PURCHASE AND SALE AGREEMENT

BETWEEN

[NTD: INTENTIONALLY REDACTED]

AS SELLER,

AND

EAGLE ENERGY ACQUISITIONS LP

AS PURCHASER,

DATED AS OF APRIL 30, 2012

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PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "Agreement"), is dated as of April 30, 2012, by and between [NTD: intentionally redacted], a Delaware limited liability company ("Seller"), and Eagle Energy Acquisitions LP, a Delaware limited partnership ("Purchaser", and, together with Seller, the "Parties" and each, individually, a "Party").

RECITALS:

Seller desires to sell and Purchaser desires to purchase those certain oil and gas properties, rights, and related assets that are defined and described as "Assets" herein.

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

ARTICLE 1
PURCHASE AND SALE

1.1 Purchase and Sale. On the terms and conditions contained herein, Seller agrees to sell, convey and deliver to Purchaser, and Purchaser agrees to purchase, accept, and pay for, the Assets.

1.2 Certain Definitions. As used herein (i) the following terms shall have the meaning ascribed to them below and (ii) other terms defined in the other provisions of this Agreement shall have the meaning ascribed to them in such provisions.

(a) "Accounting Records" means property and well files relative to the interests being acquired by Purchaser, operator's name and contact information, API numbers, relevant county and state for wells, records relating to the nomination, transportation and sale of hydrocarbons or disposal of water from the interests being acquired by Purchaser, and divisions of interest, in each case, in Microsoft Excel format or other format as mutually agreed by the Parties.

(b) "Affiliate" means, with respect to any Person, a Person that directly or indirectly, through one or more Persons, controls, is controlled by, or is under common control with, such Person, with "control" in such context meaning the ability to direct the management or policies of a Person through the ownership of voting securities or other securities, pursuant to a written agreement, agency relationship or otherwise; *provided that*, for purposes of Sections 4.6, 4.7(d), 6.8, 6.9(f), 8.3(a) and 8.4(b), the Affiliates of Seller shall only include Seller, Persons controlled by Seller, and Persons that control Seller, but shall not include Persons under common control with Seller.

(c) "Arbitrator" means the Title Arbitrator, Environmental Arbitrator or both of them, as applicable.

(d) "Assets" means an undivided ninety-two and one-half percent (92.5%) of all of Seller's right, title, and interest in and to the following properties and interests in or related to its properties and interests in Martin County, Texas and Palo Pinto County, Texas, excluding the Excluded Assets:

(i) Any and all oil and gas leases, oil, gas, and mineral leases and subleases, royalties, overriding royalties, net profits interests, payments out of production, reversionary rights, mineral fee interests, carried interests and any contractual rights to production relating thereto, as more particularly described on Exhibit A-1, together with all other rights in the lands covered by the foregoing leases or interests (collectively, the "Leases");

(ii) Any and all Hydrocarbon, water, CO_2, or injection wells used or held for use in connection with the operation or development of the Leases and located on the lands covered by the Leases or on any Units, including the wells described on Exhibit A-2, whether producing, non-producing, temporarily plugged and abandoned, or abandoned, and whether or not fully described on any exhibit or schedule hereto (the "Wells");

(iii) All pooled, communitized, or unitized acreage, which includes all or any part of the lands covered by the Leases, and all tenements, hereditaments, and appurtenances belonging thereto, including the pools and units described on Exhibit A-2 (collectively, the "Units," and, together with the Wells and Leases, the "Properties");

(iv) The field offices and premises described on Schedule 1.2(d)(iv), and all furniture, fixtures, and equipment located thereat necessary to operate and administer the Properties;

(v) All currently existing contracts, agreements, and instruments with respect to the Properties, to the extent applicable to the Properties, including licenses, operating agreements or joint venture agreements; unitization, pooling, and communitization agreements; declarations and orders; area of mutual interest agreements; farmin and farmout agreements; exchange agreements; transportation agreements; processing agreements; Hydrocarbon purchase and sale contracts (including interests and rights, if any, with respect to any prepayments, take-or-pay, buydown and buyout agreements) to the extent the same pertain to periods after the Effective Time; salt water disposal agreements; bottom hole agreements, acreage contribution agreements, water injection agreements, water supply agreements, well service agreements, gas balancing agreements, division orders, transfer orders, options, and leases of equipment or facilities; *provided that* the term "Contracts" shall not include (A) master service agreements and (B) the Leases and Easements (subject to such exclusion and proviso, the "Contracts");

(vi) All easements, Permits, licenses, servitudes, rights-of-way, surface leases, right of use and easement, and other rights to use the surface and subsurface appurtenant thereto, to the extent used or held for use in connection with the Properties, including the items set forth on Schedule 1.2(d)(vi) (the "Easements");

(vii) All equipment, machinery, fixtures, and other tangible personal property and improvements used or held for use in connection with the operation of the Properties or the production, storage, transportation, treatment, or processing, marketing, or disposition of Hydrocarbons from the Properties (whether located on or off the Properties) including any water storage facilities (the "Equipment");

(viii) All (A) trade credits, accounts receivable, notes receivable, take-or-pay amounts receivable, and other receivables and general intangibles, attributable to the Assets with respect to periods of time from and after the Effective Time; and (B) liens and security interests in favor of Seller or its Affiliates, whether choate or inchoate, under any Law or Contract to the extent arising from, or relating to, the ownership, operation, or sale or other disposition on or after the Effective Time of any of the other items included in this definition of "Assets" or to the extent arising in favor of Seller as to the operator or non-operator of any Property;

(ix) All rights of Seller to audit the records of any Person and to receive refunds or payments of any nature, and all amounts of money relating thereto, whether before, on, or after the Effective Time, to the extent relating to obligations assumed by Purchaser pursuant to this Agreement;

(x) All Hydrocarbons produced from, or attributable to, the Properties from and after the Effective Time; all Hydrocarbon inventories from or attributable to the Properties that are in storage on the Effective Time; and, to the extent related or attributable to the Properties, all production, plant, and transportation imbalances as of the Effective Time; and all make-up rights with respect to take-or-pay payments;

(xi) All Permits, approvals, consents, certificates and other authorizations, and other rights granted by third Persons, and all certificates of convenience or necessity, immunities, privileges, grants, and other similar rights that are required for, or used or held for use in, the ownership or operation of the Properties or Equipment, including those items listed on Schedule 1.2(d)(xi); and

(xii) All lease files, land files, well files, division order files, abstracts, title opinions, contract files, gas processing files, well and production records, surveys, maps, property ownership reports, logs, regulatory records, test results and interpretive data and related records, engineering data and geological, geophysical and seismic data and other books, records, and files, maps and Accounting Records, in each case to the extent relating to the Properties or other Assets set forth above, excluding, however:

(A) all corporate, financial and Tax data and records of Seller insofar as they relate to Seller's business generally and are not required for the future ownership or operation of the Assets;

(B) all legal records insofar as protected by attorney-client privilege between Seller and its legal counsel (other than Leases, title opinions, Easements and Contracts);

(C) data and records relating to the sale of all or substantially all of the Assets, including communications with the advisors or representatives of Seller or any of its Affiliates;

(D) files and records to the extent transfer to Purchaser requires the consent of, or a payment to, a third Person (provided Seller shall attempt to obtain such consent and Seller shall promptly inform Purchaser of any such payment requirement so that Purchaser may agree to pay the same at its election); and

(E) any data and records relating to the Excluded Assets, and those original data and records retained by Seller pursuant to Section 12.5. (Clauses (A) through (E) shall, subject to the exclusions set forth therein, hereinafter be referred to as the "Excluded Records", and subject to the Excluded Records, the data and records described in this Section 1.2(d)(xii) are otherwise referred to herein as the "Records.").

(e) "Assignment and Bill of Sale" means the Assignment and Bill of Sale in the form attached hereto as Exhibit B.

(f) "Business Day" means any day other than a Saturday, a Sunday, or a day on which banks are closed for business in New York, New York or Houston, Texas.

(g) "Code" means the United States Internal Revenue Code of 1986, as amended.

(h) "Confidentiality Agreement" means that certain Confidentiality Agreement, dated January 12, 2012, between Seller and Purchaser.

(i) "Contractual Defect" means (i) any default by Seller under a Lease, Contract or Easement that would (A) adversely affect the operation, value, or use of a Property, (B) prevent Seller from receiving the proceeds of production attributable to Seller's interest therein, or (C) result in cancellation of all or a portion of Seller's interest therein; or (ii) a contractual restriction that would prevent Purchaser from locating, drilling and bottoming one well per twenty (20) acre tract.

(j) "Deductible" means the amount equal to One Million Six Hundred Twenty Five Thousand and No/100 Dollars ($1,625,000.00).

(k) "Effective Time" means April 1, 2012.

(l) "Environmental Laws" means, as the same have been amended to the date hereof, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001 et seq.; and the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j, in each case as amended to the date hereof, and all similar Laws as of the date hereof of any Governmental Authority having jurisdiction over the property in question addressing pollution or protection of the environment or biological or cultural resources and all related regulations.

(m) "Environmental Liabilities" means (i) any condition or circumstance affecting an Asset that constitutes a violation of Environmental Law or an Environmental Permit, or that with notice or the passage of time, or both, would constitute a violation of Environmental Law or an Environmental Permit, in each case in the jurisdiction in which such Asset is located and at the location of such Asset in such jurisdiction, and (ii) all environmental response costs, settlements, consulting fees, penalties, fines, orphan share, prejudgment and post-judgment interest, court costs, attorneys' fees, and other damages incurred or imposed (or that would be incurred or imposed with notice or the passage of time, or both) in connection with a condition or circumstance referenced in clause (i).

(n) "Escrow Agent" means that certain escrow agent that is a party to the Escrow Agreement.

(o) "Escrow Agreement" means that certain Escrow Agreement of even date herewith, by and among Seller, Purchaser and the Escrow Agent in the form attached hereto as Exhibit C.

(p) "Governmental Authority" means any national government and/or government of any political subdivision, and departments, courts, commissions, boards, bureaus, ministries, agencies, or other instrumentalities of any of them.

(q) "Hydrocarbons" means crude oil, natural gas, casinghead gas, condensate, natural gas liquids, and other gaseous or liquid hydrocarbons of any type and chemical composition, including sulphur and any and all other minerals extracted from or produced from the foregoing such as scrubber liquid, CO_2, ethane, propane, iso-butane, nor-butane and gasoline inventories.

(r) "Joint Operating Agreement Amendment" means the Joint Operating Agreement Amendment in the form attached hereto as Exhibit D.

(s) "Laws" means all laws, statutes, rules, regulations, ordinances, orders, decrees, requirements, judgments, and codes of Governmental Authorities.

(t) "Lowest Cost Response" means the response required or allowed under Environmental Laws that cures, remediates, removes or remedies the applicable present condition alleged in an Environmental Defect Notice at the lowest cost (assuming that the affected Asset continues to be used as an oil and gas property) sufficient to comply with Environmental Laws as compared to any other response that is required or allowed under Environmental Laws.

(u) "Material Contract" means, to the extent binding on the Assets or Purchaser's ownership thereof after Closing, any Contract which is one or more of the following:

(i) contracts with any Affiliate of Seller;

(ii) contracts for the sale, purchase, exchange, or other disposition of Hydrocarbons which are not cancelable without penalty on sixty (60) days prior written notice;

(iii) contracts to sell, lease, farmout, exchange, or otherwise dispose of all or any part of the Assets, but excluding (A) conventional rights of reassignment upon intent to abandon or release a Well or Lease, (B) contracts not required to be disclosed under the limitations set forth in clause (ii) above and (C) this Agreement;

(iv) joint operating agreements, unit operating agreements, unit agreements, exploration agreements, joint development agreements, participation agreements or other similar agreements;

(v) non-competition agreements or any agreements that purport to restrict, limit, or prohibit a Person from engaging in any line of business or the manner in which, or the locations at which, Seller (or Purchaser, as successor in interest to Seller) conducts business, including area of mutual interest agreements;

(vi) contracts for the gathering, treatment, processing, storage, or transportation of Hydrocarbons;

(vii) other agreements that could reasonably be expected to result in (A) aggregate payments by Seller (net to the interest of Seller) of more than Fifty Thousand and No/100 Dollars ($50,000.00) or (B) revenues (net to the interest of Seller) of more than Fifty Thousand and No/100 Dollars ($50,000.00) during the current or any subsequent calendar year; or

(viii) salt water disposal agreements, water supply agreements, bottom hole agreements, acreage contribution agreements, and water injection agreements.

(v) "Permits" means any permits, licenses, certificates of authority, franchises, concessions, registrations, consents, or similar qualifications or authorizations issued, granted or given by or under the authority of any Governmental Authority (excluding Environmental Permits).

(w) "Person" means any individual, corporation, partnership, limited liability company, trust, estate, Governmental Authority, or any other entity.

(x) "Production Tax" means Taxes measured by units of production and severance Taxes, but excluding Property Taxes.

(y) "Property Costs" means all operating expenses (including costs of insurance, rentals, shut-in payments, and Production Taxes attributable to production of Hydrocarbons from the Assets) and capital expenditures (including bonuses, and other Lease acquisition costs, costs of drilling and completing wells, and costs of acquiring equipment) incurred in and attributable to the ownership and operation of the Assets in the ordinary course of business, and overhead costs charged to the Assets under the applicable operating agreement or unit agreement by an unaffiliated third Person, but excluding Seller's general and administrative expenses and any liabilities, losses and expenses attributable to:

(i) claims, investigations, proceedings, arbitration or litigation arising out of or resulting from actual or claimed personal injury or other torts, illness or death; property damage (other than damage to structures, fences, irrigation systems and other fixtures, crops, livestock, and other personal property in the ordinary course of business);

(ii) violation of any Law (or private cause or right of action under any Law);

(iii) environmental damage or liabilities, including obligations to remediate any contamination of groundwater, surface water, soil, sediments, or Equipment under applicable Environmental Law;

(iv) title claims (including claims that Leases have terminated);

(v) claims of improper calculation or payment of royalties (including overriding royalties and similar burdens on production) related to deduction of post-production costs or use of posted or index prices or prices paid by Affiliates;

(vi) gas balancing and other production balancing obligations; and

(vii) Casualty Loss.

(z) "Property Tax" means ad valorem, property, excise, and similar Taxes, excluding, however Production Taxes, transfer Taxes, and Taxes based upon, measured by, or calculated with respect to (i) net income, profits or similar measures, or (ii) multiple bases (including corporate, franchise, business and occupation, business license, or similar Taxes) if one more of the bases on which such Tax is based, measured or calculated is described in subparagraph (i), above, in each case, together with interest, penalties or additions to such Tax.

(aa) "Seller Loan Agreement" means that certain Loan Agreement dated as of February 14, 2011, among Seller, [NTD: intentionally redacted], as amended.

(bb) "Tax" means all taxes, including any foreign, federal, state, or local income tax, surtax, remittance tax, net worth tax, special contribution, production tax, pipeline transportation tax, freehold mineral tax, value added tax, withholding tax, gross receipts tax, windfall profits tax, profits tax, severance tax, personal property tax, real property tax, sales tax, goods and services tax, service tax, transfer tax, use tax, excise tax, premium tax, stamp tax, motor vehicle tax, entertainment tax, insurance tax, capital stock tax, franchise tax, occupation tax, payroll tax, employment tax, unemployment tax, disability tax, alternative or add-on minimum tax, and estimated tax, duties, fees, or other charges imposed by a Governmental Authority together with any interest, fine, penalty, or additional amount thereon, and including any obligation to assume or succeed to the tax liability of another Person, whether by Law or contract.

1.3 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, the "Assets" shall not include any rights with respect to the Excluded Assets. "Excluded Assets" means the following:

(a) any and all of Seller's right, title and interest in [NTD: intentionally redacted], or all assets, properties, rights and interests held by [NTD: intentionally redacted] (including those in Martin County, Texas and Palo Pinto County, Texas);

(b) (i) an undivided seven and one-half percent (7.5%) of any and all of Seller's right, title, and interest in and to the assets, properties, rights and interests described in Sections 1.2(d)(i) through 1.2(d)(xii), and (ii) any and all properties and interests outside of Martin County, Texas and Palo Pinto County, Texas;

(c) the Excluded Records and copies of other Records retained by Seller pursuant to Section 12.5;

(d) Assets excluded from this Agreement pursuant to Sections 3.7, 3.10, 3.11, 3.13(b)(ii) or 11.5(b);

(e) all trademarks and trade names;

(f) all of Seller's interests in office leases and buildings, other than field offices in Martin County, Texas and Palo Pinto County, Texas;

(g) Seller's area-wide bonds, Permits and licenses necessary for the conduct of Seller's business generally, as set forth on <u>Schedule 1.3(g)</u>;

(h) any Tax refund or loss carry-forward (whether by payment, credit, offset, abatement, or otherwise, and together with any interest thereon) in respect of any Taxes for which Seller is liable for payment under Section 9.1, and all indemnities and other claims against Persons (other than Seller and/or its Affiliates) for Taxes for which Seller or its Affiliate is liable for payment under Section 9.1;

(i) costs and revenues associated with all joint interest audits and other audits of Property Costs to the extent covering periods prior to the Effective Time, except those relating to liabilities assumed by Purchaser hereunder;

(j) all rights relating to claims and causes of action (including insurance claims, whether or not asserted, under policies of insurance or claims to the proceeds of insurance) arising during or attributable to periods before the Effective Time that may be asserted against third Persons, except those arising from obligations, liabilities or rights assumed or received by Purchaser hereunder;

(k) all trade credits, account receivables, note receivables, take-or-pay amounts receivable, and other receivables attributable to the Assets with respect to any period of time prior to the Effective Time, excluding those relating to liabilities assumed by Purchaser hereunder, and excluding Hydrocarbon inventories and imbalances described in Section 1.2(d)(x);

(l) all futures, options, swaps, and other derivatives, including liabilities related thereto; and

(m) any other assets, contracts, or rights which are specifically described on Schedule 1.3(m).

It is understood and agreed by the Parties that the Excluded Assets are not embraced by the term "Assets", and conversely, that the Assets are not embraced by the term "Excluded Asset", and therefore, the fact that certain properties, rights and interests have been expressly excluded is not intended to suggest that had they not been excluded they would have constituted Assets, and shall not be used to interpret the meaning of any word or phrase used in describing the Assets.

ARTICLE 2
PURCHASE PRICE

2.1 Purchase Price and Deposit.

(a) The purchase price for the Assets (the "Purchase Price") shall be One Hundred Thirteen Million Three Hundred Sixty-Nine Thousand Six Hundred Eighty-Eight and No/100 Dollars ($113,369,688.00) (the "Unadjusted Purchase Price"), adjusted as provided in Section 2.2.

(b) Contemporaneously with its execution of this Agreement, Purchaser will fund by wire transfer in same day funds into escrow with the Escrow Agent an amount equal to five percent (5%) of the Unadjusted Purchase Price (such amount, the "Deposit"). The Deposit shall be held, invested and disbursed in accordance with the terms and conditions of the Escrow Agreement and this Section 2.1(b). If Closing occurs, the Deposit shall be applied toward the Purchase Price paid at Closing. If (i) all conditions precedent to the obligations of Purchaser to consummate the transactions contemplated by this Agreement set forth in Section 7.2 have been satisfied, (ii) Seller has performed in all material respects its covenants and obligations under this Agreement required to be performed before the Closing, and is ready, willing and able to perform in all material respects its covenants and obligations due at Closing, and (iii) this Agreement is terminated by Seller pursuant to Section 10.1(c), Seller shall have the right, as its sole and exclusive remedy against Purchaser, to receive the Deposit as liquidated damages, free of any claims of Purchaser thereto; *provided that* if this Agreement is terminated for any reason other than Section 10.1(c), then Purchaser shall be entitled to the return of the Deposit, free of any claims by Seller with respect thereto. Anything in this Agreement to the contrary notwithstanding, in the event that Purchaser does not pay the Deposit to the Escrow Agent pursuant to the Escrow Agreement on the date that Purchaser executes this Agreement, Seller may, upon notice to Purchaser, terminate this Agreement, in which event this Agreement shall forthwith become void without liability to either Party.

(c) Interest that accrues on the Deposit shall be the property of Purchaser, and, if Closing occurs, shall be reflected in the Closing Statement. For federal income tax purposes, any interest earned on the Deposit shall be reported by the Purchaser.

