

ASSET PURCHASE AND SALE AGREEMENT

BETWEEN

PERPETUAL OPERATING TRUST

(As Vendor)

- and -

[REDACTED – PURCHASER’S NAME]

(As Purchaser)

Dated as of March 12, 2015

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ASSET PURCHASE AND SALE AGREEMENT

THIS AGREEMENT made as of March 12, 2015.

BETWEEN:

PERPETUAL OPERATING TRUST, an unincorporated trust formed under the laws of the Province of Alberta having an office in the City of Calgary, Alberta ("**Vendor** ")

- and -

[REDACTED – PURCHASER'S NAME], a body corporate incorporated pursuant to the laws of the Province of Alberta and having an office in the City of Calgary, Alberta ("**Purchaser**")

WHEREAS Vendor wishes to sell the Assets to Purchaser, and Purchaser wishes to purchase the Assets from Vendor, subject to and in accordance with the terms and conditions of this Agreement.

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, the following phrases and capitalized terms shall have the following meanings:

- (a) "**Abandonment and Reclamation Obligations**" means all past, present and future Losses and Liabilities and other duties and obligations, whether arising under contract, Applicable Law or otherwise, relating to:
 - (i) the abandonment of the Wells and restoration and reclamation of the surface sites thereof and any other lands used to gain access thereto;
 - (ii) the closure, decommissioning, dismantling and removal of the Tangibles, including any structures, buildings, pipelines, facilities, equipment and other tangible depreciable property and assets, together with the restoration and reclamation of the lands on or which any of the foregoing are located and any other lands used to gain access thereto; and
 - (iii) the restoration, remediation or reclamation of the surface or subsurface of any lands other than those lands described in paragraphs (i) and (ii) and specifically relating to, or used to gain access to, the Assets.

- (b) "**Accounting Firm**" means a nationally or internationally recognized firm of chartered accountants as may be selected by the Parties.
- (c) "**AER**" means the Alberta Energy Regulator, or any successor thereto having jurisdiction over the Assets or certain of them and the operation thereof.
- (d) "**AFEs**" means authorities for expenditure, cash calls, operations notices, amounts budgeted pursuant to joint operating agreements, unit agreements, mail ballots and similar notices and calls for funds.
- (e) "**Affiliate**" means, with respect to a particular Person, another Person that controls, is controlled by, or is under common control with that particular Person. For the purposes of this definition, a Person "controls" another Person (other than an individual) if the first Person:
- (i) holds more than 50% of the voting securities of such other Person; or
 - (ii) has the power to appoint a majority of the board of directors or comparable body of such other Person; or
 - (iii) is entitled to more than 50% of the profits of such other Person or, in the event of a dissolution, to more than 50% of the assets of such other Person;
- or otherwise has the power to direct or cause the direction of management or policies of such other Person, in each case, regardless of whether such right or power is held or exercisable directly or through intermediaries or whether such right or power is held beneficially or as a trustee, guardian or similar capacity. In addition, if such other Person is a partnership and all of the partners therein would be considered "Affiliates" of each other as provided above in this Subclause 1.1(e), such partnership shall be deemed to be an Affiliate of each such partner and each other Person that is or would be deemed to be an Affiliate of each such partner.
- (f) "**Agreement**" means this Asset Purchase and Sale Agreement, including the attached Schedules.
- (g) "**Applicable Law**" means, in relation to any Person, property or circumstance, all laws and statutes, including regulations, rules, by-laws, ordinances and other statutory instruments enacted thereunder; all judgments, decrees, rulings and orders of courts, tribunals, commissions and other similar bodies of competent jurisdiction; all orders, rules, directives, policies and guidelines having force of law issued by any Governmental Authority; requirements of a stock exchange; and all terms and conditions of any Permits; that are in effect as of the relevant time and are applicable to such Person, property or circumstance.
- (h) "**Assets**" means the Petroleum and Natural Gas Rights, the Tangibles and the Miscellaneous Interests.
- (i) "**Breaching Party**" has the meaning ascribed to that term in Clause 3.4.
- (j) "**Business Day**" means a day on which banks are generally open for the transaction of commercial business in Calgary, Alberta.
- (k) "**Claim**" means any claim, demand, lawsuit, action, proceeding, notice of non-compliance or violation, order or direction, arbitration or governmental proceeding or investigation.

- (l) "**Claiming Party**" has the meaning ascribed to that term in Clause 6.7.
- (m) "**Closing**" means the transfer of possession, beneficial ownership and risks of the Assets from the Vendor to the Purchaser, the exchange of Specific Conveyances and payment of the Purchase Price by the Purchaser to the Vendor and all other items and consideration required to be delivered at the Closing Time pursuant hereto.
- (n) "**Closing Date**" means the later of (i) April 1, 2015, (ii) the third (3rd) Business Day following the day on which Competition Act Approval has been obtained, or (iii) any other Business Day as Vendor and Purchaser may agree in writing, provided that, following Closing, references to the "Closing Date" shall mean the date on which Closing actually occurred; provided that the Closing Date must occur prior to May 30, 2015.
- (o) "**Closing Place**" means the offices of Vendor's Solicitors or any other place as Vendor and Purchaser may agree.
- (p) "**Closing Statement**" has the meaning ascribed to that term in Subclause 2.7(c).
- (q) "**Closing Time**" means 11:00 a.m. on the Closing Date or any other time as Vendor and Purchaser may agree.
- (r) "**Commissioner**" means the Commissioner of Competition appointed under the Competition Act.
- (s) "**Competition Act**" means the *Competition Act* (Canada).
- (t) "**Competition Act Approval**" means that:
 - (i) an advance ruling certificate pursuant to section 102 of the Competition Act has been issued by the Commissioner in respect of the transactions contemplated by this Agreement; or
 - (ii) a no-action letter in respect of the transactions contemplated by this Agreement has been received from the Commissioner indicating that the Commissioner has determined that she does not at that time intend to make an application for an order under section 92 of the Competition Act in respect of the transactions contemplated by this Agreement; or
 - (iii) in the event that neither an ARC nor a no-action letter is issued or received, the relevant waiting period under section 123 of the Competition Act shall have expired and there shall be no threatened or actual application by the Commissioner for an order under sections 92 or 100 of the Competition Act.
- (u) "**Consequential Losses**" means any consequential, incidental, punitive, special, exemplary or indirect damages, cost or deferred profits or revenues, loss of business opportunity, losses based on loss of use or other business interruption losses and damages.
- (v) "**Consideration Shares**" has the meaning ascribed to that term in Subclause 2.4(a).
- (w) "**Effective Time**" means 12:01 a.m. on April 1, 2015.
- (x) **[REDACTED – EMPLOYMENT CLAUSE – SENSITIVE BUSINESS INFORMATION.]**

- (y) "**Encumbrance**" means a Security Interest, an option to purchase, a farm-out agreement under which earning has not occurred, a royalty, a net profits interest, a carried working interest, a right to convert a royalty to a working interest on payout of a well, a penalty or forfeiture arising as a result of non-participation in a drilling or other operation and any other adverse claim or encumbrance, whether similar or dissimilar to the foregoing.
- (z) "**Environment**" means the components of the earth and includes ambient air, land, surface and sub-surface strata, groundwater, lake, river or other surface water, all layers of the atmosphere, all organic and inorganic matter and living organisms, and the interacting natural systems that include such components.
- (aa) "**Environmental Liabilities**" means all past, present and future Losses and Liabilities, Claims and other duties and obligations, whether arising under contract, Applicable Law or otherwise, arising from, relating to or associated with:
- (i) Abandonment and Reclamation Obligations;
 - (ii) any damage, pollution, contamination or other adverse situations pertaining to the Environment howsoever and by whomsoever caused and regardless of whether such damage, pollution, contamination or other adverse situations occur or arise in whole or in part prior to, at or subsequent to the date of this Agreement;
 - (iii) the presence, storage, use, holding, collection, accumulation, assessment, generation, manufacture, processing, treatment, stabilization, disposition, handling, transportation, release, emission or discharge of Petroleum Substances, oilfield wastes, water, hazardous substances, environmental contaminants and all other substances and materials regulated under any Applicable Law, including any forms of energy, or any corrosion to or deterioration of any structures or other property;
 - (iv) compliance with or the consequences of any non-compliance with, or violation or breach of, any Applicable Law pertaining to the Environment or to the protection of the Environment;
 - (v) sampling, monitoring or assessing the Environment or any potential impacts thereon from any past, present or future activities or operations; or
 - (vi) the protection, reclamation, remediation or restoration of the Environment;
- that relate to or arise by virtue of the Assets or the ownership thereof or any past, present or future operations and activities conducted in connection with the Assets or on or in respect of the Lands or any lands pooled or unitized therewith.
- (bb) "**Excluded Assets**" means those Petroleum and Natural Gas Rights and related Miscellaneous Interests outlined in red on Schedule I.
- (cc) "**Final Statement of Adjustments**" has the meaning ascribed to that term in Subclause 2.7(d).
- (dd) "**General Conveyance**" means an agreement in the form set forth in Schedule E.
- (ee) "**Governmental Authority**" means any:

- (i) governmental entity or authority of any nature, including any governmental ministry, agency, branch, department or official, and any court, regulatory board or other tribunal; or
- (ii) individual or body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory or taxing authority or power of any nature;

having jurisdiction or power over any Person, property, operation, transaction or other matter or circumstance.

- (ff) "**GST**" means the goods and services tax provided for in the *Excise Tax Act* (Canada) and any other tax imposed or levied by the Government of Canada on or in respect of the sale or supply of goods or services in addition to or replacement for such goods and service tax.
- (gg) "**Indemnified Matter**" has the meaning ascribed to that term in Clause 6.7.
- (hh) "**Indemnifying Party**" has the meaning ascribed to that term in Clause 6.7.
- (ii) "**Lands**" means all lands, excluding the Excluded Assets, set forth in Schedule I and including those lands identified in Schedule A under the heading "Lands" and, subject to any limitations identified or set forth in Schedule A or Schedule I, includes the Petroleum Substances within, upon or under those identified lands.
- (jj) "**Leases and Licences**" means all leases, licenses, permits, and other documents of title set forth and described in Schedule "A" by virtue of which the holder thereof is entitled to drill for, win, take, own or remove the Petroleum Substances within, upon or under the Lands or lands pooled or unitized therewith, or by virtue of which the holder thereof is deemed to be entitled to a share of Petroleum Substances removed from the Lands or lands pooled or unitized therewith, and includes, if applicable, all renewals and extensions of such documents and all documents issued in substitution therefor but only insofar as the same relates to the Lands.
- (kk) "**Losses and Liabilities**" means all losses, costs, expenses, interest, charges, assessments damages, liabilities, obligations, fines and penalties, including all reasonable costs incurred in investigating, defending or negotiating the settlement or resolution of any Claim or threatened Claim, and specifically including reasonable legal fees and expenses on a "solicitor and his own client" or comparable basis and other professional fees and disbursements on a full indemnity basis, regardless of whether the foregoing arise in, under or by virtue of common law, in equity, under Applicable Law, under contract, negligence, strict liability, breach of duty or otherwise.
- (ll) "**Major Facilities**" means the plant, machinery, equipment, facilities and other tangible depreciable property and assets identified or described in Schedule C under the heading "Major Facilities".
- (mm) "**Material Contracts**" means those agreements and other arrangements identified in Schedule B.
- (nn) "**Miscellaneous Interests**" means, subject to the limitations and exclusions below in this definition, all of Vendor's right, title and interest in and to all property and rights that pertain directly to the Petroleum and Natural Gas Rights or the Tangibles (excluding the Petroleum and Natural Gas Rights or the Tangibles themselves), including:

- (i) the Title and Operating Documents and all other contracts and agreements and all rights in relation thereto including the Material Contracts;
- (ii) Surface Rights;
- (iii) the Wells, including the well bores and down-hole casing for the Wells;
- (iv) Permits;
- (v) records, files, reports, data, correspondence and other information, including lease, license, contract, well, production and facilities files and records; and
- (vi) all extensions, renewals, replacements, substitutions or amendments of or to any of the agreements and instruments described in paragraphs (i), (ii) and (iv) above;

however, the Miscellaneous Interests do not include:

