case it convenes the meeting) or the Trustee (in any other case) for the purpose of enabling the Debentureholders to be present and vote at any meeting without producing their Debentures, and of enabling them to be present and vote at any such meeting by proxy and of lodging instruments appointing such proxies at some place other than the place where the meeting is to be held, may from time to time make and vary such regulations as it shall think fit providing for and governing any or all of the following matters:

- (a) the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any person signing on behalf of a Debentureholder;
- (b) the deposit of instruments appointing proxies at such place as the Trustee, the Fund or the Debentureholder convening the meeting, as the case may be, may, in the notice convening the

meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which the same must be deposited; and

- (c) the deposit of instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed, faxed, cabled, telegraphed, emailed, or sent by other electronic means before the meeting to the Fund or to the Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.

Any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. Save as such regulations may provide, the only persons who shall be recognized at any meeting as the holders of any Debentures, or as entitled to vote or be present at the meeting in respect thereof, shall be Debentureholders and persons whom Debentureholders have by instrument in writing duly appointed as their proxies.

13.10 Persons Entitled to Attend Meetings

The Fund and the Trustee, by their respective officers, trustees and directors, the Auditors of the Fund and the legal advisors of the Fund, the Trustee or any Debentureholder may attend any meeting of the Debentureholders, but shall have no vote as such.

13.11 Powers Exercisable by Extraordinary Resolution

In addition to the powers conferred upon them by any other provisions of this Indenture or by law, a meeting of the Debentureholders shall have the following powers exercisable from time to time by Extraordinary Resolution, subject in the case of the matters in paragraphs (a), (b), (c), (d) and (l) to receipt of the prior approval of the Toronto Stock Exchange or such other exchange on which the Debentures are then listed:

- (a) power to authorize the Trustee to grant extensions of time for payment of any principal or interest on the Debentures, whether or not the principal or interest, the payment of which is extended, is at the time due or overdue;
- (b) power to sanction any modification, abrogation, alteration, compromise or arrangement of the rights of the Debentureholders or the Trustee against the Fund, or against its property, whether such rights arise under this Indenture or the Debentures or otherwise;
- (c) power to assent to any modification of or change in or addition to or omission from the provisions contained in this Indenture or any Debenture which shall be agreed to by the Fund and to authorize the Trustee to concur in and execute any indenture supplemental hereto embodying any modification, change, addition or omission;
- (d) power to sanction any scheme for the reconstruction, reorganization or recapitalization of the Fund or for the consolidation, amalgamation, arrangement, combination or merger of the Fund with any other Person or for the sale, leasing, transfer or other disposition of all or substantially all of the undertaking, property and assets of the Fund or any part thereof, provided that no such sanction shall be necessary in respect of any such transaction if the provisions of Section 11.1 shall have been complied with;

- (e) power to direct or authorize the Trustee to exercise any power, right, remedy or authority given to it by this Indenture in any manner specified in any such Extraordinary Resolution or to refrain from exercising any such power, right, remedy or authority;
- (f) power to waive, and direct the Trustee to waive, any default hereunder and/or cancel any declaration made by the Trustee pursuant to Section 8.1 either unconditionally or upon any condition specified in such Extraordinary Resolution;
- (g) power to restrain any Debentureholder from taking or instituting any suit, action or proceeding for the purpose of enforcing payment of the principal or interest on the Debentures, or for the execution of any trust or power hereunder;
- (h) power to direct any Debentureholder who, as such, has brought any action, suit or proceeding to stay or discontinue or otherwise deal with the same upon payment, if the taking of such suit, action or proceeding shall have been permitted by Section 8.5, of the costs, charges and expenses reasonably and properly incurred by such Debentureholder in connection therewith;
- (i) power to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any units or other securities of the Fund;
- (j) power to appoint a committee with power and authority (subject to such limitations, if any, as may be prescribed in the resolution) to exercise, and to direct the Trustee to exercise, on behalf of the Debentureholders, such of the powers of the Debentureholders as are exercisable by Extraordinary Resolution or other resolution as shall be included in the resolution appointing the committee. The resolution making such appointment may provide for payment of the expenses and disbursements of and compensation to such committee. Such committee shall consist of such number of persons as shall be prescribed in the resolution appointing it and the members need not be themselves Debentureholders. Every such committee may elect its chairman and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number and its procedure generally. Such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by minutes signed by the number of members thereof necessary to constitute a quorum. All acts of any such committee within the authority delegated to it shall be binding upon all Debentureholders. Neither the committee nor any member thereof shall be liable for any loss arising from or in connection with any action taken or omitted to be taken by them in good faith;
- (k) power to remove the Trustee from office and to appoint a new Trustee or Trustees provided that no such removal shall be effective unless and until a new Trustee or Trustees shall have become bound by this Indenture;
- (l) power to sanction the exchange of the Debentures for or the conversion thereof into shares, bonds, debentures or other securities or obligations of the Fund or of any other Person formed or to be formed, for greater certainty, provided that no such sanction shall be necessary in respect of any such event if the provisions of Section 11.1 shall have been complied with;
- (m) power to authorize the distribution in specie of any shares or securities received pursuant to a transaction authorized under the provisions of Section 13.11(l); and
- (n) power to amend, alter or repeal any Extraordinary Resolution previously passed or sanctioned by the Debentureholders or by any committee appointed pursuant to Section 13.11(j).

Notwithstanding the foregoing provisions of this Section 13.11 none of such provisions shall in any manner allow or permit any amendment, modification, abrogation or addition to the provisions of ARTICLE 5 which could reasonably be expected to detrimentally affect the rights, remedies or recourse of the priority of the Senior Creditors.

13.12 Meaning of "Extraordinary Resolution"

- (a) The expression "**Extraordinary Resolution**" when used in this Indenture means, subject as hereinafter in this Article provided, a resolution proposed to be passed as an Extraordinary Resolution at a meeting of Debentureholders (including an adjourned meeting) duly convened for the purpose and held in accordance with the provisions of this Article at which the holders of not less than 25% of the principal amount of the Debentures then outstanding, and if the meeting is a Serial Meeting, at which holders of not less than 25% of the principal amount of the Debentures then outstanding of each especially affected series, are present in person or by proxy and passed by the favourable votes of the holders of not less than 66 2/3% of the principal amount of the Debentures, and if the meeting is a Serial Meeting by the affirmative vote of the holders of not less than 66 2/3% of each especially affected series, in each case present or represented by proxy at the meeting and voted upon on a poll on such resolution.
- (b) If, at any such meeting, the holders of not less than 25% of the principal amount of the Debentures then outstanding and, if the meeting is a Serial Meeting, 25% of the principal amount of the Debentures then outstanding of each especially affected series, in each case are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Debentureholders, shall be dissolved but in any other case it shall stand adjourned to such date, being not less than 14 nor more than 60 days later, and to such place and time as may be appointed by the chairman. Not less than 10 days notice shall be given of the time and place of such adjourned meeting in the manner provided in Section 14.2. Such notice shall state that at the adjourned meeting the Debentureholders present in person or by proxy shall form a quorum. At the adjourned meeting the Debentureholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed thereat by the affirmative vote of holders of not less than 66 2/3% of the principal amount of the Debentures and, if the meeting is a Serial Meeting, by the affirmative vote of the holders of not less than 66 2/3% of the principal amount of the Debentures of each especially affected series, in each case present or represented by proxy at the meeting voted upon on a poll shall be an Extraordinary Resolution within the meaning of this Indenture, notwithstanding that the holders of not less than 25% in principal amount of the Debentures then outstanding, and if the meeting is a Serial Meeting, holders of not less than 25% of the principal amount of the Debentures then outstanding of each especially affected series, are not present in person or by proxy at such adjourned meeting.
- (c) Votes on an Extraordinary Resolution shall always be given on a poll and no demand for a poll on an Extraordinary Resolution shall be necessary.

13.13 Powers Cumulative

Any one or more of the powers in this Indenture stated to be exercisable by the Debentureholders by Extraordinary Resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time shall not be deemed to exhaust the rights of the Debentureholders to exercise the same or any other such power or powers thereafter from time to time.

13.14 Minutes

Minutes of all resolutions and proceedings at every meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the Trustee at the expense of the Fund, and any such minutes as aforesaid, if signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting of the Debentureholders, shall be prima facie evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings taken thereat to have been duly passed and taken.

