

**UNITHOLDER RIGHTS PLAN AGREEMENT**

**ORIGINALLY DATED AS OF JUNE 30, 2003**

**AS AMENDED AND RESTATED AS OF MAY 4, 2009**

**BETWEEN**

**ENBRIDGE INCOME FUND**

**AND**

**CIBC MELLON TRUST COMPANY**

**AS RIGHTS AGENT**

# UNITHOLDER RIGHTS PLAN AGREEMENT

## TABLE OF CONTENTS

ARTICLE 1. INTERPRETATION.....	2
1.1    Certain Definitions.....	2
1.2    Currency.....	14
1.3    Headings .....	14
1.4    Calculation of Number and Percentage of Beneficial Ownership of Outstanding Units 14	
1.5    Acting Jointly or in Concert.....	15
1.6    Generally Accepted Accounting Principles .....	15
1.7    General Limitation of Liability and Indemnification.....	15
ARTICLE 2. THE RIGHTS .....	16
2.1    Issue of Rights; Legend on Unit Certificates .....	16
2.2    Initial Exercise Price; Exercise of Rights; Detachment of Rights .....	16
2.3    Adjustments to Exercise Price; Number of Rights .....	19
2.4    Date on Which Exercise Is Effective .....	24
2.5    Execution, Authentication, Delivery and Dating of Rights Certificates.....	24
2.6    Registration, Transfer and Exchange .....	25
2.7    Mutilated, Destroyed, Lost and Stolen Rights Certificates.....	25
2.8    Persons Deemed Owners of Rights.....	26
2.9    Delivery and Cancellation of Certificates.....	26
2.10   Agreement of Rights Holders .....	27
2.11   Rights Certificate Holder Not Deemed a Unitholder.....	28
ARTICLE 3. ADJUSTMENTS TO THE RIGHTS.....	28
3.1    Flip-in Event .....	28
ARTICLE 4. THE RIGHTS AGENT .....	30
4.1    General.....	30
4.2    Merger, Amalgamation or Consolidation or Change of Name of Rights Agent .....	30
4.3    Duties of Rights Agent.....	31
4.4    Change of Rights Agent.....	33
ARTICLE 5. MISCELLANEOUS .....	34
5.1    Redemption and Waiver .....	34
5.2    Expiration.....	35
5.3    Issuance of New Rights Certificates .....	35
5.4    Supplements and Amendments.....	36
5.5    Fractional Rights and Fractional Units .....	37
5.6    Rights of Action.....	38

5.7	Regulatory Approvals .....	38
5.8	Declaration as to Non-Canadian or Non-U.S. Holders .....	38
5.9	Notices .....	39
5.10	Costs of Enforcement.....	40
5.11	Successors .....	40
5.12	Benefits of this Agreement .....	40
5.13	Governing Law .....	40
5.14	Severability .....	40
5.15	Effective Date .....	40
5.16	Reconfirmation .....	41
5.17	Determinations and Actions by the ECT Trustees.....	41
5.18	Time of the Essence .....	41
5.19	Execution in Counterparts.....	41

## **UNITHOLDER RIGHTS PLAN AGREEMENT**

**MEMORANDUM OF AGREEMENT** originally dated as of June 30, 2003, as amended and restated as of May 4, 2009, between Enbridge Income Fund (the “Fund”), a trust created under the laws of the Province of Alberta, and CIBC Mellon Trust Company, a trust company incorporated under the laws of Canada (the “Rights Agent”);

**WHEREAS** the Fund has delegated to Enbridge Commercial Trust certain of its powers and duties, including responsibility for undertaking all matters pertaining to or in connection with any take-over bid of the Fund;

**AND WHEREAS** the ECT Trustees have determined that it is in the best interests of the Fund to insure, to the extent possible, that all unitholders of the Fund are treated fairly in connection with any take-over bid for the Fund;

**AND WHEREAS** Enbridge Commercial Trust has the authority to delegate responsibility for carrying out some of the requisite actions or matters necessary to execute decisions made by Enbridge Commercial Trust to Enbridge Management Services Inc., as administrator of the Fund and Enbridge Commercial Trust wishes to so delegate certain administrative matters relating to this agreement;

**AND WHEREAS** each Right entitles the holder thereof, after the Separation Time, to purchase securities of the Fund pursuant to the terms and subject to the conditions set forth herein;

**AND WHEREAS** Enbridge Commercial Trust, on behalf of the Fund, desires to appoint the Rights Agent to act on behalf of the Fund and the holders of Rights, and the Rights Agent is willing to so act, in connection with the issuance, transfer, exchange and replacement of Rights Certificates (as hereinafter defined), the exercise of Rights and other matters referred to herein;

**AND WHEREAS** this agreement was originally entered into by Enbridge Income Fund and the Rights Agent as of June 30, 2003 (such agreement being referred to herein as the “**Original Agreement**”);

**AND WHEREAS** the Original Agreement was first amended and restated as of May 1, 2006 and such amended and restated version is hereby further amended and restated as provided herein (the Original Agreement, as hereby amended and restated, being referred to herein as the “**Agreement**”);

**NOW THEREFORE**, in consideration of the premises and the respective covenants and agreements set forth herein, and subject to such covenants and agreements, the parties hereby agree as follows:

**ARTICLE 1.  
INTERPRETATION**

1.1 **Certain Definitions**

For purposes of this Agreement, the following terms have the meanings indicated:

- (a) **“Acquiring Person”** shall mean any Person who is the Beneficial Owner of 20% or more of the outstanding Units; provided, however, that the term “Acquiring Person” shall not include:
- (i) the Fund, or any Subsidiary of the Fund;
  - (ii) Enbridge Inc. or any successor to Enbridge Inc., or any Affiliate thereof;
  - (iii) any Person who becomes the Beneficial Owner of 20% or more of the outstanding Units as a result of one or any combination of (A) a Unit Reduction, (B) Permitted Bid Acquisitions, (C) an Exempt Acquisition or (D) Pro Rata Acquisitions; provided, however, that if a Person becomes the Beneficial Owner of 20% or more of the outstanding Units by reason of one or any combination of the operation of Paragraphs (A), (B), (C) or (D) above and such Person’s Beneficial Ownership of Units thereafter increases by more than 1.0% of the number of Units outstanding (other than pursuant to one or any combination of a Unit Reduction, a Permitted Bid Acquisition, an Exempt Acquisition or a Pro Rata Acquisition), then as of the date such Person becomes the Beneficial Owner of such additional Units, such Person shall become an “Acquiring Person”;
  - (iv) for a period of ten days after the Disqualification Date (as defined below), any Person who becomes the Beneficial Owner of 20% or more of the outstanding Units as a result of such Person becoming disqualified from relying on Clause 1.1(f)(v) solely because such Person or the Beneficial Owner of such Units is making or has announced an intention to make a Take-over Bid, either alone or by acting jointly or in concert with any other Person. For the purposes of this definition, “Disqualification Date” means the first date of public announcement that any Person is making or has announced an intention to make a Take-over Bid; or
  - (v) an underwriter or member of a banking or selling group that becomes the Beneficial Owner of 20% or more of the Units in connection with a distribution of securities of the Fund;
- (b) **“Affiliate”**: when used to indicate a relationship with a Person means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such specified Person;
- (c) **“Agreement”** shall mean this unitholder rights plan agreement originally dated as of June 30, 2003, as amended and restated as of May 4, 2009, between the Fund

and the Rights Agent, as the same may be further amended or supplemented from time to time; “hereof”, “herein”, “hereto” and similar expressions mean and refer to this Agreement as a whole and not to any particular part of this Agreement;

- (d) **“annual cash distribution”** shall mean cash distributions paid in any fiscal year of the Fund to the extent that such cash distributions do not exceed, in the aggregate, the greatest of:
- (i) 200 per cent of the aggregate amount of cash distributions declared payable by the Fund on its Units in its immediately preceding fiscal year;
  - (ii) 300 per cent of the arithmetic mean of the aggregate amounts of the annual cash distributions declared payable by the Fund on its Units in its three immediately preceding fiscal years; and
  - (iii) 100 per cent of the aggregate distributable income of the Fund, before extraordinary items, for its immediately preceding fiscal year;
- (e) **“Associate”** means, when used to indicate a relationship with a specified Person, a spouse of that Person, any Person of the same or opposite sex with whom that Person is living in a conjugal relationship outside marriage, a child of that Person or a relative of that Person if that relative has the same residence as that Person;
- (f) A Person shall be deemed the **“Beneficial Owner”** of, and to have **“Beneficial Ownership”** of, and to **“Beneficially Own”**,
- (i) any securities as to which such Person or any of such Person’s Affiliates or Associates is the owner at law or in equity;
  - (ii) any securities as to which such Person or any of such Person’s Affiliates or Associates has the right to become the owner at law or in equity (whether such right is exercisable immediately or within a period of 60 days thereafter and whether or not on condition or the happening of any contingency or the making of any payment) pursuant to any agreement, arrangement, pledge or understanding, whether or not in writing (other than (x) customary agreements with and between underwriters and/or banking group members and/or selling group members with respect to a public offering or private placement of securities and (y) pledges of securities in the ordinary course of business), or upon the exercise of any conversion right, exchange right, unit purchase right (other than the Rights), warrant or option; or
  - (iii) any securities which are Beneficially Owned within the meaning of Clauses 1.1(f)(i) and (ii) by any other Person with whom such Person is acting jointly or in concert;

provided, however, that a Person shall not be deemed the **“Beneficial Owner”** of, or to have **“Beneficial Ownership”** of, or to **“Beneficially Own”**, any security:

- (iv) where such security has been, or has been agreed to be, deposited or tendered pursuant to a Lock-up Agreement, or is otherwise deposited or tendered to any Take-over Bid made by such Person, made by any of such Person's Affiliates or Associates or made by any other Person acting jointly or in concert with such Person until such deposited or tendered security has been taken up or paid for, whichever shall first occur;
- (v) where such Person, any of such Person's Affiliates or Associates or any other Person acting jointly or in concert with such Person holds such security provided that:
  - A. the ordinary business of any such Person (the "**Investment Manager**") includes the management of investment funds for others (which others, for greater certainty, may include or be limited to one or more employee benefit plans or pension plans) and such security is held by the Investment Manager in the ordinary course of such business in the performance of such Investment Manager's duties for the account of any other Person (a "**Client**"), including non-discretionary accounts held on behalf of a Client by a broker or dealer appropriately registered under applicable law;
  - B. such Person (the "**Trust Company**") is licensed to carry on the business of a trust company under applicable laws and, as such, acts as trustee or administrator or in a similar capacity in relation to the estates of deceased or incompetent Persons (each an "**Estate Account**") or in relation to other accounts (each an "**Other Account**") and holds such security in the ordinary course of such duties for the estate of any such deceased or incompetent Person or for such Other Accounts;
  - C. such Person is established by statute for purposes that include, and the ordinary business or activity of such Person (the "**Statutory Body**") includes, the management of investment funds for employee benefit plans, pension plans, insurance plans or various public bodies;
  - D. such Person (the "**Administrator**") is the administrator or trustee of one or more pension funds or plans (a "**Plan**"), or is a Plan, registered under the laws of Canada or any Province thereof or the laws of the United States of America or any State thereof;
  - E. such Person (the "**Crown Agent**") is a Crown agent or agency; or
  - F. such Person (the "**Manager**") is the manager or trustee of a mutual fund ("**Mutual Fund**") that is registered or qualified to issue its securities to investors under the securities laws of any province of

Canada or the laws of the United States of America or is a Mutual Fund.

provided, in any of the above cases, that the Investment Manager, the Trust Company, the Statutory Body, the Administrator, the Plan, the Crown Agent, the Manager or the Mutual Fund, as the case may be, is not then making a Take-over Bid or has not then announced an intention to make a Take-over Bid alone or acting jointly or in concert with any other Person, other than an Offer to Acquire Units or other securities (x) pursuant to a distribution by the Fund, (y) by means of a Permitted Bid or (z) by means of ordinary market transactions (including prearranged trades entered into in the ordinary course of business of such Person) executed through the facilities of a stock exchange or organized over-the-counter market;