- (A) any of the foregoing property or rights to the extent that they:
 - (I) include or pertain to any seismic data;
 - (II) include or pertain to Vendor's proprietary technology, evaluations, forecasts or interpretations (whether geological, engineering, economic or otherwise); or
 - (III) are owned or licensed by Third Parties with restrictions that prohibit the sale, transfer or disclosure thereof to Purchaser; or
 - (B) any deposits or other security related to Permits or any operations or royalties pertaining to the Assets.
- (oo) "**Non-Breaching Party**" has the meaning ascribed to that term in Clause 3.4.
 - (pp) "**Officer's Certificate**" means a certificate given by an officer of Purchaser or Vendor, which shall be substantially in the form specified in Schedule F.
 - (qq) "**Other Sales Taxes**" means all sales, value-added or similar taxes or other transfer taxes, fees and charges, other than GST, imposed or levied by any Governmental Authority on or in respect of the sale or supply of goods or services.
 - (rr) "**Party**" means a party to this Agreement, and "**Parties**" means all of the parties to this Agreement.
 - (ss) "**Permits**" means all licences, permits, approvals and authorizations granted or issued by any Governmental Authorities and relating to the construction, installation, ownership, use or operation of the Assets.
 - (tt) "**Permitted Encumbrances**" means:

- (i) liens for taxes, assessments and governmental charges that are not due and payable or delinquent or if due 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 a Person that is conducting the development or operation of the property to which such liens relate and that are not due and payable or delinquent, except as may be payable in connection with the outstanding AFEs listed in Schedule D or if due, the validity of which is being diligently contested in good faith by or on behalf of Vendor;
- (iii) mechanics', builders', materialmen's or other similar liens in respect of services rendered or goods supplied for which payment is not yet due and payable or delinquent or if due the validity of which are being diligently contested in good faith by or on behalf of Vendor;
- (iv) liens granted in the ordinary course of business to a public utility or Governmental Authority in connection with operations on or in respect of the Lands or lands pooled or unitized therewith;
- (v) easements, rights of way, servitudes and other similar rights in land, including 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, to the knowledge of Vendor, do not materially impair the use of the Assets affected thereby;
- (vi) the right reserved to or vested in any municipality or Governmental Authority by the terms of any lease, licence, franchise, grant or permit or by any provision of Applicable Law, 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;
- (vii) rights of general application reserved to or vested in any Governmental Authority to levy taxes or royalties on Petroleum Substances or any of them or the income therefrom, or to control, limit or regulate production rates or the operation or use of any property;
- (viii) statutory exceptions to title and the reservations, limitations, provisos and conditions in any original grants from the Crown of any mines and minerals;
- (ix) the terms and conditions of the Title and Operating Documents;
- (x) any Security Interest held by any Third Party over Vendor's interest in the Assets and in respect of which Vendor has delivered to Purchaser at or prior to Closing a release and discharge or no interest letter;
- (xi) contracts for the purchase, processing, transportation, handling or storage of Petroleum Substances or for the contract operation of any of the Assets that are terminable without penalty on 31 days or less notice;
- (xii) all ROFRs; and

- (xiii) all Encumbrances, obligations, duties, terms and conditions specifically identified or set forth as such in a Schedule or specifically consented to or approved in writing by Purchaser prior to the date of this Agreement and such defects relating to Vendor's title to the Assets and such to environmental liabilities relating to the Assets which are deemed approved or accepted by Purchaser pursuant to the provisions of Article 10 of this Agreement.
- (uu) "**Person**" means any individual, body corporate, partnership (limited or general), trust, trustee, executor or similar official, Governmental Authority or other entity.
- (vv) "**Petroleum and Natural Gas Rights**" means all of Vendor's right, title and interest in and to:
- (i) rights in, or rights to explore for, drill for, extract, win and produce, take, save or market, Petroleum Substances;
 - (ii) rights to a share of production of Petroleum Substances;
 - (iii) fee simple interests and other estates in Petroleum Substances *in situ*;
 - (iv) rights to Petroleum Substances injected into but not produced from the Lands;
 - (v) interests and rights known as working interests, leasehold interests, royalty interests, net profit interests, overriding royalty interests, gross overriding royalty interests, production payments, profit interests, economic interests and fee simple interests and similar interests in Petroleum Substances or the proceeds of the sale of Petroleum Substances or to payments calculated by reference thereto; and
 - (vi) rights to acquire any of the foregoing in paragraphs (i) to (iv);
- but, in each case, only insofar as the foregoing relate to the Leases and the Lands or any lands pooled or unitized therewith.
- (ww) "**Petroleum Substances**" means any of crude oil, oil sands, crude bitumen and products derived therefrom, synthetic crude oil, petroleum, natural gas, natural gas liquids, natural gas derived from or associated with coal deposits, sulphur, and any and all other substances and minerals related to any of the foregoing, whether liquid, solid or gaseous and whether hydrocarbons or not.
- (xx) "**Pre-Closing Period**" means the period from the date of this Agreement to the Closing Date.
- (yy) "**Prime Rate**" means the rate of interest equal to the annual rate of interest announced from time to time by the main Calgary branch of the Canadian Imperial Bank of Commerce as the reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada.
- (zz) "**Purchase Price**" has the meaning ascribed to that term in Subclause 2.4(a).
- (aaa) "**Related Persons**" means, in respect to a Party, that Party's Affiliates, together with that Party's and its Affiliates' directors, officers, employees and other personnel and agents.

- (bbb) "**ROFR**" means a right of first refusal, right of first offer or other pre-emptive or preferential right of purchase or similar right to acquire the Assets or certain of them that may become operative by virtue of this Agreement or the completion of the Transaction.
- (ccc) "**Security Interest**" means a pledge, lien, charge, mortgage, assignment by way of security, conditional sale, title retention arrangement or other security interest granted by a Vendor, its Affiliates or predecessors in title.
- (ddd) "**Specific Conveyances**" means all conveyances, assignments, transfers, novations, trust declarations and other documents or instruments, other than and in addition to the General Conveyance, that are reasonably required or desirable, in accordance with generally accepted oil and gas industry practices, to convey, assign and transfer the Assets to Purchaser or Purchaser's nominee and to make Purchaser or Purchaser's nominee a party to, and to novate Purchaser or Purchaser's nominee into, the Title and Operating Documents in the place and stead of Vendor with respect to the Assets.
- (eee) "**Surface Rights**" means all rights to occupy, cross or otherwise use or enjoy the surface of the Lands and any lands pooled or unitized therewith or any other lands: (i) upon which the Tangibles are situate, (ii) used in connection with the ownership or operation of the Petroleum and Natural Gas Rights, the Tangibles or the Wells, or (iii) used to gain access to any of the Lands (or any lands pooled or unitized therewith), the Tangibles or the Wells.
- (fff) "**Take or Pay Obligations**" means obligations to sell or deliver Petroleum Substances or any of them without being entitled in due course to receive and retain full payment for such Petroleum Substances.
- (ggg) "**Tangibles**" means all of Vendor's right, title and interest in and to:
- (i) all Major Facilities; and
 - (ii) all tangible depreciable property, apparatus, plant, equipment, machinery, field inventory and facilities, other than the Major Facilities, used or intended for use in, or otherwise useful in exploiting any Petroleum Substances from or within the Lands (whether the Petroleum and Natural Gas Rights to which such Petroleum Substances are allocated are owned by a Vendor or by others or both) and located within, upon or in the vicinity of the Lands (or any lands pooled or unitized therewith), including all gas plants, oil batteries, buildings, production equipment, pipelines, pipeline connections, meters, generators, motors, compressors, treaters, dehydrators, separators, pumps, tanks, boilers, communication equipment and all salvageable equipment pertaining to any Wells listed in Schedule A.
- (hhh) "**Third Party**" means any Person other than Vendor, Purchaser or an Affiliate of any of the foregoing.
- (iii) "**Thirteenth Month Adjustment**" means the accounting procedure performed annually by any operator of certain of the Assets for the purpose of redistributing operating expenses, processing fee revenues, royalties and gas cost allowances and other costs, expenses or revenues among the owners or users of those Assets.

- (jjj) **"Title and Operating Documents"** means:
- (i) the Leases and Licences;
 - (ii) all other agreements relating to the acquisition, ownership, operation or exploitation of the Petroleum and Natural Gas Rights, Tangibles or the Wells, including:
 - (A) operating agreements, royalty agreements, farm-out or farm-in agreements, option agreements, participation agreements, pooling agreements, unit agreements, unit operating agreements, sale and purchase agreements and asset exchange agreements;
 - (B) agreements for the sale of Petroleum Substances that are terminable on thirty-one (31) days' notice or less without early termination penalty or other cost;
 - (C) agreements pertaining to the Surface Rights;
 - (D) agreements for the construction, ownership and operation of gas plants, gathering systems and other tangible depreciable property and assets;
 - (E) service agreements for the treating, gathering, storage, transportation or processing of Petroleum Substances or other substances, the injection or subsurface disposal of other substances, the use of well bores or the operation of any Tangibles or Wells by a Third Party; and
 - (F) Permits and other approvals, authorizations or licences required under Applicable Law.
- (kkk) **"[REDACTED – PURCHASER'S NAME] Shares"** means the common shares in the capital of Purchaser.
- (lll) **"Transaction"** means the purchase of the Assets by Purchaser from Vendor on and subject to the terms and conditions, and as more fully described, in this Agreement.
- (mmm) **[REDACTED – EMPLOYMENT CLAUSE – SENSITIVE BUSINESS INFORMATION.]**
- (nnn) **"Vendor Information"** means the documents, files, data and information which were reviewed by or were provided to Purchaser or were otherwise disclosed in writing to Purchaser prior to the execution of this Agreement.
- (ooo) **"Vendor's Solicitors"** means Davis LLP in its capacity as legal counsel to Vendor.
- (ppp) **"Wells"** means the producing, shut-in, water source, observation, disposal, injection, abandoned, suspended and similar wells located on or within the Lands or any lands pooled or unitized therewith, whether or not completed, as are identified or described in Schedule A, together with all well licenses relating thereto.
- (qqq) **"Work Fee"** has the meaning ascribed to that term in Clause 3.4.

1.2 Schedules

Appended to this Agreement are the following Schedules:

Schedule A - Lands, Leases and Licences, Petroleum and Natural Gas Rights, Wells

Schedule B - Material Contracts

Schedule C - Major Facilities and Pipelines

Schedule D - Outstanding AFEs

Schedule E - Form of General Conveyance

Schedule F - Form of Officer's Certificate

Schedule G - Disclosed Matters

Part 1 – Offset Notices

Part 2 – Lawsuits, Claims and Other Disclosed Matters

Schedule H - Additional Purchaser Representations and Warranties

Schedule I - Lands Plat, including the Excluded Assets

These Schedules are incorporated into and form part of this Agreement. If any term or condition of such Schedules conflicts or is inconsistent with any term or condition in the main body of this Agreement, the term or condition in the main body of this Agreement shall prevail to the extent of the conflict or inconsistency.

1.3 Headings

The use of "Article", "Clause", "Subclause", "paragraph" and "Schedule", whether or not followed by a number or letter or combination thereof, refers to the applicable article, clause, subclause, paragraph or schedule of or to this Agreement.

1.4 Interpretation Not Affected by Headings

The division of this Agreement into articles, clauses, subclauses, paragraphs and other subdivisions and the insertion of headings for any of the foregoing are for convenience and reference only and shall not affect the construction or interpretation of this Agreement.

1.5 Words Importing Number or Gender

When the context reasonably permits, words in this Agreement that suggest the singular shall be construed to suggest the plural and vice versa, and words in this Agreement that suggest gender or gender neutrality shall be construed to suggest the masculine, feminine and neutral genders.

