

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made as of the 7th day of February, 2005.

BETWEEN:

FLOWING ENERGY CORPORATION, a body corporate, having an office in the City of Calgary, in the Province of Alberta (hereinafter referred to as "Vendor")

- and -

BREAKER ENERGY LTD., a body corporate, having an office in the City of Calgary, in the Province of Alberta. (hereinafter referred to as "Purchaser")

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

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

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

- (a) "Adjustment Date" means the hour of 8:00 a.m., Calgary time, on the 1st day of January, 2005;
- (b) "AFE's" means the authorities for expenditure, operations notices, amounts budgeted pursuant to the Unit Agreements and mail ballots, if any, set out in Schedule "B" under the heading "AFE's";
- (c) "Assets" means the Petroleum and Natural Gas Rights, the Tangibles and the Miscellaneous Interests;
- (d) "Business Day" means a day other than a Saturday, a Sunday or a statutory holiday in Calgary, Alberta;
- (e) "Capital Lease" means [REDACTED]
- (f) "Certificate" means a written certification of a matter or matters of fact which, if required from a corporation, shall be made by an officer of the corporation, on behalf of the corporation and not in any personal capacity;

- (g) "Closing" means the closing of the purchase and sale herein provided for;
- (h) "Closing Place" means the offices of Vendor, or such other place as may be agreed upon in writing by Vendor and Purchaser;
- (i) "Closing Time" means the hour of 2:00 p.m. on the later of:
 - (i) the 25th day of February, 2005; and
 - (ii) the third Business Day following the day on which any and all preferential, pre-emptive or first purchase rights of Third Parties that become operative by virtue of this Agreement or the transaction to be effected by it shall have been exercised or waived by the holders thereof or all time periods within which such rights may be exercised shall have expired;

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

- (j) "Counsel" means any Alberta barrister and solicitor or firm thereof retained by Vendor or Purchaser, as the case may be;
- (k) "EUB" means the Alberta Energy and Utilities Board;
- (l) "Facilities" means the facility or facilities, if any, set out in Schedule "B" under the heading "Facilities";
- (m) "Deposit" means the sum of money set out in section 2.9;
- (n) "Lands" means the lands set out in Schedule "A" under the heading "Lands";
- (o) "Leased Substances" means all Petroleum Substances, rights to or in respect of which are granted, reserved or otherwise conferred by or under the Unit Agreements, or by or under the Title Documents (but only to the extent that the Title Documents pertain to the Lands);
- (p) "Miscellaneous Interests" means, subject to any and all limitations and exclusions provided for in this definition, all property, assets, interests and rights pertaining to the Petroleum and Natural Gas Rights and the Tangibles, or either of them, but only to the extent that such property, assets, interests and rights pertain to the Petroleum and Natural Gas Rights and the Tangibles, or either of them, including without limitation any and all of the following:
 - (i) contracts and agreements relating to the Petroleum and Natural Gas Rights and the Tangibles, or either of them, but, unless included as Production Contracts, excluding production sales contracts pertaining to the Leased Substances or any of them that cannot be terminated on notice of 31 days or less (without an early termination penalty or other cost), gas balancing or similar agreements pertaining to the Leased Substances or any of them, agreements for the transportation, processing or disposal of the Leased Substances or any of them or substances produced in connection with the Leased Substances or any of them,

agreements for the contract operation by a Third Party of the Assets or any of them and agreements to provide transportation, processing or disposal capacity or service to any Third Party;

- (ii) rights to enter upon, use or occupy, the surface of any lands which are or may be used to gain access to or otherwise use the Petroleum and Natural Gas Rights and the Tangibles, or either of them, excluding any such rights that pertain only to a well or wells other than the Wells;
 - (iii) the Seismic and all records, books, documents, licences, reports and data other than the Seismic which relate to the Petroleum and Natural Gas Rights and the Tangibles, or either of them;
 - (iv) any right, estate or interest in or to any of the Assets which relates to but does not comprise part of the Petroleum and Natural Gas Rights or the Tangibles including, without limitation, royalties and production payments; and
 - (v) the Wells (and no other wells), including the wellbores and any and all casing;
- (q) "Party" means a party to this Agreement;
- (r) "Permitted Encumbrances" means:
- (i) liens for taxes, assessments and governmental charges which are not due or the validity of which is being diligently contested in good faith by or on behalf of Vendor;
 - (ii) liens incurred or created in the ordinary course of business as security in favour of the person who is conducting the development or operation of the property to which such liens relate for Vendor's proportionate share of the costs and expenses of such development or operation;
 - (iii) mechanics', builders' and materialmen's liens in respect of services rendered or goods supplied for which payment is not due;
 - (iv) easements, rights of way, servitudes and other similar rights in land (including without limitation rights of way and servitudes for highways and other roads, railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light, power, telephone, telegraph and cable television conduits, poles, wires and cables) which do not materially impair the use of the Assets affected thereby;
 - (v) the right reserved to or vested in any municipality or government or other public authority by the terms of any lease, licence, franchise, grant or permit or by any statutory provision, to terminate any such lease, licence, franchise, grant or permit or to require annual or other periodic payments as a condition of the continuance thereof;

- (vi) rights of general application reserved to or vested in any governmental authority to levy taxes on the Leased Substances or any of them or the income therefrom, and governmental requirements and limitations of general application as to production rates on the operations of any property;
 - (vii) statutory exceptions to title, and the reservations, limitations, provisos and conditions in any original grants from the Crown of any of the mines and minerals within, upon or under the Lands;
 - (viii) any security held by any Third Party encumbering Vendor's interest in and to the Assets or any part or portion thereof, in respect of which Vendor delivers a discharge to Purchaser at or prior to Closing;
 - (ix) the Production Contracts and agreement or agreements (if any) for the sale of Leased Substances that are terminable on not greater than 31 days' notice (without an early termination penalty or other cost); and
 - (x) all royalty burdens, liens, adverse claims, penalties, reductions in interests and other encumbrances set out in Schedule "A";
- (s) "Petroleum and Natural Gas Rights" means all rights to and in respect of the Unit Agreements, the Leased Substances and the Title Documents (but only to the extent that the Title Documents pertain to the Lands), including without limitation the interests set out in Schedule "A" identified as being either a "WI" owned by "FLOWING" under the heading "Doi Partner(s)" or a "GROSS OVERRIDING ROYALTY" paid to "FLOWING" under the heading "Royalty/Encumbrances";
- (t) "Petroleum Substances" means any of crude oil, crude bitumen and products derived therefrom, synthetic crude oil, petroleum, natural gas, natural gas liquids, and any and all other substances related to any of the foregoing, whether liquid, solid or gaseous, and whether hydrocarbons or not, including without limitation sulphur;
- (u) "Prime Rate" means an annual rate of interest equal to the annual rate of interest announced from time to time by the main Calgary branch of Royal Bank of Canada as the reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada;
- (v) "Production Contracts" means the agreement or agreements, if any, set out in Schedule "B" under the heading "Production Contracts";
- (w) "Purchase Price" means the sum of money first set out in section 2.8;
- (x) "Seismic" means all proprietary records, books, documents, licences, reports and data and all sale, trading and reproduction rights associated with the seismic line or lines set out in Schedule "C", including without limitation:
- (i) all permanent records of basic field data including, but not limited to, any and all microfilm or paper copies of seismic driller's reports, monitor