- (vi) where such Person is (A) a Client of the same Investment Manager as another Person on whose account the Investment Manager holds such security, (B) an Estate Account or an Other Account of the same Trust Company as another Person on whose account the Trust Company holds such security or (C) a Plan with the same Administrator as another Plan on whose account the Administrator holds such security;
- (vii) where such Person is (A) a Client of an Investment Manager and such security is owned at law or in equity by the Investment Manager, (B) an Estate Account or an Other Account of a Trust Company and such security is owned at law or in equity by the Trust Company or (C) a Plan and such security is owned at law or in equity by the Administrator of the Plan; or
- (viii) where such Person is a registered holder of such security as a result of carrying on the business of, or acting as a nominee of, a securities depository;
- (g) **“Business Day”** shall mean any day other than a Saturday, Sunday or a day on which banking institutions in Calgary are authorized or obligated by law to close;
- (h) **“Canadian Dollar Equivalent”** of any amount which is expressed in United States Dollars means, on any date, the Canadian dollar equivalent of such amount determined by multiplying such amount by the U.S. - Canadian Exchange Rate in effect on such date;
- (i) **“close of business”** on any given date shall mean the time on such date (or, if such date is not a Business Day, the time on the next succeeding Business Day) at which the principal transfer office in Calgary of the transfer agent for the Units of the Fund (or, after the Separation Time, the principal transfer office in Calgary of the Rights Agent) is closed to the public;
- (j) **“Competing Permitted Bid”** means a Take-over Bid that:

- (i) is made after a Permitted Bid has been made and prior to the expiry of the Permitted Bid;
  - (ii) satisfies all components of the definition of a Permitted Bid other than the requirements set out in Clause 1.1(hh)(ii)(A) of the definition of a Permitted Bid; and
  - (iii) contains, and the take-up and payment for securities tendered or deposited is subject to, an irrevocable and unqualified condition that no Units will be taken up or paid for pursuant to the Take-over Bid prior to the close of business on a date that is no earlier than the later of: (A) the 60th day after the date on which the earliest Permitted Bid which preceded the Competing Permitted Bid was made; and (B) 35 days after the date of the Take-over Bid constituting the Competing Permitted Bid;
- (k) **“controlled”**: a Person is “controlled” by another Person or two or more other Persons acting jointly or in concert if:
- (i) in the case of a body corporate, securities entitled to vote in the election of directors of such body corporate carrying more than 50% of the votes for the election of directors are held, directly or indirectly, by or for the benefit of the other Person or Persons and the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of such body corporate; or
  - (ii) in the case of a Person that is not a body corporate, more than 50% of the voting or equity interests of such entity are held, directly or indirectly, by or for the benefit of the other Person or Persons;
- and “controls”, “controlling” and “under common control with” shall be interpreted accordingly;
- (l) **“Co-Rights Agents”** shall have the meaning ascribed thereto in Subsection 4.1(a);
  - (m) **“Disposition Date”** shall have the meaning ascribed thereto in Subsection 5.1(h);
  - (n) **“Distribution Reinvestment Acquisition”** shall mean an acquisition of Units pursuant to a Distribution Reinvestment Plan;
  - (o) **“Distribution Reinvestment Plan”** means a regular distribution reinvestment or other plan of the Fund made available by the Fund to holders of its securities where such plan permits the holder to direct that some or all of:
    - (i) distributions paid in respect of Units;
    - (ii) proceeds of redemption of Units;

- (iii) interest paid on evidences of indebtedness of the Fund; or
- (iv) optional cash payments;

be applied to the purchase from the Fund of Units;

- (p) **“ECT Trustees”** means the individual trustees of Enbridge Commercial Trust, an unincorporated open-ended trust established under the laws of Alberta, from time to time;
- (q) **“Election to Exercise”** shall have the meaning ascribed thereto in Clause 2.2(d)(ii);
- (r) **“Effective Date”** means the date of this Agreement;
- (s) **“Exempt Acquisition”** means a Unit acquisition in respect of which the ECT Trustees have waived the application of Section 3.1 pursuant to the provisions of Subsection 5.1(a) or (h);
- (t) **“Exercise Price”** shall mean, as of any date, the price at which a holder may purchase the securities issuable upon exercise of one whole Right which, until adjustment thereof in accordance with the terms hereof, shall be \$50;
- (u) **“Expansion Factor”** shall have the meaning ascribed thereto in Clause 2.3(a)(x);
- (v) **“Expiration Time”** shall mean the date of termination of this Agreement pursuant to Section 5.16;
- (w) **“Flip-in Event”** shall mean a transaction in or pursuant to which any Person becomes an Acquiring Person;
- (x) **“Fund Indenture”** means the amended and restated trust indenture of Enbridge Income Fund dated May 1, 2006, as amended, restated and supplemented from time to time;
- (y) **“holder”** shall have the meaning ascribed thereto in Section 2.8;
- (z) **“Independent Unitholders”** shall mean holders of Units, other than:
  - (i) any Acquiring Person;
  - (ii) any Offeror (other than any Person who by virtue of Clause 1.1(f)(v) is not deemed to Beneficially Own the Units held by such Person);
  - (iii) any Affiliate or Associate of any Acquiring Person or Offeror;
  - (iv) any Person acting jointly or in concert with any Acquiring Person or Offeror; and

- (v) any employee benefit plan, deferred profit sharing plan, unit participation plan and any other similar plan or trust for the benefit of employees or trustees of the Fund or Enbridge Commercial Trust unless the beneficiaries of the plan or trust direct the manner in which the Units are to be voted or withheld from voting or direct whether the Units are to be tendered to a Take-over Bid;
- (aa) **“Lock-Up Agreement”** means an agreement (the terms of which are publicly disclosed and a copy of which is made available to the public (including the Fund and Enbridge Commercial Trust)):
  - (i) not later than the date on which the Lock-up Bid (as defined below) is publicly announced; or
  - (ii) if the Lock-up Bid has been made prior to the date on which such agreement has been entered into, forthwith and in any event not later than the Business Day following the date of such agreement);

between an Offeror, any of its Affiliates or Associates or any other Person acting jointly or in concert with the Offeror and a Person (the **“Locked-up Person”**) who is not an Affiliate or Associate of the Offeror or a Person acting jointly or in concert with the Offeror whereby the Locked-up Person agrees to deposit or tender Units held by the Locked-up Person to the Offeror’s Take-over Bid or to any Take-over Bid made by any of the Offeror’s Affiliates or Associates or made by any other Person acting jointly or in concert with the Offeror (the **“Lock-up Bid”**), where the agreement:

- (iii)
  - A. permits the Locked-up Person to withdraw Units from the agreement in order to tender or deposit Units to another Take-over Bid, or to support another transaction that provides for a consideration for each Unit that is higher than the consideration contained in or proposed to be contained in the Lock-up Bid; or
  - B. (a) permits the Locked-up Person to withdraw Units from the agreement in order to tender or deposit Units to another Take-over Bid, or to support another transaction that provides for a consideration for each Unit that exceeds by as much as or more than a specified amount (the **“Specified Amount”**) the consideration for each Unit contained in or proposed to be contained in, and is made for at least the same number of Units as, the Lock-up Bid; and (b) does not by its terms provide for a Specified Amount that is greater than 7% over the consideration for each Unit contained in or proposed to be contained in the Lock-up Bid;

and, for greater certainty, the Lock-up Agreement may contain a right of first refusal or require a period of delay to give the Offeror an opportunity to at least

match a higher consideration offered in another Take-over bid or transaction or other similar limitation on a Locked-up Person's rights to withdraw Units from the Lock-up Agreement and not to tender such Units to the Take-over Bid to which the Locked-up Person has agreed to deposit or tender, so long as the limitation does not preclude the exercise by the Locked-up Person of the right to withdraw Units in sufficient time to tender to the other Take-over Bid or participate in the other transaction; and

- (iv) the agreement does not provide for any "break-up fee", "top-up fees", penalties, expenses reimbursement or other similar amounts that exceed in the aggregate the greater of:
  - A. the cash equivalent of 2.5% of the consideration payable under the Take-over Bid to the Locked-up Person; and
  - B. 50% of the amount by which the consideration payable under another Take-over Bid or transaction to a Locked-up Person exceeds the consideration that such Locked-up Person would have received under the Lock-up Bid;

to be paid by a Locked-up Person pursuant to the Lock-up Agreement in the event that the Locked-up Person fails to deposit or tender Units to the Lock-up Bid or withdraws Voting Shares in order to tender to another Take-over Bid or participate in another transaction;

- (bb) **"Market Price"** per unit of any securities on any date of determination shall mean the average of the daily closing prices per unit of such securities (determined as described below) on each of the 20 consecutive Trading Days through and including the Trading Day immediately preceding such date; provided, however, that if an event of a type analogous to any of the events described in Section 2.3 hereof shall have caused the closing prices used to determine the Market Price on any Trading Days not to be fully comparable with the closing price on such date of determination or, if the date of determination is not a Trading Day, on the immediately preceding Trading Day, each such closing price so used shall be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 hereof in order to make it fully comparable with the closing price on such date of determination or, if the date of determination is not a Trading Day, on the immediately preceding Trading Day. The closing price per unit of any securities on any date shall be:
  - (i) the closing board lot sale price or, in case no such sale takes place on such date, the average of the closing bid and asked prices for each of such securities as reported by the principal Canadian stock exchange (as determined by volume of trading) on which such securities are listed or admitted to trading;

- (ii) if for any reason none of such prices is available on such day or the securities are not listed or posted for trading on a Canadian stock exchange, the last sale price or, in case no such sale takes place on such date, the average of the closing bid and asked prices for each of such securities as reported by the principal national United States securities exchange (as determined by volume of trading) on which such securities are listed or admitted to trading;
- (iii) if for any reason none of such prices is available on such day or the securities are not listed or admitted to trading on a Canadian stock exchange or a national United States securities exchange, the last sale price or, in case no sale takes place on such date, the average of the high bid and low asked prices for each of such securities in the over-the-counter market, as quoted by any recognized reporting system then in use; or
- (iv) if for any reason none of such prices is available on such day or the securities are not listed or admitted to trading on a Canadian stock exchange or a national United States securities exchange or quoted by any such reporting system, the average of the closing bid and asked prices as furnished by a recognized professional market maker making a market in the securities;

provided, however, that if for any reason none of such prices is available on such day, the closing price per unit of such securities on such date means the fair value per unit of such securities on such date as determined by a nationally recognized investment dealer or investment banker; and provided further that if an event of a type analogous to any of the events described in Section 2.3 hereof shall have caused any price used to determine the Market Price on any Trading Day not to be fully comparable with the price as so determined on the Trading Day immediately preceding such date of determination, each such price so used shall be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 hereof in order to make it fully comparable with the price on the Trading Day immediately preceding such date of determination. The Market Price shall be expressed in Canadian dollars and, if initially determined in respect of any day forming part of the 20 consecutive Trading Day period in question in United States dollars, such amount shall be translated into Canadian dollars on such date at the Canadian Dollar Equivalent thereof;

- (cc) **“1934 Exchange Act”** means the *Securities Exchange Act of 1934* of the United States, as amended, and the rules and regulations thereunder as now in effect or as the same may from time to time be amended, re-enacted or replaced;
- (dd) **“Nominee”** shall have the meaning ascribed thereto in Subsection 2.2(c);
- (ee) **“Offer to Acquire”** shall include:
  - (i) an offer to purchase or a solicitation of an offer to sell Units; and

- (ii) an acceptance of an offer to sell Units, whether or not such offer to sell has been solicited;

or any combination thereof, and the Person accepting an offer to sell shall be deemed to be making an Offer to Acquire to the Person that made the offer to sell;