1.6 Use of Derivative Terms

If a derivative form of a term or expression that is already specifically defined in this Agreement is also used in this Agreement, then such derivative form shall have a meaning that corresponds to the applicable defined term or expression.

1.7 Use of Industry Terms

Terms and expression that are not specifically defined in this Agreement, but which have generally accepted meanings in the custom and usage of the petroleum and natural gas industry in Western Canada as of the date of this Agreement, shall have such generally accepted meanings when used in this Agreement unless the contrary is specified or provided for elsewhere in this Agreement.

1.8 Use of "Including"

The use of "including" or "includes" or similar words in this Agreement, when following any general statement, term or matter, is not to be construed to limit such general statement, term or matter to the specific items immediately following such word to those or similar items, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words or phrases of similar import) is used, but rather such references shall be construed to refer to all items that could reasonably fall within the broadest possible scope of such general statement, term or matter.

1.9 Meaning of "Gross Negligence" and "Wilful Misconduct"

For the purposes of this Agreement:

- (a) no act or omission by Vendor or its Related Persons shall be construed as gross negligence or wilful misconduct if the act or omission is taken or omitted to be taken at the request or direction of, or with the prior written consent or approval of, Purchaser; and
- (b) no act or omission by Purchaser or its Related Persons shall be construed as gross negligence or wilful misconduct if the act or omission is taken or omitted to be taken at the request or direction of, or with the prior written consent or approval of Vendor.

1.10 Statutory References

Any reference in this Agreement to a law, statute, regulation, rule, by-law or other requirement of law or any governmental consent, approval, permit or other authorization shall be deemed to refer to such law, statute, regulation, rule, by-law or other requirement of law or such governmental consent, approval, permit or other authorization as it has been amended, supplemented, re-enacted, varied, amended or otherwise modified or replaced from time to time up to the applicable time.

1.11 Conflicts

If any term or condition of this Agreement conflicts with a term or condition of any Title or Operating Document or the requirements of any Governmental Authority in Canada or agency in Canada having jurisdiction over the Parties, then the term or condition of such Title and Operating Document or Governmental Authority in Canada shall prevail and this Agreement shall be deemed to be amended to the extent thereby required.

1.12 Contractual References

Any reference in this Agreement to another contract, agreement, instrument or other document shall be deemed to refer to such contract, agreement instrument or other document as it has been amended, modified, replaced or supplemented from time to time up to the applicable time.

1.13 Monetary References

Any reference in this Agreement to a monetary amount, including the use of the term "Dollar" or the symbol "\$", shall mean the lawful currency of Canada unless the contrary is specified or provided for elsewhere in this Agreement.

1.14 References to Time

Any reference in this Agreement to any particular time shall mean the local time in Calgary, Alberta on the relevant day.

1.15 Date for Payments or Other Actions

Where any payment or calculation is to be made, or any other action is to be taken, on or as of a day that is not a Business Day, that payment or calculation is to be made, or that other action is to be taken, as applicable, on or as of the next following Business Day.

1.16 Calculation of Time Periods

Unless otherwise specified, time periods within or following which any payment is to be made or any act is to be done under this Agreement shall be calculated by excluding the day on which the period commences and including the day on which such period ends.

1.17 Knowledge

In this Agreement, the stated knowledge of a Party consists only of the actual knowledge or awareness, as the case may be, of the current officers and senior managers of such Party, without obligation to make further inquiry, whose normal responsibilities relate to the matter in question in the course of their normal duties, and does not include knowledge, information or belief and awareness of any other Person or any constructive or imputed knowledge. A Party does not have any obligation to make inquiry of Third Parties or the files and records of any Third Party or Governmental Authority in connection with representations and warranties that are made to its knowledge.

ARTICLE 2 PURCHASE AND SALE AND CLOSING

2.1 Purchase and Sale

Vendor hereby agrees to sell, assign, transfer and convey the Assets to Purchaser, and Purchaser hereby agrees to purchase and receive the Assets from Vendor on the Closing Date, subject to and in accordance with the terms of this Agreement.

2.2 Closing

- (a) Subject to all other provisions of this Agreement, Closing shall take place at the Closing Place at the Closing Time.
- (b) Subject to all other provisions of this Agreement, title to, and all right, title, estate and interest of Vendor (whether absolute or contingent, legal or beneficial), risk and possession of, the Assets shall pass from Vendor to Purchaser upon Closing.

2.3 Form of Payment

All payments to be made pursuant to this Agreement shall be made in immediately available funds by wire.

2.4 Purchase Price

- (a) The consideration to be paid by Purchaser to Vendor (or such Person as Vendor may direct in writing at least 5 Business Days prior to Closing) for the Assets (the "**Purchase Price**") shall be 6,750,000 [REDACTED – PURCHASER'S NAME] Shares (the "**Consideration Shares**"). Purchaser acknowledges that the Consideration Shares shall be subject to a four (4) month plus one day restricted period pursuant to National Instrument 45-102 *Resale of Securities* and it agrees that the certificate representing the Consideration Shares will bear a legend to such effect. In addition to the Consideration Shares, at Closing, Purchaser shall pay to Vendor the net amount of the adjustments set forth in the Closing Statement pursuant to Clause 2.7.
- (b) Issuance of the Consideration Shares in accordance with Clause 2.4(a) shall constitute full and final satisfaction of Purchaser's obligation to deliver the Consideration Shares in accordance with Clause 4.2(a).
- (c) The Purchase Price shall be allocated among the Assets as follows:
 - (i) to the Petroleum and Natural Gas Rights, 80%;
 - (ii) to the Tangibles, 20% less \$10.00;
 - (iii) to the Miscellaneous Interests, \$10.00.

2.5 Purchase Price Certainty

In the determination of the Purchase Price payable for the Assets, the parties are in agreement that the extent and value of the Abandonment and Reclamation Obligations and Environmental Liabilities is unknown as of the Effective Time, and the Parties have not attributed a specific or agreed to value with regard to either (i) such liabilities, or (ii) the indemnities provided for in Article 6 of this Agreement, nor shall there be any adjustments made to the Purchase Price in relation thereto.

2.6 GST and Other Sales Taxes

- (a) The Purchase Price does not include an amount on account of GST or any Other Sales Taxes payable in respect of the Transaction.
- (b) At Closing, Purchaser shall pay to Vendor all GST payable in respect of the Transaction, which dollar amount shall be determined by the following formula: (Consideration Shares x the Closing trading price of the [REDACTED – PURCHASER'S NAME] Shares on the date hereof) x 20% (being the amount of the Purchase Price allocated to the Tangibles) x 0.05. The Vendor shall remit the GST paid to it by Purchaser according to the provisions of Applicable Law.
- (c) The Parties acknowledge that it is their understanding that no Other Sales Taxes are payable in respect of the Transaction and, therefore, at Closing, no amount will be paid by Purchaser to Vendor, and no amount will be collected by Vendor from Purchaser, on account of Other Sales

Taxes in respect of the Transaction. However, if it is determined that Other Sales Taxes are payable in respect of the Transaction, then, as provided in Subclause 2.6(b), Purchaser shall pay such Other Sales Taxes promptly after receiving notice or otherwise becoming aware that such Other Sales Taxes are payable in respect of the Transaction and Purchaser shall indemnify, defend and save harmless Vendor and all Vendor Related Persons in respect of all such Other Sales Taxes payable in respect of the Transaction and any interest and penalties levied or imposed in connection therewith, except to the extent that such penalty, interest or other amounts payable by Vendor is the result of any act or omission by Vendor (other than the failure of Vendor to collect such Other Sales Taxes at Closing).

- (d) The Parties agree that, as between Vendor and Purchaser, Purchaser shall be solely liable for and Purchaser shall indemnify, defend and save harmless Vendor from any Other Taxes or GST, penalty, interest or other amounts which may be payable by or assessed against Vendor under the *Excise Tax Act* (Canada) or any Losses and Liabilities suffered, sustained, paid or incurred by Vendor or any of its Related Persons or any Claims made against Vendor or any of its Related Persons as a result of or in connection with the failure by Purchaser to pay or Vendor to collect any GST or Other Taxes at Closing, except to the extent that such penalty, interest or other amounts payable by Vendor is the result of any act or omission by Vendor.

2.7 Adjustments

- (a) All benefits and obligations of any kind or nature received, accruing, payable or paid in respect of the Assets, including maintenance, development, capital and operating costs, royalties and proceeds from the sale of production, shall be apportioned between Vendor and Purchaser on an accrual basis in accordance with IFRS as of the Effective Time, subject to the following:
 - (i) all rentals and similar payments, all cash advances and all property taxes, freehold mineral taxes and other taxes (excluding taxes based on income, net revenue or capital) paid, payable or levied on or in respect of the Assets, the ownership thereof or Petroleum Substances produced therefrom or allocated thereto shall be apportioned between Vendor and Purchaser on a per diem basis as of the Effective Time;
 - (ii) all costs relating to any work performed or goods and services provided in respect of the Assets will be deemed to have accrued as of the date the work was performed or the goods or services were provided, regardless of the time at which those costs become payable;
 - (iii) all deposits, prepaid amounts and other security and financial assurances provided by Vendor to Governmental Authorities or other Third Parties in respect of the Assets, the operation thereof, Petroleum Substances produced therefrom or allocated thereto or services provided in connection therewith do not comprise part of the Assets and shall be for the sole benefit and the account of Vendor;
 - (iv) all overhead recoveries, operator's fees and similar amounts provided for in the Title and Operating Documents and received or receivable by Vendor from Third Parties, as operator of any Assets and relating to the period up to Closing shall be for Vendor's benefit and account, with such amounts received or receivable in respect of the month in which Closing occurs apportioned between Vendor and Purchaser on a per diem basis as of the Closing Date;

- (v) proceeds (net of royalties and operating expenses) actually received by Vendor prior to Closing on account of Petroleum Substances that were produced or sold on and after the Effective Time until the Closing Time shall be a credit to the account of Purchaser and adjusted for in the Closing Statement. All other such proceeds shall be dealt with as and when received by Vendor in accordance with paragraph 9.1(a)(iv);
 - (vi) Petroleum Substances that were produced from or allocated to the Assets and that were beyond the wellhead as of the Effective Time do not comprise part of the Assets and shall remain the property of, and be for the benefit and the account of, Vendor; and
 - (vii) no adjustments shall be made on account of any taxes calculated by reference to or assessed based on income, net revenue or capital that are payable by Vendor or Purchaser.
- (b) For the purposes of Subclause 2.4(c), all adjustments between the Parties pursuant to this Clause 2.7 shall be allocated to the Petroleum and Natural Gas Rights.
 - (c) Vendor shall prepare a statement based on Vendor's good faith estimate of all adjustments to be made between the Parties pursuant to and in accordance with Subclause 2.7(a) (the "**Closing Statement**") and deliver a copy of such statement, together with reasonable supporting documentation, to Purchaser no later than the 5th Business Day immediately prior to the Closing Date. Vendor shall assist Purchaser in verifying the amounts and adjustments set forth in the Closing Statement.
 - (d) Within 180 days following Closing, Vendor shall prepare (or cause to be prepared) and deliver to Purchaser a written statement (the "**Final Statement of Adjustments**") setting forth any adjustments to be made between the Parties pursuant to and in accordance with Subclause 2.7(a) that were not included in the Closing Statement or, if included in the Closing Statement, were not accurately included therein, together with the net amount payable by Vendor to Purchaser or Purchaser to Vendor, as the case may be, in respect of such adjustments. Except as provided in Subclause 2.7(g), no further adjustments shall be made between the Parties after settlement of the adjustments set forth in the Final Statement of Adjustments. Vendor shall assist Purchaser in verifying the amounts and adjustments set forth in the Final Statement of Adjustments.
 - (e) If Purchaser is of the opinion, acting reasonably, that any change is required to be made to the Final Statement of Adjustments as prepared by Vendor, it shall, within 30 days after the delivery of the Final Statement of Adjustments by Vendor to Purchaser (the "**Objection Date**"), give written notice to Vendor of any such proposed change, including the amount of such proposed change and other particulars of such proposed change, in reasonable detail. Subject to Subclauses 2.7(g) and 2.7(h), if Purchaser does not notify Vendor of any proposed change on or before the Objection Date, then Purchaser and Vendor shall be deemed to have accepted the Final Statement of Adjustments.
 - (f) If Purchaser gives written notice to Vendor of any proposed change to the Final Statement of Adjustments on or before the Objection Date, and if the proposed change is disputed by Vendor and the Parties fail to resolve the dispute within 10 days after receipt by the Vendor of such notice, then the Accounting Firm shall be immediately engaged by the Parties to resolve the dispute and the Accounting Firm shall be requested to render its decision without qualifications, other than the usual qualifications relating to engagements of this nature, within 14 days after the

dispute is referred to it. The decision of the Accounting Firm shall be final and binding upon the Parties and shall not be subject to appeal by either Party. Vendor shall be responsible for and shall pay 50% of the fees and expenses of the Accounting Firm and Purchaser shall be responsible for and shall pay 50% of the fees and expenses of the Accounting Firm.