records, observer's reports and survey notes and any and all copies of magnetic field tapes or conversions thereof;

- (ii) all permanent records of the processed field data including, but not limited to, any and all microfilm or paper copies of shot point maps, pre- and post-stacked record sections including amplitude, phase and structural displays, post-stack data manipulations including filters, migrations and wavelet enhancements, and any and all copies of final stacked tapes and any manipulations and conversions thereof;
- (iii) in the case of 3D seismic, in addition to the foregoing, all permanent records or bin locations, bin fold, static corrections, surface elevations and any other relevant information; and
- (iv) any and all interpretations of the foregoing;
- (y) "Specific Conveyances" means all conveyances, assignments, transfers, novations and other documents or instruments that are reasonably required or desirable to convey, assign and transfer the interest of Vendor in and to the Assets to Purchaser and to novate Purchaser in the place and stead of Vendor with respect to the Assets;
- (z) "Take or Pay Obligations" means obligations to sell or deliver Petroleum Substances or any of them, rights to which are granted, reserved or otherwise conferred pursuant to the Title Documents, without being entitled in due course to receive and retain full payment for such Petroleum Substances;
- (aa) "Tangibles" means the Facilities and any and all tangible depreciable property and assets other than the Facilities which are located within, upon or in the vicinity of the Lands and which are used or are intended to be used to produce, process, gather, treat, measure, make marketable or inject the Leased Substances or any of them or in connection with water injection or removal operations that pertain to the Petroleum and Natural Gas Rights, including without limitation any and all gas plants, oil batteries, buildings, production equipment, pipelines, pipeline connections, meters, generators, motors, compressors, treaters, dehydrators, scrubbers, separators, pumps, tanks, boilers and communication equipment;
- (bb) "Third Party" means any individual or entity other than Vendor and Purchaser, including, without limitation, any partnership, corporation, trust, unincorporated organization, union, government and any department and agency thereof and any heir, executor, administrator or other legal representative of an individual;
- (cc) "this Agreement", "herein", "hereto", "hereof" and similar expressions mean and refer to this Agreement of Purchase and Sale;
- (dd) "Title Documents" means, collectively, any and all certificates of title, leases, reservations, permits, licences, assignments, trust declarations, operating agreements, royalty agreements, gross overriding royalty agreements, participation agreements, farm-in agreements, sale and purchase agreements, pooling agreements and any other documents and agreements granting,

reserving or otherwise conferring rights to (i) explore for, drill for, produce, take, use or market Petroleum Substances, (ii) share in the production of Petroleum Substances, (iii) share in the proceeds from, or measured or calculated by reference to the value or quantity of, Petroleum Substances which are produced, and (iv) rights to acquire any of the rights described in items (i) to (iii) of this definition; but only if the foregoing pertain in whole or in part to Petroleum Substances within, upon or under the Lands; including without limitation those, if any, set out in Schedule "A" under the heading "Title Document(s)";

- (ee) "Unit Agreements" means any and all unit agreements and unit operating agreements, including any and all amendments thereto, pertaining to the unit or units, if any, set out in Schedule "B" under the heading "Units"; and
- (ff) "Wells" means the well or wells, if any, set out in Schedule "B" under the heading "Wells", provided that such wells shall not include any abandoned wells.

1.2 Headings

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

1.3 Interpretation Not Affected by Headings

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

1.4 Included Words

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

1.5 Schedules

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

- Schedule "A" - Lands
 - Petroleum and Natural Gas Rights
- Schedule "B" - AFE's
 - Facilities
 - Production Contracts
 - Units
 - Wells
- Schedule "C" - Seismic Line(s)

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

1.6 Damages

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

ARTICLE 2
PURCHASE AND SALE AND CLOSING

2.1 Purchase and Sale

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

2.2 Capital Lease Option

Purchaser hereby agrees to either: (i) assume all rights and obligations of Vendor arising under the Capital Lease, or (ii) pay Vendor all costs, to a maximum of not more than \$2,500,000.00, associated with Vendor's buyout of the Capital Lease.

2.3 Closing

- (a) Closing shall take place at the Closing Place at the Closing Time if there has been satisfaction or waiver of the conditions of Closing herein contained. Subject to all other provisions of this Agreement, possession, risk and beneficial ownership of Vendor's interest in and to the Assets shall pass from Vendor to Purchaser at the Closing Time.
- (b) If Purchaser is unable to obtain TSX Venture Exchange approval required to close the transaction on or before the Closing Time, Closing shall be deemed to occur on March 4, 2005. If Purchaser is unable to obtain TSX Venture Exchange approval required to close the transaction on or before March 4, 2005, this Agreement shall be deemed terminated and Vendor's counsel shall pay the Deposit and all interest earned thereon to Vendor and Vendor shall be entitled to retain the Deposit and all interest earned thereon as liquidated damages and not as a penalty, and Purchaser and Vendor shall be released and discharged from all obligations hereunder except as provided in sections 3.3 and 12.13.

2.4 Specific Conveyances

Vendor shall prepare the Specific Conveyances at its cost and as required, in accordance with the integrated licence transfer application process set forth and described in EUB Directive 006, "Licensee Liability Rating Program and Licence Transfer Process", none of which shall confer or impose upon a Party any greater right or obligation than contemplated in

this Agreement. All Specific Conveyances that are prepared and circulated to Purchaser a reasonable time prior to the Closing Time shall be executed and delivered by the Parties at Closing. Forthwith after Closing, Purchaser shall at its cost circulate and register, as the case may be, all Specific Conveyances that by their nature may be circulated or registered.