- (ff) **“Offeror”** shall mean a Person who has announced, and has not withdrawn, an intention to make or who has made, and has not withdrawn, a Take-over Bid, other than a Person who has completed a Permitted Bid, a Competing Permitted Bid or an Exempt Acquisition;
- (gg) **“Offeror’s Securities”** means Units Beneficially Owned by an Offeror on the date of the Offer to Acquire;
- (hh) **“Permitted Bid”** means a Take-over Bid made by an Offeror by way of take-over bid circular which also complies with the following additional provisions:
  - (i) the Take-over Bid is made to all holders of Units other than the Offeror;
  - (ii) the Take-over Bid contains, and the take-up and payment for securities tendered or deposited is subject to, an irrevocable and unqualified provision that no Units will be taken up or paid for pursuant to the Take-over Bid (A) prior to the close of business on the date which is not less than 60 days following the date of the Take-over Bid and (B) only if at such date more than 50% of the Units held by Independent Unitholders shall have been deposited or tendered pursuant to the Take-over Bid and not withdrawn;
  - (iii) unless the Take-over Bid is withdrawn, the Take-over Bid contains an irrevocable and unqualified provision that Units may be deposited pursuant to such Take-over Bid at any time during the period of time described in Clause 1.1(hh)(ii)(A) and that any Units deposited pursuant to the Take-over Bid may be withdrawn until taken up and paid for; and
  - (iv) the Take-over Bid contains an irrevocable and unqualified provision that in the event that the deposit condition set forth in Clause 1.1(hh)(ii)(B) is satisfied the Offeror will make a public announcement of that fact and the Take-over Bid will remain open for deposits and tenders of Units for not less than ten Business Days from the date of such public announcement;
- (ii) **“Permitted Bid Acquisition”** shall mean an acquisition of Units made pursuant to a Permitted Bid or a Competing Permitted Bid;
- (jj) **“Person”** shall include any individual, firm, partnership, association, trust, trustee, executor, administrator, legal personal representative, body corporate, corporation, unincorporated organization, syndicate, a government and its agencies or instrumentalities and any entity or group whether or not having legal personality;

- (kk) **“Pro Rata Acquisition”** means an acquisition by a Person of Units pursuant to:
- (i) a Distribution Reinvestment Acquisition;
  - (ii) a unit distribution, unit split or other event in respect of securities of the Fund of one or more particular classes or series pursuant to which such Person becomes the Beneficial Owner of Units on the same pro rata basis as all other holders of securities of the particular class, classes or series;
  - (iii) the acquisition or the exercise by the Person of only those rights to purchase Units distributed directly by the Fund to that Person (and not acquired from any other person) in the course of a distribution to all holders of securities of the Fund of one or more particular classes or series pursuant to a rights offering or pursuant to a prospectus, provided that the Person does not thereby acquire a greater percentage of Units, or securities convertible into or exchangeable for Units, than the Person’s percentage of Units Beneficially Owned immediately prior to such acquisition; or
  - (iv) a distribution of Units, or securities convertible into or exchangeable for Units (and the conversion or exchange of such convertible or exchangeable securities), made pursuant to a prospectus or by way of a private placement or securities exchange take-over bid, provided that the Person does not thereby acquire a greater percentage of such Units, or securities convertible into or exchangeable for Units, so offered than the Person’s percentage of Units Beneficially Owned immediately prior to such acquisition;
- (ll) **“Record Time”** has the meaning set forth in Subsection 2.1(a);
- (mm) **“Right”** means a right to purchase a Unit of the Fund upon the terms and subject to the conditions set forth in this Agreement;
- (nn) **“Rights Certificate”** means the certificates representing the Rights after the Separation Time, which shall be substantially in the form attached hereto as Attachment 1;
- (oo) **“Rights Holders’ Special Meeting”** means a meeting of the holders of Rights called by the ECT Trustees for the purpose of approving an amendment to this Agreement pursuant to Subsection 5.4(c);
- (pp) **“Rights Register”** shall have the meaning ascribed thereto in Subsection 2.6(a);
- (qq) **“Securities Act (Alberta)”** shall mean the *Securities Act*, R.S.A. 2000, c.S-4, as amended, and the regulations thereunder, and any comparable or successor laws or regulations thereto;
- (rr) **“Separation Time”** shall mean the close of business on the eighth Trading Day after the earlier of:

- (i) the Unit Acquisition Date;
  - (ii) the date of the commencement of or first public announcement of the intent of any Person (other than the Fund or any Subsidiary of the Fund) to commence a Take-over Bid (other than a Permitted Bid or a Competing Permitted Bid), or such later time as may be determined by the ECT Trustees, provided that, if any Take-over Bid referred to in this Clause (ii) expires, is cancelled, terminated or otherwise withdrawn prior to the Separation Time, such Take-over Bid shall be deemed, for the purposes of this definition, never to have been made; and
  - (iii) the date on which a Permitted Bid or Competing Permitted Bid ceases to be such;
- (ss) **“Subsidiary”**: a corporation is a Subsidiary of another corporation or Person if:
- (i) it is controlled by:
    - A. that other; or
    - B. that other and one or more corporations each of which is controlled by that other; or
    - C. two or more corporations each of which is controlled by that other; or
  - (ii) it is a Subsidiary of a corporation or Person that is that other’s Subsidiary;
- (tt) **“Take-over Bid”** shall mean an Offer to Acquire Units, or securities convertible into Units if, assuming that the Units or convertible securities subject to the Offer to Acquire are acquired and are Beneficially Owned at the date of such Offer to Acquire by the Person making such Offer to Acquire, such Units (including Units that may be acquired upon conversion of securities convertible into Units) together with the Offeror’s Securities, constitute in the aggregate 20% or more of the outstanding Units at the date of the Offer to Acquire;
- (uu) **“Trading Day”**, when used with respect to any securities, shall mean a day on which the principal Canadian stock exchange on which such securities are listed or admitted to trading is open for the transaction of business or, if the securities are not listed or admitted to trading on any Canadian stock exchange, a Business Day;
- (vv) **“Unit Acquisition Date”** shall mean the first date of public announcement (which, for purposes of this definition, shall include, without limitation, a report filed pursuant to section 182 of the *Securities Act* (Alberta) or Section 13(d) of the *1934 Exchange Act*) by the Fund or an Acquiring Person that an Acquiring Person has become such;

- (ww) **“Unit Reduction”** means an acquisition or redemption by the Fund of Units which, by reducing the number of Units outstanding, increases the proportionate number of Units Beneficially Owned by any person to 20% or more of the Units then outstanding;
- (xx) **“Units”** means the trust units of the Fund, including, without limitation, Ordinary Units and Subordinated Units (as such terms are defined in the Fund Indenture), created, issued and certified under the Fund Indenture and for the time being outstanding and entitled to the benefits of the Fund Indenture; and
- (yy) **“U.S.-Canadian Exchange Rate”** means, on any date:
- (i) if on such date the Bank of Canada sets an average noon spot rate of exchange for the conversion of one United States dollar into Canadian dollars, such rate; and
  - (ii) in any other case, the rate for such date for the conversion of one United States dollar into Canadian dollars calculated in such manner as may be determined by the ECT Trustees from time to time acting in good faith.

## 1.2 **Currency**

All sums of money which are referred to in this Agreement are expressed in lawful money of Canada, unless otherwise specified.

## 1.3 **Headings**

The division of this Agreement into Articles, Sections, Subsections, Clauses, Paragraphs, Subparagraphs or other portions hereof and the insertion of headings, subheadings and a table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## 1.4 **Calculation of Number and Percentage of Beneficial Ownership of Outstanding Units**

For purposes of this Agreement, the percentage of Units Beneficially Owned by any Person, shall be and be deemed to be the product (expressed as a percentage) determined by the formula:

$$100 \times A/B$$

where:

A = the number of votes on matters subject to approval by unitholders generally attaching to the Units Beneficially Owned by such person; and

B = the number of votes on matters subject to approval by unitholders generally attaching to all outstanding Units.

Where any Person is deemed to Beneficially Own unissued Units, such Units shall be deemed to be outstanding for the purpose of calculating the percentage of Units Beneficially Owned by such Person.

#### 1.5 **Acting Jointly or in Concert**

For the purposes hereof, a Person is acting jointly or in concert with every Person who, as a result of any agreement, commitment or understanding, whether formal or informal, with the first Person or any Associate or Affiliate thereof, acquires or offers to acquire Units (other than customary agreements with and between underwriters and/or banking group members and/or selling group members with respect to a public offering or private placement of securities or pledges of securities in the ordinary course of business).

#### 1.6 **Generally Accepted Accounting Principles**

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be the recommendations at the relevant time of the Canadian Institute of Chartered Accountants, or any successor institute, applicable on a consolidated basis (unless otherwise specifically provided herein to be applicable on an unconsolidated basis) as at the date on which a calculation is made or required to be made in accordance with generally accepted accounting principles. Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made for the purpose of this Agreement or any document, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with generally accepted accounting principles applied on a consistent basis.

#### 1.7 **General Limitation of Liability and Indemnification**

The parties hereto acknowledge that Enbridge Commercial Trust is entering into this agreement solely in its capacity as agent on behalf of the Fund and the obligations of the Fund hereunder shall not be personally binding upon CIBC Mellon Trust Company as Trustee under the Fund Indenture, the Fund, the Rights Agent, Enbridge Commercial Trust, the ECT Trustees, Enbridge Management Services Inc., or any of the unitholders of the Fund (“Unitholder”) or any annuitant, subscriber or beneficiary under a plan of which a Unitholder is a trustee or carrier (an “annuitant”) and that any recourse against CIBC Mellon Trust Company as Trustee under the Fund Indenture, the Fund, the Rights Agent, Enbridge Commercial Trust, the ECT Trustees, Enbridge Management Services Inc., any Unitholder or annuitant 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 agreement relates, if any, including without limitation claims based on negligence or otherwise tortious behaviour, shall be limited to, and satisfied only out of, the Fund Property as defined in the Fund Indenture.

## **ARTICLE 2. THE RIGHTS**

### **2.1 Issue of Rights; Legend on Unit Certificates**

- (a) One Right shall be issued on the Effective Date in respect of each Unit of the Fund issued on the Effective Date (the time of issue of such Rights being herein called the “Record Time”) and one Right shall be issued in respect of each Unit of the Fund issued after the Record Time and prior to the earlier of the Separation Time and the Expiration Time.
- (b) Certificates representing Units which are issued at and after the Record Time but prior to the earlier of the Separation Time and the Expiration Time, shall also evidence one Right for each Unit represented thereby and shall have impressed on, printed on, written on or otherwise affixed to them a legend in a form substantially to the following effect:

“Until the Separation Time (defined in the Unitholder Rights Agreement referred to below), this certificate also evidences rights of the holder described in a Unitholder Rights Plan Agreement dated as of June 30, 2003 (the “Unitholder Rights Agreement”) between Enbridge Income Fund (the “Fund”) and CIBC Mellon Trust Company, as supplemented and amended, the terms of which are incorporated herein by reference and a copy of which is on file at the principal executive offices of Enbridge Management Services Inc., the administrator of the Fund. Under certain circumstances set out in the Unitholder Rights Agreement, the rights may expire, may become null and void or may be evidenced by separate certificates and no longer evidenced by this certificate. The Fund will mail or arrange for the mailing of a copy of the Unitholder Rights Agreement to the holder of this certificate without charge as soon as practicable after the receipt of a written request therefor.”

### **2.2 Initial Exercise Price; Exercise of Rights; Detachment of Rights**

- (a) Subject to adjustment as herein set forth, each Right will entitle the holder thereof, from and after the Separation Time and prior to the Expiration Time, to purchase one Unit for the Exercise Price (and the Exercise Price and number of Units are subject to adjustment as set forth below). Notwithstanding any other provision of this Agreement, any Rights held by the Fund or any of its Subsidiaries shall be void.
- (b) Until the Separation Time,
  - (i) the Rights shall not be exercisable and no Right may be exercised; and

- (ii) each Right will be evidenced by the certificate for the associated Unit of the Fund registered in the name of the holder thereof (which certificate shall also be deemed to represent a Rights Certificate) and will be transferable only together with, and will be transferred by a transfer of, such associated Unit.
- (c) From and after the Separation Time and prior to the Expiration Time:
- (i) the Rights shall be exercisable; and
  - (ii) the registration and transfer of Rights shall be separate from and independent of Units.

Promptly following the Separation Time, the Fund will prepare and the Rights Agent will mail to each holder of record of Units as of the Separation Time (other than an Acquiring Person and, in respect of any Rights Beneficially Owned by such Acquiring Person which are not held of record by such Acquiring Person, the holder of record of such Rights (a "Nominee")) at such holder's address as shown by the records of the Fund (the Fund hereby agreeing to furnish copies of such records to the Rights Agent for this purpose):

- (x) a Rights Certificate appropriately completed, representing the number of Rights held by such holder at the Separation Time and having such marks of identification or designation and such legends, summaries or endorsements printed thereon as the Fund may deem appropriate and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any law, rule or regulation or with any rule or regulation of any self-regulatory organization, stock exchange or quotation system on which the Rights may from time to time be listed or traded, or to conform to usage; and
- (y) a disclosure statement describing the Rights,

provided that a Nominee shall be sent the materials provided for in (x) and (y) in respect of all Units of the Fund held of record by it which are not Beneficially Owned by an Acquiring Person.