- (g) After delivery of the Final Statement of Adjustments, the Parties shall make further adjustments between them, or correct previously made adjustments made between them, under Subclause 2.7(a), but excluding any matters finally resolved by the Accounting Firm, as and when identified by either of the Parties, provided that, no adjustments shall be made under Subclause 2.7(a), including corrections to previously made adjustments, more than 1 year after Closing except:
 - (i) in connection with a Thirteenth Month Adjustment, but only if a claim in respect of such Thirteenth Month Adjustment is made by a Party within 2 years after Closing. If such notice is not given within such period, no adjustment in this regard shall be made;
 - (ii) as a consequence of an audit relating to the Assets that was conducted by a Third Party (other than a Governmental Authority) having rights to do so pursuant to the Title and Operating Documents, but only if a claim in respect of such an audit is made by a Party within 2 years after Closing. If such notice is not given within such period, no adjustment in this regard shall be made; or
 - (iii) an audit initiated by a Governmental Authority, but only if a claim in respect of such an audit is made by a Party within 4 years after Closing. If such notice is not given within such period, no adjustment in this regard shall be made.
- (h) At any time during the 12-month period immediately following Closing, each Party shall have the right, at its own cost and upon at least 5 Business Days prior notice to the other Party, to examine, copy and audit the accounting and financial records of the other Party relating to the Assets or the operation thereof for the purpose of verifying the calculation or re-calculation of the adjustments provided for in this Clause 2.7, provided that:
 - (i) in the case of inquiries relating to a Thirteenth Month Adjustment or an audit conducted by a Third Party (other than a Governmental Authority), such period shall extend to the end of the 2 year period immediately following Closing; and
 - (ii) in the case of inquiries relating to an audit initiated by a Governmental Authority, such period shall extend to the end of the 4 year period immediately following Closing.

Each Party shall cooperate with the other Party in order to provide reasonable access to its records to the other Party for the purposes of this Subclause 2.7(h).

- (i) Amounts payable under this Clause 2.7 shall be paid within 10 days of delivery of the Final Statement of Adjustments or receipt of notice by a Party that is liable to pay such amount as provided above in this Clause 2.7, subject to the limitations in Subclauses 2.7(f) and 2.7(g) provided that, if there is a dispute regarding the liability for or the amount of any permitted (or purportedly permitted) adjustment, the amount in dispute shall become due and payable within 10 days of settlement or other resolution of such dispute. If a Party fails to pay any such amount when it first becomes due and payable, then, in addition to and without prejudice to its obligation

to pay such unpaid amount, such Party shall pay to the other Party interest on such unpaid amount calculated at an annual rate of interest equal to the Prime Rate plus one percentage point on a day-to-day basis for the period from the day on which such unpaid amount first became due and payable, to the day on which payment of such unpaid amount, together with such interest, is received by the other Party.

ARTICLE 3 CONDITIONS OF CLOSING

3.1 Purchaser's Conditions

- (a) The obligation of Purchaser to complete the Transaction and purchase the Assets from Vendor is subject to the following conditions precedent, which are inserted into and made part of this Agreement for the exclusive benefit of Purchaser and may be waived only by Purchaser with the exception of those matters set forth in Sections 3.1(a)(iii) and 3.1(a)(vi) which cannot be waived:
- (i) the representations and warranties of Vendor set forth in Clause 5.1:
 - (A) shall be true and correct in all material respects as of the date of this Agreement; and
 - (B) shall be true and correct in all material respects as of the Closing Date,or, in each case, shall be true and correct in all material respects as of such other date or dates as may be specified therein, and all obligations and covenants of Vendor in this Agreement that are to be performed or complied with prior to or at the Closing Time (other than in respect of the agreements, certificates and other instruments and documents to be delivered at the Closing Time by Vendor pursuant to Clause 4.1) shall have been performed or complied with in all material respects;
 - (ii) at the Closing Time, Vendor shall have duly delivered the agreements, certificates and other instruments and documents required pursuant to Clause 4.1;
 - (iii) no Governmental Authority shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the completion of the Transaction which has not been vacated or dismissed prior to the Closing Time;
 - (iv) during the period between the Effective Date and the Closing Time there shall have been no physical damage to the Tangibles that would have a material adverse effect on the value of the Assets taken as a whole;
 - (v) all Third Party consents normally acquired prior to closing a transaction of this nature or where such consent may be unreasonably withheld shall have been received;
 - (vi) all applicable and required regulatory and Governmental Authority approvals, including Competition Act Approval, shall have been received; and
 - (vii) if requested by Purchaser at least 5 Business Days prior to Closing, Vendor shall have delivered to Purchaser, at or prior to Closing, either registrable discharges or 'no interest

letters' in a form satisfactory to Purchaser acting reasonably, for all Security Interests encumbering the interest of Vendor in and to any of the Assets.

- (b) If any of the conditions precedent in Subclause 3.1(a) have not been satisfied, complied with or waived by Purchaser at or before the Closing Time, then Purchaser may terminate this Agreement by written notice to Vendor prior to the Closing Time and the Parties shall be released and discharged from all further obligations hereunder, except with respect to those rights and obligations arising pursuant to the provisions of Clause 11.11.

3.2 Vendor's Conditions

- (a) The obligation of Vendor to complete the Transaction and sell and convey the Assets to Purchaser is subject to the following conditions precedent, which are inserted into and made part of this Agreement for the exclusive benefit of Vendor and may be waived only by Vendor with the exception of those matters set forth in Sections 3.2(a)(iii) and 3.2(a)(vi) which cannot be waived:

- (i) the representations and warranties of Purchaser set forth in Clause 5.3:
 - (A) shall be true and correct in all material respects as of the date of this Agreement; and
 - (B) shall be true and correct in all material respects as of the Closing Date;or, in each case, shall be true and correct in all material respects as of such other date or dates as specified therein, and all obligations and covenants of Purchaser in this Agreement that are to be performed or complied with prior to or at the Closing Time (other than in respect to the payments, agreements, certificates and other instruments and documents to be made and delivered at the Closing Time by Purchaser pursuant to Clause 4.2) shall have been performed or complied with in all material respects;
- (ii) at the Closing Time, Purchaser shall have duly made and delivered the payments, agreements, certificates and other instruments and documents required pursuant to Clause 4.2, including the share certificate representing the Consideration Shares;
- (iii) no Governmental Authority shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the completion of the Transaction which has not been vacated or dismissed prior to the Closing Time;
- (iv) all Third Party consents normally acquired prior to closing a transaction of this nature or where such consent may be unreasonably withheld shall have been received;
- (v) Purchaser shall have received conditional listing approval of the TSX in respect of the issuance of the Consideration Shares; and
- (vi) all applicable and required regulatory and Governmental Authority approvals, including Competition Act Approval, shall have been received.

- (b) If any of the conditions precedent in Subclause 3.2(a) have not been satisfied, complied with or waived by Vendor at or before the Closing Time, then Vendor may terminate this Agreement by

written notice to Purchaser prior to the Closing Time and the Parties shall be released and discharged from all further obligations hereunder, except with respect to those rights and obligations arising pursuant to the provisions of Clause 11.11.

3.3 Efforts to Fulfil Conditions Precedent

Purchaser and Vendor shall proceed diligently and in good faith and use their reasonable efforts to satisfy and comply with the conditions precedent in Subclauses 3.1(a) and 3.2(a) and shall provide the other Party with any reasonable assistance in the satisfaction of and compliance with the conditions precedent in Subclauses 3.1(a) and 3.2(a) that the other Party may reasonably request.

3.4 Work Fee

If Closing does not occur on or prior to the Closing Date, due to a breach of a material covenant or agreement made by a Party in this Agreement (the "**Breaching Party**"), the other Party (the "**Non-Breaching Party**") shall be entitled to a work fee of [REDACTED – DOLLAR AMOUNT OF WORK FEE – SENSITIVE BUSINESS INFORMATION.] (the "**Work Fee**"). The Breaching Party shall promptly, and in any event within 10 days following notice from the Non-Breaching Party, pay over the Work Fee to the Non-Breaching Party. Interest shall accrue on the Work Fee at the Prime Rate from the date that is 10 days following notice from the Non-Breaching Party until the Work Fee is paid in full in accordance herewith. The Parties agree that if the Work Fee is paid by a Breaching Party to the Non-Breaching Party pursuant to this Clause 3.4, the amount of the Work Fee constitutes the Non-Breaching Party's genuine estimate of all Losses and Liabilities that will be suffered by the Non-Breaching Party as a result of Closing not occurring and that such payment of the Work Fee shall be its sole and exclusive remedy as a result of Closing not occurring. The Non-Breaching Party hereby waives any Claim against the Breaching Party for any of the Non-Breaching Party's Losses and Liabilities that are in excess of the Work Fee which may result from Closing not occurring.

ARTICLE 4 CLOSING DELIVERIES

4.1 Deliveries by Vendor at Closing

At the Closing Time, Vendor shall deliver, or cause to be delivered, to Purchaser:

- (a) a General Conveyance duly executed by Vendor;
- (b) a certificate of status evidencing the good standing of the trustee of Vendor, Perpetual Energy Operating Corp., in its jurisdiction of incorporation and all jurisdictions where the Assets are located;
- (c) those of the Specific Conveyances which have been prepared as of the Closing Time;
- (d) an Officer's Certificate signed by an officer of Vendor;
- (e) a certified copy of a resolution of the board of directors of Vendor authorizing and approving the transaction;

- (f) releases and registrable discharges, or no interest letters, in respect of all registered Security Interests pertaining to the Assets which have been requested of Vendor by Purchaser not less than 5 Business Days prior to Closing;
- (g) the net amount owing pursuant to the Closing Statement, if any, and
- (h) such other items as may be specifically required hereunder or as may be reasonably requested by Purchaser.

4.2 Deliveries by Purchaser at Closing

At the Closing Time, Purchaser shall pay or deliver, or cause to be paid or delivered, to Vendor:

- (a) a share certificate evidencing the Consideration Shares registered in the name of Vendor or such Person as Vendor may direct in accordance with Clause 2.4(a);
- (b) the amounts owing in respect of GST pursuant to Subclause 2.6(b) and all net amounts owing pursuant to the Closing Statement, if any;
- (c) a certificate of status in good standing of Purchaser in its jurisdiction of incorporation and all jurisdictions where the Assets are located;
- (d) a General Conveyance duly executed by Purchaser;
- (e) an Officer's Certificate signed by an officer of Purchaser;
- (f) a certified copy of a resolution of the board of directors of Purchaser authorizing and approving the transaction; and
- (g) such other items as may be specifically required hereunder or as may be reasonably requested by Vendor.