2.5 Title Documents and Miscellaneous Interests

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

2.6 Capital Lease

- (a) Not later than 5 Business Days prior to Closing, Purchaser shall provide Vendor with notice advising Vendor that Purchaser has elected to either assume all of Vendor's obligations arising under the Capital Lease or to have Vendor exercise the buyout provision of the Capital Lease.
- (b) If Purchaser elects to have Vendor exercise the buyout provision of the Capital Lease, Purchaser shall pay Vendor the lesser of all costs associated with such buyout and \$2,500,000.00. Any costs incurred by Vendor with respect to the buyout of the Capital Lease that exceed \$2,500,000 shall be the responsibility of Vendor.
- (c) If Purchaser elects to assume all of Vendor's obligations arising under the Capital Lease, on or before Closing, Purchaser and Vendor shall execute an assignment and novation agreement (and other applicable documentation) to effect such assumption. In the event that RBC Financial Group does not agree to the assumption of Vendor's obligations under the Capital Lease by Purchaser, Purchaser shall be deemed to elect to have Vendor exercise the buyout provision of the Capital Lease.

2.7 Form of Payment

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

2.8 Purchase Price

- (a) The aggregate consideration to be paid by Purchaser to Vendor for Vendor's interest in and to the Assets shall be \$14,150,000.00 (the "Purchase Price"). At Closing, Purchaser shall pay to Vendor (i) the Purchase Price less the Deposit and interest accrued thereon, (ii) an amount equal to interest at the Prime Rate on the Purchase Price less the Deposit, from and including the Adjustment Date to but excluding the date of Closing, and (iii) the Goods and Services Tax payable in respect of the Assets, which Vendor shall remit according to law. The

Parties agree that the value of the interest of Vendor in and to the Tangibles and in and to the Miscellaneous Interests is \$1,415,000.00. Under current legislation, Vendor and Purchaser calculate such Goods and Services Tax to be \$99,050.00. The Goods and Services Tax registration number of Vendor is 89384 5792 RT001.

- (b) Purchaser acknowledges that the Purchase Price to be paid to Vendor pursuant to this section 2.8 is exclusive of any costs which Purchaser is obligated to incur pursuant to section 2.6 relating to the Capital Lease

2.9 Deposit

Upon the execution hereof, Purchaser agrees to pay \$500,000.00 in trust to Vendor's counsel, representing a deposit, being an amount that represents a genuine pre-estimate by the Parties of the damages that Vendor will suffer should Purchaser wrongfully fail to close the transactions contemplated by this Agreement, having regard to such matters as the nature of the Assets, the size of the Purchase Price, the amount of time between the date hereof and the Closing Time, and the time and expense to be incurred by Vendor. If Closing occurs at the Closing Time, the Deposit and interest accrued thereon shall be released by Vendor's counsel and paid to Vendor and applied towards the Purchase Price. If Closing does not occur at the Closing Time, treatment of the Deposit shall be governed pursuant to sections 2.3(b), 3.1 and 3.2.

2.10 Allocation of Purchase Price

The Parties shall allocate the Purchase Price as follows:

Petroleum and Natural Gas Rights	\$12,735,000.00
Tangibles	1,414,999.00
Miscellaneous Interests	<u>1.00</u>
Total	<u>\$14,150,000.00</u>

ARTICLE 3 CONDITIONS OF CLOSING

3.1 Purchaser's Conditions

The obligation of Purchaser to purchase Vendor's interest in and to the Assets is subject to the following conditions precedent, which are inserted herein and made part hereof for the exclusive benefit of Purchaser and may be waived by Purchaser:

- (a) the representations and warranties of Vendor herein contained shall be true in all material respects when made and as of the Closing Time, and a Certificate to that effect shall have been delivered by Vendor to Purchaser at Closing;
- (b) all obligations of Vendor contained in this Agreement to be performed prior to or at Closing shall have been timely performed in all material respects, and a Certificate to that effect shall have been delivered by Vendor to Purchaser at Closing;

- (c) from the date hereof to the Closing Time, the Assets shall have suffered no material, adverse damage or change, and a Certificate to that effect shall have been delivered by Vendor to Purchaser at Closing;
- (d) Vendor shall have delivered to Purchaser at or prior to Closing discharges of any security held by any Third Party encumbering Vendor's interest in and to the Assets or any part or portion thereof;
- (e) prior to the Closing Time, Purchaser shall have received all necessary governmental, regulatory, partner and third party approval required to close the transaction, excluding TSX Venture Exchange approval (which approval process is set forth in section 2.3(b));
- (f) Purchaser shall be satisfied, acting reasonably, on or before February 18, 2005, that there is no material environmental damage or contamination or other environmental problems pertaining to or caused by the Assets or operations thereon or related thereto, and for the purposes of this section 3.1(f), "material" shall be deemed to mean environmental damage or contamination or other environmental problems, the remediation of which are reasonably estimated to exceed 5.0% of the Purchase Price; and
- (g) any costs associated with Vendor's buyout of the Capital Lease which exceed \$2,500,000.00 shall have been paid by Vendor.

If any one or more of the foregoing conditions precedent has or have not been satisfied, complied with, or waived by Purchaser, at or before the Closing Time, Purchaser may in addition to any other remedies which it may have available to it, rescind this Agreement by written notice to Vendor. If Purchaser rescinds this Agreement, Vendor's counsel shall forthwith return the Deposit and interest accrued thereon to Purchaser and Purchaser and Vendor shall be released and discharged from all obligations hereunder except as provided in sections 3.3 and 12.13.

3.2 Vendor's Conditions

The obligation of Vendor to sell its interest in and to the Assets is subject to the following conditions precedent, which are inserted herein and made part hereof for the exclusive benefit of Vendor and may be waived by Vendor:

- (a) the representations and warranties of Purchaser herein contained shall be true in all material respects when made and as of the Closing Time, and a Certificate to that effect shall have been delivered by Purchaser to Vendor at Closing;
- (b) all obligations of Purchaser contained in this Agreement to be performed prior to or at Closing shall have been timely performed in all material respects, and a Certificate to that effect shall have been delivered by Purchaser to Vendor at Closing;
- (c) with respect to Vendor's buyout of the Capital Lease, Purchaser shall have paid Vendor the lesser of: (i) all costs associated with Vendor's buyout of the Capital Lease, and (ii) \$2,500,000.00;

- (d) any costs associated with Vendor's buyout of the Capital Lease which are in excess of \$2,500,000.00, such costs being the responsibility of Vendor, shall not exceed \$500,000.00; and
- (e) all amounts to be paid by Purchaser to Vendor at Closing shall have been paid to Vendor in the form stipulated in this Agreement.

