

CALPINE CORP

FORM 8-K (Current report filing)

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**FORM 8-K
CURRENT REPORT**

Pursuant to Section 13 or 15(d) of

The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): September 2, 2004

CALPINE CORPORATION

(A Delaware Corporation)

Commission File Number: 001-12079

I.R.S. Employer Identification No. 77-0212977

50 West San Fernando Street

San Jose, California 95113

Telephone: (408) 995-5115

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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SECTION 1 — REGISTRANT'S BUSINESS AND OPERATIONS

ITEM 1.01. ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT

Calpine Corporation (the “Registrant”) entered into three material definitive agreements in the aggregate; to dispose of a significant portion of its oil and gas assets not made in the ordinary course of business of the Registrant. These agreements are outlined below:

Agreement no. 1:

Calpine Natural Gas L.P. (“CNG”) and the Registrant (collectively the “Seller”), entered into an agreement with Pogo Producing Company (“Pogo”), the buyer, effective July 1, 2004 (the “Effective Date”), to sell all of Seller’s right, title and interest in its oil and gas properties and associated assets in New Mexico, including all of Seller’s leases, minerals, overrides, easements, wells, contracts, and personal property (“New Mexico Properties”). The cash consideration was \$83.1 million, which included a \$3 million performance deposit. Although no purchase price adjustments were made prior to the closing on September 1, 2004, the Purchase and Sale Agreement with Pogo does provide for a post-closing settlement for: (1) certain title defects claimed by Pogo before Closing, provided that such defects cannot be resolved to the satisfaction of both parties, (2) adjustments if Seller is unable to obtain consents to assign certain New Mexico Properties, and (3) revenues and costs before and after the Effective Date.

The New Mexico Properties were sold subject to certain warranties and representations that are customary in transactions of this type in the United States. As noted above, the Seller retains responsibility for curing (or making a purchase price adjustment for) certain title defects claimed by Pogo. In addition, the Seller has agreed to indemnify Pogo for up to one-half of the purchase price for claims: (1) related to pre-Effective Date liabilities (other than certain environmental and title defects) and (2) made on or before December 31, 2005. Pogo agrees to indemnify the Seller for all post-Effective Date liabilities.

This agreement has been attached under Item 9.01(c) as Exhibit 99.1.

Agreement no. 2:

CNG and the Registrant (collectively with CNG the “Seller”), entered into an agreement with Bill Barrett Corporation, the buyer, effective July 1, 2004 (the “Effective Date”), to sell all of the Seller’s right, title and interest in its oil and gas properties and associated assets in Colorado (except for CNG’s Kitzmiller property in the north-west part of the state which were retained by the seller), including leases, minerals, overrides, easements, wells, contracts, and personal property (“Colorado Properties”). The purchase price was \$139.7 million, which included a \$7.0 million performance deposit. Although no purchase price adjustments were made prior to the closing on September 1, 2004, the Purchase and Sale Agreement with Bill Barrett Corporation does provide for a post-closing settlement for: (1) certain environmental and title defects claimed by Bill Barrett Corporation before closing, provided that such defects cannot be resolved to the satisfaction of both parties, (2) adjustments if Seller is unable to obtain consents to assign for certain Colorado Properties and (3) revenues and costs before and after the Effective Date.

The Colorado Properties were sold subject to certain warranties and representations that are customary in transactions of this type in the United States. As noted above, the Seller retains responsibility for curing (or making a purchase price adjustment for) certain title defects claimed by Barrett. In addition, the Seller has agreed to indemnify Bill Barrett Corporation for up to one-half of the purchase price for claims: (1) related to pre-Effective Date liabilities (other than certain environmental and title defects) and (2) made on or before one year following the closing. Barrett agrees to indemnify Seller for all post-Effective Date liabilities.

This agreement has been attached under Item 9.01(c) as Exhibit 99.2.

Agreement no. 3:

Calpine Canada Natural Gas Partnership (“CCNGP”) and Calpine Energy Holdings Limited (“CEHL”), entered into an agreement with PrimeWest Gas Corp. and PrimeWest Energy Trust, the Buyer, to sell, effective July 1, 2004, all of CCNGP’s interest in oil and gas properties located in Canada and all of CEHL’s ownership interest in 6.8 million units of Calpine Natural Gas Trust (“CNGT”), for cash consideration of CND\$825.0 million, or approximately US\$625.0 million, less adjustments of CND\$15.6 million, to reflect a September 2, 2004, closing date. The agreement contained standard terms and conditions relating to the sale of oil and gas properties in Alberta. The transaction closed on September 2, 2004.

As a result of the sale of the trust units of CNGT, the Registrant’s obligations under various agreements with CNGT have been terminated. This included the Registrant’s obligations under the energy management agreement, the participation agreement (wherein the Registrant had agreed to offer 50% of any future acquisition of properties to the CNGT) and the call on production agreement (wherein the Registrant had the right to purchase all of the CNGT’s production at index pricing, secured by the trust units owned by the Registrant).

This agreement has been attached under Item 9.01(c) as Exhibit 99.3.

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SECTION 2 — FINANCIAL INFORMATION

ITEM 2.01. COMPLETION OF ACQUISITION OR DISPOSITION OF ASSETS

Calpine Corporation (the “Registrant”) completed the disposition of a significant amount of its oil and gas assets outside the ordinary course of business. A description of the transactions that represent the disposition of a significant amount of assets is listed below.

Calpine Natural Gas L.P. (“CNG”) and the Registrant, (collectively the “Seller”), entered into an agreement with Pogo Producing Company (“Pogo”), the buyer, effective July 1, 2004 (the “Effective Date”), to sell all of Seller’s right, title and interest in its oil and gas properties and associated assets in New Mexico, including all of Seller’s leases, minerals, overrides, easements, wells, contracts, and personal property (“New Mexico Properties”). The cash consideration was \$83.1 million, which included a \$3 million performance deposit. Although no purchase price adjustments were made prior to the closing on September 1, 2004, the Purchase and Sale Agreement with Pogo does provide for a post-closing settlement for: (1) certain title defects claimed by Pogo before the closing, provided that such defects cannot be resolved to the satisfaction of both parties, (2) adjustments if Seller is unable to obtain consents to assign certain New Mexico Properties, and (3) revenues and costs before and after the Effective Date. The New Mexico Properties were sold subject to certain warranties and representations that are customary in transactions of this type in the United States.

CNG and the Registrant (collectively with CNG the “Seller”), entered into an agreement with Bill Barrett Corporation, the buyer, effective July 1, 2004 (the “Effective Date”), to sell all of the Seller’s right, title and interest in its oil and gas properties and associated assets in Colorado (except for CNG’s Kitzmiller property in the north-west part of the state which were retained by the Seller), including leases, minerals, overrides, easements, wells, contracts, and Colorado Properties. The purchase price was \$139.7 million, which included a \$7.0 million performance deposit. Although no purchase price adjustments were made prior to the closing on September 1, 2004, the Purchase and Sale Agreement with Bill Barrett Corporation does provide for a post-closing settlement for: (1) certain environmental and title defects claimed by Bill Barrett Corporation before closing, provided that such defects cannot be resolved to the satisfaction of both parties, (2) adjustments if Seller is unable to obtain consents to assign for certain Colorado Properties and (3) revenues and costs before and after the Effective Date. The Colorado Properties were sold subject to certain warranties and representations that are customary in transactions of this type in the United States.

Calpine Canada Natural Gas Partnership (“CCNGP”) and Calpine Energy Holdings Limited (“CEHL”), entered into an agreement with PrimeWest Gas Corp. and PrimeWest Energy Trust, the Buyer, to sell, effective July 1, 2004, all of CCNGP’s interest in oil and gas properties located in Canada and all of CEHL’s ownership interest in 6.8 million units of Calpine Natural Gas Trust (“CNGT”), for cash consideration of CND\$825.0 million, or approximately US\$625.0 million, less adjustments of CND \$15.6 million, to reflect a September 2, 2004, closing date. The agreement contained standard terms and conditions relating to the sale of oil and gas properties in Alberta. The transaction closed on September 2, 2004.

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ITEM 2.05. COSTS ASSOCIATED WITH EXIT OR DISPOSAL ACTIVITIES

On September 1, 2004, as further described in Items 1.01 and 2.01 of the Form 8-K, the Registrant along with CNG completed the sale of its Rocky Mountain gas reserves that are primarily concentrated in two geographic areas: the Colorado Piceance Basin and the New Mexico San Juan Basin. Together, these assets represent approximately 120 billion cubic feet equivalent (“Bcfe”) of proved gas reserves, producing approximately 16.3 million net cubic feet equivalent (“MMcfed”) per day of gas. On September 2, 2004, the Registrant completed the sale of its Canadian natural gas reserves and petroleum assets. These Canadian assets represent approximately 221 Bcfe of proved reserves, producing approximately 61 MMcfed. Included in this sale was the Registrant’s 25 percent interest in approximately 80 Bcfe of proved reserves (net of royalties) and 32 MMcfed of production owned by the Calpine Natural Gas Trust (“CNGT”). In connection with the Registrant’s sale of its Canadian and Rocky Mountain gas reserves, the Registrant will incur one-time future cash expenditures associated with the sale, consisting of employee severance and other related one-time termination benefits of approximately \$4.9 million pre-tax, various other exit costs of approximately \$0.6 million pre-tax and closing fees of approximately \$4.6 million pre-tax, for total pre-tax exit activity costs of approximately \$10.1 million (\$6.1 million net of tax).

SECTION 8 — OTHER EVENTS

ITEM 8.01. OTHER EVENTS

On September 2, 2004, the Registrant issued a press release attached hereto as exhibit 99.4 announcing the sale of its Rocky Mountain gas reserves. Also, on September 2, 2004, the Registrant issued a press release attached hereto as exhibit 99.5 announcing the completion of the sale of its Canadian gas reserves.

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SECTION 9 — FINANCIAL STATEMENTS AND EXHIBITS

ITEM 9.01. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial Statements of Businesses Acquired
Not Applicable

(b) Pro Forma Financial Information

Calpine Natural Gas L.P. (“CNG”) and the Registrant, (collectively the “Seller”), entered into an agreement with Pogo Producing Company (“Pogo”), the buyer, effective July 1, 2004 (the “Effective Date”), to sell all of Seller’s right, title and interest in its oil and gas properties and associated assets in New Mexico, including all of Seller’s leases, minerals, overrides, easements, wells, contracts, and personal property (“Properties”). The cash consideration was \$83.1 million, which included a \$3 million performance deposit. Although no purchase price adjustments were made for operations prior to the closing on September 1, 2004, the Purchase and Sale Agreement (“PSA”) does provide for a post-closing settlement for: (1) certain environment and title defects claimed by Pogo before Closing, provided that such defects cannot be resolved to the satisfaction of both parties, (2) adjustments if Seller is unable to obtain consents to assign for certain Properties, and (3) revenues and costs before and after the Effective Date. The Properties were sold subject to certain warranties and representations that are customary in transactions of this type in the United States.

CNG and the Registrant (collectively the “Seller”), entered into an agreement with Bill Barrett Corp. (“Barrett”), the buyer, effective July 1, 2004 (the “Effective Date”), to sell all of the Seller’s Effective Date right, title and interest in its oil and gas properties and associated assets in Colorado (except for CNG’s Kitzmiller property that was retained in the north-west part of the state), including leases, minerals, overrides, easements, wells, contracts, and Properties. The purchase price was \$139.7 million, which included a \$7.0 million performance deposit. Although no purchase price adjustments were made for operations prior to September 1, 2004, the closing date, the PSA does provide for a post-closing settlement for: (1) certain environment and title defects claimed by the Barrett before Closing, provided that such defects cannot be resolved to the satisfaction of both parties, (2) adjustments if Seller is unable to obtain consents to assign for certain Properties and (3) revenues and costs before and after the Effective Date. The Properties were sold subject to certain warranties and representations that are customary in transactions of this type in the United States.