13.15 Instruments in Writing

All actions which may be taken and all powers that may be exercised by the Debentureholders at a meeting held as hereinbefore in this Article provided may also be taken and exercised by the holders of 66 2/3% of the principal amount of all the outstanding Debentures and, if the meeting at which such actions might be taken would be a Serial Meeting, by the holders of 66 2/3% of the principal amount of the Debentures then outstanding of each especially affected series, by an instrument in writing signed in one or more counterparts and the expression "**Extraordinary Resolution**" when used in this Indenture shall include an instrument so signed.

13.16 Binding Effect of Resolutions

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this Article at a meeting of Debentureholders shall be binding upon all the Debentureholders, whether present at or absent from such meeting, and every instrument in writing signed by Debentureholders in accordance with Section 13.15 shall be binding upon all the Debentureholders, whether signatories thereto or not, and each and every Debentureholder and the Trustee (subject to the provisions for its indemnity herein contained) shall be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.

13.17 Evidence of Rights of Debentureholders

- (a) Any request, direction, notice, consent or other instrument which this Indenture may require or permit to be signed or executed by the Debentureholders may be in any number of concurrent instruments of similar tenor signed or executed by such Debentureholders.
- (b) The Trustee may, in its discretion, require proof of execution in cases where it deems proof desirable and may accept such proof as it shall consider proper.

13.18 Concerning Serial Meetings

If in the opinion of Counsel any business to be transacted at any meeting, or any action to be taken or power to be exercised by instrument in writing under Section 13.15, does not adversely affect the rights of the holders of Debentures of one or more series, the provisions of this ARTICLE 13 shall apply as if the Debentures of such series were not outstanding and no notice of any such meeting need be given to the holders of Debentures of such series. Without limiting the generality of the foregoing, a proposal to modify or terminate any covenant or agreement which is effective only so long as Debentures of a particular series are outstanding shall be deemed not to adversely affect the rights of the holders of Debentures of any other series.

ARTICLE 14

NOTICES

14.1 Notice to Fund

Any notice to the Fund under the provisions of this Indenture shall be valid and effective if delivered to the Fund at: 370 Speedvale Avenue West, Suite 3, Guelph, Ontario N1H 7M7, Attention: Chief Financial Officer, and a copy delivered to Fraser Milner Casgrain LLP, 1 First Canadian Place, 41st Floor, Toronto, Ontario M5X 1B2, Attention: Richard A. Scott, or if given by registered letter, postage prepaid, to such offices and so addressed and if mailed, shall be deemed to have been effectively given three days following the mailing thereof. The Fund may from time to time notify the Trustee in writing of a change of address which thereafter, until changed by like notice, shall be the address of the Fund for all purposes of this Indenture.

14.2 Notice to Debentureholders

All notices to be given hereunder with respect to the Debentures shall be deemed to be validly given to the holders thereof if sent by first class mail, postage prepaid, by letter or circular addressed to such holders at their post office addresses appearing in any of the registers hereinbefore mentioned and shall be deemed to have been effectively given three days following the day of mailing. Accidental error or omission in giving notice or accidental failure to mail notice to any Debentureholder or the inability of the Fund to give or mail any notice due to anything beyond the reasonable control of the Fund shall not invalidate any action or proceeding founded thereon.

If any notice given in accordance with the foregoing paragraph would be unlikely to reach the Debentureholders to whom it is addressed in the ordinary course of post by reason of an interruption in mail service, whether at the place of dispatch or receipt or both, the Fund shall give such notice by publication at least once in the city of Toronto (or in such of those cities as, in the opinion of the Trustee, is sufficient in the particular circumstances), each such publication to be made in a daily newspaper of general circulation in the designated city.

Any notice given to Debentureholders by publication shall be deemed to have been given on the day on which publication shall have been effected at least once in each of the newspapers in which publication was required.

All notices with respect to any Debenture may be given to whichever one of the holders thereof (if more than one) is named first in the registers hereinbefore mentioned, and any notice so given shall be sufficient notice to all holders of any persons interested in such Debenture.

14.3 Notice to Trustee

Any notice to the Trustee under the provisions of this Indenture shall be valid and effective if delivered to the Trustee at its principal office in the City of Toronto, at 100 University Ave., 9th Floor, North Tower, Toronto, Ontario M5J 2Y1, Canada, Attention: Manager, Corporate Trust or if given by registered letter, postage prepaid, to such office and so addressed and, if mailed, shall be deemed to have been effectively given three days following the mailing thereof.

14.4 Mail Service Interruption

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Trustee would reasonably be unlikely to reach its destination by the time notice by mail is

deemed to have been given pursuant to Section 14.3, such notice shall be valid and effective only if delivered at the appropriate address in accordance with Section 14.3.

ARTICLE 15 CONCERNING THE TRUSTEE

15.1 No Conflict of Interest

The Trustee represents to the Fund that at the date of execution and delivery by it of this Indenture there exists no material conflict of interest in the role of the Trustee as a fiduciary hereunder but if, notwithstanding the provisions of this Section 15.1, such a material conflict of interest exists, or hereafter arises, the validity and enforceability of this Indenture, and the Debentures issued hereunder, shall not be affected in any manner whatsoever by reason only that such material conflict of interest exists or arises but the Trustee shall, within 30 days after ascertaining that it has a material conflict of interest, either eliminate such material conflict of interest or resign in the manner and with the effect specified in Section 15.2.

15.2 Replacement of Trustee

The Trustee may resign its trust and be discharged from all further duties and liabilities hereunder by giving to the Fund 90 days notice in writing or such shorter notice as the Fund may accept as sufficient. If at any time a material conflict of interest exists in the Trustee's role as a fiduciary hereunder the Trustee shall, within 30 days after ascertaining that such a material conflict of interest exists, either eliminate such material conflict of interest or resign in the manner and with the effect specified in this Section 15.2. The validity and enforceability of this Indenture and of the Debentures issued hereunder shall not be affected in any manner whatsoever by reason only that such a material conflict of interest exists. In the event of the Trustee resigning or being removed or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Fund shall forthwith appoint a new Trustee unless a new Trustee has already been appointed by the Debentureholders. Failing such appointment by the Fund, the retiring Trustee or any Debentureholder may apply to a Judge of the Ontario Superior Court of Justice, on such notice as such Judge may direct at the Fund's expense, for the appointment of a new Trustee but any new Trustee so appointed by the Fund or by the Court shall be subject to removal as aforesaid by the Debentureholders and the appointment of such new Trustee shall be effective only upon such new Trustee becoming bound by this Indenture. Any new Trustee appointed under any provision of this Section 15.2 shall be a Fund authorized to carry on the business of a trust company in all of the Provinces of Canada. On any new appointment the new Trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Trustee.

Any company into which the Trustee may be merged or, with or to which it may be consolidated, amalgamated or sold, or any company resulting from any merger, consolidation, sale or amalgamation to which the Trustee shall be a party, shall be the successor trustee under this Indenture without the execution of any instrument or any further act. Nevertheless, upon the written request of the successor Trustee or of the Fund, the Trustee ceasing to act shall execute and deliver an instrument assigning and transferring to such successor Trustee, upon the trusts herein expressed, all the rights, powers and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver all property and money held by such Trustee to the successor Trustee so appointed in its place. Should any deed, conveyance or instrument in writing from the Fund be required by any new Trustee for more fully and certainly vesting in and confirming to it such estates, properties, rights, powers and trusts, then any and all such deeds, conveyances and instruments in writing shall on request of said new Trustee, be made, executed, acknowledged and delivered by the Fund.

15.3 Duties of Trustee

In the exercise of the rights, duties and obligations prescribed or conferred by the terms of this Indenture, the Trustee shall act honestly and in good faith and exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

15.4 Reliance Upon Declarations, Opinions, etc.

In the exercise of its rights, duties, and obligations hereunder the Trustee may, if acting in good faith, rely, as to the truth of the statements and accuracy of the opinions expressed therein upon statutory declarations, opinions, reports or certificates furnished pursuant to any covenant, condition or requirement of this Indenture or required by the Trustee to be furnished to it in the exercise of its rights and duties hereunder, if the Trustee examines such statutory declarations, opinions, reports or certificates and determines that they comply with Section 15.5, if applicable, and with any other applicable requirements of this Indenture. The Trustee may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. Without restricting the foregoing, the Trustee may rely on an opinion of Counsel satisfactory to the Trustee notwithstanding that it is delivered by a solicitor or firm which acts as solicitors for the Fund.

15.5 Evidence and Authority to Trustee, Opinions, etc.

The Fund shall furnish to the Trustee evidence of compliance with the conditions precedent provided for in this Indenture relating to any action or step required or permitted to be taken by the Fund or the Trustee under this Indenture or as a result of any obligation imposed under this Indenture, including without limitation, the certification and delivery of Debentures hereunder, the satisfaction and discharge of this Indenture and the taking of any other action to be taken by the Trustee at the request of or on the application of the Fund, forthwith if and when (a) such evidence is required by any other Section of this Indenture to be furnished to the Trustee in accordance with the terms of this Section 15.5, or (b) the Trustee, in the exercise of its rights and duties under this Indenture, gives the Fund written notice requiring it to furnish such evidence in relation to any particular action or obligation specified in such notice.