If any one or more of the foregoing conditions precedent has or have not been satisfied, complied with, or waived by Vendor, at or before the Closing Time, Vendor may in addition to any other remedies which it may have available to it, rescind this Agreement by written notice to Purchaser. If Vendor rescinds this Agreement, Vendor's counsel shall pay the Deposit and interest accrued thereon to Vendor and Vendor shall be entitled to retain such funds as liquidated damages and not as a penalty, and Purchaser and Vendor shall be released and discharged from all obligations hereunder except as provided in sections 3.3 and 12.13.

3.3 Efforts to Fulfil Conditions Precedent

Purchaser and Vendor shall proceed diligently and in good faith and use best efforts to satisfy and comply with and assist in the satisfaction and compliance with the conditions precedent.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of Vendor

Purchaser acknowledges that it is purchasing Vendor's interest in and to the Assets on an "as is, where is" basis, without representation and warranty and without reliance on any information provided to or on behalf of Purchaser by Vendor or any Third Party, except that and subject in all instances to Permitted Encumbrances, Vendor makes the following representations and warranties to Purchaser, no claim in respect of which shall be made or be enforceable by Purchaser unless written notice of such claim, with reasonable particulars, is given by Purchaser to Vendor within a period of twelve (12) months from the Closing Time:

- (a) Vendor is a corporation duly organized and validly existing under the laws of the jurisdiction of incorporation of Vendor, is authorized to carry on business in the Province in which the Lands are located, and now has good right, full power and absolute authority to sell, assign, transfer, convey and set over the interest of Vendor in and to the Assets according to the true intent and meaning of this Agreement;
- (b) the execution, delivery and performance of this Agreement has been duly and validly authorized by any and all requisite corporate, shareholders' and directors' actions and will not result in any violation of, be in conflict with or constitute a default under any articles, charter, bylaw or other governing document to which Vendor is bound;
- (c) the execution, delivery and performance of this Agreement will not result in any violation of, be in conflict with or constitute a default under any term or provision of any material agreement or document to which Vendor is party or by which

Vendor is bound, nor under any judgment, decree, order, statute, regulation, rule or license applicable to Vendor;

- (d) this Agreement and any other agreements delivered in connection herewith constitute valid and binding obligations of Vendor enforceable against Vendor in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization and other laws of general application limiting the enforcement of creditor's rights generally and to the fact that specific performance is an equitable remedy available only in the discretion of the court;
- (e) no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body exercising jurisdiction over the Assets is required for the due execution, delivery and performance by Vendor of this Agreement, other than authorizations, approvals or exemptions from requirement therefor, previously obtained and currently in force, except where the failure to obtain such consent or approval, make such filing or give such notice would not have a material adverse effect on the Assets, taken as a whole;
- (f) Vendor has not incurred any obligation or liability, contingent or otherwise, for brokers' or finders' fees in respect of this Agreement or the transaction to be effected by it for which Purchaser shall have any obligation or liability;
- (g) Vendor is not a non-resident within the meaning of section 116 of the Income Tax Act (Canada) and the interest of Vendor in and to the Assets does not constitute all or substantially all the property of Vendor;
- (h) Vendor has good, valid and merchantable title to the legal and beneficial interest in and to the Seismic, free and clear of all claims of Third Parties, and the Seismic has not been licenced to or otherwise disclosed to any Third Party;
- (i) Vendor has not alienated or encumbered the Assets or any part or portion thereof, Vendor has not committed and is not aware of there having been committed any act or omission whereby the interest of Vendor in and to the Assets or any part or portion thereof may be cancelled or determined, and the Assets are now free and clear of all liens, royalties, conversion rights and other claims of Third Parties, created by, through or under Vendor or of which Vendor has knowledge;
- (j) except as may be identified to Purchaser by Vendor pursuant to Article 9, none of the interest of Vendor in and to the Assets is subject to any preferential, pre-emptive or first purchase rights, created by, through or under Vendor or of which Vendor is aware, that become operative by virtue of this Agreement or the transaction to be effected by it;
- (k) Vendor has not received notice from any Third Party claiming an interest in and to the Assets adverse to the interest of Vendor and Vendor has no reason to believe that any such claim may be made;
- (l) Vendor has not failed to comply with, perform, observe or satisfy any material term, condition, obligation or liability which has heretofore arisen under the provisions of any of the Title Documents or any other agreements and

documents to which the Assets are subject which would affect Vendor's interest in the Assets;

- (m) Vendor has not received notice of default and is not, to the knowledge, information and belief of Vendor, in any default under any obligation, agreement, document, order, writ, injunction or decree of any court or of any commission or administrative agency, which might result in impairment or loss of the interest of Vendor in and to the Assets or which might otherwise adversely affect the Assets;
- (n) no suit, action or other proceeding before any court or governmental agency has been commenced against Vendor or, to the knowledge, information and belief of Vendor, has been threatened against Vendor or any Third Party, which might result in impairment or loss of the interest of Vendor in and to the Assets or which might otherwise adversely affect the Assets or any rights to, and rights to enter upon, use or occupy the surface of any lands which are or may be used to gain access to or otherwise use the Petroleum and Natural Gas Rights and the Tangibles, or either of them;
- (o) all amounts due and payable to Third Parties prior to the date hereof and pertaining to the Assets have been fully paid, including without limitation (i) any and all ad valorem and property taxes, (ii) any and all production, severance and similar taxes, charges and assessments based upon or measured by the ownership or production of the Leased Substances or any of them or the receipt of proceeds therefor, and (iii) all amounts due and payable in connection with Permitted Encumbrances;
- (p) in respect of the Assets, except in connection with the AFE's, there are no financial commitments of Vendor which are in excess of \$25,000.00 and which are due as of the date hereof or which may become due by virtue of matters occurring or arising prior to the date hereof;
- (q) in respect of the Assets that are operated by Vendor, if any, to Vendor's knowledge, information and belief, Vendor holds all valid licenses, permits and similar rights and privileges that are required and necessary under applicable law to operate the Assets as presently operated;
- (r) any and all operations of Vendor, and to the knowledge, information and belief of Vendor, any and all operations by Third Parties, on or in respect of the Assets, have been conducted in accordance with good oil and gas industry practices and in material compliance with all applicable laws, rules, regulations, orders and directions of governmental and other competent authorities;
- (s) the Tangibles operated by Vendor, if any, are in good and operable condition, reasonable wear and tear excepted, and the Tangibles operated by Third Parties, if any, are in good and operable condition, reasonable wear and tear excepted, to the knowledge, information and belief of Vendor;
- (t) with the exception of the Lease Issuance Offer Letter Agreement dated January 5, 2005 between Vendor and EnCana Corporation, no obligations have accrued pursuant to the Title Documents that may be satisfied by the drilling of a well, the