Calpine Canada Natural Gas Partnership (“CCNGP”) and Calpine Energy Holdings Limited (“CEHL”), entered into an agreement with PrimeWest Gas Corp. and PrimeWest Energy Trust, the Buyer, to sell, effective July 1, 2004, all of CCNGP’s interest in oil and gas properties located in Canada and all of CEHL’s ownership interest in 6.8 million units of Calpine Natural Gas Trust (“CNGT”), for cash consideration of CND\$825.0 million, or approximately US\$625.0 million, less adjustments of CND\$15.6 million, to reflect a September 2, 2004, closing date. The agreement contained standard terms and conditions relating to the sale of oil and gas properties in Alberta. The transaction closed on September 2, 2004 Effective Date.

In connection with the Registrant’s sale of its Canadian gas reserves, the Registrant will incur one-time future cash expenditures associated with the sale, consisting of employee severance and other related one-time termination benefits of approximately \$4.9 million pre-tax, various other exit costs of approximately \$0.6 million pre-tax and closing fees of approximately \$4.6 million pre-tax, for total pre-tax exit activity costs of approximately \$10.1 million (\$6.1 million net of tax). These charges, which will be made in the third quarter of 2004, were not considered in the historical Pro-Forma Consolidated Condensed Statements of Operations presented below.

The unaudited Pro-forma Consolidated Condensed Statements of Operations are presented for the six months ended June 30, 2004 and the year ended December 31, 2003 and present the Registrant’s operations as if the transactions described above had occurred at January 1 of each of the periods presented. An unaudited Pro-Forma Consolidated Condensed Balance Sheet as of June 30, 2004, is also presented. The unaudited Pro-Forma Consolidated Condensed Balance Sheet presents the property sales described above, as if they had occurred at January 1, 2004.

The unaudited Pro-Forma Consolidated Condensed Financial Statements should be read in conjunction with the Registrant’s Financial Statements and related Notes included in the Registrant’s Report on Form 10-Q for the quarter ended June 30, 2004 and the Report on Form 10-K for the year ended December 31, 2003 filed with the Securities and Exchange Commission.

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CALPINE CORPORATION AND SUBSIDIARIES

PRO-FORMA CONSOLIDATED CONDENSED BALANCE SHEET
June 30, 2004
(In thousands, except share and per share amounts)
(Unaudited)

	Actual	Canadian Gas Assets(1)	Rocky Mountain Gas Assets(1)	New Mexico Gas Assets(1)	Pro-Forma
	(Unaudited)				
	ASSETS				
Current assets:					
Cash and cash equivalents	\$ 844,031	\$ —	\$ —	\$ —	\$ 844,031
Accounts receivable, net	1,170,130	—	—	—	1,170,130
Margin deposits and other prepaid expense	406,741	—	—	—	406,741
Inventories	144,913	(1,838)	—	—	143,075
Restricted cash	317,833	—	—	—	317,833
Current derivative assets	338,805	—	—	—	338,805
Current assets held for sale	—	1,838	—	—	1,838
Other current assets	72,117	—	—	—	72,117
Total current assets	3,294,570	<b">—</b">	<b">—</b">	<b">—</b">	<b">3,294,570</b">
Restricted cash, net of current portion	191,695	—	—	—	191,695
Notes receivable, net of current portion	225,396	—	—	—	225,396
Project development costs	151,084	—	—	—	151,084
Investments in power projects and oil and gas properties	417,303	(24,558)	—	—	392,745
Deferred financing costs	423,499	—	—	—	423,499
Prepaid lease, net of current portion	383,940	—	—	—	383,940
Property, plant and equipment, net	21,031,174	(456,668)	(65,654)	(47,286)	20,461,566
Goodwill, net	45,160	—	—	—	45,160
Other intangible assets, net	89,411	—	—	—	89,411
Long-term derivative assets	561,328	—	—	—	561,328
Long-term assets held for sale	—	481,226	65,654	47,286	594,166
Other assets	627,202	—	—	—	627,202
Total assets	\$27,441,762	<b">\$ —</b">	\$ —	\$ —	\$27,441,762
LIABILITIES & STOCKHOLDERS' EQUITY					
Current liabilities:					
Accounts payable	\$ 1,160,600	—	—	—	\$ 1,160,600
Accrued payroll and related expense	72,644	—	—	—	72,644
Accrued interest payable	362,497	—	—	—	362,497
Income taxes payable	5,680	—	—	—	5,680
Notes payable and borrowings under lines of credit, current portion	239,289	—	—	—	239,289
Preferred interests, current portion	8,758	—	—	—	8,758
Capital lease obligation, current portion	8,466	—	—	—	8,466
CCFC I financing, current portion	3,208	—	—	—	3,208
Construction/project financing, current portion	57,256	—	—	—	57,256
Senior notes and term loans, current portion	14,500	(2,000)	—	—	12,500
Current derivative liabilities	383,097	—	—	—	383,097
Current liabilities held for sale	—	4,330	—	—	4,330
Other current liabilities	271,589	(2,330)	—	—	269,259
Total current liabilities	<b">2,587,584</b">	<b">—</b">	<b">—</b">	<b">—</b">	<b">2,587,584</b">
Notes payable and borrowings under lines of credit, net of current portion	861,424	—	—	—	861,424
Notes payable to Calpine Capital Trusts	1,153,500	—	—	—	1,153,500
Preferred interests, net of current portion	142,064	—	—	—	142,064
Capital lease obligation, net of current portion	283,005	—	—	—	283,005
CCFC I financing, net of current portion	784,661	—	—	—	784,661
CalGen/CCFC II financing	2,448,907	—	—	—	2,448,907

Construction/project financing, net of current portion	1,723,040	—	—	—	1,723,040
Convertible Senior Notes Due 2006	72,126	—	—	—	72,126

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CALPINE CORPORATION AND SUBSIDIARIES

PRO-FORMA CONSOLIDATED CONDENSED BALANCE SHEET — (Continued)
June 30, 2004
(In thousands, except share and per share amounts)
(Unaudited)

	Actual	Canadian Gas Assets(1)	Rocky Mountain Gas Assets(1)	New Mexico Gas Assets(1)	Pro-Forma
(Unaudited)					
Convertible Senior Notes Due 2023	900,000	—	—	—	900,000
Senior notes and term loans, net of current portion	9,370,936	(218,529)	(48,949)	(29,022)	9,074,436
Deferred income taxes, net	1,185,712	—	—	—	1,185,712
Deferred revenue	110,087	—	—	—	110,087
Long-term derivative liabilities	599,495	—	—	—	599,495
Long-term liabilities held for sale	—	234,014	49,091	29,193	312,298
Other liabilities	267,769	(15,485)	(142)	(171)	251,971
Total liabilities	<u>22,490,310</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>22,490,310</u>
Minority interests	<u>350,561</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>350,561</u>
Stockholders' equity:					
Preferred stock, \$.001 par value per share; authorized 10,000,000 shares; none issued and outstanding in 2004 and 2003	—	—	—	—	—
Common stock, \$.001 par value per share; authorized 1,000,000,000 shares at December 31, 2003, and 2,000,000,000 shares at June 30, 2004; issued and outstanding 439,326,249 shares in 2004 and 415,010,125 shares in 2003	439	—	—	—	439
Additional paid-in capital	3,109,778	—	—	—	3,109,778
Retained earnings	1,468,619	—	—	—	1,468,619
Accumulated other comprehensive income	<u>22,055</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>22,055</u>
Total stockholders' equity	<u>4,600,891</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>4,600,891</u>
Total liabilities and stockholders' equity	<u>\$27,441,762</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$27,441,762</u>

(1) Assumes sale by Calpine Corporation on June 30, 2004.

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CALPINE CORPORATION AND SUBSIDIARIES

PRO-FORMA CONSOLIDATED CONDENSED STATEMENT OF OPERATIONS(1)(2)
Six Months Ended June 30, 2004
(In thousands, except per share amounts)
(Unaudited)

	Actual	Canadian Gas Assets	Rocky Mountain Gas Assets	New Mexico Gas Assets	Pro-Forma
	(Unaudited)				
Revenue:					
Electric generation and marketing revenue					
Electricity and steam revenue	\$ 2,558,678	\$ —	\$ —	\$ —	\$ 2,558,678
Sales of purchased power for hedging and optimization	876,680	—	—	—	876,680
Total electric generation and marketing revenue	3,435,358	—	—	—	3,435,358
Oil and gas production and marketing revenue					
Oil and gas sales	50,651	(19,108)	(374)	(1,384)	29,785
Sales of purchased gas for hedging and optimization	834,708	—	—	—	834,708
Total oil and gas production and marketing revenue	885,359	(19,108)	(374)	(1,384)	864,493
Mark-to-market activities, net	(10,086)	—	—	—	(10,086)
Other revenue	46,741	—	—	—	46,741
Total revenue	4,357,372	(19,108)	(374)	(1,384)	4,336,506
Cost of revenue:					
Electric generation and marketing expense					
Plant operating expense	399,498	—	—	—	399,498
Transmission purchase expense	31,078	—	—	—	31,078
Royalty expense	12,833	—	—	—	12,833
Purchased power expense for hedging and optimization	820,108	—	—	—	820,108
Total electric generation and marketing expense	1,263,517	—	—	—	1,263,517
Oil and gas operating and marketing expense					
Oil and gas operating expense	45,770	(13,687)	(1,290)	(2,647)	28,146
Purchased gas expense for hedging and optimization	814,409	—	—	—	814,409
Total oil and gas operating and marketing expense	860,179	(13,687)	(1,290)	(2,647)	842,555
Fuel expense	1,630,490	39,188	9,486	6,756	1,685,920
Depreciation, depletion and amortization expense	311,203	(34,495)	(3,099)	(1,847)	271,762
Operating lease expense	54,762	—	—	—	54,762
Other cost of revenue	48,988	—	—	—	48,988
Total cost of revenue	4,169,139	(8,994)	5,097	2,262	4,167,504
Gross profit	188,233	(10,114)	(5,471)	(3,646)	169,002
Loss (income) from unconsolidated investments in power projects and oil and gas properties	(1,788)	2,586	—	—	798
Equipment cancellation and impairment cost	2,367	—	—	—	2,367
Project development expense	11,748	—	—	—	11,748
Research and development expense	8,939	—	—	—	8,939
Sales, general and administrative expense	118,225	(5,612)	—	—	112,613
Income from operations	48,742	(7,088)	(5,471)	(3,646)	32,537
Interest expense	534,452	(9,920)	(1,694)	(1,120)	521,718
Interest (income)	(21,981)	—	—	—	(21,981)
Minority interest expense	13,159	—	—	—	13,159
(Income) from repurchase of various issuances of debt	(3,394)	—	—	—	(3,394)
Other (income)	(203,996)	—	—	—	(203,996)
Loss before (benefit) for income taxes	(269,498)	2,832	(3,777)	(2,526)	(272,969)
(Benefit) for income taxes	(146,553)	1,109	(1,440)	(1,003)	(147,887)

Loss from continuing operations(3) \$ (122,945) \$ 1,723 \$ (2,337) \$ (1,523) \$ (125,082)

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Six Months Ended June 30, 2004
(In thousands, except per share amounts)
(Unaudited)

	Actual	Canadian Gas Assets	Rocky Mountain Gas Assets	New Mexico Gas Assets	Pro-Forma
	(Unaudited)				
Basic and diluted loss per common share:					
Weighted average shares of common stock outstanding	416,332				416,332
Loss from continuing operations (3)	\$ (0.30)				\$ (0.30)

(1) The Pro-Forma Consolidated Condensed Statement of Operations assumes that the gas asset sales described above were sold by Calpine Corporation on January 1, 2003.