Such evidence shall consist of:

- (a) a certificate made by any one officer or director of the Corporation, on behalf of the Fund, stating that any such condition precedent has been complied with in accordance with the terms of this Indenture;
- (b) in the case of a condition precedent compliance with which is, by the terms of this Indenture, made subject to review or examination by a solicitor, an opinion of Counsel that such condition precedent has been complied with in accordance with the terms of this Indenture; and
- (c) in the case of any such condition precedent compliance with which is subject to review or examination by auditors or accountants, an opinion or report of the Auditors of the Fund whom the Trustee for such purposes hereby approves, that such condition precedent has been complied with in accordance with the terms of this Indenture.

Whenever such evidence relates to a matter other than the certificates and delivery of Debentures and the satisfaction and discharge of this Indenture, and except as otherwise specifically provided herein, such evidence may consist of a report or opinion of any solicitor, auditor, accountant, engineer or appraiser or any other person whose qualifications give authority to a statement made by him,

provided that if such report or opinion is furnished by a trustee, officer or employer of the Fund it shall be in the form of a statutory declaration. Such evidence shall be, so far as appropriate, in accordance with the immediately preceding paragraph of this Section.

Each statutory declaration, certificate, opinion or report with respect to compliance with a condition precedent provided for in the Indenture shall include (a) a statement by the person giving the evidence that he has read and is familiar with those provisions of this Indenture relating to the condition precedent in question, (b) a brief statement of the nature and scope of the examination or investigation upon which the statements or opinions contained in such evidence are based, (c) a statement that, in the belief of the person giving such evidence, he has made such examination or investigation as is necessary to enable him to make the statements or give the opinions contained or expressed therein, and (d) a statement whether in the opinion of such person the conditions precedent in question have been complied with or satisfied.

The Fund shall furnish or cause to be furnished to the Trustee at any time if the Trustee reasonably so requires, its certificate that the Fund has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which would, with the giving of notice or the lapse of time, or both, or otherwise, constitute an Event of Default, or if such is not the case, specifying the covenant, condition or other requirement which has not been complied with and giving particulars of such non-compliance. The Fund shall, whenever the Trustee so requires, furnish the Trustee with evidence by way of statutory declaration, opinion, report or certificate as specified by the Trustee as to any action or step required or permitted to be taken by the Fund or as a result of any obligation imposed by this Indenture.

15.6 Officers' Certificates Evidence

Except as otherwise specifically provided or prescribed by this Indenture, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, the Trustee, if acting in good faith, may rely upon an Officers' Certificate.

15.7 Experts, Advisers and Agents

The Trustee may:

- (a) employ or retain and act and rely on the opinion or advice of or information obtained from any solicitor, auditor, valuer, engineer, surveyor, appraiser or other expert, whether obtained by the Trustee or by the Fund, or otherwise, and shall not be liable for acting, or refusing to act, in good faith on any such opinion or advice and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid; and
- (b) employ such agents and other assistants as it may reasonably require for the proper discharge of its duties hereunder, and may pay reasonable remuneration for all services performed for it (and shall be entitled to receive reasonable remuneration for all services performed by it) in the discharge of the trusts hereof and compensation for all disbursements, costs and expenses made or incurred by it in the discharge of its duties hereunder and in the management of the trusts hereof and any solicitors employed or consulted by the Trustee may, but need not be, solicitors for the Fund.

15.8 Trustee May Deal in Debentures

Subject to Sections 15.1 and 15.3, the Trustee may, in its personal or other capacity, buy, sell, lend upon and deal in the Debentures and generally contract and enter into financial transactions with the Fund or otherwise, without being liable to account for any profits made thereby.

15.9 Investment of Monies Held by Trustee

Unless otherwise provided in this Indenture, any monies held by the Trustee, which, under the trusts of this Indenture, may or ought to be invested or which may be on deposit with the Trustee or which may be in the hands of the Trustee, may be invested and reinvested in the name or under the control of the Trustee in securities in which, under the laws of the Province of Ontario, trustees are authorized to invest trust monies, provided that such securities are expressed to mature within two years or such shorter period selected to facilitate any payments expected to be made under this Indenture, after their purchase by the Trustee, and unless and until the Trustee shall have declared the principal of and interest on the Debentures to be due and payable, the Trustee shall so invest such monies at the Written Direction of the Fund given in a reasonably timely manner. Pending the investment of any monies as hereinbefore provided, such monies may be deposited in the name of the Trustee in any chartered bank of Canada or, with the consent of the Fund, in the deposit department of the Trustee or any other loan or trust company authorized to accept deposits under the laws of Canada or any Province thereof at the rate of interest, if any, then current on similar deposits.

Unless and until the Trustee shall have declared the principal of and interest on the Debentures to be due and payable, the Trustee shall pay over to the Fund all interest received by the Trustee in respect of any investments or deposits made pursuant to the provisions of this Section.

15.10 Trustee Not Ordinarily Bound

Except as provided in Section 8.2 and as otherwise specifically provided herein, the Trustee shall not, subject to Section 15.3, be bound to give notice to any person of the execution hereof, nor to do, observe or perform or see to the observance or performance by the Fund of any of the obligations herein imposed upon the Fund or of the covenants on the part of the Fund herein contained, nor in any way to supervise or interfere with the conduct of the Fund's business, unless the Trustee shall have been required to do so in writing by the holders of not less than 25% of the aggregate principal amount of the Debentures then outstanding or by any Extraordinary Resolution of the Debentureholders passed in accordance with the provisions contained in ARTICLE 13, and then only after it shall have been funded and indemnified to its satisfaction against all actions, proceedings, claims and demands to which it may render itself liable and all costs, charges, damages and expenses which it may incur by so doing.

15.11 Trustee Not Required to Give Security

The Trustee shall not be required to give any bond or security in respect of the execution of the trusts and powers of this Indenture or otherwise in respect of the premises.

15.12 Trustee Not Bound to Act on Fund's Request

Except as in this Indenture otherwise specifically provided, the Trustee shall not be bound to act in accordance with any direction or request of the Fund until a duly authenticated copy of the instrument or resolution containing such direction or request shall have been delivered to the Trustee, and the Trustee shall be empowered to act upon any such copy purporting to be authenticated and believed by the Trustee to be genuine.

15.13 Conditions Precedent to Trustee's Obligations to Act Hereunder

The obligation of the Trustee to commence or continue any act, action or proceeding for the purpose of enforcing the rights of the Trustee and of the Debentureholders hereunder shall be conditional upon the Debentureholders furnishing when required by notice in writing by the Trustee, sufficient funds to commence or continue such act, action or proceeding and indemnity reasonably satisfactory to the Trustee to protect and hold harmless the Trustee against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified as aforesaid.

The Trustee may, before commencing or at any time during the continuance of any such act, action or proceeding require the Debentureholders at whose instance it is acting to deposit with the Trustee the Debentures held by them for which Debentures the Trustee shall issue receipts.

15.14 Authority to Carry on Business

The Trustee represents to the Fund that at the date of execution and delivery by it of this Indenture it is authorized to carry on the business of a trust company in each of the provinces of Canada but if, notwithstanding the provisions of this Section 15.14, it ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the securities issued hereunder shall not be affected in any manner whatsoever by reason only of such event but the Trustee shall, within 90 days after ceasing to be authorized to carry on the business of a trust company in any of the provinces of Canada, either become so authorized or resign in the manner and with the effect specified in Section 15.2.

15.15 Compensation and Indemnity

- (a) The Fund shall pay to the Trustee from time to time compensation for its services hereunder as agreed separately by the Fund and the Trustee, and shall pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in the administration or execution of its duties under this Indenture (including the reasonable and documented compensation and disbursements of its Counsel and all other advisers and assistants not regularly in its employ), both before any default hereunder and thereafter until all duties of the Trustee under this Indenture shall be finally and fully performed. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust.
- (b) The Fund hereby indemnifies and saves harmless the Trustee and its directors, officers and employees from and against any and all loss, damages, charges, expenses, claims, demands, actions or liability whatsoever which may be brought against the Trustee or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations hereunder save only in the event of gross negligence, or the wilful misconduct or bad faith of the Trustee. This indemnity will survive the termination or discharge of this Indenture and the resignation or removal of the Trustee. The Trustee shall notify the Fund promptly of any claim for which it may seek indemnity. The Fund shall defend the claim and the Trustee shall co-operate in the defence. The Trustee may have separate Counsel and the Fund shall pay the reasonable fees and expenses of such Counsel. The Fund need not pay for any settlement made without its consent, which consent must not be unreasonably withheld. This indemnity shall survive the resignation or removal of the Trustee or the discharge of this Indenture.

