

AMALGAMATION AGREEMENT

THIS AMALGAMATION AGREEMENT dated as of the 3rd day of May, 2010.

AMONG:

BENCHMARK ENERGY CORP., a corporation continued under the laws of Canada ("**Benchmark**")

AND

BOLIVAR ENERGY INC., a corporation incorporated under the laws of the Province of Alberta ("**Bolivar**")

AND

BENCHMARK COLOMBIA ACQUISITION CORP., a corporation incorporated under the laws of the Province of Alberta ("**AcquisitionCo**")

WHEREAS upon the terms and subject to the conditions set out in this Agreement, the parties hereto intend to effect a business combination transaction whereby, among other things, Bolivar and AcquisitionCo will amalgamate and continue as one corporation in accordance with the terms and conditions hereof;

AND WHEREAS AcquisitionCo is a wholly-owned subsidiary of Benchmark and has not carried on active business and Benchmark desires that AcquisitionCo amalgamate with Bolivar under the laws of Alberta in accordance with the terms and conditions hereof;

AND WHEREAS the Bolivar Board of Directors (as defined herein) has, unanimously: (i) determined that the transactions contemplated by this Agreement are in the best interests of Bolivar and the Bolivar Shareholders; (ii) approved this Agreement and the transactions contemplated hereby; and (iii) determined to recommend that the Bolivar Shareholders vote in favour of the transactions contemplated by this Agreement;

AND WHEREAS the board of directors of Benchmark has unanimously: (i) determined that the transactions contemplated by this Agreement are in the best interests of Benchmark and the Benchmark Shareholders (as defined herein) and (ii) approved this Agreement and the transactions contemplated hereby;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the respective covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto covenant and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, unless there is something in the context or subject matter inconsistent therewith, the following defined terms have the meanings hereinafter set forth:

- (a) **"Acquisition Proposal"** means, with respect to Benchmark or Bolivar, as the case may be, and for certainty excluding the transactions contemplated by this Agreement, any inquiry or the making of any proposal or offer to such party or its shareholders from any person or combination of person which constitutes, or may reasonably be expected to lead to (in either case whether in one transaction or a series of transactions): (i) an acquisition from such party or its shareholders of 20% or more of the voting securities of such party or its subsidiaries; (ii) any acquisition of any assets of such party or its subsidiaries where such assets represent more than 20% of the fair market value (on a consolidated basis) ascribed to such party or contribute more than 20% of the revenues (on a consolidated basis) of such party (or any lease, long-term supply agreement or other arrangement having the same economic effect as a sale); (iii) an amalgamation, arrangement, merger, or consolidation involving such party or its subsidiaries; (iv) any take-over bid, issuer bid, exchange offer, recapitalization, liquidation, dissolution, reorganization or similar transaction involving such party or its subsidiaries; or (v) any other transaction, the consummation of which would or could reasonably be expected to impede, interfere with, prevent or delay the transactions contemplated by this Agreement or the Transaction or which would or could reasonably be expected to materially reduce the benefits to the other party under this Agreement or the Transaction; except that for the purpose of the definition of "Superior Proposal" in Section 3.4(b)(vii)(A), the reference in the definition of "Acquisition Proposal" to "20% or more of the voting securities" shall be deemed to be a reference to "50% or more of the voting securities", and the reference to "a substantial amount of assets" shall be deemed to be a reference to "all or substantially all of the assets";
- (b) **"Act"** means the *Business Corporations Act* (Alberta), R.S.A. 2000, c. B.9 as from time to time amended or re-enacted, including the regulations promulgated thereunder;
- (c) **"affiliate"** shall have the meaning ascribed thereto in the Act;
- (d) **"Agreement Date"** means the date hereof;
- (e) **"Amalco"** means the amalgamated corporation arising as a result of the Amalgamation;
- (f) **"Amalco Shares"** means common shares in the capital of Amalco;
- (g) **"Amalgamation"** means the amalgamation of Bolivar and AcquisitionCo contemplated by this Agreement;
- (h) **"Amalgamation Certificate"** means the certificate of amalgamation issued by the Registrar pursuant to the Act giving effect to the Amalgamation;

- (i) **"Applicable Canadian Securities Laws"**, in the context that refers to one or more Persons, means, collectively, and as the context may require, the securities legislation of each of the provinces and territories of Canada, and the rules, regulations and policies published and/or promulgated thereunder, as such may be amended from time to time prior to the Effective Date that apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Person having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities;
- (j) **"Applicable Laws"** means with respect to any Person, any Law that is binding upon or applicable to such person, as amended unless expressly specified otherwise;
- (k) **"Articles of Amalgamation"** means the articles of amalgamation of Amalco substantially in the form set out in Appendix "A" hereto;
- (l) **"Assessment"** means any written audit inquiry, assessment, reassessment, confirmation or variation of an assessment, indication that a tax assessment is being considered, request for filing of a waiver or extension of time or any other notice in writing relating to Taxes;
- (m) **"Benchmark Balance Sheet"** has the meaning ascribed thereto in Section 4.2(k)(i) hereof;
- (n) **"Benchmark Board of Directors"** means the board of directors of Benchmark as it may be comprised from time to time;
- (o) **"Benchmark Employment Agreements"** means the employment agreements between Benchmark and each of its senior officers;
- (p) **"Benchmark Financial Statements"** means the audited comparative consolidated financial statements of Benchmark as at and for the years ended June 30, 2009 and 2008 and the unaudited consolidated financial statements of Benchmark as at and for the three and six month periods ended December 31, 2009, in each case together with the notes thereto and, where applicable, the auditors' report thereon;
- (q) **"Benchmark Information"** means the information provided by Benchmark for inclusion in the Information Circular;
- (r) **"Benchmark Non-Completion Fee"** has the meaning ascribed thereto in Section 6.2 hereof;
- (s) **"Benchmark Options"** means options to purchase Benchmark Shares granted to certain directors, officers, employees and consultants of Benchmark;
- (t) **"Benchmark Reserves Report"** means the study as of August 31, 2009 on the prospective resources attributable to Benchmark in the exploration and production contract in the Sierra Block of Colombia, prepared by Petrotech and dated October 26, 2009 in accordance with National Instrument 51-101 – *Standards of Disclosure for Oil and Gas Activities*;

- (u) **"Benchmark Shareholders"** means holders of Benchmark Shares;
- (v) **"Benchmark Shares"** means the issued and outstanding common shares in the capital of Benchmark;
- (w) **"Benchmark Subsidiaries"** means, collectively, AcquisitionCo, Caribe Oil & Gas Ltd., Benchmark Holdings (BVI) Limited, Benchmark Energy (BVI) Corp. and Benchmark Energy (Colombia) Inc.;
- (x) **"Bolivar Balance Sheet"** has the meaning ascribed thereto in Section 4.1(k)(i) hereof;
- (y) **"Bolivar Board of Directors"** means the board of directors of Bolivar as it may be comprised from time to time;
- (z) **"Bolivar Employment Agreements"** means the employment agreements between Bolivar and each of its senior officers;
- (aa) **"Bolivar Financial Statements"** means the audited financial statements of Bolivar as at April 15, 2010 and for the period from January 1, 2010 to April 15, 2010, together with the notes thereto and the auditors' report thereon;
- (bb) **"Bolivar Information"** means the information provided by Bolivar for inclusion in the Information Circular;
- (cc) **"Bolivar Meeting"** means the annual general and special meeting of Bolivar Shareholders, and any adjournment(s) or postponement(s) thereof, to consider and, if thought advisable, authorize, approve and adopt each of the Bolivar Meeting Resolutions;
- (dd) **"Bolivar Meeting Resolutions"** has the meaning ascribed thereto in Section 2.5 hereof;
- (ee) **"Bolivar Nominees"** means John Moreland to be appointed to the Benchmark Board of Directors, subject to TSXV approval, on the Effective Date;
- (ff) **"Bolivar Non-Completion Fee"** has the meaning ascribed thereto in Section 6.1 hereof;
- (gg) **"Bolivar Reserves Report"** means the study on the prospective resources attributable to Bolivar in the exploration and production contract in the Llanos Block of Colombia, to be prepared by Petrotech in accordance with National Instrument 51-101 – *Standards of Disclosure for Oil and Gas Activities*;
- (hh) **"Bolivar Shareholders"** means holders of Bolivar Shares;
- (ii) **"Bolivar Shares"** means the issued and outstanding common shares in the capital of Bolivar;
- (jj) **"Bolivar Subsidiaries"** means Corocora Servicios Ltda;
- (kk) **"Bolivar Support Agreements"** means, collectively, the agreements between Benchmark and each of the Bolivar Support Shareholders substantially in the form set

forth in Appendix B hereto pursuant to which the Bolivar Support Shareholders have agreed to, among other things, vote the Bolivar Shares beneficially owned or controlled by such Bolivar Support Shareholders in favour of each of the Bolivar Meeting Resolutions and to otherwise support the Amalgamation, as provided therein;

- (ll) **"Bolivar Support Shareholders"** means each of the directors and officers of Bolivar and such other Bolivar Shareholders that have entered into Bolivar Support Agreements;
- (mm) **"Bolivar Warrants"** means an aggregate of 61,588,763 warrants that are exercisable for 61,588,763 Bolivar Shares, subject to adjustment, at exercise prices of \$0.15 and \$0.25;
- (nn) **"Business Day"** means a day other than a Saturday, Sunday or other than a day when banks in Calgary, Alberta are not generally open for business;
- (oo) **"Canadian GAAP"** means accounting principles in Canada as set out in the *Handbook of the Canadian Institute of Chartered Accountants*, at the relevant time applied on a consistent basis;
- (pp) **"Canacol Farmout Agreement"** means the farmout agreement between Benchmark and Canacol Energy Ltd. dated May 5, 2009 with respect to the Sierra Exploration and Production Contract in Colombia pursuant to which Benchmark acquired a 25.5% working interest in such contract;
- (qq) **"Closing Time"** means 7:00 a.m. (Calgary time) on the Effective Date unless otherwise agreed by Benchmark and Bolivar;
- (rr) **"Confidentiality Agreement"** means the mutual confidentiality agreement between Benchmark and Bolivar dated as of the 1st day of April, 2010;
- (ss) **"Depository"** means Computershare Investor Services Inc. or such agent as may be designated by Benchmark for the purpose of receiving the deposit of certificates formerly representing Bolivar Shares;
- (tt) **"Dissent Rights"** means the rights of dissent in respect of the Bolivar Meeting Resolution set forth in Section 2.5(a) provided to Bolivar Shareholders pursuant to the Act;
- (uu) **"Dissenting Shareholder"** means a Bolivar Shareholder, who, in connection with the Bolivar Meeting Resolution set forth in Section 2.5(a), has sent to Bolivar a written objection and a demand for payment within the time limits and in the manner prescribed by Section 191 of the Act, respectively, with respect to such shareholder's Bolivar Shares;
- (vv) **"Effective Date"** means the date the Amalgamation becomes effective under the Act;
- (ww) **"Effective Time"** has meaning ascribed thereto in Section 2.2(b);
- (xx) **"Employee Amounts"** has, respectively, meanings ascribed thereto in Section 4.1(r) and Section 4.2(r);

- (yy) **"Exchange Ratio"** means 2.6346 Benchmark Shares to be issued for each Bolivar Share pursuant to the Amalgamation;
- (zz) **"Governmental Authority"** means any:
- (i) multinational, federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau or agency, domestic or foreign;
 - (ii) subdivision, agent, commission, board or authority of any of the foregoing; or
 - (iii) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing including any stock exchange;
- (aaa) **"Information Circular"** means the management information circular containing information relating to Benchmark and Bolivar, and all related and applicable mailing materials, to be sent to the Bolivar Shareholders in connection with the Bolivar Meeting, and all amendments and supplements thereto, if any;
- (bbb) **"Intellectual Property"** means all proprietary rights provided in law to all patents, trademarks, copyrights, industrial designs, software, firmware, trade secrets, know how, show how, concepts, information and other intellectual and industrial property;
- (ccc) **"Laws"** means all laws, statutes, regulations, by-laws, statutory rules, orders, ordinances, protocols, codes, guidelines, notices, directions (including all Applicable Canadian Securities Laws), and terms and conditions of any grant of approval, permission, authority or license of any court, Governmental Authority, statutory body or self-regulatory authority (including the TSXV);
- (ddd) **"Letter of Intent"** means the non-binding letter of intent made by Bolivar and accepted by Benchmark on April 1, 2010 as amended on April 13, 2010 and April 28, 2010;
- (eee) **"MI 62-104"** means Multilateral Instrument 62-104 – *Take-Over Bids and Insider Bids*;
- (fff) **"Mailing Date"** means the date that the Information Circular is mailed to Bolivar Shareholders;
- (ggg) **"Material Adverse Change"** or **"Material Adverse Effect"** means, in respect of a party, any change, effect, event or occurrence that, individually or taken together with any other change, effect, event or occurrence, has or could reasonably be expected to have a material and adverse effect on the business, operations, results of operations, assets, prospects, title to assets, properties, capitalization, financial condition, licences, permits, concessions, rights, liabilities, obligations (whether absolute, accrued, conditional or otherwise) or privileges of such party and its subsidiaries, considered as whole, other than any change, effect, event or occurrence relating to or resulting from: (i) general economic, financial, currency exchange, securities or commodity prices in Canada, Colombia or elsewhere, not having a material disproportionate effect on such party; (ii)

conditions affecting the oil and gas exploration, exploitation, development and production industry as a whole, and not specifically relating to any party and/or its subsidiaries, including changes in Laws (including Tax Laws) and royalties; (iii) any decline in crude oil or natural gas prices on a current or forward basis, not having a material disproportionate effect on such party; (iv) any change in the market price or trading volume of any publicly traded securities of the party (it being understood that the causes underlying such change in market price or volume may be taken into account in determining whether a Material Adverse Change or a Material Adverse Effect has occurred); (v) the execution, announcement or performance of this Agreement or the transactions contemplated hereby; (vi) any matter which has been publicly disclosed or has been communicated in writing to the other party as of the date hereof; (vii) any changes or effects arising from matters permitted or contemplated by this Agreement or consented to or approved in writing by the other party; or (viii) acts or war, terrorism or armed hostilities, not having a material disproportionate effect on such party;

- (hhh) **"other party"** means: (i) with respect to Benchmark, Bolivar; and (ii) with respect to Bolivar, Benchmark and AcquisitionCo;
- (iii) **"Outside Date"** means June 30, 2010;
- (jjj) **"parties"** means, collectively, Benchmark, Bolivar and AcquisitionCo, and **"party"** means any one of them;
- (kkk) **"permitted encumbrances"** has the meaning ascribed thereto in Section 4.1(z);
- (lll) **"Person"** includes any individual, firm, partnership, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, trustee, executor, administrator, legal personal representative, estate, group, body corporate, corporation, unincorporated association or organization, Governmental Authority, syndicate or other entity, whether or not have legal status;
- (mmm) **"Petrotech"** means Petrotech Engineering Ltd., independent oil and natural gas reservoir engineers, Calgary, Alberta;
- (nnn) **"Proposed Financing"** means the proposed offering of Benchmark Shares to be completed by Benchmark as disclosed in writing to Bolivar;
- (ooo) **"Registrar"** means the Registrar of Corporations appointed pursuant to Section 263 of the Act;
- (ppp) **"Representatives"** means, in respect of either Bolivar or Benchmark, as the case may be, such party's officers, directors, employees, advisors (including legal and financial advisors), representatives and agents;
- (qqq) **"Returns"** shall mean all reports, estimates, declarations of estimated tax, information statements and returns relating to, or required to be filed in connection with, any Taxes;

- (rrr) "**subsidiary**" has the meaning ascribed thereto in the Act (and shall include all trusts or partnerships directly or indirectly owned by Bolivar or Benchmark, as the case may be);
- (sss) "**Superior Proposal**" has the meaning ascribed thereto in Section 3.4(b)(vii)(A);
- (ttt) "**Take-over Proposal**" has the meaning ascribed thereto in Section 6.1;
- (uuu) "**Tax**" or "**Taxes**" shall mean all taxes, however denominated, including any interest, penalties or other additions that may become payable in respect thereof, imposed by any federal, provincial, territorial, municipal, state, local or foreign government or any agency or political subdivision of any such government, which taxes shall include, without limiting the generality of the foregoing, all income or profits taxes (including, but not limited to, federal income taxes and provincial income taxes), payroll and employee withholding taxes, unemployment insurance, social insurance taxes, sales and use taxes, ad valorem taxes, excise taxes, franchise taxes, gross receipts taxes, business license taxes, occupation taxes, real and personal property taxes, stamp taxes, environmental taxes, transfer taxes, capital taxes, workers compensation and other governmental charges, and other obligations of the same or of a similar nature to any of the foregoing, which Bolivar or Benchmark (or any of their respective subsidiaries), as the case may be, is required to pay, withhold, remit or collect;
- (vvv) "**Tax Act**" means the *Income Tax Act* (Canada) and the regulations thereunder, all as amended from time to time;
- (www) "**Termination Date**" means the date of termination of this Agreement pursuant to the terms hereof;
- (xxx) "**TSXV**" means the TSX Venture Exchange Inc.; and
- (yyy) "**U.S. Securities Act**" means the *United States Securities Act of 1933*, as amended.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into articles, sections and subsections is for convenience of reference only and does not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement (including the appendices hereto) and not to any particular article, section or other portion hereof and include any agreement or instrument supplementary or ancillary hereto.

1.3 Number, etc.

Words importing the singular number include the plural and vice versa, words importing the use of any gender include all genders, and words importing persons include firms and corporations and vice versa.

1.4 Date for Any Action

If any date on which any action is required to be taken hereunder by any of the parties is not a Business Day and a business day in the place where an action is required to be taken, such action is required to be taken on the next succeeding day which is a Business Day and a business day, as applicable, in such place.

1.5 Entire Agreement

This Agreement and the Confidentiality Agreement constitute the entire agreement among the parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, among the parties with respect to the subject matter hereof, including for greater certainty the Letter of Intent. To the extent there is any inconsistency between this Agreement and the Confidentiality Agreement, this Agreement shall supersede the Confidentiality Agreement.

1.6 Currency

Unless otherwise stated, all sums of money which are referred to in this Agreement are expressed in lawful money of Canada.

1.7 Accounting Matters

Unless otherwise stated, all accounting terms used in this Agreement shall have the meanings attributable thereto under Canadian GAAP and all determinations of an accounting nature required to be made hereunder shall be made in a manner consistent with Canadian GAAP.

1.8 Knowledge

In this Agreement, whenever a representation or warranty is made on the basis of the knowledge or awareness of a party, such knowledge or awareness consists only of the actual collective knowledge or awareness, as of the Agreement Date, of the senior officers of such party, in their capacity as senior officers of such party and not in their personal capacity and without personal liability, but does not include the knowledge or awareness of any other individual or any constructive, implied or imputed knowledge; provided that the party making the representation and warranty shall have conducted a reasonable investigation as to the subject matter relating thereto and the level of such investigation shall be that of a reasonably prudent person investigating a material consideration in the context of a material transaction and the use of such phrase shall constitute a representation and warranty by the party making the representation and warranty in each case that such investigation has actually been made.

1.9 Disclosure in Writing

Reference to disclosure in writing herein shall, in the case of Benchmark, include disclosure to Benchmark or its Representatives, or in the case of Bolivar, include disclosure to Bolivar or its Representatives.

1.10 References to Legislation

References in this Agreement to any statute or sections thereof shall include such statute as amended or substituted and any regulations promulgated thereunder from time to time in effect.

1.11 Enforceability

All representations, warranties, covenants and opinions in or contemplated by this Agreement as to the enforceability of any covenant, agreement or document are subject to enforceability being limited by applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws relating to or affecting creditors' rights generally, and the discretionary nature of certain remedies (including specific performance and injunctive relief and general principles of equity).

1.12 Incorporation of Appendices

The following Appendices are annexed to this Agreement and are hereby incorporated by reference into the Agreement and form part hereof:

Appendix A	Articles of Amalgamation
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Appendix B	Form of Bolivar Support Agreement
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ARTICLE 2 THE AMALGAMATION

2.1 General

Subject to the terms and conditions of this Agreement, each of the Parties hereto agrees to use its reasonable commercial efforts prior to the Effective Date to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or reasonably advisable to complete the transactions contemplated by this Agreement and the Amalgamation.