4.3 Specific Conveyances

- (a) Vendor, at its own cost, shall use commercially reasonable efforts to prepare the Specific Conveyances prior to the Closing Time and to deliver the Specific Conveyances to Purchaser at the Closing Time, provided that, if and to the extent that any Specific Conveyances are not delivered by Vendor to Purchaser at the Closing Time, Vendor shall prepare and deliver to Purchaser the remaining Specific Conveyances as soon as is reasonably practicable after Closing, but in any event no later than 3 Business Days following Closing.
- (b) It shall not be necessary for any Specific Conveyances that are delivered by Vendor at the Closing Time to have been executed prior to or at Closing by Purchaser, other than Vendor and its Affiliates, as applicable.
- (c) To the extent that Purchaser is required to execute any Specific Conveyances, it shall do so promptly after the delivery of such Specific Conveyances by Vendor to Purchaser whether at or after the Closing Time, as the case may be.

- (d) In respect of any Specific Conveyances that require execution by Third Parties, promptly after Closing or the delivery of such Specific Conveyances after Closing, as the case may be, and, if necessary, the execution of such Specific Conveyances by Purchaser, Vendor shall co-operate with Purchaser and provide all reasonable assistance that Purchaser may reasonably request in connection with Purchaser's procurement of the execution of such Specific Conveyances by the parties thereto other than Vendor and Purchaser.
- (e) In respect of any Specific Conveyances that do not require execution by Third Parties, Purchaser shall deliver such Specific Conveyances to the appropriate recipients thereof promptly after Closing or the delivery of such Specific Conveyances after Closing, as the case may be, and, if necessary, execution by Purchaser, including the registration with the appropriate Governmental Authorities of any such Specific Conveyances that require registration.
- (f) Purchaser shall bear all costs, fees and deposits of every nature and kind in distributing and registering any Specific Conveyances and subject to Subclauses 4.3(h) and 4.3(i) in providing any assurances or security required to convey, transfer and assign the Assets to Purchaser and to have Purchaser recognized as the holder thereof.
- (g) Notwithstanding the forgoing in this Clause 4.3, in the case of any Specific Conveyances that are transfers of Permits or Crown lease transfers which may be filed electronically with the applicable Governmental Authority, promptly following Closing, Vendor shall submit electronic transfers for such Permits and Crown leases and Purchaser shall accept such electronic transfers from Vendor without delay, provided that, if Purchaser in good faith determines or believes that any of the electronic transfers are not complete and accurate, or the applicable Governmental Authority refuses to process any such transfers because of some defect therein, the Parties shall cooperate to duly complete or to correct such incomplete or inaccurate electronic transfers as soon as reasonably practicable and, thereafter, Vendor shall promptly re-submit such electronic transfers and Purchaser shall accept such electronic transfers from Vendor without delay.
- (h) If, for any reason, the AER or any other Governmental Authority or any other Third Party requires any Party (hereinafter referred to as "**Such Party**" in this and the next Subclause) to make a deposit, to provide any undertakings, information or other documentation or to take any action as a condition of or a prerequisite for the approval of the transfer of any Permits or the transfer or assignment of any of the Assets to Purchaser, immediately after receiving notice of such requirements and at its sole cost, Such Party shall make such deposits, provide such undertakings, information or other documentation and take such action, as the case may be.
- (i) If Such Party fails to make a deposit with the AER, other Governmental Authority or other Third Party as provided under Subclause 4.3(h) within 5 days of Such Party's receipt of notification that such deposit is required, the other Party (hereinafter referred to as the "**Other Party**" in this Subclause), shall have the right, but not the obligation, to make such deposit on behalf of Such Party and Such Party acknowledges and agrees that the Other Party shall be Such Party's agent with full power and authority to make such deposit for and on behalf of Such Party. Such Party shall reimburse the Other Party for the amount of any such deposit made by the Other Party and pay interest on the amount of such deposit at an annual rate equal to the Prime Rate plus one percentage point from the date on which the Other Party paid the deposit to the date on which the reimbursement for such deposit and payment of the corresponding interest is made in full. In addition to all other rights that may be available to the Other Party for the collection of such amounts from Such Party, the Other Party shall have the right to set-off the amount of any such

deposit, including interest as provided in this Subclause 4.3(i), against any monies payable by the Other Party to Such Party pursuant to this Agreement.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of Vendor

Vendor hereby makes the following representations and warranties to and in favour of Purchaser:

- (a) Vendor is an unincorporated trust and its trustee, Perpetual Energy Operating Corp., is a corporation duly amalgamated and existing under the laws of the Province of Alberta and registered to carry on business in the jurisdictions in which the Assets are situate;
- (b) Vendor has all requisite power and capacity to sell and convey its interest in the Assets in accordance with the provisions of this Agreement;
- (c) The execution, delivery and performance of this Agreement by Vendor has been duly and validly authorized by all requisite action on the part of Vendor and the directors and officers of its trustee, Perpetual Energy Operating Corp., and will not result in any violation of, be in conflict with, or constitute a default under, the constating documents of Vendor;
- (d) the execution, delivery and performance of this Agreement by Vendor will not result in any violation of, be in conflict with or constitute a default under: (i) any term or provision of any agreement, instrument, permit authority or governmental authorization to which Vendor is party or by which Vendor is bound; or (ii) any Applicable Law that is specifically applicable to Vendor;
- (e) this Agreement and all other agreements delivered or to be delivered by Vendor in connection herewith constitute, or when delivered shall constitute, legal, valid and binding obligations of Vendor, enforceable against Vendor in accordance with their respective terms, subject to all Applicable Law pertaining to bankruptcy, insolvency and creditors' rights and the general principles of equity;
- (f) other than the Competition Act Approval, no authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required for the due execution, delivery and performance by Vendor of this Agreement, other than authorizations, approvals or exemptions previously obtained and currently in force or to be obtained as and when required during the Pre-Closing Period;
- (g) Vendor has not incurred any obligation or liability, contingent or otherwise, for brokers' or finders' fees in respect of this Agreement or the Transaction for which Purchaser shall have any obligation or liability;
- (h) Vendor's interest in the Assets does not comprise all or substantially all of the assets of Perpetual;
- (i) Vendor is not a non-resident of Canada for the purposes of section 116 of the *Income Tax Act* (Canada);

- (j) Vendor is a registrant in respect of GST under the *Excise Tax Act* (Canada) and its GST registration number is [REDACTED – GST NUMBER – SENSITIVE BUSINESS INFORMATION].
- (k) the aggregate value of the Assets, as such value is determined in accordance with the *Investment Canada Act* (Canada), does not exceed \$369,000,000.00;
- (l) to the knowledge of Vendor, the Vendor Information includes all relevant records, books, accounts, documents, files, information, materials and filings pertaining to the ownership of the Assets, including all of the Title and Operating Documents, Material Contracts and other agreements and documents comprising the Miscellaneous Interest;
- (m) other than the Material Contracts, there are no contracts or commitments of Vendor pertaining to the Assets (including any production sales contracts, hedging, processing, transportation, gas balancing or similar agreements) which will be assumed by Purchaser following Closing that will obligate Purchaser to pay an amount or assume a liability in any annual period in excess of [REDACTED – DOLLAR AMOUNT – SENSITIVE BUSINESS INFORMATION.]that cannot be terminated by Purchaser, without penalty, on thirty-one (31) days' notice or less;
- (n) Vendor has not received notice of any Claim in respect of or in connection with the Assets or the operation thereof and there are no unsatisfied judgments or, to the knowledge of Vendor, any pending or threatened Claims against Vendor in respect of or in connection with the Assets or the operation thereof;
- (o) Vendor does not warrant title to the Assets but does represent and warrant that, except for or pursuant to any Permitted Encumbrances:
 - (i) Vendor has not alienated or encumbered the Assets or any part or portion thereof;
 - (ii) at the Closing Time, the Assets shall be free and clear of all Encumbrances created by, through or under Vendor; and
 - (iii) Vendor has not committed any act or omission and, to the knowledge of Vendor, no act or omission has been committed by any Third Party, whereby any interest in the Assets may be reduced, cancelled or determined;
- (p) Vendor has not received written notice of any default or purported default under any of the Title and Operating Documents that remains outstanding in any material respect or that has not been remedied in all material respects and, to the knowledge of Vendor, there has been no act or omission by Vendor that reasonably could constitute a breach of or a default under a Title and Operating Document that has not been remedied or which, if unremedied, could reasonably be expected to have a material adverse effect on the value of the Assets taken as a whole;
- (q) Vendor has not received written notice of any breach or purported breach of any Applicable Law pertaining to the Assets or the ownership or operation thereof (excluding any Applicable Law relating to the Environment) that remains outstanding or that has not been remedied in all material respects and, to the knowledge of Vendor, there has been no act or omission by Vendor that reasonably could constitute a breach of any such Applicable Law that has not been remedied

which, if unremedied, could reasonably be expected to have a material adverse effect on the value of the Assets taken as a whole;

- (r) to Vendor's knowledge, to the extent pertaining to the Assets:
 - (i) all Crown and lessor royalties and all lease rentals;
 - (ii) all ad valorem and property taxes; and
 - (iii) all production, severance and similar taxes, charges and assessments based upon or measured by the ownership or production of Petroleum Substances or any of them or the receipt of proceeds from the sale thereof;

that became due and payable to Third Parties on or prior to the date of this Agreement have been fully paid, except, in each case, for amounts that are being disputed in good faith and which are disclosed in Schedule G, Part 2;

- (s) other than the Material Contracts, there are no Take or Pay Obligations pertaining to the Assets;
- (t) except in connection with the AFEs listed in Schedule D, and excluding operating expenses incurred in the normal conduct of operations of the Assets, there are no AFEs or other financial commitments pertaining to the Assets under which individual expenditures in excess of **[REDACTED – DOLLAR AMOUNT – SENSITIVE BUSINESS INFORMATION.]** are or may be required to be made by Purchaser by virtue of Closing, taking into account, when applicable, the application of Clause 2.7;
- (u) except for any Environmental Liabilities identified by Purchaser prior to the date of this Agreement and in respect of which Purchaser provided written notice to Vendor prior to the date of this Agreement:
 - (i) Vendor has not received written notice of any orders or directives from Governmental Authorities that are specific to the Assets or any portion thereof, related to Environmental Liabilities which require any work, repairs, construction or capital expenditures with respect to the Assets which have not been complied with in all material respects; and
 - (ii) Vendor has not received written notice of any demands or notices issued by any Governmental Authority with respect to the breach of any Applicable Law relating to the Environment that are specifically applicable to the Assets or any portion thereof which remain outstanding;
- (v) those Wells listed in Schedule A for which a Vendor is the operator have been operated and, if applicable, abandoned, in all material respects in accordance with good oil and gas field practices and the requirements of Applicable Law during the period or periods in which a Vendor has been the operator thereof;
- (w) to the knowledge of Vendor, those Wells listed in Schedule A for which a Vendor is not the operator have been operated and, if applicable abandoned, in accordance with good oil and gas field practices and the requirements of Applicable Law;

- (x) the Tangibles for which Vendor is the operator have been operated in accordance with good oil and gas field practices and the material requirements of Applicable Law during the period or periods in which Vendor has been the operator thereof;
- (y) to the knowledge of Vendor, the Tangibles for which Vendor is not the operator have been operated in accordance with good oil and gas field practices and the requirements of Applicable Law;
- (z) except for the Excluded Assets, to the knowledge of Vendor, the Assets comprise all of Vendor's interests in the Lands set forth in Schedule I;
- (aa) there are no unsatisfied judgments and no claims, proceedings, actions, governmental investigations or lawsuits in existence, and to the knowledge of Vendor, contemplated or threatened against or with respect to the Assets or the interests of Vendor therein which might result in impairment or loss of the interest of Vendor in and to the Assets or which might otherwise adversely affect the Assets, and to the knowledge of Vendor, there exists no particular circumstance which will give rise to such a claim, proceeding, action, governmental investigation or lawsuit other than as disclosed in Part 2 of Schedule G;
- (bb) Vendor does not have a "Licensee Liability Rating" or "LLR" in respect of its assets and interest located in the Province of Alberta, as determined under or pursuant to the applicable AER rules, regulations, guidelines, directives, interim directives and policies that is less than 1.0 and Vendor will not have such an "LLR" that is less than 1.0 following Closing and the transfer of the Assets as contemplated in this Agreement; and Vendor is not aware of any fact or circumstance that would prevent or delay the transfer of any Permits relating to or forming part of the Assets as contemplated in this Agreement;
- (cc) To the knowledge of Vendor, there are no Rights of First Refusal applicable to the sale contemplated by this Agreement;
- (dd) except as disclosed in Part 1 of Schedule G there are no offset obligations (including obligations to drill wells, surrender rights or pay compensatory royalty) affecting or impacting the Lands;
- (ee) to the knowledge of Vendor, there are no active area of mutual interest provisions in any of the Title and Operating Documents or other agreements or documents to which the Assets are subject; and
- (ff) subject to:
 - (i) Vendor's other representations and warranties relating to the Assets or the operation thereof made in Clause 5.1 (including any limitations expressed therein or elsewhere in this Agreement);
 - (ii) the Permitted Encumbrances; and
 - (iii) the satisfaction of the obligations required to maintain the Title and Operating Documents in good standing;

Purchaser may, for the residue of the term of the Title and Operating Documents and all renewals and extensions thereof, take possession of and use the Assets for its own use and benefit without any interruption by Vendor or any Person claiming by, through or under Vendor.