(2) Operating results for the gas assets described above are their actual operating results from January 1 to their respective dates of sale.

(3) Represents loss before discontinued operations and cumulative effect of a change in accounting principle.

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CALPINE CORPORATION AND SUBSIDIARIES

PRO-FORMA CONSOLIDATED CONDENSED STATEMENT OF OPERATIONS(1)(2)
Year Ended December 31, 2003
(In thousands, except per share amounts)
(Unaudited)

	<u>Actual</u>	<u>Canadian Gas Assets</u>	<u>Rocky Mountain Gas Assets</u>	<u>New Mexico Gas Assets</u>	<u>Other Reclassifications(3)</u>	<u>Pro- Forma</u>
		(Unaudited)				
Revenue:						
Electric generation and marketing revenue						
Electricity and steam revenue	\$4,695,744	\$ —	\$ —	\$ —	\$(15,347)	\$4,680,397
Sales of purchased power for hedging and optimization	2,714,187	—	—	—	—	2,714,187
Total electric generation and marketing revenue	7,409,931	—	—	—	(15,347)	7,394,584
Oil and gas production and marketing revenue						
Oil and gas sales	107,662	(46,920)	(275)	(1,311)	—	59,156
Sales of purchased gas for hedging and optimization	1,320,902	—	—	—	—	1,320,902
Total oil and gas production and marketing revenue	1,428,564	(46,920)	(275)	(1,311)	—	1,380,058
Mark-to-market activities, net	(26,439)	—	—	—	—	(26,439)
Other revenue	107,483	—	—	—	15,347	122,830
Total revenue	8,919,539	<b">(46,920)</b">	(275)	(1,311)	<b">—</b">	<b">8,871,033</b">
Cost of revenue:						
Electric generation and marketing expense						
Plant operating expense	679,031	—	—	—	(4,221)	674,810
Transmission purchase expense	—	—	—	—	34,690	34,690
Royalty expense	24,932	—	—	—	—	24,932
Purchased power expense for hedging and optimization	2,690,069	—	—	—	—	2,690,069
Total electric generation and marketing expense	3,394,032	—	—	—	30,469	3,424,501
Oil and gas operating and marketing expense						
Oil and gas operating expense	106,244	(24,011)	(2,569)	(4,211)	—	75,453
Purchased gas expense for hedging and optimization	1,279,568	—	—	—	—	1,279,568
Total oil and gas operating and marketing expense	1,385,812	(24,011)	(2,569)	(4,211)	—	1,355,021
Fuel expense	2,564,742	76,778	14,590	9,508	—	2,665,618
Depreciation, depletion and amortization expense	583,912	(69,056)	(4,817)	(2,724)	—	507,315
Operating lease expense	112,070	—	—	—	—	112,070
Other cost of revenue	42,270	—	—	—	—	42,270
Total cost of revenue	<b">8,082,838</b">	<b">(16,289)</b">	<b">7,204</b">	<b">2,573</b">	<b">30,469</b">	<b">8,106,795</b">
Gross profit	836,701	(30,631)	(7,479)	(3,884)	(30,469)	764,238
(Income) from unconsolidated investments in power projects and oil and gas properties	(76,703)	898	—	—	—	(75,805)
Equipment cancellation and impairment cost	64,384	—	—	—	—	64,384
Long-term service agreement cancellation						

charge	16,355	—	—	—	—	16,355
Project development expense	21,804	—	—	—	—	21,804
Research and development expense	—	—	—	—	10,630	10,630
Sales, general and administrative expense	265,653	(8,083)	—	—	(41,099)	216,471
Merger expense	—	—	—	—	—	—
	—	—	—	—	—	—

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CALPINE CORPORATION AND SUBSIDIARIES

PRO-FORMA CONSOLIDATED STATEMENT OF OPERATIONS — (Continued)
Year Ended December 31, 2003
(In thousands, except per share amounts)
(Unaudited)

	Actual	Canadian Gas Assets	Rocky Mountain Gas Assets	New Mexico Gas Assets	Other Reclassifications(3)	Pro- Forma
(Unaudited)						
Income from operations	545,208	(23,446)	(7,479)	(3,884)	—	510,399
Interest expense	726,103	(15,892)	(2,271)	(1,634)	—	706,306
Distributions on trust preferred securities	46,610	—	—	—	—	46,610
Interest (income)	(39,716)	—	—	—	—	(39,716)
Minority interest expense	27,330	—	—	—	—	27,330
(Income) from repurchase of various issuances of debt	(278,612)	—	—	—	—	(278,612)
Other (income)	(46,126)	—	—	—	—	(46,126)
Income before provision (benefit) for income taxes	109,619	(7,554)	(5,208)	(2,250)	—	94,607
(Benefit) for income taxes	(134)	(2,960)	(1,980)	(899)	—	(5,973)
Income from continuing operations (4)	\$109,753	\$(4,594)	\$(3,228)	\$(1,351)	\$—	\$100,580
Basic earnings per common share:						
Weighted average shares of common stock outstanding		390,772				390,772
Income from continuing operations (4)	\$ 0.28					\$ 0.26
Diluted earnings per common share:						
Weighted average shares of common stock outstanding before dilutive effect of certain convertible securities		396,219				396,219
Income from continuing operations (4)	\$ 0.28					\$ 0.25

- (1) The Pro-Forma Consolidated Statement of Operations assumes that the gas asset sales described above were sold on January 1, 2003.
- (2) Operating results for the gas assets described above are their actual operating results from January 1 to their respective dates of sales.
- (3) Certain amounts in the Pro-Forma Consolidated Statement of Operations have been reclassified to conform to the 2004 presentation. Note that these reclassifications did not occur as a result of the disposition of the gas assets described above. These reclassifications include: (1) \$15,347 from Electricity and Steam revenue to Other revenue representing Transmission revenue; (2) \$34,690 from Plant operating expense to Transmission purchase expense; (3) \$25,075 from Sales, general and administrative expense to Plant operating expense for information systems costs for the Company's power plants; (4) \$10,630 from Sales, general and administrative expense to Research and development expense; and (5) \$5,394 from Sales, general and administrative expense to Plant operating expense for the Company's stock option compensation expense.
- (4) Represents income before discontinued operations and cumulative effect of a change in accounting principle.

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(c) Exhibits

- 99.1 — Purchase and Sale Agreement among Calpine Corporation, Calpine Natural Gas L.P. and Pogo Producing Company dated July 1, 2004.
 - 99.2 — Purchase and Sale Agreement among Calpine Corporation, Calpine Natural Gas L.P. and Bill Barrett Corporation dated July 1, 2004.
 - 99.3 — Asset and Trust Unit Purchase and Sale Agreement among Calpine Canada Natural Gas Partnership and Calpine Energy Holdings Limited and Calpine Corporation and PrimeWest Gas Corp. and PrimeWest Energy Trust dated July 1, 2004.
 - 99.4 — Press release dated September 2, 2004, indicating the Registrant's sale of its Rocky Mountain gas reserves.
 - 99.5 — Press release dated September 2, 2004, indicating the Registrant's sale of its Canadian gas reserves.
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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CALPINE CORPORATION

By: /s/ Charles B. Clark, Jr.

Charles B. Clark, Jr.

*Senior Vice President and Corporate Controller,
Chief Accounting Officer*

Date: September 8, 2004

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Exhibit No.	Description
99.1	Purchase and Sale Agreement among Calpine Corporation, Calpine Natural Gas L.P. and Pogo Producing Company dated July 1, 2004.
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EXHIBIT 99.1

PURCHASE AND SALE AGREEMENT

AMONG

CALPINE CORPORATION

CALPINE NATURAL GAS L.P.

AND

POGO PRODUCING COMPANY

DATED AUGUST 20, 2004

EFFECTIVE DATE: JULY 1, 2004

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5.	Due Diligence Acknowledgement

PURCHASE AND SALE AGREEMENT

The Agreement dated as of August 20, 2004, is made and entered into between Calpine Corp., a Delaware corporation and Calpine Natural Gas L.P., a Delaware limited partnership both having an office at 717 Texas Avenue, Suite 1000, Houston, Texas 77002, (collectively "Seller") and Pogo Producing Company, a Delaware corporation, having an office at Five Greenway Plaza, Suite 2700, Houston, Texas 77046 ("Buyer").

PART ONE

SUBJECT MATTER, DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1 Subject Matter. The subject matter of the Agreement is the sale, assignment, transfer or conveyance of Seller's interest in the Assets, the purchase of the Assets and the assumption of the Assumed Liabilities by Buyer, and the terms and conditions upon which the sale shall take place.

Section 1.2 Definitions. For purposes of the Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section 1.2 have the meanings herein assigned to them and the capitalized terms defined elsewhere in the Agreement, by inclusion in quotation marks and parentheses, shall have the meanings so ascribed to them.

"Actual Knowledge" means actually known, after due inquiry by Hugo Cartaya (Director of Operations), Roxy Blu (Director of Land), Art Klavan (Sr. Vice President, Calpine Fuels Corp.), Ed Seeman (Director Reservoir Engineering), Bill Berilgen (President, Calpine Fuels Corp), or Bert Bates (Director, North America EH&S).

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing, it being understood and agreed that with respect to a corporation, control shall mean a direct or indirect ownership of more than fifty percent (50%) of the voting stock.

"Agreed Rate" means a rate per annum which is equal to the lesser of (i) a rate which is one percent (1%) above the prime rate of interest of [J.P. Morgan Chase Bank], New York, New York, as announced or published by such bank from time to time (adjusted from time to time to reflect any changes in such rate determined hereunder), or (ii) the maximum rate from time to time permitted by Applicable Law.

"Agreement" means this Purchase and Sale Agreement, including the Schedules and Exhibits.

"Applicable Law" means any applicable law, order, regulation, permit, judgment or decree of any Governmental Body, including the common or civil law of any Governmental Body, including but not limited to those relating to occupational safety and health, consumer product safety, employee benefits, environmental laws, securities zoning laws or regulations.

"Assets" mean the Fee Interests, Leases, Personal Property, Facilities, Easements, Contracts, and Beneficial Interests, but excluding the Excluded Assets.

"Assumed Liabilities" means:

- (a) all liabilities, duties, and obligations that arise on and after the Effective Date from ownership or operation of the Assets;
- (b) all liabilities and obligations with respect to Plugging and Abandonment;
- (c) all duties, liabilities and obligations that arise on and after the Effective Date under the Contracts, Fee Interests, Leases, Easements and Beneficial Interests, including, without limitation, all obligations with respect to gas imbalances associated with the Assets as set forth in Section 4.3(o);
- (d) all liabilities and obligations with respect to funds attributable to Third Persons but suspended or impounded by Seller prior to the Effective Date but only to the extent of the amount of such suspended or impounded funds; and
- (e) all other duties, liabilities, and obligations assumed by Buyer under the Agreement.

"Beneficial Interests" means any and all rights, titles and interests owned by Seller in, under or derived from all of the presently existing pooling, unitization and communization agreements or other operating agreements and the units created thereby (including without limitation, all units formed under orders, regulations, rules or other official acts of any Governmental Body having jurisdiction) insofar and only insofar as they relate to any of the Leases or Fee Interests or to the production of Hydrocarbons from or attributable to such Leases or Fee Interests as set forth on Schedule D.