2.2 Steps to be taken by Bolivar

(a) Bolivar covenants in favour of Benchmark that Bolivar shall:

- (i) lawfully convene and hold the Bolivar Meeting for the purpose of considering each of the Bolivar Meeting Resolutions (and for no other purpose unless approved in writing by Benchmark, acting reasonably, as may be set out in the notice for such meeting) as soon as reasonably practicable, following receipt of the conditional approval of the TSXV, and in any event, on or before the fifth Business Day preceding the Outside Date, unless otherwise agreed in writing by the parties; and
- (ii) except to the extent required by a Governmental Authority having jurisdiction, or as specifically contemplated herein, not adjourn, postpone or cancel (or propose

for adjournment, postponement or cancellation) the Bolivar Meeting without the prior written consent of Benchmark, acting reasonably.

- (b) Subject to obtaining the approval of the Bolivar Shareholders to the Bolivar Meeting Resolutions set forth in Section 2.5(a), Bolivar agrees that it shall, with the co-operation and participation of Benchmark and AcquisitionCo, use its reasonable commercial efforts to make such arrangements with the Registrar as may be necessary or desirable to permit: (i) the filing with the Registrar of the Articles of Amalgamation to be made effective at 12:01 (a.m.) Calgary time (the "**Effective Time**") on the Effective Date (and in any event, on or before the Outside Date), and (ii) the obtaining of the Amalgamation Certificate in that regard.
- (c) In the event that there is a failure to obtain, or if Benchmark reasonably anticipates that there will be a failure to obtain, a consent, order or other approval of a Governmental Authority required in connection with the approval of the Amalgamation, then Bolivar shall, upon the request of Benchmark, use its reasonable commercial efforts to assist Benchmark to successfully implement and complete any alternative transaction structure that is not prejudicial to the shareholders of either party and does not have negative financial consequences for either party. In the event that the transaction structure is modified as a result of any event contemplated pursuant to this Section 2.2(c) or otherwise, the relevant provisions of this Agreement shall forthwith be deemed modified as necessary in order that it shall apply with full force and effect, *mutatis mutandis*, to reflect the revised transaction structure and the parties hereto shall, upon the reasonable request of any party hereto, execute and deliver an agreement in writing giving effect to and evidencing such amendments as may be reasonably required as a result of such modifications and take such actions and execute such other documents as are necessary in connection therewith.

2.3 Steps to be taken by Benchmark

- (a) Each of Benchmark and AcquisitionCo agrees that it shall, with the co-operation and participation of Bolivar, use its reasonable commercial efforts to make such arrangements with the Registrar as may be necessary or desirable to permit: (i) the filing with the Registrar of the Articles of Amalgamation to be made effective at the Effective Time on the Effective Date (and in any event, on or before the Outside Date), and (ii) the obtaining of the Amalgamation Certificate in that regard.
- (b) Benchmark agrees that, on the Effective Date and subject to the satisfaction or waiver of the mutual conditions set out herein and the conditions herein contained in favour of Benchmark, Benchmark shall provide to the Depositary an irrevocable direction to issue the maximum number of Benchmark Shares issuable pursuant to the Amalgamation, so as to permit the Depositary to make all payments to Bolivar Shareholders as contemplated herein.
- (c) In the event that there is a failure to obtain, or if Benchmark reasonably anticipates that there will be a failure to obtain, a consent, order or other approval of a Governmental Authority required in connection with the approval of the Amalgamation, then

Benchmark shall, upon the request of Bolivar, use its reasonable commercial efforts to assist Bolivar to successfully implement and complete any alternative transaction structure that is not prejudicial to the shareholders of either party and does not have negative financial consequences for either party. In the event that the transaction structure is modified as a result of any event contemplated pursuant to this Section 2.3(c) or otherwise, the relevant provisions of this Agreement shall forthwith be deemed modified as necessary in order that it shall apply with full force and effect, *mutatis mutandis*, to reflect the revised transaction structure and the parties hereto shall, upon the reasonable request of any party hereto, execute and deliver an agreement in writing giving effect to and evidencing such amendments as may be reasonably required as a result of such modifications and take such actions and execute such other documents as are necessary in connection therewith.

2.4 Implementation

- (a) *Agreement to Amalgamate.* Bolivar and AcquisitionCo hereby agree, subject to satisfaction or waiver of the conditions set forth in Section 5.1, Section 5.2 and Section 5.3 that, on the Effective Date, pursuant to Section 181 of the Act, Bolivar and AcquisitionCo shall file the Articles of Amalgamation and amalgamate and continue as one corporation.
- (b) *Name.* The name of Amalco shall be "Bolivar Energy Inc."
- (c) *Registered Office.* The registered office of Amalco shall be located at 12th Floor, 425 – 1st Street S.W., Calgary, Alberta, T2P 3L8.
- (d) *Authorized Capital.* Amalco shall be authorized to issue an unlimited number of shares designated as common shares which shall have the rights, privileges, restrictions and conditions set forth in the Articles of Amalgamation.
- (e) *Number of Directors.* The minimum number of directors of Amalco shall be one (1) and the maximum number of directors of Amalco shall be seven (7).

First Directors. The number of first directors of Amalco shall be one (1). The first director of Amalco shall be John Moreland, 3827 – 12th Street S.W., Calgary, Alberta, T2T 3P3. The first director shall hold office until the first annual or general meeting of the shareholders of Amalco or until his successors are duly appointed or elected. The subsequent director(s) shall be elected each year thereafter as provided for in the by-laws of Amalco and pursuant to Applicable Laws. The management and operation of the business and affairs of Amalco shall be under the control of the director(s) as constituted from time to time.

- (f) *Effect of Certificate of Amalgamation.* On the Effective Date, at the Effective Time, the Amalgamation of Bolivar and AcquisitionCo and their continuance as one corporation shall become effective; the property of each of Bolivar and AcquisitionCo shall continue to be the property of Amalco; Amalco shall continue to be liable for the obligations of each of Bolivar and AcquisitionCo; any existing cause of action, claim or liability to

prosecution shall be unaffected; any civil, criminal or administrative action or proceeding pending by or against either Bolivar or AcquisitionCo may be continued to be prosecuted by or against Amalco; a conviction against, or filing, order or judgment in favour of or against, either Bolivar or AcquisitionCo may be enforced by or against Amalco; and the Articles of Amalgamation shall be deemed to be the Articles of Incorporation of Amalco and the Certificate of Amalgamation shall be deemed to be the Certificate of Incorporation for Amalco.

- (g) *First Auditors.* The first auditors of Amalco shall be Deloitte & Touche LLP. The first auditors of Amalco shall hold office until the first annual meeting of Amalco following the Amalgamation or until their successors are elected or appointed.
- (h) *Restrictions on Business.* There shall be no restrictions on the business that Amalco may carry on.
- (i) *Articles of Amalgamation and By-Laws.* The articles of amalgamation of Amalco shall be the Articles of Amalgamation. The by-laws of Amalco shall be the existing by-laws of Bolivar.
- (j) *General Effects of the Amalgamation.* At the Effective Time:
 - (i) subject to Sections 2.4(j)(iii) and 2.4(m), each holder of Bolivar Shares shall be entitled to receive that number of fully paid and non-assessable Benchmark Shares equal to the product determined by multiplying the number of Bolivar Shares held by such shareholder by the Exchange Ratio, following which all such Bolivar Shares shall be cancelled;
 - (ii) Benchmark shall receive one (1) fully paid and non-assessable Amalco Share for each one (1) AcquisitionCo common share held by Benchmark, following which all such AcquisitionCo common shares shall be cancelled;
 - (iii) no fractional Benchmark Shares shall be issued to holders of Bolivar Shares; in lieu of any fractional entitlement, the number of Benchmark Shares issued to each former holder of Bolivar Shares shall be rounded up to the next higher whole number of Benchmark Shares if the fractional entitlement is equal to or greater than 0.5 and shall, without any additional compensation, be rounded down to the next lesser whole number of Benchmark Shares if the fractional entitlement is less than 0.5 (subject to only one (1) rounding per holder of Bolivar Shares);
 - (iv) Benchmark shall add an amount to the paid-up capital maintained in respect of the Benchmark Shares equal to the aggregate paid-up capital for income tax purposes of the Bolivar Shares immediately prior to the Amalgamation (less the paid-up capital of any Bolivar Shares held by dissenting Bolivar Shareholders who do not exchange their Bolivar Shares for Benchmark Shares on the Amalgamation); and
 - (v) Amalco shall add an amount to the paid-up capital maintained in respect of the Amalco Shares such that the paid-up capital of the Amalco Shares shall be equal

to the aggregate paid-up capital for income tax purposes of the AcquisitionCo common shares and Bolivar Shares immediately prior to the Amalgamation.

(k) *Share Certificates, etc.* At the Effective Time:

- (i) the registered holders of Bolivar Shares shall cease to be holders of Bolivar Shares and shall be deemed to be the registered holders of the Benchmark Shares to which they are entitled, calculated in accordance with the provisions hereof, and, subject to Section 2.4(l), the holders of share certificates representing such Bolivar Shares may surrender such certificates to the Depositary and, upon such surrender, and as soon as reasonably practical following the Effective Time, shall be entitled to receive share certificates representing the number of Benchmark Shares to which they are so entitled; and
 - (ii) Benchmark, as the registered holder of AcquisitionCo common shares shall be deemed to be the registered holder of Amalco Shares to which it is entitled, calculated in accordance with the provisions hereof, and may surrender the certificates representing such AcquisitionCo common shares to Amalco and, upon such surrender, and as soon as reasonably practical following the Effective Time, shall be entitled to receive a share certificate representing the number of Amalco Shares to which it is entitled, calculated in accordance with the provisions hereof.
- (l) *Stale Certificates.* Any certificate formerly representing Bolivar Shares which is not deposited with the Depositary on or prior to the fifth (5th) anniversary less one day of the Effective Date shall cease to represent a right or claim of any kind or nature whatsoever.
- (m) *Dissenting Shareholders.* Bolivar Shares which are held by a Dissenting Shareholder shall not be converted as prescribed by Section 2.4(j). However, if a Dissenting Shareholder fails to perfect or effectively withdraws its claim under Section 191 of the Act or forfeits its right to make a claim under Section 191 of the Act or if its rights as a shareholder of Bolivar are otherwise reinstated, such Bolivar Shareholder's shares shall thereupon be deemed to have been converted as of the Effective Date as prescribed by Section 2.4(j).

2.5 Bolivar Meeting

Bolivar shall call the Bolivar Meeting to be held for the following purposes:

- (a) to consider and, if deemed advisable, approve a special resolution authorizing the Amalgamation, the Amalgamation Agreement and the transactions contemplated thereby; and
- (b) to transact such further or other business as may properly come before the Bolivar Meeting or any adjournments or postponements thereof;

(each a "**Bolivar Meeting Resolution**" and, collectively, the "**Bolivar Meeting Resolutions**")

2.6 Bolivar Board Recommendation

- (a) Bolivar represents that the Bolivar Board of Directors has, unanimously: (i) determined that the transactions contemplated by this Agreement are in the best interests of Bolivar and the Bolivar Shareholders; (ii) approved this Agreement and the transactions contemplated hereby; and (iii) determined to recommend that the Bolivar Shareholders vote in favour of the transactions contemplated by this Agreement;
- (b) Bolivar's board of directors shall unanimously recommend that Bolivar Shareholders vote in favour of each of the Bolivar Meeting Resolutions, which recommendation may not be withdrawn, modified or changed in any manner except as set forth herein.
- (c) Bolivar represents that all of its officers and directors have advised it that, as at the date hereof, they intend to vote or cause to be voted, all Bolivar Shares of which he or she is a beneficial owner in favour of each of the Bolivar Meeting Resolutions and have delivered to Benchmark a Bolivar Support Agreement and will so represent in the Information Circular.

2.7 Benchmark Board Recommendation

Benchmark represents that its board of directors has unanimously determined that the Amalgamation is in the best interests of Benchmark and the Benchmark Shareholders;

2.8 Dissenting Shareholders

Each Bolivar Shareholder may exercise Dissent Rights in connection with the Amalgamation pursuant to and in the manner set forth in Section 191 of the Act. Bolivar shall give Benchmark (i) prompt notice of any written notices of exercise of rights of dissent, withdrawals of such notices, and any other instruments served pursuant to the Act and received by Bolivar and (ii) the opportunity to participate in all negotiations and proceedings with respect to such rights. Without the prior written consent of Benchmark, which shall not be unreasonably withheld and except as required by Applicable Law, Bolivar shall not make any payment with respect to any such rights or offer to settle or settle any such rights.

2.9 Shareholder Support Agreements

The Information Circular shall reflect the execution and delivery of the Bolivar Support Agreements and the agreement of the directors, senior officers and other securityholders of Bolivar who execute such agreements to vote in favour of the matters to be considered at the Bolivar Meeting.

2.10 Effective Date

On or prior to the second Business Day after the last of the conditions set forth in Section 5.1, 5.2 and 5.3, other than those conditions which, by their nature, cannot be satisfied prior to the Effective Time, has been satisfied or, where not prohibited, waived by the applicable Party or Parties in whose favour the condition is (provided that on or prior to such second Business Day each of the conditions set forth in Section 5.1, 5.2 and 5.3 shall have been satisfied

or, where not prohibited, waived by the applicable Party or Parties in whose favour the condition is), unless another date is agreed to in writing by the Parties, the Parties (as applicable) shall file the Articles of Amalgamation with the Registrar, and the Amalgamation will have all the effects provided for by Applicable Law.

The closing of the transactions contemplated hereby will take place on the Effective Date at the Closing Time at the offices of Blake, Cassels & Graydon LLP in Calgary, Alberta, or at such other location or time as may be agreed upon by the Parties.

ARTICLE 3 COVENANTS

3.1 Covenants of Bolivar

Bolivar agrees that during the period from the Agreement Date and ending on the earlier of the Effective Date or the termination of this Agreement, except with the prior written consent of Benchmark (such consent not to be unreasonably withheld or delayed), and except as otherwise expressly permitted or specifically contemplated by this Agreement:

- (a) Bolivar shall conduct its business only in the usual and ordinary course of business consistent with past practices and it shall consult with Benchmark in respect of its ongoing business and affairs and keep Benchmark apprised of all material developments relating thereto;
- (b) Bolivar shall not, directly or indirectly, do or permit to occur any of the following: (i) amend its constating documents; (ii) declare, set aside or pay any dividend or make any other distribution or payment (whether in cash, shares or property) in respect of its outstanding securities; (iii) issue or agree to issue any shares, or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any securities of Bolivar (other than (a) the issuance of Bolivar Shares on exercise of outstanding Bolivar Options and Bolivar Warrants as represented herein; and (b) pursuant to any other pre-existing contractual obligations with respect to the issuance of Bolivar securities as have been previously disclosed in writing to Benchmark); (iv) redeem, purchase or otherwise acquire any of its outstanding shares or other securities; (v) split, combine or reclassify any of its securities; (vi) reorganize, amalgamate or merge with any other person; (vii) adopt a plan of liquidation or resolutions providing for its liquidation, dissolution, merger, consolidation or reorganization; or (viii) enter into or modify any contract, agreement, commitment or arrangement with respect to any of the foregoing;
- (c) Bolivar shall not, without prior consultation with and the written consent of Benchmark (such consent not to be unreasonably withheld), directly or indirectly: (i) sell, pledge, dispose of or encumber any assets having an individual value in excess of \$10,000 or an aggregate value of in excess of \$20,000, other than in the ordinary course of business; (ii) expend or commit to expend more than \$10,000 individually or \$20,000 in the aggregate with respect to capital expenditures, other than budgeted capital expenditures previously disclosed in writing to Benchmark; (iii) expend or commit to expend any amounts with respect to any operating expenses other than in the ordinary course of business; (iv)

acquire (by merger, amalgamation, consolidation or acquisition of shares or assets) any corporation, trust, partnership or other business organization or division thereof which is not a subsidiary or affiliate of Bolivar, or make any investment therein either by purchase of shares or securities, contributions of capital or property transfer; (v) purchase any property or acquire any assets, in each case having a value in excess of \$10,000 individually or \$20,000 in the aggregate; (vi) incur any indebtedness for borrowed money, or any other material liability or obligation or issue any debt securities or assume, guarantee, endorse or otherwise become responsible for, the obligations of any other individual or entity, or make any loans or advances; (vii) pay, discharge or satisfy any material claims, liabilities or obligations other than as reflected or reserved against in the Bolivar Financial Statements or in the ordinary course of business as previously disclosed in writing to Benchmark; (viii) enter into, amend, terminate, authorize, recommend or propose any release or relinquishment of any material contract right; (ix) waive, release, grant or transfer any material rights of value or modify or change in any material respect any existing material license, lease, contract or other material document; or (x) authorize or propose any of the foregoing, or enter into or modify any contract, agreement, commitment or arrangement to do any of the foregoing;

- (d) other than as disclosed in writing to Benchmark, Bolivar shall not make any payment to any employee, officer or director outside of their ordinary and usual compensation for services provided;
- (e) Bolivar shall not (i) grant any officer, director, employee or consultant an increase in compensation in any form; (ii) grant any general salary increase to any employees; (iii) take any action with respect to the amendment or grant of any retention, severance or termination pay policies or arrangement for any directors, officers or employees; nor (iv) advance any loan to any officer, director or any other party not at arm's length to Bolivar;
- (f) Bolivar shall not adopt or amend or make any contribution to any bonus, employee benefit plan, profit sharing, deferred compensation, insurance, incentive compensation, other compensation or other similar plan, agreement, incentive or share purchase plan, fund or arrangement for the benefit of employees, except as is necessary to comply with Applicable Laws or with respect to existing provisions of any such plans, programs, arrangement or agreements;
- (g) Bolivar will use its commercially reasonable efforts to cause each of the directors and senior officers of Bolivar to vote in favour of the Bolivar Meeting Resolutions as permitted by Applicable Laws;
- (h) Bolivar shall use its commercially reasonable efforts to cause its current insurance (or re-insurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies underwritten by insurance or re-insurance companies of nationally recognized standing providing coverage equal to or greater than the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect;

- (i) Bolivar shall not take any action, refrain from taking any action, permit any action to be taken or not taken, inconsistent with this Agreement, which might directly or indirectly interfere or negatively affect the consummation of the transactions contemplated by this Agreement, including but not limited to the Amalgamation;
- (j) subject to compliance with Applicable Laws, Bolivar shall make no amendments to outstanding Bolivar Warrants without the prior written consent of Benchmark, which consent shall not be unreasonably withheld or delayed;
- (k) Bolivar shall not take any action, that would render, or may reasonably be expected to render, any representation or warranty made by it in this Agreement untrue in any material respect;
- (l) Bolivar shall promptly notify Benchmark in writing of any material change (actual, anticipated or, to the knowledge of Bolivar, contemplated or threatened) in or on the business, operations, results of operations, affairs, assets, capitalization, financial condition, licenses, permits, concessions, prospects, rights, or liabilities, whether contractual or otherwise, of Bolivar (other than any change or effect that is excepted out of the definitions of Material Adverse Change or Material Adverse Effect in Section 1.1 hereof), or of any change in any representation or warranty provided by Bolivar in this Agreement which change is or may be of such a nature to render any representation or warranty misleading or untrue in any material respect and Bolivar shall in good faith discuss with Benchmark any change in circumstances (actual, anticipated or to the knowledge of Bolivar contemplated or threatened) which is of such a nature that there may be a reasonable question as to whether notice need be given to Benchmark pursuant to this provision;
- (m) Bolivar will, within two (2) Business Days of Bolivar receiving an Assessment, deliver to Benchmark a copy thereof together with a statement setting out, to the extent then determinable, an estimate of the obligations, if any, of Bolivar on the assumption that such Assessment is valid and binding;
- (n) Bolivar shall use its commercially reasonable efforts to fulfill or cause fulfillment of the conditions set forth in Sections 5.1 and 5.3 as soon as reasonably possible to the extent that the fulfillment of the same is within the control of Bolivar;
- (o) Bolivar shall mail, on or before May 21, 2010, (or such other date as Benchmark and Bolivar may agree to, each party acting reasonably) the Information Circular to the Bolivar Shareholders;
- (p) Bolivar shall solicit proxies to be voted at the Bolivar Meeting in favour of each of the Bolivar Meeting Resolutions;
- (q) Bolivar shall provide notice to Benchmark of the Bolivar Meeting and allow Benchmark's Representatives to attend such meeting;
- (r) Bolivar shall provide to Benchmark, upon request, information as to the results of proxies received in respect of voting at the Bolivar Meeting;