2.2 Adjustments to Purchase Price. The Unadjusted Purchase Price shall be adjusted as follows (without duplication):

(a) Decreased or increased, as appropriate, in accordance with Sections 3.7, 3.8 and 3.13(b);

(b) Decreased as a consequence of Assets excluded from the transactions contemplated by this Agreement, as set forth in Sections 3.7, 3.10, 3.11, 3.13(b)(ii), or 11.5(b);

(c) Increased by the aggregate amount of merchantable Hydrocarbon inventories from or attributable the Properties in storage above the pipeline connection or in tanks (excluding tank bottoms) on the Effective Time and not previously sold by or on behalf of Seller prior to the Effective Time, as set forth on Schedule 2.2(c), multiplied by the Contract price therefor as of the Effective Time;

(d) Increased or decreased, as appropriate, by all amounts owed to or by Seller by or to third Persons as of the Effective Time under Contracts with respect to any imbalances, including production, pipeline, storage, or processing imbalances attributable to Hydrocarbons produced from the Properties, such amounts to be determined for such imbalances by multiplying the imbalance volume by the Contract price therefor;

(e) Adjusted for proceeds and other income attributable to the Assets and Property Costs attributable to the Assets as follows:

(i) Decreased by an amount equal to the aggregate amount of the following proceeds received by, owed to, or to be paid to Seller or any of its Affiliates:

(A) amounts earned from the sale, during the period from and including the Effective Time through and including the Closing Date (the "Adjustment Period"), of Hydrocarbons produced from, or attributable or allocable to, the Properties (net of any Property Costs paid by Seller that are directly incurred with respect to such proceeds or in earning or receiving thereof, and that are not otherwise reimbursed to Seller by a third Person purchaser of production, and excluding the effects of any futures, options, swaps, or other derivatives), and

(B) other income earned with respect to the Assets during the Adjustment Period (excluding the effects of any futures, options, swaps, or other derivatives);

(ii) Increased by an amount equal to the amount of all Property Costs which are incurred in the ownership and operation of the Assets during the Adjustment Period but paid by or on behalf of Seller or any of its Affiliates, except any costs already deducted in the determination of proceeds in Section 2.2(e)(i); and

(iii) Decreased by an amount equal to the amount of all Property Costs that are incurred in the ownership and operation of the Assets prior to the Effective Time but paid by or on behalf of Purchaser or any of its Affiliates; and

(f) Increased by an overhead charge of Thirty-Six Thousand and No/100 Dollars ($36,000.00) per month from the Effective Time to the Closing Date (prorated as appropriate).

2.3 Post-Closing Allocation of Costs and Revenues.

(a) After Closing, costs and revenues with respect to the Assets shall be allocated as follows:

(i) Except to the extent otherwise reflected in an adjustment to the Unadjusted Purchase Price pursuant to Section 2.2, Seller shall remain entitled to all of the rights of ownership (including the right to receive production and proceeds therefrom), and shall remain responsible for all Property Costs and other costs (and refunds and indemnities with respect thereto), in each case, attributable to Assets for the period of time prior to the Effective Time;

(ii) Except to the extent otherwise reflected in an adjustment to the Unadjusted Purchase Price pursuant to Section 2.2, if Closing occurs, Purchaser shall be entitled to all of the rights of ownership (including the right to receive production and proceeds therefrom), and shall be responsible for all Property Costs (and refunds and indemnities with respect thereto), in each case, attributable to Assets for the period of time from and after the Effective Time;

(b) Without duplication of any adjustments made pursuant to Section 2.2(e), should any Party or its Affiliates receive after Closing any proceeds or other income to which the other Party is entitled under Section 2.3(a), such Party shall fully disclose, account for, and promptly remit the same to such other Party.

(c) Without duplication of any adjustments made pursuant to Section 2.2(e), should any Party pay after Closing any Property Costs or other costs for which the other Party is responsible under Section 2.3(a), such Party shall be reimbursed by the other Party promptly after receipt of such Party's invoice, accompanied by copies of the relevant vendor or other invoice and proof of payment.

2.4 Procedures.

(a) For purposes of allocating production (and accounts receivable with respect thereto), under Section 2.2 and Section 2.3, (i) liquid Hydrocarbons shall be deemed to be "from or attributable to" the Properties when they are produced into the tank batteries related to each Well, and (ii) gaseous Hydrocarbons shall be deemed "from or attributable to" the Properties when they pass through the delivery point sales meters or similar meters at the point of entry into the pipelines through which they are gathered or transported from the applicable Property. Seller shall utilize reasonable interpolative procedures to arrive at an allocation of production when exact meter readings are not available.

(b) Surface or facility use or sharing fees, insurance premiums, and other Property Costs (excluding lease bonuses, delay rentals, minimum royalties, option payments, lease extension payments and shut-in royalties) that are paid periodically shall be prorated based on the number of days in the applicable period falling before, or on or after, the Effective Time, or the Closing Date, as applicable. Production Taxes shall be prorated based on the amount of Hydrocarbons actually produced, purchased or sold, as applicable, prior to, and on or after, the Effective Time, or the Closing Date, as applicable.

(c) After Closing, each Party shall be entitled to participate in all joint interest audits and other audits of Property Costs for which such Party is responsible or revenues to which such Party is entitled (whether entirely or in part) under the terms of Sections 2.3 or 2.4.

(d) All adjustments and payments made pursuant to this Article 2 shall be without duplication of any other amounts paid or received under this Agreement. "Earned" and "incurred," as used in Sections 2.2 and 2.3, shall be interpreted in accordance with accounting recognition guidance under United States generally accepted accounting principles, consistently applied.

ARTICLE 3
TITLE AND ENVIRONMENTAL MATTERS

3.1 Seller's Title.

(a) The provisions of this Article 3, and the special warranty of title in the Assignment and Bill of Sale provide Purchaser's exclusive remedy with respect to any Title Defects; *provided that* the foregoing shall not be deemed to limit the representations and warranties of Seller made under Article 4 with respect to the Assets, except to the extent any amounts payable to Purchaser on account of a breach thereof would be duplicative of any adjustment to the Purchase Price on account of a Title Defect.

(b) The Assignment and Bill of Sale to be executed and delivered by the Parties at Closing shall be in the form attached hereto as Exhibit B, and the transfer of the Assets by Seller to Purchaser shall be by warranty of title by, through, and under Seller, but not otherwise (excluding Permitted Encumbrances).

3.2 Definition of Defensible Title.

(a) As used in this Agreement, the term "Defensible Title" means that title of Seller, which:

(i) As to each Well, Unit or the Undeveloped Acreage;

(A) entitles Seller (and will entitle Purchaser, as successor in interest to Seller) to receive (after satisfaction of all royalties, overriding royalties, nonparticipating royalties, net profits interests, or other similar burdens on or measured by production of Hydrocarbons and after taking into account all allocation agreements applicable thereto), not less than the "net revenue interest" share shown in Exhibit A-1 and Exhibit A-2, as applicable, of all Hydrocarbons produced from each Well, Unit or the Undeveloped Acreage throughout the life of such Well, Unit or Undeveloped Acreage, excluding decreases in connection with those operations permitted under Section 6.3, and decreases resulting from reversionary interests or other matters set forth on Exhibit A-1 or Exhibit A-2;

(B) obligates Seller (and will obligate Purchaser, as successor in interest to Seller) to bear a percentage of the costs and expenses for the maintenance and development of, and operations relating to, any Well, Unit or the Undeveloped Acreage not greater than the "working interest" shown in Exhibit A-1 or Exhibit A-2, as applicable, without increase throughout the life of such Well, Unit or the Undeveloped Acreage, except for increases resulting from matters stated on Exhibit A-1 or Exhibit A-2, as applicable, and except for increases that are accompanied by at least a proportionate increase in Seller's net revenue interest; and

(ii) is free and clear of liens, encumbrances, obligations or defects in title;

In each case, with respect to clauses (i) and (ii) above, excluding, subject to and determined without respect to matters constituting Permitted Encumbrances. As used in this Agreement, the term "Undeveloped Acreage" means the leasehold or mineral fee interests to the extent they cover the Properties (as to the depths specified on Exhibit A-1), included within the geographic area identified as Undeveloped Acreage on Exhibit A-1.

(b) As used in this Agreement, the term "Title Defect" means (i) any Contractual Defect or (ii) lien, charge, encumbrance, obligation, or defect, including a discrepancy in net revenue interest or working interest, that causes Seller's title to a Well, Unit or the Undeveloped Acreage to be less than Defensible Title. As used in this Agreement, the term "Title Benefit" means any right, circumstance, or condition that operates to (i) increase the net revenue interest of Seller (and of Purchaser, as successor in interest to Seller) in any Well, Unit or the Undeveloped Acreage above that shown on Exhibit A-1 or Exhibit A-2, as applicable, without causing a greater than proportionate increase in Seller's (and Purchaser's, as successor in interest to Seller) working interest above that shown in Exhibit A-1 or Exhibit A-2, as applicable, or (ii) decrease the working interest of Seller (and of Purchaser, as successor in interest to Seller) in any Well, Unit, or the Undeveloped Acreage below that shown on Exhibit A-1 or Exhibit A-2, as applicable, without causing a decrease in Seller's (and Purchaser's, as successor in interest to Seller) net revenue interest.

3.3 Definition of Permitted Encumbrances. As used in this Agreement, the term "Permitted Encumbrances" means any or all of the following:

(a) lessors' royalties and any overriding royalties, reversionary interests, back-in interests, and other burdens to the extent that they do not, individually or in the aggregate, reduce Seller's (or Purchaser's, as successor in interest to Seller) net revenue interest for a Well, Unit or the Undeveloped Acreage below that shown in Exhibit A-1 or Exhibit A-2, as applicable, or increase Seller's (or Purchaser's, as successor in interest to Seller) working interest for a Well, Unit or the Undeveloped Acreage above that shown in Exhibit A-1 or Exhibit A-2, as applicable, without a corresponding and proportionate increase in the net revenue interest;

(b) all Contracts listed in Schedule 4.9 to the extent that they do not, individually or in the aggregate, (i) reduce Seller's (or Purchaser's, as successor in interest to Seller) net revenue interest in a Well, Unit or the Undeveloped Acreage below that shown in Exhibit A-1 or Exhibit A-2, as applicable, or increase Seller's (or Purchaser's, as successor in interest to Seller) working interest in a Well, Unit or the Undeveloped Acreage above that shown in Exhibit A-1 or Exhibit A-2, as applicable, without a corresponding and proportionate increase in the net revenue interest and (ii) detract from the value of, or interfere with the use, development or ownership of, any Well, Unit or Undeveloped Acreage or give rise to a Contractual Defect;

(c) third-Person consent requirements and similar restrictions (i) that do not give rise to a Contractual Defect or (ii) are customarily obtained from Governmental Authorities; provided such Governmental Authority is, pursuant to applicable Law, without discretion to refuse to grant such consent if certain specifically enumerated conditions set forth in such applicable Law are satisfied;

(d) liens for Taxes or assessments not yet delinquent or, if delinquent, being contested reasonably and by appropriate actions and for which adequate cash reserves are maintained for the payment thereof in accordance with the applicable Contracts;

(e) materialman's, mechanic's, repairman's, employee's, contractor's, operator's, and other similar liens or charges arising in the ordinary course of business for amounts not yet delinquent, or if delinquent, being contested reasonably and by appropriate actions, and for which adequate cash reserves are maintained for the payment thereof in accordance with the applicable Contracts;

(f) all rights to consent, by required notices to, filings with, or other actions by Governmental Authorities in connection with the sale or conveyance of the Leases or rights or interests therein if they are customarily obtained subsequent to the sale or conveyance and if such Governmental Authority is, pursuant to applicable Law, without discretion to refuse to grant such consent if specifically enumerated conditions set forth in such applicable Law are satisfied;

(g) conventional rights of reassignment prior to release or surrender, requiring notice to the holders of such rights;

(h) easements, rights-of-way, covenants, servitudes, Permits, surface leases and other rights to use the surface, and other rights in respect of surface operations to the extent that they do not, individually or in the aggregate, materially impair the use, ownership, development or operation of any Well, Unit or the Undeveloped Acreage, and do not give rise to a Contractual Defect;

(i) all rights reserved to, or vested in, any Governmental Authorities to control or regulate any of the Assets in any manner or to assess Tax with respect to the Assets, the ownership, use or operation thereof, or revenue, income, or capital gains with respect thereto, and all obligations and duties under all applicable Laws of any such Governmental Authority or under any franchise, grant, license, or permit issued by any Governmental Authority; and

(j) liens and security interests arising under the Seller Loan Agreement (it being understood that releases of such liens and security interests are required to be delivered at the Closing as provided in Section 6.5).

3.4 Allocated Values.

(a) Schedule 3.4 sets forth the agreed allocation of the Unadjusted Purchase Price among the Assets. The "Allocated Value" for any Property equals the portion of the Unadjusted Purchase Price that is allocated to such Property on Schedule 3.4, increased or decreased by a share of each adjustment to the Unadjusted Purchase Price under Sections 2.2(c) and 2.2(e). The share of each adjustment allocated to a particular Property shall be obtained by allocating that adjustment among the various Properties on a pro-rata basis in proportion to the Unadjusted Purchase Price allocated to each such Property on Schedule 3.4. Seller has accepted such Allocated Values for purposes of this Agreement and the transactions contemplated hereby, but otherwise makes no representation or warranty as to the accuracy of such values.

(b) Purchaser and Seller shall cooperate in allocating the Unadjusted Purchase Price in accordance with the fair market value of the Assets, consistent with the principles of Section 1060 of the Code (the "Allocation"). The Allocation will be consistent with the Allocated Values on Schedule 3.4. After the Closing Date, the Parties shall make consistent use of the Allocation for all Tax purposes and in all filings, declarations and reports with any Governmental Authority, in respect thereof, including the reports required to be filed under Section 1060 of the Code. Within forty-five (45) days after the Closing Date, Purchaser and Seller shall jointly prepare the Internal Revenue Service Form 8594 to be filed with the Internal Revenue Service. In any proceeding related to the determination of any Tax, neither Purchaser nor Seller shall contend or represent that such Allocation is not a correct allocation of the Purchase Price.

3.5 Notice of Title Defects and Benefits; Adjustment.

(a) To assert a Title Defect, Purchaser must deliver a defect claim notice or notices to Seller as soon as reasonably practicable and in any event on or before a date which is at least five (5) days prior to the Target Closing Date (the "Defect Claim Date"). Each such notice shall be in writing and shall include:

(i) a description of the alleged Title Defect(s);

(ii) the Wells, Units or Undeveloped Acreage affected;

(iii) the Allocated Values of the Wells, Units or Undeveloped Acreage subject to the alleged Title Defect(s);

(iv) such supporting documentation (including any title reports or title opinions, if any prepared by or for Purchaser) as is available to Purchaser and is reasonably necessary for Seller (as well as any attorney or examiner hired by Seller) to verify the existence of the alleged Title Defect(s); and

(v) the amount by which Purchaser reasonably believes the Allocated Values of those Wells, Units or Undeveloped Acreage affected are reduced by the alleged Title Defect(s) and the computations and information upon which Purchaser's belief is based.

Purchaser shall be deemed to have waived all Title Defects of which Seller has not been given notice on or before the Defect Claim Date, excluding any claims subject to the special warranty of title made in the Assignment and Bill of Sale; *provided that* an alleged failure to comply with subsections (i) through (v), above shall not cause any such notice to be invalid or any Title Defect to be waived if the defect notice is reasonably sufficient to provide notice to Seller of the existence and general nature of the alleged Title Defect.

(b) In the event that Purchaser discovers a Title Benefit before the Defect Claim Date, Purchaser shall promptly notify Seller thereof. To assert a claim for or with respect to a Title Benefit, Seller shall, as soon as practicable, but in any case on or before the Defect Claim Date, deliver to Purchaser a notice including:

(i) a description of the Title Benefit;

(ii) the Wells, Units or Undeveloped Acreage affected;

(iii) the Allocated Values of the Wells, Units or Undeveloped Acreage subject to such Title Benefit;

(iv) such supporting documentation (including any title reports or title opinions, if any, prepared by or for Seller) as is reasonably necessary for Purchaser (as well as any attorney or examiner hired by Purchaser) to verify the existence of the alleged Title Benefit(s); and

(v) the amount by which Seller reasonably believes the Allocated Values of those Wells, Units or Undeveloped Acreage affected are increased by the Title Benefit, and the computations and information upon which Purchaser's belief is based.

Seller shall be deemed to have waived all Title Benefits of which Seller has not given notice on or before the Defect Claim Date; *provided that* an alleged failure to comply with subsections (i) through (v), above shall not cause any such notice to be invalid or any Title Benefit to be waived if the notice is reasonably sufficient to provide notice to Purchaser of the existence and general nature of the alleged Title Benefit; *provided*, *further*, *that* the foregoing waiver shall not be applicable to those Title Benefits that Purchaser discovers before the Defect Claim Date but fails to promptly notify Seller thereof.

3.6 <u>Cure</u>.

(a) Seller shall have the right, but not the obligation, to attempt, at Seller's sole cost, risk, and expense, to cure or remove, on or before ninety (90) days after the Closing Date, any alleged Title Defects of which Seller has been advised by Purchaser pursuant to Section 3.5(a) if Seller provides written notice to Purchaser of its intent to cure such alleged Title Defects on or before the Closing Date. The election by Seller to cure one or more such alleged Title Defects shall not affect the Title Defect Amounts and Title Benefit Amounts used to determine the Closing Payment pursuant to Section 8.4 or the rights and obligations of the Parties under Section 3.9 with respect to dispute resolution. Seller's election to cure an alleged Title Defect shall not constitute a waiver of any of the rights of Seller pursuant to this Article 3, including, without limitation, Seller's right to dispute the existence, nature, or value of such Title Defect.

(b) To the extent any such Title Defect is cured to Purchaser's reasonable satisfaction on or before a date that is ninety (90) days after the Closing Date, Purchaser shall promptly pay to Seller the amount (or part thereof, if the applicable Title Defect is partially cured) by which the Unadjusted Purchase Price was decreased at Closing.

(c) Any dispute relating to whether and to what extent a Title Defect has been cured shall be resolved as set forth in Section 3.9.

3.7 Adjustment for Title Defects and Benefits.

(a) With respect to each Property affected by one or more Title Defects reported under Section 3.5(a), Seller may elect to retain the Property that is subject to such alleged Title Defect(s), in which event the Unadjusted Purchase Price shall be reduced by an amount equal to the Allocated Value of such Property; *provided that* to the extent such Title Defect is cured to Purchaser's reasonable satisfaction on or before a date that is ninety (90) days after the Closing Date, Seller shall have the right to transfer and convey such Property to Purchaser under the Assignment and Bill of Sale, and upon such transfer and conveyance, Purchaser shall promptly pay to Seller the amount (or part thereof, if the applicable Title Defect is partially cured) by which the Unadjusted Purchase Price was decreased at Closing.

(b) With respect to each Property affected by Title Defects reported under Section 3.5 that Seller does not elect to retain pursuant to Section 3.7(a), such Property shall be assigned at Closing subject to all uncured Title Defects, and the Unadjusted Purchase Price shall be reduced by an amount (the "Title Defect Amount") equal to the reduction in the Allocated Value for such Property caused by such Title Defects, as determined pursuant to Section 3.8(a).

(c) With respect to each Property affected by Title Benefits reported under Section 3.5(b), the Unadjusted Purchase Price shall be increased by an amount (the "Title Benefit Amount") equal to the increase in the Allocated Value for such Property caused by such Title Benefits, as determined pursuant to Section 3.8(b).

(d) WITHOUT LIMITING PURCHASER'S RIGHTS AND REMEDIES UNDER THE SPECIAL WARRANTY OF TITLE IN THE ASSIGNMENT AND BILL OF SALE OR ARTICLE 11 (WITH RESPECT TO BREACHES OF THE REPRESENTATIONS AND WARRANTIES, OR THE COVENANTS OF SELLER IN ARTICLE 4 AND ARTICLE 6 HEREOF), SECTIONS 3.7(A), 3.7(B), 3.9 AND 3.14 SHALL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BE THE EXCLUSIVE RIGHT AND REMEDY OF PURCHASER WITH RESPECT TO TITLE DEFECTS. SECTION 3.7(C) AND SECTION 3.9 SHALL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BE THE EXCLUSIVE RIGHT AND REMEDY OF SELLER WITH RESPECT TO TITLE BENEFITS.