payment of compensatory royalty or the surrender of some or all of the interests granted, reserved or otherwise conferred pursuant to the Title Documents, other than obligations that have been satisfied (by means other than by the payment of compensatory royalties) or have been permanently waived;

- (u) there are no active area of mutual interest provisions in any of the Title Documents or other agreements or documents to which the Assets are subject;
- (v) excepting production limits of general application in the oil and gas industry, none of the Wells is subject to production or other penalties imposed by the Title Documents or by any other agreements and documents to which the Assets are subject, or by any laws, rules, regulations, orders or directions of governmental or other competent authorities;
- (w) the licensee liability rating (as set forth and described in EUB Directive 006, "Licensee Liability Rating Program and Licence Transfer Process") of Vendor equals or exceeds 1.0 and will not fall below 1.0 as a result of any licence transfer application(s) submitted or to be submitted in respect of the Assets and the transaction effected hereby;
- (x) Vendor is not aware of and has not received:
 - (i) any orders or directives which relate to environmental matters and which require any work, repairs, construction or capital expenditures with respect to the Assets, where such orders or directives have not been complied with in all material respects; or
 - (ii) any demand or notice issued with respect to the breach of any environmental, health or safety law applicable to the Assets, including without limitation, respecting the use, storage, treatment, transportation or disposition of environmental contaminants, which demand or notice remains outstanding on the date hereof;
- (y) except for the Production Contracts, Vendor is not a party to and Vendor's interest in and to the Assets is not otherwise bound or affected by any (i) production sales contracts pertaining to the Leased Substances or any of them that cannot be terminated on notice of 31 days or less (without an early termination penalty or other cost), (ii) gas balancing or similar agreements pertaining to the Leased Substances or any of them, (iii) agreements for the transportation, processing or disposal of the Leased Substances or any of them or substances produced in connection with the Leased Substances or any of them, (iv) agreements for the contract operation by a Third Party of the Assets or any of them, and (v) agreements to provide transportation, processing or disposal capacity or service to any Third Party;
- (z) there are no Take or Pay Obligations;
- (aa) Vendor has made diligent inquiries and searches for material documents and information relating to the Assets and for all information reasonably required to make the representations and warranties contained in this Agreement not misleading in light of the circumstances; and

- (bb) Vendor has not taken, and at Closing will not have taken, any action or steps, including initiating, soliciting or entertaining any other proposals or entering into any other agreements in respect of the sale of the Assets to any Third Party.

4.2 Representations and Warranties of Purchaser

Purchaser makes the following representations and warranties to Vendor, no claim in respect of which shall be made or be enforceable by Vendor unless written notice of such claim, with reasonable particulars, is given by Vendor to Purchaser within a period of twelve (12) months from the Closing Time:

- (a) Purchaser is a corporation duly organized and validly existing under the laws of the jurisdiction of incorporation of Purchaser, is authorized to carry on business in the Province in which the Lands are located, and now has good right, full power and absolute authority to purchase the interest of Vendor in and to the Assets according to the true intent and meaning of this Agreement;
- (b) the execution, delivery and performance of this Agreement has been duly and validly authorized by any and all requisite corporate, shareholders' and directors' actions and will not result in any violation of, be in conflict with or constitute a default under any articles, charter, bylaw or other governing document to which Purchaser is bound;
- (c) the execution, delivery and performance of this Agreement will not result in any violation of, be in conflict with or constitute a default under any term or provision of any material agreement or document to which Purchaser is party or by which Purchaser is bound, nor under any judgment, decree, order, statute, regulation, rule or license applicable to Purchaser;
- (d) this Agreement and any other agreements delivered in connection herewith constitute valid and binding obligations of Purchaser enforceable against Purchaser in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization and other laws of general application limiting the enforcement of creditor's rights generally and to the fact that specific performance is an equitable remedy available only in the discretion of the court;
- (e) no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body exercising jurisdiction over the Assets is required for the due execution, delivery and performance by Purchaser of this Agreement, other than authorizations, approvals or exemptions from requirement therefor, previously obtained and currently in force, except where the failure to obtain such consent or approval, make such filing or give such notice would not have a material adverse effect on the Assets, taken as a whole;
- (f) Purchaser has not incurred any obligation or liability, contingent or otherwise, for brokers' or finders' fees in respect of this Agreement or the transaction to be effected by it for which Vendor shall have any obligation or liability;
- (g) Purchaser is not a non-Canadian person for the purposes of the Investment Canada Act; and

- (h) the licensee liability rating (as set forth and described in EUB Directive 006, "Licensee Liability Rating Program and Licence Transfer Process") of Purchaser equals or exceeds 1.0 and will not fall below 1.0 as a result of any licence transfer application(s) submitted or to be submitted in respect of the Assets and the transaction effected hereby.

ARTICLE 5 INDEMNITIES FOR REPRESENTATIONS AND WARRANTIES

5.1 Vendor's Indemnities for Representations and Warranties

Vendor shall be liable to Purchaser for and shall, in addition, indemnify Purchaser from and against, all losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Purchaser which would not have been suffered, sustained, paid or incurred had all of the representations and warranties contained in section 4.1 been accurate and truthful, provided however that nothing in this section 5.1 shall be construed so as to cause Vendor to be liable to or indemnify Purchaser in connection with any representation or warranty contained in section 4.1 if and to the extent that Purchaser did not rely upon such representation or warranty.