- (s) Bolivar shall conduct the Bolivar Meeting in accordance with the by-laws of Bolivar and any instrument governing such meeting, as applicable, and as otherwise required by Applicable Laws;
- (t) Bolivar shall prepare the Information Circular and any amendments or supplements thereto, all as required by law, in all jurisdictions where the same is required, complying in all material respects with all Applicable Laws and, without limiting the generality of the foregoing, Bolivar will ensure that the Information Circular provides Bolivar Shareholders with information in sufficient detail to permit them to form a reasoned judgment concerning the matters before them, and shall include, without limitation, (i) the financial statements in respect of prior acquisitions, if any, made by Bolivar that are required to be included therein in accordance with Applicable Laws prepared in accordance with Applicable Laws; and (ii) the unanimous determination of the board of directors of Bolivar that the Amalgamation is fair, from a financial point of view, to Bolivar Shareholders, is in the best interests of Bolivar and Bolivar Shareholders, and include the unanimous recommendation of the board of directors of Bolivar that the Bolivar Shareholders vote in favour of each of the Bolivar Meeting Resolutions; provided that, notwithstanding the covenants of Bolivar in this Section 3.1(t), prior to the completion of the Amalgamation, the Bolivar Board of Directors may withdraw, modify or change the recommendation regarding the Amalgamation if, in the opinion of such board of directors acting reasonably, having received the advice of its outside legal counsel which is reflected in minutes of the meeting of the Bolivar Board of Directors (a copy of which shall be provided to Benchmark), such withdrawal, modification or change is required to act in a manner consistent with the fiduciary duties of the Bolivar Board of Directors and, if applicable, provided the Bolivar Board of Directors shall have complied with the provisions of Sections 3.4 and 6.1 hereof;
- (u) Bolivar shall provide Benchmark and its legal counsel with a reasonable opportunity to review and comment on drafts of the Information Circular and other documents related thereto, and reasonable consideration shall be given to any comments made by Benchmark and its legal counsel, provided that all information relating to Benchmark included in the Information Circular shall be in form and content satisfactory to Benchmark, acting reasonably;
- (v) Bolivar shall indemnify and save harmless Benchmark and the directors, officers and agents of Benchmark and AcquisitionCo, as applicable, from and against any and all liabilities, claims, demands, losses, costs, damages and expenses (excluding any loss of profits or consequential damages) to which Benchmark or AcquisitionCo, or any director, officer or agent thereof, may be subject or which Benchmark or AcquisitionCo, or any director, officer or agent thereof may suffer, whether under the provisions of any statute or otherwise, in any way caused by, or arising, directly or indirectly, from or in consequence of:
 - (i) any misrepresentation or alleged misrepresentation in the Information Circular or in any material filed in compliance or intended compliance with any Applicable Laws;

- (ii) any order made or any inquiry, investigation or proceeding by any securities commission or other competent authority based upon any untrue statement or omission or alleged untrue statement or omission of a material fact or any misrepresentation or any alleged misrepresentation in the Information Circular or in any material filed by or on behalf of Bolivar in compliance or intended compliance with Applicable Canadian Securities Laws, which prevents or restricts the trading in the Benchmark Shares or the Bolivar Shares; and
- (iii) Bolivar not complying with any requirement of Applicable Laws in connection with the transactions contemplated in this Agreement;

except that Bolivar shall not be liable in any such case to the extent that any such liabilities, claims, demands, losses, costs, damages and expenses arise out of or are based upon any misrepresentation or alleged misrepresentation of a material fact based solely on the Benchmark Information or the negligence of Benchmark;

- (w) except for proxies and other non-substantive communications with shareholders, Bolivar will furnish promptly to Benchmark or Benchmark's counsel, a copy of each notice, report, schedule or other document delivered, filed or received by Bolivar in connection with: (i) the Amalgamation; (ii) the Bolivar Meeting; (iii) any filings under Applicable Laws; and (iv) any dealings with regulatory agencies in connection with the transactions contemplated hereby;
- (x) Bolivar will make all necessary filings and applications under Applicable Laws required to be made on the part of Bolivar in connection with the transactions contemplated herein and shall take all reasonable action necessary to be in compliance with such Applicable Laws;
- (y) Bolivar will use its commercially reasonable efforts to assist Benchmark in obtaining all necessary approvals, consents and authorizations from any Governmental Authority and the TSXV with respect to the transactions contemplated by this Agreement;
- (z) Bolivar will use its commercially reasonable efforts to obtain Bolivar Support Agreements from Bolivar Shareholders representing in aggregate 20% or greater of the issued and outstanding Bolivar Shares prior to the Mailing Date;
- (aa) Bolivar will provide to Petrotech all material information concerning land descriptions, well data, facilities and infrastructure, ownership and operations, future development plans and historical technical and operating data respecting the principal oil and gas assets of Bolivar, in each case as at the effective date of the Bolivar Reserves Report and, in particular, all material information respecting the interests of Bolivar in its principal oil and gas assets and royalty burdens and net profits interest burdens thereon and such information shall be accurate and correct in all material respects as at the respective dates thereof and will not omit any information necessary to make any such information provided not misleading as at the respective dates thereof; and
- (bb) Bolivar will furnish promptly to Benchmark or Benchmark's counsel any requests from any governmental or regulatory authority for any information in respect of the business,

operations, financial condition or assets of Bolivar or any material third party complaint, investigation or hearing (or investigations indicating the same may be contemplated) to the extent that it relates to or could affect Bolivar or its subsidiaries or their respective properties or assets in a material way.

3.2 Covenants of Benchmark and AcquisitionCo

Each of Benchmark and AcquisitionCo agrees that during the period from the Agreement Date and ending on the earlier of the Effective Date or the termination of this Agreement, except with the prior written consent of Bolivar (such consent not to be unreasonably withheld or delayed), and except as otherwise expressly permitted or specifically contemplated by this Agreement:

- (a) each of Benchmark and AcquisitionCo shall conduct its business only in the usual and ordinary course of business consistent with past practices and shall consult with Bolivar in respect of its ongoing business and affairs and keep Bolivar apprised of all material developments relating thereto;
- (b) Benchmark and AcquisitionCo shall not, directly or indirectly, do or permit to occur any of the following: (i) amend its constituting documents (other than with respect to a change in the year end of AcquisitionCo from December 31 to June 30); (ii) declare, set aside or pay any dividend or make any other distribution or payment (whether in cash, shares or property) in respect of its outstanding securities; (iii) issue or agree to issue any shares, or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any securities of Benchmark (other than the issuance of Benchmark Shares on exercise of outstanding Benchmark Options and pursuant to the Proposed Financing); (iv) redeem, purchase or otherwise acquire any of its outstanding shares or other securities; (v) split, combine or reclassify any of its securities; (vi) reorganize, amalgamate or merge with any other person; (vii) adopt a plan of liquidation or resolutions providing for its liquidation, dissolution, merger, consolidation or reorganization; or (viii) enter into or modify any contract, agreement, commitment or arrangement with respect to any of the foregoing;
- (c) except as otherwise disclosed in writing to Bolivar, Benchmark shall not, without prior consultation with and the written consent of Bolivar (such consent not to be unreasonably withheld), directly or indirectly: (i) sell, pledge, dispose of or encumber any assets having an individual value in excess of \$10,000 or an aggregate value of in excess of \$20,000, other than in the ordinary course of business; (ii) expend or commit to expend more than \$10,000 individually or \$20,000 in the aggregate with respect to capital expenditures; (iii) expend or commit to expend any amounts with respect to any operating expenses other than in the ordinary course of business; (iv) acquire (by merger, amalgamation, consolidation or acquisition of shares or assets) any corporation, trust, partnership or other business organization or division thereof which is not a subsidiary or affiliate of Benchmark, or make any investment therein either by purchase of shares or securities, contributions of capital or property transfer; (v) purchase any property or acquire any assets, in each case having a value in excess of \$10,000 individually or \$20,000 in the aggregate; (vi) incur any indebtedness for borrowed money, or any other material liability

or obligation or issue any debt securities or assume, guarantee, endorse or otherwise become responsible for, the obligations of any other individual or entity, or make any loans or advances; (vii) pay, discharge or satisfy any material claims, liabilities or obligations other than as reflected or reserved against in the Benchmark Financial Statements or in the ordinary course of business; (viii) enter into, amend, terminate, authorize, recommend or propose any release or relinquishment of any material contract right; (ix) waive, release, grant or transfer any material rights of value or modify or change in any material respect any existing material license, lease, contract or other material document; (x) enter into any employment, consulting or contract operating agreement that cannot be terminated on 30 days or less notice without penalty; or (xi) authorize or propose any of the foregoing, or enter into or modify any contract, agreement, commitment or arrangement to do any of the foregoing;

- (d) other than severance or other termination payments that may be paid pursuant to agreements currently in place as represented in Section 4.2(r) hereof, Benchmark shall not make any payment to any employee, officer or director outside of their ordinary and usual compensation for services provided;
- (e) Benchmark shall not: (i) grant any officer, director, employee or consultant an increase in compensation in any form; (ii) grant any general salary increase to any employees; (iii) take any action with respect to the amendment or grant of any retention, severance or termination pay policies or arrangement for any directors, officers or employees; nor (iv) advance any loan to any officer, director or any other party not at arm's length to Benchmark;
- (f) other than as contemplated by this Agreement, Benchmark shall not adopt or amend or make any contribution to any bonus, employee benefit plan, profit sharing, deferred compensation, insurance, incentive compensation, other compensation or other similar plan, agreement, incentive or share purchase plan, fund or arrangement for the benefit of employees, except as is necessary to comply with Applicable Laws or with respect to existing provisions of any such plans, programs, arrangement or agreements;
- (g) Benchmark shall use its commercially reasonable efforts to cause its current insurance (or re-insurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies underwritten by insurance or re-insurance companies of nationally recognized standing providing coverage equal to or greater than the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect;
- (h) Benchmark shall not take any action, refrain from taking any action, permit any action to be taken or not taken, inconsistent with this Agreement, which might directly or indirectly interfere or negatively affect the consummation of the transactions contemplated by this Agreement;
- (i) subject to compliance with Applicable Laws, and except as contemplated by this Agreement, Benchmark shall make no amendments to the outstanding Benchmark

Options without the prior written consent of Bolivar, which consent shall not be unreasonably withheld or delayed;

- (j) Benchmark shall not take any action, that would render, or may reasonably be expected to render, any representation or warranty made by it in this Agreement untrue in any material respect;
- (k) Benchmark shall promptly notify Bolivar in writing of any material change (actual, anticipated or, to the knowledge of Benchmark, contemplated or threatened) in or on the business, operations, results of operations, affairs, assets, capitalization, financial condition, licenses, permits, concessions, prospects, rights, or liabilities, whether contractual or otherwise, of Benchmark (other than any change or effect that is excepted out of the definitions of Material Adverse Change or Material Adverse Effect in Section 1.1 hereof), or of any change in any representation or warranty provided by Benchmark in this Agreement which change is or may be of such a nature to render any representation or warranty misleading or untrue in any material respect and Benchmark shall in good faith discuss with Bolivar any change in circumstances (actual, anticipated or to the knowledge of Benchmark contemplated or threatened) which is of such a nature that there may be a reasonable question as to whether notice need be given to Benchmark pursuant to this provision;
- (l) Benchmark will, within two (2) Business Days of Benchmark receiving an Assessment, deliver to Bolivar a copy thereof together with a statement setting out, to the extent then determinable, an estimate of the obligations, if any, of Benchmark on the assumption that such Assessment is valid and binding;
- (m) Benchmark shall indemnify and save harmless Bolivar and the directors, officers and agents of Bolivar, as applicable, from and against any and all liabilities, claims, demands, losses, costs, damages and expenses (excluding any loss of profits or consequential damages) to which Bolivar, or any director, officer or agent thereof, may be subject or which Bolivar, or any director, officer or agent thereof may suffer, whether under the provisions of any statute or otherwise, in any way caused by, or arising, directly or indirectly, from or in consequence of:
 - (i) any misrepresentation or alleged misrepresentation in the Information Circular or in any material filed in compliance or intended compliance with any Applicable Laws;
 - (ii) any order made or any inquiry, investigation or proceeding by any securities commission or other competent authority based upon any untrue statement or omission or alleged untrue statement or omission of a material fact or any misrepresentation or any alleged misrepresentation in the Information Circular or in any material filed by or on behalf of Benchmark in compliance or intended compliance with Applicable Canadian Securities Laws, which prevents or restricts the trading in the Benchmark Shares or the Bolivar Shares; and

- (iii) Benchmark not complying with any requirement of Applicable Laws in connection with the transactions contemplated in this Agreement;

except that Benchmark shall not be liable in any such case to the extent that any such liabilities, claims, demands, losses, costs, damages and expenses arise out of or are based upon any misrepresentation or alleged misrepresentation of a material fact based solely on the Bolivar Information or the negligence of Bolivar;

- (n) Benchmark will furnish promptly to Bolivar or Bolivar's counsel, a copy of each notice, report, schedule or other document delivered, filed or received by Benchmark in connection with: (i) the Amalgamation; (ii) any filings under applicable laws; and (iii) any dealings with regulatory agencies in connection with the transactions contemplated hereby;
- (o) Benchmark will make all necessary filings and applications under Applicable Laws required to be made on the part of Benchmark in connection with the transactions contemplated herein and shall take all reasonable action necessary to be in compliance with such Applicable Laws;
- (p) Benchmark will furnish promptly to Bolivar or Bolivar's counsel any requests from any governmental or regulatory authority for any information in respect of the business, operations, financial condition or assets of Benchmark or any material third party complaint, investigation or hearing (or investigations indicating the same may be contemplated) to the extent that it relates to or could affect Benchmark or its subsidiaries or their respective properties or assets in a material way;
- (q) Benchmark shall use its commercially reasonable efforts to obtain listing of Benchmark Shares issuable pursuant to the Amalgamation on the TSXV as of the Effective Date;
- (r) Benchmark will use its commercially reasonable efforts to assist Bolivar in obtaining all necessary approvals, consents and authorizations from any Governmental Authority with respect to the transactions contemplated by this Agreement;
- (s) Benchmark and AcquisitionCo shall each use its commercially reasonable efforts to fulfill or cause the fulfillment of the conditions set forth in Sections 5.1 and 5.2 as soon as reasonably possible to the extent that the fulfillment of the same is in the control of Benchmark and AcquisitionCo;
- (t) Benchmark agrees that Bolivar shall be entitled to secure directors' and officer's liability insurance for Bolivar's present and former directors and officers, covering claims made prior to and within six years after the Effective Date and on a "trailing" or "run-off" basis, which has scope and coverage substantially equivalent in scope and coverage consistent with standard industry practice. Benchmark agrees to maintain such insurance in place and agrees not to take any action, or to cause Bolivar to take any action, to terminate such directors' and officers' liability insurance or any indemnity agreements in favour of current directors and officers of Bolivar in place prior to the date hereof and in the form disclosed to Benchmark prior to the date hereof. Alternatively, Benchmark may notify Bolivar prior to the Effective Date that such coverage is to be provided under

Benchmark's officer's and directors' liability insurance, in which case the foregoing shall apply *mutatis mutandis* to Benchmark's coverage in respect thereof. The provisions of this Section 3.2(t) are intended for the benefit of present and former directors and officers of Bolivar, as and to the extent applicable in accordance with its terms, and shall be enforceable by each of such persons and his heirs, executors, administrators and other legal representatives (collectively, the "**Third Party Beneficiaries**") and Bolivar and any successor to Bolivar shall hold the rights and benefits under this section in trust for and on behalf of the Third Party Beneficiaries and Bolivar hereby accepts such trust and agrees to hold the benefit of and enforce performance of such covenants on behalf of the Third Party Beneficiaries and which rights are in addition to and not in substitution for any other rights the Third Party Beneficiaries may have by contract or otherwise;

- (u) Benchmark will use its commercially reasonable efforts to cause the Canacol Farmout Agreement to be amended to provide for an extension of the February 20, 2010 deadline in Section 3.3 of such agreement to November 20, 2010, or such other date as may be agreed to by Bolivar, acting reasonably; and
- (v) Benchmark unconditionally and irrevocably covenants to cause AcquisitionCo to perform, and guarantees the due and punctual performance by AcquisitionCo of, each and every obligation of AcquisitionCo arising under this Agreement and the Amalgamation.

3.3 Mutual Covenants

- (a) From the date hereof until the Effective Date, each of Bolivar, AcquisitionCo and Benchmark will use its commercially reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to its obligations hereunder and to take, or cause to be taken, all other actions and to do, or cause to be done, all other things necessary, proper or advisable under Applicable Laws to complete the Amalgamation including using commercially reasonable efforts:
 - (i) to obtain all necessary waivers, consents and approvals required to be obtained by it from other parties to loan agreements, leases and other contracts;
 - (ii) to obtain all necessary consents, approvals and authorizations as are required to be obtained by it under any Applicable Laws; and
 - (iii) to effect all necessary registrations and filings and submissions of information requested by Governmental Authorities required to be effected by it in connection with the Amalgamation,

and each of Bolivar, AcquisitionCo and Benchmark will use its reasonable commercial efforts to cooperate with the others in connection with the performance by the others of their obligations under this Section 3.3 including, without limitation, continuing to provide reasonable access to information and to maintain ongoing communications as between officers of Benchmark and Bolivar, subject in all cases to the Confidentiality Agreement.