- (c) The Fund need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee through gross negligence or bad faith or breach of the Trustee's duties hereunder.

15.16 Acceptance of Trust

The Trustee hereby accepts the trusts in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth and to hold all rights, privileges and benefits conferred hereby and by law in trust for the various persons who shall from time to time be Debentureholders, subject to all the terms and conditions herein set forth.

15.17 Third Party Interests

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

15.18 Anti-Money Laundering

The Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Trustee, in its sole judgment, acting reasonably, determines that such act might cause it to be in noncompliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Trustee, in its sole judgment, acting reasonably, determine at any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days' prior written notice sent to the Fund provided that (i) the Trustee's written notice shall describe the circumstances of such non-compliance; and (ii) if such circumstances are rectified to the Trustee's satisfaction within such 10-day period, then such resignation shall not be effective.

15.19 Privacy Laws

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, "**Privacy Laws**") applies to certain obligations and activities under this Indenture. Notwithstanding any other provision of this Indenture, neither party shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Fund shall, prior to transferring or causing to be transferred personal information to the Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Trustee shall use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws. Specifically, the Trustee agrees: (a) to have a designated chief privacy officer; (b) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry; (c) to use personal information solely for the purposes of providing its services under or ancillary to this Indenture and to comply with applicable laws and not to use it for any other purpose except with the consent of or direction from the Fund or the individual involved or as permitted by Privacy Laws; (d) not to sell or otherwise improperly disclose personal information to any

third party; and (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

15.20 Force Majeure

The Trustee shall not be personally liable to the other, or held in breach of this Indenture, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.

ARTICLE 16 SUPPLEMENTAL INDENTURES

16.1 Supplemental Indentures

Subject to the approval of the Toronto Stock Exchange or such other exchange on which the Debentures are then listed, as may be required, from time to time the Trustee and, when authorized by a resolution of the Board of Directors, the Fund, may, and they shall when required by this Indenture, execute, acknowledge and deliver by the proper officers deeds or indentures supplemental hereto which thereafter shall form part hereof, for any one or more of the following purposes:

- (a) providing for the issuance of Additional Debentures under this Indenture;
- (b) adding to the covenants of the Fund herein contained for the protection of the Debentureholders, or of the Debentures of any series, or providing for events of default, in addition to those herein specified;
- (c) making such provisions not inconsistent with this Indenture as may be necessary or desirable with respect to matters or questions arising hereunder, including the making of any modifications in the form of the Debentures which do not affect the substance thereof and which in the opinion of the Trustee relying on an opinion of Counsel will not be prejudicial to the interests of the Debentureholders;
- (d) evidencing the succession, or successive successions, of others to the Fund and the covenants of and obligations assumed by any such successor in accordance with the provisions of this Indenture (including ARTICLE 11);
- (e) giving effect to any Extraordinary Resolution passed as provided in ARTICLE 13; and
- (f) for any other purpose not inconsistent with the terms of this Indenture.

Unless the supplemental indenture requires the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, by Extraordinary Resolution, the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, shall not be required in connection with the execution, acknowledgement or delivery of a supplemental indenture. Further, subject to the approval of the Toronto Stock Exchange or such other exchange on which the Debentures are then listed, as may be required, the Fund and the Trustee may without the consent or concurrence of the Debentureholders or the holders of a particular

series of Debentures, as the case may be, by supplemental indenture or otherwise, make any changes or corrections in this Indenture which it shall have been advised by Counsel are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provisions or clerical omissions or mistakes or manifest errors contained herein or in any indenture supplemental hereto or any Written Direction of the Fund provided for the issue of Debentures, providing that in the opinion of the Trustee (relying upon an opinion of Counsel) the rights of the Debentureholders are in no way prejudiced thereby.

ARTICLE 17

EXECUTION AND FORMAL DATE

17.1 Execution

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

17.2 Contracts of the Fund

The parties hereby acknowledge that the Corporation is entering into this Indenture on behalf of the Fund, and the obligations of the Fund hereunder shall not be personally binding upon the trustees of the Fund, any of the registered or beneficial unitholders of the Fund, any annuitant under a plan of which a unitholder of the Fund acts as trustee or carrier, the Corporation or any other Subsidiary of the Fund, or any of their respective trustees, directors, officers, employees, incorporators or unitholders, and resort shall not be had to, nor shall recourse or satisfaction be sought from, any of such persons or the private property of any such persons. Any recourse against the Fund or any of the aforementioned persons in any manner in respect of any indebtedness, obligation or liability of the Fund arising hereunder or arising in connection herewith or from the matters to which this Indenture relates, if any, including, without limitation, claims based on negligence or otherwise tortious behaviour, shall be limited to, and satisfied only out of, the assets of the Fund.

17.3 Formal Date

For the purpose of convenience this Indenture may be referred to as bearing the formal date of June 30, 2010 irrespective of the actual date of execution hereof.

[Remainder of Page Intentionally Left Blank]

IN WITNESS whereof the parties hereto have executed these presents under their respective corporate seals and the hands of their proper officers in that behalf.

ARMTEC INFRASTRUCTURE INCOME FUND,
by its administrator **ARMTEC LIMITED**
PARTNERSHIP, by its general partner **ARMTEC**
HOLDINGS LIMITED

By: (signed) "Charles M. Phillips"
Name: Charles M. Phillips
Title: President and Chief Executive Officer

COMPUTERSHARE TRUST COMPANY OF
CANADA

By: (signed) "Daniel Marz"
Name: Daniel Marz
Title: Professional, Corporate Trust

By: (signed) "Kemi Atawo"
Name: Kemi Atawo
Title: Professional, Corporate Trust

SCHEDULE "A"

**TO THE CONVERTIBLE DEBENTURE INDENTURE AMONG
ARMTEC INFRASTRUCTURE INCOME FUND, ARMTEC HOLDINGS LIMITED AND
COMPUTERSHARE TRUST COMPANY OF CANADA
FORM OF DEBENTURE**

FORM OF GLOBAL DEBENTURE

This Debenture is a Global Debenture within the meaning of the Indenture herein referred to and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.

Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. ("CDS") to Armtec Infrastructure Income Fund (the "Issuer") its successor or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & Co., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & Co. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & Co., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate.

CUSIP <>
ISIN CA <>

No. <>

\$<>

ARMTEC INFRASTRUCTURE INCOME FUND (A trust governed by the laws of Ontario) 6.50% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURE DUE JUNE 30, 2017

ARMTEC INFRASTRUCTURE INCOME FUND (the "**Fund**" or the "**Issuer**") for value received hereby acknowledges itself indebted and, subject to the provisions of the Convertible Debenture Indenture (the "**Indenture**") dated as of June 30, 2010 between the Fund and Computershare Trust Company of Canada (the "**Trustee**"), promises to pay to the registered holder hereof on June 30, 2017 (the "**Maturity Date**") or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture the principal sum of <> Dollars (\$<>) in lawful money of Canada on presentation and surrender of this Initial Debenture at the main branch of the Trustee in Toronto, Ontario in accordance with the terms of the Indenture and, subject as hereinafter provided, to pay interest on the principal amount hereof from the date hereof, or from the last Interest Payment Date to which interest shall have been paid or made available for payment hereon, whichever is later, at the rate of 6.50% per annum (based on a year of 365 days (or 366 days in the case of a leap year)), in like money, in arrears in equal (with the exception of the first interest payment which will include interest from June 30, 2010 as set forth below) semi-annual instalments (less any tax required to be deducted) on June 30 and December 31 in each year commencing on December 31, 2010 and the last payment (representing interest payable from the last Interest Payment Date to, but excluding, the Maturity Date) to fall due on the Maturity Date and, should the Fund at any time make default in the payment of any principal or interest, to pay interest on the amount in default at the same rate, in like money and on the same dates. For certainty, the first interest payment will include interest accrued from June 30, 2010 to, but excluding

December 31, 2010, which will be equal to \$32.50 for each \$1,000 principal amount of the Initial Debentures.

Interest hereon shall be payable by electronic transfer of funds to the registered holder hereof and, subject to the provisions of the Indenture, the sending of such electronic transfer of funds shall, to the extent of the sum represented thereby (plus the amount of any tax withheld), satisfy and discharge all liability for interest on this Initial Debenture.