3.8 Calculation of Title Defect Amounts and Title Benefit Amounts.

(a) The Title Defect Amount resulting from a Title Defect shall be determined as follows:

(i) if Purchaser and Seller agree in writing upon the Title Defect Amount, that amount shall be the Title Defect Amount;

(ii) if the Title Defect is a lien, encumbrance, or other charge that is liquidated in amount, then the Title Defect Amount shall be the amount necessary to be paid to unconditionally remove the Title Defect from Seller's (and Purchaser's as successor in interest to Seller) interest in the affected Property;

(iii) if the Title Defect represents a discrepancy between (A) the net revenue interest for any Property and (B) the net revenue interest stated on Exhibit A-1 or Exhibit A-2, as applicable, then the Title Defect Amount shall be the product of (x) the Allocated Value of such Property multiplied by (y) a fraction, (I) the numerator of which is the decrease in Seller's net revenue interest and (II) the denominator of which is Seller's net revenue interest stated on Exhibit A-1 or Exhibit A-2, as applicable; *provided that* if the Title Defect does not affect the Property throughout its entire life, the Title Defect Amount determined under this Section 3.8(a)(iii) shall be reduced to take into account the applicable time period only;

(iv) if the Title Defect represents an obligation, encumbrance, burden, or charge upon, or other defect in title to, the affected Property of a type not described in subsections 3.8(a)(i), 3.8(a)(ii), or 3.8(a)(iii) above, the Title Defect Amount shall be determined by taking into account the Allocated Value of the Property so affected, the portion of Seller's interest in the Property affected by the Title Defect, the legal effect of the Title Defect, the potential economic effect of the Title Defect over the life of the affected Property, the values placed upon the Title Defect by Purchaser and Seller, and such other factors as are necessary to make a proper evaluation;

(v) if the Title Defect affects a Property that is not a Well shown on Exhibit A-2 and the loss of such Property will prevent, interfere with, or increase the costs of, the continued operation or production from one or more Properties shown on Exhibit A-2 (a "Defective Support Well"), such Title Defect shall be considered to affect the affected Property and any Defective Support Well, and the Title Defect Value shall take into account the decrease in the Allocated Value for any applicable Defective Support Well; *provided that* in such case, any Title Defect Amount shall not exceed an amount that can be shown by Seller to be the reasonable cost of replacing the affected Property or providing an alternative means of support for any Defective Support Well;

(vi) the Title Defect Amount with respect to a Title Defect shall be determined without duplication of any costs or losses included in another Title Defect Amount hereunder, to the extent such costs or losses generate an adjustment to the Unadjusted Purchase Price; and

(vii) notwithstanding anything to the contrary in this Article 3:

(A) an individual claim (or series of related claims) for a Title Defect for which a claim notice is given prior to the Defect Claim Date shall only generate an adjustment to the Unadjusted Purchase Price under this Article 3 if the Title Defect Amount with respect thereto exceeds Twenty-Five Thousand and No/100 Dollars ($25,000.00); and

(B) in no event shall a Title Defect Amount for a Property exceed the Allocated Value of such Property.

(b) The Title Benefit Amount resulting from a Title Benefit shall be determined as follows:

(i) if Purchaser and Seller agree in writing upon the Title Benefit Amount, that amount shall be the Title Benefit Amount;

(ii) if the Title Benefit represents a discrepancy between (A) the net revenue interest for any Property and (B) the net revenue interest or percentage stated with respect to such Property on Exhibit A-1 or Exhibit A-2, as applicable, the Title Benefit Amount shall be the product of (x) the Allocated Value of the affected Property multiplied by (y) a fraction, (I) the numerator of which is the net revenue interest increase and (II) the denominator of which is the net revenue interest stated on Exhibit A-1 or Exhibit A-2; *provided that* if the Title Benefit does not affect a Property throughout the entire life of the Property, the Title Benefit Amount determined under this Section 3.8(b)(ii) shall be reduced to take into account the applicable time period only;

(iii) the Title Benefit Amount shall, in any case, be determined by taking into account the Allocated Value of the Property so affected, the portion of the Property and Seller's (and Purchaser's as successor in interest to Seller) interest therein so affected, the legal effect of the Title Benefit, the potential economic effect of the Title Benefit over the life of any affected Property, the values placed upon the Title Benefit by Purchaser and Seller, whether and to what extent the applicable instruments are filed in the applicable county real property records and would constitute constructive notice to third Parties of the existence thereof under applicable Law, and such other factors as are necessary to make a proper evaluation;

(iv) the Title Benefit Amount with respect to a Title Benefit shall be determined without duplication of any costs or losses included in another Title Benefit Amount or adjustment to the Unadjusted Purchase Price; and

(v) notwithstanding anything to the contrary in this Article 3:

(A) an individual claim for a Title Benefit shall only generate an adjustment to the Unadjusted Purchase Price if the Title Benefit Amount with respect thereto exceeds Twenty-Five Thousand and No/100 Dollars ($25,000.00); and

(B) the aggregate adjustment to the Unadjusted Purchase Price made in respect of Title Benefits, if any, shall not exceed the aggregate of all Title Defect Amounts for Title Defects for which an adjustment to the Unadjusted Purchase Price is made pursuant to this Article 3.

3.9 Dispute Resolution.

(a) Seller and Purchaser shall attempt to agree upon all Title Defects, Title Benefits, Title Defect Amounts, Title Benefit Amounts, Environmental Defects and Environmental Defect Amounts on or before the Closing Date. If Seller and Purchaser are unable to agree by that date, then the amount that shall be used to determine the Closing Payment pursuant to Section 8.4(a) (before giving effect to Section 3.14) shall be equal to: (a) the average of Purchaser's reasonable estimate in excess of the Deductible and Seller's reasonable estimate in excess of the Deductible, plus (b) the Deductible; *provided that* (i) each estimate prepared by Purchaser and Seller was prepared in good faith and complies with the provisions of Section 3.8(a), 3.8(b) or Section 3.13(a) (as applicable) and (ii) if Seller has delivered to Purchaser on or before one (1) day prior to the Closing Date a binding proposal from a responsible third party environmental firm to cure an Environmental Defect for an amount less than the Environmental Defect Amount determined by Purchaser and Seller pursuant to this Section 3.9(a), then with respect to such Environmental Defect, the amount estimated by such third party environmental firm plus 15% shall be used to determine the Closing Payment. For purposes of example only, if Purchaser's good-faith estimate of the aggregate Title Defect Amount and Environmental Defect Amount hereunder is equal to $3,625,000, and Seller's good-faith estimate of the aggregate Title Defect Amount and Environmental Defect Amount hereunder is $1,000,000, then the amount that shall be used to determine the Closing Payment pursuant to Section 8.4(a) (before giving effect to Section 3.14) shall be equal to $2,625,000 (i.e., the average of $2,000,000 and $0, plus the Deductible). After the expiration of the cure periods provided in Section 3.6 and 3.13(b)(iii), Seller and Purchaser shall meet and attempt to agree on (i) the extent to which the asserted Title Defects which Seller elected to cure have been cured, (ii) the value of asserted Title Defects that have not been cured, (iii) the value of any Title Benefits that were not agreed to prior to Closing, and (iv) the extent to which an asserted Environmental Defect which Seller timely elected to cure has been cured, or, if not, the value of the Environmental Defect. With respect to any item which has not been agreed to in writing on prior to the expiration of fifteen (15) days after the expiration of the ninety (90) day cure period (the "Defect Arbitration Date"), the Title Defect Amounts and Title Benefit Amounts and Environmental Defect Amounts in dispute shall be exclusively and finally resolved by arbitration pursuant to Section 3.9(b).

(b) On or before a date that is twenty (20) Business Days following the Defect Arbitration Date, Seller shall submit (i) all Title Defects, Title Benefits, Title Defect Amounts and Title Benefit Amounts not resolved pursuant to Section 3.9(a) in dispute to a title attorney with at least fifteen (15) years' experience in oil and gas titles in the state of Texas, as selected by mutual agreement of Purchaser and Seller (the "Title Arbitrator") and (ii) all Environmental Defects and Environmental Defect Amounts not resolved pursuant to Section 3.9(a) to an environmental attorney with at least fifteen (15) years' experience in oil and gas properties located in Texas, as selected by mutual agreement of Purchaser and Seller (the "Environmental Arbitrator"). If Purchaser and Seller have not agreed upon a Person to serve as Title Arbitrator or Environmental Arbitrator during such twenty (20) Business Day period, Seller shall, within twenty (20) Business Days after the end of such initial twenty (20) Business Day period, formally apply to the Houston, Texas office of the American Arbitration Association for selection of the Title Arbitrator and Environmental Arbitrator pursuant to its rules and the provisions of this Section, and such Persons selected shall be the Title Arbitrator and Environmental Arbitrator. The Arbitrators shall not have worked as an employee or outside counsel or consultant for any Party or its Affiliates during the five (5) year period preceding the arbitration or have any financial interest in the dispute. If Seller has not submitted such disputed Title Defect Amounts, Title Benefit Amounts and Environmental Defect Amounts in dispute to the Title Arbitrator, the Environmental Arbitrator or the Houston, Texas office of the American Arbitration Association, as applicable, within the relevant time period set forth above, Seller shall be deemed to have waived its dispute of such Title Defect Amounts, Title Benefit Amounts or Environmental Defect Amounts, as applicable.

(c) The arbitration proceedings shall be held in Houston, Texas and shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, to the extent such rules do not conflict with the terms of this Section 3.9. The Arbitrator's determination shall be made within forty-five (45) days after submission of the matters in dispute and shall be final and binding upon the Parties, without right of appeal. In making his determination, the Arbitrator shall be bound by the provisions of this Article 3 and may consider such other matters as in the opinion of the Arbitrator are necessary or helpful to make a proper determination. The Arbitrator may consult with and engage disinterested third Persons to advise the arbitrator, including petroleum engineers. The Title Arbitrator or Environmental Arbitrator shall act as an expert for the limited purpose of determining the specific disputed Title Defect Amounts and Title Benefit Amounts, or Environmental Defect Amounts, as applicable, submitted by any Party and may not award damages, interest, or penalties to any Party with respect to any matter. Seller and Purchaser shall each bear their own legal fees and other costs of presenting their respective cases. Purchaser shall bear one-half of the costs and expenses of the Arbitrator and Seller shall be responsible for the remaining one-half of the costs and expenses. In connection with any determination with respect to an Environmental Defect and its Environmental Defect Amount by an Arbitrator pursuant to this Section 3.9, it is understood that: (i) Purchaser may not introduce or otherwise use information obtained by Purchaser after the date of the Environmental Defect Notice with respect to the Environmental Defect in dispute or its Environmental Defect Amount, and in no event may the Arbitrator consider or give weight to any such information, (ii) Purchaser may not assert any violation of Environmental Law that is not specified in the Environmental Defect Notice with respect to the Environmental Defect in dispute, and (iii) the Environmental Defect Amount of an Environmental Defect may not exceed the amount thereof asserted in the Environmental Defect Notice with respect thereto.

3.10 Consent Requirements.

(a) Seller shall deliver a written notice to Purchaser on or before ten (10) Business Days prior to Closing setting forth each consent requirement which, as of such date, has not been unconditionally satisfied or waived. In no event shall there be transferred at Closing any Asset for which a consent requirement has not been satisfied and for which transfer is prohibited or a fee is payable (unless such fee has been paid by Purchaser) without the consent, other than (i) consents and approvals of Governmental Authorities customarily obtained after Closing (if such Governmental Authority is, pursuant to applicable Law, without discretion to refuse to grant such consent if certain specifically enumerated conditions set forth in such applicable Law are satisfied) and (ii) consents and approvals that would not result in a Contractual Defect.

(b) Without limiting Purchaser's rights in Section 3.8(a)(v), in cases in which the Asset subject to such an unobtained consent is an Asset other than a Property, and Purchaser is assigned the Property or Properties to which such Asset relates, but such Asset is not transferred to Purchaser due to the unwaived consent requirement, Purchaser and Seller shall continue after Closing to use commercially reasonable efforts to obtain the consent so that such Asset can be transferred to Purchaser upon receipt of the consent, and, if permitted pursuant to applicable Law and agreement, such Asset shall be held by Seller for the benefit of Purchaser and Purchaser shall pay all amounts due thereunder or with respect thereto, and Purchaser shall be responsible for the performance of any obligations under or with respect to such Asset to the extent that Purchaser has been transferred the other Assets to which such Asset relates and that are necessary to such performance until the applicable consent is obtained.

(c) In cases in which the Asset subject to such a consent requirement is a Property and the third Person consent to the transfer of such Property is not obtained by Closing, Purchaser may elect to treat the unsatisfied consent requirements as a Title Defect but exclude such Asset from the transaction and receive the appropriate adjustment to the Unadjusted Purchase Price under Section 2.2(b) (and such Asset shall constitute an Excluded Asset, subject to the remainder of this Section 3.10(c)) by giving Seller written notice thereof in accordance with Section 3.5(a), except that such notice may be given on or before the Closing Date, and the provisions of Section 3.8(a)(vii) and the portion of Section 3.8(a)(iii) following the words "*provided that*" shall not apply. If any such consent requirement with respect to which an adjustment to the Unadjusted Purchase Price is made under this Section 3.10(c) is subsequently satisfied prior to the date of the final adjustment to the Unadjusted Purchase Price under Section 8.4(b), (i) the relevant Property, if not previously transferred to Purchaser, shall be transferred, (ii) such Property shall be no longer treated as an Excluded Asset, but rather, an Asset, (iii) Seller shall be reimbursed in that final adjustment for the amount of any previous deduction from the Unadjusted Purchase Price and adjustments thereto shall be made in accordance with Section 2.2, and (iv) the provisions of this Section shall no longer apply to such consent requirement. If such consent requirement is not satisfied prior to the date of the final adjustment to the Unadjusted Purchase Price under Section 8.4(b), subject to the remainder of this Section, the affected Property shall be deemed to have been deleted from Exhibits A-1 through A-2 hereto and shall constitute an Excluded Asset; and

(d) Notwithstanding anything to the contrary herein, Purchaser may (but shall not be obligated to) request, at any time prior to the final determination of the Purchase Price pursuant to Section 8.4(b), that Seller transfer to Purchaser any Asset not transferred at Closing due to an unsatisfied or unwaived consent requirement if such consent requirement does not provide that the transfer of the affected Asset without satisfaction or waiver of such consent requirement would be void, or would otherwise impair the affected Asset or Seller's or Purchaser's title thereto. Promptly after receipt of such a request, Seller shall, pursuant to the Assignment and Bill of Sale, convey to Purchaser, effective as of the Effective Time, the affected Asset; Seller shall be reimbursed in the final adjustment for the amount of any previous deduction from the Unadjusted Purchase Price; and Purchaser shall defend, indemnify, and hold Seller harmless from and against all damages arising from the conveyance of such Asset without the satisfaction or waiver of the consent requirement.

3.11 Preferential Purchase Rights.

(a) Any preferential purchase right must be exercised subject to all terms and conditions set forth in this Agreement, including the successful Closing of this Agreement pursuant to Section 7.2(d) on the dates certain set forth herein. The consideration payable under this Agreement for any particular Asset for purposes of preferential purchase right notices shall be the Allocated Value for such Asset, adjusted as set forth in this Agreement.

(b) If any preferential right to purchase any Asset is validly exercised prior to Closing, the Assets (or portions thereof) affected thereby shall constitute Excluded Assets and the Unadjusted Purchase Price shall be decreased by an amount determined in accordance with Section 3.8(a) as though the affected Asset (or portions thereof) were subject to a Title Defect (excluding, however, application of the provisions of Section 3.8(a)(vii) and the portion of Section 3.8(a)(iii) following the words "*provided that*"), and the affected Assets shall not be transferred at Closing. Should a third Person fail to validly exercise or waive its preferential right to purchase as to any portion of the Assets prior to Closing, and the time for exercise or waiver has not yet expired, then (i) such Assets (or portions thereof) shall not be conveyed to Purchaser at Closing, (ii) the Unadjusted Purchase Price shall be decreased by an amount determined in accordance with Section 3.8(a) as though the affected Asset (or portions thereof) were subject to a Title Defect (excluding, however, application of the provisions of Section 3.8(a)(vii) and the portion of Section 3.8(a)(iii) following the words "*provided that*"); (iii) the affected Assets (or portions thereof) shall be subject to Sections 3.11(c) and 3.11(d); and (iv) Seller shall, at its sole expense, continue to use reasonable efforts to obtain the waiver of the preferential purchase right and shall continue to be responsible for the compliance therewith.

(c) Should the holder of the preferential purchase right validly exercise same after Closing, the affected Assets (or portions thereof) shall constitute Excluded Assets, Seller shall convey the affected Assets to the holder on the terms and provisions set out in the applicable preferential right provision and shall be entitled to the consideration paid by such holder.

(d) In the event that, on or before the date for which a payment must be made under the last sentence of Section 8.4(b), a preferential purchase right with respect to an Asset excluded from the transactions contemplated by this Agreement at Closing pursuant to Section 3.11(b) is waived or the time for exercise of such right has expired pursuant to its terms, then:

(i) Purchaser shall, subject to its conditions precedent in Section 7.2(a), 7.2(b), and 7.2(c) purchase the affected Asset (or portion thereof) on the terms set forth in this Agreement at a delayed closing which shall occur within ten (10) Business Days following the date on which Seller obtains such waiver, or the time period for exercising the applicable preferential right has expired (which date shall, with respect to such Asset, or portion thereof, be considered to be the Closing Date); and

(ii) Adjustments to the Unadjusted Purchase Price calculated in the same manner as the adjustments in Section 2.2 with respect to the affected Asset (or portion thereof), if any, shall be calculated from the period from and after the Effective Time to the date of the conveyance, and the net amount of such adjustment, if positive, shall be paid by Purchaser to Seller, and, if negative, by Seller to Purchaser.

(e) In the event that the exercise of a preferential purchase right, whether before, on, or after Closing, causes title to any other Property (whether or not directly affected by such preferential purchase right) to be less than Defensible Title or otherwise materially impairs the use, operation, or ownership of any Asset, Purchaser may claim such material impairment as a Title Defect by giving Seller notice thereof in accordance with Section 3.5(a) except that such notice may be given on or before the Closing Date, and Purchaser shall receive the appropriate adjustment to the Unadjusted Purchase Price in accordance with Section 3.7(a), without the application the application of Section 3.8(a)(vii).

3.12 Limitations on Applicability. After the Defect Claim Date, all rights of Purchaser to claim Title Defects not claimed on or before the Defect Claim Date shall terminate as of the Defect Claim Date, and shall have no further force and effect thereafter, provided there shall be no termination of Purchaser's or Seller's rights under Section 3.7 with respect to any Title Defect or Title Benefit claim properly reported on or before the Defect Claim Date or with respect to Purchaser's rights pursuant to Section 3.7 or Section 3.9, claims of Purchaser subject to the special warranty of title made in the Assignment and Bill of Sale or claims related to the breach of Section 4.12.

3.13 Notice of Environmental Liabilities.

(a) Purchaser may deliver claim notices to Seller in writing (an "Environmental Defect Notice"), on or before the Defect Claim Date, of each individual environmental matter that constitutes, or would result in, with notice or the passage of time, Environmental Liabilities for which the Lowest Cost Response to address the matter exceeds Twenty-Five Thousand and No/100 Dollars ($25,000.00) (an "Environmental Defect"), including in an Environmental Defect Notice (i) a reasonably detailed description of the specific matter, including a separate specific citation of the provisions of Environmental Laws alleged to be violated and the related facts that substantiate such Environmental Defect; (ii) the Assets affected by such Environmental Defect; (iii) an estimate of the Lowest Cost Response to cure or eliminate the Environmental Defect (the "Environmental Defect Amount"); and (iv) documents available to Purchaser, if any, that support the existence of the facts alleged in the Environmental Defect Notice.

(b) Upon receipt of the Environmental Defect Notice, Seller shall, at its election, elect one of the following options with respect to each individual matter described in the Environmental Defect Notice:

(i) reduce the Unadjusted Purchase Price by an amount agreed upon in writing by Purchaser and Seller as being a reasonable estimate of the cost of curing such Environmental Defect;

(ii) retain the Property that is subject to such Environmental Defect Notice and affected by such Environmental Defect, in which event the Unadjusted Purchase Price shall be reduced by an amount equal to the Allocated Value of such Property;

(iii) perform or cause to be performed on or before ninety (90) days after the Closing Date, at the sole cost and expense of Seller, such operations as may be necessary to cure, remediate, remove or remedy the Environmental Defect disclosed in such Environmental Defect Notice, in which event Purchaser shall provide access to the Assets as may be required to take such actions; or

(iv) have disputes with respect thereto resolved pursuant to Section 3.9.

(c) Except for the indemnity provided under Section 11.3(b)(iii) as it relates to breaches of the representations provided in Sections 4.5 and 4.17, the indemnity provided under 11.3(b)(i), this Section 3.13 (and Section 3.9 and Section 3.14 as they relate thereto) is intended to be the sole and exclusive remedy that Purchaser Group shall have against Seller with respect to Environmental Liabilities. Any dispute relating to whether and to what extent an Environmental Defect has been remedied shall be resolved as set forth in Section 3.9.

3.14 Aggregate Defect Deductible. Notwithstanding anything herein to the contrary, adjustments to the Unadjusted Purchase Price for Title Defects or Environmental Defects shall only be made for the aggregate amount of all Title Defect Amounts and Environmental Defect Amounts in excess of the Deductible.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Purchaser the following:

4.1 Existence and Qualification. Seller is a Delaware limited liability company, validly existing and in good standing under the Laws of the state of its formation and is qualified to conduct business in each state in which the Assets are located.

4.2 Power. Seller has the power to enter into and perform its obligations under this Agreement (and all documents required to be executed and delivered by Seller at Closing) and to consummate the transactions contemplated by this Agreement (and such documents).