5.2 Purchaser's Indemnities for Representations and Warranties

Purchaser shall be liable to Vendor for and shall, in addition, indemnify Vendor from and against, all losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Vendor which would not have been suffered, sustained, paid or incurred had all of the representations and warranties contained in section 4.2 been accurate and truthful, provided however that nothing in this section 5.2 shall be construed so as to cause Purchaser to be liable to or indemnify Vendor in connection with any representation or warranty contained in section 4.2 if and to the extent that Vendor did not rely upon such representation or warranty.

5.3 Time Limitation

No claim under this Article 5 shall be made or be enforceable by a Party unless written notice of such claim, with reasonable particulars, is given by such Party to the Party against whom the claim is made within a period of twelve (12) months from the Closing Time.

ARTICLE 6 PURCHASER'S INDEMNITIES

6.1 General Indemnity

Purchaser shall be liable to Vendor for and shall, in addition, indemnify Vendor from and against, all losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Vendor which arise out of any matter or thing occurring or arising from and after the Closing Time and which relates to the Assets, provided however that Purchaser shall not be liable to nor be required to indemnify Vendor in respect of any losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Vendor which arise out of acts or omissions of Vendor.

6.2 Abandonment and Reclamation

Purchaser shall see to the timely performance of all abandonment and reclamation obligations pertaining to the Assets which in the absence of this Agreement would be the responsibility of Vendor. Purchaser shall be liable to Vendor for and shall, in addition, indemnify Vendor from and against, all losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Vendor should Purchaser fail to timely perform such obligations.

6.3 Environmental Matters

Purchaser shall be liable to Vendor for and shall, in addition, indemnify Vendor from and against, all losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Vendor which pertain to environmental damage or contamination or other environmental problems pertaining to or caused by the Assets or operations thereon or related thereto, however and by whomsoever caused, and whether such environmental damage or contamination or other environmental problems occur or arise in whole or in part prior to, at or subsequent to the Closing Time. Purchaser shall not be entitled to exercise and hereby waives any rights or remedies Purchaser may now or in the future have against Vendor in respect of such environmental damage or contamination or other environmental problems, whether such rights and remedies are pursuant to the common law or statute or otherwise, including without limitation, the right to name Vendor as a third party to any action commenced by any Third Party against Purchaser. Without limiting the generality of the foregoing, such environmental damage or contamination or other environmental problems shall include (i) surface, underground, air, ground water or surface water contamination, (ii) the abandonment or plugging of or failure to abandon or plug any of the Wells, (iii) the restoration or reclamation of or failure to restore or reclaim any part of the Assets, (iv) the breach of applicable government rules and regulations in effect at any time, and (v) the removal of or failure to remove foundations, structures or equipment.

6.4 Limitation

Notwithstanding any other provision in this Agreement, Purchaser shall not be liable to nor be required to indemnify Vendor in respect of any losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Vendor in respect of which Vendor is liable to and has indemnified Purchaser pursuant to section 5.1, and Vendor shall not be liable to nor be required to indemnify Purchaser in respect of any losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Purchaser in respect of which Purchaser is liable to and has indemnified Vendor pursuant to section 5.2, in both cases disregarding the time limit set out in section 5.3.

ARTICLE 7 OPERATING ADJUSTMENTS

7.1 Operating Adjustments

Subject to all other provisions of this Agreement, all benefits and obligations of any kind and nature relating to the operation of the Assets conveyed pursuant to this Agreement, excluding income taxes but otherwise including without limitation maintenance, development, operating and capital costs, government incentives and administration fees, royalties and other burdens, and proceeds from the sale of production, whether accruing, payable or paid and received or receivable, shall be adjusted between the Parties as of the Adjustment Date in

accordance with generally accepted accounting principles. For greater certainty, adjustments in respect of production, if any, shall be made in favour of Vendor in respect of production beyond the wellhead at the Adjustment Date and in favour of Purchaser in respect of all other production. The adjustments shall constitute an increase or decrease, as the case may be, to the Purchase Price and to the amount allocated to the Petroleum and Natural Gas Rights. Vendor shall provide to Purchaser within a reasonable time prior to the Closing Time a written statement of all such adjustments to be made at Closing, and shall cooperate with Purchaser to enable Purchaser to verify the accuracy of such statement. Adjustments not settled or incorrectly settled prior to or at Closing shall be settled by payment to or by Vendor and Purchaser, as the case may be, as soon as practicable after Closing. The intention of the Parties is that final settlement shall occur within 60 days following the Closing Time, but it is recognized that adjustments may be made after that time. No adjustments shall be made after 1 year from the Closing Time unless written notice of the requested adjustment, with reasonable particulars, is given within 1 year from the Closing Time, provided however that adjustments arising as a consequence of Crown royalty audits and joint venture audits are not subject to the 1 year limit.

ARTICLE 8

MAINTENANCE OF ASSETS

8.1 Maintenance of Assets

Until the Closing Time, Vendor shall, to the extent that the nature of its interest permits, and subject to the Title Documents and any other agreements and documents to which the Assets are subject:

- (a) maintain the Assets in a proper and prudent manner in accordance with good oil and gas industry practices and in material compliance with all applicable laws, rules, regulations, orders and directions of governmental and other competent authorities;
- (b) pay or cause to be paid all costs and expenses relating to the Assets which become due from the date hereof to the Closing Time; and
- (c) perform and comply with all covenants and conditions contained in the Title Documents and any other agreements and documents to which the Assets are subject.

8.2 Consent of Purchaser

Notwithstanding section 8.1, Vendor shall not, without the written consent of Purchaser, which consent shall not be unreasonably withheld by Purchaser and which, if provided, shall be provided in a timely manner:

- (a) make any commitment or propose, initiate or authorize any capital expenditure with respect to the Assets of which Vendor's share is in excess of \$25,000.00, except in case of an emergency or in respect of amounts which Vendor may be committed to expend or be deemed to authorize for expenditure without its consent;
- (b) surrender or abandon any of the Assets;

- (c) grant a security interest in or an encumbrance in respect of the Assets;
- (d) amend or terminate any Title Document or any other agreement or document to which the Assets are subject, or enter into any new agreement or commitment relating to the Assets; or
- (e) sell, encumber or otherwise dispose of any of the Assets or any part or portion thereof excepting sales of the Leased Substances or any of them in the normal course of business.