This Initial Debenture is one of the 6.50% Convertible Unsecured Subordinated Debentures due June 30, 2017, (referred to herein as the "**Initial Debentures**") of the Fund issued or issuable in one or more series under the provisions of the Indenture. The Initial Debentures authorized for issue immediately are limited to an aggregate principal amount of \$40,000,000 in lawful money of Canada. Reference is hereby expressly made to the Indenture for a description of the terms and conditions upon which the Initial Debentures are or are to be issued and held and the rights and remedies of the holders of the Initial Debentures and of the Fund and of the Trustee, all to the same effect as if the provisions of the Indenture were herein set forth to all of which provisions the holder of this Initial Debenture by acceptance hereof assents.

The Initial Debentures are issuable only in denominations of \$1,000 and integral multiples thereof. Upon compliance with the provisions of the Indenture, Debentures of any denomination may be exchanged for an equal aggregate principal amount of Debentures in any other authorized denomination or denominations.

Any part, being \$1,000 or an integral multiple thereof, of the principal of this Initial Debenture, provided that the principal amount of this Initial Debenture is in a denomination in excess of \$1,000, is convertible, at the option of the holder hereof, upon surrender of this Initial Debenture at the principal office of the Trustee in Toronto, Ontario, at any time prior to the close of business on the earlier of (i) the Business Day immediately preceding the Maturity Date of the Initial Debentures; or (ii) if the Initial Debentures are called for redemption, on the Business Day immediately preceding the date specified by the Fund for redemption of the Initial Debentures; into Freely Tradeable Fund Units (without adjustment for interest accrued hereon or for dividends or distributions on Fund Units issuable upon conversion) at a conversion price of \$26.90 (the "**Conversion Price**") per Fund Unit, being a rate of 37.1747 Fund Units for each \$1,000 principal amount of Initial Debentures, all subject to the terms and conditions and in the manner set forth in the Indenture. Notwithstanding any other provisions of the Indenture, if this Initial Debenture is surrendered for conversion on an Interest Payment Date or during the five preceding Business Days, the holder hereof shall not become the holder of record of such Fund Units until the Business Day following such Interest Payment Date. The Indenture makes provision for the adjustment of the Conversion Price in the events therein specified. No fractional Fund Units will be issued on any conversion but in lieu thereof, the Fund will satisfy such fractional interest by a cash payment equal to the market price of such fractional interest determined in accordance with the Indenture. Holders converting their Debentures will receive accrued and unpaid interest thereon. If a Debenture is surrendered for conversion on an Interest Payment Date or during the five preceding Business Days, the person or persons entitled to receive Fund Units in respect of the Debentures so surrendered for conversion shall not become the holder or holders of record of such Fund Units until the Business Day following such Interest Payment Date.

This Initial Debenture may be redeemed at the option of the Fund on the terms and conditions set out in the Indenture at the redemption price therein and herein set out provided that this Initial Debenture is not redeemable before July 1, 2013, except in the event of the satisfaction of certain conditions after a Change of Control has occurred. On and after July 1, 2013 and prior to July 1, 2015, and provided that the Current Market Price of the Fund Units of the Fund is at least 125% of the

Conversion Price of the Initial Debentures, the Initial Debentures are redeemable at the option of the Fund at a price equal to \$1,000 per Initial Debenture plus accrued and unpaid interest and otherwise (the "**Redemption Price**") on the terms and conditions described in the Indenture. On and after July 1, 2015 and prior to the Maturity Date, the Initial Debentures are redeemable at the option of the Fund at a price equal to \$1,000 per Initial Debenture plus accrued and unpaid interest and otherwise on the terms and conditions described in the Indenture. The Fund may, on notice as provided in the Indenture, at its option and subject to any applicable regulatory approval, elect to satisfy its obligation to pay all or any portion of the applicable Redemption Price by the issue of that number of Freely Tradeable Fund Units obtained by dividing the applicable Redemption Price by 95% of the volume weighted average trading price of the Fund Units on the Toronto Stock Exchange (or if the Fund Units are no longer listed on the Toronto Stock Exchange, such other stock exchange on which the Initial Debentures may be listed) for the 20 consecutive trading days ending on the fifth trading day preceding the Redemption Date.

Upon the occurrence of a Change of Control of the Fund, the Fund is required to make an offer to purchase all of the Initial Debentures at a price equal to 101% of the principal amount of such Initial Debentures plus accrued and unpaid interest up to, but excluding, the date the Initial Debentures are so repurchased (the "**Change of Control Purchase Offer**"). If 90% or more of the principal amount of all Debentures outstanding on the date the Fund provides notice of a Change of Control to the Trustee have been tendered for purchase pursuant to the Change of Control Purchase Offer and not withdrawn, the Fund has the right to redeem all the remaining outstanding Initial Debentures on the same date and at the same price, subject to the terms and conditions described in the Indenture.

If an offer is made for the Debentures which is a take-over bid or issuer bid for the Debentures within the meaning of MI 62-104 and 90% or more of the principal amount of all the Debentures (other than Debentures held at the date of offer by or on behalf of the Offeror, associates or affiliates of the Offeror or anyone acting jointly or in concert with the Offeror) are taken up and paid for by the Offeror, the Offeror will be entitled to acquire the Debentures of those holders who did not accept the offer on the same terms as the Offeror acquired Debentures pursuant to the offer, all subject to the terms and conditions described in the Indenture.

The Fund may, on notice as provided in the Indenture, at its option and subject to any applicable regulatory approval, elect to satisfy the obligation to repay all or any portion of the principal amount of this Initial Debenture due on the Maturity Date, together with all accrued and unpaid interest thereon, by the issue of that number of Freely Tradeable Fund Units obtained by dividing the principal amount of this Initial Debenture (or that portion to be paid for in Fund Units pursuant to the exercise by the Fund of the Fund Unit Repayment Right), together with all accrued and unpaid interest thereon, by 95% of the volume weighted average trading price of the Fund Units on the Toronto Stock Exchange or other stock exchange on which the Debentures may be listed for the 20 consecutive trading days ending on the fifth trading day preceding the Maturity Date.

The indebtedness evidenced by this Initial Debenture, and by all other Initial Debentures now or hereafter certified and delivered under the Indenture, is a direct unsecured obligation of the Fund, and is subordinated in right of payment, to the extent and in the manner provided in the Indenture, to the prior payment in full of all Senior Indebtedness, whether outstanding at the date of the Indenture or thereafter created, incurred, assumed or guaranteed.

The principal hereof may become or be declared due and payable before the stated maturity in the events, in the manner, with the effect and at the times provided in the Indenture.

The Indenture contains provisions making binding upon all holders of Debentures outstanding thereunder (or in certain circumstances specific series of Debentures) resolutions passed at

meetings of such holders held in accordance with such provisions and instruments signed by the holders of a specified majority of Debentures outstanding (or specific series), which resolutions or instruments may have the effect of amending the terms of this Initial Debenture or the Indenture.

The Indenture contains provisions disclaiming any personal liability on the part of holders of Fund Units and officers, trustees, directors and employees of the Fund in respect of any obligation or claim arising out of the Indenture or this Debenture.

This Initial Debenture may only be transferred, upon compliance with the conditions prescribed in the Indenture, in the register to be kept at the principal office of the Trustee in the City of Toronto and in such other place or places and/or by such other registrars (if any) as the Fund with the approval of the Trustee may designate. No transfer of this Initial Debenture shall be valid unless made on the register by the registered holder hereof or his executors or administrators or other legal representatives, or his or their attorney duly appointed by an instrument in form and substance satisfactory to the Trustee or other registrar, and upon compliance with such reasonable requirements as the Trustee and/or other registrar may prescribe and upon surrender of this Initial Debenture for cancellation. Thereupon a new Initial Debenture or Initial Debentures in the same aggregate principal amount shall be issued to the transferee in exchange hereof.