"Burdens" means royalties (including both lessor royalties and nonparticipating royalty interests), overriding royalties, production payments, and other similar obligations payable out of production.

"Business Day" means any day when commercial banks are generally open for regular business in the State of New Mexico.

"Closing" means the closing of the transactions contemplated by the Agreement at 10:00 a.m., at Seller's offices at 717 Texas Ave., Houston, Texas 77002, on the Closing Date or at such other time or place as the Parties may mutually agree upon in writing.

"Closing Date" means September 1, 2004, or such other date as the Parties may mutually agree upon in writing.

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

"Confidentiality Agreement" means the Confidentiality Agreement between Seller and Buyer dated June 29, 2004.

"Contracts" means all contracts and agreements whether recorded or unrecorded in existence at the Effective Date, which affect the Leases, Fee Interests, Personal Property, Beneficial Interests, Facilities and Easements, insofar and only insofar and only to the extent as they specifically relate to the Leases, Fee Interests, Personal Property, Beneficial Interests, Facilities and Easements, including but not limited to the contracts and agreements set forth on Schedule C, but specifically excluding the Easements, Leases, Beneficial Interests, and the contracts and agreements set forth on Schedule E.

"Corporate Documents" means with respect to a Delaware corporation the Certificate of Incorporation and By-Laws or the equivalent documents of a corporation or other business entity organized under the laws of another jurisdiction.

"Easements" means Seller's non-exclusive rights to the use and occupancy of the surface, including, without limitation, tenements, appurtenances, surface leases, easements, permits, licenses, franchises, servitudes and rights-of-way in any way appertaining, belonging, affixed or incidental to or used in connection with the ownership or operation of the Fee Interests, Leases, Facilities and Beneficial Interests, whether recorded or unrecorded;

"Effective Date" means 7:00 a.m., MDT, July 1, 2004 at the location of the Assets.

"Environmental Condition" means any condition existing prior to the Effective Date, and only to the extent in existence on the Effective Date with respect to the air, land, soil, surface, subsurface strata, surface water, ground water, or sediments which causes a Property to be subject to remediation under, or not in compliance with an Environmental Law, Environmental Permit, a Lease or a Contract, but excluding the conditions associated with, or included in the definition of, Plugging and Abandonment.

"Environmental Law" means any existing or future Applicable Law relating to pollution or the protection of the environment, health or safety including, without limitation, laws relating to air, water, land and the generation, storage, treatment, transportation, handling, release or disposal of waste materials including, without limitation, the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, the Safe Drinking Water Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), as amended, the Resource Conservation and Recovery Act ("RCRA"), as amended, the Hazardous and Solid Waste Amendments Act of 1984, as amended, the Toxic Substance Control Act, as amended, and the Occupational Safety and Health Act ("OSHA"), as amended but shall not include any Applicable Law associated with Plugging and Abandonment.

"Environmental Permits" means any environmental and health and safety permits, licenses, approvals, consents, certificates and other authorizations necessary for the ownership or operation of the Properties.

"Excluded Assets" means:

(a) all (i) trade credits, accounts receivable, notes receivables and other receivables attributable to Seller's interest in the Assets with respect to any period of time prior to the Effective Date and (ii) deposits, cash, checks in process of collection, cash equivalents and funds attributable to Seller's interest in the Assets with respect to any period of time prior to the Effective Date.

(b) all corporate, financial, legal, personnel and Tax records of Seller;

(c) all claims and causes of action of Seller (i) arising from acts, omissions or events, or damage to or destruction of property, occurring prior to the Effective Date or (ii) affecting any of the excluded assets as set forth in (a) through (r) of this definition;

(d) all rights, titles, claims and interests of Seller (i) under any policy or agreement of insurance or indemnity; (ii) under any bond; or (iii) to any insurance or condemnation proceeds or awards;

(e) subject to the provisions of Section 4.3(p), all Hydrocarbons produced from or attributable to the Assets with respect to all periods prior to the Effective Date;

(f) claims of Seller for refunds of or loss carry forwards with respect to (i) Taxes attributable to any period prior to the Effective Date; (ii) Taxes attributable to any of the excluded assets as set forth in (a) through (r) of this definition; or (iii) any Tax credits accruing to the Assets prior to the Effective Date.

(g) all amounts due or payable to Seller as adjustments or refunds under any Contracts affecting the Assets, with respect to any period prior to the Effective Date including, without limitation, amounts recoverable from audits under operating agreements;

(h) all amounts due or payable to Seller as adjustments to insurance premiums related to the Assets with respect to any period prior to the Effective Date;

(i) all proceeds, benefits, income or revenues accruing (and any security or other deposits made) with respect to (i) the Assets prior to the Effective Date; and (ii) any of the excluded assets as set forth in

(a) through (r) of this definition;

(j) all of Seller's seismic and geophysical information and data, together with all geological information and data, whether proprietary in Seller or licensed from Third Persons, and whether or not covering or affecting the Assets, but only to the extent that the transfer thereof is prohibited by law or third-party agreement and the necessary consents to transfer are not obtained or cannot be obtained without cost to Seller;

(k) all of Seller's interpretive data;

(l) the non-exclusive right reserved unto the Seller to use the Easements;

(m) all of Seller's intellectual property, including but not limited to computer software, patents, trade secrets, copyrights, names, marks, and logos;

(n) all of Seller's vehicles, trucks (including associated tools), boats, tools, pulling machines, warehouse stocks, microwave equipment, computer equipment and remote terminal units; equipment and material temporarily located on the Assets; and any pipelines, easements, fixtures, LACT units, tanks or equipment located on the Assets which belong to lessors or other Third Persons, or to Seller's Affiliates engaged in the business of purchasing, processing or transporting Hydrocarbons;

(o) all of Seller's interest in any lands or depths covered by the Leases, Fee Interests and Beneficial Interests which are specifically excluded from the descriptions set forth on Schedules A, B and C.

(p) records and documents subject to confidentiality provisions, claims of privilege, or other restrictions on access;

(q) all rights of ingress, egress and surface use retained by Seller in connection with its obligations under Part Six of this Agreement; and

(r) all other assets set forth on Schedule F.

"Facilities" means facilities and equipment, whether active or inactive, that are customarily used directly in the production of Hydrocarbons, including, but not limited to injection facilities, disposal facilities, field separators, liquid extractors, compressors, LACT units, plants, tanks and the like.

"Fee Interests" means all rights, titles and interests owned by Seller in all the fee and mineral fee interests described on Schedule B, insofar and only insofar as such Fee Interests cover the lands and depths set forth in Schedule B. The Fee Interests shall include all of Seller's right, title and interest to all depths unless specifically limited on Schedule B.

"Governmental Body" means any federal, state, Indian, county, municipal, or other federal, state or local governmental authority or judicial or regulatory agency, board, body, department, bureau, commission, instrumentality, court, tribunal or quasi-governmental authority in any jurisdiction (domestic or foreign) having jurisdiction over any Asset or Party to this transaction, or any of the transactions contemplated by the Agreement.

"Hydrocarbons" means crude oil, natural gas, casinghead gas, condensate, sulphur, natural gas liquids, plant products and other liquid or gaseous hydrocarbons (including CO₂), and all other minerals of every kind and character which may be covered by or included in the Assets.

"Leases" means any and all rights, titles and interests owned by Seller in all of the oil, gas or mineral leases and other interests described on Schedule A.

"Losses" means any and all losses, liabilities, claims, demands, penalties, fines, assessments, settlements, damages and any related expenses of whatever kind or nature, known or contingent or otherwise, including, without limitation, legal, accounting, consulting and investigation expenses and litigation costs including without limitation, response, remedial or inspection costs or any cleanup and laboratory costs, but excluding consequential damages.

"Net Revenue Interest" means Seller's share of production or revenue from (or where subject to a unit or pooling agreement, allocated under such agreement to) a Property, net of all Burdens related to such Property as set forth on Schedule H.

"Party" means either Buyer or Seller.

"Permitted Encumbrances" means:

- (a) Burdens to the extent that the aggregate effect of such Burdens do not reduce the Net Revenue Interest of a Property below that shown on Exhibit H;
- (b) division orders and sales contracts;
- (c) rights of reassignment which arise prior to abandonment, surrender or release of oil, gas or mineral leases;
- (d) rights to consent by, required notices to, filings with, or other actions by, any Governmental Body in connection with the sale or conveyance of oil and gas leases or interests therein, or the assumption of operatorship, if they are customarily obtained subsequent to the sale or conveyance;
- (e) easements, rights-of-way, servitudes, permits, surface leases and other rights relative to surface use and occupancy including, without limitation, pipeline operations, grazing, logging, canals, ditches, reservoirs and similar rights and conditions, covenants or other similar restrictions on and over the surface of the Leases, Easements, Beneficial Interests or Fee Interests, to the extent they do not unreasonably interfere with exploration operations on the Assets;
- (f) easements for streets, alleys, highways, pipelines, telephone lines, power lines, railways and other easements and rights-of-way, on, over or in respect to the Leases, Beneficial Interests, Easements or Fee Interests;
- (g) all leases, operating agreements, operator liens and working interest owner liens, unit, communization and pooling agreements, farmout and subleases and farmin agreements and all Contracts that do not affect the Net Revenue Interest;
- (h) all Applicable Laws of any Governmental Body, and all rights reserved to or vested in any Governmental Body to control or regulate the Assets in any manner, including, without limitation, any adjustment in the Net Revenue Interest or Working Interest of a particular Property, caused by, or as the result of, any action of a Governmental Body which is not the result of any negligent act or omission of Seller;

- (i) liens for Taxes or assessments not yet due and payable or not yet delinquent, or if delinquent, that are being contested in good faith by appropriate action brought in the normal course;
- (j) reversionary interests arising under farmout and farmin agreements, subleases, and the non-consent provisions of applicable operating agreements provided that the affected Wells are listed on Schedule 3.1(r);
- (k) liens imposed by Applicable Law, such as carriers', warehousemen's and mechanics' liens and other similar liens arising in the ordinary course of business which secure payment of obligations not more than sixty (60) days past due or which are being contested in good faith or for which funds have been set aside;
- (l) consents to assign that have been obtained or waived and preferential rights to purchase that have been waived or for which the time period to exercise has expired;
- (m) defects that have been cured by possession under applicable statutes of limitation;
- (n) other minor defects or irregularities generally waived by prudent purchasers of oil and gas properties and that do not materially impair the value, ownership or use of the affected Property; and
- (o) others as set forth on Schedule G.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, estate, unincorporated organization, other business entity or any Governmental Body.

"Personal Property" means to the extent attributable to the Fee Interests, Leases, Easements, Contracts and Beneficial Interests, but excluding any personal property owned by any Third Person or any of Seller's Affiliates and subject to the limitations below, all of Seller's right, title and interest in and to:

- (a) all Wells (whether plugged or unplugged), equipment, Facilities and personal property of any kind including, but not limited to, tubing, casing, wellheads, pumping units, production units, compressors, valves, meters, flowlines,

tanks, heaters, separators, dehydrators, pumps, injection units, gates and fences, which are located on or connected with the Fee Interests, Leases, and Beneficial Interests and which are used solely and exclusively in connection with the production, separation, storage, treatment, gathering or transportation of Hydrocarbons from or attributable to the Fee Interests, Leases, and Beneficial Interests and that are not presently used in connection with any excluded assets;

(b) all licenses, authorizations, permits, variances and similar rights and interests related to the Fee Interests, Leases, Facilities, Easements, Contracts and Beneficial Interests and personal property defined in (a) above;

(c) all other rights, privileges, benefits and powers conferred upon the owner and holder of the Fee Interests, Leases, Facilities, Easements, Contracts and Beneficial Interests and personal property defined in (a) and (b) above; and

(d) copies of applicable general operating records, well files (including applicable well logs and production data), lease files, land files, environmental compliance files, regulatory reports and certificates, abstracts and title work pertaining to the Fee Interests, Leases, Easements, Facilities, Contracts and Beneficial Interests and personal property defined in (a) above, but excluding: records containing trade secrets unrelated to the Assets, legal files, attorney-client communications or attorney work product materials and other similar documents covered by privilege, records and documents subject to confidentiality provisions and auditor's reports.