4.3 Authorization and Enforceability. The execution, delivery and performance of this Agreement by Seller (and all documents required to be executed and delivered by Seller at Closing), and the consummation by Seller of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary company action on the part of Seller. This Agreement has been duly executed and delivered by Seller (and all documents required to be executed and delivered by Seller at Closing shall be duly executed and delivered by Seller), and this Agreement constitutes, and at the Closing such documents shall constitute, the valid and binding obligations of Seller, enforceable in accordance with their terms except as such enforceability may be limited by applicable bankruptcy or other similar Laws affecting the rights and remedies of creditors generally as well as to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

4.4 No Conflicts. The execution, delivery and performance of this Agreement by Seller, and the consummation of the transactions contemplated by this Agreement shall not

(i) violate any provision of the governing documents or instruments of Seller, (ii) result in a default (with due notice or lapse of time or both) or the creation of any lien or encumbrance or give rise to any right of termination, cancellation, or acceleration under any material note, bond, mortgage, indenture, or other financing instrument to which Seller is a party or by which it is bound, (iii) violate any judgment, order, ruling, or decree applicable to Seller as a party in interest, or (iv) violate any Laws applicable to Seller.

4.5 Litigation. Except as set forth on Schedule 4.5, there are no actions, suits, demands, investigations, administrative proceedings, or other proceedings pending, or to Seller's knowledge, threatened in writing before any Governmental Authority, arbitrator or mediator to which Seller is a party or to which the Assets are otherwise subject.

4.6 Bankruptcy. There are no bankruptcy, reorganization, or receivership proceedings pending, being contemplated by, or, to the knowledge of Seller, threatened against Seller or any Affiliate thereof (whether by Seller or a third Person). Seller is not entering into this Agreement with actual intent to hinder, delay, or defraud any creditor.

4.7 Taxes and Assessments. Except as disclosed on Schedule 4.7:

(a) Each material Tax return, declaration, report, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof (a "Tax Return") required to be filed with respect to the Assets has been timely and properly filed, and Seller has timely and properly paid all material Taxes that Seller is obligated to pay with respect to the Assets (whether or not such Taxes are reflected on a Tax Return);

(b) There is not currently in effect any extension or waiver of any statute of limitations of any jurisdiction regarding the assessment or collection of any Tax with respect to the Assets;

(c) No Asset is subject to a Tax partnership agreement or provision requiring a partnership Tax income Tax return to be filed under applicable Law, and any Tax partnership listed on Schedule 4.7 has, or as of Closing shall have, in effect an election under Section 754 of the Code that will apply with respect to the Assets;

(d) Neither Seller nor its Affiliates have received written notice of any pending claim against Seller or its Affiliates (which remains outstanding) from any applicable Governmental Authority for assessment of material Taxes with respect to the Assets, and there are no audits, suits, proceedings, assessments, reassessments, deficiency claims, or other claims relating to any Taxes of Seller or its Affiliates with respect to the Assets with any applicable Governmental Authority; and

(e) There are no liens for Taxes on any of the Assets other than liens constituting Permitted Encumbrances.

4.8 Compliance with Laws. Except as disclosed on Schedule 4.8, (a) Seller's ownership and the operation of the Assets is in compliance with all applicable Laws (excluding Environmental Laws) in all material respects, and (b) all necessary Permits with respect to the ownership and operation of the Assets have been obtained and maintained in full force and effect.

4.9 Material Contracts. Schedule 4.9 lists all Material Contracts. Neither Seller, nor, to the knowledge of Seller, any other Person, is in default under any Material Contract, except as disclosed on Schedule 4.9. To Seller's knowledge, all Material Contracts are in full force and effect. Except as disclosed on Schedule 4.9, no written notice of default or breach has been received or delivered by Seller under any Material Contract, the resolution of which is outstanding as of the date hereof or as of the Closing, and there are no current notices received by Seller of the exercise of any premature termination, price redetermination, market-out, or curtailment of any Material Contract. Prior to the date of the execution of this Agreement, Seller has made available to Purchaser (or its representatives) true and complete copies of each Material Contract and all amendments or modifications thereto.

4.10 Permits.

(a) With respect to the Assets for which Seller is the operator, and except as set forth on Schedule 4.10(a): (i) Seller has acquired all Permits from appropriate Governmental Authorities to conduct operations on the Assets in material compliance with all applicable Laws; (ii) all such Permits are in full force and effect and no action, claim or proceeding is pending, nor to the knowledge of Seller, threatened, to suspend, revoke or terminate any such Permit or declare any such Permit invalid; (iii) Seller is in compliance in all material respects with all such Permits; (iv) there are no violations of any such Permit that would (or could with notice or lapse of time) result in the termination of such Permit; and (v) the transactions contemplated by this Agreement will not adversely affect the validity of any such Permit or cause a cancellation of or otherwise adversely affect such Permit.

(b) With respect to the Assets for which Seller is not the operator, to the knowledge of Seller, and except as set forth on Schedule 4.10(b): (i) the operator of such Assets has acquired all Permits from appropriate Governmental Authorities to conduct operations on such Assets in material compliance with all applicable Laws; (ii) all such Permits are in full force and effect and no action, claim or proceeding is pending or threatened, to suspend, revoke or terminate any such Permit or declare any such Permit invalid; (iii) the operator of such Assets is in compliance in all material respects with all such Permits; (iv) there are no violations of any such Permit that would (or could with notice or lapse of time) result in the termination of such Permit; and (v) the transactions contemplated by this Agreement will not adversely affect the validity of any such Permit or cause a cancellation of or otherwise adversely affect such Permit.

4.11 Payments for Production; Imbalances. Except as set forth on Schedule 4.11, Seller is not obligated by virtue of a take-or-pay payment, advance payment, or other similar payment (other than royalties, overriding royalties, and similar arrangements established in the Leases), to deliver Hydrocarbons, or proceeds from the sale thereof, attributable to Seller's interest in the Properties at some future time without receiving payment therefor at or after the time of delivery. Schedule 4.11 lists all production, transportation, plant, or other imbalances with respect to production from the Properties.

4.12 Consents and Preferential Purchase Rights. Except as set forth on Schedule 4.12, there are no preferential rights to purchase or consent requirements that may be applicable to the transactions contemplated by this Agreement, except for consents and approvals of Governmental Authorities that are customarily obtained after Closing (if such Governmental Authority is, pursuant to applicable Law, without discretion to refuse to grant such consent if certain specifically enumerated conditions set forth in such applicable Law are satisfied).

4.13 Liability for Brokers' Fees. Purchaser shall not, directly or indirectly, have any responsibility, liability, or expense as a result of undertakings or agreements of Seller or any of its Affiliates for brokerage fees, finder's fees, agent's commissions, or other similar forms of compensation, or to an intermediary in connection with the negotiation, execution or delivery of this Agreement or any agreement or transaction contemplated hereby.

4.14 Wells and Equipment. Except as set forth on Schedule 4.14:

(a) all Wells have been drilled and completed at legal locations and within the limits permitted by all applicable Leases, Contracts, and pooling or unit agreements;

(b) no Well is subject to penalties on allowables on or after the Effective Time because of any overproduction or any other violation of Laws; and there are no Wells located on the Assets that (i) Seller is currently obligated by any Laws or Contract to currently plug, dismantle or abandon; (ii) to Seller's knowledge, have been plugged, dismantled, or abandoned in a manner that does not comply in all material respects with applicable Laws or (iii) to Seller's knowledge, are on expired leases or leases in which Seller has no interest and are, or which solely with the passage of time will be, required to be plugged, dismantled or abandoned by Seller;

(c) all currently producing Wells and Equipment are in an operable state of repair adequate to maintain normal operations in accordance with past practices, ordinary wear and tear excepted, and, without limiting the foregoing, do not contain junk, fish, or other unanticipated obstructions which could reasonably be expected to materially interfere with drilling, completion, recompletion, stimulation, or other operations on, with respect to, or affecting the Properties; and

(d) Seller, or an applicable operator, has (and Purchaser, as successor in interest to Seller, will have, if Seller now has) (i) title to the Equipment free and clear of liens, encumbrances, obligations, and defects, other than Permitted Encumbrances, or (ii) with respect to rented Equipment, a good and valid leasehold interest in such Equipment.

4.15 Non-Consent Operations. Except as set forth on Schedule 4.15, as of the date hereof, Seller has not elected not to participate in any operation or activity proposed with respect to the Properties which could result in any of Seller's interest in such Properties becoming subject to a penalty or forfeiture as a result of such election not to participate in such operation or activity. Schedule 4.15 contains a complete and accurate list of the status of any payout balances for each Property that is subject to a reversion or other adjustment at any level of cost recovery or Hydrocarbon production from or attributable to such Property, as of the dates shown on such schedule with respect to each Property.

4.16 Outstanding Capital Commitments. As of the date of this Agreement, there are no outstanding authorities for expenditure that are binding on the Properties and that Seller reasonably anticipates will individually require expenditures by Seller or its successors in interest in the aggregate from and after the Effective Time in excess of Fifty Thousand Dollars and No/100 ($50,000.00), other than as shown on Schedule 4.16.

4.17 Environmental. Except as shown on Schedule 4.17:

(a) Seller has received no notice from any Governmental Authority (or operator of a Property) of any condition on or with respect to the Properties that, if true, would constitute violation of, or require remediation under, Environmental Laws, and, to the knowledge of Seller, the Properties (and the operation thereof and Seller's ownership thereof) are in material compliance with all applicable Environmental Laws;

(b) to Seller's knowledge, all permits, licenses, consents, certificates, registrations, approvals, variances, waivers, and other authorizations required by Environmental Laws or by any Governmental Authority or third Person with respect to the ownership or operation of the Assets (the "Environmental Permits") have been properly obtained and have been and are being maintained in full force and effect, and the Assets are being maintained in compliance with the Environmental Permits in all material respects;

(c) Seller has neither entered into, and, to Seller's knowledge nor is it (or any Asset) subject to, any agreements, consents, orders, decrees, judgments, licenses, or Permit or Environmental Permit conditions, or other directives from any Governmental Authority that relate to the future use of any Asset and that require remediation or other change in the present condition or operation of the Properties; and

(d) to Seller's knowledge, there has been no escape, discharge, disposal, or other condition or circumstance that, with the notice or the passage of time or both, could reasonably be expected to result in a material Environmental Liability.

4.18 Hedges. Seller's obligations in connection with futures, options, swaps, and other derivatives are secured by the liens and security interests granted pursuant to the Seller Loan Agreement, which liens and security interests encumber, among other things, the sale of Hydrocarbons from the Assets. Except pursuant to such liens and security interests, there are no futures, options, swaps, or other derivatives with respect to the sale of Hydrocarbons from the Assets that are currently binding on the Assets, it being understood that releases of such liens and security interests are required to be delivered at the Closing pursuant to Section 6.5 so that no futures, options, swaps, or other derivatives with respect to the sale of Hydrocarbons from the Assets will be binding on the Assets after Closing.

4.19 Suspended Proceeds. Schedule 4.19 sets forth a list of all Suspended Proceeds (as defined in Section 6.4) as of the date set forth therein, a description of the source of such Suspended Proceeds and the reason they are being held in suspense, the agreement or agreements under which such funds are being held and the name or names of the parties claiming such funds or to whom such funds are owed (if known).

4.20 Leases. Seller (or, to Seller's knowledge, the applicable operator) has timely and properly paid all accrued bonuses, delay rentals, minimum royalties, and royalties due with respect to Seller's interest in the Leases, in each case in accordance with the Leases and applicable Law. Schedule 4.20 contains a true, correct, and complete list of all Leases that (a) are currently held by payment of shut-in royalties, reworking operations, any substitute for production in paying quantities, or any other means other than production in paying quantities, and (b) will expire, terminate, or otherwise be materially impaired absent actions by or on behalf of Seller (other than continued production in paying quantities) on or before a date that is one hundred and eighty (180) days after the Target Closing Date.

4.21 Access. Seller has a legal right of access to all of the Properties (excluding those consisting solely of overriding royalty interests), and following the Closing, Purchaser will have a legal right of access to all of such Properties.

4.22 Limitations.

(a) EXCEPT AS AND TO THE EXTENT EXPRESSLY REPRESENTED OTHERWISE IN THIS Article 4, IN THE ASSIGNMENT AND BILL OF SALE, OR IN THE CERTIFICATE OF SELLER TO BE DELIVERED AT CLOSING PURSUANT TO SECTION 8.2(f) (EACH AS FURTHER LIMITED BY THE BARGAINED-FOR LIMITATIONS ON REMEDIES SET FORTH IN Article 11), PURCHASER REPRESENTS AND AGREES THAT SELLER IS NOT MAKING, AND SELLER EXPRESSLY DISCLAIMS, (X) ANY REPRESENTATION OR WARRANTY, EXPRESS, IMPLIED, OR STATUTORY, AT LAW OR IN EQUITY, AS TO (I) TITLE TO ANY OF THE ASSETS, (II) THE CONTENTS, CHARACTER OR NATURE OF ANY DESCRIPTIVE MEMORANDUM, OR ANY REPORT OF ANY PETROLEUM ENGINEERING CONSULTANT OR OF SELLER, OR ANY GEOLOGICAL OR SEISMIC DATA OR INTERPRETATION, RELATING TO THE ASSETS, (III) THE QUANTITY, QUALITY OR RECOVERABILITY OF PETROLEUM SUBSTANCES IN OR FROM THE ASSETS, (IV) THE ABILITY OF THE PROPERTIES TO PRODUCE HYDROCARBONS, INCLUDING PRODUCTION RATES, DECLINE RATES, AND RECOMPLETION OPPORTUNITIES; (V) ANY ESTIMATES OF THE VALUE OF THE ASSETS OR FUTURE REVENUES GENERATED BY THE ASSETS, (VI) INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT, AND (VII) ANY OTHER MATERIALS OR INFORMATION THAT MAY HAVE BEEN MADE AVAILABLE OR COMMUNICATED TO PURCHASER OR ITS AFFILIATES, OR ITS OR THEIR EMPLOYEES, AGENTS, CONSULTANTS, REPRESENTATIVES OR ADVISORS IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY DISCUSSION OR PRESENTATION RELATING THERETO, AND (Y) ANY REPRESENTATION OR WARRANTY, EXPRESS, IMPLIED, OR STATUTORY, AT LAW OR IN EQUITY, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR CONFORMITY TO MODELS OR SAMPLES OF MATERIALS OR ANY EQUIPMENT, IT BEING EXPRESSLY UNDERSTOOD AND AGREED BY THE PARTIES THAT, EXCEPT AS PROVIDED TO THE CONTRARY IN THIS AGREEMENT, THE ASSETS ARE BEING TRANSFERRED "AS IS, WHERE IS," WITH ALL FAULTS AND DEFECTS. EXCEPT FOR

THE REPRESENTATIONS AND WARRANTIES IN SECTION 4.5 AND SECTION 4.17, SELLER MAKES NO REPRESENTATION AND WARRANTY WITH RESPECT TO THE ENVIRONMENTAL CONDITION OF THE ASSETS, COMPLIANCE WITH ENVIRONMENTAL LAWS OR ANY OTHER ENVIRONMENTAL MATTERS. PURCHASER SPECIFICALLY REPRESENTS AND AGREES THAT IT IS NOT RELYING UPON AND HAS NOT RELIED UPON ANY REPRESENTATIONS AND WARRANTIES OF SELLER OR ITS REPRESENTATIVES EXCEPT FOR THE SPECIFIC REPRESENTATIONS AND WARRANTIES MADE BY SELLER IN Article 4, IN THE ASSIGNMENT AND BILL OF SALE, OR IN THE CERTIFICATE OF SELLER TO BE DELIVERED AT CLOSING PURSUANT TO SECTION 8.2(f). THE PROVISIONS OF THIS SECTION 4.22, TOGETHER WITH THE LIMITED REMEDIES PROVIDED IN Article 11, WERE SPECIFICALLY BARGAINED FOR BETWEEN PURCHASER AND SELLER AND WERE TAKEN INTO ACCOUNT BY PURCHASER AND SELLER IN ARRIVING AT THE PURCHASE PRICE. PURCHASER ACKNOWLEDGES AND AGREES THAT THE FOREGOING DISCLAIMER IS "CONSPICUOUS" AND IS THE RESULT OF ARM'S-LENGTH NEGOTIATION, THAT PURCHASER IS SOPHISTICATED AND KNOWLEDGEABLE ABOUT BUSINESS MATTERS AND WAS REPRESENTED BY COUNSEL, THAT THIS DISCLAIMER IS NOT BOILERPLATE AND THAT THIS DISCLAIMER IS TO BE A CLEAR, UNEQUIVOCAL AND EFFECTIVE DISCLAIMER OF RELIANCE UNDER TEXAS LAW.

(b) Purchaser acknowledges that Equipment and sites included in the Assets may contain naturally occurring radioactive material ("NORM"). NORM may affix or attach itself to the inside of wells, materials, and equipment as scale, or in other forms. NORM may have come into contact with various environmental media, including water, soils, or sediment. Notwithstanding anything to the contrary in this Section or elsewhere in this Agreement, Seller makes no, and hereby disclaims any, representation or warranty, express or implied, with respect to the presence or absence of NORM in or on the Properties or Equipment in quantities in compliance with applicable Law and typical for oilfield operations in the areas in which the Assets are located.

(c) As used in this Agreement, "to the knowledge of Seller", "to Seller's knowledge", or phrases of similar import means to the actual knowledge of Embry Canterbury, Carl Carter III and Richard Taylor.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to Seller the following:

5.1 **Existence and Qualification**. Purchaser is a Delaware limited partnership, validly existing and in good standing under the Laws of Delaware. Purchaser is, or as of Closing shall be, qualified to do business in the State of Texas and to serve as operator of the Assets after the Closing.

5.2 **Power**. Purchaser has the power to enter into and perform its obligations under this Agreement (and all documents required to be executed and delivered by Purchaser at Closing) and to consummate the transactions contemplated by this Agreement (and such documents).

5.3 **Authorization and Enforceability**. The execution, delivery and performance of this Agreement by Purchaser (and all documents required to be executed and delivered by Purchaser at Closing), and the consummation by Purchaser of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary partnership action on the part of Purchaser. This Agreement has been duly executed and delivered by Purchaser (and all documents required to be executed and delivered by Purchaser at Closing will be duly executed and delivered by Purchaser) and this Agreement constitutes, and at the Closing such documents will constitute, the valid and binding obligations of Purchaser, enforceable in accordance with their terms except as such enforceability may be limited by applicable bankruptcy or other similar Laws affecting the rights and remedies of creditors generally as well as to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

5.4 **No Conflicts**. The execution, delivery and performance of this Agreement by Purchaser, and the consummation of the transactions contemplated by this Agreement, will not (a) violate any provision of the governing partnership documents of Purchaser, (b) result in a material default (with due notice or lapse of time or both) or the creation of any lien or encumbrance or give rise to any right of termination, cancellation or acceleration under any material note, bond, mortgage, indenture, or other financing instrument to which Purchaser is a party or by which it is bound, (c) violate any judgment, order, ruling, or regulation applicable to Purchaser as a party in interest, or (d) violate any Law applicable to Purchaser.

5.5 **Litigation**. There are no actions, suits or proceedings pending, or to Purchaser's knowledge, threatened in writing before any Governmental Authority or arbitrator against Purchaser or any Affiliate of Purchaser which are reasonably likely to materially impair or delay Purchaser's ability to perform its obligations under this Agreement.

5.6 **Financing**. Eagle Energy Trust, an Affiliate of Purchaser, has contemporaneously with the execution of this Agreement entered into a commitment agreement with a Canadian investment dealer on behalf of a syndicate of underwriters to sell trust units in a public offering by short form prospectus in Canada, the net proceeds of which, plus the Deposit and other available funds under Purchaser's bank credit facility, will be sufficient to satisfy the Purchase Price.

5.7 **Liability for Brokers' Fees**. Seller shall not, directly or indirectly, have any responsibility, liability, or expense as a result of undertakings or agreements of Purchaser or any of its Affiliates for brokerage fees, finder's fees, agent's commissions, or other similar forms of compensation to an intermediary in connection with the negotiation, execution, or delivery of this Agreement or any agreement or transaction contemplated hereby.

5.8 **Bankruptcy**. There are no bankruptcy, reorganization, or receivership proceedings pending, being contemplated by, or, to the knowledge of Purchaser, threatened against Purchaser or any Affiliate of Purchaser (whether by Purchaser or a third Person).

5.9 **Investment Intent**. Purchaser is acquiring the Assets by virtue of the transactions contemplated hereby for its own account for investment and not with an intent to sell or make a distribution thereof within the meaning of the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any other applicable securities laws.

5.10 **Independent Evaluation**. Purchaser is sophisticated in the evaluation, purchase, ownership and operation of oil and gas properties and related facilities. Purchaser has had access to the Assets, the officers, consultants and other representatives of Seller, and the books, records, and files of Seller relating to the Assets. In making the decision to enter into this Agreement and to consummate the transactions contemplated hereby: (a) Purchaser has conducted or will have conducted, to its satisfaction, its own independent investigation of the condition and operation of the Assets; and (b) Purchaser has solely relied on (i) the basis of its own independent due diligence investigation of the Assets, (ii) the provisions of this Agreement, and (iii) its own expertise and legal, land, tax, engineering, and other professional counsel concerning this transaction, the Assets, and the value thereof.

