

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made as of the ____ day of _____, _____.

BETWEEN:

VENDOR, a body corporate, having an office in the City of _____, in the Province of Alberta (hereinafter referred to as "Vendor")

- and -

PURCHASER, a body corporate, having an office in the City of _____, in the Province of Alberta (hereinafter referred to as "Purchaser")

WHEREAS Vendor wishes to sell and Purchaser wishes to purchase the interest of Vendor in and to the Assets, subject to and in accordance with the terms and conditions hereof.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the Parties have agreed as follows:

ARTICLE 1 INTERPRETATION

1.1 **Definitions**

In this Agreement, unless the context otherwise requires:

- a. "Adjustment Date" means the hour of 8:00 a.m., Mountain Standard Time, on the ____ day of _____;
- b. "Assets" means the Petroleum and Natural Gas Rights, the Tangibles and the Miscellaneous Interests;
- c. "Business Day" means a day other than a Saturday, a Sunday or a statutory holiday in _____, Alberta;
- d. "Closing" means the closing of the purchase and sale herein provided for;
- e. "Closing Place" means the offices of Vendor, or such other place as may be agreed upon in writing by Vendor and Purchaser;
- f. "Closing Time" means the hour of 2:00 p.m. on the later of:
 - (i) the ____ day of _____; and
 - (ii) the third (3rd) Business Day following the day on which any and all preferential pre-emptive or first purchase rights of Third Parties that become operative by virtue of this Agreement or the transaction to be effected by it shall have been exercised or waived by the holders thereof or all time periods within which such rights may be exercised shall have expired;

or such other time and date as may be agreed upon in writing by Vendor and Purchaser;

- g. "Counsel" means any Alberta barrister and solicitor or firm thereof retained by Vendor or Purchaser, as the case may be;

- h. "Deposit" means the sum of money set out in section 2.7;
- i. "Lands" means the lands set out in Schedule "A" under the heading "Lands";
- j. "Leased Substances" means all Petroleum Substances, rights to or in respect of which are granted, reserved or otherwise conferred by or under the Unit Agreements, or by or under the Title Documents (but only to the extent that the Title Documents pertain to the Lands);
- k. "Miscellaneous Interests" means, subject to any and all limitations and exclusions provided for in this definition, all property, assets, interests and rights pertaining to the Petroleum and Natural Gas Rights and the Tangibles, or either of them, but only to the extent that such property, assets, interests and rights pertain to the Petroleum and Natural Gas Rights and the Tangibles, or either of them, including without limitation any and all of the following:
 - (i) contracts and agreements relating to the Petroleum and Natural Gas Rights and the Tangibles, or either of them, including without limitation, gas purchase contracts, processing agreements, transportation agreements and agreements for the construction, ownership and operation of facilities;
 - (ii) fee simple rights to, and rights to enter upon, use or occupy, the surface of any lands which are or may be used to gain access to or otherwise use the Petroleum and Natural Gas Rights and the Tangibles, or either of them;
 - (iii) all records, books, documents, licences, reports and data which relate to the Petroleum and Natural Gas Rights and the Tangibles, or either of them, *[including][excluding]* any of the foregoing that pertain to seismic, geological or geophysical matters; and
 - (iv) the Wells, including the wellbores and any and all casing;
- l. "Opinion of Counsel" means an opinion in writing signed by Counsel;
- m. "Party" means a party to this Agreement;
- n. "Permitted Encumbrances" means:
 - (i) liens for taxes, assessments and governmental charges which are not due or the validity of which is being diligently contested in good faith by or on behalf of Vendor;
 - (ii) liens incurred or created in the ordinary course of business as security in favour of the person who is conducting the development or operation of the property to which such liens relate for Vendor's proportionate share of the costs and expenses of such development or operation;
 - (iii) mechanics', builders' and materialmen's liens in respect of services rendered or goods supplied for which payment is not due;
 - (iv) easements, rights of way, servitudes and other similar rights in land (including without limitation, rights of way and servitudes for highways and other roads, railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light, power, telephone, telegraph and cable television conduits, poles, wires and cables) which do not materially impair the use of the Assets affected thereby;
 - (v) the right reserved to or vested in any municipality or government or other public authority by the terms of any lease, licence, franchise, grant or permit or by any statutory provision, to terminate any such lease, licence, franchise, grant or permit or to require annual or other periodic payments as a condition of the continuance thereof;
 - (vi) rights of general application reserved to or vested in any governmental authority to levy taxes on the Leased Substances or any of them or the income therefrom, and

governmental requirements and limitations of general application as to production rates on the operations of any property;