3.4 Mutual Covenants Regarding Non-Solicitation

- (a) Each party shall immediately cease and cause to be terminated all existing solicitations, initiations, encouragements, discussions and negotiations (including, without limitation, through any advisors or other parties on its behalf), if any, with any parties conducted before the date of this Agreement with respect to any Acquisition Proposal and shall immediately request the return or destruction of all information provided to any third parties who have entered into a confidentiality agreement with such party relating to an Acquisition Proposal and shall use all reasonable commercial efforts to ensure that such requests are honoured. Each party agrees that it shall not terminate, waive, amend or modify any provision of any existing confidentiality agreement relating to an Acquisition Proposal or any standstill agreement to which it is a party. Each party undertakes to enforce all standstill, non disclosure, non disturbance, non solicitation and similar covenants that it has entered into prior to date hereof.
- (b) Neither party shall, directly or indirectly, do or authorize or permit any of its Representatives to do, any of the following (as applicable):
 - (i) solicit, knowingly facilitate, initiate or encourage any Acquisition Proposal;
 - (ii) enter into or participate in any discussions or negotiations regarding an Acquisition Proposal, or furnish to any other person any information with respect to its businesses, properties, operations, prospects or conditions (financial or otherwise) in connection with an Acquisition Proposal or otherwise cooperate in any way with, or assist or participate in, facilitate or encourage, any effort or attempt of any other person to do or seek to do any of the foregoing;
 - (iii) furnish or provide access to any information concerning it, its subsidiaries or their respective businesses, properties or assets to any Person in connection with, or that could reasonably be expected to lead to or facilitate, an Acquisition Proposal;
 - (iv) waive any provisions of or release or terminate any confidentiality or standstill agreement between it and any Person relating to an actual or potential Acquisition Proposal, or amend any such agreement or consent to the making of an Acquisition Proposal in accordance with the terms of such agreement;
 - (v) waive, or otherwise forbear in the enforcement of, or enter into or participate in any discussions, negotiations or agreements to waive or otherwise forbear in respect of, any rights or other benefits under confidential information agreements, including, without limitation, any "standstill provisions" thereunder; or
 - (vi) accept, recommend, approve or enter into or propose publicly to accept, recommend, approve or enter into an agreement to implement an Acquisition Proposal;

provided, however, that notwithstanding any other provision hereof, each party and its Representatives may:

- (vii) enter into or participate in any discussions or negotiations with a third party who (without any solicitation, initiation or encouragement, directly or indirectly, after the date of this Agreement, by such party or any of its Representatives or other representative retained by it) seeks to initiate such discussions or negotiations and, subject to execution of a confidentiality and standstill agreement substantially similar to the Confidentiality Agreement entered into between Benchmark and Bolivar (provided that such confidentiality agreement shall provide for disclosure thereof (along with all information provided thereunder) to the other party as set out below), may furnish to such third party information concerning such party and its business, properties and assets, in each case if, and only to the extent that:
 - (A) the third party has first made a written bona fide Acquisition Proposal which the board of directors of such party determines in good faith: (1) that funds or other consideration necessary for the Acquisition Proposal are or are likely to be available; (2) (after consultation with its financial advisor) would, if consummated in accordance with its terms, result in a transaction financially superior for shareholders of the Receiving Party (as herein defined) than the transaction contemplated by this Agreement; (3) is reasonably capable of completion in accordance with its terms taking into account all legal, financial, tax, regulatory and other aspects of such Acquisition Proposal; and (4) after receiving the advice of outside counsel as reflected in minutes of the board of directors of such party, that the taking of such action is necessary for the board of directors in discharge of its fiduciary duties under Applicable Laws (a "**Superior Proposal**") provided that no Acquisition Proposal shall be a Superior Proposal if the person making such Acquisition Proposal is in default of any standstill obligation with the Receiving Party; and
 - (B) prior to furnishing such information to or entering into or participating in any such discussions or negotiations or entering into a confidentiality agreement with such third party, such party provides prompt notice to the other party to the effect that it is furnishing information to or entering into or participating in discussions or negotiations with such person or entity together with a copy of the confidentiality agreement referenced above and if not previously provided to the other party, copies of all information provided to such third party concurrently with the provision of such information to such third party, and provided further that such party shall notify the other party orally and in writing of any inquiries, offers or proposals with respect to a Acquisition Proposal (which written notice shall include, without limitation, a copy of any such proposal (and any amendments or supplements thereto), the identity of the person making it, if not previously provided to the other party, copies of all information provided to such party and all other information reasonably requested by the other party), within 24 hours of the receipt thereof, shall keep the other party informed of the status and details of any such inquiry, offer or proposal and answer the other party's questions with respect thereto; and

- (viii) comply with MI 62-104 and similar provisions under applicable Canadian securities laws relating to the provision of directors' circulars and make appropriate disclosure with respect thereto to its securityholders; and
 - (ix) accept, recommend, approve or enter into an agreement to implement a Superior Proposal from a third party, but only if prior to such acceptance, recommendation, approval or implementation, the board of directors shall have concluded in good faith, after considering all proposals to adjust the terms and conditions of this Agreement as contemplated by Section 3.4(c) and after receiving the advice of outside counsel and legal counsel as reflected in minutes of the board of directors of such party, that the taking of such action is necessary for the board of directors of such party in discharge of its fiduciary duties under Applicable Laws and such party complies with its obligations set forth in Section 3.4(c) and terminate this Agreement in accordance with 8.2(d)(iii) or 8.2(e)(iii) as applicable, and concurrently therewith pays the applicable amount required by Section 6.1 or 6.2 as applicable, to the other party.
- (c) Any party in receipt of a Superior Proposal (a "**Receiving Party**") shall give the other party (the "**Responding Party**"), orally and in writing, at least three (3) Business Days advance notice of any decision by the board of directors of the Receiving Party to accept, recommend, approve or enter into an agreement to implement a Superior Proposal, which notice shall confirm that the board of directors of the Receiving Party has determined that such Acquisition Proposal constitutes a Superior Proposal and the basis for such determination (including in the event the consideration includes non-cash consideration, the basis for the value of such non-cash consideration), shall identify the third party making the Superior Proposal and shall provide a true and complete copy thereof and any amendments thereto. During such three (3) Business Day period, the Receiving Party agrees not to accept, recommend, approve or enter into any agreement to implement such Superior Proposal and not to release the party making the Superior Proposal from any standstill provisions and shall not withdraw, redefine, modify or change its recommendation in respect of the Amalgamation. In addition, during such three (3) Business Day period the Receiving Party shall, and shall cause its financial and legal advisors to, negotiate in good faith with the Responding Party and its financial and legal advisors to make such adjustments in the terms and conditions of this Agreement and the Amalgamation as would enable the Receiving Party to proceed with the Amalgamation as amended rather than the Superior Proposal. In the event the Responding Party proposes to amend this Agreement and the Amalgamation to provide the holders of Benchmark Shares or the Bolivar Shares, as applicable, (the "**Receiving Party Securities**") with a value per Receiving Party Security equal to or having a value greater than the value per Receiving Party Security provided in the Superior Proposal and so advises the board of directors of the Receiving Party prior to the expiry of such three (3) Business Day period, the Receiving Party and the Responding Party shall enter into an amended version of this Agreement reflecting such proposed amendments, and take such other actions and execute such other documents as are necessary to give effect to such amendments, as soon as is reasonably practical thereafter and, for greater certainty, the board of directors of the Receiving Party shall not accept, recommend, approve or enter into any agreement to implement such Superior Proposal and shall not release the party making the Superior

Proposal from any standstill provisions and shall not withdraw, redefine, modify or change its recommendation in respect of the Amalgamation, and

- (d) Each party also acknowledges and agrees that each successive material modification of any Acquisition Proposal shall constitute a new Acquisition Proposal for purposes of the requirement under this Section 3.4 to initiate an additional three (3) Business Day notice period.
- (e) Each party agrees that all information that may be provided to it by the other party with respect to any Superior Proposal pursuant to this Section 3.4 shall be treated as if it were "Confidential Information" as that term is defined in the Confidentiality Agreement and shall not be disclosed or used except in accordance with the provisions of the Confidentiality Agreement or in order to enforce its rights under this Agreement in legal proceedings or if required to be disclosed pursuant to Applicable Law.
- (f) Each party shall ensure that its officers, directors and employees and any investment bankers or other advisers or representatives retained by it are aware of the provisions of this Section 3.4 applicable to such party. Each party shall be responsible for any breach of this Section 3.4 by such party's officers, directors, employees, investment bankers, advisers or representatives.

3.5 Provision of Information; Access

From and after the date hereof, each Party shall provide the Other Party and its representatives access, during normal business hours and at such other time or times as Benchmark and Bolivar may reasonably request, to its premises (including field offices and sites), books, contracts, records, computer systems, properties, employees and management personnel and shall furnish promptly to Benchmark or Bolivar, as the case may be, all information concerning its business, properties and personnel as Benchmark or Bolivar may reasonably request, which information shall remain subject to the Confidentiality Agreement, in order to permit Benchmark and Bolivar to be in a position to expeditiously and efficiently integrate the business and operations of each of Benchmark and Bolivar immediately upon but not prior to the Effective Date. Without limitation, representatives of each Party will be permitted to attend the other party's weekly operations meetings, if any. Each Party agrees to keep the other party fully apprised in a timely manner of every circumstance, action, occurrence or event occurring or arising after the date hereof that would be relevant and material to a prudent operator of the business and operations of Benchmark and Bolivar. Each Party shall confer with and obtain the other party's approval (not to be unreasonably withheld or delayed), prior to taking action (other than in emergency situations) with respect to any material operational matters involved in its business.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of Bolivar

Bolivar represents and warrants to and in favour of Benchmark and AcquisitionCo as follows and acknowledges that Benchmark and AcquisitionCo are relying upon

such representations and warranties in connection with the matters contemplated by this Agreement:

- (a) each of Bolivar and the Bolivar Subsidiaries is duly incorporated or amalgamated and is validly subsisting under the laws of its jurisdiction of incorporation or amalgamation and has the requisite corporate power and capacity to carry on its business as it is now being conducted; each of Bolivar and the Bolivar Subsidiaries is duly registered to do business and is in good standing in each jurisdiction in which the character of its properties, owned or leased, or the nature of its activities make such registration necessary, except where the failure to be so registered or in good standing would not have a Material Adverse Effect on Bolivar;
- (b) Bolivar has the requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder; the execution and delivery of this Agreement and the consummation by Bolivar of the transactions contemplated hereby have been duly authorized by Bolivar's board of directors and no other corporate proceedings on the part of Bolivar are or will be necessary to authorize this Agreement and the transactions contemplated hereby (other than approval of the Bolivar Shareholders and obtaining director approval for the Information Circular); this Agreement has been duly executed and delivered by Bolivar and constitutes the legal, valid and binding obligation of Bolivar enforceable against Bolivar in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and to general principles of equity;
- (c) neither the execution and delivery of this Agreement by Bolivar, the consummation by Bolivar of the transactions contemplated hereby nor compliance by Bolivar with any of the provisions hereof will: (i) violate, conflict with, or result in breach of any provision of, require any consent, approval or notice under, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) or result in a right of termination or acceleration under, or result in a creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of Bolivar under, any of the terms, conditions or provisions of (x) the articles or bylaws of Bolivar or any of the Bolivar Subsidiaries, or (y) any note, bond, mortgage, indenture, loan agreement, deed of trust, agreement, lien, contract or other instrument or obligation to which Bolivar or any of the Bolivar Subsidiaries is a party or to which its properties or assets may be subject or by which Bolivar or any of the Bolivar Subsidiaries is bound; or (ii) subject to compliance with Applicable Laws, violate any judgment, ruling, order, writ, injunction, determination, award, decree, statute, ordinance, rule or regulation applicable to Bolivar or any of the Bolivar Subsidiaries (except, in the case of each of clauses (i) and (ii) above, for such violations, conflicts, breaches, defaults, terminations which, or any consents, approvals or notices which if not given or received, would not have any Material Adverse Effect on Bolivar and would not have a material adverse effect on the ability of Benchmark and Bolivar to consummate the transactions contemplated hereby); or (iii) cause a suspension or revocation of any authorization for the consent, approval or license currently in effect which would have a Material Adverse Effect on Bolivar;

- (d) other than in connection with or in compliance with the provisions of Applicable Laws:
 - (i) there is no legal impediment to Bolivar's consummation of the transactions contemplated by this Agreement; and (ii) no filing or registration with, or authorization, consent or approval of, any domestic or foreign public body or authority is necessary by Bolivar in connection with the consummation of the Amalgamation, except for such filings or registrations which, if not made, or for such authorizations, consents or approvals, which, if not received, would have a Material Adverse Effect on Bolivar and would not have any material adverse effect on the ability of Benchmark and Bolivar to consummate the transactions contemplated hereby;
- (e) Bolivar has authorized an unlimited number of Bolivar Shares and, as at the date hereof, except as otherwise disclosed in writing to Benchmark, Bolivar had issued and outstanding: (i) no more than 55,163,763 Bolivar Shares, (ii) Bolivar Warrants entitling the holders to acquire not more than 61,588,763 Bolivar Shares at exercise prices of \$0.15 and \$0.25; and, except as disclosed in writing to Benchmark, there are no other outstanding shares of Bolivar or options, warrants, rights or conversion or exchange privileges entitling anyone to acquire any shares of Bolivar or any other rights, agreements or commitments of any character whatsoever requiring the issuance, sale or transfer by Bolivar of any shares of Bolivar (including Bolivar Shares) or any securities convertible into, exchangeable or exercisable for, or otherwise evidencing a right to acquire, any shares of Bolivar; all outstanding Bolivar Shares have been duly authorized and validly issued, and are fully paid and non-assessable and are not subject to, nor issued in violation of, any pre-emptive rights, and all Bolivar Shares issuable upon exercise of outstanding Bolivar Rights in accordance with their terms, will be duly authorized and validly issued, fully paid and non-assessable and will not be subject to any pre-emptive rights;
- (f) Bolivar has made all material filings required under Applicable Laws with the applicable Governmental Authorities, all such filings have been made in a timely manner, and all such filings and information and statements contained therein and any other information or statements disseminated to the public by Bolivar were true, correct and complete in all material respects and did not contain any misrepresentation, as at the date of such information or statements, and Bolivar has not filed any confidential material change reports which continue to be confidential;
- (g) since March 31, 2010: (i) there has been no Material Adverse Change in respect of Bolivar (or any condition, event or development involving a prospective change that would result in a Material Adverse Change to, or have a Material Adverse Effect on, Bolivar); (ii) each of Bolivar and the Bolivar Subsidiaries has conducted its businesses only in the ordinary and normal course; and (iii) no liability or obligation of any nature (whether absolute, accrued, contingent or otherwise) material to Bolivar (taken as a whole) has been incurred other than in the ordinary and normal course of business;
- (h) the data and information in respect of Bolivar and its subsidiaries' assets, liabilities, business and operations provided by Bolivar or its advisors to Benchmark or its advisors was and is accurate and correct in all material respects as at the respective dates thereof and, in respect of any information provided or requested, did not knowingly omit any

material data or information necessary to make any data or information provided not misleading as at the respective dates thereof;

- (i) there are no actions, suits, proceedings or inquiries, including, to the knowledge of Bolivar, pending or threatened against or affecting Bolivar or any of the Bolivar Subsidiaries, at law or in equity, or before or by any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality which in any way would have a Material Adverse Effect on Bolivar, or may in any way have a Material Adverse Effect on Bolivar or have a material adverse effect on the ability of Bolivar and Benchmark to consummate the transactions contemplated hereby;
- (j) the Bolivar Financial Statements fairly present, in accordance with Canadian GAAP, consistently applied (except as specifically provided in the notes to such statements and except as otherwise disclosed in writing to Benchmark), the financial position and condition of Bolivar and its subsidiaries, on a consolidated basis, at the dates thereof and the results of the operations of Bolivar and its subsidiaries, on a consolidated basis, for the periods then ended and reflect all material assets, liabilities or obligations (absolute, accrued, contingent or otherwise) of Bolivar and its subsidiaries, on a consolidated basis, as at the dates thereof;
- (k) Bolivar has no material liabilities of any nature (matured or unmatured, fixed or contingent), other than:
 - (i) those set forth or adequately provided for in the most recent balance sheet and associated notes thereto included in the Bolivar Financial Statements (the "**Bolivar Balance Sheet**");
 - (ii) those incurred in the ordinary course of business and not required to be set forth in the Bolivar Balance Sheet under GAAP;
 - (iii) those incurred in the ordinary course of business since the date of the Bolivar Balance Sheet and consistent with past practice; and
 - (iv) those incurred in connection with the execution of this Agreement;which would reasonably be expected to have a Material Adverse Effect on Bolivar;
- (l) except as otherwise disclosed in writing to Benchmark, as at the date hereof, there are no material contracts or agreements to which Bolivar is a party or by which it is bound. For the purposes of this subparagraph, any contract or agreement pursuant to which Bolivar will, or may reasonably be expected to, result in a requirement of Bolivar to expend more than an aggregate of \$100,000 or receive or be entitled to receive revenue of more than \$100,000 in either case in the next 12 months, or is out of the ordinary course of business of Bolivar or any of its subsidiaries, shall be considered to be material;
- (m) Bolivar does not have in effect any bonus plan, commission plan, profit sharing plan, pension plan, royalty plan or arrangement, defined benefit plan or employee benefit plan for the benefit of any of its employees, officers, directors or shareholders other than

Bolivar's share option plan, employee share ownership plan and Bolivar's health benefit plan, and has made no agreements or promises with respect to any such plans;

- (n) except as otherwise disclosed in writing to Benchmark, Bolivar does not have in place or in effect any employment agreements, consulting agreements or other change of control agreements which provide for a payment accruing as a result of the Amalgamation or other change of control of Bolivar;
- (o) Bolivar does not have any subsidiaries other than the Bolivar Subsidiaries; Bolivar directly or indirectly beneficially owns all of the outstanding shares and other securities or interests in each of the Bolivar Subsidiaries and no person, firm, corporation or other entity holds any securities convertible or exchangeable into securities of any of such subsidiaries or now has any agreement, warrant, option, right or privilege (whether pre-emptive or contractual) being or capable of becoming an agreement for the purchase, subscription or issuance of any unissued shares, securities (including convertible securities) or warrants of any of the Bolivar Subsidiaries;
- (p) no securities commission or similar regulatory authority, or stock exchange in Canada or the United States has issued any order which is currently outstanding preventing or suspending trading in any securities of Bolivar, no such proceeding is, to the knowledge of Bolivar, pending, contemplated or threatened and Bolivar is not in default of any requirement of any securities laws, rules or policies applicable to Bolivar or its securities;
- (q) Bolivar has not retained any financial advisor, broker, agent or finder, or paid or agreed to pay any financial advisor, broker, agent or finder on account of this Agreement or the Amalgamation, any transaction contemplated hereby or any transaction presently ongoing or contemplated, except that Raymond James Ltd. has been retained as Bolivar's exclusive financial advisors in connection with certain matters, including the transactions contemplated hereby and Bolivar has delivered to Benchmark current copies of all agreements between Bolivar and its financial advisors which could give rise to the payment of any fees to such financial advisors;
- (r) Bolivar reasonably estimates that the aggregate of amounts ("**Employee Amounts**") payable by Bolivar under any obligations or liabilities of Bolivar or its subsidiaries to pay any amount to its officers, directors, employees or consultants other than for salary and directors' fees in the ordinary course, in each case in amounts consistent with historic practices and, without limiting the generality of the foregoing, including the obligations of Bolivar or its subsidiaries to officers, employees or consultants for severance, (assuming all such officers, employees and consultants are terminated at the Effective Time) termination or bonus payments on the change of control of Bolivar pursuant to the terms hereof or pursuant to Bolivar's severance policy, will not exceed \$200,000;
- (s) there are no accrued bonuses payable to any officers, directors or employees of Bolivar;
- (t) the board of directors of Bolivar has unanimously endorsed the Amalgamation and approved this Agreement, has unanimously determined that the Amalgamation is fair,

from a financial point of view, to holders of the Bolivar Shares and has resolved to unanimously recommend approval of the Amalgamation by Bolivar Shareholders;

- (u) Bolivar has not waived the applicability of any "standstill" or other provisions of any confidentiality agreements entered into by Bolivar which have not automatically expired by their terms;
- (v) Bolivar and its subsidiaries, taken as a whole, currently holds less than U.S. \$63.1 million of assets (on a fair market value basis) located in the United States and had sales in or into the United States of less than U.S. \$63.1 million in its most recently completed fiscal year;
- (w) Bolivar is not a party to and, prior to the Effective Date, Bolivar will not implement, a shareholder rights plan or any other form of plan, agreement, contract or instrument that will trigger any rights to acquire Bolivar Shares or other securities of Bolivar or rights, entitlements or privileges in favour of any person upon the entering into of this Agreement or the Amalgamation, other than the Employee Amounts;
- (x) except as otherwise disclosed in writing to Benchmark, to the knowledge of Bolivar, as of the date hereof, none of the Bolivar Shares are the subject of any escrow, voting trust or other similar agreement;
- (y) to the knowledge of Bolivar, all accounts receivable in any material amount of Bolivar are collectible, subject to any provisions for bad debts as set forth in the Bolivar Financial Statements;
- (z) the properties and assets of Bolivar and its subsidiaries are free and clear of all mortgages, pledges, liens, charges and encumbrances (other than those encumbrances which do not and will not have a Material Adverse Effect on the ownership or operation or its assets and properties ("**permitted encumbrances**")) and other than permitted encumbrances, it has not done any act or suffered or permitted any action to be done whereby any person has acquired or may acquire an interest in or to its material properties or assets, nor has it done any act, omitted to do any act or permitted any act to be done that may adversely affect or defeat its title to any of its material properties or assets as currently held;
- (aa) Bolivar is not aware of, and has not received:
 - (i) any order or directive which relates to environmental matters and which requires any material work, repairs, construction, or capital expenditures on its or its subsidiaries' properties or assets of Bolivar or the Bolivar Subsidiaries that has not been done; or
 - (ii) any demand or notice with respect to the material breach of any environmental, health or safety law applicable to its or its subsidiaries or any of their respective business undertakings, including, without limitation, any regulations respecting the use, storage, treatment, transportation, or disposition of environmental contaminants;