5.2 Limitation Regarding Vendor's Representations and Warranties

(a) Vendor representations and warranties set forth in Clause 5.1 are made:

- (i) as of the date of this Agreement; and
- (ii) as of the Closing Date;

or, in each case, as of such other date or dates as specified therein.

(b) Except as expressly set forth in Clause 5.1, Vendor makes no representations or warranties regarding:

- (i) itself;
- (ii) the accuracy or completeness of any data or information supplied by or on behalf of Vendor under this Agreement or otherwise in connection with the Transaction;
- (iii) the Assets, including:
 - (A) the title or interest of Vendor in and to the Assets;
 - (B) the quality, quantity or recoverability of Petroleum Substances within or under the Lands or any lands pooled or unitized therewith;
 - (C) the value of the Assets or the future cash flow therefrom, including any past, present or future Losses and Liabilities, including Environmental Liabilities, pertaining to the Assets;
 - (D) the quality, condition, fitness for any particular purpose or merchantability of any equipment or other tangible depreciable property included in the Assets or of any of the Lands or any lands pooled or unitized therewith; or
 - (E) the effectiveness, standing or condition of any Miscellaneous Interests;

and Vendor hereby expressly negates, and Purchaser hereby waives, all other representations or warranties relating to any such Person, property, circumstance or matter, regardless of whether made directly or indirectly, in verbal, written or electronic form, by Vendor or any of their directors, officers, employees or other personnel, consultants, agents, auditors, counsel or representatives, or implied under or arising by operation of law.

(c) Purchaser acknowledges and confirms that except for the representations and warranties set forth in Clause 5.1 it is acquiring the Assets on an "as is, where is" basis and that it has performed its own due diligence and evaluations and that it has relied, and will continue to rely, upon its own due diligence and evaluations with respect to all matters pertaining to Vendor, the Assets and the Transaction.

5.3 Representations and Warranties of Purchaser

Purchaser hereby makes the following representations and warranties to and in favour of Vendor:

- (a) Purchaser is a corporation duly formed and existing under the laws of the Province of Alberta and registered to carry on business in the jurisdictions in which the Assets are situate;
- (b) Purchaser has all requisite power and capacity to purchase and accept the Assets in accordance with the provisions of this Agreement;
- (c) the execution, delivery and performance of this Agreement by Purchaser has been duly and validly authorized by all requisite action on the part of Purchaser and the directors and officers of Purchaser and will, as at the Closing Time, have been validly authorized by the directors of Purchaser, and will not result in any material violation of, be in material conflict with, or constitute a default under, the constating documents of Purchaser;
- (d) this Agreement and all other agreements delivered or to be delivered by Purchaser in connection herewith constitute, or when delivered shall constitute, legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms, subject to all Applicable Law pertaining to bankruptcy, insolvency and creditors' rights and the general principles of equity;
- (e) Purchaser does not have a "Licensee Liability Rating" or "LLR" in respect of its assets and interest located in the Province of Alberta, as determined under or pursuant to the applicable AER rules, regulations, guidelines, directives, interim directives and policies that is less than 1.0 and will not have such an "LLR" that is less than 1.0 following Closing and the transfer of the Assets as contemplated in this Agreement; and Purchaser is not aware of any fact or circumstance that would prevent or delay the transfer of any Permits relating to or forming part of the Assets as contemplated in this Agreement;
- (f) Purchaser has not incurred any obligation or liability, contingent or otherwise, for brokers' or finders' fees in respect of this Agreement or the Transaction for which Vendor shall have any obligation or liability;
- (g) Purchaser is entering into this Agreement and will acquire the Assets for itself and not as agent or representative for any Third Party;
- (h) Purchaser is a registrant in respect of GST under the *Excise Tax Act* (Canada) and its GST registration number is **[REDACTED – GST NUMBER – SENSITIVE BUSINESS INFORMATION.]**;
- (i) Purchaser is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada); and
- (j) In addition, Purchaser represents and warrants with respect to itself and the Consideration Shares as set out in Schedule H.

5.4 Limitation Regarding Purchaser's Representations and Warranties

Each of Purchaser's representations and warranties set forth in Clause 5.3 is made as of the date of this Agreement and as of the Closing Date or, in each case, as of such other date or dates as specified therein.

5.5 Survival of Representations and Warranties

Subject to the provisions of Article 8 and Clause 6.5, the respective representations and warranties set forth in Clauses 5.1 and 5.3 (including those representations and warranties of Purchaser set forth in Schedule H) shall, absent fraud, survive Closing for a period of 12 months following Closing.

ARTICLE 6 INDEMNITIES FOR REPRESENTATIONS AND WARRANTIES

6.1 Vendor's Indemnities for Representations, Warranties and Covenants

From and after Closing and subject to Clauses 6.5 and 6.6(a), Vendor shall be liable for all Losses and Liabilities suffered, sustained, paid or incurred by Purchaser or any of Purchaser's Related Persons, and, in addition and as an independent covenant, shall defend, indemnify and keep harmless Purchaser from and against all Losses and Liabilities suffered, sustained, paid or incurred by it and all Claims made against it, in either case, as a consequence of any representations or warranties contained in Clause 5.1 being untrue or incorrect or of a breach by Vendor of any of its covenants contained in this Agreement that are to be performed or complied with at or prior to the Closing Time, provided that, Vendor shall have no liability under the foregoing assumption of liability and indemnity provided for in this Clause 6.1:

- (a) unless the aggregate amount of all such Losses and Liabilities and Claims suffered by Purchaser or any of the Purchaser's Related Persons exceeds **[REDACTED – THRESHOLD AMOUNT – SENSITIVE BUSINESS INFORMATION.]**;
- (b) for any act or omission undertaken or omitted to be undertaken by or on behalf of Vendor in connection with Vendor's obligations under Clauses 8.1 that was undertaken or omitted to be undertaken at the written request of or with the written consent of Purchaser;
- (c) to the extent arising as a consequence of the fraudulent conduct, gross negligence or wilful misconduct of Purchaser or any of the Purchaser's Related Persons; or
- (d) for any such Losses and Liabilities or Claims in respect of which Purchaser, absent fraud, has not provided written notice thereof in reasonable detail to Vendor within the 12-month period immediately following Closing.

Notwithstanding the foregoing, the limitations in Subclauses 6.1(a) and 6.1(d) shall not apply to the Vendor liability to or obligations to indemnify Purchaser in respect of a breach of Clause 8.1.

6.2 Purchaser's Indemnities for Representations and Warranties

From and after Closing, and subject to Clauses 6.5 and 6.6(b), Purchaser shall be liable for all Losses and Liabilities suffered, sustained, paid or incurred by Vendor or any Vendor Related Person, and, in addition and as an independent covenant, shall defend, indemnify and keep harmless Vendor from and against all Losses and Liabilities suffered, sustained, paid or incurred by it and all Claims made against it, in either case, as a consequence of any representations or warranties contained in Clause 5.3 being untrue or incorrect provided that Purchaser shall have no liability under the foregoing assumption of liability and indemnity provided for in this Clause 6.2:

- (a) unless the aggregate amount of all such Losses and Liabilities and Claims suffered by Vendor or any of the Vendor Related Persons exceeds **[REDACTED – THRESHOLD AMOUNT – SENSITIVE BUSINESS INFORMATION.]**;
- (b) to the extent arising as a consequence of the fraudulent conduct, gross negligence or wilful misconduct of Vendor or any Vendor Related Person; or
- (c) for any such Losses and Liabilities or Claims in respect of which Vendor, absent fraud, has not provided written notice thereof in reasonable detail to Purchaser within the 12-month period immediately following Closing.

6.3 Future Obligations

Except for the adjustments expressly contemplated by Clause 2.7 which shall be adjusted as of the Effective Time, from and after Closing, Purchaser shall be liable for all Losses and Liabilities suffered, sustained, paid or incurred by Vendor or Vendor Related Persons, and, in addition and as an independent covenant, shall defend, indemnify and save harmless Vendor and each Vendor Related Person from and against all Losses and Liabilities suffered, sustained, paid or incurred by it and all Claims made against it; which, in either case, arise out of any matter or thing occurring, accruing or arising on and after the Closing Time and which relates to the Assets (excluding any Losses and Liabilities or Claims that pertain to any Environmental Liabilities, which shall be dealt with under Clause 6.4). Notwithstanding the foregoing in this Clause 6.3, nothing in this Clause 6.3 shall be construed so as to require Purchaser to be liable for or to indemnify Vendor or Vendor Related Persons in connection with any such Losses and Liabilities or any such Claims to the extent arising from:

- (a) matters or things for which Purchaser is entitled to indemnification pursuant to Clause 6.1; or
- (b) to the extent arising as a consequence of the fraudulent conduct, gross negligence or wilful misconduct of Vendor or any of Vendor's Related Persons.

6.4 Purchaser's Environmental Indemnity

Subject to the compliance by Vendor with the provisions of Clause 8.1, from and after Closing Purchaser shall be liable for all Losses and Liabilities suffered, sustained, paid or incurred by Vendor or any Vendor Related Persons, and, in addition and as an independent covenant, shall defend, indemnify and save harmless Vendor and any Vendor Related Persons from and against all Losses and Liabilities suffered, sustained, paid or incurred by it and all Claims made against it, in either case, in respect of all past, present and future Environmental Liabilities. This assumption of liability and indemnity shall apply without limit and without regard to the negligence of Vendor or any of a Vendor's Related Persons. This

assumption of liability and indemnity shall apply in respect of all of the Environmental Liabilities. Purchaser hereby waives, and acknowledges and agrees that it shall not exercise, any right or remedy against Vendor or any Vendor Related Persons in respect of any such Environmental Liabilities that Purchaser may otherwise have under Applicable Law, including any right to name Vendor or any Vendor Related Persons as a party to any Claim commenced by Purchaser or by any Third Party in which Purchaser is a party. Notwithstanding the foregoing in this Clause 6.4, nothing in this Clause 6.4 shall be construed so as to require Purchaser to be liable for or to indemnify Vendor or any Vendor Related Persons in connection with any such Losses and Liabilities or any such Claims to the extent arising from:

- (a) matters or things for which Purchaser is entitled to indemnification pursuant to Clause 6.1; or
- (b) to the extent arising as a consequence of the fraudulent conduct, gross negligence or wilful misconduct of either Vendor or any of either Vendor Related Persons.