- (d) Rights may be exercised, in whole or in part, on any Business Day after the Separation Time and prior to the Expiration Time by submitting to the Rights Agent:
- (i) the Rights Certificate evidencing such Rights;
  - (ii) an election to exercise such Rights (an "Election to Exercise") substantially in the form attached to the Rights Certificate appropriately completed and executed by the holder or his executors or administrators or other personal representatives or his or their legal attorney duly appointed

by an instrument in writing in form and executed in a manner satisfactory to the Rights Agent; and

- (iii) payment by certified cheque, banker's draft or money order payable to the order of the Fund, of a sum equal to the Exercise Price multiplied by the number of Rights being exercised and a sum sufficient to cover any transfer tax or charge which may be payable in respect of any transfer involved in the transfer or delivery of Rights Certificates or the issuance or delivery of certificates for Units in a name other than that of the holder of the Rights being exercised.
- (e) Upon receipt of a Rights Certificate, together with a completed Election to Exercise executed in accordance with Clause 2.2(d)(ii), which does not indicate that such Right is null and void as provided by Subsection 3.1(b), and payment as set forth in Clause 2.2(d)(iii), the Rights Agent (unless otherwise instructed by the ECT Trustees on behalf of the Fund in the event that the ECT Trustees on behalf of the Fund are of the opinion that the Rights cannot be exercised in accordance with this Agreement) will thereupon promptly:
- (i) requisition from the transfer agent certificates representing the number of such Units to be purchased (the Fund hereby irrevocably authorizing its transfer agent to comply with all such requisitions);
  - (ii) when appropriate, requisition from the Fund the amount of cash to be paid in lieu of issuing fractional Units;
  - (iii) after receipt of the certificates referred to in Clause 2.2(e)(i), deliver the same to or upon the order of the registered holder of such Rights Certificates, registered in such name or names as may be designated by such holder;
  - (iv) when appropriate, after receipt, deliver the cash referred to in Clause 2.2(e)(ii) to or to the order of the registered holder of such Rights Certificate; and
  - (v) remit to the Fund all payments received on exercise of the Rights.
- (f) In case the holder of any Rights shall exercise less than all the Rights evidenced by such holder's Rights Certificate, a new Rights Certificate evidencing the Rights remaining unexercised (subject to the provisions of Subsection 5.5(a)) will be issued by the Rights Agent to such holder or to such holder's duly authorized assigns.
- (g) The Fund covenants and agrees that it will:
- (i) take all such action as may be necessary and within its power to ensure that all Units delivered upon exercise of Rights shall, at the time of delivery of the certificates for such Units (subject to payment of the

Exercise Price), be duly and validly authorized, executed, issued and delivered as fully paid and non-assessable;

- (ii) take all such action as may be necessary and within its power to comply with the requirements of the Fund Indenture, the *Securities Act* (Alberta) and the securities laws or comparable legislation of each of the provinces of Canada and any other applicable law, rule or regulation, in connection with the issuance and delivery of the Rights Certificates and the issuance of any Units upon exercise of Rights;
- (iii) use reasonable efforts to cause all Units issued upon exercise of Rights to be listed on the stock exchanges on which such Units were traded immediately prior to the Unit Acquisition Date;
- (iv) cause to be reserved and kept available out of the authorized and unissued Units, the number of Units that, as provided in this Agreement, will from time to time be sufficient to permit the exercise in full of all outstanding Rights;
- (v) pay when due and payable, if applicable, any and all federal, provincial and municipal transfer taxes and charges (not including any income or capital taxes of the holder or exercising holder or any liability of the Fund to withhold tax) which may be payable in respect of the original issuance or delivery of the Rights Certificates, or certificates for Units to be issued upon exercise of any Rights, provided that the Fund shall not be required to pay any transfer tax or charge which may be payable in respect of any transfer involved in the transfer or delivery of Rights Certificates or the issuance or delivery of certificates for Units in a name other than that of the holder of the Rights being transferred or exercised; and
- (vi) after the Separation Time, except as permitted by Section 5.1, not take (or permit any Subsidiary to take) any action if at the time such action is taken it is reasonably foreseeable that such action will diminish substantially or otherwise eliminate the benefits intended to be afforded by the Rights.

### 2.3

#### **Adjustments to Exercise Price; Number of Rights**

The Exercise Price, the number and kind of securities subject to purchase upon exercise of each Right and the number of Rights outstanding are subject to adjustment from time to time as provided in this Section 2.3.

- (a) In the event the Fund shall at any time after the date of this Agreement:
  - (i) declare or pay a distribution on Units payable in Units (or other securities exchangeable for or convertible into or giving a right to acquire Units or other securities of the Fund) other than pursuant to any optional unit distribution program;

- (ii) subdivide or change the then outstanding Units into a greater number of Units;
- (iii) consolidate or change the then outstanding Units into a smaller number of Units; or
- (iv) issue any Units (or other securities exchangeable for or convertible into or giving a right to acquire Units or other securities of the Fund) in respect of, in lieu of or in exchange for existing Units except as otherwise provided in this Section 2.3,

the Exercise Price and the number of Rights outstanding, or, if the payment or effective date therefor shall occur after the Separation Time, the securities purchasable upon exercise of Rights shall be adjusted as of the payment or effective date in the manner set forth below.

If the Exercise Price and number of Rights outstanding are to be adjusted:

- (x) the Exercise Price in effect after such adjustment will be equal to the Exercise Price in effect immediately prior to such adjustment divided by the number of Units (or other securities) (the “Expansion Factor”) that a holder of one Unit immediately prior to such distribution, subdivision, change, consolidation or issuance would hold thereafter as a result thereof; and
- (y) each Right held prior to such adjustment will become that number of Rights equal to the Expansion Factor,

and the adjusted number of Rights will be deemed to be distributed among the Units with respect to which the original Rights were associated (if they remain outstanding) and the units issued in respect of such distribution, subdivision, change, consolidation or issuance, so that each such Unit (or other security) will have exactly one Right associated with it.

For greater certainty, if the securities purchasable upon exercise of Rights are to be adjusted, the securities purchasable upon exercise of each Right after such adjustment will be the securities that a holder of the securities purchasable upon exercise of one Right immediately prior to such distribution, subdivision, change, consolidation or issuance would hold thereafter as a result of such distribution, subdivision, change, consolidation or issuance.

If, after the Record Time and prior to the Expiration Time, the Fund shall issue any units of securities other than Units in a transaction of a type described in Clause 2.3(a)(i) or (iv), units of such securities shall be treated herein as nearly equivalent to Units as may be practicable and appropriate under the circumstances and the Fund and the Rights Agent agree to amend this Agreement in order to effect such treatment.

In the event the Fund shall at any time after the Record Time and prior to the Separation Time issue any Units otherwise than in a transaction referred to in this Subsection 2.3(a), each such Unit so issued shall automatically have one new Right associated with it, which Right shall be evidenced by the certificate representing such associated Unit.

- (b) In the event the Fund shall at any time after the Record Time and prior to the Separation Time fix a record date for the issuance of rights, options or warrants to all holders of Units entitling them (for a period expiring within 45 calendar days after such record date) to subscribe for or purchase Units (or securities convertible into or exchangeable for or carrying a right to purchase Units) at a price per Unit (or, if a security convertible into or exchangeable for or carrying a right to purchase or subscribe for Units, having a conversion, exchange or exercise price, including the price required to be paid to purchase such convertible or exchangeable security or right per unit) less than the Market Price per Unit on such record date, the Exercise Price to be in effect after such record date shall be determined by multiplying the Exercise Price in effect immediately prior to such record date by a fraction:
- (i) the numerator of which shall be the number of Units outstanding on such record date, plus the number of Units that the aggregate offering price of the total number of Units so to be offered (and/or the aggregate initial conversion, exchange or exercise price of the convertible or exchangeable securities or rights so to be offered, including the price required to be paid to purchase such convertible or exchangeable securities or rights) would purchase at such Market Price per Unit; and
  - (ii) the denominator of which shall be the number of Units outstanding on such record date, plus the number of additional Units to be offered for subscription or purchase (or into which the convertible or exchangeable securities or rights so to be offered are initially convertible, exchangeable or exercisable).

In case such subscription price may be paid by delivery of consideration, part or all of which may be in a form other than cash, the value of such consideration shall be as determined in good faith by the ECT Trustees, whose determination shall be described in a statement filed with the Rights Agent and shall be binding on the Rights Agent and the holders of Rights. Such adjustment shall be made successively whenever such a record date is fixed, and in the event that such rights, options or warrants are not so issued, or if issued, are not exercised prior to the expiration thereof, the Exercise Price shall be readjusted to the Exercise Price which would then be in effect if such record date had not been fixed, or to the Exercise Price which would be in effect based upon the number of Units (or securities convertible into, or exchangeable or exercisable for Units) actually issued upon the exercise of such rights, options or warrants, as the case may be.

For purposes of this Agreement, the granting of the right to purchase Units (whether from treasury or otherwise) pursuant to the Distribution Reinvestment Plan or any employee benefit, option or similar plans shall be deemed not to constitute an issue of rights, options or warrants by the Fund; provided, however, that, in all such cases, the right to purchase Units is at a price per unit of not less than 95 per cent of the current market price per security (determined as provided in such plans) of the Units.

- (c) In the event the Fund shall at any time after the Record Time and prior to the Separation Time fix a record date for the making of a distribution to all holders of Units (including any such distribution made in connection with a merger or amalgamation) of evidences of indebtedness, cash (other than an annual cash distribution or a distribution referred to in Section 2.3(a)(i), but including any distribution payable in other securities of the Fund), assets or rights, options or warrants (excluding those referred to in Subsection 2.3(b)), the Exercise Price to be in effect after such record date shall be determined by multiplying the Exercise Price in effect immediately prior to such record date by a fraction:
- (i) the numerator of which shall be the Market Price per Unit on such record date, less the fair market value (as determined in good faith by the ECT Trustees, whose determination shall be described in a statement filed with the Rights Agent and shall be binding on the Rights Agent and the holders of Rights), on a per unit basis, of the portion of the cash, assets, evidences of indebtedness, rights, options or warrants so to be distributed; and
  - (ii) the denominator of which shall be such Market Price per Unit.

Such adjustments shall be made successively whenever such a record date is fixed, and in the event that such a distribution is not so made, the Exercise Price shall be adjusted to be the Exercise Price which would have been in effect if such record date had not been fixed.

- (d) Notwithstanding anything herein to the contrary, no adjustment in the Exercise Price shall be required unless such adjustment would require an increase or decrease of at least one per cent in the Exercise Price; provided, however, that any adjustments which by reason of this Subsection 2.3(d) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under Section 2.3 shall be made to the nearest cent or to the nearest ten-thousandth of a unit. Notwithstanding the first sentence of this Subsection 2.3(d), any adjustment required by Section 2.3 shall be made no later than the earlier of:
- (i) three years from the date of the transaction which gives rise to such adjustment; or
  - (ii) the Expiration Date.