- the failure to comply with which would have a Material Adverse Effect on Bolivar;
- (bb) to the knowledge of Bolivar:
- (i) each of Bolivar and the Bolivar Subsidiaries has all material environmental and health and safety permits, licences, approvals, consents, certificates and other authorizations of any kind or nature ("**Environmental Permits**") necessary for the ownership, operation, development, maintenance, or use of any of its assets and all such Environmental Permits have been obtained and maintained in effect, except for those which would not have a Material Adverse Effect on Bolivar;
 - (ii) each of Bolivar's and the Bolivar Subsidiaries' assets and the ownership, operation, development, maintenance and use thereof are in material compliance with all environmental laws and with all terms and conditions of all Environmental Permits except where such non-compliance would not have a Material Adverse Effect on Bolivar;
 - (iii) all known spills or similar incidents pertaining to or affecting the business or assets of Bolivar and the Bolivar Subsidiaries have been reported to the appropriate governmental entity to the extent required by environmental laws, except where such failure to report would not result in a Material Adverse Effect on Bolivar; and
 - (iv) there have been no spills, releases, deposits or discharges of hazardous or toxic substances, contaminants or wastes, which have not been rectified, on any of the properties or assets owned or leased by Bolivar and the Bolivar Subsidiaries or in which any of them have an interest or over which it has control; except for any such spills, releases, deposits or discharges which, in aggregate, would not have a Material Adverse Effect on Bolivar;
- (cc) although it does not warrant title, Bolivar does not, except as otherwise disclosed in writing to Benchmark, have any knowledge and is not aware of any defects, failures or impairments in the title of Bolivar to its assets, whether or not an action, suit, proceeding or inquiry is pending or threatened or whether or not discovered by any third party, which in aggregate could reasonably be expected to have a Material Adverse Effect on: (i) the quantity and pre-tax present worth values of such assets, (ii) the current production volumes of Bolivar, or (iii) the current consolidated cash flow of Bolivar;
- (dd) Bolivar has obtained and is in compliance with all licences, permits, certificates, consents, orders, grants and other authorizations of or from any Governmental Entity necessary to conduct its businesses as they are now being or are proposed to be conducted, other than such licences, permits, certificates, consents, orders, grants and other authorizations the absence of which would not reasonably be expected to have a Material Adverse Effect on Bolivar;
- (ee) except as otherwise disclosed in writing to Benchmark, Bolivar has complied with and is in compliance with all Laws applicable to the operation of its business, except where such non-compliance would not have a Material Adverse Effect on the business, affairs,

operations, assets, prospects or financial condition of Bolivar or on the ability of Bolivar to consummate the Amalgamation;

- (ff) Bolivar has no obligations or liabilities, direct or indirect, vested or contingent in respect of any rate swap transactions, basis swaps, forward rate transactions, commodity swaps, commodity options, equity or equity index swaps, equity or equity index options, bond options, interest rate options, foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, production sales transactions having terms greater than 90 days or any other similar transactions (including any option with respect to any of such transactions) or any combination of such transactions;
- (gg) the minute books, books of account and other records of Bolivar have (whether of a financial or accounting nature or otherwise) been maintained in accordance with, in all material respects, all Applicable Laws and are complete and accurate in all material respects;
- (hh) Bolivar is not a "reporting issuer" pursuant to applicable securities laws of the provinces and territories of Canada;
- (ii) as of the date of this Agreement, the Bolivar Shares are a class of securities not registered or required to be registered pursuant to Section 12 of the *United States Securities and Exchange Act of 1934*, as amended;
- (jj) Bolivar is not a "foreign private issuer" within the meaning of Rule 405 of Regulation C adopted by the SEC under the U.S. Securities Act;
- (kk) the principal offices of Bolivar are not located within the United States;
- (ll) Bolivar currently holds no assets located in the United States and had no sales in or into the United States in its most recently completed fiscal year;
- (mm) Bolivar is not an "investment company" within the meaning of the *United States Investment Company Act of 1940*, as amended;
- (nn) fewer than 10 percent of the common shares of Bolivar, on a fully diluted basis, are held by "U.S. holders" (as such term is defined in, and as such percentage shall be calculated in accordance with, Rule 800 under the U.S. Securities Act);
- (oo) all Returns required to be filed by or on behalf of Bolivar or any of the Bolivar Subsidiaries have been duly filed on a timely basis and such Returns are true, complete and correct in all material respects and all Taxes shown to be payable on the Returns or on subsequent assessments with respect thereto have been paid in full on a timely basis, and, to the knowledge of Bolivar, no other Taxes are payable by Bolivar or any of the Bolivar Subsidiaries with respect to items or periods covered by such Returns;

- (pp) Bolivar has paid or provided adequate accruals in the Bolivar Financial Statements for the period ended March 31, 2010 for Taxes, including income taxes and related future taxes, in conformity with Canadian GAAP;
- (qq) no material deficiencies exist or have been asserted with respect to Taxes; Bolivar is not a party to any action or proceeding for assessment or collection of Taxes, nor has such event been asserted or threatened against Bolivar or any of the Bolivar Subsidiaries or any of their respective assets; no waiver or extension of any statute of limitations is in effect with respect to Taxes or Returns of Bolivar or any of the Bolivar Subsidiaries; the Returns of Bolivar and the Bolivar Subsidiaries have never been audited by a government or taxing authority, nor is any such audit in process, or to the knowledge of Bolivar, or pending or threatened which resulted in or could result in a reassessment of Taxes owing by Bolivar or any of the Bolivar Subsidiaries or an adjustment to Bolivar's tax pools or the tax pools of any of the Bolivar Subsidiaries;
- (rr) Bolivar has withheld from each payment made to any of its present or former employees, officers and directors, and to all persons who are non-residents of Canada for the purposes of the Tax Act all amounts required by law and will continue to do so until the Effective Date and has remitted such withheld amounts within the prescribed periods to the appropriate governmental authority; Bolivar has remitted all Canada Pension Plan contributions, employment insurance premiums, employer health taxes and other Taxes payable by it in respect of its employees and has or will have remitted such amounts to the proper governmental authority within the time required by applicable law; Bolivar has charged, collected and remitted on a timely basis all Taxes as required by applicable law on any sale, supply or delivery whatsoever, made by Bolivar;
- (ss) Bolivar has not received notice of any default under any of the leases and other title and operating documents or any other agreement or instrument pertaining to Bolivar's oil and gas assets to which Bolivar is a party or by or to which Bolivar or any such assets are bound or subject except to the extent that such defaults would not in the aggregate have a Material Adverse Effect on Bolivar;
- (tt) to its knowledge:
 - (i) Bolivar is in good standing under all, and is not in default under any; and
 - (ii) there is no existing condition, circumstance or matter which constitutes or which, with the passage of time or the giving of notice, would constitute a default under any;

leases and other title and operating documents or any other agreements and instruments pertaining to its oil and gas assets to which it is a party or by or to which it or such assets are bound or subject and, to their knowledge, all such leases, title and operating documents and other agreements and instruments are in good standing and in full force and effect and none of the counterparties to such leases, title and operating documents and other agreements and instruments is in default thereunder except to the extent that such defaults would not in the aggregate have a Material Adverse Effect on Bolivar;

- (uu) except as otherwise disclosed in writing to Benchmark, no director, officer, employee, insider of Bolivar or other non-arm's length party to Bolivar is indebted to Bolivar;
- (vv) Bolivar is not indebted to any of its directors, officers, employees or consultants, any of its shareholders or any of their respective associates or affiliates, except for amounts due as reimbursement for ordinary business expenses incurred within the previous 90 days;
- (ww) there is no non-competition, exclusivity or other similar agreement, commitment or understanding in place to which Bolivar is a party or by which it is otherwise bound that would now or hereafter in any way may limit the business or operations of Bolivar in a particular manner or to a particular locality or geographic region or for a specified period of time and the execution, delivery and performance of this Agreement does not and will not result in any restriction of Bolivar from engaging in its business or from competing with any person or in any geographic area;
- (xx) Bolivar does not have any rights to purchase any assets, properties or undertakings of third parties nor have any obligation to sell assets, properties or undertakings with a value in excess of \$250,000 in the aggregate, under any agreements to purchase or sell that have not closed;
- (yy) to the knowledge of Bolivar, Bolivar has not withheld from Benchmark any material information or documents concerning Bolivar or any of its assets or liabilities during the course of Benchmark's review of Bolivar and its assets;
- (zz) Bolivar is not a party to or bound by any agreement, guarantee, indemnification (other than in the ordinary course of business and to officers and directors pursuant to Bolivar's by-laws and standard indemnity agreements, pursuant to underwriting, agency or financial advisor agreements pursuant to the standard indemnity provisions in agreements of that nature and indemnities contained in flow-through subscription agreements), or endorsement or like commitment of the obligations, liabilities (contingent or otherwise) or indebtedness of any person, firm or corporation;
- (aaa) the policies of insurance in force at the date hereof naming Bolivar as an insured are in force and effect and shall not be cancelled or otherwise terminated as a result of the transactions contemplated herein;
- (bbb) no director, officer, insider or other party not at arm's length to Bolivar has any right, title or interest in (or the right to acquire any right, title or interest in) any royalty interest, participation interest or any other interest whatsoever, in any properties of Bolivar;
- (ccc) except as is reflected in the Bolivar Reserve Report, none of Bolivar's oil and gas assets are subject to reduction by reference to payout of or production penalty on any well or otherwise or to change to an interest of any other size or nature by virtue of or through any right or interest granted by, through or under Bolivar except to the extent that such reduction or change to an interest would not in the aggregate have a Material Adverse Effect on Bolivar;

(ddd) Bolivar's tangible depreciable property used or intended for use in connection with its oil and gas assets:

- (i) for which Bolivar was or is operator, was or has been constructed, operated and maintained in accordance with good and prudent oil and gas industry practices in Colombia and all Applicable Laws during all periods in which Bolivar was operator thereof and is in good condition and repair, ordinary wear and tear excepted, and is useable in the ordinary course of business; and
- (ii) for which Bolivar was not or is not operator, to its knowledge, was or has been constructed, operated and maintained in accordance with good and prudent oil and gas industry practices in Colombia and all Applicable Laws during all periods in which Bolivar was not operator thereof and is in good condition and repair, ordinary wear and tear excepted, and is useable in the ordinary course of business;

except to the extent that such non-compliance with prudent oil and gas industry practices or Applicable Laws would not in the aggregate have a Material Adverse Effect on Bolivar.

(eee) there are no outstanding authorizations for expenditure pertaining to any of Bolivar's oil and gas assets or any other commitments, approvals or authorizations pursuant to which an expenditure may be required to be made in respect of such assets after the date of the most recent Bolivar Financial Statements in excess of \$1,000,000 (USD) for each such commitment, approval or authorization;

(fff) as at the Agreement Date, Bolivar's net debt, including working capital, did not exceed \$0;

(ggg) Bolivar has not negotiated any Acquisition Proposal with any person who has not entered into a confidentiality agreement or provided access to the confidential information in respect of Bolivar in relation to any proposed, possible or actual Acquisition Proposal to any person who has not entered into a confidentiality agreement. Bolivar has not amended, modified or provided any consents under such confidentiality agreements or provided any release from, or relaxation of, the obligations under such confidentiality agreements to any of the other parties thereto. Bolivar has not waived the applicability of any "standstill" or other provisions of any confidentiality agreements entered into by Bolivar;

(hhh) Bolivar has all Intellectual Property necessary to permit it to conduct its business as presently conducted and as proposed to be conducted;

(iii) Bolivar is the exclusive owner of, or possess adequate enforceable rights to use, its Intellectual Property, free and clear of any encumbrances which would, individually or in the aggregate, have a Material Adverse Effect on Bolivar (taken as a whole) and Bolivar has no knowledge of any claim or adverse ownership in respect thereof;

(jjj) Bolivar is not aware of a claim of any infringement or breach by Bolivar of any industrial or intellectual property rights of any other person, nor has Bolivar received any notice,

nor is Bolivar otherwise aware, that the use of the Intellectual Property of Bolivar infringes upon or breaches any industrial or intellectual property rights of any other person and Bolivar has no knowledge of any infringement or violation of any of the rights of Bolivar in the Intellectual Property and is not aware of any state of facts that cast doubt on the validity or enforceability of any such Intellectual Property; and

- (kkk) to the knowledge of Bolivar, Bolivar has not withheld from Benchmark any material information or documents concerning Bolivar or its assets or liabilities during the course of Benchmark's review of Bolivar and its assets. No representation or warranty contained herein and no statement contained in any schedule or other disclosure document provided or to be provided to Benchmark by Bolivar pursuant hereto (including without limitation, any matter disclosed by Bolivar in writing prior to the date hereof) contains or will contain any untrue statement of a material fact or omits to state a material fact which is necessary in order to make the statements herein or therein not misleading.

4.2 Representations and Warranties of Benchmark and AcquisitionCo

Each of Benchmark and AcquisitionCo represents and warrants to and in favour of Bolivar as follows and acknowledges that Bolivar is relying upon such representations and warranties in connection with the matters contemplated by this Agreement:

- (a) except as disclosed in writing to Bolivar, each of Benchmark and the Benchmark Subsidiaries is duly incorporated or amalgamated and is validly subsisting under the laws of its jurisdiction of incorporation or amalgamation and has the requisite corporate power and capacity to carry on its business as it is now being conducted; each of Benchmark and the Benchmark Subsidiaries is duly registered to do business and is in good standing in each jurisdiction in which the character of its properties, owned or leased, or the nature of its activities make such registration necessary, except where the failure to be so registered or in good standing would not have a Material Adverse Effect on Benchmark;
- (b) Benchmark has the requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder; the execution and delivery of this Agreement and the consummation by Benchmark of the transactions contemplated hereby have been duly authorized by Benchmark's board of directors and no other corporate proceedings on the part of Benchmark are or will be necessary to authorize this Agreement and the transactions contemplated hereby (other than approval of the Benchmark Shareholders and obtaining director approval for the Information Circular); this Agreement has been duly executed and delivered by Benchmark and constitutes the legal, valid and binding obligation of Benchmark enforceable against Benchmark in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and to general principles of equity;
- (c) neither the execution and delivery of this Agreement by Benchmark, the consummation by Benchmark of the transactions contemplated hereby nor compliance by Benchmark with any of the provisions hereof will: (i) violate, conflict with, or result in breach of any provision of, require any consent, approval or notice under, or constitute a default (or an

event which, with notice or lapse of time or both, would constitute a default) or result in a right of termination or acceleration under, or result in a creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of Benchmark under, any of the terms, conditions or provisions of (x) the articles or bylaws of Benchmark or any of the Benchmark Subsidiaries, or (y) any note, bond, mortgage, indenture, loan agreement, deed of trust, agreement, lien, contract or other instrument or obligation to which Benchmark or any of the Benchmark Subsidiaries is a party or to which its properties or assets may be subject or by which Benchmark or any of the Benchmark Subsidiaries is bound; or (ii) subject to compliance with Applicable Laws, violate any judgment, ruling, order, writ, injunction, determination, award, decree, statute, ordinance, rule or regulation applicable to Benchmark or any of the Benchmark Subsidiaries (except, in the case of each of clauses (i) and (ii) above, for such violations, conflicts, breaches, defaults, terminations which, or any consents, approvals or notices which if not given or received, would not have any Material Adverse Effect on Benchmark and would not have a material adverse effect on the ability of Bolivar and Benchmark to consummate the transactions contemplated hereby); or (iii) cause a suspension or revocation of any authorization for the consent, approval or license currently in effect which would have a Material Adverse Effect on Benchmark;

- (d) other than in connection with or in compliance with the provisions of Applicable Laws: (i) there is no legal impediment to Benchmark's consummation of the transactions contemplated by this Agreement; and (ii) no filing or registration with, or authorization, consent or approval of, any domestic or foreign public body or authority is necessary by Benchmark in connection with the consummation of the Amalgamation, except for such filings or registrations which, if not made, or for such authorizations, consents or approvals, which, if not received, would have a Material Adverse Effect on Benchmark and would not have any material adverse effect on the ability of Bolivar and Benchmark to consummate the transactions contemplated hereby;
- (e) the authorized capital of Benchmark consists of an unlimited number of Benchmark Shares and preferred shares issuable in series, of which, as at the date hereof, Benchmark had issued and outstanding: (i) no more than 25,758,578 Benchmark Shares and no preferred shares, Benchmark Options entitling holders to acquire not more than 2,327,000 Benchmark Shares at exercise prices ranging from \$0.25 to \$1.00; and, except as set forth above, there are no outstanding securities of Benchmark or options, warrants, rights or conversion or exchange privileges entitling anyone to acquire any securities of Benchmark or any other rights, agreements or commitments of any character whatsoever requiring the issuance, sale or transfer by Benchmark of any securities of Benchmark or any securities convertible into, exchangeable or exercisable for, or otherwise evidencing a right to acquire, any securities of Benchmark; and all outstanding Benchmark Shares have been duly authorized and validly issued, and are fully paid and non-assessable and are not subject to, nor issued in violation of, any pre-emptive rights, and all Benchmark Shares issuable upon exercise of outstanding options in accordance with their terms, will be duly authorized and validly issued, fully paid and non-assessable and will not be subject to any pre-emptive rights;

- (f) Benchmark has made all material filings required under Applicable Laws with the applicable Governmental Authorities, all such filings have been made in a timely manner, and all such filings and information and statements contained therein and any other information or statements disseminated to the public by Benchmark were true, correct and complete in all material respects and did not contain any misrepresentation, as at the date of such information or statements, and Benchmark has not filed any confidential material change reports which continue to be confidential;
- (g) except as disclosed in writing to Bolivar, since December 31, 2009, except as has been publicly disclosed: (i) there has been no Material Adverse Change in respect of Benchmark (or any condition, event or development involving a prospective change that would result in a Material Adverse Change to, or have a Material Adverse Effect on, Benchmark); (ii) each of Benchmark and the Benchmark Subsidiaries has conducted its businesses only in the ordinary and normal course; and (iii) no liability or obligation of any nature (whether absolute, accrued, contingent or otherwise) material to Benchmark (taken as a whole) has been incurred other than in the ordinary and normal course of business;
- (h) the data and information in respect of Benchmark and its subsidiaries' assets, liabilities, business and operations provided by Benchmark or its advisors to Bolivar or its advisors was and is accurate and correct in all material respects as at the respective dates thereof and, in respect of any information provided or requested, did not knowingly omit any material data or information necessary to make any data or information provided not misleading as at the respective dates thereof;
- (i) there are no actions, suits, proceedings or inquiries, including, to the knowledge of Benchmark, pending or threatened against or affecting Benchmark or any of the Benchmark Subsidiaries, at law or in equity, or before or by any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality which in any way would have a Material Adverse Effect on Benchmark, or may in any way have a Material Adverse Effect on Benchmark or have a material adverse effect on the ability of Benchmark and Bolivar to consummate the transactions contemplated hereby;
- (j) the Benchmark Financial Statements fairly present, in accordance with Canadian GAAP, consistently applied (except as specifically provided in the notes to such statements), the financial position and condition of Benchmark and its subsidiaries, on a consolidated basis, at the dates thereof and the results of the operations of Benchmark and its subsidiaries, on a consolidated basis, for the periods then ended and reflect all material assets, liabilities or obligations (absolute, accrued, contingent or otherwise) of Benchmark and its subsidiaries, on a consolidated basis, as at the dates thereof;
- (k) Benchmark has no material liabilities of any nature (matured or unmatured, fixed or contingent), other than:

- (i) those set forth or adequately provided for in the most recent balance sheet and associated notes thereto included in the Benchmark Financial Statements (the "**Benchmark Balance Sheet**");
- (ii) those incurred in the ordinary course of business and not required to be set forth in the Benchmark Balance Sheet under GAAP;
- (iii) those incurred in the ordinary course of business since the date of the Benchmark Balance Sheet and consistent with past practice; and
- (iv) those incurred in connection with the execution of this Agreement;

which would reasonably be expected to have a Material Adverse Effect on Benchmark.