"Plugging and Abandonment" means all plugging, replugging, abandonment, removal, disposal or restoration associated with the Assets, including, but not limited to, all plugging and abandonment, removal, surface restoration, site clearance and disposal of the wells, structures and Personal Property located on or associated with the Assets, the removal or capping and burying of all associated flowlines, the restoration of the surface in accordance with Applicable Laws or the terms and conditions of the applicable Leases or Contracts, whichever is more stringent, site clearance, as required by Applicable Laws, and any disposal of related waste materials, including naturally occurring radioactive material ("NORM") and asbestos, and shall include such Wells, structures, and Personal Property associated with any of the Assets, whether drilled or placed on a Lease, Fee Interest, or Beneficial Interest prior to, at, or after the Closing Date.

"Property" means a Well, a prospective Well location, or a unitized or communitized area described on Schedule H.

"Remediation" or "Remediate" means affirmative actions or remedial work taken to remove or otherwise remedy an Environmental Condition, including but not limited to any survey, site assessment, audit, investigation, inspection, sampling, analysis, removal, excavation, pump and treat, cleanup, disposal, storage, handling or treatment, excluding those actions associated with Plugging and Abandonment.

"Tax" means any and all fees (including, without limitation, documentation, license, recording, filing and registration fees), Taxes (including without limitation, production, gross receipts, ad valorem, value added, windfall profit tax, environmental tax, turnover, sales, use, personal property (tangible and intangible), stamp, leasing, lease, user, leasing use, excise, franchise, transfer, heating value, fuel, excess profits, occupational, interest equalization, lifting, oil, gas, or mineral production or severance, and other taxes), levies, imposts, duties, charges or withholdings of any nature whatsoever, imposed by any Governmental Body or taxing authority thereof, domestic or foreign, together with any and all penalties, fines, additions to Tax and interest thereon, whether or not such Tax shall be existing or hereafter adopted.

"Third Person" means a Person other than a Party or an Affiliate of a Party.

"Title Defect" means any one of the following:

- (1) Seller's title as of the Effective Date as to all or any part of the Property is subject to an outstanding mortgage, deed of trust, lien, security interest, or other monetary encumbrance or adverse claim not listed or referenced on Schedule G that would induce a purchaser to suspend payment of proceeds for the Property or require the furnishing of security or indemnity;
- (2) Seller's Net Revenue Interest attributable to a Property as of the Effective Date is less than that shown on Schedule H or Seller's Working Interest attributable to a Property as of the Effective Date is greater than that shown on Schedule H without a corresponding increase in Seller's Net Revenue Interest in the Property; or

(3) Seller's Net Revenue Interest would be reduced if a Third Person were to exercise a reversionary, back-in, or other similar right not listed or referenced on Schedule H;

but shall not include any Permitted Encumbrances or preferential rights to purchase.

"Wells" means, whether active or inactive, any orifice in the ground, completed or being drilled, including without limitation, those previously plugged and abandoned, those drilled for the production of Hydrocarbons, for injection, for disposal or for water sources.

"Working Interest" means that share of costs and expenses associated with the exploration, maintenance, development and operation of a Property that Seller is required to bear and pay.

Section 1.3 Other Definitions in the Agreement. The following terms shall have the respective meanings ascribed to them in the Sections of the Agreement set forth below opposite such terms:

	Section
AFE	3.1(h)
Aggregate Environmental Defect Value	6.6
Aggregate Title Defect Value	7.7
Assignments	9.1(i)
Buyer	Preamble
Claim Notice	8.2(a)
Cure	7.5
Cure Notice	7.5
Deeds	9.1(j)
Defect Value	7.4
Environmental Defect Notice	6.2
Environmental Defect Value	6.2
Environmental Notice Deadline	6.2
Environmental Rejection Notice	6.3(b)
Final Recap Amount	4.3(h)
Final Recapitulation Statement	4.3(h)
Final Settlement Date	4.3(h)

Indemnified Party	8.2(a)
Indemnifying Party	8.2(a)
Interest Addition	7.8
Interest Addition Notice	7.8
Interest Addition Payment	7.8
Interest Addition Rejection Notice	7.8
Interest Addition Value	7.8
Individual Threshold	6.1
NORM	1.2
Notice Period	8.2(a)
Offset	7.8
Performance Deposit	2.4
Permits	3.1(1)
Purchase Price	2.2
Rejection Notice	7.6
Review Period	6.1
Seller	Preamble
Title Defect Notices	7.4
Title Indemnity Payment	7.4

Section 1.4 Rules of Construction. For purposes of the Agreement:

- (a) General. Unless the context otherwise requires (i) "or" is not exclusive; (ii) an accounting term not otherwise defined has the meaning assigned to it in accordance with accounting principles that are generally accepted in the United States of America; (iii) words in the singular include the plural and words in the plural include the singular; (iv) words in the masculine include the feminine and words in the feminine include the masculine; (v) any date specified for any action that is not a Business Day shall be deemed to mean the first Business Day after such date; and (vi) a reference to a Person includes its successors and assigns.
- (b) Parts and Sections. References to Parts and Sections are, unless otherwise specified, to Parts and Sections of the Agreement. Neither the captions to Parts or Sections hereof nor the Table of Contents shall be deemed to be a part of the Agreement.
- (c) Exhibits and Schedules. The Exhibits and Schedules form part of the Agreement and shall have the same force and effect as if set out in the body of the Agreement.

(d) Other Agreements. References herein to any agreement or other instrument shall, unless the context otherwise requires (or the definition thereof otherwise specifies), be deemed references to that agreement or instrument as it may from time to time be changed, amended or extended. There is no incorporation by reference unless stated.

PART TWO

SALE AND PURCHASE

Section 2.1 Assets. At Closing, Seller agrees to sell, assign, transfer and convey to Buyer the Assets and Buyer agrees to purchase and pay for the Assets and assume the Assumed Liabilities.

Section 2.2 Purchase Price. The purchase price shall be Eighty Three Million, Eighty Seven Thousand, Two Hundred and Twenty Four Dollars (\$83,087,224) plus or minus the adjustments set forth in Parts Six and Seven of the Agreement (the "Purchase Price").

Section 2.3 Allocation of Purchase Price. Schedule 2.3 sets forth a good faith allocation of the Purchase Price among the Properties which comprise the Assets, which allocation was prepared by Buyer and delivered to Seller on August 13, 2004. Such allocation has been provided for the purpose of (i) establishing a basis for certain Taxes, (ii) obtaining waivers of or making offers with respect to any preferential rights to purchase the Assets, and (iii) handling those instances for which the Purchase Price is adjusted as provided herein.

Section 2.4 Performance Deposit and Liquidated Damages. Buyer shall tender to Seller immediately upon execution of the Agreement, a non-refundable cash performance deposit in the amount of Three Million Dollars (\$3,000,000) (the "Performance Deposit"). The Performance Deposit shall bear interest at the Agreed Rate from the date delivered to Seller through the Closing or the date returned to Buyer, whichever is applicable. At Closing, Buyer shall pay and deliver to Seller the remaining unpaid portion of the Purchase price as provided herein, and adjusted upward or downward pursuant to Parts Six and Seven.

Section 2.5 Termination. The following provisions shall apply in the event of termination of this Agreement:

(a) If this Agreement is terminated (i) by the mutual agreement of the Seller and the Buyer and not as the result of the failure of either Party to perform its obligations hereunder, or (ii) pursuant to Sections 4.3(e), 6.6 or 7.7, such termination shall be without liability of any Party or any affiliate director, officer, employee, agent or representative of such Party and Seller shall return the Performance Deposit to the Buyer.

(b) If this Agreement is terminated as a result of the failure of Buyer to perform its obligations hereunder, then Seller shall retain the Performance Deposit along with interest accrued thereon and Seller shall have all remedies available to it under the law.

(c) If this Agreement shall be terminated as a result of the failure of Seller to perform its obligations hereunder, then Seller shall return the Performance Deposit to Buyer and Buyer shall have all remedies available to it under the law. Notwithstanding the foregoing, it is expressly agreed to by the Parties that Seller's failure to secure the release of the liens described in Section 9.2 shall not constitute a failure of Seller to perform its obligations hereunder and, in such event, Seller will return the Performance Deposit, together with accrued interest, to the Buyer.

Section 2.5 Method of Payment. Any amount payable under the Agreement shall be payable in immediately available funds by means of a wire transfer, if to Seller, to Seller's account at Bank One, Houston NA, ABA # 111000614, account number 188-414-8246 (with immediate telephone notice to Michael Gerlich at phone number 713.335.4037, or to such other account number as Seller may by written notice direct, or if to Buyer, to Buyer's account as may be designated by Buyer.

PART THREE

REPRESENTATIONS AND WARRANTIES

Section 3.1 Seller. Seller represents and warrants to Buyer that:

(a) **Organization and Standing.** Calpine Corp. is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware, and is in good standing as a foreign corporation in all jurisdictions where the nature of the Assets requires it. Calpine Natural Gas L.P. is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Delaware and is in good standing as a foreign partnership in all jurisdictions where the nature of the Assets requires it.

(b) Authority. Seller has the corporate power and authority to enter into and perform the Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Seller of the Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action and the Agreement has been duly executed and delivered by Seller.

(c) Validity of Agreement. The Agreement is a legal, valid and binding obligation of Seller enforceable against Seller in accordance with the terms of the Agreement, except as enforcement may be limited by bankruptcy, insolvency or other similar Applicable Laws now or hereafter in effect affecting the enforcement of creditors' rights in general. The enforceability of Seller's obligations under the Agreement is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(d) No Violation. The execution and delivery of the Agreement and the performance by the Seller of the terms of the Agreement do not conflict with or result in a violation of the Corporate Documents of Seller or any agreement, instrument, order, writ, judgment or decree to which Seller is a party or is subject.

(e) Litigation. Except as set forth on Schedule 3.1(e), there are no actions, suits, or proceedings pending or to the Actual Knowledge of Seller threatened against Seller as to the Assets, before any court or arbitration tribunal or before or by any Governmental Body in which the claim is in excess of Fifty Thousand Dollars (\$50,000.00) for any one claim or One Million Dollars (\$1,000,000.00) in the aggregate.

(f) No Consents Required. Except as set forth in Section 4.3(d) and on Schedule 3.1(f), no preferential purchase rights, consents, approvals or other action by, or filings with any Person or Governmental Body are required in connection with the execution, delivery and performance by Seller of the Agreement.

(g) Environmental Claims. Except as set forth on Schedule 3.1 (g) as to those Assets currently operated by Seller to Seller's Actual Knowledge, there are no pending written claims, actions or proceedings by any Third Person or Governmental Body caused by or arising out of any Environmental Condition pending against the Seller, the Assets, or the ownership or operation thereof and there are no Environmental Conditions presently under Remediation.