ARTICLE 9 RIGHTS OF FIRST REFUSAL

9.1 Rights of First Refusal

Within two (2) Business Days of the execution and delivery of this Agreement, Vendor shall advise Purchaser which of the Assets are subject to preferential, pre-emptive or first purchase rights that become operative by virtue of this Agreement or the transaction to be effected by it. Within two (2) Business Days of receiving such advice, Purchaser shall advise Vendor in writing of its bona fide allocations of value for Vendor's interest in and to such Assets. Vendor shall comply with the applicable provisions of such rights and shall courier notices to the Third Parties (and Purchaser, if applicable) holding such rights no later than two (2) Business Days after it receives the bona fide allocations of Purchaser. Vendor shall notify Purchaser acting reasonably, using the bona fide allocations of Purchaser. Vendor shall notify Purchaser in writing forthwith upon each Third Party exercising or waiving such a right. If any such Third Party elects to exercise such a right, the definition of Assets shall be deemed to be amended to exclude those Assets in respect of which the right has been exercised, such Assets shall not be conveyed to Purchaser and the Purchase Price, the tax allocations and the Goods and Services Tax shall be reduced accordingly.

9.2 Value Disputes

If Vendor disagrees with the value allocated by Purchaser to an affected Asset, Vendor may provide Purchaser with a notice to such effect, setting forth Vendor's good faith assessment of each asset value that is in dispute. After providing Purchaser with such a notice, if the Parties are unable to agree upon a mutually acceptable value for such Asset, then, for each such Asset, Vendor will request a waiver from the applicable Third Party or Third Parties and will include Purchaser's allocated value in the request. Purchaser shall indemnify and save Vendor harmless from and against any and all losses that may be brought against or suffered by Vendor arising out of or attributable to the use of Purchaser's allocated value for any Asset.

ARTICLE 10 PRE-CLOSING INFORMATION

10.1 Production of Documents

At all reasonable times from the date hereof until the Closing Time, Vendor shall make available to Purchaser and Purchaser's Counsel in Vendor's offices in Calgary the following information pertaining to the Assets to which Vendor has possession or to which it has access:

- (a) all title opinions and reports;
- (b) all of the Title Documents and any other agreements and documents to which the Assets are subject including without limitation (i) production sales contracts pertaining to the Leased Substances or any of them, (ii) gas balancing or similar agreements pertaining to the Leased Substances or any of them, (iii) agreements for the transportation, processing or disposal of the Leased Substances or any of them or substances produced in connection with the Leased Substances or any of them, (iv) agreements for the contract operation by a Third Party of the Assets or any of them, and (v) agreements to provide transportation, processing or disposal capacity or service to any Third Party;
- (c) mortgages, deeds of trust, security agreements, chattel mortgages and other encumbrances affecting the Assets;
- (d) evidence with respect to the payment of all bonuses, rentals, royalties and other payments due under the Title Documents and any other agreements and documents to which the Assets are subject;
- (e) evidence with respect to the payment of all taxes, charges and assessments pertaining to the Assets;
- (f) lease records, data sheets, production records, ownership maps and surveys;
- (g) permits, easements, licenses and orders;
- (h) all documents and information relevant to environmental damage or contamination or other environmental problems pertaining to the Assets; and
- (i) accounting records, policies of insurance, consulting agreements, field contracts and other agreements relating to the operation of the Assets.

ARTICLE 11

TITLE DEFECTS

11.1 Notice of Title Defects

From time to time, as soon as reasonably practicable after determination, and in any event no later than four (4) Business Days before the Closing Time, Purchaser shall notify Vendor in writing of defects and omissions in Vendor's title to the Assets. Such notice shall include a description of each defect or omission and the interests affected thereby, the value allocated by Purchaser acting reasonably to each affected interest and the amount, in Purchaser's opinion acting reasonably, by which the value of each affected interest has been reduced by the defect or omission. Failure to include a defect or omission in a written notice shall be deemed to be a waiver of such defect or omission for the purposes of this section 11.1.

11.2 Rectification by Vendor

Prior to the Closing Time, Vendor shall use all reasonable efforts to cure or rectify the defects and omissions of which Purchaser gives notice pursuant to section 11.1. If any such defects or omissions are not cured or removed at or prior to the Closing Time:

- (a) where the cumulative amount by which the value of the affected interests has been reduced is, in Purchaser's opinion acting reasonably, less than 2.5% of the Purchase Price, Purchaser shall complete the purchase of Vendor's interest in and to the Assets without adjustment of the Purchase Price on account of such defects or omissions;
- (b) where the cumulative amount by which the value of the affected interests has been reduced is, in Purchaser's opinion acting reasonably, 2.5% or more of the Purchase Price:
 - (i) the Parties may delay Closing to a mutually agreeable time and date, in which case:
 - A. Vendor shall make further attempts to cure or remove the uncured defects and omissions; and
 - B. when such mutually agreeable time and date arrives, the elections pursuant to this section 11.2 shall once again be made;
 - (ii) Purchaser may waive the uncured defects and omissions, in which case all of Vendor's interest in and to the Assets shall be purchased by Purchaser without an adjustment to the Purchase Price; or
 - (iii) Purchaser may purchase Vendor's interest in and to the Assets that are not affected by the uncured defects and omissions, in which case the Purchase Price shall be reduced by the value allocated by Purchaser to each affected interest; or
- (c) where the cumulative amount by which the value of the affected interests has been reduced is, in Purchaser's opinion acting reasonably, 20% or more of the Purchase Price, in addition to the elections set out in subsection 11.2(b), either Vendor or Purchaser may terminate this Agreement upon written notice to the other Party, in which case Vendor shall forthwith return the Deposit and interest accrued thereon to Purchaser and the Parties shall have no further obligation to each other hereunder, except for obligations arising pursuant to section 12.13.

11.3 Value Disputes

If Vendor disagrees with the value allocated by Purchaser to an affected interest, the Parties shall forthwith meet in good faith to discuss the issue. If after such a meeting the issue has not been resolved or if a Party does not forthwith meet to discuss the issue, the issue shall be resolved by a single arbitrator pursuant to the provisions of the Arbitration Act (Alberta). The decision of the arbitrator shall be final and shall not be subject to review. All costs of arbitration shall be borne by the Parties equally. Closing shall proceed based upon an unadjusted Purchase Price. Forthwith after the decision of the arbitrator has been rendered, Vendor shall pay to Purchaser the amount by which the value of the affected interest as determined by the arbitrator reduces the Purchase Price paid by Purchaser to Vendor at Closing.