6.5 Limitation of Remedies

- (a) From and after Closing the sole remedy available to:
 - (i) Purchaser in respect to any Vendor representations and warranties set forth in Clause 5.1 being untrue or incorrect or a breach by Vendor of any of its covenants in this Agreement that are to be performed prior to or at the Closing Time shall be Vendor's assumption of liability and indemnity provided for in Clause 6.1 and Purchaser hereby releases and waives any and all other Claims or any other remedy or relief that it has or hereafter may have in this regard, whether arising at law, in equity or otherwise; and
 - (ii) Vendor in respect to any Purchaser representations and warranties set forth in Clause 5.3 being untrue or incorrect or a breach by Purchaser of any of its covenants in this Agreement that are to be performed prior to or at the Closing Time shall be Purchaser's assumption of liability and indemnity provided in Clause 6.2 and Vendor hereby releases and waives any and all other Claims or any other remedy or relief that it has or hereafter may have in this regard, whether arising at law, in equity or otherwise.
- (b) Nothing in Clause 6.1 shall be construed so as to require Vendor to be liable for or to indemnify Purchaser or any of the Purchaser's Related Persons in connection with any Consequential Losses.
- (c) Nothing in Clauses 6.2, 6.3 or 6.4 shall be construed so as to require Purchaser to be liable for or to indemnify Vendor or any of Vendor's Related Persons in connection with any Consequential Losses.

6.6 Maximum Liability

- (a) Notwithstanding any other provision in this Agreement, in no event shall the liability of Vendor under or in respect Clause 6.1 exceed, in the aggregate, an amount equal to **[REDACTED – THRESHOLD AMOUNT – SENSITIVE BUSINESS INFORMATION.]**. This Clause 6.6(a) shall survive Closing and any termination of this Agreement.
- (b) Notwithstanding any other provision in this Agreement, in no event shall the liability of Purchaser under or in respect Clause 6.2 exceed, in the aggregate, an amount equal to

[REDACTED – THRESHOLD AMOUNT – SENSITIVE BUSINESS INFORMATION.]
This Clause 6.6(b) shall survive Closing and any termination of this Agreement.

6.7 Procedures – General Indemnities

If a Party (the "**Claiming Party**") wishes to claim indemnification from the other Party (the "**Indemnifying Party**") pursuant to Clause 6.1, 6.2, 6.3 or 6.4, the following shall apply:

- (a) Promptly after acquiring knowledge of the subject matter of the Claim or the Losses and Liabilities in respect of which the claim for indemnification is to be made (an "**Indemnified Matter**"), the Claiming Party shall provide notice thereof to the Indemnifying Party, provided that, failure to give such notice will not limit or lessen the right of the Claiming Party to indemnity under this Agreement except to the extent that the Indemnifying Party is prejudiced in its contest or defence of the Indemnified Matter as a result of such failure. Such notice shall describe the nature of the Indemnified Matter in reasonable detail and indicate, if reasonably ascertainable, the Claiming Party's good faith estimate of the amount for which the Indemnifying Party may be liable under this Agreement in respect of such Indemnified Matter.
- (b) If the Indemnified Matter relates to a Claim made or brought by a Third Party:
 - (i) the Indemnifying Party shall have the right to participate in or to elect to assume control of the defence or dispute of any such Claim. Any such participation in or assumption of control of the defence or dispute of the Claim shall be at the Indemnifying Party's own expense and use counsel chosen by the Indemnifying Party. The Claiming Party shall provide all reasonable assistance that the Indemnifying Party may reasonably request in connection with such defence or dispute;
 - (ii) the Claiming Party shall have the right to participate in the defence or dispute of any such Indemnified Matter using counsel of its own choice if representation of both the Claiming Party and the Indemnifying Party by the same counsel would be inappropriate due to conflicting interests of the two Parties, including Claims that would be partially excluded from indemnification by the Indemnifying Party by virtue of another provision of this Agreement. The Indemnifying Party shall be liable for the costs of such additional counsel retained by the Claiming Party, but only to the extent that such costs pertain to the defence or dispute of the Indemnified Matter; and
 - (iii) the Claiming Party shall not settle or compromise, or propose to settle or compromise, any such Indemnified Matter without first obtaining the consent of the Indemnifying Party, provided that, such consent shall not be required if:
 - (A) the Indemnifying Party denies or disputes that the particular Claim constitutes an Indemnified Matter and refuses to take responsibility for the defence or dispute thereof as provided above;
 - (B) the Indemnifying Party fails to respond to any notice of the Indemnified Matter given by the Claiming Party in accordance with Clause 6.7(a) within 15 days of receipt thereof by the Indemnifying Party; or

- (C) the Indemnifying Party either refuses or fails to defend or dispute such Indemnified Matter after assuming responsibility for the defence or dispute thereof as provided above.

In each such a case, the Claiming Party shall be entitled to defend, dispute, settle or compromise such a Claim by a Third Party in any manner it determines to be appropriate, acting reasonably and in good faith, subject to any limitations set forth in this Agreement.

- (c) If the Indemnified Matter relates to Losses and Liabilities directly suffered, sustained, paid or incurred by the Claiming Party or any of the Claiming Party's Related Persons, the Indemnifying Party shall respond to the Claiming Party as to whether the Indemnifying Party accepts liability for such Indemnified Matter within 30 days of receipt of the Claiming Party's notice given in accordance with Subclause 6.7(a) and:
 - (i) if the Indemnifying Party does not respond within such 30-day period, the Indemnifying Party shall be deemed to have accepted its liability for such Indemnified Matter;
 - (ii) if the Indemnifying Party accepts its liability for such Indemnified Matter, the Indemnifying Party shall discharge its liability to indemnify the Claiming Party within 10 days after the end of the initial 30-day notice period; and
 - (iii) if the Indemnifying Party disputes whether the particular Losses and Liabilities constitute an Indemnified Matter or the amount of such Losses or Liabilities for which the Indemnifying Party is liable within such 30-day period, or if the Indemnifying Party accepts or is deemed to have accepted liability for such Indemnified Matter, but fails to discharge such liability within the specified period, the Claiming Party shall be free to seek to enforce its right to indemnification in respect of such Indemnified Matter under this Agreement in any manner that it deems appropriate.
- (d) If the Indemnifying Party has paid an amount in respect of an Indemnified Matter pursuant to this Agreement, then:
 - (i) the Indemnifying Party will be subrogated to all and any Claims that the Claiming Party may have relating thereto without any further action;
 - (ii) the Claiming Party, without limiting its rights to the indemnity under this Agreement, shall provide any reasonable assistance that the Indemnifying Party may reasonably request in order to permit the Indemnifying Party to pursue such Claims; and
 - (iii) if the Claiming Party is subsequently reimbursed by any Person or from any source other than the Indemnifying Party in respect of the Indemnified Matter, the Claiming Party shall promptly pay to the Indemnifying Party any such amounts so received by it, up to the amount received from the Indemnifying Party in respect of such Indemnified Matter.

**ARTICLE 7
REGULATORY MATTERS**

7.1 Competition Act Application

- (a) Purchaser shall promptly (and, in any event within five (5) Business Days following execution of this Agreement) file with the Commissioner a request for an advance ruling certificate pursuant to the Competition Act (or, in the event that the Commissioner is not prepared to issue such certificate, a No Action Letter and waiver under paragraph 113(c) of the Competition Act relieving the Parties from the obligation to file under Part IX of the Competition Act) and Vendor shall in a timely manner furnish Purchaser with such information and assistance as may be reasonably requested in order to prepare and file such request for an advance ruling certificate.
- (b) Vendor and Purchaser shall use commercially reasonable efforts to respond promptly to any request or notice from the Commissioner pursuant to Part IX of the Competition Act, or a Person authorized by the Commissioner, requiring Vendor or Purchaser, to supply additional information that is relevant to the Commissioner's assessment of the transactions contemplated by this Agreement.
- (c) Subject to Applicable Law, Vendor and Purchaser shall consult with each other, and provide each other with reasonable opportunity to review and comment on any filings, applications and submissions made under the Competition Act to be sent by or on behalf of Purchaser, and to review all notices and correspondence received from the Competition Bureau with respect to all such filings, applications and submissions made under the Competition Act and Vendor shall use its commercially reasonable efforts to cooperate with and assist Purchaser in the preparation and making of all such filings, applications and submissions and obtaining the Competition Act Approval.
- (d) All applicable filing fees in connection with the Competition Act Approval shall be shared, one half by Vendor and one half by Purchaser.

**ARTICLE 8
PRE-CLOSING PERIOD**

8.1 Maintenance of Assets

- (a) During the Pre-Closing Period, to the extent that the nature of Vendor's interests permit, and subject to the Title and Operating Documents and any other agreements and documents to which the Assets are subject:
 - (i) Vendor shall:
 - (A) operate and maintain the Assets, in accordance with past practices and generally accepted oil and gas industry practices and all Applicable Law pertaining to the Assets;
 - (B) operate and maintain the Assets in all material respects, in accordance with the terms and conditions of the Title and Operating Documents;

- (C) pay or cause to be paid all costs and expenses relating to the Assets which become due and payable during the Pre-Closing Period; and
 - (D) continue to maintain its insurance coverage in respect of the Assets that is in effect as of the date of this Agreement; and
- (ii) Vendor shall not, without Purchaser's prior consent:
- (A) make any commitment or propose, initiate or authorize any individual expenditure with respect to the Assets that is in excess of **[REDACTED – DOLLAR AMOUNT – SENSITIVE BUSINESS INFORMATION.]**, except in the case of an emergency, to protect the Environment, protect life or safety or preserve the Assets or title to the Assets, or to the extent required by the order or direction of a Governmental Authority;
 - (B) surrender or abandon any of the Assets;
 - (C) terminate or amend the terms or conditions of any Title and Operating Documents; or
 - (D) subject to Clause 11.4, sell, transfer, assign, encumber or otherwise dispose of, surrender, forfeit or abandon any of the Assets or any part thereof, create any adverse Claims against the Assets or agree to do any of the foregoing except for sales of surplus equipment, materials, supplies and inventory in the ordinary course of business and provided that such proceeds shall be adjusted for pursuant to Clause 2.7;

or agree to do any of the foregoing.

- (b) For the purposes of this Clause 8.1, Purchaser's consent shall be deemed to have been provided if the matters referred to in this Clause 8.1 are identified or described in this Agreement or in respect of which Purchaser's consent in writing has been obtained.

8.2 Purchaser Indemnity

Purchaser shall be liable for and shall indemnify and save Vendor harmless from and against any Losses and Liabilities arising as a consequence of Vendor's actions in compliance with the provisions of Clause 8.1, except to the extent such Losses and Liabilities are caused by the gross negligence or wilful misconduct of Vendor or its Related Persons.

8.3 [REDACTED – EMPLOYMENT CLAUSE – SENSITIVE BUSINESS INFORMATION.]