- (e) In the event the Fund shall at any time after the Record Time and prior to the Separation Time issue any securities in the capital of the Fund (other than Units), or rights, options or warrants to subscribe for or purchase any such securities, or securities convertible into or exchangeable for any such securities, in a transaction referred to in Clause 2.3(a)(i) or (iv), if the ECT Trustees acting in good faith determine that the adjustments contemplated by Subsections 2.3(a), (b) and (c) in connection with such transaction will not appropriately protect the interests of the holders of Rights, the ECT Trustees may determine what other adjustments to the Exercise Price, number of Rights and/or securities purchasable upon exercise of Rights would be appropriate and, notwithstanding Subsections 2.3(a), (b) and (c) above, such adjustments, rather than the adjustments contemplated by Subsections 2.3(a), (b) and (c) above, shall be made. Subject to the prior consent of the holders of the Units or the Rights obtained as set forth in Subsection 5.4(b) or (c), the Fund and the Rights Agent shall have authority to amend this Agreement as appropriate to provide for such adjustments.
- (f) Each Right originally issued by the Fund subsequent to any adjustment made to the Exercise Price hereunder shall evidence the right to purchase, at the adjusted Exercise Price, the number of Units purchasable from time to time hereunder upon exercise of a Right immediately prior to such issue, all subject to further adjustment as provided herein.
- (g) Irrespective of any adjustment or change in the Exercise Price or the number of Units issuable upon the exercise of the Rights, the Rights Certificates theretofore and thereafter issued may continue to express the Exercise Price per Unit and the number of Units which were expressed in the initial Rights Certificates issued hereunder.
- (h) In any case in which this Section 2.3 shall require that an adjustment in the Exercise Price be made effective as of a record date for a specified event, the Fund may elect to defer until the occurrence of such event the issuance to the holder of any Right exercised after such record date the number of Units and other securities of the Fund, if any, issuable upon such exercise over and above the number of Units and other securities of the Fund, if any, issuable upon such exercise on the basis of the Exercise Price in effect prior to such adjustment; provided, however, that the Fund shall deliver to such holder an appropriate instrument evidencing such holder's right to receive such additional Units (fractional or otherwise) or other securities upon the occurrence of the event requiring such adjustment.
- (i) Notwithstanding anything contained in this Section 2.3 to the contrary, the Fund shall be entitled to make such reductions in the Exercise Price, in addition to those adjustments expressly required by this Section 2.3, as and to the extent that in their good faith judgment the ECT Trustees shall determine to be advisable, in order that any:
  - (i) consolidation or subdivision of Units;

- (ii) issuance (wholly or in part for cash) of Units or securities that by their terms are convertible into or exchangeable for Units;
- (iii) unit distributions; or
- (iv) issuance of rights, options or warrants referred to in this Section 2.3;

hereafter made by the Fund to holders of its Units, shall not be taxable to such unitholders.

- (j) Whenever an adjustment to the Exercise Price or a change in the securities purchasable upon exercise of the Rights is made at any time after the Separation Time pursuant to this Section 2.3, the Fund shall promptly:
  - (i) file with the Rights Agent and with the transfer agent for the Units, a certificate specifying the particulars of such adjustment or change; and
  - (ii) cause notice of the particulars of such adjustment or change to be given to the holders of the Rights;
  - (iii) provided that failure to file such certificate or cause such notice to be given as aforesaid, or any defect therein, shall not affect the validity of any such adjustment or change.

#### 2.4 **Date on Which Exercise Is Effective**

Each Person in whose name any certificate for Units or other securities, if applicable, is issued upon the exercise of Rights shall for all purposes be deemed to have become the holder of record of the Units or other securities, if applicable, represented thereon, and such certificate shall be dated the date upon which the Rights Certificate evidencing such Rights was duly surrendered in accordance with Subsection 2.2(d) (together with a duly completed Election to Exercise) and payment of the Exercise Price for such Rights (and any applicable transfer taxes and other governmental charges payable by the exercising holder hereunder) was made; provided, however, that if the date of such surrender and payment is a date upon which the Unit transfer books of the Fund are closed, such Person shall be deemed to have become the record holder of such units on, and such certificate shall be dated, the next succeeding Business Day on which the Unit transfer books of the Fund are open.

#### 2.5 **Execution, Authentication, Delivery and Dating of Rights Certificates**

- (a) The Rights Certificates shall be executed on behalf of the Fund by an authorized officer of its administrator, Enbridge Management Services Inc. The signature of any authorized officer of Enbridge Management Services Inc. on the Rights Certificates may be manual or facsimile. Rights Certificates bearing the manual or facsimile signatures of individuals who were at any time the proper officers of Enbridge Management Services Inc. shall bind the Fund, notwithstanding that such individuals or any of them have ceased to hold such offices either before or after the countersignature and delivery of such Rights Certificates.

- (b) Promptly after the Fund learns of the Separation Time, the Fund will notify the Rights Agent of such Separation Time and will deliver Rights Certificates executed by the Fund to the Rights Agent for countersignature, and the Rights Agent shall manually or facsimile countersign (in a manner satisfactory to the Fund) and send such Rights Certificates to the holders of the Rights pursuant to Subsection 2.2(c) hereof. No Rights Certificate shall be valid for any purpose until countersigned by the Rights Agent as aforesaid.
- (c) Each Rights Certificate shall be dated the date of countersignature thereof.

## 2.6 **Registration, Transfer and Exchange**

- (a) The Fund will cause to be kept a register (the “Rights Register”) in which, subject to such reasonable regulations as it may prescribe, the Fund will provide for the registration and transfer of Rights. The Rights Agent is hereby appointed registrar for the Rights (the “Rights Registrar”) for the purpose of maintaining the Rights Register for the Fund and registering Rights and transfers of Rights as herein provided and the Rights Agent hereby accepts such appointment. In the event that the Rights Agent shall cease to be the Rights Registrar, the Rights Agent will have the right to examine the Rights Register at all reasonable times.

After the Separation Time and prior to the Expiration Time, upon surrender for registration of transfer or exchange of any Rights Certificate, and subject to the provisions of Subsection 2.6(c), the Fund will execute, and the Rights Agent will manually countersign and deliver, in the name of the holder or the designated transferee or transferees, as required pursuant to the holder’s instructions, one or more new Rights Certificates evidencing the same aggregate number of Rights as did the Rights Certificates so surrendered.

- (b) All Rights issued upon any registration of transfer or exchange of Rights Certificates shall be the valid obligations of the Fund, and such Rights shall be entitled to the same benefits under this Agreement as the Rights surrendered upon such registration of transfer or exchange.
- (c) Every Rights Certificate surrendered for registration of transfer or exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Fund or the Rights Agent, as the case may be, duly executed by the holder thereof or such holder’s attorney duly authorized in writing. As a condition to the issuance of any new Rights Certificate under this Section 2.6, the Fund may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the reasonable fees and expenses of the Rights Agent) connected therewith.

## 2.7 **Mutilated, Destroyed, Lost and Stolen Rights Certificates**

- (a) If any mutilated Rights Certificate is surrendered to the Rights Agent prior to the Expiration Time, the Fund shall execute and the Rights Agent shall countersign

and deliver in exchange therefor a new Rights Certificate evidencing the same number of Rights as did the Rights Certificate so surrendered.

- (b) If there shall be delivered to the Fund and the Rights Agent prior to the Expiration Time:
  - (i) evidence to their reasonable satisfaction of the destruction, loss or theft of any Rights Certificate; and
  - (ii) such security or indemnity as may be reasonably required by them to save each of them and any of their agents harmless;

then, in the absence of notice to the Fund or the Rights Agent that such Rights Certificate has been acquired by a *bona fide* purchaser, the Fund shall execute and upon the Fund's request the Rights Agent shall countersign and deliver, in lieu of any such destroyed, lost or stolen Rights Certificate, a new Rights Certificate evidencing the same number of Rights as did the Rights Certificate so destroyed, lost or stolen.

- (c) As a condition to the issuance of any new Rights Certificate under this Section 2.7, the Fund may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the reasonable fees and expenses of the Rights Agent) connected therewith.
- (d) Every new Rights Certificate issued pursuant to this Section 2.7 in lieu of any destroyed, lost or stolen Rights Certificate shall evidence the contractual obligation of the Fund, whether or not the destroyed, lost or stolen Rights Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Agreement equally and proportionately with any and all other Rights duly issued hereunder.

## 2.8 **Persons Deemed Owners of Rights**

The Fund, the Rights Agent and any agent of the Fund or the Rights Agent may deem and treat the Person in whose name a Rights Certificate (or, prior to the Separation Time, the associated Unit certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby for all purposes whatsoever. As used in this Agreement, unless the context otherwise requires, the term "holder" of any Right shall mean the registered holder of such Right (or, prior to the Separation Time, of the associated Unit).

## 2.9 **Delivery and Cancellation of Certificates**

All Rights Certificates surrendered upon exercise or for redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Rights Agent, be delivered to the Rights Agent and, in any case, shall be promptly cancelled by the Rights Agent. The Fund may at any time deliver to the Rights Agent for cancellation any Rights Certificates previously countersigned and delivered hereunder which the Fund may have acquired in any

manner whatsoever, and all Rights Certificates so delivered shall be promptly cancelled by the Rights Agent. No Rights Certificate shall be countersigned in lieu of or in exchange for any Rights Certificates cancelled as provided in this Section 2.9, except as expressly permitted by this Agreement. The Rights Agent shall, subject to applicable laws, destroy all cancelled Rights Certificates and, on request, deliver a certificate of destruction to the Fund.

#### 2.10 **Agreement of Rights Holders**

Every holder of Rights, by accepting the same, consents and agrees with the Fund and the Rights Agent and with every other holder of Rights:

- (a) to be bound by and subject to the provisions of this Agreement, as amended from time to time in accordance with the terms hereof, in respect of all Rights held;
- (b) that prior to the Separation Time, each Right will be transferable only together with, and will be transferred by a transfer of, the associated Unit certificate representing such Right;
- (c) that after the Separation Time, the Rights Certificates will be transferable only on the Rights Register as provided herein;
- (d) that prior to due presentment of a Rights Certificate (or, prior to the Separation Time, the associated Unit certificate) for registration of transfer, the Fund, the Rights Agent and any agent of the Fund or the Rights Agent may deem and treat the Person in whose name the Rights Certificate (or, prior to the Separation Time, the associated Unit certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby (notwithstanding any notations of ownership or writing on such Rights Certificate or the associated Unit certificate made by anyone other than the Fund or the Rights Agent) for all purposes whatsoever, and neither the Fund nor the Rights Agent shall be affected by any notice to the contrary;
- (e) that such holder of Rights has waived his right to receive any fractional Rights or any fractional units or other securities upon exercise of a Right (except as provided herein);
- (f) that, subject to the provisions of Section 5.4, without the approval of any holder of Rights or Units and upon the sole authority of the ECT Trustees, acting in good faith, this Agreement may be supplemented or amended from time to time to cure any ambiguity or to correct or supplement any provision contained herein which may be inconsistent with the intent of this Agreement or is otherwise defective, as provided herein; and
- (g) notwithstanding anything in this Agreement to the contrary, neither the Fund nor the Rights Agent shall have any liability to any holder of a Right or any other Person as a result of its inability to perform any of its obligations under this Agreement by reason of any preliminary or permanent injunction or other order, decree or ruling issued by a court of competent jurisdiction or by a governmental,

regulatory or administrative agency or commission, or any statute, rule, regulation or executive order promulgated or enacted by a governmental authority, prohibiting or otherwise restraining performance of such obligations.

2.11 **Rights Certificate Holder Not Deemed a Unitholder**

No holder, as such, of any Rights or Rights Certificate shall be entitled to vote, receive distributions or be deemed for any purpose whatsoever the holder of any Unit or any other unit or security of the Fund which may at any time be issuable on the exercise of the Rights represented thereby, nor shall anything contained herein or in any Rights Certificate be construed or deemed or confer upon the holder of any Right or Rights Certificate, as such, any right, title, benefit or privilege of a holder of Units or any other units or securities of the Fund or any right to vote at any meeting of unitholders of the Fund upon any other matter submitted to holders of Units or any other units of the Fund at any meeting thereof, or to give or withhold consent to any action of the Fund, or to receive notice of any meeting or other action affecting any holder of Units or any other units of the Fund except as expressly provided herein, or to receive distributions or subscription rights, or otherwise, until the Right or Rights evidenced by Rights Certificates shall have been duly exercised in accordance with the terms and provisions hereof.

**ARTICLE 3.  
ADJUSTMENTS TO THE RIGHTS**

3.1 **Flip-in Event**

- (a) Subject to Subsection 3.1(b) and Section 5.1, in the event that prior to the Expiration Time a Flip-in Event shall occur, each Right shall constitute, effective at the close of business on the eighth Trading Day after the Unit Acquisition Date, the right to purchase from the Fund, upon exercise thereof in accordance with the terms hereof, that number of Units having an aggregate Market Price on the date of consummation or occurrence of such Flip-in Event equal to twice the Exercise Price for an amount in cash equal to the Exercise Price (such right to be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 in the event that after such consummation or occurrence, an event of a type analogous to any of the events described in Section 2.3 shall have occurred).
- (b) Notwithstanding anything in this Agreement to the contrary, upon the occurrence of any Flip-in Event, any Rights that are or were Beneficially Owned on or after the earlier of the Separation Time or the Unit Acquisition Date by:
  - (i) an Acquiring Person (or any Affiliate or Associate of an Acquiring Person or any Person acting jointly or in concert with an Acquiring Person or any Affiliate or Associate of an Acquiring Person); or
  - (ii) a transferee of Rights, directly or indirectly, from an Acquiring Person (or any Affiliate or Associate of an Acquiring Person or any Person acting jointly or in concert with an Acquiring Person or any Affiliate or Associate of an Acquiring Person), where such transferee becomes a

transferee concurrently with or subsequent to the Acquiring Person becoming such in a transfer that the ECT Trustees have determined is part of a plan, arrangement or scheme of an Acquiring Person (or any Affiliate or Associate of an Acquiring Person or any Person acting jointly or in concert with an Acquiring Person or any Affiliate or Associate of an Acquiring Person), that has the purpose or effect of avoiding Clause 3.1(b)(i),

shall become null and void without any further action, and any holder of such Rights (including transferees) shall thereafter have no right to exercise such Rights under any provision of this Agreement and further shall thereafter not have any other rights whatsoever with respect to such Rights, whether under any provision of this Agreement or otherwise.