- (vii) statutory exceptions to title, and the reservations, limitations, provisos and conditions in any original grants from the Crown of any of the mines and minerals within, upon or under the Lands;
- (viii) any security held by any Third Party encumbering Vendor's interest in and to the Assets or any part or portion thereof, in respect of which Vendor delivers a discharge to Purchaser at or prior to Closing; and
- (ix) all royalty burdens, liens, adverse claims, penalties, reductions in interest and other encumbrances set out in Schedule "A";
- o. "Petroleum and Natural Gas Rights" means all rights to and in respect of the Unit Agreements, the Leased Substances and the Title Documents (but only to the extent that the Title Documents pertain to the Lands), including without limitation, the interests set out in Schedule "A" under the heading "Petroleum and Natural Gas Rights";
- p. "Petroleum Substances" means any of crude oil, crude bitumen and products derived therefrom, synthetic crude oil, petroleum natural gas, natural gas liquids, and any and all other substances related to any of the foregoing, whether liquid, solid or gaseous, and whether hydrocarbons or not, including without limitation, sulphur;
- q. "Prime Rate" means an annual rate of interest equal to the annual rate of interest announced from time to time by the main _____ branch of _____ [Bank] as the reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada;
- r. "Production Contracts" means the agreement or agreements, if any, set out in Schedule "B" under the heading "Production Contracts";
- s. "Purchase Price" means the sum of money first set out in section 2.6;
- t. "Specific Conveyances" means all conveyances, assignments, transfers, novations and other documents or instruments that are reasonably required or desirable to convey, assign and transfer the interest of Vendor in and to the Assets to Purchaser and to novate Purchaser in the place and stead of Vendor with respect to the Assets;
- u. "Take or Pay Obligations" means obligations to sell or deliver Petroleum Substances or any of them, rights to which are granted, reserved or otherwise conferred pursuant to the Title Documents, without being entitled in due course to receive and retain full payment for such Petroleum Substances;
- v. "Tangibles" means any and all tangible depreciable property and assets which are located within, upon *[or in the vicinity of]* the Lands and which are used or are intended to be used to produce, process, gather, treat, measure, make marketable or inject the Leased Substances or any of them or in connection with water injection or removal operations that pertain to the Petroleum and Natural Gas Rights, including without limitation, any and all gas plants, oil batteries, buildings, production equipment, pipelines, pipeline connections, meters, generators, motors, compressors, treaters, dehydrators, scrubbers, separators, pumps, tanks, boilers and communication equipment;
- w. "Third Party" means any individual or entity other than Vendor and Purchaser, including without limitation, any partnership, corporation, trust, unincorporated organization, union, government and any department and agency thereof and any heir, executor, administrator or other legal representative of any individual;
- x. "this Agreement", "herein", "hereto", "hereof" and similar expressions mean and refer to this Agreement of Purchase and Sale;

- y. "Title Documents" means, collectively, any and all certificates of title, leases, reservations, permits, licences, assignments, trust declarations, operating agreements, royalty agreements, gross overriding royalty agreements, participation agreements, farmin agreements, sale and purchase agreement, pooling agreements, and any other documents and agreements granting, reserving or otherwise conferring rights to (i) explore for, drill for, produce, take, use or market Petroleum Substances, (ii) share in the production of Petroleum Substances, (iii) share in the proceeds from, or measured or calculated by reference to the value or quantity of Petroleum Substances which are produced, and (iv) rights to acquire any of the rights described in items (i) to (iii) of this definition, but only if the foregoing pertain in whole or in part to Petroleum Substances within, upon or under the Lands, including without limitation, those, if any, set out in Schedule "A" under the heading "Title Documents";
- z. "Unit Agreements" means any and all unit agreements and unit operating agreements, including any and all amendments thereto, pertaining to the unit or units, if any, set out in Schedule "B" under the heading "Units"; and
- aa. "Wells" means all wells which are or may be used in connection with the Petroleum and Natural Gas Rights, including without limitation, producing, shut-in, abandoned, water source, water disposal and water injection wells.

1.2 Headings

The expressions "Article", "section", "subsection", "clause", "subclause", "paragraph" and "Schedule" followed by a number or letter or combination thereof, mean and refer to the specified article, section, subsection, clause, subclause, paragraph and schedule of or to this Agreement.

1.3 Interpretation Not Affected by Headings

The division of this Agreement into Articles, sections, subsections, clauses, subclauses, and paragraphs and the provision of headings for all or any thereof are for convenience and reference only and shall not affect the construction or interpretation of this Agreement.

1.4 Included Words

When the context reasonably permits, words suggesting the singular shall be construed as suggesting the plural and vice versa, and words suggesting gender or gender neutrality shall be construed as suggesting the masculine, feminine and neutral genders.