(h) Current Commitments. Schedule 3.1(i) contains a complete and accurate list as of the date of this Agreement of (i) all authorities for expenditures ("AFEs") in excess of \$50,000 to drill or rework Well or for capital expenditures pursuant to any of the Contracts that have been proposed by any person on or after the Effective Date, whether or not accepted by Seller or any Third Person, and (ii) all AFEs and oral or written commitments in excess of \$50,000 to drill or rework Wells or for other capital expenditures pursuant to any of the Contracts for which all of the activities anticipated in such AFEs or commitments have not been completed by the date of this Agreement.

(i) Personal Property. The Personal Property located on the Assets currently operated by Seller constitutes the equipment and fixtures reasonably necessary for the operations of the Assets for the production of the Hydrocarbons. Such Personal Property currently in service is, in good repair and operating condition and is suitable for the purpose for which such Personal Property is employed.

(j) Status of Contracts. Seller has all Contracts necessary to conduct the business and operations of those Assets currently operated by Seller as they are currently operated and all such material Contracts are set forth in Exhibit C. All of the Contracts and Easements (i) are in full force and effect, (ii) neither Seller nor, to Seller's Actual Knowledge, any other party to the Contracts or Easements, (1) is in breach of or default, or with the lapse of time or the giving of notice, or both, would be in breach or default, with respect to any of its obligations thereunder to the extent that such breaches or default have a material adverse Impact on any of the Assets or (2) has given notice of any default or action to alter, terminate, rescind or procure a judicial reformation of any Contract or Easement. There are no Contracts not set forth on Exhibit C which would have a material adverse effect on the ownership or operation of the Assets.

(k) Taxes. All ad valorem, property, production, severance and other taxes based on or measured by the ownership of the Properties or the production of Hydrocarbons from the Properties due and payable prior to the Effective Date have been properly and timely paid except those disputed in ordinary course of business.

(l) License. With respect to those Properties currently operated by Seller, Seller has all material licenses, authorizations, permits, variances and similar rights and interests from Governmental Bodies (collectively "Permits"), which are necessary to operate the Subject Interests. The conveyance of the Assets to Buyer shall

not cause revocation of any of such Permits. No violations of any of such Permit exists which could result in a termination of such Permit or that would materially impair Buyer's ability to enjoy the economic benefit of the Assets.

(m) Tax Partnerships. None of the Assets are subject to a tax partnership, including, without limitation, none of such properties are subject to any operating agreement or other agreement under which the parties hereto have not made an effective election pursuant to Section 761 of the Internal Revenue Code, and the Treasury Regulations promulgated thereunder, to be excluded from the application of Subchapter K, Chapter 1, Subtitle A, of the Code.

(n) Not a Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445 (or similar provisions) of the Code (i.e., Seller is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the Code and regulations promulgated thereunder). Calpine Corporations's taxpayer identification number is 770212977 and Calpine Natural Gas L.P.'s taxpayer identification number is 710882453.

(o) Gas Imbalances. Schedule 3.1(o) sets forth Seller's good faith estimate of all gas imbalances with respect to Assets as of the Effective Date. Buyer and Seller agree that the final gas imbalances attributable to the Assets shall be identified and resolved as set forth in Section 4.3(o).

(p) No Broker. Seller has not employed or otherwise benefited from the services of a broker, finder or similar person in connection with the transaction contemplated by this agreement.

(q) Insurance. Schedule 3.1(q) sets forth a list of all material insurance policies by which the Assets are insured against the losses described therein, all of which are in full force and effect. True, complete and correct copies of all such policies have been previously provided to the Buyer.

(r) Payout Balances. Schedule 3.1(r) contains a complete and accurate list of the status of any "payout" balance, as of the Effective Date, for those Wells that are subject to a reversion or other adjustment at some level of cost recovery or payout (or passage of time or other event other than termination of a Lease by its terms).

(s) Condemnation. To Seller's Actual Knowledge, there is no actual or threatened taking (whether permanent, temporary, whole, or partial) of any part of the Assets by reason of condemnation or the threat of condemnation.

(t) Bankruptcy. There are no bankruptcy, reorganization, or similar arrangement proceedings pending, being contemplated by, or, to Seller's Actual Knowledge, threatened against Seller.

(u) Suspense Accounts. Except as described on Schedule 3.1(u), there are no funds attributable to Seller's obligations to pay any Burdens held by Seller in suspense.

(v) Wells. Except as described on Schedule 3.1(v), there are no unplugged, temporarily abandoned, or temporarily shut-in Wells situated on the Leases or the Fee Interests.

(w) Calls on Production. Except as described on Schedule 3.1(w) and as contemplated by Section 4.3(f), there are no calls on production or other similar marketing restrictions affecting the Assets.

(x) Accuracy of Representations and Warranties. The representations and warranties set forth in this Agreement do not contain any untrue statements of a material fact or omit to state any material fact necessary to make any statements made not misleading.

Section 3.2 Buyer. Buyer represents and warrants to Seller that:

(a) Organization and Standing. Buyer is a corporation duly organized, validly existing in good standing under the laws of the State of Delaware and is in good standing as a foreign corporation in all jurisdictions where the nature of the Assets requires it and is duly qualified to own federal, Indian and state leases in the State New Mexico.

(b) Authority. Buyer has the corporate power and authority to enter into and perform the Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Buyer of the Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all

requisite corporate action and the Agreement has been duly executed and delivered by Buyer.

(c) Validity of Agreement. The Agreement is a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with the terms of the Agreement, except as enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the enforcement of creditors' rights in general. The enforceability of Buyer's obligations under the Agreement is subject to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(d) No Violation. The execution and delivery of the Agreement and the performance by Buyer of the terms of Agreement do not conflict with or result in a violation of the Corporate Documents of Buyer or of any agreement, instrument, order, writ, judgment or decree to which Buyer is a party or is subject.

(e) No Consents Required. Except as set forth in Section 4.3(d), no consents, approvals or other action by, or filings with any Person or Governmental Body are required in connection with the execution, delivery and performance by Buyer of the Agreement.

(f) Securities Representation. Buyer is an experienced and knowledgeable investor and operator in the oil and gas business and is acquiring the Assets for Buyer's own account and not with a view to, or for offer of resale in connection with, a distribution thereof, within the meaning of the Securities Act of 1933, or any other Applicable Laws pertaining to the distribution of securities.

(g) Buyers' Sole Reliance on Own Investigation. Buyer has, subject to necessary Third Person operator approval as to those Assets not operated by Seller, availed itself of the opportunity to conduct a pre-acquisition review of the Assets. Buyer is purchasing the Assets solely in reliance on Buyer's own investigation of the Assets.

(h) No Broker. Buyer has not retained or otherwise benefited from the services of a broker, finder or similar person in connection with the Agreement or the transaction contemplated herein.

(i) Buyer's Qualifications. Buyer is, or will as of the Closing be, fully qualified and bonded as an operator by all applicable Governmental Bodies as necessary to operate the Assets.

(j) Accuracy of Representations and Warranties. The representations and warranties set forth in this Agreement do not contain any untrue statements of a material fact or omit to state any material fact necessary to make any statements made not misleading.

Section 3.3. Disclaimers and Notifications. The Parties make the following disclaimers and notifications:

(a) No Other Warranties. Except as otherwise provided herein there are no express or implied warranties that apply to the transactions contemplated herein.

(b) Disclaimer and Assumption of Risk. EXCEPT AS EXPRESSLY SET FORTH TO THE CONTRARY HEREIN, IT IS EXPRESSLY UNDERSTOOD BY THE PARTIES THAT SELLER DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED WITH RESPECT TO THE ASSETS. WITHOUT LIMITATION OF THE FOREGOING, SELLER MAKES NO REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, AS TO TITLE (OTHER THAN THE SPECIAL WARRANTY OF TITLE SET FORTH IN THE "ASSIGNMENTS" AND THE "DEED," AS EACH OF SUCH TERMS IS DEFINED IN SECTION 9.1(j) BELOW) OR THE CONDITION OR STATE OF REPAIR OF THE ASSETS, THEIR VALUE, QUALITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR USES OR PURPOSES, NOR AS TO THE CURRENT VOLUME, NATURE, QUALITY, CLASSIFICATION, OR VALUE OF THE HYDROCARBONS RESERVES THEREUNDER OR COVERED THEREBY, NOR WITH RESPECT TO ANY APPURTEANCES THERETO BELONGING OR APPERTAINING TO THE ASSETS, AND BUYER SHALL ACCEPT THE ASSETS IN "AS IS," "WHERE IS," CONDITION. WITHOUT LIMITATION OF THE FOREGOING, BUYER HEREBY WAIVES ANY AND ALL RIGHTS AND REMEDIES BUYER MAY HAVE AGAINST SELLER ARISING FROM SAME INCLUDING, WITHOUT LIMITATION, ANY RIGHTS AND REMEDIES BUYER MAY HAVE AGAINST SELLER PURSUANT TO THE NEW MEXICO UNFAIR TRADE PRACTICES ACT (NEW MEXICO STATUTES ANNOTATED Section 57-12-1, ET SEQ.).

(c) Disclaimer with Respect to NORM, etc. BUYER ACKNOWLEDGES AND AGREES THAT THE ASSETS HAVE BEEN UTILIZED BY

SELLER FOR THE PURPOSE OF EXPLORATION, DEVELOPMENT, AND PRODUCTION OF OIL AND GAS, AS WELL AS PROCESSING AND REFINING OPERATIONS, AND THAT MATERIALS ASSOCIATED THEREWITH MAY HAVE BEEN STORED, KEPT OR DISPOSED OF ON OR IN THE ASSETS. BUYER ACKNOWLEDGES THAT EQUIPMENT, PLANTS, BUILDINGS, STRUCTURES, IMPROVEMENTS, ABANDONED AND OTHER TANKS AND PIPING, STORAGE FACILITIES, GATHERING AND DISTRIBUTION LINES, WELLS AND OTHER PETROLEUM PRODUCTION FACILITIES AND APPURTENANCES MAY BE LOCATED THEREON. BUYER ACKNOWLEDGES THAT THERE MAY HAVE BEEN SPILLS OF CRUDE OIL, PRODUCED WATER OR OTHER MATERIALS IN THE PAST ON OR IN THE ASSETS. IN ADDITION, SOME PRODUCTION EQUIPMENT MAY CONTAIN ASBESTOS AND NORM. IN THIS REGARD, BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT NORM MAY AFFIX OR ATTACH ITSELF TO THE INSIDE OF WELLS, MATERIALS AND EQUIPMENT AS SCALE, OR IN OTHER FORMS, AND THAT WELLS, MATERIALS AND EQUIPMENT LOCATED ON THE ASSETS MAY CONTAIN NORM AND THAT NORM-CONTAINING MATERIAL MAY BE BURIED AND OTHERWISE DISPOSED OF ON THE ASSETS. BUYER ALSO EXPRESSLY UNDERSTANDS THAT SPECIAL PROCEDURES MAY BE REQUIRED FOR THE REMOVAL AND DISPOSAL OF ASBESTOS AND NORM FROM THE EQUIPMENT AND LAND WHERE IT MAY BE FOUND AND THAT BUYER ASSUMES ALL LIABILITY AND EXPENSE FOR SUCH ASSESSMENT, REMOVAL AND DISPOSAL OF ANY SUCH MATERIALS AND ASSOCIATED ACTIVITIES, SUBJECT, HOWEVER, TO THE TERMS AND PROVISIONS OF THIS AGREEMENT.