- (c) From and after the Separation Time, the Fund shall do all such acts and things as shall be necessary and within its power to ensure compliance with the provisions of this Section 3.1, including without limitation, all such acts and things as may be required to satisfy the requirements of the Fund Indenture, the *Securities Act* (Alberta) and the securities laws or comparable legislation of each of the provinces of Canada and of the United States and each of the states thereof in respect of the issue of Units upon the exercise of Rights in accordance with this Agreement.
- (d) Any Rights Certificate that represents Rights Beneficially Owned by a Person described in either Clause 3.1(b)(i) or (ii) or transferred to any nominee of any such Person, and any Rights Certificate issued upon transfer, exchange, replacement or adjustment of any other Rights Certificate referred to in this sentence, shall contain the following legend:

“The Rights represented by this Rights Certificate were issued to a Person who was an Acquiring Person or an Affiliate or an Associate of an Acquiring Person (as such terms are defined in the Unitholder Rights Plan Agreement) or a Person who was acting jointly or in concert with an Acquiring Person or an Affiliate or Associate of an Acquiring Person. This Rights Certificate and the Rights represented hereby are void or shall become void in the circumstances specified in Subsection 3.1(b) of the Unitholder Rights Plan Agreement.”

provided, however, that the Rights Agent shall not be under any responsibility to ascertain the existence of facts that would require the imposition of such legend but shall impose such legend only if instructed to do so by the Fund in writing or if a holder fails to certify upon transfer or exchange in the space provided on the Rights Certificate that such holder is not a Person described in such legend.

**ARTICLE 4.  
THE RIGHTS AGENT**

4.1 **General**

- (a) The Fund hereby appoints the Rights Agent to act as agent for the Fund and the holders of the Rights in accordance with the terms and conditions hereof, and the Rights Agent hereby accepts such appointment. The Fund may from time to time appoint such co-Rights Agents (“Co-Rights Agents”) as it may deem necessary or desirable, subject to the approval of the Rights Agent, acting reasonably. In the event the Fund appoints one or more Co-Rights Agents, the respective duties of the Rights Agent and Co-Rights Agents shall be as the Fund may reasonably determine, with the approval of the Rights Agent and the Co-Rights Agent, all acting reasonably. The Fund agrees to pay all reasonable fees and expenses of the Rights Agent in respect of the performance of its duties under this Agreement. The Fund also agrees to indemnify the Rights Agent, its officers, directors and employees or agents for, and to hold it and them harmless against, any loss, liability, or expense, incurred without negligence, bad faith or wilful misconduct on the part of the Rights Agent, for anything done or omitted by the Rights Agent in connection with the acceptance and administration of this Agreement, including the reasonable costs and expenses of defending against any claim of liability, which right to indemnification will survive the termination of this Agreement or the resignation or removal of the Rights Agent.
- (b) The Rights Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with its administration of this Agreement in reliance upon any certificate for Units, Rights Certificate, certificate for other securities of the Fund, instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement, or other paper or document believed by it to be genuine and to be signed, executed and, where necessary, verified or acknowledged, by the proper Person or Persons.
- (c) The Fund shall inform the Rights Agent in a reasonably timely manner of events which may materially affect the administration of this Agreement by the Rights Agent and at any time, upon request, shall provide to the Rights Agent an incumbency certificate with respect to the then current officers of Enbridge Management Services Inc. or the then current ECT Trustees, provided that failure to inform the Rights Agent of any such events, or any defect therein shall not affect the validity of any action taken hereunder in relation to such events.

4.2 **Merger, Amalgamation or Consolidation or Change of Name of Rights Agent**

- (a) Any corporation into which the Rights Agent may be merged or amalgamated or with which it may be consolidated, or any corporation resulting from any merger, amalgamation, statutory arrangement or consolidation to which the Rights Agent is a party, or any corporation succeeding to the unitholder or stockholder services

business of the Rights Agent, will be the successor to the Rights Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto, provided that such corporation would be eligible for appointment as a successor Rights Agent under the provisions of Section 4.4 hereof. In case at the time such successor Rights Agent succeeds to the agency created by this Agreement any of the Rights Certificates have been countersigned but not delivered, any successor Rights Agent may adopt the countersignature of the predecessor Rights Agent and deliver such Rights Certificates so countersigned; and in case at that time any of the Rights have not been countersigned, any successor Rights Agent may countersign such Rights Certificates in the name of the predecessor Rights Agent or in the name of the successor Rights Agent; and in all such cases such Rights Certificates will have the full force provided in the Rights Certificates and in this Agreement.

- (b) In case at any time the name of the Rights Agent is changed and at such time any of the Rights Certificates shall have been countersigned but not delivered, the Rights Agent may adopt the countersignature under its prior name and deliver Rights Certificates so countersigned; and in case at that time any of the Rights Certificates shall not have been countersigned, the Rights Agent may countersign such Rights Certificates either in its prior name or in its changed name; and in all such cases such Rights Certificates shall have the full force provided in the Rights Certificates and in this Agreement.

#### 4.3 **Duties of Rights Agent**

The Rights Agent undertakes the duties and obligations imposed by this Agreement upon the following terms and conditions, all of which the Fund and the holders of certificates for Units and the holders of Rights Certificates, by their acceptance thereof, shall be bound:

- (a) the Rights Agent may retain and consult with, at the Fund's expense, legal counsel (who may be legal counsel for the Fund) and the opinion of such counsel will be full and complete authorization and protection to the Rights Agent as to any action taken or omitted by it in good faith and in accordance with such opinion; the Rights Agent may also, with the approval of the Fund (such approval not to be unreasonably withheld) and at the Fund's expense, consult with such other experts as the Rights Agent shall consider necessary or appropriate to properly carry out the duties and obligations imposed under this Agreement (at the Fund's expense) and the Rights Agent shall be entitled to rely in good faith on the advice of any such expert;
- (b) whenever in the performance of its duties under this Agreement, the Rights Agent deems it necessary or desirable that any fact or matter be proved or established by the Fund prior to taking or suffering any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by a Person believed by the Rights Agent to be an authorized officer of Enbridge

Management Services Inc. on behalf of the Fund and delivered to the Rights Agent; and such certificate will be full authorization to the Rights Agent for any action taken or suffered in good faith by it under the provisions of this Agreement in reliance upon such certificate;

- (c) the Rights Agent will be liable hereunder for its own negligence, bad faith or wilful misconduct;
- (d) the Rights Agent will not be liable for or by reason of any of the statements of fact or recitals contained in this Agreement or in the certificates for Units or the Rights Certificates (except its countersignature thereof) or be required to verify the same, but all such statements and recitals are and will be deemed to have been made by the Fund only;
- (e) the Rights Agent will not be under any responsibility in respect of the validity of this Agreement or the execution and delivery hereof (except the due authorization, execution and delivery hereof by the Rights Agent) or in respect of the validity or execution of any certificate for a Unit or Rights Certificate (except its countersignature thereof); nor will it be responsible for any breach by the Fund of any covenant or condition contained in this Agreement or in any Rights Certificate; nor will it be responsible for any change in the exerciseability of the Rights (including the Rights becoming void pursuant to Subsection 3.1(b) hereof) or any adjustment required under the provisions of Section 2.3 hereof or responsible for the manner, method or amount of any such adjustment or the ascertaining of the existence of facts that would require any such adjustment (except with respect to the exercise of Rights after receipt of the certificate contemplated by Section 2.3 describing any such adjustment); nor will it by any act hereunder be deemed to make any representation or warranty as to the authorization of any Units to be issued pursuant to this Agreement or any Rights or as to whether any Units will, when issued, be duly and validly authorized, executed, issued and delivered and fully paid and non-assessable;
- (f) the Fund agrees that it will perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments and assurances as may reasonably be required by the Rights Agent for the carrying out or performing by the Rights Agent of the provisions of this Agreement;
- (g) the Rights Agent is hereby authorized and directed to accept instructions in writing with respect to the performance of its duties hereunder from any individual believed by the Rights Agent to be an authorized officer of Enbridge Management Services Inc. acting on behalf of the Fund, or an ECT Trustee acting on behalf of the Fund, and to apply to such individuals for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered by it in good faith in accordance with instructions of any such individual;

- (h) the Rights Agent and any unitholder or stockholder, director, officer or employee of the Rights Agent may buy, sell or deal in Units, Rights or other securities of the Fund or become pecuniarily interested in any transaction in which the Fund may be interested, or contract with or lend money to the Fund or otherwise act as fully and freely as though it were not Rights Agent under this Agreement. Nothing herein shall preclude the Rights Agent from acting in any other capacity for the Fund or for any other legal entity; and
- (i) the Rights Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents, and the Rights Agent will not be answerable or accountable for any act, default, neglect or misconduct of any such attorneys or agents or for any loss to the Fund resulting from any such act, default, neglect or misconduct, provided reasonable care was exercised in the selection and continued employment thereof.

#### 4.4 **Change of Rights Agent**

The Rights Agent may resign and be discharged from its duties under this Agreement upon 60 days' notice (or such lesser notice as is acceptable to the Fund) in writing mailed to the Fund and to each transfer agent of Units by registered or certified mail. The Fund may remove the Rights Agent upon 60 days' notice in writing, mailed to the Rights Agent and to each transfer agent of the Units by registered or certified mail. If the Rights Agent should resign or be removed or otherwise become incapable of acting, the Fund will appoint a successor to the Rights Agent. If the Fund fails to make such appointment within a period of 60 days after such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Rights Agent, then by prior written notice to the Fund the resigning Rights Agent or the holder of any Rights (which holder shall, with such notice, submit such holder's Rights Certificate, if any, for inspection by the Fund), at the expense of the Fund, may apply to any court of competent jurisdiction for the appointment of a new Rights Agent. Any successor Rights Agent, whether appointed by the Fund or by such a court, shall be a corporation incorporated under the laws of Canada or a province thereof authorized to carry on the business of a trust company in the Province of Alberta. After appointment, the successor Rights Agent will be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Rights Agent without further act or deed; but the predecessor Rights Agent, upon payment by the Fund to the predecessor Rights Agent of all the outstanding fees and expenses owed by the Fund to the predecessor Rights Agent pursuant to this Agreement, shall deliver and transfer to the successor Rights Agent any property at the time held by it hereunder, and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. Not later than the effective date of any such appointment, the Fund will file notice thereof in writing with the predecessor Rights Agent and each transfer agent of the Units and mail a notice thereof in writing to the holders of the Rights in accordance with Section 5.9. Failure to give any notice provided for in this Section 4.4, however, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Rights Agent or the appointment of any successor Rights Agent, as the case may be.