ARTICLE 12
GENERAL

12.1 Further Assurances

Each Party will, from time to time and at all times after Closing, without further consideration, do such further acts and deliver all such further assurances, deeds and documents as shall be reasonably required in order to fully perform and carry out the terms of this Agreement. Until Purchaser is novated, with respect to the interest of Vendor in and to the Assets, into the Title Documents and any other agreements and documents to which the Assets are subject, Vendor shall act as Purchaser's agent (including without limitation to serve operation notices and authorizations for expenditure) as Purchaser reasonably and lawfully directs. Purchaser shall be liable to Vendor and shall, in addition, indemnify Vendor from and against, all losses, costs, claims, damages, expenses and liabilities suffered, sustained, paid or incurred by Vendor arising in connection with all acts or omissions of Vendor in its capacity as agent of Purchaser to the extent such acts and omissions were expressly or impliedly authorized by Purchaser.

12.2 No Merger

The covenants, representations, warranties and indemnities contained in this Agreement shall be deemed to be restated in any and all assignments, conveyances, transfers and other documents conveying the interests of Vendor in and to the Assets to Purchaser, subject to any and all time and other limitations contained in this Agreement. There shall not be any merger of any covenant, representation, warranty or indemnity in such assignments, conveyances, transfers and other documents notwithstanding any rule of law, equity or statute to the contrary and such rules are hereby waived.

12.3 Entire Agreement

The provisions contained in any and all documents and agreements collateral hereto shall at all times be read subject to the provisions of this Agreement and, in the event of conflict, the provisions of this Agreement shall prevail. No amendments shall be made to this Agreement unless in writing, executed by the Parties. This Agreement supersedes all other agreements, documents, writings and verbal understandings among the Parties relating to the subject matter hereof and expresses the entire agreement of the Parties with respect to the subject matter hereof.

12.4 Subrogation

The assignment and conveyance to be effected by this Agreement is made with full right of substitution and subrogation of Purchaser in and to all covenants, representations, warranties and indemnities previously given or made by others in respect of the Assets or any part or portion thereof.

12.5 Governing Law

This Agreement shall, in all respects, be subject to, interpreted, construed and enforced in accordance with and under the laws of the Province of Alberta and applicable laws of Canada and shall, in all respects, be treated as a contract made in the Province of Alberta. The Parties irrevocably attorn and submit to the exclusive jurisdiction of the courts of the Province of Alberta

and courts of appeal therefrom in respect of all matters arising out of or in connection with this Agreement.

12.6 Enurement

This Agreement may not be assigned by a Party without the prior written consent of the other Party, which consent may be unreasonably and arbitrarily withheld. This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective administrators, trustees, receivers, successors and permitted assigns.

12.7 Time of Essence

Time shall be of the essence in this Agreement.

12.8 Notices

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

Vendor - Flowing Energy Corporation
 2300, 635 - 8th Avenue S.W.
 Calgary, Alberta
 T2P 3M3

Attention: Land Department
Fax no.: (403) 543-9638

Purchaser - Breaker Energy Ltd.
 1700, 736 - 6th Avenue S.W.
 Calgary, Alberta
 T2P 3T7

Attention: Land Department
Fax no.: (403) 263-8665

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

- (a) by personal service on a Party at the address of such Party set out above, in which case the item so served shall be deemed to have been received by that Party when personally served;
- (b) by facsimile transmission to a Party to the fax number of such Party set out above, in which case the item so transmitted shall be deemed to have been received by that Party when transmitted; or
- (c) except in the event of an actual or threatened postal strike or other labour disruption that may affect mail service, by mailing registered post, postage prepaid, to a Party at the address of such Party set out above, in which case the item so mailed shall be deemed to have been received by that Party on the third Business Day following the date of mailing (the date of mailing being the

Business Day immediately prior to the postmarked date of the envelope containing the notice, communication or statement or if the subject envelope has been lost or destroyed, the date of such notice, communication or statement or if undated the date of the transmittal letter accompanying the same).

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

12.9 Invalidity of Provisions

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

12.10 Waiver

No failure on the part of any Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy in law or in equity or by statute or otherwise conferred. No waiver of any provision of this Agreement, including without limitation, this section, shall be effective otherwise than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized representative of the Party making such waiver.

12.11 Amendment

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

12.12 Agreement not Severable

This Agreement extends to the whole of the Assets and is not severable without Purchaser's express written consent or as otherwise herein provided.

12.13 Confidentiality and Public Announcements

Until Closing has occurred, each Party shall keep confidential all information obtained from the other Party in connection with the Assets and shall not release any information concerning this Agreement and the transactions herein provided for, without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Nothing contained herein shall prevent a Party at any time from furnishing information (i) to any governmental agency or regulatory authority or to the public if required by applicable law, provided that the Parties shall advise each other in advance of any public statement which they propose to make, (ii) in connection with obtaining consents or complying with preferential, preemptive or first purchase rights contained in Title Documents and any other agreements and documents to which the Assets are subject, (iii) to procure the consent of Vendor's lenders, or (iv) in connection with Vendor's disclosure obligations under its agreement(s) with the third party seeking to purchase all of the issued and outstanding shares of Vendor.

12.14 Securities Act Disclosure

At any time within 4 years from the Closing Time (but not thereafter), should Purchaser require an audited operating or financial statement with respect to the Assets for a period during which the Assets were owned by Vendor, Vendor shall provide access to the records of Vendor relevant to preparation of such an operating or financial statement during such period. Such access shall be provided by Vendor to an independent auditing firm selected by Purchaser subject to the entering into by the auditing firm of a confidentiality agreement reasonably required by Vendor. Vendor shall not be required to provide direct access to Vendor's records to Purchaser or any employees, consultants or other representatives of Purchaser. If the independent auditors require the assistance of Vendor's personnel to find, collect or interpret the necessary information from Vendor's records, Vendor shall cause such assistance to be provided and Purchaser shall pay reasonable hourly costs to Vendor as compensation for the time devoted by such personnel.

12.15 Counterpart Execution

This Agreement may be executed in counterpart, no one copy of which need be executed by Vendor and Purchaser. A valid and binding contract shall arise if and when counterpart execution pages are executed and delivered by Vendor and Purchaser.

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

FLOWING ENERGY CORPORATION ☐

Per: _____

☐ Per: _____

BREAKER ENERGY LTD. ☐

Per: _____

☐ Per: _____