ARTICLE 6
COVENANTS OF THE PARTIES

6.1 **Access**. Subject to the limitations expressly set forth in this Agreement, Seller shall provide Purchaser and its representatives access to the Assets to conduct an environmental review and access to and the right to copy, at Purchaser's sole expense, the Records in Seller's possession for the purpose of conducting a confirmatory review of the Assets and Purchaser's Affiliate compiling its Disclosure Documents, but only to the extent that (a) Seller may do so without violating applicable Laws and (b) Seller has authority to grant such access without breaching any obligation of confidentiality binding on Seller. Seller shall use reasonable efforts (including the assertion of any rights of Seller to information to which Seller is entitled pursuant to an applicable joint operating agreement) to obtain permission for Purchaser to gain access to Properties operated by third Persons and the records and files of such third Persons to inspect the condition of such Properties, records, and files. Such access by Purchaser shall be limited to Seller's normal business hours (or the periods of time agreed to by any third Person operator of a property, as applicable), and Purchaser's investigation shall be conducted in a manner that minimizes interference with the operation of the business of Seller and any applicable third Person operator. Subject to the agreement and consent of any applicable third Person operator, Purchaser shall be entitled to conduct an environmental assessment, and may conduct visual inspections, record reviews, and interviews relating to the Properties, including their condition and compliance with Environmental Laws. In no event shall sampling or other invasive inspections of the Assets be conducted without Seller's prior written consent.

6.2 **Press Releases and Other Disclosures**.

(a) Neither Seller nor Purchaser, nor any Affiliate thereof, shall make any press release or other disclosure regarding the existence of this Agreement, the contents hereof, or the transactions contemplated hereby without the prior written consent of Purchaser (in the case of announcements by Seller or its Affiliates) or Seller (in the case of announcements by Purchaser or its Affiliates), which consent, in each case, may not be unreasonably withheld;

provided that the foregoing shall not restrict disclosures by Purchaser or Seller, or their Affiliates (i) to the extent that such disclosures are required by applicable securities or other Laws or the applicable rules of any stock exchange having jurisdiction over the disclosing Party or its Affiliates or (ii) to Governmental Authorities and third Persons holding preferential rights to purchase, rights of consent or other rights that may be applicable to the transactions contemplated by this Agreement, as reasonably necessary to provide notices, seek waivers, amendments or terminations of such rights, or seek such consents.

(b) Purchaser and its Affiliates shall not disclose the name of Seller in press releases or other public disclosures, and shall cause the name of Seller to be redacted from the electronic copy of this Agreement and from electronic copies of any other agreement or document to be filed by Eagle Energy Trust, an Affiliate of Purchaser, under the System for Electronic Document Analysis and Retrieval (SEDAR), the electronic filing system for the disclosure documents of public companies in Canada.

(c) Seller acknowledges that this Agreement inclusive of the exhibits and schedules hereto, subject to permitted redaction if disclosure would be seriously prejudicial to the interests of the filer or would violate confidentiality provisions under this Agreement or other agreements between Seller and Purchaser, is required by Canadian securities laws to be filed by Eagle Energy Trust on SEDAR, and will be available for public viewing at www.sedar.com.

(d) Notwithstanding anything to the contrary in this Agreement, in no event shall this Section 6.2 prevent Purchaser's Affiliate, Eagle Energy Trust, from making any disclosures, post-Closing, regarding Purchaser's ownership or operation of the Assets to any third party.

(e) Seller and Purchaser shall each be liable for the compliance of its respective Affiliates with the terms of this Section 6.2. The Parties agree that neither Purchaser nor Seller will have an adequate remedy at law if any of the foregoing Persons violate (or threaten to violate) any of the terms of this Section 6.2. In such event, Purchaser or Seller, as applicable, shall have the right, in addition to any other it may have, to obtain injunctive relief to restrain any breach or threaten breach of the terms of this Section 6.2.

6.3 Operation of Business. Until the Closing, except as otherwise approved by Purchaser and except for those actions set forth in Schedule 6.3, Seller shall operate its business with respect to the Assets in the ordinary course consistent with past prudent practices, and, without limiting the generality of the foregoing, shall:

(a) Administer and operate the Properties in accordance with the applicable operating agreements and prudent industry practice, using commercially reasonable efforts to preserve its present business operations relating to the Assets;

(b) Not introduce any new methods of management, operation or accounting with respect to any or all of the Assets;

(c) Operate and fulfill in all material respects all contractual or other covenants, obligations and conditions imposed upon Seller with respect to the Assets, including payment of royalties, delay rentals, shut-in gas royalties and any and all other required payments and Seller shall not knowingly and voluntarily waive any material rights under, amend or terminate any Material Contract;

(d) Except to the extent necessary or advisable to avoid forfeiture or penalties, not enter into agreements to drill new wells or to rework, plug back, deepen, plug or abandon any Well, nor commence any drilling, reworking or completing or other operations on the Properties that requires expenditures exceeding Fifty Thousand and No/100 Dollars ($50,000.00) (net to Seller's interest) for each operation (except for emergency operations and operations required under presently existing contractual obligations) without obtaining the prior written consent of Purchaser; *provided that* the terms of this Section 6.3(d) shall not apply to any expenditures of Seller which will not be charged to Purchaser, or which are set forth on Schedule 4.16;

(e) Not voluntarily abandon any of the Wells other than as commercially reasonable or as required pursuant to the terms of a Lease or by applicable Law;

(f) maintain insurance coverage on the Assets in the amounts and of the types presently in force and not make any election to be excluded from any coverage provided by an operator for the joint account pursuant to a joint operating agreement or similar agreement;

(g) Not, without the prior written consent of Purchaser, (i) enter into any agreement or arrangement transferring, selling or encumbering any of the Assets (other than in the ordinary course of business, including ordinary course sales of production or pursuant to any agreements existing on the date hereof; *provided that* with respect to sales and dispositions of inventory, Equipment and materials in the ordinary course of business, such disposed inventories, Equipment and materials are replaced with inventories, Equipment, and materials of comparable or better value and utility in connection with the maintenance, repair and operation of the Assets); (ii) grant any preferential right or other right to purchase or agree to require the consent of any party not otherwise required to consent to the transfer and assignment of the Assets to Purchaser; (iii) enter into any new sales contracts or supply contracts which cannot be cancelled upon thirty (30) days prior notice; (iv) incur or agree to incur any contractual obligation or liability (absolute or contingent) with respect to the Assets except as otherwise provided herein (including ordinary course sales of production, inventory or salvage or with respect to any Assets with a value less than Fifty Thousand and No/100 Dollars ($50,000.00) (net to Seller's interest) or pursuant to any disclosed authorizations for expenditures covering the Assets); or (v) remove any of the Equipment from any Lease (except to move such Equipment to another Lease);

(h) To the extent within the knowledge of Seller, promptly provide Purchaser with written notice of (i) any claims, proceedings or other occurrences that affect the Assets in any material respect; or (ii) any proposal from a third party to engage in any material transaction (*e.g.*, a farmout) with respect to the Assets;

(i) Use commercially reasonable efforts to maintain and keep the Leases and Permits in full force and effect;

(j) Not voluntarily relinquish its position as operator to anyone other than Purchaser with respect to any of the Properties, or voluntarily abandon any of the Properties than as required pursuant to the terms of a Lease or applicable Law;

(k) Not terminate, materially amend, execute or extend any Material Contract other than the execution or extension of a Contract for the sale or exchange of Hydrocarbons terminable without penalty on thirty (30) days or shorter notice;

(l) Not incur any indebtedness or take or fail to take any action that would cause a lien or encumbrance to arise or exist on the Assets or otherwise allow a lien to attach or encumber the Assets (other than a Permitted Encumbrance); and

(m) Not agree to take any action or actions prohibited by any of the foregoing clauses (a) through (m).

Purchaser's approval of any action restricted by this Section 6.3 shall not be unreasonably withheld or delayed and shall be considered granted in full within five (5) Business Days of Seller's notice to Purchaser in accordance with this Section 6.3 requesting such consent, unless Purchaser notifies Seller to the contrary during that period. Notwithstanding the foregoing, in the event of an emergency, Seller may take such action as reasonably necessary and shall notify Purchaser of such action promptly thereafter. Purchaser acknowledges that Seller may own undivided interests in certain of the Assets, and Purchaser agrees that the acts or omissions of third Persons (including any applicable operator) who are not affiliated with Seller shall not constitute a violation of the provisions of this Section 6.3, nor shall any action required by a vote of working interest owners constitute such a violation so long as Seller (and any applicable Affiliate) has voted its interests in a manner consistent with the provisions of this Section 6.3.

6.4 Suspended Proceeds. Upon transfer of operatorship as contemplated under Section 6.12, Seller shall (i) deliver an updated Schedule 4.19 to Purchaser, and (ii) pay to Purchaser all amounts representing the value or proceeds of production removed or sold from the Properties (on an 8/8ths basis instead of on the basis of 92.5% of such amounts) and held by Seller at the time of such transfer that are payable to third persons but held in suspense, such amounts being hereinafter called "Suspended Proceeds"; *provided that* Suspended Proceeds will not include any negative amounts or apply to accounts payable, such as accounts representing overpayments by Seller and that Seller is recovering by deduction against future payments. Upon Purchaser becoming operator of the Assets and the Suspended Proceeds being transferred to Purchaser as contemplated hereunder, Purchaser shall properly and timely distribute such Suspended Proceeds to the persons who are entitled to receive payment of the same, up to the amount of the Suspended Proceeds; *provided that* Seller has identified for Purchaser the proper party or parties entitled to receive such Suspended Proceeds.

6.5 Release of Liens. Concurrent with the Closing, except for Permitted Encumbrances, all liens, charges, mortgages and security interest (if any) encumbering any of the Assets and the Remainder Assets, and securing any debt facilities maintained by or other obligations of Seller or any of its Affiliates (including those arising under the Seller Loan Agreement) shall be terminated.

6.6 Indemnity Regarding Purchaser's Access. PURCHASER'S ACCESS TO THE ASSETS (AND ITS AFFILIATES') AND ITS AND THEIR REPRESENTATIVES' AND CONTRACTORS' EXAMINATIONS AND INSPECTIONS, PURSUANT TO THIS AGREEMENT OR OTHERWISE, SHALL BE AT PURCHASER'S SOLE RISK, COST, AND EXPENSE, AND PURCHASER WAIVES AND RELEASES ALL CLAIMS AGAINST SELLER, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE PARTNERS, MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, CONTRACTORS, AGENTS, OR OTHER REPRESENTATIVES ("SELLER GROUP"), ARISING IN ANY WAY THEREFROM, OR IN ANY WAY CONNECTED THEREWITH, EXCEPT TO THE EXTENT ARISING FROM, OR RELATING TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY SUCH PERSON. PURCHASER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE SELLER GROUP FROM AND AGAINST ANY CLAIMS, LIABILITIES, LOSSES, COSTS, AND EXPENSES (INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES) EVEN IF CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL FAULT OF ANY INDEMNIFIED PERSON; *PROVIDED THAT* NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL PURCHASER BE REQUIRED TO WAIVE AND RELEASE, INDEMNIFY, DEFEND AND SAVE AND HOLD HARMLESS THE SELLER GROUP FOR ANY CLAIMS, LIABILITIES, LOSSES, COSTS, AND EXPENSES (INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES) (I) RELATING TO THE PRESENCE OF HAZARDOUS MATERIALS OR THE RELEASE OF HAZARDOUS MATERIALS, DISCOVERED ON OR IDENTIFIED IN THE COURSE OF PURCHASER'S DUE DILIGENCE REVIEW OR ENVIRONMENTAL ASSESSMENT OF THE ASSETS OR (II) IN THE EVENT ANY SUCH CLAIMS, LIABILITIES, LOSSES, COSTS, AND EXPENSES (INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES) ARE CAUSED BY OR INCURRED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY MEMBER OF THE SELLER GROUP OR ITS RESPECTIVE REPRESENTATIVES.

6.7 Indemnity Regard Seller's Access to Remediate. SELLER'S (AND ITS AFFILIATES') AND ITS AND THEIR REPRESENTATIVES' AND CONTRACTORS' ACCESS TO THE ASSETS WITH RESPECT TO SELLER'S CURE, REMEDIATION, REMOVAL AND REMEDY EFFORTS UNDER SECTION 3.13(b)(iii) SHALL BE AT SELLER'S SOLE RISK, COST, AND EXPENSE, AND SELLER WAIVES AND RELEASES ALL CLAIMS AGAINST PURCHASER, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE PARTNERS, MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, CONTRACTORS, AGENTS, OR OTHER REPRESENTATIVES ("PURCHASER GROUP"), ARISING IN ANY WAY THEREFROM, OR IN ANY WAY CONNECTED THEREWITH, EXCEPT TO THE EXTENT ARISING FROM, OR RELATING TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY SUCH PERSON. SELLER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE PURCHASER GROUP FROM AND AGAINST ANY CLAIMS, LIABILITIES, LOSSES, COSTS, AND EXPENSES (INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES) EVEN IF CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL FAULT OF ANY INDEMNIFIED PERSON; *PROVIDED THAT* NOTWITHSTANDING ANYTHING TO

THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL SELLER BE REQUIRED TO WAIVE AND RELEASE, INDEMNIFY, DEFEND AND SAVE AND HOLD HARMLESS THE PURCHASER GROUP FOR ANY CLAIMS, LIABILITIES, LOSSES, COSTS, AND EXPENSES (INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES) (I) RELATING TO THE PRESENCE OF HAZARDOUS MATERIALS OR THE RELEASE OF HAZARDOUS MATERIALS, DISCOVERED ON OR IDENTIFIED IN THE COURSE OF, AND OUTSIDE THE SCOPE OF ITS CURE, REMEDIATION, REMOVAL AND REMEDY EFFORTS UNDER SECTION 3.13(b)(iii) WITH RESPECT TO AN ENVIRONMENTAL DEFECT NOTICE, OR (II) IN THE EVENT ANY SUCH CLAIMS, LIABILITIES, LOSSES, COSTS, AND EXPENSES (INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES) ARE CAUSED BY OR INCURRED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY MEMBER OF THE PURCHASER GROUP OR ITS RESPECTIVE REPRESENTATIVES.

6.8 Hedges. At or prior to Closing, Seller and its Affiliates shall, through compliance with its obligations under Section 6.5, cause to be released or terminated all instruments that make any futures, options, swaps, or other derivatives with respect to the sale of production from the Assets and the Remainder Assets binding on the Assets and the Remainder Assets, so that no such futures, options, swaps, or other derivatives will be binding on the Assets or the Remainder Assets after Closing.

6.9 Remainder Asset Acquisition.

(a) Prior to the Remainder Sale Closing Date, Seller shall not, directly or indirectly, solicit, negotiate, or take any other actions or steps in respect of a sale or possible sale of the Remainder Assets to any third party (other than ordinary course sales of production or pursuant to any agreements existing on the date hereof and ordinary course sales and dispositions of inventory, Equipment and materials so long as such disposed inventories, Equipment and materials are replaced with inventories, Equipment, and materials of comparable or better value and utility in connection with the maintenance, repair and operation of the Remainder Assets).

(b) Purchaser shall purchase, accept and pay for, and Seller shall sell, convey and deliver to Purchaser, pursuant to the terms and conditions set forth in this Section 6.9 Seller’s remaining undivided seven and one-half percent (7.5%) of any and all of Seller's right, title, and interest in and to the assets, properties, rights and interests in Martin County, Texas and Palo Pinto County, Texas described in Sections 1.2(d)(i) through 1.2(d)(xii) excluding all of the Excluded Assets other than those described in Section 1.3(b)(i) (the “Remainder Assets”). Purchaser shall provide written notice to Seller not later than March 31, 2013 as to when it will acquire the Remainder Assets, but in no event shall such acquisition be later than April 30, 2013, or such other date as may be mutually agreed to by the Parties (such date on which the transaction contemplated in this Section 6.9 occurs is hereinafter referred to as the “Remainder Sale Closing Date”).

(c) The sale, conveyance and delivery of the Remainder Assets shall be (i) effective as of January 1, 2013 and (ii) made on a form substantially similar to the Assignment and Bill of Sale, by warranty of title by, through, and under Seller, but not otherwise (excluding Permitted Encumbrances).

(d) Subject to Section 11.6(d), the purchase price to be paid by Purchaser for the Remainder Assets on the Remainder Sale Closing Date shall be [NTD: intentionally redacted] (as determined by Netherland, Sewell & Associates) [NTD: intentionally redacted] (the "Preliminary Remainder Purchase Price"). The Preliminary Remainder Purchase Price shall be adjusted by applying the adjustments contained in Sections 2.2(b) (with respect to a Casualty Loss under Section 11.5(b)), 2.2(c)-2.2(e) and 11.6(d) (if any), with all such adjustments to be reduced to the pro rata share of such adjustments that would be attributable to the Remainder Assets (the "Remainder Asset Purchase Price"). For purposes of determining the adjustment pursuant to Section 2.2(b) above with respect to a Casualty Loss, the Allocated Value of the Remainder Assets shall be the Allocated Value for the corresponding Asset under this Agreement adjusted pro rata to reflect a seven and one-half percent interest in such Asset.

(e) At or prior to the Remainder Sale Closing Date, except for Permitted Encumbrances, all liens, charges, mortgages and security interest (if any) encumbering any of the Remainder Assets and securing any debt facilities maintained by or other obligations of Seller or any of its Affiliates (including those arising under the Seller Loan Agreement) shall be terminated.

(f) At or prior to the Remainder Sale Closing Date, Seller and its Affiliates shall cause to be released or terminated all instruments that make any futures, options, swaps, or other derivatives with respect to the sale of production from the Remainder Assets binding on the Remainder Assets so that no such futures, options, swaps, or other derivatives will be binding on the Remainder Assets after the Remainder Sale Closing Date.

(g) On the Remainder Sale Closing Date, Seller shall deliver to Purchaser:

(i) a certificate duly executed by an authorized officer of Seller, certifying on behalf of Seller that the representations and warranties of Seller set forth in Sections 4.1, 4.2, 4.3, 4.4, 4.6, 4.7, 4.12 and 4.13, applied *mutatis mutandis* to the transaction contemplated under this Section 6.9, are true and correct on the Remainder Sale Closing Date except to the extent otherwise set forth therein;

(ii) executed certificates described in Treasury Regulation § 1.1445-2(b)(2) certifying that Seller (or its owner(s), as appropriate) is not a foreign person within the meaning of the Code; and

(iii) evidence, to the reasonable satisfaction of Purchaser, that Seller has complied with its obligations under Sections 6.9(e) and 6.9(f).

(h) On the Remainder Sale Closing Date, Purchaser shall deliver to Seller a certificate duly executed by an authorized officer of Purchaser, certifying on behalf of Purchaser that the representations and warranties set forth in Sections 5.1, 5.2, 5.3, 5.4, 5.7, 5.8, 5.9 and 5.10 applied mutatis mutandis to the transaction contemplated under this Section 6.9, are true and correct on the Remainder Sale Closing Date except to the extent otherwise set forth therein.

(i) On the Remainder Sale Closing Date, the Remainder Assets shall no longer be an Excluded Asset, but shall be an Asset for purposes of the Assumed Obligations and Purchaser's obligations in respect thereof under Article 11 and all determinations of Assumed

Obligations or Retained Obligations shall be calculated in relation to the sale of the Remainder Assets by substituting the Remainder Sale Closing Date for Closing or the Closing Date.

(j) Purchaser and Seller each hereby agree to indemnify the other Party in respect of the transactions contemplated in this Section 6.9 pursuant to the provisions set forth in Section 11.3 as applied to the sale of the Remainder Assets with all claims for indemnification under this Section 6.9 to be made pursuant to the procedures detailed in Section 11.4. All representations and warranties made in connection with the sale of the Remainder Assets shall survive the sale of the Remainder Assets indefinitely except for the representations and warranties contained in Sections 4.4(ii), 4.6, 4.7, 4,12, 5.8, 5.9 and 5.10 which shall survive until the date that is three (3) months from the Remainder Sale Closing Date. Provided, however, Seller shall not have any liability for any indemnification with respect to the transactions contemplated under this Section 6.9 until and unless the aggregate amount of the liability for all Damages (i) for which Claim Notices are delivered by Purchaser and (ii) with respect to which Seller admits (or it is otherwise finally determined) that Seller has an obligation to indemnify Purchaser pursuant to the terms of this Section 6.9, exceeds one percent (1%) of the Remainder Assets Purchase Price in the aggregate, after which point Seller shall be liable for Damages in excess of such amount. Notwithstanding anything to the contrary contained elsewhere in this Agreement, (i) Seller shall not be required to indemnify Purchaser with respect to the transaction contemplated under this Section 6.9 for the aggregate Damages in excess of ten percent (10%) of the Remainder Asset Purchase Price; *provided that* this Section 6.9 shall not limit, in any respect, Seller’s covenant in indemnification for the Retained Obligations or breaches of Seller's covenants in Sections 6.5 or 6.8, or the special warranty of title in the Assignment and Bill of Sale; provided further, that, for the purposes of this Section 6.9, any representation, warranty, or covenant set forth in this Agreement that is qualified by materiality or material adverse effect shall be deemed not to be so qualified.