**ARTICLE 5.  
MISCELLANEOUS**

**5.1 Redemption and Waiver**

- (a) The ECT Trustees acting in good faith may, until the occurrence of a Flip-in Event, upon prior written notice delivered to the Rights Agent, determine to waive the application of Section 3.1 to a particular Flip-in Event that would result from a Take-over Bid made by way of take-over bid circular to all holders of Units (which for greater certainty shall not include the circumstances described in Subsection 5.1(h)); provided that if the ECT Trustees waive the application of Section 3.1 to a particular Flip-in Event pursuant to this Subsection 5.1(a), the ECT Trustees shall be deemed to have waived the application of Section 3.1 to any other Flip-in Event occurring by reason of any Take-over Bid which is made by means of a take-over bid circular to all holders of Units prior to the expiry of any Take-over Bid in respect of which a waiver is, or is deemed to have been, granted under this Subsection 5.1(a).
- (b) Subject to the prior consent of the holders of the Units or the Rights obtained as set forth in Subsection 5.4(b) or (c), the ECT Trustees acting in good faith may, at their option, at any time prior to the provisions of Section 3.1 becoming applicable as a result of the occurrence of a Flip-in Event, elect to redeem all but not less than all of the outstanding Rights at a redemption price of \$0.001 per Right appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 if an event of the type analogous to any of the events described in Section 2.3 shall have occurred (such redemption price being herein referred to as the "Redemption Price").
- (c) Where a Person acquires pursuant to a Permitted Bid, a Competing Permitted Bid or an Exempt Acquisition under Subsection 5.1(a) outstanding Units, other than Units Beneficially Owned at the date of the Permitted Bid, the Competing Permitted Bid or the Exempt Acquisition under Subsection 5.1(a) by such Person, then the ECT Trustees shall immediately upon the consummation of such acquisition without further formality and without any approval under Subsection 5.4(b) or (c) be deemed to have elected to redeem the Rights at the Redemption Price.
- (d) Where a Take-over Bid that is not a Permitted Bid Acquisition is withdrawn or otherwise terminated after the Separation Time has occurred and prior to the occurrence of a Flip-in Event, the ECT Trustees may elect to redeem all the outstanding Rights at the Redemption Price.
- (e) If the ECT Trustees are deemed under Subsection 5.1(c) to have elected, or elect under either of Subsection 5.1(b) or (d), to redeem the Rights, the right to exercise the Rights will thereupon, without further action and without notice, terminate and the only right thereafter of the holders of Rights shall be to receive the Redemption Price.

- (f) Within 10 days after the ECT Trustees are deemed under Subsection 5.1(c) to have elected, or elect under Subsection 5.1(b) or (d), to redeem the Rights, the Fund shall give notice of redemption to the holders of the then outstanding Rights by mailing such notice to each such holder at his last address as it appears upon the registry books of the Rights Agent or, prior to the Separation Time, on the registry books of the transfer agent for the Units. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of redemption will state the method by which the payment of the Redemption Price will be made.
- (g) Upon the Rights being redeemed pursuant to Subsection 5.1(d), all the provisions of this Agreement shall continue to apply as if the Separation Time had not occurred and Rights Certificates representing the number of Rights held by each holder of record of Units as of the Separation Time had not been mailed to each such holder and for all purposes of this Agreement the Separation Time shall be deemed not to have occurred.
- (h) The ECT Trustees may waive the application of Section 3.1 in respect of the occurrence of any Flip-in Event if the ECT Trustees have determined within eight Trading Days following a Unit Acquisition Date that a Person became an Acquiring Person by inadvertence and without any intention to become, or knowledge that it would become, an Acquiring Person under this Agreement and, in the event that such a waiver is granted by the ECT Trustees, such Unit Acquisition Date shall be deemed not to have occurred. Any such waiver pursuant to this Subsection 5.1(h) must be on the condition that such Person, within 14 days after the foregoing determination by the ECT Trustees or such earlier or later date as the ECT Trustees may determine (the "Disposition Date"), has reduced its Beneficial Ownership of Units such that the Person is no longer an Acquiring Person. If the Person remains an Acquiring Person at the close of business on the Disposition Date, the Disposition Date shall be deemed to be the date of occurrence of a further Unit Acquisition Date and Section 3.1 shall apply thereto.

## 5.2 **Expiration**

No Person shall have any rights whatsoever pursuant to this Agreement or in respect of any Right after the Expiration Time, except the Rights Agent as specified in Subsection 4.1(a) of this Agreement.

## 5.3 **Issuance of New Rights Certificates**

Notwithstanding any of the provisions of this Agreement or the Rights to the contrary, the Fund may, at its option, issue new Rights Certificates evidencing Rights in such form as may be approved by the ECT Trustees to reflect any adjustment or change in the number or kind or class of securities purchasable upon exercise of Rights made in accordance with the provisions of this Agreement.

## 5.4

**Supplements and Amendments**

- (a) The Fund may make amendments to this Agreement to correct any clerical or typographical error or, subject to subsection 5.4(e), which are required to maintain the validity of this Agreement as a result of any change in any applicable legislation, rules or regulations thereunder. Notwithstanding anything in this Section 5.4 to the contrary, no such amendment shall be made to the provisions of Article 4 except with the written concurrence of the Rights Agent to such amendment.
- (b) Subject to Section 5.4(a), the Fund may, with the prior consent of the holders of Units obtained as set forth below, at any time before the Separation Time, amend, vary or rescind any of the provisions of this Agreement and the Rights (whether or not such action would materially adversely affect the interests of the holders of Rights generally). Such consent shall be deemed to have been given if the action requiring such approval is authorized by the holders of Units at a meeting of the holders of Units called and held in compliance with all applicable laws and regulatory requirements, as well as the requirements in the Fund Indenture. Subject to compliance with any requirements imposed by the foregoing, consent shall be deemed given if the proposed amendment, variation or rescission is approved by the affirmative vote of a majority of the votes cast by those Independent Unitholders entitled to vote on the applicable resolution, whether cast in person or by proxy, at a meeting of the holders of Units duly called and held in compliance with applicable laws and the Fund Indenture.
- (c) The Fund may, with the prior consent of the holders of Rights obtained as set forth below, at any time after the Separation Time and before the Expiration Time, amend, vary or rescind any of the provisions of this Agreement and the Rights (whether or not such action would materially adversely affect the interests of the holders of Rights generally), provided that no such amendment, variation or deletion shall be made to the provisions of Article 4 except with the written concurrence of the Rights Agent thereto. Consent shall be deemed to have been given if the proposed amendment, variation or rescission is approved in accordance with Subsection 5.4(d) by the Rights Holders at a Rights Holders' Special Meeting called and held in compliance with applicable laws and regulatory requirements and in accordance with Subsection 5.4(d).
- (d) Any consent or approval of the holders of Rights shall be deemed to have been given if the action, amendment, variation or rescission requiring such approval is authorized or approved by the affirmative vote of a majority of the votes cast by the holders of Rights (other than holders of Rights whose Rights have become null and void pursuant to the provisions hereof) entitled to vote on the applicable matter, whether cast in person or by proxy, at the meeting of the holders of Rights. For the purposes hereof, each outstanding Right (other than Rights which are void pursuant to the provisions hereof) shall be entitled to one vote, and the procedures for the calling, holding and conduct of the meeting shall be those, as

nearly as may be, which are provided in the Fund Indenture with respect to meetings of unitholders of the Fund.

- (e) Any amendments made by the Fund to this Agreement pursuant to Subsection 5.4(a) which are required to maintain the validity of this Agreement as a result of any change in any applicable legislation, rule or regulation thereunder shall:
  - (i) if made before the Separation Time, be submitted to the unitholders of the Fund at the next meeting of unitholders and the unitholders may, by the majority referred to in Subsection 5.4(b), confirm or reject such amendment;
  - (ii) if made after the Separation Time, be submitted to the holders of Rights at a meeting to be called for on a date not later than immediately following the next meeting of unitholders of the Fund and the holders of Rights may, by resolution passed by the majority referred to in Subsection 5.4(d), confirm or reject such amendment.

Any such amendment shall be effective from the date of the resolution of the ECT Trustees adopting such amendment, until it is confirmed or rejected or until it ceases to be effective (as described in the next sentence) and, where such amendment is confirmed, it continues in effect in the form so confirmed. If such amendment is rejected by the unitholders or the holders of Rights or is not submitted to the unitholders or holders of Rights as required, then such amendment shall cease to be effective from and after the termination of the meeting at which it was rejected or to which it should have been but was not submitted or from and after the date of the meeting of holders of Rights that should have been but was not held, and no subsequent resolution of the ECT Trustees to amend this Agreement to substantially the same effect shall be effective until confirmed by the unitholders or holders of Rights as the case may be.

## 5.5 **Fractional Rights and Fractional Units**

- (a) The Fund shall not be required to issue fractions of Rights or to distribute Rights Certificates which evidence fractional Rights. After the Separation Time, in lieu of issuing fractional Rights, the Fund shall pay to the holders of record of the Rights Certificates (provided the Rights represented by such Rights Certificates are not void pursuant to the provisions of Subsection 3.1(b), at the time such fractional Rights would otherwise be issuable), an amount in cash equal to the fraction of the Market Price of one whole Right that the fraction of a Right that would otherwise be issuable is of one whole Right.
- (b) The Fund shall not be required to issue fractions of Units upon exercise of Rights or to distribute certificates which evidence fractional Units. In lieu of issuing fractional Units, the Fund shall pay to the registered holders of Rights

Certificates, at the time such Rights are exercised as herein provided, an amount in cash equal to the fraction of the Market Price of one Unit that the fraction of a Unit that would otherwise be issuable upon the exercise of such Right is of one whole Unit at the date of such exercise.

- (c) The Rights Agent shall have no obligation to make any payments in lieu of issuing fractions of Rights or Units pursuant to Subsections 5.5(a) or (b), respectively, unless and until the Fund shall have provided to the Rights Agent the amount of cash to be paid in lieu of issuing such fractional Rights or Units, as the case may be.

#### 5.6 **Rights of Action**

Subject to the terms of this Agreement, all rights of action in respect of this Agreement, other than rights of action vested solely in the Rights Agent, are vested in the respective holders of the Rights. Any holder of Rights, without the consent of the Rights Agent or of the holder of any other Rights, may, on such holder's own behalf and for such holder's own benefit and the benefit of other holders of Rights, enforce, and may institute and maintain any suit, action or proceeding against the Fund to enforce such holder's right to exercise such holder's Rights, or Rights to which such holder is entitled, in the manner provided in such holder's Rights Certificate and in this Agreement. Without limiting the foregoing or any remedies available to the holders of Rights, it is specifically acknowledged that the holders of Rights would not have an adequate remedy at law for any breach of this Agreement and will be entitled to specific performance of the obligations under, and injunctive relief against actual or threatened violations of the obligations of any Person subject to, this Agreement.

#### 5.7 **Regulatory Approvals**

Any obligation of the Fund or action or event contemplated by this Agreement, including any amendment hereof, shall be subject to the receipt of any requisite approval or consent from any governmental or regulatory authority, and without limiting the generality of the foregoing, necessary approvals of the Toronto Stock Exchange and other exchanges shall be obtained, such as to the issuance of Units upon the exercise of Rights under Subsection 2.2(d).

#### 5.8 **Declaration as to Non-Canadian or Non-U.S. Holders**

If in the opinion of the ECT Trustees (who may rely upon the advice of counsel) any action or event contemplated by this Agreement would require compliance by the Fund with the securities laws or comparable legislation of a jurisdiction outside Canada, the ECT Trustees acting in good faith shall take such actions as they may deem appropriate to ensure such compliance. In no event shall the Fund or the Rights Agent be required to issue or deliver Rights or securities issuable on exercise of Rights to persons who are citizens, residents or nationals of any jurisdiction other than Canada or the United States, in which such issue or delivery would be unlawful without registration of the relevant Persons or securities for such purposes.

## 5.9

**Notices**

- (a) Notices or demands authorized or required by this Agreement to be given or made by the Rights Agent or by the holder of any Rights to or on the Fund shall be sufficiently given or made if delivered, sent by registered or certified mail, postage prepaid (until another address is filed in writing with the Rights Agent), or sent by facsimile or other form of recorded electronic communication, charges prepaid and confirmed in writing, as follows:

Enbridge Income Fund  
c/o Enbridge Management Services Inc.  
3000, 425 – 1<sup>st</sup> Street, S.W.  
Calgary, Alberta T2P 3L8

**Attention: President**

Fax No.: (403) 231-5787

- (b) Notices or demands authorized or required by this Agreement to be given or made by the Fund or by the holder of any Rights to or on the Rights Agent shall be sufficiently given or made if delivered, sent by registered or certified mail, postage prepaid (until another address is filed in writing with the Fund), or sent by facsimile or other form of recorded electronic communication, charges prepaid and confirmed in writing, as follows:

CIBC Mellon Trust Company  
600, 333-7th Avenue S.W.  
Calgary, Alberta T2P 2Z1

**Attention: Manager**

Fax No.: (403) 264-2100

- (c) Notices or demands authorized or required by this Agreement to be given or made by the Fund or the Rights Agent to or on the holder of any Rights shall be sufficiently given or made if delivered or sent by first class mail, postage prepaid, addressed to such holder at the address of such holder as it appears upon the register of the Rights Agent or, prior to the Separation Time, on the register of the Fund for its Units. Any notice which is mailed or sent in the manner herein provided shall be deemed given, whether or not the holder receives the notice.
- (d) Any notice given or made in accordance with this Section 5.9 shall be deemed to have been given and to have been received on the day of delivery, if so delivered, on the third Business Day (excluding each day during which there exists any general interruption of postal service due to strike, lockout or other cause)

following the mailing thereof, if so mailed, and on the day of fax transmission or sending of the same by other means of recorded electronic communication (provided such sending is during the normal business hours of the addressee on a Business Day and if not, on the first Business Day thereafter). Each of the Fund and the Rights Agent may from time to time change its address for notice by notice to the other given in the manner aforesaid.