(d) Disclaimer with Respect to Data. All descriptions set forth herein and all data, evaluations, reports, and any other information, heretofore or hereafter furnished Buyer by Seller concerning any or all of the Assets, and the operation thereof, have been and shall be furnished solely for Buyer's convenience and have not constituted and shall not constitute a representation or warranty of any kind by Seller, and any reliance thereupon by Buyer shall be at Buyer's sole risk and liability. Seller does not warrant or represent the accuracy or completeness of any information, data or materials furnished to Buyer with respect to this transaction. Buyer acknowledges that Seller's information with respect to the Assets is incomplete and Seller does not have the requisite information with which to determine the exact nature or condition of the Assets.

PART FOUR

COVENANTS

Section 4.1 Covenants of Seller. Seller covenants with Buyer as follows:

(a) Access. Except for such of the Assets not operated by Seller, Seller shall afford Buyer and Buyer's representatives full and reasonable access to the Assets in the possession of Seller during normal working hours.

(b) Operations Prior to Closing. After the date hereof and until the Closing, except as otherwise consented to by Buyer in writing, Seller shall use and maintain the Assets in substantially the same manner in which they have been used and maintained prior to the Agreement. Seller shall not be obligated for any expenditures relating to the Assets after the Effective Date. Without limitation of the foregoing, after the execution of the Agreement and prior to Closing, Seller shall have the right to make any changes, repairs or modifications, or incur any expenditures necessary or desirable in Seller's opinion for the protection of the Assets or to comply with any Applicable Law or other legal requirement relative to the premises or to prevent or react to an emergency or environmental incident. Seller shall have the right to effect such expenditure or action with or without such approval, acting as would any prudent operator under similar circumstances. Unless Buyer and Seller otherwise agree, Seller shall not materially alter the Assets (other than the use of supplies and consumables or the normal production of Hydrocarbons from the Assets) or remove any improvements, equipment or property which comprise the Assets (other than the use of supplies and consumables).

Without the prior written consent of Buyer, Seller shall not do any of the following:

- (i) make any material change in the conduct of its business or operations;
- (ii) amend in any material respect any contract or agreement except where such amendment will not have a material adverse effect;
- (iii) sell, lease or otherwise dispose of any of the Assets, other than properties sold, leased or otherwise disposed of in the ordinary course of business,
- (iv) commit to any new operations reasonably anticipated by the Seller to require future capital expenditures in excess of \$50,000;

(v) with respect to any wells to be completed prior to Closing, skip any zone or abandon any zone while testing;

(vi) run pipe or abandon any well;

(vii) elect to participate in any operation on the Assets or fail to participate in any operation proposed on the Assets, or

(viii) commit to do any of the foregoing.

In addition, from the date hereof until the Closing, unless the prior written consent of Buyer is obtained, Seller shall:

(aa) use all reasonable efforts to cause the Assets to be developed, maintained, or operated in a manner consistent with prior operations and in compliance with good operating standards and in accordance with the terms and conditions of the applicable Leases, laws and regulations and will regularly consult with Buyer with respect to same;

(bb) ensure the payment of all rentals, royalties, overriding royalties and other payments due with respect to the Assets;

(cc) maintain all insurance now in force with respect to the Assets;

(dd) maintain all material permits, approvals, bonds, and guaranties affecting the Assets, and make all filings required under applicable law with respect to the Assets;

(ee) maintain books of account and records with regard to the Assets in accordance with Seller's past practices; and

(ff) promptly notify Buyer of any notice of default (or threat of default) received or given by Seller with respect to the Assets.

(c) Consents. Subject to 4.3 (d), Seller shall use reasonable efforts to obtain all waivers, consents, approvals, permits and authorizations and actions of Third Parties to complete the transactions contemplated by the Agreement. Seller shall reasonably endeavor to notify all holders of such rights of consent to the assignment of the Assets of its intention to sell the portion of the Assets affected thereby, and of such terms and conditions of the Agreement to which the holders of the rights are entitled.

Seller shall promptly notify Buyer if any consents or approvals are denied, or if the requisite period has elapsed without said consents or approvals having been received.

Section 4.2 Covenants of Buyer. Buyer covenants with Seller as follows:

(a) Performance Bonds, Guaranties, Etc.. With respect to any surety bonds, performance bonds, guarantees or financial assurances relating to the Assets, on which Seller or Seller's Affiliates is a principal or a guarantor, Buyer shall cause such surety bonds, performance bonds, guarantees or financial assurances to be replaced or otherwise released within ninety (90) days after the Closing Date. Buyer shall reimburse Seller for any reasonable amounts paid by Seller with respect to such surety bonds, performance bonds, guarantees or financial assurances related to periods on and after the Effective Date.

(b) Plugging and Abandonment. Upon Closing, Buyer shall assume all of Seller's responsibility for Plugging and Abandonment associated with the Assets, and shall conduct all Plugging and Abandonment in a good and workmanlike manner. If at any time during Buyer's ownership of the Assets, Buyer sells an interest or assigns an interest or obligation in any of the Leases, Fee Interests or Beneficial Interests, then Buyer or its assignee shall provide Seller a performance bond (in a form and with a surety satisfactory to Seller) or other security satisfactory to Seller in an amount reasonably calculated by Seller at that time to pay for any of Buyer's remaining Plugging and Abandonment obligations with respect to the Assets.

(c) No Use of Calpine Mark. At the Closing Buyer shall cease to use any trademarks, symbols or trade names containing "Calpine," or similar words. Notwithstanding anything to the contrary herein, Buyer shall have sixty (60) days from the Closing Date to remove or replace any identifications and signs.

(d) Transfer Orders. Buyer shall execute, acknowledge and deliver transfer orders or letters in lieu prepared by Buyer directing all purchasers of Hydrocarbons to make payments to buyer of proceeds attributable to Hydrocarbons produced from the Assets within sixty (60) days after Closing.

Section 4.3 Covenants of Seller and Buyer. Seller and Buyer covenant to each other as follows:

(a) Compliance with Conditions Precedent. Each Party shall use its commercially reasonable efforts to cause the conditions precedent set forth in Part Nine, applicable to such Party, to be fulfilled and satisfied as soon as practicable.

(b) Recording. Seller shall be solely responsible for recording of the Assignments, and any other documents related to the conveyance of the Assets, and shall promptly furnish Buyer with either the recorded originals or with the recording information thereof. Seller shall also be solely responsible for all filings with any Governmental Body for change of operator, and shall promptly provide Buyer with the original approved copies of all such filings, or confirmation thereof. All recording and filing shall be at the sole cost and expense of Buyer and Buyer shall promptly reimburse Seller for all such costs upon presentation of appropriate invoices.

(c) Press Release. No Party shall make any press release or other announcement respecting the Agreement without the consent of the other Party unless a Party refuses to consent and the Party desiring to make the release or other announcement is advised by its counsel that the release or other announcement is required to comply with any Applicable Law or stock exchange rule.

(d) Certain Filings, Consents and Permits. With respect to certain filings and consents required by any Governmental Body, the Parties agree that Buyer and Seller shall cooperate with one another to make all filings necessary and to obtain any necessary consents, permits, authorizations, approvals or waivers.

(e) Risk of Loss. The risk of casualty loss relating to the Assets shall pass from Seller to Buyer as of the Effective Date. If, after the Effective Date but prior to Closing, all or any material portion of the Assets is destroyed by fire or other casualty, is taken in condemnation or under the right of eminent domain or proceedings for such purposes are pending or threatened, Buyer shall purchase such portion of the Assets notwithstanding any such destruction, taking or pending or threatened taking, and the Purchase Price shall not be adjusted. Seller shall, at Closing, pay to Buyer all sums paid to Seller by Third Persons by reason of the destruction or taking of such portion of the Assets to be assigned to Buyer, and shall assign, transfer and set over to Buyer all of the right, title and interest of Seller in and to any unpaid awards or other payments from Third Persons arising out of the destruction, taking or pending or threatened taking as to such interest. Seller shall not voluntarily compromise, settle or adjust any material amounts payable by reason of any material destruction, taking or pending or threatened taking as to any of the Assets without first obtaining the written consent of Buyer, which shall not be unreasonably withheld. In the event that casualty losses exceed, in the aggregate, ten percent (10%) of the Purchase Price, either Seller or Buyer may terminate this Agreement upon written notice to the other, and neither Party thereafter shall have any further rights or obligations hereunder.

(f) Preferential Right to Purchase Hydrocarbon Production. Seller shall have the right, but not the obligation, at any time and from time to time, to designate a purchaser or to purchase as produced all Hydrocarbons produced and saved from the Assets. If Seller elects to purchase said Hydrocarbons, Seller and Buyer shall execute a NAESB form agreement for such sale and the transportation of such Hydrocarbons on commercially reasonable terms and conditions including, without limitation, those set out in Schedule 4.3(f).

(g) Post-Closing Access. Except as otherwise expressly provided herein, from and after the Closing Date, Buyer and Seller shall reasonably cooperate and afford each other or cause to be afforded to their respective officers, employees, accountants and other representatives access, upon reasonable notice, during business hours with respect to that portion of the Assets to which access has been requested, to review and copy the books, documents, databases or other records relating to the Assets, but excluding those documents subject to Third Party confidentiality obligations or subject to the attorney-client privilege or otherwise excluded from the definition of Assets (which books, documents, databases, records, or employees files or other information the Parties shall cooperate and assist one another in identifying and locating), interview, depose or seek testimony of employees, provide assistance in proceedings with employees as witnesses or advisors, investigate the physical premises, take photographs or videotapes, identify employees and contractors with knowledge of any matter which is the subject of a claim for which a Party has responsibility and make such employees available to such Party and provide reasonable office space to do any of the foregoing in connection with any matter affecting or alleged to affect the Party requesting such access. Notwithstanding the foregoing, access to Tax records shall be governed by Part Five.

(h) Final Recapitulation Settlement. On or before one hundred eighty

(180) days after Closing ("Final Settlement Date") Seller shall deliver to Buyer a final statement (the "Final Recapitulation Statement") which shall set forth all of the adjustments to the Purchase Price called for in this Section 4.3(h) ("Final Recap Amount").

(1) Seller Adjustments. The Final Settlement Statement shall incorporate the following adjustments in favor of Seller:

(a) If appropriate, any and all merchantable liquids in sales tanks above the pipeline connections on the Effective Date

that is credited to the Assets, less any Taxes required to be withheld by the purchaser of such.

(b) If appropriate, the proceeds received for any and all natural gas produced and credited to the Assets as of the Effective Date.

(c) An amount equal to all capital costs, expenses, and any Taxes that are paid by Seller, and that are, in accordance with generally accepted accounting principles, attributable to the Assets from and after the Effective Date, including, without limitation:

(i) royalties, rentals or other similar charges;

(ii) expenses paid by or on behalf of Seller under applicable operating agreements and, in the absence of an operating agreement, expenses of the sort customarily billed under such agreements; and

(iii) ad valorem, property and other Taxes and assessments (but not including income Taxes) based upon or measured by the ownership of the Property or the production of Hydrocarbons or the receipt of proceeds therefrom. For the purposes of this Agreement ad valorem taxes shall be prorated as of the Effective Date.

(iv) reasonable amounts paid by Seller for surety bonds, performance bonds or other financial assurances pursuant to Section 4.2(a); and

(d) Any other adjustments in favor of Seller as provided for in this Agreement.

(2) Buyer Adjustments. The Final Settlement Statement shall incorporate adjustments in favor of Buyer:

(a) the proceeds received for any and all merchantable liquids below the pipeline connections on the Effective Date that is credited to the Assets less any Taxes required to be withheld by the purchaser of such.