(k) If the sale of the Remainder Assets has not closed by April 30, 2013, because a Party has failed to perform or observe in any material respect its covenants and agreements or is in breach of its representations and warranties hereunder, then the other Party shall be entitled to (i) specific performance of the covenants contained in this Section 6.9, it being specifically agreed that monetary damages may not be sufficient to compensate such Party or (ii) if Seller is such other Party, termination of its obligations under this Section 6.9 upon notice from Seller to Purchaser (in which event Seller shall no longer have any obligations under this Section 6.9 and shall be entitled to sell the Remainder Assets to any party); provided that the foregoing shall not constitute an election of remedies and shall not limit such Party’s right to exercise any other remedies available to it at law or in equity.

(l) As soon as reasonably practicable after the Remainder Sale Closing Date but not later than the ninetieth (90th) day following the Remainder Sale Closing Date, Purchaser shall prepare and deliver to Seller a draft statement setting forth the final calculation of the Preliminary Remainder Purchase Price and showing the calculation of each adjustment under Section 6.9(d), based on the most recent actual figures for each adjustment. Purchaser shall include in such notice such reasonable documentation as is in Purchaser’s possession to support the final figures. As soon as reasonably practicable, but not later than the thirtieth (30th) day following receipt of such statement from Purchaser, Seller shall deliver to Purchaser a written report containing any changes that Seller proposes be made to such statement. Purchaser may deliver a written report to Seller during this same period reflecting any changes that Purchaser proposes to be made to such statement as a result of additional information received after the statement was prepared. If Seller does not deliver such report to Purchaser on or before the end of such thirty (30) day period (and, if Purchaser does not propose any changes to such statement, thirty (30) days from the date Purchaser delivers written notice thereof to Seller), Seller shall be deemed to have agreed with Purchaser's statement, and such statement shall become binding upon the Parties. The Parties shall undertake to agree on the final statement of the Purchase Price no later than sixty (60) days after delivery of Purchaser's statement (or any Purchaser proposed changes to such statement). In the event that the Parties cannot reach agreement within such period of time such dispute shall be subject to the dispute resolution procedures set forth in Section 8.4.

(m) Anything in this Section 6.9 to the contrary notwithstanding:

(i) neither Party shall be obligated to close the transactions contemplated by this Section 6.9 on the Remainder Sale Closing Date if (A) any injunction, order or award restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Section 6.9, or granting material damages in connection therewith, shall have been issued and remain in force, or (B) any suit, action, or other proceeding (excluding any such matter initiated by such Party or any of its Affiliates) shall be pending (or threatened) before any Governmental Authority or body of competent jurisdiction seeking to enjoin or restrain or otherwise prohibit the consummation of the transactions contemplated by this Section 6.9 or recover damages from such Party or any Affiliate of such Party resulting therefrom;

(ii) Purchaser shall not be obligated to close the transactions contemplated by this Section 6.9 in the event that the representations and warranties of Seller set forth in Sections 4.1, 4.2, 4.3, 4.4, 4.6, 4.7, 4.12 and 4.13, applied *mutatis mutandis* to the transaction contemplated under this Section 6.9, are not true and correct in all material respects on the Remainder Sale Closing Date; and

(iii) Seller shall not be obligated to close the transactions contemplated by this Section 6.9 in the event that the representations and warranties set forth in Sections 5.1, 5.2, 5.3, 5.4, 5.7, 5.8, 5.9 and 5.10 applied mutatis mutandis to the transaction contemplated under this Section 6.9, are not true and correct in all material respects on the Remainder Sale Closing Date.

6.10 **Enforcement of Third Party Provisions**. To the extent pertaining to the Assets or the Remainder Assets and the period of time from and after the Effective Time until six (6) months after the Remainder Sale Closing Date, Seller shall, at Purchaser's request, use reasonable efforts to enforce, for the benefit of Purchaser, at Purchaser's cost and expense, all of Seller's rights against third Persons under any warranties, guarantees, or indemnities given by such third Persons.

6.11 **Further Assurances**. After Closing, Seller and Purchaser each agree to take such further actions and to execute, acknowledge, and deliver all such further documents as are reasonably requested by the other Party for carrying out the purposes of this Agreement or of any document delivered pursuant to this Agreement.

6.12 **Operatorship; Non-Interference**. Seller or [NTD: intentionally redacted] ("[NTD: intentionally redacted]") will remain the operator of the Assets through no later than December 31, 2012; *provided that* with thirty (30) days advance written notice from Purchaser to Seller (the "Change of Operator Notice"), Seller shall cause operatorship of the Asset to be transferred to Purchaser. From Closing until operatorship of the Assets transfers from Seller or [NTD: intentionally redacted] to Purchaser, Seller will use commercially reasonable efforts to assist Purchaser in its efforts to succeed Seller or [NTD: intentionally redacted] as operator of any Wells included in the Assets. Purchaser shall promptly, following the submission of such notice, file all appropriate forms, permit transfers and declarations or bonds with federal and state agencies relative to its assumption of operatorship. For all Assets operated by Seller or [NTD: intentionally redacted], Seller shall execute and deliver to Purchaser, on forms to be prepared by Seller (with the cooperation of Purchaser), and Purchaser shall promptly file such applicable forms transferring operatorship of such Assets to Purchaser.

6.13 **Access to Financial, Operating and Other Information**. At Purchaser's request, Seller shall through the Closing Date: (a) provide Purchaser, its subsidiaries or its auditors or engineers with financial, operating and other information for the Assets as may be required by Eagle Energy Trust (an Affiliate of Purchaser) in order for Eagle Energy Trust to comply with applicable Laws in respect of any prospectus, business acquisition report, press release or other document, the form and content of which are subject to or prescribed by applicable Laws (collectively, "Disclosure Documents"), and, subject to the limitations in Section 6.2, to permit Eagle Energy Trust to file any Disclosure Documents required under applicable Laws, including with Canadian securities regulatory authorities under the System for Electronic Document Analysis and Retrieval (SEDAR), and (b) provide reasonable access during normal business hours to personnel of Seller, its subsidiaries or their auditors or engineers who are responsible for such financial, operating and reserves evaluation information.

ARTICLE 7
CONDITIONS TO CLOSING

7.1 **Conditions of Seller to Closing**. The obligations of Seller to consummate the transactions contemplated by this Agreement are subject, at the option of Seller, to the satisfaction on or prior to Closing of each of the following conditions:

(a) The representations and warranties of Purchaser set forth in Article 5 shall be true and correct in all material respects on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made or given on and as of the Closing Date (other than representations and warranties that refer to a specified date, which need only be true and accurate as of such specified date);

(b) Purchaser shall have performed and observed, in all material respects, all covenants and agreements to be performed or observed by Purchaser under this Agreement prior to or on the Closing Date;

(c) On the Closing Date, no injunction, order or award restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement, or granting material damages in connection therewith, shall have been issued and remain in force, and no suit, action, or other proceeding (excluding any such matter initiated by Seller or any of its Affiliates) shall be pending (or threatened) before any Governmental Authority or body of competent jurisdiction seeking to enjoin or restrain or otherwise prohibit the consummation of the transactions contemplated by this Agreement or recover damages from Seller or any Affiliate of Seller resulting therefrom; and

(d) The net sum of all adjustments (or estimated adjustments) to the Unadjusted Purchase Price pursuant to (i) Sections 2.2(a) for Title Defects and/or Section 2.2(b) for Properties or Assets excluded pursuant to Section 3.7, 3.10 or 3.11, with respect to Title Defects, consents or preferential rights, (ii) Section 2.2(a) for Environmental Defects or Section 2.2(b) for Properties excluded for Environmental Defects pursuant to Section 3.13(b)(ii) and (iii) pursuant to Section 2.2(b) as it relates to Casualty Losses under Section 11.5(b) shall be less than ten percent (10%) of the Unadjusted Purchase Price.

7.2 **Conditions of Purchaser to Closing**. The obligations of Purchaser to consummate the transactions contemplated by this Agreement are subject, at the option of Purchaser, to the satisfaction on or prior to Closing, of each of the following conditions:

(a) The representations and warranties of Seller set forth in Article 4 shall be true and correct in all material respects on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made or given on and as of the Closing Date (other than representations and warranties that refer to a specified date, which need only be true and accurate as of such specified date);

(b) Seller shall have performed and observed, in all material respects, all covenants and agreements to be performed or observed by it under this Agreement prior to or on the Closing Date;

(c) On the Closing Date, no injunction, order or award restraining, enjoining, or otherwise prohibiting the consummation of the transactions contemplated by this Agreement, or granting substantial damages in connection therewith, shall have been issued and remain in force, and no suit, action, or other proceeding (excluding any such matter initiated by Purchaser or any of its Affiliates) shall be pending before any Governmental Authority or body of competent jurisdiction (or threatened) seeking to enjoin or restrain or otherwise prohibit the consummation of the transactions contemplated by this Agreement or recover substantial damages from Purchaser or any Affiliate of Purchaser resulting therefrom; and

(d) The net sum of all adjustments (or estimated adjustments) to the Unadjusted Purchase Price pursuant to (i) Sections 2.2(a) for Title Defects and/or Section 2.2(b) for Properties or Assets excluded pursuant to Section 3.7, 3.10 or 3.11, with respect to Title

Defects, consents or preferential rights, (ii) Section 2.2(a) for Environmental Defects or Section 2.2(b) for Properties excluded for Environmental Defects pursuant to Section 3.13(b)(ii) and (iii) pursuant to Section 2.2(b) as it relates to Casualty Losses under Section 11.5(b) shall be less than ten percent (10%) of the Unadjusted Purchase Price.

ARTICLE 8
CLOSING

8.1 Time and Place of Closing. The consummation of the purchase and sale of the Assets contemplated by this Agreement (the "Closing") shall, unless otherwise agreed to in writing by Purchaser and Seller, take place at the offices of DLA Piper LLP (US) 1000 Louisiana, Suite 2800, Houston, Texas 77002, commencing at 7:30 a.m., local time, on May 18, 2012 (the "Target Closing Date"), or if all conditions in Article 7 to be satisfied prior to Closing have not yet been satisfied or waived, as soon thereafter as such conditions have been satisfied or waived, subject to the provisions of Article 10. The date on which the Closing occurs is referred to herein as the "Closing Date". Notwithstanding the above, the Parties shall have all forms and documents required to be delivered at Closing by such Party completed, in final executable form and delivered to the offices of DLA Piper LLP (US) at the address set forth above (the "Pre-Closing"), as of 5:00 p.m. local time on May 17, 2012, *provided that* if the Closing does not occur on the Target Closing Date then the Pre-Closing shall occur as of 5:00 p.m. on the Business Day immediately preceding the actual Closing Date.

8.2 Obligations of Seller at Closing. At the Closing, upon the terms and subject to the conditions of this Agreement, and subject to the simultaneous performance by Purchaser of its obligations pursuant to Section 8.3, Seller shall deliver or cause to be delivered to Purchaser, among other things required pursuant to this Agreement, the following:

(a) Counterparts of the Assignment and Bill of Sale, duly executed by Seller, in sufficient duplicate originals to allow recording in all appropriate jurisdictions and offices;

(b) Assignments in form required by any Governmental Authority for the assignment of any Assets controlled by such Governmental Authority, duly executed by Seller, in sufficient duplicate originals to allow recording and/or filing in all appropriate offices;

(c) Counterparts of the Joint Operating Agreement Amendment, duly executed by Seller;

(d) Executed certificates described in Treasury Regulation § 1.1445-2(b)(2) certifying that Seller (or its owner(s), as appropriate) is not a foreign person within the meaning of the Code;

(e) Letters-in-lieu of transfer or division orders executed by Seller relating to the Assets to reflect the transaction contemplated hereby, which letters shall be on forms prepared by Seller and reasonably satisfactory to Purchaser;

(f) A certificate duly executed by an authorized officer of Seller, dated as of the Closing, certifying on behalf of Seller that the conditions set forth in Sections 7.2(a) and 7.2(b) have been fulfilled except to the extent otherwise set forth therein;

(g) A certificate duly executed by an officer of Seller, dated as of the Closing, (i) attaching and certifying on behalf of Seller complete and correct copies of (A) the resolutions or unanimous consent of the Board of Directors, managers, partners, or other equivalent governing body of Seller authorizing the execution, delivery, and performance by Seller of this Agreement and the transactions contemplated hereby, and (B) any required approval by the shareholders, members, or partners, as applicable, of Seller of this Agreement and the transactions contemplated hereby and (ii) certifying on behalf of Seller the incumbency of each officer of Seller executing this Agreement or any document delivered in connection with the Closing;

(h) Change of operator forms executed by Seller's Affiliate, suitable for with the applicable Government Authority (to be held by Purchaser until transfer of operatorship as contemplated under Section 6.12);

(i) The Records (subject to Section 12.5(b));

(j) Evidence, to the reasonable satisfaction of Purchaser, that Seller has complied with its obligations under Section 6.5 (and any associated obligation owing under Section 6.8);

(k) An updated copy of Schedule 4.19; and

(l) All other instruments, documents, and other items reasonably necessary to effectuate the terms of this Agreement, as may be reasonably requested by Purchaser.

8.3 Obligations of Purchaser at Closing. At the Closing, upon the terms and subject to the conditions of this Agreement, and subject to the simultaneous performance by Seller of its obligations pursuant to Section 8.2, Purchaser shall deliver or cause to be delivered to Seller, among other things required pursuant to this Agreement, the following:

(a) At Seller's option (to be designated in a notice from Seller to Purchaser given at least five Business Days in advance of the Closing), either (i) a wire transfer of the Closing Payment in same-day funds to the account designated by Seller, which transfer may be evidenced by delivery from Purchaser's bank of a confirmation that the wire transfer has been sent and containing the dollar amount, a reference or other identifying number, the time of sending, the routing number of the bank which is to receive the wire transfer, and the account number at that bank into which the wire transfer is to be made or (ii) the Closing Payment in same-day funds, which shall be made by intra-bank transfer to an account designated by Seller at a branch of the Bank of Nova Scotia in Canada;

(b) Counterparts of the Assignment and Bill of Sale, duly executed by Purchaser, in sufficient duplicate originals to allow recording in all appropriate jurisdictions and offices;

(c) Assignments in form required by any Governmental Authority for the assignment of any Assets controlled by such Governmental Authority, duly executed by Purchaser, in sufficient duplicate originals to allow recording and/or filing in all appropriate offices

(d) Counterparts of the Joint Operating Agreement Amendment, duly executed by Purchaser;

(e) A certificate by an authorized officer of Purchaser, dated as of the Closing, certifying on behalf of Purchaser that the conditions set forth in Sections 7.1(a) and 7.1(b) have been fulfilled except to the extent otherwise set forth therein;

(f) A certificate duly executed by an officer of the general partner of Purchaser, dated as of the Closing, (i) attaching and certifying on behalf of Purchaser complete and correct copies of (A) the resolutions or unanimous consent of the Board of Directors, managers, partners, or other equivalent governing body of Purchaser authorizing the execution, delivery, and performance by Purchaser of this Agreement and the transactions contemplated hereby, and (B) any required approval by the shareholders, members, or partners, as applicable, of Purchaser of this Agreement and the transactions contemplated hereby and (ii) certifying on behalf of Purchaser the incumbency of each officer of the general partner of Purchaser executing this Agreement or any document delivered in connection with the Closing; and

(g) All other instruments, documents, and other items reasonably necessary to effectuate the terms of this Agreement, as may be reasonably requested by Seller.

8.4 Closing Payment and Post-Closing Purchase Price Adjustments.

(a) Not later than five (5) Business Days prior to the Closing Date, Seller shall prepare and deliver to Purchaser, using and based upon the best information available to Seller, a preliminary settlement statement estimating the Purchase Price for the Assets and all adjustments set forth in Section 2.2 and less the Deposit and any interest earned thereon. Except to the extent set forth to the contrary in Section 3.9(a), the estimate delivered in accordance with this Section 8.4(a) shall constitute the dollar amount to be payable by Purchaser to Seller at the Closing (the "Closing Payment").

(b) As soon as reasonably practicable after the Closing but not later than the ninetieth (90th) day following the Closing Date, Seller shall prepare and deliver to Purchaser a draft statement setting forth the final calculation of the Purchase Price (giving effect to the Deposit, and any interest earned thereon) and showing the calculation of each adjustment under Section 2.2, based on the most recent actual figures for each adjustment. Seller shall include in such notice such reasonable documentation as is in Seller's possession to support the final figures. As soon as reasonably practicable, but not later than the thirtieth (30th) day following receipt of such statement from Seller, Purchaser shall deliver to Seller a written report containing any changes that Purchaser proposes be made to such statement. Seller may deliver a written report to Purchaser during this same period reflecting any changes that Seller proposes to be made to such statement as a result of additional information received after the statement was prepared. If Purchaser does not deliver such report to Seller on or before the end of such thirty

(30) day period (and, if Seller does not propose any changes to such statement, thirty (30) days from the date Seller delivers written notice thereof to Purchaser), Purchaser shall be deemed to have agreed with Seller's statement, and such statement shall become binding upon the Parties. The Parties shall undertake to agree on the final statement of the Purchase Price no later than sixty (60) days after delivery of Seller's statement (or any Seller proposed changes to such statement). In the event that the Parties cannot reach agreement within such period of time, any Party may refer the items of adjustment which are in dispute to the Houston office of a nationally recognized independent accounting firm or consulting firm mutually acceptable to both Purchaser and Seller (the "Accounting Arbitrator"), for review and final determination by arbitration. The Accounting Arbitrator shall conduct the arbitration proceedings in Houston, Texas in accordance with the Commercial Arbitration Rules of the American Arbitration Association, to the extent such rules do not conflict with the terms of this Section. The Accounting Arbitrator's determination shall be made within forty-five (45) days after submission of the matters in dispute and shall be final and binding on all Parties, without right of appeal. In determining the proper amount of any adjustment to the Unadjusted Purchase Price, the Accounting Arbitrator shall be bound by the terms of Article 2 and may not increase the Unadjusted Purchase Price more than the increase proposed by Seller nor decrease the Unadjusted Purchase Price more than the decrease proposed by Purchaser, as applicable. The Accounting Arbitrator shall act as an expert for the limited purpose of determining the specific disputed aspects of Purchase Price adjustments submitted by any Party and may not award damages, interest (except as expressly provided for in this Section) or penalties to any Party with respect to any matter. Seller and Purchaser shall each bear their own legal fees and other costs of presenting its case. Seller shall bear one-half and Purchaser shall bear one-half of the costs and expenses of the Accounting Arbitrator. Within ten (10) days after the earlier of (i) the expiration of Purchaser's thirty (30) day review period (including any extensions provided for above) without delivery of any written report or (ii) the date on which the Parties or the Accounting Arbitrator finally determine the Purchase Price, (x) Purchaser shall pay to Seller the amount by which the Purchase Price exceeds the Closing Payment or (y) Seller shall pay to Purchaser the amount by which the Closing Payment exceeds the Purchase Price, as applicable. If the Accounting Arbitrator is unwilling or unable to act as such or if the Parties are unable to agree to the Person to serve as Accounting Arbitrator, either Party may formally apply to the Houston, Texas office of the American Arbitration Association for selection of the Accounting Arbitrator pursuant to its rules and this Section, which must be an recognized independent accounting firm that has not rendered services to Seller or Purchaser or any of their respective Affiliates within the past three (3) years.

ARTICLE 9
TAX MATTERS

9.1 Tax Returns; Proration of Taxes.

(a) Except with respect to Production Taxes and Property Taxes, or as provided otherwise in this Agreement (including Section 12.3):

(i) for any Tax period or the portion of any Tax period ending on or before the Closing Date, Seller shall be responsible for preparing and timely filing all Tax

Returns required by applicable Law to be filed and for the payment of all Taxes levied or imposed that are attributable to the Assets;

(ii) for any Tax period or portion of any Tax period beginning after the Closing Date, Purchaser shall be responsible for preparing and the timely filing of all Tax Returns required by applicable Law to be filed and for the payment of all Taxes levied or imposed that are attributable to the Assets; and

(iii) control of any legal or administrative proceedings concerning any Taxes with respect to the Assets, and entitlement to any refunds or awards concerning any such Taxes with respect to such Assets, shall rest with the Party responsible for payment therefor under this Section 9.1.