1.5 Schedules

There are appended to this Agreement the following schedules pertaining to the following matters:

Schedule "A" - Lands
- Petroleum and Natural Gas Rights

Schedule "B" - Production Contracts
- Take or Pay Obligations
- [Units]

Schedule "C" - Rights of First Refusal

Such schedules are incorporated herein by reference as though contained in the body hereof. Wherever any term or condition of such schedules conflicts or is at variance with any term or condition in the body of this Agreement, such term or condition in the body of this Agreement shall prevail.

1.6 Damages

All losses, costs, claims, damages, expenses and liabilities in respect of which a Party has a claim pursuant to this Agreement include, without limitation, reasonable legal fees and disbursements on a solicitor and client basis.

ARTICLE 2 **PURCHASE AND SALE AND CLOSING**

2.1 Purchase and Sale

Vendor hereby agrees to sell, assign, transfer, convey and set over to Purchaser, and Purchaser hereby agrees to purchase from Vendor, all of the right, title, estate and interest of Vendor (whether absolute or contingent, legal or beneficial) in and to the Assets, subject to and in accordance with the terms of this Agreement.

2.2 Closing

Closing shall take place at the Closing Place at the Closing Time if there has been satisfaction or waiver of the conditions of Closing herein contained. Subject to all other provisions of this Agreement, possession, risk and beneficial ownership Vendor's interest in and to the Assets shall pass from Vendor to Purchaser at the Closing Time.

2.3 Specific Conveyances

Vendor shall prepare the Specific Conveyances at its cost, none of which shall confer or impose upon a Party any greater right or obligation than contemplated in this Agreement. All Specific Conveyances that are prepared and circulated to Purchaser a reasonable time prior to the Closing Time shall be executed and delivered by the Parties at Closing. Forthwith after Closing, Purchaser shall, at its cost, circulate and register, as the case may be, all Specific Conveyances that, by their nature, may be circulated or registered.

2.4 Title Documents and Miscellaneous Interests

Vendor shall deliver to Purchaser as soon as reasonably practicable after Closing the original copies of the Title Documents and any other agreements and documents to which the Assets are subject, and the original copies of contracts, agreements, records, books, documents, licences, reports and data comprising Miscellaneous Interests which are now in the possession of Vendor or of which it gains possession prior to Closing. Notwithstanding the foregoing, if and to the extent such Title Documents, contracts, agreements, records, books, documents, licences, reports and data also pertain to interests other than the Assets, photocopies or other copies may be provided to Purchaser in lieu of original copies.

2.5 Form of Payment

All payments to be made pursuant to this Agreement shall be in Canadian funds. All payments to be made at Closing shall be made by certified cheque or bank draft.

2.6 Purchase Price

The aggregate consideration to be paid by Purchaser to Vendor for Vendor's interest in and to the Assets shall be \$_____. At Closing, Purchaser shall pay to Vendor (i) the Purchase Price less the Deposit and (ii) the Good and Services Tax payable in respect of the Assets, which Vendor shall remit according to law. Under current legislation, Vendor and Purchaser calculate such Goods and Services Tax to be \$_____. The Goods and Services Tax registration number of Vendor is _____.

2.7 Deposit

Vendor acknowledges the receipt of \$_____ from Purchaser, representing a deposit, being an amount that represents a genuine pre-estimate by the Parties of the damages that Vendor will suffer should Purchaser wrongfully fail to close the transactions contemplated by this Agreement, having regard to such matters as the nature of the Assets, the size of the Purchase Price, the amount of time

between the date hereof and the Closing Time, and the time and expense to be incurred by Vendor. If Closing occurs at the Closing Time, the Deposit shall be retained by Vendor and applied towards the Purchase Price. If Closing does not occur at the Closing Time, the Deposit shall be governed pursuant to sections 3.1 and 3.2.

2.8 **Allocation of Purchase Price**

The Parties shall allocate the Purchase Price as follows:

Petroleum and Natural Gas Rights	\$ _____
Tangibles	_____
Miscellaneous Interests	<u>1.00</u>
Total	\$ _____

2.9 **Interest**

At Closing, Purchaser shall pay to Vendor an amount equal to the interest that would have accrued on the Purchase Price, at the Prime Rate + ____%, calculated daily and not compounded, from and including the Adjustment Date to and including the day prior to the Closing Time, which amount shall constitute an increase to the Purchase Price and shall be allocated to the Petroleum and Natural Gas Rights.

THIS IS A 22-PAGE CONTRACT INCLUDING SCHEDULES.