5.10 **Costs of Enforcement**

The Fund agrees that if the Fund fails to fulfil any of its obligations pursuant to this Agreement, then the Fund will reimburse the holder of any Rights for the costs and expenses (including legal fees) incurred by such holder to enforce his rights pursuant to any Rights or this Agreement.

5.11 **Successors**

All the covenants and provisions of this Agreement by or for the benefit of the Fund or the Rights Agent shall bind and enure to the benefit of their respective successors and assigns hereunder.

5.12 **Benefits of this Agreement**

Nothing in this Agreement shall be construed to give to any Person other than the Fund, the Rights Agent and the holders of the Rights any legal or equitable right, remedy or claim under this Agreement; further, this Agreement shall be for the sole and exclusive benefit of the Fund, the Rights Agent and the holders of the Rights.

5.13 **Governing Law**

This Agreement and each Right issued hereunder shall be deemed to be a contract made under the laws of the Province of Alberta and for all purposes shall be governed by and construed in accordance with the laws of such Province applicable to contracts to be made and performed entirely within such Province.

5.14 **Severability**

If any term or provision hereof or the application thereof to any circumstance shall, in any jurisdiction and to any extent, be invalid or unenforceable, such term or provision shall be ineffective only as to such jurisdiction and to the extent of such invalidity or unenforceability in such jurisdiction without invalidating or rendering unenforceable or ineffective the remaining terms and provisions hereof in such jurisdiction or the application of such term or provision in any other jurisdiction or to circumstances other than those as to which it is specifically held invalid or unenforceable.

5.15 **Effective Date**

Upon being confirmed and approved by the holders of Units at the Fund's 2009 annual meeting of holders of Units, this Agreement shall be effective and in full force and effect

in accordance with its terms from and after the Effective Date and shall amend, restate and replace in its entirety the Original Agreement. Pending such confirmation and approval, only the provisions of this Section 5.15 and Sections 5.4, 5.16, 5.17 and 5.19 and defined terms referred to in any of such Sections shall be effective and in full force and effect.

5.16            **Reconfirmation**

This Agreement must be reconfirmed by a resolution passed by a majority of greater than 50% of the votes cast by all holders of Units who vote in respect of such reconfirmation at every third annual meeting of the Fund following the Effective Date. If the Agreement is not so reconfirmed or is not presented for reconfirmation at any such annual meeting, the Agreement and all outstanding Rights shall terminate and be void and of no further force and effect on and from the close of business on the date of termination of the applicable annual meeting; provided that termination shall not occur if a Flip-in Event has occurred (other than a Flip-in Event which has been waived pursuant to Subsection 5.1(a) hereof), prior to the date upon which this Agreement would otherwise terminate pursuant to this Section 5.16.

5.17            **Determinations and Actions by the ECT Trustees**

All actions, calculations and determinations (including all omissions with respect to the foregoing) which are done or made by the ECT Trustees, in good faith, shall not subject the ECT Trustees, Enbridge Commercial Trust or the Fund to any liability to the holders of the Rights.

5.18            **Time of the Essence**

Time shall be of the essence in this Agreement.

5.19            **Execution in Counterparts**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

**ENBRIDGE INCOME FUND**  
by its agent, **ENBRIDGE**  
**COMMERCIAL TRUST**

By: (signed) "Gordon G. Tallman"  
Name: Gordon G. Tallman  
Title: Authorized Trustee

**CIBC MELLON TRUST COMPANY**

By: (signed) "Sandra Evans"  
Name: Sandra Evans  
Title: Associate Director  
Relationship Management

By: (signed) "Simon Law"  
Name: Simon Law  
Title: Associate Relationship Manager

(This is the execution page of the Unitholder Rights Plan Agreement, originally dated as of June 30, 2003, as Amended and Restated as of May 1, 2006 and further amended and restated as of May 4, 2009, between Enbridge Income Fund and CIBC Mellon Trust Company as Rights Agent)

**ATTACHMENT 1**  
**ENBRIDGE INCOME FUND**  
**UNITHOLDER RIGHTS PLAN AGREEMENT**

[Form of Rights Certificate]

Certificate No. \_\_\_\_\_

Rights \_\_\_\_\_

**THE RIGHTS ARE SUBJECT TO TERMINATION ON THE TERMS SET FORTH IN THE UNITHOLDER RIGHTS PLAN AGREEMENT. UNDER CERTAIN CIRCUMSTANCES (SPECIFIED IN SUBSECTION 3.1(b) OF THE UNITHOLDER RIGHTS PLAN AGREEMENT), RIGHTS BENEFICIALLY OWNED BY AN ACQUIRING PERSON OR CERTAIN RELATED PARTIES, OR TRANSFEREES OF AN ACQUIRING PERSON OR CERTAIN RELATED PARTIES, MAY BECOME VOID.**

**Rights Certificate**

This certifies that \_\_\_\_\_, or registered assigns, is the registered holder of the number of Rights set forth above, each of which entitles the registered holder thereof, subject to the terms, provisions and conditions of the Unitholder Rights Plan Agreement, dated as of June 30, 2003, as the same may be amended, restated or supplemented from time to time (the "Unitholder Rights Agreement"), between Enbridge Income Fund, a trust created under the laws of the Province of Alberta (the "Fund") and CIBC Mellon Trust Company, a trust company incorporated under the laws of Canada (the "Rights Agent") (which term shall include any successor Rights Agent under the Unitholder Rights Agreement), to purchase from the Fund at any time after the Separation Time (as such term is defined in the Unitholder Rights Agreement) and prior to the Expiration Time (as such term is defined in the Unitholder Rights Agreement), one fully paid unit of the Fund (a "Unit") at the Exercise Price referred to below, upon presentation and surrender of this Rights Certificate with the Form of Election to Exercise (in the form provided hereinafter) duly executed and submitted to the Rights Agent at its principal office in any of the cities of Calgary and Toronto. The Exercise Price shall initially be \$50 (Cdn.) per Right and shall be subject to adjustment in certain events as provided in the Unitholder Rights Agreement.

This Rights Certificate is subject to all of the terms and provisions of the Unitholder Rights Agreement, which terms and provisions are incorporated herein by reference and made a part hereof and to which Unitholder Rights Agreement reference is hereby made for a full description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Rights Agent, the Fund and the holders of the Rights Certificates. Copies of the Unitholder Rights Agreement are on file at the registered office of the Fund.

This Rights Certificate, with or without other Rights Certificates, upon surrender at any of the offices of the Rights Agent designated for such purpose, may be exchanged for another Rights Certificate or Rights Certificates of like tenor and date evidencing an aggregate

number of Rights equal to the aggregate number of Rights evidenced by the Rights Certificate or Rights Certificates surrendered. If this Rights Certificate shall be exercised in part, the registered holder shall be entitled to receive, upon surrender hereof, another Rights Certificate or Rights Certificates for the number of whole Rights not exercised.

No holder of this Rights Certificate, as such, shall be entitled to vote or receive distributions or be deemed for any purpose the holder of Units or of any other securities which may at any time be issuable upon the exercise hereof, nor shall anything contained in the Unitholder Rights Agreement or herein be construed to confer upon the holder hereof, as such, any of the Rights of a unitholder of the Fund upon any matter submitted to unitholders at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting unitholders (except as provided in the Unitholder Rights Agreement), or to receive distributions or subscription rights, or otherwise, until the Rights evidenced by this Rights Certificate shall have been exercised as provided in the Unitholder Rights Agreement.

This Rights Certificate shall not be valid or obligatory for any purpose until it shall have been countersigned by the Rights Agent.

WITNESS the facsimile signature of a proper officer of the administrator on behalf of the Fund.

Date: \_\_\_\_\_

**ENBRIDGE INCOME FUND,  
by its administrator, ENBRIDGE  
MANAGEMENT SERVICES INC.**

By: \_\_\_\_\_  
Name:  
Title:

Countersigned:

**CIBC MELLON TRUST COMPANY**

By: \_\_\_\_\_  
Authorized Signature

**FORM OF ASSIGNMENT**

(To be executed by the registered holder if such holder desires to transfer the Rights Certificate.)

FOR VALUE RECEIVED \_\_\_\_\_ hereby sells, assigns  
and transfers unto \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Please print name and address of transferee.)

the Rights represented by this Rights Certificate, together with all right, title and interest therein,  
and does hereby irrevocably constitute and appoint \_\_\_\_\_

as attorney, to transfer the within Rights on the books of the Fund, with full power of  
substitution.

Dated: \_\_\_\_\_

Signature

Signature Guaranteed:

(Signature must correspond to name as  
written upon the face of this Rights  
Certificate in every particular, without  
alteration or enlargement or any change  
whatsoever.)

The signature shall be Signature Guaranteed by a Schedule I Canadian chartered  
bank, major Canadian trust company, or a member of a recognized Medallion Guarantee  
program. The Guarantor must affix a stamp bearing the actual words "Signature Guaranteed".

.....

**CERTIFICATE**

(To be completed if true.)

The undersigned party transferring Rights hereunder, hereby represents, for the benefit of all holders of Rights and Units, that the Rights evidenced by this Rights Certificate are not, and, to the knowledge of the undersigned, have never been, Beneficially Owned by an Acquiring Person or an Affiliate or Associate thereof or a Person acting jointly or in concert with an Acquiring Person or an Affiliate or Associate thereof. Capitalized terms shall have the meaning ascribed thereto in the Unitholder Rights Agreement.

\_\_\_\_\_  
Signature

.....

(To be attached to each Rights Certificate.)

**FORM OF ELECTION TO EXERCISE**

(To be exercised by the registered holder if such holder desires to exercise the Rights Certificate.)

TO: \_\_\_\_\_

The undersigned hereby irrevocably elects to exercise whole Rights represented by the attached Rights Certificate to purchase the Units or other securities, if applicable, issuable upon the exercise of such Rights and requests that certificates for such securities be issued in the name of:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City and Province)

\_\_\_\_\_  
Social Insurance Number or other taxpayer identification number.

If such number of Rights shall not be all the Rights evidenced by this Rights Certificate, a new Rights Certificate for the balance of such Rights shall be registered in the name of and delivered to:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City and Province)

\_\_\_\_\_  
Social Insurance Number or other taxpayer identification number.

Dated: \_\_\_\_\_

Signature

Signature Guaranteed:

(Signature must correspond to name as written upon the face of this Rights Certificate in every particular, without alteration or enlargement or any change whatsoever.)

Signature must be guaranteed by a Schedule "A" major chartered bank, trust company or a member of an acceptable medallion guarantee program. The Guarantor must affix a stamp bearing the actual words "Signature Guaranteed".

.....

**CERTIFICATE**

(To be completed if true.)

The undersigned party exercising Rights hereunder, hereby represents, for the benefit of all holders of Rights and Units, that the Rights evidenced by this Rights Certificate are not, and, to the knowledge of the undersigned, have never been, Beneficially Owned by an Acquiring Person or an Affiliate or Associate thereof or a Person acting jointly or in concert with an Acquiring Person or an Affiliate or Associate thereof. Capitalized terms shall have the meaning ascribed thereto in the Unitholder Rights Agreement.

\_\_\_\_\_  
Signature

.....

(To be attached to each Rights Certificate.)

## **NOTICE**

In the event the certification set forth above in the Forms of Assignment and Election is not completed, the Fund will deem the Beneficial Owner of the Rights evidenced by this Rights Certificate to be an Acquiring Person or an Affiliate or Associate thereof. No Rights Certificates shall be issued in exchange for a Rights Certificate owned or deemed to have been owned by an Acquiring Person or an Affiliate or Associate thereof, or by a Person acting jointly or in concert with an Acquiring Person or an Affiliate or Associate thereof.