At no time may non-residents of Canada and/or partnerships that are not Canadian partnerships for purposes of the *Income Tax Act* (Canada) (or any combination thereof) (collectively "non-residents") be the beneficial owners (on either a basic or fully-diluted basis) of more than 49% of the Fund Units, whether by way of conversion of Debentures into Fund Units, repayment of Debentures by issuance of Fund Units, or otherwise, and the Fund has notified the Trustee, if necessary, and the transfer agent of the Fund Units (the "**Transfer Agent**") of this restriction in writing. The Trustee shall, upon receipt of a Written Direction of the Fund, deliver to the registered owners of Debentures a form of declaration (which form shall be prepared by the Fund) as to the jurisdictions in which beneficial owners of Debentures are resident and shall require the completion and return of such declaration from each registered owner. If the Fund notifies the Trustee in writing that, as a result of such declarations as to beneficial ownership, the beneficial owners (on either a basic or fully diluted basis), of at least 49% of the Fund Units then outstanding are, or may be, non-residents or that such a situation is imminent, the Fund may require the Trustee to make a public announcement thereof (the form and content of which shall be prepared by the Fund) and the Fund may instruct, in writing, the Trustee not to accept a subscription for Debentures from or issue or register a transfer of Debentures to a Person unless the Person provides a declaration that the Person is not a non-resident and does not hold his or her Debentures for the benefit of a non-resident. If, notwithstanding the foregoing, the Fund notifies the Trustee in writing that beneficial owners (on either a basic or fully diluted basis) of at least 49% of the Fund Units are non-residents, the Fund may instruct the Trustee in writing to, or the trustees of the Fund may, send a notice (which notice shall be prepared by the Fund) to non-resident holders of Debentures and holders of Debentures for the benefit of non-residents, chosen in inverse order to the order of acquisition or registration of the Debentures or in such manner as the Trustee or the trustees of the Fund may consider equitable and practicable, requiring them to sell their Debentures or a portion thereof within a specified period of not more than 60 days. If the Debentureholders receiving such notice have not sold the specified number of Debentures or provide the Fund and the Trustee with satisfactory evidence that they are not non-residents and do not hold Debentures for the benefit of a non-resident within such period, the Fund may give written instructions to the Trustee that it shall, on behalf of such Debentureholder, and each such Debentureholder hereby grants a power of attorney to the Trustee and the Fund to, sell or redeem such Debentures and, in the interim, suspend the rights attached to such Debentures. Upon such sale or redemption, the affected holders shall cease to be holders of Debentures and their rights shall be limited to receiving the net proceeds of sale or redemption upon surrender of such Debentures.

No liability shall accrue to the Fund or the Trustee if a Debenture owned by a non-resident of Canada is sold at a loss to such person.

This Initial Debenture shall not become obligatory for any purpose until it shall have been certified by the Trustee under the Indenture.

Capitalized words or expressions used in this Initial Debenture shall, unless otherwise defined herein, have the meaning ascribed thereto in the Indenture.

IN WITNESS WHEREOF ARMTEC INFRASTRUCTURE INCOME FUND has caused this Debenture to be signed by its authorized representatives as of the 30th day of June, 2010.

ARMTEC INFRASTRUCTURE INCOME FUND,
by its administrator **ARMTEC LIMITED**
PARTNERSHIP, by its general partner **ARMTEC**
HOLDINGS LIMITED

By: _____
Name:
Title:

(FORM OF TRUSTEE'S CERTIFICATE)

This Initial Debenture is one of the 6.50% Convertible Unsecured Subordinated Debentures due June 30, 2017 referred to in the Indenture within mentioned.

**COMPUTERSHARE TRUST COMPANY OF
CANADA**

By: _____
(Authorized Officer)

(FORM OF REGISTRATION PANEL)

(No writing hereon except by Trustee or other registrar)

Date of Registration	In Whose Name Registered	Signature of Trustee or Registrar
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EXHIBIT "1"
TO CDS GLOBAL DEBENTURE

ARMTEC INFRASTRUCTURE INCOME FUND

6.50% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES

DUE JUNE 30, 2017

Initial Principal Amount: \$<>

CUSIP <>
ISIN CA <>

Authorization:_____

ADJUSTMENTS

Date	Amount of Increase	Amount of Decrease	New Principal Amount	Authorization
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FORM OF CERTIFICATED DEBENTURE

[insert legend]

CUSIP <>
ISIN CA <>

No. <>

\$<>

**ARMTEC INFRASTRUCTURE INCOME FUND
(A trust governed by the laws of Ontario)
6.50% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURE
DUE JUNE 30, 2017**

ARMTEC INFRASTRUCTURE INCOME FUND (the "**Fund**" or the "**Issuer**") for value received hereby acknowledges itself indebted and, subject to the provisions of the Convertible Debenture Indenture (the "**Indenture**") dated as of June 30, 2010 between the Fund and Computershare Trust Company of Canada (the "**Trustee**"), promises to pay to the registered holder hereof on June 30, 2017 (the "**Maturity Date**") or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture the principal sum of <> Dollars (\$<>) in lawful money of Canada on presentation and surrender of this Initial Debenture at the main branch of the Trustee in Toronto, Ontario in accordance with the terms of the Indenture and, subject as hereinafter provided, to pay interest on the principal amount hereof from the date hereof, or from the last Interest Payment Date to which interest shall have been paid or made available for payment hereon, whichever is later, at the rate of 6.50% per annum (based on a year of 365 days (or 366 days in the case of a leap year)), in like money, in arrears in equal (with the exception of the first interest payment which will include interest from June 30, 2010 as set forth below) semi-annual instalments (less any tax required to be deducted) on June 30 and December 31 in each year commencing on December 31, 2010 and the last payment (representing interest payable from the last Interest Payment Date to, but excluding, the Maturity Date) to fall due on the Maturity Date and, should the Fund at any time make default in the payment of any principal or interest, to pay interest on the amount in default at the same rate, in like money and on the same dates. For certainty, the first interest payment will include interest accrued from June 30, 2010 to, but excluding December 31, 2010, which will be equal to \$32.50 for each \$1,000 principal amount of the Initial Debentures.

Interest hereon shall be payable by electronic transfer of funds to the registered holder hereof and, subject to the provisions of the Indenture, the sending of such electronic transfer of funds shall, to the extent of the sum represented thereby (plus the amount of any tax withheld), satisfy and discharge all liability for interest on this Initial Debenture.

This Initial Debenture is one of the 6.50% Convertible Unsecured Subordinated Debentures due June 30, 2017, (referred to herein as the "**Initial Debentures**") of the Fund issued or

issuable in one or more series under the provisions of the Indenture. The Initial Debentures authorized for issue immediately are limited to an aggregate principal amount of \$40,000,000 in lawful money of Canada. Reference is hereby expressly made to the Indenture for a description of the terms and conditions upon which the Initial Debentures are or are to be issued and held and the rights and remedies of the holders of the Initial Debentures and of the Fund and of the Trustee, all to the same effect as if the provisions of the Indenture were herein set forth to all of which provisions the holder of this Initial Debenture by acceptance hereof assents.

The Initial Debentures are issuable only in denominations of \$1,000 and integral multiples thereof. Upon compliance with the provisions of the Indenture, Debentures of any denomination may be exchanged for an equal aggregate principal amount of Debentures in any other authorized denomination or denominations.

Any part, being \$1,000 or an integral multiple thereof, of the principal of this Initial Debenture, provided that the principal amount of this Initial Debenture is in a denomination in excess of \$1,000, is convertible, at the option of the holder hereof, upon surrender of this Initial Debenture at the principal office of the Trustee in Toronto, Ontario, at any time prior to the close of business on the earlier of (i) the Business Day immediately preceding the Maturity Date of the Initial Debentures; or (ii) if the Initial Debentures are called for redemption, on the Business Day immediately preceding the date specified by the Fund for redemption of the Initial Debentures; into Freely Tradeable Fund Units (without adjustment for interest accrued hereon or for dividends or distributions on Fund Units issuable upon conversion) at a conversion price of \$26.90 (the "**Conversion Price**") per Fund Unit, being a rate of 37.1747 Fund Units for each \$1,000 principal amount of Initial Debentures, all subject to the terms and conditions and in the manner set forth in the Indenture. Notwithstanding any other provisions of the Indenture, if this Initial Debenture is surrendered for conversion on an Interest Payment Date or during the five preceding Business Days, the holder hereof shall not become the holder of record of such Fund Units until the Business Day following such Interest Payment Date. The Indenture makes provision for the adjustment of the Conversion Price in the events therein specified. No fractional Fund Units will be issued on any conversion but in lieu thereof, the Fund will satisfy such fractional interest by a cash payment equal to the market price of such fractional interest determined in accordance with the Indenture. Holders converting their Debentures will receive accrued and unpaid interest thereon. If a Debenture is surrendered for conversion on an Interest Payment Date or during the five preceding Business Days, the person or persons entitled to receive Fund Units in respect of the Debentures so surrendered for conversion shall not become the holder or holders of record of such Fund Units until the Business Day following such Interest Payment Date.