- (l) as at the date hereof, there are no material contracts or agreements to which Benchmark is a party or by which it is bound. For the purposes of this subparagraph, any contract or agreement pursuant to which Benchmark will, or may reasonably be expected to, result in a requirement of Benchmark to expend more than an aggregate of \$100,000 or receive or be entitled to receive revenue of more than \$100,000 in either case in the next 12 months, or is out of the ordinary course of business of Benchmark or any of its subsidiaries, shall be considered to be material;
- (m) Benchmark does not have in effect any bonus plan, commission plan, profit sharing plan, pension plan, royalty plan or arrangement, defined benefit plan or employee benefit plan for the benefit of any of its employees, officers, directors or shareholders other than Benchmark's share option plan, employee share ownership plan and Benchmark's health benefit plan, and has made no agreements or promises with respect to any such plans;
- (n) Benchmark does not have in place or in effect any employment agreements, consulting agreements or other change of control agreements which provide for a payment accruing as a result of the Amalgamation or other change of control of Benchmark;
- (o) Benchmark does not have any material subsidiaries other than the Benchmark Subsidiaries; Benchmark directly or indirectly beneficially owns all of the outstanding shares and other securities or interests in each of the Benchmark Subsidiaries and no person, firm, corporation or other entity holds any securities convertible or exchangeable into securities of any of such subsidiaries or now has any agreement, warrant, option, right or privilege (whether pre-emptive or contractual) being or capable of becoming an agreement for the purchase, subscription or issuance of any unissued shares, securities (including convertible securities) or warrants of any of the Benchmark Subsidiaries;
- (p) no securities commission or similar regulatory authority, or stock exchange in Canada or the United States has issued any order which is currently outstanding preventing or suspending trading in any securities of Benchmark, no such proceeding is, to the knowledge of Benchmark, pending, contemplated or threatened and Benchmark is not in default of any requirement of any securities laws, rules or policies applicable to Benchmark or its securities;

- (q) Benchmark has not retained any financial advisor, broker, agent or finder, or paid or agreed to pay any financial advisor, broker, agent or finder on account of this Agreement or the Amalgamation, any transaction contemplated hereby or any transaction presently ongoing or contemplated, except that Versant Partners Inc. has been retained as Benchmark's exclusive financial advisors in connection with certain matters, including the transactions contemplated hereby, and except that Benchmark has delivered to Bolivar current copies of all agreements between Benchmark and its financial advisors which could give rise to the payment of any fees to such financial advisors;
- (r) Benchmark reasonably estimates that the aggregate of amounts ("**Employee Amounts**") payable by Benchmark under any obligations or liabilities of Benchmark or its subsidiaries to pay any amount to its officers, directors, employees or consultants other than for salary and directors' fees in the ordinary course, in each case in amounts consistent with historic practices and, without limiting the generality of the foregoing, including the obligations of Benchmark or its subsidiaries to officers, employees or consultants for severance, (assuming all such officers, employees and consultants are terminated at the Effective Time) termination or bonus payments on the change of control of Benchmark pursuant to the terms hereof or pursuant to Benchmark's severance policy, will not exceed \$10,000;
- (s) there are no accrued bonuses payable to any officers, directors or employees of Benchmark;
- (t) the board of directors of Benchmark has unanimously endorsed the Amalgamation and approved this Agreement;
- (u) Benchmark has not waived the applicability of any "standstill" or other provisions of any confidentiality agreements entered into by Benchmark which have not automatically expired by their terms;
- (v) Benchmark and its subsidiaries, taken as a whole, currently holds less than U.S. \$63.1 million of assets (on a fair market value basis) located in the United States and had sales in or into the United States of less than U.S. \$63.1 million in its most recently completed fiscal year;
- (w) except as otherwise disclosed in this Agreement, Benchmark is not a party to and, prior to the Effective Date, Benchmark will not implement, a shareholder rights plan or any other form of plan, agreement, contract or instrument that will trigger any rights to acquire Benchmark Shares or other securities of Benchmark or rights, entitlements or privileges in favour of any person upon the entering into of this Agreement or the Amalgamation, other than the Employee Amounts;
- (x) to the knowledge of Benchmark, none of the Benchmark Shares are the subject of any escrow, voting trust or other similar agreement;
- (y) to the knowledge of Benchmark, all accounts receivable in any material amounts of Benchmark are collectible, subject to any provisions for bad debts as set forth in the Benchmark Financial Statements;

(z) except as disclosed in writing to Bolivar, the properties and assets of Benchmark and its subsidiaries are free and clear of all mortgages, pledges, liens, charges and encumbrances (other than those encumbrances which do not and will not have a Material Adverse Effect on the ownership or operation of its assets and properties ("**permitted encumbrances**")) and other than permitted encumbrances, it has not done any act or suffered or permitted any action to be done whereby any person has acquired or may acquire an interest in or to its material properties or assets, nor has it done any act, omitted to do any act or permitted any act to be done that may adversely affect or defeat its title to any of its material properties or assets;

(aa) Benchmark is not aware of, and has not received:

- (i) any order or directive which relates to environmental matters and which requires any material work, repairs, construction, or capital expenditures on its or its subsidiaries' properties or assets of Benchmark or the Benchmark Subsidiaries that has not been done; or
- (ii) any demand or notice with respect to the material breach of any environmental, health or safety law applicable to its or its subsidiaries or any of their respective business undertakings, including, without limitation, any regulations respecting the use, storage, treatment, transportation, or disposition of environmental contaminants;

the failure to comply with which would have a Material Adverse Effect on Benchmark;

(bb) to the knowledge of Benchmark:

- (i) each of Benchmark and the Benchmark Subsidiaries has all Environmental Permits necessary for the ownership, operation, development, maintenance, or use of any of its assets and all such Environmental Permits have been obtained and maintained in effect, except for those which would not have a Material Adverse Effect on Benchmark;
- (ii) each of Benchmark's and the Benchmark Subsidiaries' assets and the ownership, operation, development, maintenance and use thereof are in material compliance with all environmental laws and with all terms and conditions of all Environmental Permits except where such non-compliance would not have a Material Adverse Effect on Benchmark;
- (iii) all known spills or similar incidents pertaining to or affecting the business or assets of Benchmark and the Benchmark Subsidiaries have been reported to the appropriate governmental entity to the extent required by environmental laws, except where such failure to report would not result in a Material Adverse Effect on Benchmark; and
- (iv) there have been no spills, releases, deposits or discharges of hazardous or toxic substances, contaminants or wastes, which have not been rectified, on any of the properties or assets owned or leased by Benchmark and the Benchmark

Subsidiaries or in which any of them have an interest or over which it has control; except for any such spills, releases, deposits or discharges which, in aggregate, would not have a Material Adverse Effect on Benchmark;

- (cc) although it does not warrant title and except as disclosed in writing to Bolivar, Benchmark does not have any knowledge and is not aware of any defects, failures or impairments in the title of Benchmark to its assets, whether or not an action, suit, proceeding or inquiry is pending or threatened or whether or not discovered by any third party, which in aggregate could reasonably be expected to have a Material Adverse Effect on: (i) the quantity and pre-tax present worth values of such assets, or (ii) the current consolidated cash flow of Benchmark;
- (dd) except as disclosed in writing to Bolivar, Benchmark has obtained and is in compliance with all licences, permits, certificates, consents, orders, grants and other authorizations of or from any Governmental Entity necessary to conduct its businesses as they are now being or are proposed to be conducted, other than such licences, permits, certificates, consents, orders, grants and other authorizations the absence of which would not reasonably be expected to have a Material Adverse Effect on Benchmark;
- (ee) Benchmark has complied with and is in compliance with all Laws applicable to the operation of its business, except where such non-compliance would not have a Material Adverse Effect on the business, affairs, operations, assets, prospects or financial condition of Benchmark or on the ability of Benchmark to consummate the Amalgamation;
- (ff) Benchmark has no obligations or liabilities, direct or indirect, vested or contingent in respect of any rate swap transactions, basis swaps, forward rate transactions, commodity swaps, commodity options, equity or equity index swaps, equity or equity index options, bond options, interest rate options, foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, production sales transactions having terms greater than 90 days or any other similar transactions (including any option with respect to any of such transactions) or any combination of such transactions;
- (gg) the minute books, books of account and other records of Benchmark have (whether of a financial or accounting nature or otherwise) been maintained in accordance with, in all material respects, all Applicable Laws and are complete and accurate in all material respects;
- (hh) Benchmark is a "reporting issuer" in material compliance with all applicable securities laws of the provinces of Alberta and British Columbia and the outstanding Benchmark Shares are listed on the TSXV and Benchmark is in material compliance with the policies of the TSXV;
- (ii) as of the date of this Agreement, the Benchmark Shares are a class of securities not registered or required to be registered pursuant to Section 12 of the *United States Securities and Exchange Act of 1934*, as amended;

- (jj) Benchmark is not a "foreign private issuer" within the meaning of Rule 405 of Regulation C adopted by the SEC under the U.S. Securities Act;
- (kk) the principal offices of Benchmark are not located within the United States;
- (ll) Benchmark currently holds no assets located in the United States and had no sales in or into the United States in its most recently completed fiscal year;
- (mm) Benchmark is not an "investment company" within the meaning of the *United States Investment Company Act of 1940*, as amended;
- (nn) all Returns required to be filed by or on behalf of Benchmark or any of the Benchmark Subsidiaries have been duly filed on a timely basis and such Returns are true, complete and correct in all material respects and all Taxes shown to be payable on the Returns or on subsequent assessments with respect thereto have been paid in full on a timely basis, and, to the knowledge of Benchmark, no other Taxes are payable by Benchmark with respect to items or periods covered by such Returns;
- (oo) Benchmark has paid or provided adequate accruals in the Benchmark Financial Statements for the period ended December 31, 2009 for Taxes, including income taxes and related future taxes, in conformity with Canadian GAAP;
- (pp) no material deficiencies exist or have been asserted with respect to Taxes; Benchmark is not a party to any action or proceeding for assessment or collection of Taxes, nor has such event been asserted or threatened against Benchmark or any of the Benchmark Subsidiaries or any of their respective assets; no waiver or extension of any statute of limitations is in effect with respect to Taxes or Returns of Benchmark; the Returns of Benchmark have never been audited by a government or taxing authority, nor is any such audit in process, or to the knowledge of Benchmark, or pending or threatened which resulted in or could result in a reassessment of Taxes owing by Benchmark or an adjustment to Benchmark's tax pools;
- (qq) Benchmark has withheld from each payment made to any of its present or former employees, officers and directors, and to all persons who are non-residents of Canada for the purposes of the Tax Act all amounts required by law and will continue to do so until the Effective Date and has remitted such withheld amounts within the prescribed periods to the appropriate governmental authority; Benchmark has remitted all Canada Pension Plan contributions, employment insurance premiums, employer health taxes and other Taxes payable by it in respect of its employees and has or will have remitted such amounts to the proper governmental authority within the time required by applicable law; Benchmark has charged, collected and remitted on a timely basis all Taxes as required by applicable law on any sale, supply or delivery whatsoever, made by Benchmark;
- (rr) no director, officer, employee, insider of Benchmark or other non-arm's length party to Benchmark is indebted to Benchmark;
- (ss) Benchmark is not indebted to any of its directors, officers, employees or consultants, any of its shareholders or any of their respective associates or affiliates, except for amounts

due as reimbursement for ordinary business expenses incurred within the previous 90 days;

- (tt) there is no non-competition, exclusivity or other similar agreement, commitment or understanding in place to which Benchmark is a party or by which it is otherwise bound that would now or hereafter in any way may limit the business or operations of Benchmark in a particular manner or to a particular locality or geographic region or for a specified period of time and the execution, delivery and performance of this Agreement does not and will not result in any restriction of Benchmark from engaging in its business or from competing with any person or in any geographic area;
- (uu) Benchmark does not have any rights to purchase any assets, properties or undertakings of third parties nor have any obligation to sell assets, properties or undertakings with a value in excess of \$250,000 in the aggregate, under any agreements to purchase or sell that have not closed;
- (vv) to the knowledge of Benchmark, Benchmark has not withheld from Bolivar any material information or documents concerning Benchmark or any of its assets or liabilities during the course of Bolivar's review of Benchmark and its assets;
- (ww) Benchmark is not a party to or bound by any agreement, guarantee, indemnification (other than in the ordinary course of business and to officers and directors pursuant to Benchmark's by-laws and standard indemnity agreements, pursuant to underwriting, agency or financial advisor agreements pursuant to the standard indemnity provisions in agreements of that nature and indemnities contained in flow-through subscription agreements), or endorsement or like commitment of the obligations, liabilities (contingent or otherwise) or indebtedness of any person, firm or corporation;
- (xx) the policies of insurance in force at the date hereof naming Benchmark as an insured are in force and effect and shall not be cancelled or otherwise terminated as a result of the transactions contemplated herein;
- (yy) Benchmark has no reason to believe that the Benchmark Reserve Report, and, if applicable, any updates to such reports or any other reserve evaluation reports in respect of Benchmark which may be, or be deemed to be, included or incorporated by reference in the Information Circular, whether in addition to or as a replacement for the Benchmark Reserve Report, was not accurate in all material respects as at the applicable effective date of such reports and, except for any impact of changes in commodity prices, which may or may not be material, Benchmark has no knowledge of a Material Adverse Change in the production, costs, price, reserves, estimates of future net production revenues or other relevant information from that disclosed in such reports. Benchmark has provided to Petrotech all material information concerning land descriptions, well data, facilities and infrastructure, ownership and operations, future development plans and historical technical and operating data respecting the principal oil and gas assets of Benchmark, in each case as at the effective dates of such reports and, in particular, all material information respecting the interests of Benchmark in its principal oil and gas assets and royalty burdens and net profits interest burdens thereon and such information was

accurate and correct in all material respects as at the respective dates thereof and did not omit any information necessary to make any such information provided not misleading as at the respective dates thereof and there has been no Material Adverse Change in any of the material information so provided since the respective dates thereof;

- (zz) no director, officer, insider or other party not at arm's length to Benchmark has any right, title or interest in (or the right to acquire any right, title or interest in) any royalty interest, participation interest or any other interest whatsoever, in any properties of Benchmark;
- (aaa) as at the Agreement Date, Benchmark's net debt, including working capital, did not exceed \$0;
- (bbb) Benchmark has not negotiated any Acquisition Proposal (as defined in Section 3.4(b)(vii)(A) hereof) with any person who has not entered into a confidentiality agreement or provided access to the confidential information in respect of Benchmark in relation to any proposed, possible or actual Acquisition Proposal to any person who has not entered into a confidentiality agreement. Benchmark has not amended, modified or provided any consents under such confidentiality agreements or provided any release from, or relaxation of, the obligations under such confidentiality agreements to any of the other parties thereto. Benchmark has not waived the applicability of any "standstill" or other provisions of any confidentiality agreements entered into by Benchmark;
- (ccc) Benchmark and its subsidiaries have all Intellectual Property necessary to permit it to conduct its business as presently conducted and as proposed to be conducted;
- (ddd) each of Benchmark and the Benchmark Subsidiaries are the exclusive owners of, or possess adequate enforceable rights to use, their respective Intellectual Property, free and clear of any encumbrances which would, individually or in the aggregate, have a Material Adverse Effect on Benchmark (taken as a whole) and Benchmark has no knowledge of any claim or adverse ownership in respect thereof;
- (eee) Benchmark is not aware of a claim of any infringement or breach by Benchmark or any of the Benchmark Subsidiaries of any industrial or intellectual property rights of any other person, nor has Benchmark or any of the Benchmark Subsidiaries received any notice, nor is Benchmark or any of the Benchmark Subsidiaries otherwise aware, that the use of the Intellectual Property of Benchmark and the Benchmark Subsidiaries infringes upon or breaches any industrial or intellectual property rights of any other person and Benchmark has no knowledge of any infringement or violation of any of the rights of Benchmark or any of the Benchmark Subsidiaries in the Intellectual Property and is not aware of any state of facts that cast doubt on the validity or enforceability of any such Intellectual Property;
- (fff) to the knowledge of Benchmark, Benchmark has not withheld from Bolivar any material information or documents concerning Benchmark or its assets or liabilities during the course of Bolivar's review of Benchmark and its assets. No representation or warranty contained herein and no statement contained in any schedule or other disclosure document provided or to be provided to Bolivar by Benchmark pursuant hereto

(including without limitation, any matter disclosed by Benchmark in writing prior to the date hereof) contains or will contain any untrue statement of a material fact or omits to state a material fact which is necessary in order to make the statements herein or therein not misleading;

- (ggg) the authorized share capital of AcquisitionCo consists of an unlimited number of common shares, of which, at the date hereof, one hundred (100) AcquisitionCo common shares are issued and outstanding;
- (hhh) except as set forth above, there are no options, warrants or other rights, agreements or commitments of any character whatsoever requiring the issuance, sale or transfer by AcquisitionCo of any securities of AcquisitionCo or any securities convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any shares of AcquisitionCo, nor are there any outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments based upon the book value, income or other attribute of AcquisitionCo; and
- (iii) there are no actions, suits, proceedings or investigations pending, or to the knowledge of AcquisitionCo (after due inquiry), contemplated or threatened against or affecting AcquisitionCo at law or in equity, before or by any governmental department, commission, board, bureau, court, agency, arbitrator or instrumentality, domestic, or foreign, of any kind, nor to its knowledge are there any existing facts or conditions which may reasonably be expected to be a proper basis for any actions, suits, proceedings or investigations, which in any case would prevent or hinder the consummation of the transactions contemplated by this Agreement or which can reasonably be expected to materially adversely affect the business, financial condition, operations, prospects, properties, assets or affairs of AcquisitionCo.

ARTICLE 5

CONDITIONS PRECEDENT

5.1 Mutual Conditions Precedent

The respective obligations of the parties hereto to consummate the transactions contemplated hereby, and in particular the Amalgamation, are subject to the satisfaction, on or before the Effective Date or such other time specified, of the following conditions, any of which may be waived by the mutual consent of such parties without prejudice to their right to rely on any other of such conditions:

- (a) the Information Circular and other documentation required in connection with the Bolivar Meeting shall have been mailed on or before May 21, 2010;
- (b) the Bolivar Meeting Resolution set forth in Section 2.5(a) shall have been approved by the Bolivar Shareholders at the Bolivar Meeting;
- (c) the Articles of Amalgamation to be filed with the Registrar in accordance with the Amalgamation shall be in form and substance satisfactory to each of Benchmark and Bolivar, acting reasonably;

- (d) the Effective Time shall have occurred on or prior to the Outside Date;
- (e) all material regulatory, governmental and third party approvals, waivers and consents in respect of the completion of the Amalgamation shall have been obtained on terms and conditions satisfactory to Benchmark and Bolivar, each acting reasonably, including, without limitation, conditional approval of the TSXV for listing of Benchmark Shares issuable pursuant to the Amalgamation, and all applicable statutory and regulatory waiting periods shall have expired or have been terminated and no unresolved material objection or opposition shall have been filed, initiated or made during any applicable statutory regulatory period;
- (f) no material action or proceeding shall be pending or threatened by any person, company, firm, governmental authority, regulatory body or agency and there shall be no action taken under any existing applicable law or regulation, nor any statute, rule, regulation or order which is enacted, enforced, promulgated or issued by any court, department, commission, board, regulatory body, government or governmental authority or similar agency, domestic or foreign, that:
 - (i) makes illegal or otherwise directly or indirectly restrains, enjoins or prohibits the Amalgamation or any other transactions contemplated herein; or
 - (ii) results in a judgment or assessment of material damages directly or indirectly relating to the transactions contemplated herein;
- (g) holders of not greater than five percent (5%) of the outstanding Bolivar Shares shall have exercised Dissent Rights in respect of the Amalgamation that have not been withdrawn as at the Effective Date.

The foregoing conditions are for the mutual benefit of Bolivar on the one hand and Benchmark on the other hand and may be asserted by Bolivar and by Benchmark regardless of the circumstances and may be waived by Bolivar and Benchmark in their sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which Bolivar or Benchmark may have. If any of the said conditions shall not be satisfied or waived in writing by the parties on or before the date required for their performance and provided such non-compliance did not arise from the acts or omissions of the party wishing to terminate, a party may terminate this Agreement by written notice to the other parties in addition to the other rights and remedies it may have at law or in equity against such other parties.