ARTICLE 9 POST-CLOSING MATTERS

9.1 Post-Closing Matters

- (a) Following Closing, if and to the extent that Purchaser must be novated into, recognized as a party to, or otherwise accepted as assignee or transferee of Vendor's interest in the Assets or certain of them, including any Title and Operating Documents or other agreements governing or otherwise

pertaining to any Assets or the operation thereof, the following provisions shall apply with respect to the applicable Assets until such novation, recognition or acceptance has occurred:

- (i) at Purchaser's sole cost and expense, Vendor shall operate and maintain the applicable Assets on behalf of Purchaser as its agent;
 - (ii) Vendor shall not initiate or authorize any operations with respect to the applicable Assets, except upon the written direction of Purchaser or if Vendor reasonably determine that such operations are required for the protection of life or property, in which case Vendor may take any actions that they reasonably determine are required in the circumstances, provided that, in such latter case, Vendor shall promptly notify Purchaser of such actions and Vendor's estimate of the costs and expenses associated therewith;
 - (iii) Vendor shall promptly provide to Purchaser all AFEs, notices and other information, documents and correspondence relating to the applicable Assets that they receive and shall respond promptly to such AFEs, notices and other information and documents pursuant to the written instructions of Purchaser, but only if such instructions are received on a timely basis, provided that, Vendor may, but shall not be obliged to, refuse to follow any such instructions that they reasonably believe to be contrary to Applicable Law or in conflict with any applicable Title and Operating Document or other agreement; and
 - (iv) as soon as is reasonably practicable, Vendor shall deliver to Purchaser all revenues, proceeds and other benefits received by Vendor and derived from the Assets (excluding any such revenues, proceeds or benefits that relate to matters arising prior to the Effective Time), less the share of the applicable Crown or lessor royalties, operating costs, treating, processing and transportation expenses and any other costs and expenses directly associated with the Assets and the Petroleum Substances produced therefrom or allocated thereto that have been paid or are payable by Vendor, and less any out-of-pocket costs and expenses paid or incurred by Vendor in the discharge of its duties and obligations pursuant to this Clause 9.1.
- (b) If and to the extent that Vendor holds or maintains any Assets and takes actions with respect to any Assets on behalf of Purchaser pursuant to this Clause 9.1, then Vendor shall hold the same as bare trustee and be deemed to be the agent of Purchaser in such regard. Purchaser does hereby and shall ratify all actions taken by Vendor or refrained to be taken by Vendor pursuant to the terms of this Clause 8.1 in such capacity, with the intention that all such actions shall be for all purposes deemed to be those of Purchaser.
- (c) If Vendor participates in any operations or exercises rights or options in respect of any Assets as the agent of Purchaser pursuant to this Clause 9.1, then Vendor may require Purchaser to secure the costs to be incurred by Vendor on behalf of Purchaser in respect to such operations or pursuant to such election in such manner as may be reasonably appropriate in the circumstances.

9.2 Delivery of Title and Operating Documents and Miscellaneous Interests

Within 10 Business Days after Closing or any other day as Vendor and Purchaser may agree, Vendor shall deliver or cause to be delivered to Purchaser the Title and Operating Documents and such other agreements and documents to which the Assets are subject, and the original copies of those contracts, agreements, records, books, documents, licences, reports and data comprising Miscellaneous Interests which are in the possession and control of Vendor. Notwithstanding the foregoing in this Clause:

- (a) if and to the extent any such materials also pertain to assets or interests other than the Assets, photocopies or other copies of such materials may be provided to Purchaser in lieu of original copies; and
- (b) to the extent that there are any pending or threatened Claims, audits or other matters involving or relating to the Assets that pertain to the period prior to the Effective Time, Vendor, at their own cost, may make and retain copies of the relevant portions of such materials.

9.3 Removal of Signs

Within 60 days after Closing, Purchaser shall remove Vendor's name from all signs and remove any other items indicating ownership by Vendor located on, at or near any Wells or Tangibles. If Purchaser fails to remove Vendor's name from such signs or to remove such other items in respect to any such Wells or Tangibles within such period, then Vendor shall have the right, but not the obligation, to remove same and Purchaser shall reimburse Vendor for all reasonable costs incurred by Vendor in so doing.

9.4 Limitation of Liability for Post-Closing Operations

- (a) Vendor and the Vendor Related Persons shall have no liability for any Losses and Liabilities paid, incurred or suffered by Purchaser or any of the Purchaser's Related Persons or any Claims made against any of them relating to any operation or maintenance of the Assets after Closing or the discharge by Vendor of its obligations pursuant to the other provisions of this Article 8, except to the extent that any such Losses and Liabilities or any such Claims arise as a direct consequence of the gross negligence or wilful misconduct of Vendor or any Vendor Related Persons, provided that in no event shall Vendor be liable to Purchaser or Purchaser's Related Persons for any Consequential Losses relating to such operation or maintenance of the Assets.
- (b) Purchaser shall be liable for all Losses and Liabilities suffered, sustained, paid or incurred by Vendor or any Vendor Related Persons, and, in addition and as an independent covenant, shall defend, indemnify and save harmless Vendor and any Vendor Related Persons from and against all Losses and Liabilities suffered, sustained, paid or incurred by it and all Claims made against it, in either case, as a result of any actions taken or operations conducted in accordance with the other provisions of this Article 9, except to the extent arising as a direct consequence of the gross negligence or wilful misconduct of Vendor or any Vendor Related Persons.

**ARTICLE 10
DUE DILIGENCE REVIEW**

10.1 Due Diligence

Purchaser acknowledges that it has, prior to the execution hereof, been given an opportunity to:

- (a) review Vendor's title to the Assets; and
- (b) conduct an environmental review of the Assets;

and that it has satisfied itself in regard to both Vendor's title to the Assets and all environmental matters relating to the Assets, including Environmental Liabilities. Subject to the representations and warranties of Vendor in Clause 5.1, and the provisions of Clause 6.1, Purchaser expressly waives all defects relating either to Vendor's title to the Assets or to environmental matters relating to the Assets, whether disclosed by Purchaser's review or otherwise.

**ARTICLE 11
GENERAL**

11.1 Further Assurances

Each Party will, from time to time and at all times after Closing, without further consideration, do such further acts and deliver all such further assurances, deeds and documents as shall be reasonably required in order to fully perform and carry out the terms of this Agreement.

11.2 Entire Agreement

- (a) The provisions contained in all documents and agreements collateral hereto shall at all times be read subject to the provisions of this Agreement and, in the event of conflict, the provisions of this Agreement shall prevail.
- (b) This Agreement supersedes all other agreements, documents, writings and verbal understandings between the Parties relating to the subject matter of this Agreement and expresses the entire agreement of the Parties with respect to the subject matter of this Agreement.

11.3 Governing Law

- (a) This Agreement shall, in all respects, be subject to, interpreted, construed and enforced in accordance with and under the laws of the Province of Alberta and the laws of Canada applicable therein and shall, in every regard, be treated as a contract made in the Province of Alberta.
- (b) Subject to Subclauses 2.7(e) and 2.7(f), the Parties shall attorn and submit to the jurisdiction of the courts of the Province of Alberta and courts of appeal therefrom in respect of all matters arising out of this Agreement.

11.4 Assignment; Enurement

This Agreement may not be assigned by a Party without the prior written consent of the other Parties, which consent may be unreasonably and arbitrarily withheld; provided, however, Vendor may,

prior to Closing, assign this Agreement and the Assets to an Affiliate of Vendor without the prior consent of Purchaser. If Vendor assigns this Agreement and the Assets to an Affiliate in accordance herewith, such Affiliate of Vendor shall be bound by the obligations and rights set out in this Agreement. Vendor shall remain jointly and severally liable with such Affiliate for all of Vendor's obligations under this Agreement. This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective administrators, trustees, receivers, successors and permitted assigns.

11.5 Time of Essence

Time shall be of the essence in this Agreement.

11.6 Notices

The addresses for service and the fax numbers and email addresses of the Parties shall be as follows:

Vendor: Perpetual Operating Trust
Suite 3200, 605 – 5th Avenue S.W.
Calgary, Alberta T2P 3H5
Facsimile: 403-267-6300
Email: [REDACTED EMAIL ADDRESS]

Attention: Vice President Land and Acquisitions

Purchaser: **[REDACTED – PURCHASER'S NAME AND CONTACT INFORMATION]**

All notices, communications and statements required, permitted or contemplated in this Agreement shall be in writing, and shall be delivered as follows:

- (a) by personal delivery or courier service on a Party at the address of such Party set out above, in which case the item so served shall be deemed to have been received on the date of delivery if such delivery takes place prior to 5:00 p.m. on a Business Day. If the actual delivery of such notice occurs after 5:00 p.m. on a Business Day or on a day that is not a Business Day, then such notice shall be deemed to have been received on the first Business Day following the date on which such actual delivery was made; or
- (b) by facsimile or email transmission to a Party to the fax number or email address of such Party set out above, in which case the item so transmitted shall be deemed to have been received when received in its entirety in a legible form if such transmission and receipt are completed prior to 5:00 p.m. on a Business Day. If such transmission and receipt are completed after 5:00 p.m. on a Business Day or on a day that is not a Business Day, then such notice shall be deemed to have been received on the first Business Day following the date on which such transmission and receipt were completed.

A Party may from time to time change its address for service or its fax number or both by giving written notice of such change to the other Party.

11.7 Invalidity of Provisions

In case any of the provisions of this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby.

11.8 Waiver

No failure on the part of any Party in exercising any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy in law or in equity or by other Applicable Law or otherwise conferred. No waiver of any provision of this Agreement, including this Clause 11.8, shall be effective otherwise than by an instrument in writing dated subsequent to the date of this Agreement, executed by a duly authorized representative of the Party making such waiver.

11.9 Survival; No Merger

The respective representations, warranties, covenants and indemnities of the Parties contained in this Agreement, including all qualifications thereof and limitations thereon, shall not be merged in any assignments, conveyances, transfers and other documents provided for under this Agreement and shall survive Closing to the extent provided in the respective terms thereof.

11.10 Amendment

This Agreement shall not be varied in its terms or amended by oral agreement or by representation or otherwise other than by an instrument in writing dated subsequent to the date of this Agreement, executed by a duly authorized representative of each Party.

11.11 Confidentiality and Public Announcements

- (a) No Party may disclose the contents of this Agreement or any information concerning negotiations leading to this Agreement and the Transaction, without the prior written consent of the other Parties. Nothing contained in this Agreement shall prevent a Party from disclosing such information:
 - (i) to any Governmental Authority or to the public, but in either case, only if and to the extent that such disclosure is required under any Applicable Law or any stock exchange rule or policy to which such Party or its Affiliate is subject; provided however, that either Party's name shall in all circumstances be redacted by the other Party from any disclosure to the public of information relating to this Agreement (including the filing of this Agreement on SEDAR);
 - (ii) to obtain any required approvals or any consents required under the Title and Operating Documents and any other agreements and documents to which the Assets are subject;
 - (iii) to obtain the Competition Act Approval;
 - (iv) if required to obtain the consent to the Transaction by Vendor's lenders or other security holders and, if applicable, to obtain their release of security interests in, or their acknowledgement of "no interest" in, the Assets; or

- (v) subject to prior approval as to the content of such documents, information or materials, in an investor presentation, offering memorandum or similar document or materials; provided that, in each such instance, the Party that proposes to make such a disclosure shall advise the other Party of such proposed disclosure and shall use its reasonable efforts to prevent the disclosure of any such information that is not required to be disclosed for the listed purposes.

This Subclause 11.11(a) shall survive any termination of this Agreement prior to Closing for a period of one year following such termination.

- (b) The Parties acknowledge that each of them may make press releases concerning their respective entry into this Agreement after the execution hereof and further press releases after Closing, provided that in no circumstances shall any Party disclose the name of any other Party in any such press release or otherwise. The Parties agree that a press release issued by any Party may contain some or all of the financial terms of the Transaction. Without derogating from the Parties' rights to make public disclosures under Subclause 11.11(a), each of Vendor and Purchaser shall use its reasonable efforts to furnish to the other Party with the proposed content of all press releases concerning this Agreement and the Transaction at least 24 hours prior to the release or publication thereof, but in any event prior to the release or publication with reasonably sufficient time for the other Party to review and comment.

11.12 Counterpart Execution

This Agreement may be executed in any number of counterparts with the same effect as if all signatories to the counterparts had signed one document. All such counterparts shall together constitute and be construed as one instrument. For avoidance of doubt, a signed counterpart provided by way of facsimile transmission or other electronic means shall be as binding upon the Parties as an originally signed counterpart.

(Execution Page Follows)

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

[REDACTED – PURCHASER’S NAME]

PERPETUAL ENERGY OPERATING CORP.
as trustee for **PERPETUAL OPERATING TRUST**

Per: “Signed – Authorized Signatory”

Per: “Signed – Gary Jackson”

This is the Execution Page for the Asset Purchase and Sale Agreement between [REDACTED – PURCHASER’S NAME], as Purchaser, and Perpetual Operating Trust, as Vendor, dated March 12, 2015.

[REDACTED ALL SCHEDULES – SENSITIVE BUSINESS INFORMATION]