This Initial Debenture may be redeemed at the option of the Fund on the terms and conditions set out in the Indenture at the redemption price therein and herein set out provided that this Initial Debenture is not redeemable before July 1, 2013, except in the event of the satisfaction of certain conditions after a Change of Control has occurred. On and after July 1, 2013 and prior to July 1, 2015, and provided that the Current Market Price of the Fund Units of the Fund is at least 125% of the Conversion Price of the Initial Debentures, the Initial Debentures are redeemable at the option of the Fund at a price equal to \$1,000 per Initial Debenture plus accrued and unpaid interest and otherwise (the "**Redemption Price**") on the terms and conditions described in the Indenture. On and after July 1, 2015 and prior to the Maturity Date, the Initial Debentures are redeemable at the option of the Fund at a price equal to \$1,000 per Initial Debenture plus accrued and unpaid interest and otherwise on the terms and conditions described in the Indenture. The Fund may, on notice as provided in the Indenture, at its option and subject to any applicable regulatory approval, elect to satisfy its obligation to pay all or any portion of the applicable Redemption Price by the issue of that number of Freely Tradeable Fund Units obtained by dividing the applicable Redemption Price by 95% of the volume weighted average trading price of the Fund Units on the Toronto Stock Exchange (or if the Fund Units are no longer listed on the Toronto Stock

Exchange, such other stock exchange on which the Initial Debentures may be listed) for the 20 consecutive trading days ending on the fifth trading day preceding the Redemption Date.

Upon the occurrence of a Change of Control of the Fund, the Fund is required to make an offer to purchase all of the Initial Debentures at a price equal to 101% of the principal amount of such Initial Debentures plus accrued and unpaid interest up to, but excluding, the date the Initial Debentures are so repurchased (the "**Change of Control Purchase Offer**"). If 90% or more of the principal amount of all Debentures outstanding on the date the Fund provides notice of a Change of Control to the Trustee have been tendered for purchase pursuant to the Change of Control Purchase Offer and not withdrawn, the Fund has the right to redeem all the remaining outstanding Initial Debentures on the same date and at the same price, subject to the terms and conditions described in the Indenture.

If an offer is made for the Debentures which is a take-over bid or issuer bid for the Debentures within the meaning of MI 62-104 and 90% or more of the principal amount of all the Debentures (other than Debentures held at the date of offer by or on behalf of the Offeror, associates or affiliates of the Offeror or anyone acting jointly or in concert with the Offeror) are taken up and paid for by the Offeror, the Offeror will be entitled to acquire the Debentures of those holders who did not accept the offer on the same terms as the Offeror acquired Debentures pursuant to the offer, all subject to the terms and conditions described in the Indenture.

The Fund may, on notice as provided in the Indenture, at its option and subject to any applicable regulatory approval, elect to satisfy the obligation to repay all or any portion of the principal amount of this Initial Debenture due on the Maturity Date, together with all accrued and unpaid interest thereon, by the issue of that number of Freely Tradeable Fund Units obtained by dividing the principal amount of this Initial Debenture (or that portion to be paid for in Fund Units pursuant to the exercise by the Fund of the Fund Unit Repayment Right), together with all accrued and unpaid interest thereon, by 95% of the volume weighted average trading price of the Fund Units on the Toronto Stock Exchange or other stock exchange on which the Debentures may be listed for the 20 consecutive trading days ending on the fifth trading day preceding the Maturity Date.

The indebtedness evidenced by this Initial Debenture, and by all other Initial Debentures now or hereafter certified and delivered under the Indenture, is a direct unsecured obligation of the Fund, and is subordinated in right of payment, to the extent and in the manner provided in the Indenture, to the prior payment in full of all Senior Indebtedness, whether outstanding at the date of the Indenture or thereafter created, incurred, assumed or guaranteed.

The principal hereof may become or be declared due and payable before the stated maturity in the events, in the manner, with the effect and at the times provided in the Indenture.

The Indenture contains provisions making binding upon all holders of Debentures outstanding thereunder (or in certain circumstances specific series of Debentures) resolutions passed at meetings of such holders held in accordance with such provisions and instruments signed by the holders of a specified majority of Debentures outstanding (or specific series), which resolutions or instruments may have the effect of amending the terms of this Initial Debenture or the Indenture.

The Indenture contains provisions disclaiming any personal liability on the part of holders of Fund Units and officers, trustees, directors and employees of the Fund in respect of any obligation or claim arising out of the Indenture or this Debenture.

This Initial Debenture may only be transferred, upon compliance with the conditions prescribed in the Indenture, in the register to be kept at the principal office of the Trustee in the City of

Toronto and in such other place or places and/or by such other registrars (if any) as the Fund with the approval of the Trustee may designate. No transfer of this Initial Debenture shall be valid unless made on the register by the registered holder hereof or his executors or administrators or other legal representatives, or his or their attorney duly appointed by an instrument in form and substance satisfactory to the Trustee or other registrar, and upon compliance with such reasonable requirements as the Trustee and/or other registrar may prescribe and upon surrender of this Initial Debenture for cancellation. Thereupon a new Initial Debenture or Initial Debentures in the same aggregate principal amount shall be issued to the transferee in exchange hereof.

At no time may non-residents of Canada and/or partnerships that are not Canadian partnerships for purposes of the *Income Tax Act* (Canada) (or any combination thereof) (collectively "non-residents") be the beneficial owners (on either a basic or fully-diluted basis) of more than 49% of the Fund Units, whether by way of conversion of Debentures into Fund Units, repayment of Debentures by issuance of Fund Units, or otherwise, and the Fund has notified the Trustee, if necessary, and the transfer agent of the Fund Units (the "**Transfer Agent**") of this restriction in writing. The Trustee shall, upon receipt of a Written Direction of the Fund, deliver to the registered owners of Debentures a form of declaration (which form shall be prepared by the Fund) as to the jurisdictions in which beneficial owners of Debentures are resident and shall require the completion and return of such declaration from each registered owner. If the Fund notifies the Trustee in writing that, as a result of such declarations as to beneficial ownership, the beneficial owners (on either a basic or fully diluted basis), of at least 49% of the Fund Units then outstanding are, or may be, non-residents or that such a situation is imminent, the Fund may require the Trustee to make a public announcement thereof (the form and content of which shall be prepared by the Fund) and the Fund may instruct, in writing, the Trustee not to accept a subscription for Debentures from or issue or register a transfer of Debentures to a Person unless the Person provides a declaration that the Person is not a non-resident and does not hold his or her Debentures for the benefit of a non-resident. If, notwithstanding the foregoing, the Fund notifies the Trustee in writing that beneficial owners (on either a basic or fully diluted basis) of at least 49% of the Fund Units are non-residents, the Fund may instruct the Trustee in writing to, or the trustees of the Fund may, send a notice (which notice shall be prepared by the Fund) to non-resident holders of Debentures and holders of Debentures for the benefit of non-residents, chosen in inverse order to the order of acquisition or registration of the Debentures or in such manner as the Trustee or the trustees of the Fund may consider equitable and practicable, requiring them to sell their Debentures or a portion thereof within a specified period of not more than 60 days. If the Debentureholders receiving such notice have not sold the specified number of Debentures or provide the Fund and the Trustee with satisfactory evidence that they are not non-residents and do not hold Debentures for the benefit of a non-resident within such period, the Fund may give written instructions to the Trustee that it shall, on behalf of such Debentureholder, and each such Debentureholder hereby grants a power of attorney to the Trustee and the Fund to, sell or redeem such Debentures and, in the interim, suspend the rights attached to such Debentures. Upon such sale or redemption, the affected holders shall cease to be holders of Debentures and their rights shall be limited to receiving the net proceeds of sale or redemption upon surrender of such Debentures.

No liability shall accrue to the Fund or the Trustee if a Debenture owned by a non-resident of Canada is sold at a loss to such person.

This Initial Debenture shall not become obligatory for any purpose until it shall have been certified by the Trustee under the Indenture.

Capitalized words or expressions used in this Initial Debenture shall, unless otherwise defined herein, have the meaning ascribed thereto in the Indenture.

IN WITNESS WHEREOF ARMTEC INFRASTRUCTURE INCOME FUND has caused this Debenture to be signed by its authorized representatives as of the 30th day of June, 2010.

ARMTEC INFRASTRUCTURE INCOME FUND,
by its administrator **ARMTEC LIMITED**
PARTNERSHIP, by its general partner **ARMTEC**
HOLDINGS LIMITED

By: _____

Name:

Title:

(FORM OF TRUSTEE'S CERTIFICATE)

This Initial Debenture is one of the 6.50% Convertible Unsecured Subordinated Debentures due June 30, 2017 referred to in the Indenture within mentioned.