5.2 Conditions to Obligation of Bolivar

The obligation of Bolivar to consummate the transactions contemplated hereby, and in particular the Amalgamation, is subject to the satisfaction, on or before the Effective Date or such other time specified, of the following conditions:

- (a) each of the covenants, acts and undertakings of Benchmark and AcquisitionCo to be performed on or before the Effective Date pursuant to the terms of this Agreement shall have been duly performed by Benchmark, in all material respects;

- (b) Benchmark shall have furnished Bolivar with certified copies of the resolutions, duly passed by the Benchmark Board of Directors:
 - (i) approving the Amalgamation, this Amalgamation Agreement and the consummation of the transactions contemplated hereby; and
 - (ii) conditionally allotting for issuance the aggregate number of Benchmark Shares that may be required to be issued in accordance with the terms of this Agreement upon the Amalgamation taking effect.
- (c) except as affected by the transactions contemplated by or permitted by this Agreement, the representations and warranties of Benchmark (without giving effect to any materiality qualifiers) contained in Section 4.2 shall be true and correct in all material respects as at the Effective Date with the same effect as though such representations and warranties had been made at and as of such time and Benchmark shall have complied in all material respects with its covenants in this Agreement and Bolivar shall have received a certificate to that effect dated the Effective Date from the President and Chief Executive Officer of Benchmark and another senior officer thereof acceptable to Bolivar, acting reasonably, acting solely on behalf of Benchmark and not in their personal capacity, and without personal liability, to the best of his information and belief having made reasonable inquiry and Bolivar shall have no knowledge to the contrary;
- (d) prior to the Effective Date each of the directors and officers of Benchmark (other than those agreed to by Bolivar) shall have provided their resignations (in the case of directors, in a manner that allows for the orderly replacement of directors on the Effective Date) together with releases in favour of Benchmark, conditional on closing of the Amalgamation and effective on the Effective Date, each in form and substance and on such terms as are satisfactory to Bolivar, acting reasonably;
- (e) there shall not have occurred any Material Adverse Change in respect of Benchmark after the date hereof or prior to the Effective Date which has not been publicly disclosed prior to the Agreement Date or disclosed to Bolivar in writing prior to the Agreement Date;
- (f) immediately prior to the Effective Time, Bolivar shall be satisfied there shall not be more than 25,758,578 Benchmark Shares outstanding (prior to the exercise of any Benchmark Options and the issuance of any Benchmark Shares pursuant to the Proposed Financing) and Bolivar shall be satisfied that upon completion of the Amalgamation no person shall have any agreement, option or any right or privilege (whether by law, pre-emptive, by contract or otherwise) capable of becoming an agreement or option for the purchase, subscription, allotment or issuance of any issued or unissued, Benchmark Shares (other than with respect to the Benchmark Options and the Proposed Financing);
- (g) Benchmark Holdings (BVI) Limited and Benchmark Energy (BVI) Corp. shall have been dissolved or wound up in accordance with applicable laws in their respective jurisdictions of incorporation;

- (h) the Canacol Farmout Agreement shall have been amended to provide for an extension of the February 20, 2010 deadline in Section 3.3 of such agreement to November 20, 2010, or such other date as may be agreed to by Bolivar, acting reasonably; and
- (i) prior to the Mailing Date, Benchmark shall have received executed consents from holders of not less than 50% + 1 of outstanding Benchmark Shares in a form satisfactory to the TSXV in respect of the "Change of Management" contemplated by this Agreement.

The conditions in this Section 5.2 are for the exclusive benefit of Bolivar and may be asserted by Bolivar regardless of the circumstances or may be waived by Bolivar in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which Bolivar may have. If any of the said conditions shall not be satisfied or waived in writing by Bolivar on or before the date required for their performance and provided such non-compliance did not arise from the acts or omissions of Bolivar, then Bolivar may terminate this Agreement by written notice to Benchmark and AcquisitionCo in addition to the other rights or remedies it may have at law or in equity against Benchmark and AcquisitionCo.

5.3 Conditions to Obligation of Benchmark and AcquisitionCo

The obligations of Benchmark and AcquisitionCo to consummate the transactions contemplated hereby, and in particular the issue of Benchmark Shares, is subject to the satisfaction, on or before the Effective Date or such other time specified, of the following conditions:

- (a) each of the covenants, acts and undertakings of Bolivar to be performed on or before the Effective Date pursuant to the terms of this Agreement shall have been duly performed by Bolivar, in all material respects;
- (b) Bolivar shall have furnished Benchmark with certified copies of:
 - (i) the resolutions duly passed by the Bolivar Board of Directors; and approving the Amalgamation, this Amalgamation Agreement and the consummation of the transactions contemplated hereby; and
 - (ii) the Bolivar Meeting Resolutions set forth in Section 2.5(a), duly passed at the Bolivar Meeting, approving the Amalgamation in accordance with the terms hereof;
- (c) except as affected by the transactions contemplated by or permitted by this Agreement, the representations and warranties of Bolivar (without giving effect to any materiality qualifiers) contained in Section 4.1 shall be true and correct in all material respects as at the Effective Date with the same effect as though such representations and warranties had been made at and as of such time and Bolivar shall have complied in all material respects with its covenants in this Agreement and Benchmark shall have received a certificate to that effect dated the Effective Date of the President and Chief Executive Officer of Bolivar and another senior officer thereof acceptable to Benchmark, acting reasonably, acting solely on behalf of Bolivar and not in their personal capacity, and without personal

liability, to the best of their information and belief having made reasonable inquiry and Benchmark shall have no knowledge to the contrary;

- (d) the Bolivar Board of Directors shall not have withdrawn, modified or changed any of its recommendations, approvals, resolutions or determinations referred to in Section 3.1(t) in a manner materially adverse to Benchmark or the completion of the Amalgamation;
- (e) the Bolivar Reserves Report, in form acceptable to the TSXV and Benchmark (acting reasonably) shall have been delivered to Benchmark prior to May 14, 2010;
- (f) Bolivar shall have delivered to Benchmark financial statements in respect of Bolivar as required to be included in the Information Circular in accordance with Applicable Laws and in form acceptable to the TSXV prior to May 14, 2010, or such other date prior to the Mailing Date as may be agreed to by Benchmark, acting reasonably;
- (g) there shall not have occurred any Material Adverse Change in respect of Bolivar after the date hereof or prior to the Effective Date which has not been publicly disclosed prior to the Agreement Date or disclosed to Benchmark in writing prior to the Agreement Date; and
- (h) immediately prior to the Effective Time of the Amalgamation, Benchmark shall be satisfied there shall not be more than 116,752,526 Bolivar Shares outstanding and Benchmark shall be satisfied that upon completion of the Amalgamation no person shall have any agreement, option or any right or privilege (whether by law, pre-emptive, by contract or otherwise) capable of becoming an agreement or option for the purchase, subscription, allotment or issuance of any issued or unissued, Bolivar Shares.

The conditions described in this Section 5.3 are for the exclusive benefit of Benchmark and may be asserted by Benchmark regardless of the circumstances or may be waived by Benchmark in their respective sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which Benchmark may have. If any of the said conditions shall not be satisfied or waived in writing by Benchmark and AcquisitionCo on or before the date required for their performance and provided such non-compliance did not arise from the acts or omissions of Benchmark and/or AcquisitionCo, then Benchmark and/or AcquisitionCo may terminate this Agreement by written notice to Bolivar in addition to the other rights and remedies it may have at law or in equity against Bolivar.

5.4 Notice and Effect of Failure to Comply with Conditions

- (a) Each of Bolivar and Benchmark shall give prompt notice to the other of the occurrence, or failure to occur, at any time from the date hereof to the Effective Date of any event or state of facts which occurrence or failure would, or would be likely to, (i) cause any of the representations or warranties of any party contained herein to be untrue or inaccurate in any material respect, or (ii) result in the failure to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by any party hereunder provided, however, that no such notification will affect the representations or warranties of the parties or the conditions to the obligations of the parties hereunder.

- (b) If any of the conditions precedent set forth in Sections 5.1, 5.2 or 5.3 hereof shall not be complied with or waived by the party or parties for whose benefit such conditions are provided on or before the date required for the performance thereof, then a party for whose benefit the condition precedent is provided may, in addition to any other remedies they may have at law or equity, rescind and terminate this Agreement provided that prior to the filing of the Articles of Amalgamation for the purpose of giving effect to the Amalgamation the party intending to rely on such rescission or termination has delivered a written notice to the other party, specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the party delivering such notice is asserting as the basis for the non-fulfillment of the applicable conditions precedent and the party in breach shall have failed to cure such breach within five (5) Business Days of receipt of such written notice thereof (except that no cure period shall be provided for a breach which by its nature cannot be cured). More than one such notice may be delivered by a party.

5.5 Satisfaction of Conditions

The conditions set out in this Article 5 are conclusively deemed to have been satisfied, waived or released when the Articles of Amalgamation are filed under the Act to give effect to the Amalgamation.

ARTICLE 6 NON-COMPLETION FEE

6.1 Non-Completion Fee Payable by Bolivar

If at any time after the date hereof and prior to termination hereof, any of the following occur:

- (a) the Bolivar Board of Directors:
- (i) fails to recommend that holders of Bolivar Shares vote in favour of the Amalgamation;
 - (ii) withdraws, modifies, qualifies or changes any of its recommendations, approvals, resolutions or determinations referred to in Section 3.1(t) hereof in a manner adverse to the Amalgamation or to Benchmark, or shall have resolved to do so; or
 - (iii) fails to promptly reaffirm any of its recommendations, approvals, resolutions or determinations referred to in Section 3.1(t) hereof upon request from time to time by Benchmark to do so;
- (b) the Bolivar Board of Directors shall have recommended that holders of Bolivar Shares deposit their Bolivar Shares under, or vote in favour of, or otherwise accept a Superior Proposal;

- (c) Bolivar accepts, recommends, approves or enters into an agreement with respect to a Superior Proposal (other than this Agreement or a confidentiality agreement contemplated by Section 3.4 hereof) prior to completion of the Amalgamation;
- (d) prior to the date of the Bolivar Meeting, another bona fide Acquisition Proposal is publicly announced or made to all or substantially all holders of Bolivar Shares or to Bolivar and:
 - (i) at the date of the Bolivar Meeting such Acquisition Proposal shall not have expired or been withdrawn;
 - (ii) the Amalgamation is not approved by holders of the Bolivar Shares at the Bolivar Meeting; and
 - (iii) such Acquisition Proposal is consummated within six (6) months of the date of the Bolivar Meeting;
- (e) Bolivar is in breach of any of its covenants made in this Agreement which breach individually or in the aggregate causes or would be reasonably expected to cause a Material Adverse Change in respect of Bolivar or materially impedes the completion of the Amalgamation, and Bolivar fails to cure such breach within five (5) Business Days after receipt of written notice thereof from Benchmark (except that no cure period shall be provided for a breach which by its nature cannot be cured and, in no event, shall any cure period extend beyond the Outside Date); or
- (f) Bolivar is in breach of any of its representations or warranties made in this Agreement (without giving effect to any materiality qualifiers contained therein) which breach individually or in the aggregate causes or would reasonably be expected to cause a Material Adverse Change in respect of Bolivar or materially impede the completion of the Amalgamation, and Bolivar fails to cure such breach within five (5) Business Days after receipt of written notice thereof from Benchmark (except that no cure period shall be provided for a breach which by its nature cannot be cured and, in no event, shall any cure period extend beyond the Outside Date),

then, in the event of the termination of this Agreement, Bolivar shall pay an amount equal to \$400,000 plus G.S.T. (the "**Bolivar Non-Completion Fee**"), in immediately available funds to or to an account designated by Benchmark within two (2) Business Days after the Agreement is terminated (other than with respect to termination of the Agreement in the circumstance set forth in Section 6.1(c) whereby the Bolivar Non-Completion Fee shall be payable concurrently with the occurrence of such an event) in accordance with Section 8.2(d)(iii). On the date of the earliest event described above in this Section 6.1, Bolivar shall be deemed to hold such sum in trust for Benchmark. For greater certainty, the Bolivar Non-Completion Fee shall only be required to be paid to Benchmark once pursuant to the foregoing provisions.

6.2 Non-Completion Fee Payable by Benchmark

If at any time after the date hereof and prior to termination hereof, any of the following occur:

- (a) Benchmark accepts, recommends, approves or enters into an agreement with respect to a Superior Proposal (other than this Agreement or a confidentiality agreement contemplated by Section 3.4 hereof) prior to completion of the Amalgamation;
- (b) Benchmark is in breach of any of its covenants made in this Agreement which breach individually or in the aggregate causes or would be reasonably expected to cause a Material Adverse Change in respect of Benchmark or materially impedes the completion of the Amalgamation, and Benchmark fails to cure such breach within five (5) Business Days after receipt of written notice thereof from Bolivar (except that no cure period shall be provided for a breach which by its nature cannot be cured and, in no event, shall any cure period extend beyond the Outside Date); or
- (c) Benchmark is in breach of any of its representations or warranties made in this Agreement (without giving effect to any materiality qualifiers contained therein) which breach individually or in the aggregate causes or would reasonably be expected to cause a Material Adverse Change in respect of Benchmark or materially impede the completion of the Amalgamation, and Benchmark fails to cure such breach within five (5) Business Days after receipt of written notice thereof from Bolivar (except that no cure period shall be provided for a breach which by its nature cannot be cured and, in no event, shall any cure period extend beyond the Outside Date),

then, in the event of termination of this Agreement, Benchmark shall pay an amount equal to \$400,000 plus G.S.T. (the "**Benchmark Non-Completion Fee**"), in immediately available funds to or to an account designated by Bolivar within two (2) Business Days after the Agreement is terminated (other than with respect to termination of the Agreement in the circumstance set forth in Section 6.2(a) whereby the Benchmark Non-Completion Fee shall be payable concurrently with the occurrence of such an event) in accordance with Section 8.2(e)(iii). On the date of the earliest event described above in this Section 6.1, Bolivar shall be deemed to hold such sum in trust for Bolivar. For greater certainty, the Benchmark Non-Completion Fee shall only be required to be paid to Bolivar once pursuant to the foregoing provisions.

6.3 Liquidated Damages

Bolivar and Benchmark acknowledge and agree that all of the payment amounts set out in Sections 6.1 and 6.2 are payments of liquidated damages which are a genuine pre estimate of the damages which the party entitled to such damages will suffer or incur as a result of the event giving rise to such damages and are not penalties. Each party irrevocably waives any right it may have to raise as a defence that any such liquidated damages are excessive or punitive. For greater certainty, the parties agree that the payment of the amount pursuant to this Article 6 is the sole monetary remedy of the party receiving such payment. Nothing herein shall preclude a party from seeking injunctive or any other equitable remedy, relief to restrain, or prevent any breach or threatened breach of the covenants or agreements set forth in this Agreement or the Confidentiality Agreement or otherwise to obtain specific performance of any of such act, covenants or agreements, without the necessity of posting bond or security in connection therewith.

ARTICLE 7 NOTICES

7.1 Notices

All notices which may or are required to be given pursuant to any provision of this Agreement are to be given or made in writing and served personally or sent by telecopy and in the case of:

(a) Benchmark, addressed to:

#260, 1414 - 8th Street SW
Calgary, Alberta T2R 1J6

Attention: David R. Robinson,
President and Chief Executive Officer
Fax: (403) 266-1709

with a copy to:

Blake, Cassels & Graydon LLP
Suite 3500, Bankers Hall East Tower
855 - 2nd Street South West
Calgary, Alberta T2P 4J8

Attention: William C. Van Horne
Fax: (403) 260-9700

(b) Bolivar, addressed to:

c/o Heenan Blaikie LLP
12th Floor, 425 – 1st Street SW
Calgary, Alberta T2P 3L8

Attention: John Moreland,
President and Chief Executive Officer
Fax: (403) 234-7987

with a copy to:

Heenan Blaikie LLP
12th Floor, 425 – 1st Street South West
Calgary, Alberta
T2P 3L8

Attention: Chris Manderville
Fax: (403) 234-7987

or such other address as the parties may, from time to time, advise to the other parties hereto by notice in writing. The date or time of receipt of any such notice will be deemed to be the date of delivery or the time such telecopy is received.

ARTICLE 8 AMENDMENT AND TERMINATION OF AGREEMENT

8.1 Amendment

This Agreement may at any time and from time to time be amended by written agreement of the parties hereto without, subject to Applicable Law, further notice to or authorization on the part of their respective securityholders and any such amendment may, without limitation:

- (a) change the time for performance of any of the obligations or acts of the parties hereto;
- (b) waive any inaccuracies or modify any representation or warranty contained herein or in any document delivered pursuant hereto;
- (c) waive compliance with or modify any of the covenants herein contained and waive or modify performance of any of the obligations of the parties hereto; or
- (d) waive compliance with or modify any other conditions precedent contained herein,

provided that in the case of Bolivar, no such amendment shall decrease the number of Benchmark Shares to be received by Bolivar Shareholders pursuant to the Bolivar Meeting Resolutions without approval by the Bolivar Shareholders given in the same manner as required for the approval of the Bolivar Meeting Resolutions.

8.2 Termination

- (a) This Agreement may, prior to the Effective Time, be terminated by mutual written agreement of Benchmark, AcquisitionCo and Bolivar without further action on the part of the shareholders of Bolivar;
- (b) This Agreement may be terminated by Benchmark, AcquisitionCo or Bolivar if the Bolivar Shareholders do not approve the Bolivar Meeting Resolutions at the Bolivar Meeting.
- (c) This Agreement may be terminated by either Bolivar, Benchmark or AcquisitionCo, with respect to the termination rights specified in Section 5.1, 5.2 or 5.3, as the case may be, or if all of the conditions to the completion of the Amalgamation for the benefit of such party shall not have been satisfied or waived on or before 5:00 p.m. (Calgary time) on the Outside Date, other than as a result of a breach of this Agreement by the terminating party
- (d) Notwithstanding any other rights contained herein, Benchmark may terminate this Agreement prior to the Effective Time upon written notice to Bolivar:

- (i) as provided in Section 5.4(b);
 - (ii) if any event which may give rise to payment of the Bolivar Non-Completion Fee set forth in Section 6.1 hereof occurs; and
 - (iii) if the Benchmark Non-Completion Fee is payable in accordance with Section 6.2(a) hereof (provided Benchmark has complied with its obligations set forth in Section 3.4(c)) and is paid by Benchmark.
- (e) Notwithstanding any other rights contained herein, Bolivar may terminate this Agreement prior to the Effective Time upon written notice to Benchmark:
- (i) as provided in Section 5.4(b);
 - (ii) if any event which may give rise to payment of the Benchmark Non-Completion Fee set forth in Section 6.2 hereof occurs; and
 - (iii) if the Bolivar Non-Completion Fee is payable in accordance with Section 6.1(c) hereof (provided Bolivar has complied with its obligations set forth in Section 3.4(c)) and is paid by Bolivar.
- (f) If this Agreement is terminated pursuant to any provision of this Agreement, the parties shall return all materials and copies of all materials delivered to Bolivar or Benchmark, as the case may be, or their agents. Except for the obligations set forth in Article 6, Sections 9.3 and 9.5 hereof which shall survive any termination of this Agreement and continue in full force and effect, no party shall have any further obligations to any other party hereunder with respect to this Agreement.

ARTICLE 9 GENERAL

9.1 Binding Effect

This Agreement shall be binding upon and enure to the benefit of the parties hereto.

9.2 Assignment

No party to this Agreement may assign any of its rights or obligations under this Agreement without prior written consent of the other parties.

9.3 Privacy Matters

- (a) For the purposes of this Section 9.3, the following definitions shall apply:
- (i) "**applicable law**" means, in relation to any person, transaction or event, all applicable provisions of laws, statutes, rules, regulations, official directives and orders of and the terms of all judgments, orders and decrees issued by any

authorized authority by which such person is bound or having application to the transaction or event in question, including applicable privacy laws.