(b) With respect to Property Taxes (without duplication of any amounts accounted for under Section 2.2 or Section 2.3),

(i) any Property Taxes assessed on any of the Assets for a Tax period that begins before and ends after the Closing Date (a "Straddle Period"), liability for such Property Taxes shall be prorated on a daily basis between Purchaser and Seller, with Seller being liable for the portion of such Property Taxes equal to the product of (A) the amount of such Property Taxes for the entirety of the Straddle Period, multiplied by (B) a fraction, the numerator of which is the number of days in the Straddle Period ending prior to the Effective Time and the denominator of which is the total number of days in the Straddle Period, and with Purchaser being liable for the remainder of such Property Taxes;

(ii) after the Closing, the Party receiving a Property Tax bill or notice applicable to the Assets for a Straddle Period (the "Paying Party") shall promptly notify the other Party or Parties that may be responsible for a portion of such Property Taxes pursuant to this Section 9.1(b)(ii) (the "Reimbursing Party") in writing, and the Paying Party shall pay such Property Tax bill prior to the last day such Property Taxes may be paid without penalty or interest. Upon receipt of the written notice from the Paying Party, which shall include appropriate supporting documentation, the Reimbursing Party shall promptly pay the Paying Party any amount equal to the portion of the Taxes for which the Reimbursing Party is liable under this Agreement. The Parties shall reasonably cooperate with each other after Closing with respect to any Property Tax assessment or valuation (or protest in connection therewith) by any Governmental Authority with respect to a Straddle Period; and

(iii) If any Party receives a refund of any Property Taxes with respect to the Assets that is attributable to a Straddle Period, the Party receiving such refund, whether received in cash, or as a credit against another state and/or local Tax, shall, within thirty (30) days after the receipt of such refund, pay to the other Party who was responsible for a portion of such Property Taxes an amount equal to the product of (A) the amount of the refund, multiplied by (B) a fraction (x) the numerator of which is the number of days in the Straddle Period that such other Party was responsible for such Property Taxes and (y) the denominator of which is the total number of days in the Straddle Period.

(c) Notwithstanding anything to the contrary in this Agreement, Production Taxes levied or imposed on or before the Closing Date, shall not be subject to this Section 9.1 and responsibility therefor and payment thereof shall be exclusively addressed by Sections 2.2 and 2.3.

9.2 Access to Information.

(a) From and after Closing, Seller shall grant to Purchaser (or its designees) access at all reasonable times to all of the information, books and records relating to the Assets within the possession of Seller (including work papers and correspondence with any Governmental Authority, but excluding work product of and attorney-client communications with Seller's legal counsel and personnel files), and shall afford Purchaser (or its designees) the right (at Purchaser's sole expense) to take extracts therefrom and to make copies thereof, to the extent reasonably necessary to permit Purchaser (or its designees) to prepare Tax Returns, to conduct negotiations with any Governmental Authority, and to implement the provisions of, or to investigate or defend any claims between the Parties arising under, this Agreement.

(b) From and after the Closing Date, Purchaser shall grant to Seller (or Seller's designees) access at all reasonable times to all of the information, books and records relating to the Assets within the possession of Purchaser (including work papers and correspondence with Governmental Authorities, but excluding work product of and attorney-client communications with any of Purchaser's legal counsel and personnel files), and shall afford Seller (or Seller's designees) the right (at Seller's expense) to take extracts therefrom and to make copies thereof, to the extent reasonably necessary to permit Seller (or Seller's designees) to prepare Tax Returns, to conduct negotiations with Governmental Authorities, and to implement the provisions of, or to investigate or defend any claims between the Parties arising under, this Agreement.

ARTICLE 10
TERMINATION

10.1 Termination. This Agreement may be terminated at any time prior to Closing:

(a) By the mutual prior written consent of Seller and Purchaser;

(b) By Purchaser, if Seller shall have failed to perform or observe in any material respect, or is in breach of any of its representations, warranties, covenants or other agreements contained in this Agreement, which failure to perform, observe or breach would give rise to the failure of a condition set forth in Section 7.2;

(c) By Seller, if Purchaser shall have failed to perform or observe in any material respect, or is in breach of any of its representations, warranties, covenants or other agreements contained in this Agreement, which failure to perform, observe or breach would give rise to the failure of a condition set forth in Section 7.1;

(d) By either Party if the Closing has not occurred on or before 5:00 pm local time in Houston, Texas on May 31, 2012 (the "Outside Date"); *provided that* that, no Party shall be entitled to terminate this Agreement under Section 10.1(d) if the Closing has failed to occur because such Party failed to perform or observe in any material respect its covenants and agreements hereunder or such Party is in breach of its representations and warranties set forth in this Agreement; or

(e) By either Party if the net sum of all adjustments (or estimated adjustments) to the Unadjusted Purchase Price pursuant to (i) Sections 2.2(a) for Title Defects and/or Section 2.2(b) for Properties or Assets excluded pursuant to Section 3.7, 3.10 or 3.11, with respect to Title Defects, consents or preferential rights, (ii) Section 2.2(a) for Environmental Defects or Section 2.2(b) for Properties excluded for Environmental Defects pursuant to Section 3.13(b)(ii) and (iii) pursuant to Section 2.2(b) as it relates to Casualty Losses under Section 11.5(b) is equal to or greater than ten percent (10%) of the Unadjusted Purchase Price.

10.2 Specific Performance. If this Agreement has not closed by the Outside Date because Seller has failed to perform or observe in any material respect its covenants and agreements or is in breach of its representations and warranties hereunder, then Purchaser shall be entitled to specific performance of this Agreement, it being specifically agreed that monetary damages may not be sufficient to compensate Purchaser; *provided that* the foregoing shall not constitute an election of remedies and shall not limit Purchaser's right to exercise any other remedies available to it at law or in equity.

10.3 Effect of Termination. If this Agreement is terminated pursuant to Sections 10.1(a), 10.1(d) and 10.1(e), neither Party nor its Affiliates shall have any liability to the other Party or its Affiliates as a result of such termination, whether at law or in equity, and this Agreement shall become void and of no further force or effect (except for the provisions of this Article 10, Sections 4.13, 5.7, 6.2, 6.6, 12.2, 12.4, 12.6, 12.7, 12.8, 12.9, 12.11, 12.13, 12.14, 12.16, 12.17, 12.19, and any applicable defined terms that are relevant to the foregoing provisions in Section 1.2 or the body of this Agreement, all of which shall continue in full force and effect). Notwithstanding anything to the contrary in this Agreement, the termination of this Agreement under Sections 10.1(b), 10.1(c) or 10.1(d) shall not relieve any Party from liability for any willful or negligent failure to perform or observe in any material respect any of its agreements or covenants contained herein that are to be performed or observed at or prior to Closing; *provided that* if this Agreement is terminated for any reason other than pursuant to Section 10.1(c), then Purchaser shall be entitled to the return of the Deposit, free of any claims by Seller with respect thereto.

ARTICLE 11
INDEMNIFICATION; LIMITATIONS

11.1 Assumed Obligations. Except for matters, obligations and liabilities for which Purchaser is indemnified under this Article 11, on the Closing Date (but only to the extent of such indemnification obligations after consideration of the limitations thereon set forth in this Article 11), Purchaser shall assume, and hereby agrees to fulfill, perform, pay, and discharge (or cause to be fulfilled, performed, paid, or discharged) all of Seller's obligations, liabilities and duties (collectively, the "Assumed Obligations"):

(a) with respect to the ownership and operation of the Assets that are attributable to periods before, on or after the Closing Date, whether known or unknown, and regardless of whether resulting from any acts or omissions of Seller, including with respect to the following occurrences, events, conditions and activities on or related to the Assets: (i) environmental pollution or contamination, including pollution or contamination of the soil, groundwater or air by Hydrocarbons, drilling fluid or other chemicals, brine, produced water, NORM, or any other substance; (ii) underground injection activities and waste disposal on the Assets; (iii) clean-up responses, and the cost of remediation, control, assessment or compliance with respect to surface and subsurface pollution caused by spills, pits, ponds, lagoons or subsurface storage tanks; (iv) non-compliance with applicable land use, surface disturbance, licensing or notification rules, regulations, demands or orders of appropriate state or federal regulatory agencies; (v) disposal on the Assets of any hazardous substances, wastes, materials and products generated by or used in connection with the ownership or operation of the Assets and (vi) non-compliance with Environmental Laws;

(b) with respect to the Suspended Proceeds transferred to Purchaser in accordance with Section 6.4;

(c) with respect to any imbalance, including production, pipeline, storage, or processing imbalances attributable to Hydrocarbons produced from the Properties, whether before, on, or after the Effective Time; *provided that* the foregoing shall be subject to the representation and warranty set forth in Section 4.11 and the adjustment to the Unadjusted Purchase Price in Section 2.2(d); and

(d) with respect to obligations for the plugging and abandonment of the Wells and dismantlement or abandonment of all structures and Equipment included in the Assets and the associated restoration of the surface covered by the Leases and Units in accordance with applicable Laws, regardless of whether are attributable to the ownership or operation of the Assets before, on or after the Closing Date, and regardless of the condition of the Assets when acquired.

11.2 Retained Obligations. Except for the Assumed Obligations as set forth in Section 11.1, Purchaser shall not assume or otherwise become liable for any liabilities, Damages, duties or other obligations of Seller, whether or not relating to the Assets, whether absolute, contingent, or otherwise, whether known or unknown, accrued or unaccrued, and regardless of whether such liability, Damage, duty, or other obligation was disclosed to Purchaser (collectively, the "Retained Obligations"), including any liabilities, Damages, duties, or obligations that:

(a) are attributable to, or arise out of, the Excluded Assets;

(b) are related to Seller's failure to pay or timely pay (i) proceeds received by Seller for Hydrocarbon sales attributable to the Wells for all periods prior to and through the Closing Date, and (ii) all joint interest billing invoices accrued to Seller's interest in the Assets prior to or as of the Closing Date, to the extent not accounted for under Sections 2.2 and 6.4;

(c) are Tax obligations retained by Seller pursuant to Article 9;

(d) are related to (i) any matters listed on Schedule 4.5, (ii) personal injury, property damage or death claims related to the Assets which arose from circumstances occurring prior to the Closing Date (excluding matters disclosed in Schedule 4.14), and (iii) any actions, suits, demands, investigations, administrative proceedings, or other proceedings pending against Seller and relating to the Assets as of the Closing Date; and

(e) are, prior to the Closing Date, caused by, arise out of, or result from the off-site disposal by Seller, its Affiliates or their respective agents, of any substance defined or regulated as a "pollutant," "hazardous waste," or "hazardous substance" under any Environmental Law.

11.3 Indemnification.

(a) From and after Closing, Purchaser shall indemnify, defend, and hold harmless Seller Group from and against all Damages incurred or suffered by Seller Group:

(i) caused by, arising out of, or resulting from, the Assumed Obligations;

(ii) caused by, arising out of, or resulting from Purchaser's breach of any of Purchaser's covenants or agreements contained in this Agreement; or

(iii) caused by, arising out of, or resulting from any breach of any representation or warranty made by Purchaser contained in Article 5 of this Agreement or in the certificate delivered at Closing pursuant to Section 8.3(e),

EVEN IF SUCH DAMAGES ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE (WHETHER SOLE, JOINT, OR CONCURRENT), STRICT LIABILITY OR OTHER LEGAL FAULT OF ANY INDEMNIFIED PERSON, INVITEE OR THIRD PERSON, AND WHETHER OR NOT CAUSED BY A PRE-EXISTING CONDITION, BUT EXCLUDING THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNIFIED PERSON, and further excepting in each case Damages against which Seller would be required to indemnify Purchaser under Section 11.3(b) (but only to the extent of such indemnification obligations after consideration of the limitations thereon set forth in this Article 11).

(b) From and after Closing, Seller shall indemnify, defend, and hold harmless Purchaser Group from and against all Damages incurred or suffered by Purchaser Group:

(i) caused by or arising out of, or resulting from, the Retained Obligations;

(ii) caused by, arising out of, or resulting from, Seller's breach of any of Seller's covenants or agreements contained in this Agreement; or

(iii) caused by, arising out of, or resulting from, any breach of any representation or warranty made by Seller with respect to its by, through and under warranty of title in Section 3.1(b) and the Assignment and Bill of Sale, and Article 4 of this Agreement, or in the certificates delivered at Closing pursuant to Section 8.2(f);

EVEN IF SUCH DAMAGES ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE (WHETHER SOLE, JOINT, OR CONCURRENT), STRICT LIABILITY OR OTHER LEGAL FAULT OF ANY INDEMNIFIED PERSON, INVITEE OR THIRD PERSON, AND WHETHER OR NOT CAUSED BY A PRE-EXISTING CONDITION, BUT EXCLUDING THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNIFIED PERSON.

(c) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, FROM AND AFTER CLOSING, EXCEPT FOR THE PARTIES' RIGHTS UNDER Article 10 AND SECTION 6.6 WHICH SHALL BE SEPARATELY ENFORCEABLE PURSUANT TO WHATEVER RIGHTS AND REMEDIES ARE AVAILABLE TO THE PARTIES' UNDER APPLICABLE LAW OR EQUITY OUTSIDE OF THIS Article 11, SELLER'S AND PURCHASER'S SOLE AND EXCLUSIVE REMEDY AGAINST EACH OTHER WITH RESPECT TO BREACHES OF THE REPRESENTATIONS, WARRANTIES, COVENANTS, AND AGREEMENTS OF THE PARTIES CONTAINED IN THIS AGREEMENT, AND THE AFFIRMATIONS OF SUCH REPRESENTATIONS, WARRANTIES, COVENANTS, AND AGREEMENTS CONTAINED IN THE CERTIFICATES DELIVERED BY EACH PARTY AT CLOSING PURSUANT TO SECTIONS 8.2(f) AND 8.3(e), AS APPLICABLE, IS SET FORTH IN THIS SECTION 11.3.

(d) The Parties shall treat, for Tax purposes, any amounts paid under this Article 11 as an adjustment to the Purchase Price.

11.4 Indemnification Actions. All claims for indemnification under Section 11.3 shall be asserted and resolved as follows:

(a) For purposes of this Article 11, the term "Indemnifying Person" when used in connection with particular Damages shall mean the Person having an obligation to indemnify another Person or Persons with respect to such Damages pursuant to this Article 11, and the term "Indemnified Person" when used in connection with particular Damages shall mean a Person having the right to be indemnified with respect to such Damages pursuant to this Article 11 (including, for the avoidance of doubt, those Persons identified in Section 11.4(g)).

(b) To make a claim for indemnification under Section 11.3, an Indemnified Person shall notify the Indemnifying Person of its claim, including the specific details of and specific basis under this Agreement for its claim (the "Claim Notice"). In the event that the claim for indemnification is based upon a claim by a third Person against the Indemnified Person (a "Third Person Claim"), the Indemnified Person shall provide its Claim Notice promptly after the Indemnified Person has actual knowledge of the Third Party Claim, and shall enclose a complete copy of all papers (if any) served with respect to the Third Party Claim; *provided that* the failure of any Indemnified Person to give notice of a Third Party Claim as provided in this Section 11.4 shall not relieve the Indemnifying Person of its obligations under Section 11.3, except to the extent such failure results in insufficient time being available to permit the Indemnifying Person to effectively defend against the Third Party Claim or otherwise prejudices the Indemnifying Person's ability to defend against the Third Party Claim. In the event that the claim for indemnification is based upon an inaccuracy or breach of a representation, warranty, covenant, or agreement under this Agreement, the Claim Notice shall specify the representation, warranty, covenant or agreement that was inaccurate or breached and the reasonably specific details of, and specific basis for, such asserted inaccuracy or breach.

(c) In the case of a claim for indemnification based upon a Third Party Claim, the Indemnifying Person shall have thirty (30) days from its receipt of the Claim Notice to notify the Indemnified Person whether it admits or denies its obligation to defend the Indemnified Person against such Third Party Claim under this Article 11. If the Indemnifying Person does not notify the Indemnified Person within such thirty (30) day period regarding whether the Indemnifying Person admits or denies its obligation to defend the Indemnified Person, it shall be deemed to have denied its obligation to provide such indemnification hereunder. The Indemnified Person is authorized, prior to and during such thirty (30) day period, to file any motion, answer or other pleading that it shall deem necessary or appropriate to protect its interests or those of the Indemnifying Person and that is not prejudicial to the Indemnifying Person.

(d) If the Indemnifying Person admits its obligation, it shall have the right and obligation to diligently defend, at its sole cost and expense, the Third Party Claim. The Indemnifying Person shall have full control of such defense and proceedings, including any compromise or settlement thereof. If requested by the Indemnifying Person, the Indemnified Person agrees to cooperate in contesting any Third Party Claim, which the Indemnifying Person elects to contest (*provided that* the Indemnified Person shall not be required to bring any counterclaim or cross-complaint against any Person). The Indemnified Person may participate in, but not control, any defense or settlement of any Third Party Claim controlled by the Indemnifying Person pursuant to this Section 11.4(d). An Indemnifying Person shall not, without the written consent of the Indemnified Person, settle any Third Party Claim or consent to the entry of any judgment with respect thereto that (i) does not result in a final, non-appealable, resolution of the Indemnified Person's liability with respect to the Third Party Claim (including, in the case of a settlement, an unconditional written release of the Indemnified Person from all further liability in respect of such Third Party Claim) or (ii) may materially and adversely affect the Indemnified Person (other than as a result of money damages covered by the indemnity).

(e) If the Indemnifying Person does not admit its obligation or admits its obligation but fails to diligently defend or settle the Third Party Claim, then the Indemnified Person shall have the right to defend against the Third Party Claim (at the sole cost and expense of the Indemnifying Person, if the Indemnified Person is entitled to indemnification hereunder), with counsel of the Indemnified Person's choosing, subject to the right of the Indemnifying Person to admit its obligation to indemnify the Indemnified Person and assume the defense of the Third Party Claim at any time prior to settlement or final, non-appealable determination thereof. If the Indemnifying Person has not yet admitted its obligation to indemnify the Indemnified Person, the Indemnified Person shall send written notice to the Indemnifying Person of any proposed settlement and the Indemnifying Person shall have the option for ten (10) days following receipt of such notice to (i) admit in writing its obligation for indemnification with respect to such Third Party Claim and (ii) if its obligation is so admitted, assume the defense of the Third Party Claim, including the power to reject the proposed settlement. If the Indemnified Person settles any Third Party Claim over the objection of the Indemnifying Person after the Indemnifying Person has timely admitted its obligation for indemnification in writing and assumed the defense of the Third Party Claim, the Indemnified Person shall be deemed to have waived any right to indemnity therefor.

(f) In the case of a claim for indemnification not based upon a Third Party Claim, the Indemnifying Person shall have thirty (30) days from its receipt of the Claim Notice to (i) cure the Damages complained of, (ii) admit its obligation to provide indemnification with respect to such Damages or (iii) dispute the claim for such Damages. If the Indemnifying Person does not notify the Indemnified Person within such thirty (30) day period that it has cured the Damages or that it disputes the claim for such Damages, the Indemnifying Person shall be conclusively deemed to have disputed the claim for indemnification hereunder.

(g) Any claim for indemnity under Section 11.3 by any Affiliate, director, officer, employee or agent must be brought and administered by the applicable Party to this Agreement. No Indemnified Person other than Seller and Purchaser shall have any rights against either Seller or Purchaser under the terms of Section 11.3 except as may be exercised on its behalf by Purchaser or Seller, as applicable, pursuant to this Section 11.4(g). Each of Seller and Purchaser may elect to exercise or not exercise indemnification rights under this Section 11.4 on behalf of the other Indemnified Persons affiliated with it in its sole discretion and shall have no liability to any such other Indemnified Person for any action or inaction under this Section 11.4.

11.5 Casualty and Condemnation.

(a) Subject to Section 7.2(d), if, after the date of this Agreement but prior to the Closing Date, any portion of the Assets is destroyed by fire or other casualty or is expropriated or taken in condemnation or under right of eminent domain (a "Casualty Loss"), this Agreement shall remain in full force and effect, and Purchaser shall nevertheless be required to close.

(b) In the event of a Casualty Loss, at the election of Seller, (i) Seller shall cause the Assets affected by any Casualty Loss to be repaired or restored, at Seller's sole cost, as promptly as reasonably practicable (which work may extend after the Closing Date), or (ii) the affected Assets shall be deleted from this Agreement and all exhibits and schedules hereto and shall constitute part of the Excluded Assets, and the Unadjusted Purchase Price shall be decreased by the Allocated Value thereof (in each case, Seller shall retain all rights to insurance and other claims against third Persons with respect to the Casualty Loss or taking except to the extent the Parties otherwise agree in writing).

11.6 Limitation on Actions.

(a) The representations and warranties of Seller in Section 4.17 shall not survive the Closing. The representations and warranties of Seller and Purchaser in Article 4 (excluding Sections 4.1, 4.2, 4.3, 4.4(i), 4.4(iii)-(iv) and 4.13, as well as the foregoing Section 4.17), Article 5 (excluding Sections 5.1, 5.2, 5.3, 5.4 and 5.7), and the corresponding representations, warranties, and affirmations given in the certificates delivered at Closing pursuant to Sections 8.2(f) and 8.3(e), as applicable, shall survive the Closing for a period of one (1) year. The representations and warranties of Seller and Purchaser in Sections 4.1, 4.2, 4.3, 4.4(i), 4.4(iii)-(iv), 4.13, 5.1, 5.2, 5.3, 5.4 and 5.7, as applicable to each Party, and the corresponding representations, warranties, and affirmations given in the certificates delivered at Closing pursuant to Sections 8.2(f) and 8.3(e), as applicable, with respect to such representations and warranties, shall survive the Closing for an indefinite period. Seller's representations and warranties with respect to the transfer of the Assets under Section 3.1(b) and the Assignment and Bill of Sale shall survive the Closing for an indefinite period. Covenants and obligations of Seller and Purchaser shall survive the Closing until fully performed. Representations, warranties, covenants, and agreements shall be of no further force and effect after the date of their expiration; *provided that* there shall be no termination of any *bona fide* claim asserted pursuant to this Agreement with respect to such a representation, warranty, covenant, or agreement prior to its expiration date.