**COMPUTERSHARE TRUST COMPANY OF
CANADA**

By: _____
(Authorized Officer)

(FORM OF REGISTRATION PANEL)

(No writing hereon except by Trustee or other registrar)

Date of Registration

In Whose Name Registered

**Signature of Trustee or
Registrar**

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____, whose address and social insurance number, if applicable, are set forth below, this Initial Debenture (or \$ _____ principal amount hereof*) of ARMTEC INFRASTRUCTURE INCOME FUND (the "**Fund**") standing in the name(s) of the undersigned in the register maintained by the Fund with respect to such Initial Debenture and does hereby irrevocably authorize and direct the Trustee to transfer such Initial Debenture in such register, with full power of substitution in the premises.

Dated: _____

Address of Transferee: _____
(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable: _____

*If less than the full principal amount of the within Initial Debenture is to be transferred, indicate in the space provided the principal amount (which must be \$1,000 or an integral multiple thereof, unless you hold an Initial Debenture in a non-integral multiple of \$1,000 by reason of your having exercised your right to exchange upon the making of a Change of Control Purchase Offer, in which case such Initial Debenture is transferable only in its entirety) to be transferred.

1. The signature(s) to this assignment must correspond with the name(s) as written upon the face of this Initial Debenture in every particular without alteration or any change whatsoever. The signature(s) must be guaranteed by a Canadian chartered bank or trust company or by a member of an acceptable Medallion Guarantee Program. Notarized or witnessed signatures are not acceptable as guaranteed signatures. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".
2. The registered holder of this Initial Debenture is responsible for the payment of any documentary, stamp or other transfer taxes that may be payable in respect of the transfer of this Debenture.

Signature of Guarantor:

Authorized Officer

Signature of transferring registered holder

Name of Institution

SCHEDULE "B"

**TO THE CONVERTIBLE DEBENTURE INDENTURE AMONG
ARMTEC INFRASTRUCTURE INCOME FUND AND
COMPUTERSHARE TRUST COMPANY OF CANADA
FORM OF REDEMPTION NOTICE**

SCHEDULE "B"

Form of Redemption Notice

ARMTEC INFRASTRUCTURE INCOME FUND 6.50% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES REDEMPTION NOTICE

To: Holders of 6.50% Convertible Unsecured Subordinated Debentures due June 30, 2017 (the "**Debentures**") of Armtec Infrastructure Income Fund (the "**Fund**")

Note: All capitalized terms used herein have the meaning ascribed thereto in the Indenture mentioned below, unless otherwise indicated.

Notice is hereby given pursuant to Section 4.3 of the convertible debenture indenture (the "**Indenture**") dated as of June 30, 2010 among the Fund and Computershare Trust Company of Canada (the "**Trustee**"), that the aggregate principal amount of \$<> of the \$<> of Debentures outstanding will be redeemed as of <> (the "**Redemption Date**"), upon payment of a redemption amount of \$<> for each \$1,000 principal amount of Debentures, being equal to the aggregate of (i) \$<> (the "**Redemption Price**"), and (ii) all accrued and unpaid interest hereon to but excluding the Redemption Date (collectively, the "**Total Redemption Price**").

[The Total Redemption Price will be payable upon presentation and surrender of the Debentures called for redemption at the following corporate trust office:]

Computershare Trust Company of Canada
[Address]

Subject to the terms and conditions described in the Indenture, the interest upon the principal amount of Debentures called for redemption shall cease to be payable from and after the Redemption Date, unless payment of the Total Redemption Price shall not be made **[on presentation for surrender of such Debentures at the above-mentioned corporate trust office on or after the Redemption Date or prior to the setting aside of the Total Redemption Price pursuant to the Indenture.]**

[Pursuant to Section 4.6 of the Indenture, the Fund hereby irrevocably elects to satisfy its obligation to pay \$<> of the Total Redemption Price payable to holders of Debentures in accordance with this notice by issuing and delivering to the holders that number of Freely Tradeable Fund Units obtained by dividing the Total Redemption Price by 95% of the Current Market Price of the Fund Units.]

[No fractional Fund Units shall be delivered upon the exercise by the Fund of the above- mentioned redemption right but, in lieu thereof, the Fund shall pay the cash equivalent thereof determined on the basis of the Current Market Price of Fund Units on the Redemption Date (less any tax required to be deducted, if any).]

In this connection, **[upon presentation and surrender of the Debentures for payment on the Redemption Date,]** the Fund shall, on the Redemption Date, make the delivery to the Trustee, at the above-mentioned corporate trust office, for delivery to and on account of the holders, of certificates representing the Freely Tradeable Fund Units to which holders are entitled together with the cash

equivalent in lieu of fractional Fund Units, and, if only a portion of the Debentures are to be redeemed by issuing Freely Tradeable Fund Units, cash representing the balance of the Total Redemption Price.

DATED:

ARMTEC INFRASTRUCTURE INCOME FUND,
by its administrator **ARMTEC LIMITED**
PARTNERSHIP, by its general partner **ARMTEC**
HOLDINGS LIMITED

(Authorized Director or Officer of
Armtec Holdings Limited)

SCHEDULE "C"

FORM OF MATURITY NOTICE

SCHEDULE "C"

Form of Maturity Notice ARMTEC INFRASTRUCTURE INCOME FUND 6.50% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES MATURITY NOTICE

To: Holders of 6.50% Convertible Unsecured Subordinated Debentures due June 30, 2017 (the "**Debentures**") of Armtec Infrastructure Income Fund (the "**Fund**")

Note: All capitalized terms used herein have the meaning ascribed thereto in the Indenture mentioned below, unless otherwise indicated.

Notice is hereby given pursuant to Section 4.10(b) of the convertible debenture indenture (the "**Indenture**") dated as of June 30, 2010 among the Fund and Computershare Trust Company of Canada, as trustee (the "**Trustee**"), that the Debentures are due and payable as of June 30, 2017 (the "**Maturity Date**") and the Fund elects to satisfy its obligation to repay to holders of Debentures the principal amount of all of the Debentures outstanding on the Maturity Date, together with all accrued and unpaid interest thereon, by issuing and delivering to the holders that number of Freely Tradeable Fund Units equal to the number obtained by dividing such principal amount of the Debentures and accrued and unpaid interest thereon by 95% of the Current Market Price of Fund Units on the Maturity Date.

No fractional Fund Units shall be delivered on exercise by the Fund of the above mentioned repayment right but, in lieu thereof, the Fund shall pay the cash equivalent thereof determined on the basis of the Current Market Price of Fund Units on the Maturity Date (less any tax required to be deducted, if any).

In this connection, upon presentation and surrender of the Debentures for payment on the Maturity Date, the Fund shall, on the Maturity Date, make delivery to the Trustee, at its principal trust office in Toronto, Ontario, for delivery to and on account of the holders, of certificates representing the Freely Tradeable Fund Units to which holders are entitled together with the cash equivalent in lieu of fractional Fund Units, and if only a portion of the Debentures are to be repaid by issuing Freely Tradeable Fund Units, cash representing the balance of the principal amount and interest due on the Maturity Date.

DATED:

ARMTEC INFRASTRUCTURE INCOME FUND,
by its administrator **ARMTEC LIMITED**
PARTNERSHIP, by its general partner **ARMTEC**
HOLDINGS LIMITED

(Authorized Director or Officer of
Armtec Holdings Limited)

SCHEDULE "D"

FORM OF NOTICE OF CONVERSION

SCHEDULE "D"**Form of Notice of Conversion****CONVERSION NOTICE**

TO: ARMTEC INFRASTRUCTURE INCOME FUND

Note: All capitalized terms used herein have the meaning ascribed thereto in the Indenture mentioned below, unless otherwise indicated.

The undersigned registered holder of 6.50% Convertible Unsecured Subordinated Debentures due June 30, 2017 irrevocably elects to convert such Debentures (or \$• principal amount thereof*) in accordance with the terms of the Indenture referred to in such Debentures and tenders herewith the Debentures, and, if applicable, directs that the Fund Units of Armtec Infrastructure Income Fund issuable upon a conversion be issued and delivered to the person indicated below. (If Fund Units are to be issued in the name of a person other than the holder, all requisite transfer taxes must be tendered by the undersigned).

Dated: _____

 (Signature of Registered Holder)

* If less than the full principal amount of the Debentures, indicate in the space provided the principal amount (which must be \$1,000 or integral multiples thereof).

NOTE: If Fund Units are to be issued in the name of a person other than the holder, the signature must be guaranteed by a chartered bank, a trust company or by a member of an acceptable Medallion Guarantee Program. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".

(Print name in which Fund Units are to be issued, delivered and registered)

Name: _____

 (Address)

 (City, Province and Postal Code)

Name of guarantor: _____

Authorized signature: _____