- (ii) **"applicable privacy laws"** means any and all applicable laws relating to privacy and the collection, use and disclosure of Personal Information in all applicable jurisdictions, including but not limited to the *Personal Information Protection and Electronic Documents Act* (Canada) and/or any comparable provincial law including the *Personal Information Protection Act* (Alberta).
 - (iii) **"authorized authority"** means, in relation to any person, transaction or event, any: (a) federal, provincial, municipal or local governmental body (whether administrative, legislative, executive or otherwise), both domestic and foreign; (b) agency, authority, commission, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government; (c) court, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions; and (d) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange, in each case having jurisdiction over such person, transaction or event.
 - (iv) **"Personal Information"** means information about an individual transferred to one party by the other in accordance with this Agreement and/or as a condition of the Amalgamation.
- (b) The parties acknowledge that they are responsible for compliance at all times with applicable privacy laws which govern the collection, use and disclosure of Personal Information acquired by or disclosed to either party pursuant to or in connection with this Agreement (the **"Disclosed Personal Information"**).
 - (c) Neither party shall use the Disclosed Personal Information for any purposes other than those related to the performance of this Agreement and the completion of the Amalgamation.
 - (d) Each party acknowledges and confirms that the disclosure of Personal Information is necessary for the purposes of determining if the parties shall proceed with the Amalgamation, and that the disclosure of Personal Information relates solely to the carrying on of the business and the completion of the Amalgamation.
 - (e) Each party acknowledges and confirms that it has and shall continue to employ appropriate technology and procedures in accordance with applicable law to prevent accidental loss or corruption of the Disclosed Personal Information, unauthorized input or access to the Disclosed Personal Information, or unauthorized or unlawful collection, storage, disclosure, recording, copying, alteration, removal, deletion, use or other processing of such Disclosed Personal Information.
 - (f) Each party shall at all times keep strictly confidential all Disclosed Personal Information provided to it, and shall instruct those employees or advisors responsible for processing

such Disclosed Personal Information to protect the confidentiality of such information in a manner consistent with the parties' obligations hereunder. Each party shall ensure that access to the Disclosed Personal Information shall be restricted to those employees or advisors of the respective party who have a bona fide need to access to such information in order to complete the Amalgamation.

- (g) Each party shall promptly notify the other parties of all inquiries, complaints, requests for access, and claims of which the party is made aware in connection with the Disclosed Personal Information. The parties shall fully co-operate with one another, with the persons to whom the Personal Information relates, and any authorized authority charged with enforcement of applicable privacy laws, in responding to such inquiries, complaints, requests for access, and claims.
- (h) Upon the expiry or termination of this Agreement, or otherwise upon the reasonable request of either party, the other parties shall forthwith cease all use of the Personal Information acquired by such other parties in connection with this Agreement and will return to the requesting party or, at the requesting party's request, destroy in a secure manner, the Disclosed Personal Information (and any copies).

9.4 Disclosure

Each party shall receive the prior consent, not to be unreasonably withheld, of the other parties prior to issuing or permitting any director, officer, employee or agent to issue, any press release or other written statement with respect to this Agreement or the transactions contemplated hereby. Notwithstanding the foregoing, if a party is required by law or administrative regulation to make any disclosure relating to the transactions contemplated herein, such disclosure may be made, but that party will use reasonable commercial efforts to consult with the other parties as to the wording of such disclosure prior to its being made.

9.5 Costs

Except as contemplated herein (including Section 6.1 hereof), each party hereto covenants and agrees to bear its own costs and expenses in connection with the transactions contemplated hereby.

9.6 Severability

If any one or more of the provisions or parts thereof contained in this Agreement should be or become invalid, illegal or unenforceable in any respect in any jurisdiction, the remaining provisions or parts thereof contained herein shall be and shall be conclusively deemed to be, as to such jurisdiction, severable therefrom and:

- (a) the validity, legality or enforceability of such remaining provisions or parts thereof shall not in any way be affected or impaired by the severance of the provisions or parts thereof severed; and

- (b) the invalidity, illegality or unenforceability of any provision or part thereof contained in this Agreement in any jurisdiction shall not affect or impair such provision or part thereof or any other provisions of this Agreement in any other jurisdiction.

9.7 Further Assurances

Each party hereto shall, from time to time and at all times hereafter, at the request of the other party hereto, but without further consideration, do all such further acts, and execute and deliver all such further documents and instruments as may be reasonably required in order to fully perform and carry out the terms and intent hereof.

9.8 Time of Essence

Time shall be of the essence of this Agreement.

9.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta (except those relating to conflict of laws principles). Each of the parties hereto hereby irrevocably and unconditionally consents to and submits to the jurisdiction of the courts of the Province of Alberta in respect of all actions, suits or proceedings arising out of or relating to this Agreement or the matters contemplated hereby (and agrees not to commence any action, suit or proceeding relating thereto except in such courts) and further agrees that service of any process, summons, notice or document by single registered mail to the addresses of the parties set forth in this Agreement shall be effective service of process for any action, suit or proceeding brought against either party in such court. The parties hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the matters contemplated hereby in the courts of the Province of Alberta and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding so brought has been brought in an inconvenient forum.

9.10 Waiver

No waiver by any party shall be effective unless in writing and any waiver shall affect only the matter, and the occurrence thereof, specifically identified and shall not extend to any other matter or occurrence.

9.11 Counterparts

This Agreement may be executed in counterparts and may be executed by facsimile or other electronic means, and each of such counterparts shall be deemed an original, and all of which together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

BENCHMARK ENERGY CORP.

Per: "David Robinson"

BOLIVAR ENERGY INC.

Per: "John Moreland"

**BENCHMARK COLOMBIA ACQUISITION
CORP.**

Per: "David Robinson"

APPENDIX A
ARTICLES OF AMALGAMATION

ARTICLES OF AMALGAMATION

ARTICLES OF AMALGAMATION
Business Corporations Act
(Alberta)
Section 185

1. Name of Amalgamated Corporation: Bolivar Energy Inc.

- 2. The classes of shares, and any maximum number of shares that the Corporation is authorized to issue:**
See Schedule "A" attached hereto.
- 3. Restriction on share transfers, if any:**
See Schedule "B" attached hereto.
- 4. Number, or minimum and maximum number of directors:**
Minimum of one (1); Maximum of seven (7).
- 5. If the corporation is restricted FROM carrying on a certain business or restricted TO carrying on a certain business, specify the restriction(s):**
N/A
- 6. Other Provisions, if any:**
See Schedule "C" attached hereto.

7. Name of Amalgamating Corporations:	Corporate Access Number:
Bolivar Energy Inc.	[●]
Benchmark Colombia Acquisition Corp.	[●]

Name of Person Authorizing (please print)

Signature

Title (please print)

Date

This information is being collected for purposes of corporate registry records in accordance with the Business Corporations Act.

SCHEDULE "A"
ARTICLES OF AMALGAMATION
OF
BOLIVAR ENERGY INC.
(the "Corporation")

(share structure)

The Corporation is authorized to issue an unlimited number of Common Shares. The rights attached to the Common Shares are as follows:

- (a) The holders of the Common Shares shall be entitled to receive notice of, attend at and vote at any meeting of the shareholders of the Corporation on the basis of one vote for each Common Share held at the time of any such meeting;
- (b) To receive dividends declared as and if declared by the Board of Directors; and
- (c) The holders of the Common Shares shall be entitled to share in the remaining property of the Corporation upon liquidation, dissolution, bankruptcy, winding-up or other distribution of the assets of the Corporation among its shareholders for the purpose of winding-up its affairs.

SCHEDULE "B"
ARTICLES OF AMALGAMATION
OF
BOLIVAR ENERGY INC.
(the "Corporation")

(restrictions on share transfers)

The right to transfer shares of the Corporation is restricted in that no shareholder shall be entitled to transfer any share or shares in the capital of the Corporation unless the transfer has been approved by the directors of the Corporation, such approval to be signified by a resolution of the Board of Directors of the Corporation.

SCHEDULE "C"
ARTICLES OF AMALGAMATION
OF
BOLIVAR ENERGY INC.
(the "Corporation")

(other rules or provisions)

1. The number of shareholders of the Corporation, exclusive of persons who are in its employment and are shareholders of the Corporation and exclusive of persons who, having been formerly in the employment of the Corporation, were, while in that employment, shareholders of the Corporation, and have continued to be shareholders of the Corporation after termination of that employment, is limited to not more than fifty persons, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder.
2. Any invitation to the public to subscribe for securities of the Corporation is prohibited.
3. The Corporation has a lien on the shares of a shareholder or his legal representative for a debt of that shareholder to the Corporation, provided that such lien shall be released in respect of shares transferred by such shareholder (or his legal representative) as permitted pursuant to the terms of these Articles or any unanimous shareholders agreement in respect of the Corporation.
4. The directors may, between annual general meetings, appoint one or more additional directors of the Corporation to serve until the next annual meeting, but the number of additional directors shall not at any time exceed one-third of the number of directors who held office at the expiration of the last annual meeting of the Corporation.

APPENDIX B
FORM OF BOLIVAR SUPPORT AGREEMENT

[BENCHMARK LETTERHEAD]

Confidential

May 3, 2010

To: The securityholder of Bolivar Energy Inc. named on the acceptance page hereof

Re: **Amalgamation Agreement among Benchmark Energy Corp. ("Benchmark"), Bolivar Energy Inc. and Benchmark Colombia Acquisition Corp.**

Dear Securityholder:

We understand that you (the "**Securityholder**") are the beneficial owner of or exercise control and direction over not less than _____ common shares ("**Common Shares**") of Bolivar Energy Inc. ("**Bolivar**") and not less than _____ warrants ("**Warrants**") of Bolivar, each of such Warrants entitling the holder thereof to receive one Common Share on the exercise of a Warrant all as set out on the acceptance page of this agreement (the Common Shares and the Common Shares issued on the exercise of the Warrants are hereinafter collectively referred to as the "**Subject Shares**").

This document will serve as an agreement (the "**Agreement**") between the Securityholder and Benchmark relating to such Securityholder voting in favour of the Amalgamation all of the Subject Shares now owned or hereinafter acquired or over which control and direction is exercised by the Securityholder, all as more particularly set out above and on the acceptance page of this Agreement.

1. The Transaction

Pursuant to an amalgamation agreement (the "**Amalgamation Agreement**") dated May 3, 2010 among Benchmark, Bolivar and Benchmark Colombia Acquisition Corp., the parties have agreed to complete an amalgamation (the "**Amalgamation**").

Pursuant to and in accordance with the terms and conditions of the Amalgamation Agreement holders of Common Shares will receive consideration of 2.6346 Benchmark common shares per Common Share as provided for in the Amalgamation Agreement.

2. Definitions

In this Agreement, the following terms have the following meanings:

"**ABCA**" means the *Business Corporations Act* (Alberta), as amended from time to time; and

"**Effective Date**" means the date the Amalgamation becomes effective under the ABCA.

All other defined terms shall have the meaning as ascribed in the body of this letter.

3. Covenants of the Securityholder

Subject to the terms of this Agreement and the terms and conditions of the Amalgamation Agreement, from the date hereof until the Effective Date or the date on which this Agreement is terminated in accordance the terms hereof, as applicable, the Securityholder agrees:

- (a) to vote or cause to be voted all of the Common Shares presently owned, controlled or hereafter acquired or which the Securityholder has, or may be given, authorization to vote in

favour of the Amalgamation and any other resolutions relating thereto at any meeting of the shareholders of Bolivar called to consider the Amalgamation or any adjournment thereof, including the meeting of the shareholders of Bolivar to be held on or about June ●, 2010 (the “**Meeting**”) or by written consent, including, where necessary, to revoke any proxies submitted by the Securityholder in respect of Common Shares held by the Securityholder pursuant to which the Securityholder has voted against the Amalgamation and to complete and submit such proxies in favour of the Amalgamation, provided however, for greater certainty, nothing herein shall obligate the Securityholder if appointed as proxy by another shareholder of Bolivar to vote such other shareholder’s Common Shares at the Meeting other than in accordance with the voting instructions of such shareholder;

- (b) not to exercise statutory rights of dissent and appraisal in respect of any resolution authorizing the Amalgamation proposed to be passed at the Meeting and, subject to the terms hereof, not to exercise any other shareholder rights or remedies available at common law or pursuant to the ABCA to delay, hinder, upset or challenge the Amalgamation;
- (c) to use reasonable best efforts to conduct his, her or its affairs so that all of the representations and warranties of the Securityholder contained herein shall be true in all material respects on and as of the Effective Date as if made thereon;
- (d) not to directly or indirectly initiate, propose, assist or participate in any solicitation of securityholders of Bolivar in opposition to the Amalgamation, take any action or cause Bolivar to take any action inconsistent with section 3.4 of the Amalgamation Agreement, or otherwise take any action which might be regarded as being directed towards or likely to prevent or delay the successful completion of the Amalgamation, provided that the consideration by the board of directors of Bolivar of any Acquisition Proposal (as defined in the Amalgamation Agreement) in compliance with the Amalgamation Agreement shall not constitute a violation of this covenant; and
- (e) not to sell, assign, convey or otherwise dispose of or cause to be sold, assigned, conveyed or disposed, any of the Subject Shares beneficially owned by the Securityholder.

It is acknowledged that the covenants of the Securityholder set forth in this Section 3 relate to the Securityholder acting solely in the capacity of a shareholder of Bolivar and not as a director and/or officer of Bolivar and shall not affect or restrict any legal obligation imposed on such Securityholder acting in the capacity of a director or officer of Bolivar.

4. Representations and Warranties of the Securityholder

The Securityholder represents and warrants to Benchmark that:

- (a) the Securityholder is the beneficial owner of or exercises control and direction over the Warrants and Common Shares set forth on the execution page of this Agreement;
- (b) it does not beneficially own any securities of Bolivar or rights to acquire securities of Bolivar, other than the number of securities referred to in (a) above as set forth on the execution page of this Agreement;
- (c) the Securityholders’ Common Shares and Warrants, as the case may be, are not subject to any hypothecs, mortgages, liens, charges, security interests, pledges, claims, rights of first offer or refusal, encumbrances and adverse rights or claims, proxy or agreements to grant a proxy, voting trust, shareholder agreement or other agreement to vote such securities (collectively, a “**Lien**”), other than Liens that will be discharged prior to the Effective Date;

- (d) no person, firm or corporation has any agreement, option or right (whether by law, preemptive or contractual) capable of becoming an agreement or option to acquire any of the Subject Shares or any interest therein, other than as contemplated by this Agreement;
- (e) the Securityholder has the requisite power and authority to enter into this Agreement and to perform his or its obligations hereunder;
- (f) if the Securityholder is a corporation, the execution and delivery of this Agreement by the Securityholder and the consummation by the Securityholder of the transactions contemplated by this Agreement have, if necessary, been duly authorized by the board of directors of the Securityholder and no other corporate proceedings on the part of the Securityholder are necessary to authorize this Agreement and the transactions contemplated hereby;
- (g) this Agreement has been duly executed and delivered by the Securityholder and constitutes a valid and binding obligation of the Securityholder, enforceable by Benchmark against the Securityholder in accordance with its terms, subject to bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other laws relating to or affecting creditors' rights generally and to general principles of equity; and
- (h) the execution and delivery by the Securityholder of this Agreement and the performance by the Securityholder of his, her or its obligations hereunder will not result in a violation or breach of any provision of:
 - (i) if the Securityholder is a corporation, the Securityholder's articles or by-laws; or
 - (ii) any order, judgment or decree applicable to the Securityholder;

other than any such violations or breaches that will not, individually or in the aggregate, have an adverse effect on the ability of the Securityholder to fulfil his, her or its obligations under this Agreement.

5. Representations and Warranties of Benchmark

Benchmark represents and warrants to the Securityholder that:

- (a) Benchmark has been duly incorporated and organized and is validly existing as a corporation under the laws of Alberta;
- (b) Benchmark has the requisite corporate power and authority to enter into this Agreement and to perform its obligations hereunder;
- (c) the execution of this Agreement by Benchmark and the consummation by Benchmark of the transactions contemplated by this Agreement have been duly authorized by the board of directors of Benchmark, and no other corporate proceedings on the part of Benchmark are necessary to authorize this Agreement and the transactions contemplated hereby;
- (d) this Agreement has been duly executed and delivered by Benchmark and constitutes a valid and binding obligation of Benchmark, enforceable by the Securityholder against Benchmark in accordance with its terms, subject to bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other laws relating to or affecting creditors' rights generally and to general principles of equity;

- (e) the execution and delivery by Benchmark of this Agreement and the performance by Benchmark of its obligations hereunder will not result in a violation or breach of any provision of:
 - (i) Benchmark's articles or by-laws; or
 - (ii) any law, regulation, order, judgment or decree;

other than any such violations or breaches that will not, individually or in the aggregate, have a material adverse effect on the ability of Benchmark to fulfil its obligations under this Agreement.

6. Announcements

Except as required by applicable laws, the Securityholder will not make any public announcement or communications in respect of the existence of this Agreement, or any amendment to the terms of this Agreement, unless the prior approval of the announcement or communication is obtained from Benchmark. It is acknowledged and agreed that Bolivar and/or Benchmark may make a public announcement in respect of the Amalgamation or any amendment and that such announcement may contain a general reference to agreements similar to this Agreement having been entered into and the terms thereof.

7. Termination

This Agreement will automatically terminate in the event that the Amalgamation Agreement is terminated in accordance with its terms. Upon termination, this Agreement will have no further force and effect and there will be no liability on the part of the Securityholder hereunder. Nothing contained in this section shall relieve any party from liability for any breach of any provision of this Agreement.

8. Specific Performance

The Securityholder acknowledges that it will be impossible to measure in monetary terms the damage to Benchmark if the Securityholder fails to comply with any of its obligations under this Agreement, that every such obligation is material and that, in the event of any such failure, Benchmark will not have an adequate remedy at law or in damages, and accordingly, the Securityholder agrees that the issuance of an injunction or other equitable remedy is the appropriate remedy for any such failure.

9. Notices

Any notice or other communication to be given hereunder shall be addressed to:

- (a) in the case of notice to the Securityholder, at the address and facsimile number set forth on the execution page of this Agreement.

- (b) in the case of notice to Benchmark:

Benchmark Energy Ltd.
#260, 1414 – 8th Street S.W.
Calgary, Alberta T2R 1J6

Attention: David R. Robinson
Fax: (403) 266-1709

Any notice or other communication shall be in writing and, unless delivered personally to the addressee or a responsible officer of the addressee, shall be given by fax, and shall be deemed to be given at the time delivered personally and, if faxed, at the time faxed (provided complete transmission is confirmed) to the recipient on a business day (in the city in which the addressee is located), if faxed before 5:00 p.m. (local time in the city in which the addressee is located) on such business day, and otherwise shall be deemed to be given at 9:00 a.m. (local time in the city in which the addressee is located) on the next following business day. Either party may change its address for notice by notice to the other party hereto given in the manner herein provided.

10. Miscellaneous

- (a) If any term, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants and restrictions of this Agreement will remain in full force and effect and will in no way be affected, impaired or invalidated and the parties will negotiate in good faith to modify this Agreement to preserve each party's anticipated benefits under this Agreement.
- (b) This Agreement:
 - (i) constitutes the entire agreement and supersedes all other prior agreements and undertakings, both written and oral, among the parties with respect to the subject matter hereof;
 - (ii) may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by the parties hereto;
 - (iii) shall not be assigned by operation of law or otherwise;
 - (iv) will be governed in all respects, including validity, interpretation and effect, by the laws of Alberta and the laws of Canada applicable therein, without giving effect to the principles of conflict of laws thereof; and
 - (v) may be executed in counterparts, each of which will be deemed to be original and all of which taken together will be deemed to constitute one and the same instrument.

[Remainder of page intentionally left blank]

If the foregoing terms and conditions are acceptable to you please acknowledge your acceptance of this Agreement where indicated below.

Yours truly,

BENCHMARK ENERGY CORP.

By: _____

ACCEPTANCE

ACCEPTED on _____, 2010.	
_____ (print name of Securityholder)	_____ Total No. of Common Shares Beneficially Owned or Over Which Control or Direction is Exercised
_____ (signature of Securityholder or, if a corporation, authorized signing officer)	_____ Total No. of Warrants Beneficially Owned or Over Which Control or Direction is Exercised

_____ (address of Securityholder)	