(b) The indemnities of Purchaser in Sections 11.3(a)(ii) and 11.3(a)(iii), and of Seller in Sections 11.3(b)(ii), and 11.3(b)(iii), shall terminate as of the termination date of each respective representation, warranty, covenant, or agreement that is subject to indemnification, except in each case as to matters for which a specific written claim for indemnity has been delivered to the Indemnifying Person on or before such termination date. The indemnities of Seller in Section 11.3(b)(i) and of Purchaser in Section 11.3(a)(i) shall survive the Closing without time limit.

(c) Seller shall not have any liability for any indemnification under Section 11.3 until and unless the aggregate amount of the liability for all Damages (i) for which Claim Notices are delivered by Purchaser and (ii) with respect to which Seller admits (or it is otherwise finally determined) that Seller has an obligation to indemnify Purchaser pursuant to the terms of Section 11.3, exceeds the Deductible in the aggregate, after which point Seller shall be liable for Damages in excess of such amount; *provided that* this Section 11.6(c) shall not limit, in any respect, Seller's covenant in indemnification for the Retained Obligations or breaches of Seller's covenants in Sections 6.5, 6.7, 6.10 or 6.11 or the special warranty of title in Section 3.1(b) and the Assignment and Bill of Sale; *provided further*, that, for the purposes of this Article 11, any representation, warranty, or covenant set forth in this Agreement that is qualified by materiality or material adverse effect shall be deemed not to be so qualified.

(d) Notwithstanding anything to the contrary contained elsewhere in this Agreement, (i) Seller shall not be required to indemnify Purchaser under this Article 11 for aggregate Damages in excess of the amount of ten percent (10%) of the Unadjusted Purchase Price (the "<u>Seller Indemnity Cap</u>"); *provided that* the Seller Indemnity Cap shall not limit Seller's covenant of indemnification for (i) the Retained Obligations, (ii) breaches of the covenants in Sections 6.5, 6.7, or 6.11, (iii) Seller's obligations under the special warranty of title in the Assignment and Bill of Sale or (iv) breaches of the representations and warranties in Sections 4.1, 4.2, 4.3, 4.4(i), 4.4(iii)-(iv) and 4.13 with respect to any *bona fide* claims asserted by Purchaser on or prior to the first anniversary of the Closing Date, it being understood that the Seller Indemnity Cap shall limit Seller's covenant of indemnification for breaches of the representations and warranties in Sections 4.1, 4.2, 4.3, 4.4(i), 4.4(iii)-(iv) and 4.13 with respect to any *bona fide* claims asserted by Purchaser after the first anniversary of the Closing Date. In the event that the Purchaser makes an indemnity claim against Seller under Section 11.3, then the amount of such Damages attributable to such claim not disputed by Seller shall first be used to reduce the Preliminary Remainder Purchase Price that will otherwise be paid to Seller at the

Remainder Sale Closing Date. The foregoing shall in no event limit Purchaser's ability to seek Damages against Seller under this Article 11 subject to the limitations set forth in this Article 11.

(e) As used in this Article 11, the term "Damages" means the amount of any actual liability, loss, cost, expense, claim, award, or judgment incurred or suffered by any Indemnified Person arising out of or resulting from the indemnified matter, whether attributable to personal injury or death, property damage, contract claims, torts, or otherwise, including reasonable fees and expenses of attorneys, consultants, accountants, or other agents and experts reasonably incident to matters indemnified against, and the costs of investigation and/or monitoring of such matters, and the costs of enforcement of the indemnity. Notwithstanding the foregoing, neither Purchaser nor Seller shall be entitled to indemnification under this Article 11 for, and Damages shall not include, (a) loss of profits, whether actual or consequential, or other consequential damages suffered by the Party claiming indemnification, or any punitive damages (other than loss of profits, consequential damages, or punitive damages suffered by third Persons), and (b) any increase in liability, loss, cost, expense, claim, award or judgment to the extent such increase is caused by the gross negligence or willful misconduct of an Indemnified Person after the Closing Date.

ARTICLE 12
MISCELLANEOUS

12.1 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original instrument, but all such counterparts together shall constitute but one agreement.

12.2 Notices. All notices that are required or may be given pursuant to this Agreement shall be sufficient in all respects if given in writing, in English and delivered personally, by telecopy or by recognized courier service, as follows:

If to Purchaser:	Eagle Energy Acquisitions LP [NTD: intentionally redacted]
With a copy to (which shall not constitute notice):	Eagle Energy Trust [NTD: intentionally redacted]
With a copy to (which shall not constitute notice):	DLA Piper LLP (US) [NTD: intentionally redacted]

If to Seller:	[NTD: intentionally redacted]
With a copy to (which shall not constitute notice):	[NTD: intentionally redacted]
With a copy to (which shall not constitute notice):	[NTD: intentionally redacted]

Either Party may change its address for notice by written notice to the other in the manner set forth above. All notices shall be deemed to have been duly given at the time of receipt by the Party to which such notice is addressed. Notwithstanding the foregoing, delivery by Purchaser or Seller (as applicable) of a notice with respect to Title Defects or Title Benefits, the Environmental Defective Notice, or a response to any of the foregoing, shall be deemed to have been duly given to the other party when transmitted via electronic mail to the electronic mail address(es) of the representative(s) of such party named above.

12.3 **Sales or Use Tax, Recording Fees and Similar Taxes and Fees**. Notwithstanding anything to the contrary in Article 9, Purchaser shall bear any sales, use, excise, real property transfer or gain, gross receipts, goods and services, registration, capital, documentary, stamp or transfer Taxes, recording fees and similar Taxes and fees incurred and imposed upon, or with respect to, the property transfers or other transactions contemplated hereby. Should Seller or any Affiliate of Seller pay any amount for which Purchaser is liable under this Section 12.3, Purchaser shall, promptly following receipt of Seller's invoice, describing the amount in reasonable detail, reimburse the amount paid. The Parties will cooperate with respect to any exemption from any such Taxes.

12.4 **Expenses**. Except as provided in Section 11.4, all expenses incurred by Seller in connection with or related to the authorization, preparation or execution of this Agreement, and the Exhibits and Schedules hereto and thereto, and all other matters related to the Closing, including all fees and expenses of counsel, accountants and financial advisers employed by Seller, shall be borne solely and entirely by Seller, and all such expenses incurred by Purchaser shall be borne solely and entirely by Purchaser.

12.5 **Records**.

(a) As of the Closing, Seller and Purchaser shall cooperate with one another regarding delivery of the original Records and shall use commercially reasonable efforts to deliver or cause to be delivered to Purchaser the original Records that are in the possession of Seller or its Affiliates, subject to Section 12.5(b).

(b) Seller may retain the originals of those Records relating to Tax and accounting matters with respect to periods of time prior to the Effective Time. Seller may retain copies of any other Records, at its sole expense.

12.6 Governing Law and Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of Texas, without regard to principles of conflicts of laws that would direct the application of the laws of another jurisdiction.

12.7 Dispute Resolution. Each Party consents to personal jurisdiction in any action brought in the United States state or federal courts located in the State of Texas with respect to any dispute, claim or controversy arising out of or in relation to or in connection with this Agreement, and each of the Parties agrees that any action instituted by it against the other with respect to any such dispute, controversy or claim (except to the extent a dispute, controversy, or claim arising out of or in relation to or in connection with title or environmental matters pursuant to Section 3.9, or the determination of adjustments to the Unadjusted Purchase Price pursuant to Section 8.4(b) is referred to an expert pursuant to those Sections) will be instituted exclusively in the state courts located in Harris County, Texas or the United States District Court for the Southern District of Texas, Houston Division. Each Party (a) irrevocably submits to the exclusive jurisdiction of such courts, (b) waives any objection to laying venue in any such action or proceeding in such courts, (c) waives any objection that such courts are an inconvenient forum or do not have jurisdiction over it, and (d) agrees that service of process upon it may be effected by mailing a copy thereof by registered mail (or any substantially similar form of mail), postage prepaid, to it at its address specified in Section 12.2. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANOTHER IN ANY MATTER WHATSOEVER ARISING OUT OF OR IN RELATION TO OR IN CONNECTION WITH THIS AGREEMENT.

12.8 Captions. The captions in this Agreement are for convenience only and shall not be considered a part of or affect the construction or interpretation of any provision of this Agreement.

12.9 Waivers. Any failure by any Party to comply with any of its obligations, agreements or conditions herein contained may be waived by the Party to whom such compliance is owed by an instrument signed by the Party to whom compliance is owed and expressly identified as a waiver, but not in any other manner. No waiver of, or consent to a change in, any of the provisions of this Agreement shall be deemed or shall constitute a waiver of, or consent to a change in, other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. Forbearance by any Party to seek a remedy for any noncompliance or breach by any other Party shall not be deemed to be a waiver by the first such Party of its rights and remedies with respect to any such noncompliance or breach.

12.10 Assignment. No Party shall assign (including by change of control, merger, consolidation, or stock purchase) or otherwise transfer all or any part of this Agreement to any third Person (other than an Affiliate), nor shall any Party delegate any of its rights or duties hereunder (including by change of control, merger, consolidation, or stock purchase) to any third Person other than an Affiliate, without the prior written consent of the other Party and any transfer or delegation made without such consent shall be void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Purchaser may, (i) by providing written notice to Seller, but without Seller's consent, assign its rights and delegate its duties hereunder in whole (but not in part) to a wholly-owned Affiliate of Purchaser and (ii) nothing in this Section shall be deemed to limit Purchaser's ability to assign, transfer, sell or otherwise dispose of any portion of the Assets from and after Closing to a third Person.

12.11 Entire Agreement. This Agreement and the documents to be executed hereunder and the Exhibits and Schedules attached hereto constitute the entire agreement between the Parties pertaining to the subject matter hereof, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written of the Parties pertaining to the subject matter hereof. In entering into this Agreement, neither Party has relied on any statement, representation, warranty, covenant, or agreement of the other Party or its representatives other than those expressly contained in this Agreement.

12.12 Amendment. This Agreement may be amended or modified only by an agreement in writing signed by Seller and Purchaser and expressly identified as an amendment or modification.

12.13 No Third-Person Beneficiaries. Nothing in this Agreement shall entitle any Person other than Purchaser and Seller to any claim, cause of action, remedy or right of any kind, except the rights expressly provided to the Persons described in Section 6.6, Section 6.7, Section 6.13, and Section 11.4(g).

12.14 Severability. If any provision of this Agreement, or any application thereof, is held invalid, illegal or unenforceable in any respect under any Law, this Agreement shall be reformed to the extent necessary to conform, in each case consistent with the intention of the Parties, to such Law, and, to the extent such provision cannot be so reformed, then such provision (or the invalid, illegal or unenforceable application thereof) shall be deemed deleted from (or prohibited under) this Agreement, as the case may be, and the validity, legality and enforceability of the remaining provisions contained herein (and any other application of such provision) shall not in any way be affected or impaired thereby.

12.15 Time of the Essence. Time is of the essence in this Agreement. If the date specified in this Agreement for giving any notice or taking any action is not a Business Day (or if the period during which any notice is required to be given or any action taken expires on a date that is not a Business Day), then the date for giving such notice or taking such action (and the expiration of such period during which notice is required to be given or action taken) shall be the next day that is a Business Day.

12.16 References.

In this Agreement:

(a) References to any gender includes a reference to all other genders;

(b) References to the singular includes the plural, and *vice versa*;

(c) Reference to any Article or Section means an Article or Section of this Agreement;

(d) Reference to “or” is disjunctive, but not necessarily exclusive;

(e) Reference to any Exhibit or Schedule means an Exhibit or Schedule to this Agreement, all of which are incorporated into and made a part of this Agreement;

(f) Unless expressly provided to the contrary, “hereunder”, “hereof”, “herein” and words of similar import are references to this Agreement as a whole and not any particular Section or other provision of this Agreement;

(g) References to “$” or “dollars” means United States Dollars; and

(h) “Include” and “including” shall mean include or including without limiting the generality of the description preceding such term.

12.17 Construction. This Agreement is the result of arm's-length negotiations from equal bargaining positions. It is expressly agreed that this Agreement shall not be construed against any Party, and no consideration shall be given or presumption made, on the basis of who drafted this Agreement or any particular provision thereof.

12.18 Confidentiality Agreement. The Confidentiality Agreement shall terminate at Closing.

12.19 Limitation on Damages. Notwithstanding anything to the contrary contained herein, neither Purchaser nor Seller, nor any of their respective Affiliates shall be entitled to consequential, special or punitive damages, lost profits, lost business opportunities, or diminution in value with respect to any claim, proceeding, controversy or dispute in connection with this Agreement and the transactions contemplated hereby (other than consequential, special, or punitive damages suffered by third Persons for which responsibility is allocated between the Parties hereunder in the event of Closing), and Purchaser and Seller, for themselves and on behalf of their Affiliates, hereby expressly waive any right to such damage in connection with this Agreement and the transactions contemplated hereby (other than consequential, special, or punitive damages suffered by third Persons for which responsibility is allocated between the Parties hereunder in the event of Closing).

12.20 Waiver of Consumer Rights. AS PARTIAL CONSIDERATION FOR THE PARTIES ENTERING INTO THIS AGREEMENT, EACH PARTY HEREBY WAIVES THE PROVISIONS OF THE TEXAS DECEPTIVE TRADE PRACTICES CONSUMER PROTECTION ACT, ARTICLE 17.41 ET SEQ., TEXAS BUSINESS AND COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTION, AND ALL OTHER CONSUMER PROTECTION LAWS OF THE STATE OF TEXAS, OR OF ANY OTHER STATE, THAT MAY BE APPLICABLE TO THIS TRANSACTION, THAT MAY BE WAIVED BY SUCH PARTY. IT IS NOT THE INTENT OF EITHER PARTY TO WAIVE, AND NEITHER PARTY DOES HEREBY WAIVE, ANY LAW OR PROVISION THEREOF THAT IS PROHIBITED BY LAW FROM BEING WAIVED. EACH PARTY REPRESENTS THAT IT HAS HAD AN ADEQUATE OPPORTUNITY TO

REVIEW THE PRECEDING WAIVER PROVISION, INCLUDING THE OPPORTUNITY TO SUBMIT THE SAME TO LEGAL COUNSEL FOR REVIEW AND ADVICE AND AFTER CONSULTATION WITH AN ATTORNEY OF ITS OWN SELECTION VOLUNTARILY CONSENTS TO THIS WAIVER, AND UNDERSTANDS THE RIGHTS BEING WAIVED HEREIN.

IN WITNESS WHEREOF, this Agreement has been signed by each of the Parties as of the date first above written.

SELLER:
[NTD: intentionally redacted]

PURCHASER:

EAGLE ENERGY ACQUISITIONS LP
By its general partner, Eagle Hydrocarbons LLC

By: ______________________________

Name: ______________________________

Title: ______________________________

By: ______________________________

Name: ______________________________

Title: ______________________________

EXHIBIT A-1

LEASES

[NTD: Information regarding the leases, including the Seller's leasehold and mineral fee interests and overriding royalty interests was intentionally redacted]

<u>EXHIBIT A-2</u>

WELLS AND UNITS

[NTD: Information regarding the Seller's wells was intentionally redacted]

<u>EXHIBIT B</u>

FORM OF ASSIGNMENT AND BILL OF SALE

[NTD: The conveyancing document under which the Assets are transferred and assigned from Selller to Purchaser was intentionally redacted]

EXHIBIT C

FORM OF ESCROW AGREEMENT

[NTD: The form of Escrow Agreement among the Purchaser, the Seller and the Escrow Agent was intentionally redacted]

EXHIBIT D

FORM OF JOINT OPERATING AGREEMENT AMENDMENT

[NTD: The Form of Joint Operating Agreement Amendment, which amendment amends the Joint Operating Agreement, otherwise effective at Closing, between the Purchaser and Seller was intentionally redacted]

SCHEDULE 1.2(d)(iv)

FIELD OFFICES

[NTD: Information regarding the existence and location of any field offices acquired by the Purchaser was intentionally redacted]

SCHEDULE 1.2(d)(vi)

EASEMENTS

[NTD: Information regarding the existence of all easements, Permits, licenses, servitudes, rights-of-way, surface leases and other rights to use the surface and subsurface appurtenant thereto was intentionally redacted]

<u>SCHEDULE 1.2(d)(xi)</u>

REQUIRED PERMITS

[NTD: Information regarding required Permits was intentionally redacted]

<u>SCHEDULE 1.3(g)</u>

SELLER’S EXCLUDED PERMITS

[NTD: Information regarding Seller's Permits excluded from the Assets transferred at Closing was intentionally redacted]

<u>SCHEDULE 1.3(m)</u>

SELLER'S OTHER EXCLUDED ASSETS

[NTD: Information regarding assets excluded by Seller from the Acquisition was intentionally redacted]

SCHEDULE 2.2(c)

HYDROCARBONS IN STORAGE

[NTD: Information regarding Seller's Hydrocarbons in storage on a well-by-well basis was intentionally redacted]

SCHEDULE 3.4

ALLOCATED VALUES

[NTD: Information regarding Purchaser's allocation of the Purchase Price across the Assets being acquired was intentionally redacted]

<u>SCHEDULE 4.5</u>

LITIGATION

[NTD: Information regarding any pending or, to the knowledge of the Seller, threatened litigation matters was intentionally redacted]

SCHEDULE 4.7

TAXES AND ASSESSMENTS

[NTD: Information regarding any failure on the part of the Seller to comply with the Tax representation set forth in Section 4.7 was intentionally redacted]

SCHEDULE 4.8

COMPLIANCE WITH LAW

[NTD: Information regarding any failure on the part of Seller to comply with applicable Law (other than Environmental Laws) was intentionally redacted]

SCHEDULE 4.9

MATERIAL CONTRACTS

[NTD: Information regarding the Seller's Material Contracts was intentionally redacted]

SCHEDULE 4.10(a)

OPERATED PERMIT EXCEPTIONS

[NTD: Information regarding exceptions to Seller's representation with respect to Permits for the Assets the Seller operates was intentionally redacted]

SCHEDULE 4.10(b)

NON-OPERATED PERMIT EXCEPTIONS

[NTD: Information regarding exceptions to the Seller's representation with respect to Permits for the Assets the Seller does not operate was intentionally redacted]

SCHEDULE 4.11

IMBALANCES

[NTD: Information regarding any gas imbalances was intentionally redacted]

SCHEDULE 4.12

CONSENTS AND PREFERENTIAL RIGHTS

[NTD: Information regarding any preferential or consent rights applicable to the transactions contemplated under the Purchase and Sale Agreement was intentionally redacted]

SCHEDULE 4.14

WELLS AND EQUIPMENT

[NTD: Information regarding any exceptions to the representations and warranties of the Seller with respect to the Wells and Equipment was intentionally redacted]

SCHEDULE 4.15

NON-CONSENT OPERATIONS

[NTD: Information regarding any operation or activity with respect to the Properties that the Seller has elected not to participate in, or which could result in a penalty or forfeiture of the Seller's interest in such Properties was intentionally redacted]

<u>**SCHEDULE 4.16**</u>

OUTSTANDING CAPITAL COMMITMENTS

[NTD: Information regarding outstanding authorities for expenditure in excess of $50,000 that are binding on the Properties being acquired by Purchaser was intentionally redacted]

<u>SCHEDULE 4.17</u>

ENVIRONMENTAL DISCLOSURE

[NTD: Information regarding any exception to the Seller's environmental representations and any known environmental conditions with respect to the Properties was intentionally redacted]

SCHEDULE 4.19

SUSPENDED PROCEEDS

[NTD: Information regarding any proceeds held in suspense, the source of such suspended proceeds, the reason such proceeds are held in suspense, the agreement to which such suspense proceeds relate and the name or names or the parties claiming such funds was intentionally redacted]

<u>**SCHEDULE 4.20**</u>

CERTAIN LEASES

[NTD: Information regarding Leases that: (a) are currently held by payment of shut-in royalties, reworking operations, any substitute for production in paying quantities, or any other means other than production in paying quantities, and (b) will expire, terminate, or otherwise be materially impaired absent actions by or on behalf of the Seller (other than continued production in paying quantities) on or before a date that is one hundred and eighty (180) days after May 18, 2012 was intentionally redacted]

SCHEDULE 6.3

OPERATION OF BUSINESS

[NTD: Information regarding exceptions to seller's restrictive operating covenant with respect to the operation of the Assets between signing and closing was intentionally redacted]