(b) the actual sales price received by Seller from any and all natural gas proceeds and credited to the Assets after the Effective Date; and

(c) Any other adjustments in favor of Buyer as provided for in this Agreement.

(3) Buyer shall have the right, within thirty (30) days after receipt of the Final Recapitulation Statement, to audit and object to such statement. If Buyer objects to the Final Recapitulation Statement in writing within the thirty (30) day period, Buyer and Seller shall attempt to resolve such objections within thirty (30) days after receipt of said objection. If the Parties are unable to resolve such objections within the thirty (30) day period, then either Party shall have the right thereafter to submit the matter to arbitration pursuant to the terms of the Dispute Resolution Procedure attached as Schedule 10.13 for determination of the Final Recap Amount.

(4) Payment of the Final Recap Amount is due thirty (30) days from receipt of the Final Recapitulation Statement, or ten (10) days from the determination of the Final Recap Amount under the Dispute Resolution Procedure, whichever is later. Interest will be applied at the Agreed Rate to any amounts if not paid when due.

(i) Audit Rights. Within one year after the Closing Date, each of Seller and Buyer may, at its own expense and by appointment only, audit the other Party's books, accounts and records relating to such production proceeds, capital costs, Taxes, Expenses and Burdens relating to this transaction. Such audit shall be conducted so as to cause a minimum of inconvenience to the audited Party.

(j) Further Assurances. Each Party shall, from time to time at the request of the other, and without further consideration, execute and deliver such other instruments of sale, transfer, conveyance, assignment, clarification and termination and take such other action as the Party making the request may reasonably require to effectuate the intentions of the Parties, including those reasonably required to sell, transfer, convey and assign to and vest in Buyer, and to place Buyer in possession of the Assets and to transfer, assign or convey the Excluded Assets to Seller. Seller intends to convey the Assets at Closing; however, in the event it is determined after Closing that: (i) any part of the Assets was not in fact conveyed to Buyer, and that the title to any part of the Assets is incorrectly in the name of Seller; (ii) any Excluded Asset is conveyed to Buyer and that the title to such excluded Asset is incorrectly in the name of Buyer; then each Party shall take all Such action necessary to correctly convey any part of Assets to Buyer, or any part of the Excluded Assets to Seller.

(k) Affiliates Access. Seller and its Affiliates shall have a non-exclusive right of access to and over the Fee Interests, Leases and Easements reasonably necessary to operate, maintain or remove any facilities or personal property in existence and owned or operated by such Affiliates on the Effective Date.

(l) Files Transfer. Originals (or copies if originals are not in possession of Seller) of all non-privileged and non-confidential files, contracts, and documents affecting the Assets which are in Seller's possession shall be shipped, using reasonable efforts, to Buyer within thirty (30) days after Closing. Buyer shall designate the method of shipment and the carrier far enough in advance to allow for timely shipment and shall be solely responsible for the cost and expense of shipment and for any Losses occurring as a result of such shipment. In the event Buyer has not provided for shipment within a reasonable time, then Seller may arrange and pay for shipment to Buyer; in such event, Buyer shall reimburse Seller for all expenses associated with such shipment within thirty (30) days of Seller's request for reimbursement.

(m) Copies. Copies of all non-privileged and non-confidential books, records, production records, logs (originals if in possession of Seller), well files (originals if in possession of Seller), information, and engineering data relating to the Assets, (except information and data excluded from the definition of Assets), shall be shipped, using reasonable efforts, to Buyer within thirty (30) days after Closing.

(n) Assumption of Operatorship. Unless otherwise agreed to by the Parties and subject to the terms and conditions of all applicable Contracts, Buyer shall assume Seller's obligations for operatorship of any Seller-operated Assets conveyed herein at 7:00 a.m. on the first Business Day following the Closing, and thereafter shall perform all duties required in the course of business, including without limitation, paying Burdens and severance Taxes, pumping and gauging wells, marketing Hydrocarbons, working over wells, drilling new wells, filing all necessary reports required by Applicable Law or otherwise, and performing maintenance or repair work on the Assets until such time as a successor operator is duly elected pursuant to any applicable Contract. Notwithstanding the foregoing, Seller does not warrant or guarantee that Buyer shall succeed Seller as operator.

(o) Assumption of Gas Imbalances. Buyer agrees to assume and bear any and all gas imbalances with respect to the Assets. Buyer understands that the existence of a gas imbalance in the form of overproduction may result in a cash payment by Buyer or in Buyer's inability to further produce and sell gas. Further, to the extent any

of the Wells are underproduced, there are no warranties that any rights of makeup or cash payment exist with respect to such underproduction. WITHOUT LIMITATION OF ANY OTHER PROVISION CONTAINED HEREIN, BUYER HEREBY SPECIFICALLY RELEASES SELLER FROM, AND AGREES TO FULLY DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS SELLER, ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES, FROM AND AGAINST EACH AND EVERY LOSS THAT MAY BE ASSERTED BY ANY THIRD PERSON, RELATING TO GAS IMBALANCES RESPECTING THE WELLS CONVEYED WHETHER ARISING UNDER THE TERMS OF ANY GAS BALANCING OR OTHER SIMILAR AGREEMENT, BY OPERATION OF APPLICABLE LAW OR OTHERWISE. Buyer represents that it has independently investigated, to its satisfaction, the gas balancing account associated with the Assets.

On or before the date that the Final Recapitulation Statement is due, Seller and Buyer shall, based upon data available at that time, determine (a) the total amount of overproduction of gas attributable to Seller's interest (e.g. volumes of gas taken from the Properties, or on lands unitized therewith, by Seller in excess of those volumes which Seller's interest would be entitled to receive) and (b) the total amount of underproduction of gas attributable to Seller's interest (e.g. volumes of gas not taken from the Properties, or on lands unitized therewith, by Seller despite Seller's interest in and right to receive such volumes). If the total amount of overproduction (as so determined) exceeds the total amount of underproduction (as so determined) Buyer shall receive a credit against the Purchase Price equal to \$3.00 per Mcf times such excess. If the total amount of underproduction (as so determined) exceeds the total amount of overproduction (as so determined) Buyer shall in addition to the amount of Purchase Price payable, pay to Seller an amount equal to \$3.00 per Mcf times such excess.

PART FIVE

TAXES

Section 5.1 Payment and Apportionment of Real Property Taxes and Personal Property Taxes. With respect to Taxes:

- (a) 2004 Taxes. All property Taxes including, without limitation, ad valorem Taxes, benefit assessments, and special assessments, shall be prorated between the Buyer and Seller based upon the Effective Date for the Tax year in which the Effective Date occurs. Buyer shall pay such Taxes to the appropriate taxing authorities. Seller shall be charged for and shall reimburse Buyer for the Seller's allocated share of property Taxes paid by Seller.
- (b) 2003 Taxes. All real property Taxes and personal property Taxes imposed as a result of ownership of the Assets at any time during 2003 shall be paid by Seller.
- (c) 2005 Taxes. All real property Taxes and personal property Taxes imposed as a result of ownership of the Assets at any time during 2005 shall be paid by Buyer.

Section 5.2 Sales Taxes. The Purchase Price does not include any sales Taxes or other transfer Taxes imposed in connection with the sale of the Assets. Buyer shall reimburse Seller for or otherwise pay any sales Tax or other transfer Tax, as well as any applicable conveyance, transfer and recording fee, and real estate transfer stamps or Taxes imposed on the transfer of the Assets pursuant to the Agreement. If Buyer is of the opinion that it is exempt from the payment of any such sales Tax or other transfer Tax in connection with the purchase of the Assets, Buyer shall furnish to Seller the appropriate Tax exemption certification. Sales and other transfer Taxes shall be accounted for pursuant to Section 4.3(h).

Section 5.3 Other Taxes. All excise, windfall profit and other Taxes (other than income Taxes) relating to production of Hydrocarbons prior to the Effective Date shall be paid by Seller, and all such Taxes relating to such production on or after the Effective Date shall be paid by Buyer.

Section 5.4 Cooperation. For the period ending on the seventh anniversary of the Closing Date, each Party to the Agreement shall provide the other Party with reasonable

access to all relevant documents, data and other information which may be required by the other Party for the purpose of preparing Tax returns, establishing or defending a Tax position and responding to any audit by any taxing jurisdiction. Each Party to the Agreement shall cooperate with all reasonable requests of the other Party made in connection with contesting the imposition of Taxes. Notwithstanding anything to the contrary in the Agreement, neither Party to the Agreement shall be required at any time to disclose to the other Party any Tax returns or other confidential or privileged Tax information.

Section 5.5 Tax Proceedings. In the event Buyer receives notice of any examination, claim, adjustment or other proceeding relating to the liability for Taxes of or with respect to Seller for any period Seller is or may be liable under the Agreement, Buyer shall within ten (10) days notify Seller in writing thereof. As to any such Taxes for which Seller is or may be liable under the Agreement, and Seller does not contest such liability as against Buyer, Seller shall be entitled at Seller's expense to control or settle the contest of such examination, claim, adjustment or other proceeding, provided Seller notifies Buyer in writing within thirty (30) days after receipt of the notice described in the preceding sentence that Seller desires to do so. The Parties shall cooperate with each other in the negotiations and settlement of any proceeding described in this Section 5.5. Buyer shall provide, or cause to be provided, to Seller necessary authorizations, including powers of attorney, to control any proceeding which Seller is entitled to control pursuant to this Part Five.

Section 5.6 Purchase Price Allocation. The allocation of Purchase Price provided for in Section 2.3 is intended to comply with the allocation method required by Section 1060 of the Code. Buyer and Seller shall cooperate to comply with all substantive and procedural requirements of Section 1060 and regulations thereunder, including without limitation the filing by Buyer and Seller of an IRS Form 8594 with their federal income Tax returns for the taxable year in which the Closing occurs. Buyer and Seller agree that each will not take for income Tax purposes, or permit any Affiliate to take, any position inconsistent with the allocation of Purchase Price prescribed in Section 2.3.

PART SIX

ENVIRONMENTAL MATTERS

6.1 Phase I Environmental Assessment. Beginning on the date of this Agreement and ending on August 26, 2004 (the "Review Period"), Buyer shall have the right,

at its sole cost, risk and expense, to conduct an environmental assessment of the Assets. During normal business hours and after providing Seller reasonable prior notice of any such activities, Buyer and its representatives shall be permitted to enter upon the Assets operated by Seller and all buildings and improvements thereon, inspect the same, review all of Seller's non-privileged and non-confidential files and records related to the Assets and generally conduct such tests, examinations, and investigations as are consistent with the American Society for Testing and Materials standard Phase I environmental audit. Seller will have the right to (i) observe such investigation and (ii) promptly receive a copy of all results, analyses and reviews. All information obtained or reviewed by Buyer shall be maintained confidential pursuant to the Confidentiality Agreement, which shall continue in force under its terms.

6.2 Environmental Defect Notice. Buyer shall notify Seller in writing of any Environmental Conditions (an "Environmental Defect Notice(s)") no later than 5:00 p.m. CDT August 26, 2004. The Environmental Defect Notice shall state with reasonable specificity: (i) the Property affected or on which the Asset is located; (ii) a complete description of the Environmental Condition claimed; (iii) Buyer's good faith estimate of the cost of Remediation of such Environmental Condition (the "Environmental Defect Value"); and (iv) appropriate documentation substantiating Buyer's claim. Buyer shall conclusively be deemed to have waived any Environmental Condition not asserted by an Environmental Defect Notice no later than 5:00 p.m. CDT August 26, 2004 (the "Environmental Notice Deadline").

6.3 Seller's Election. For any Environmental Conditions asserted in an Seller shall have the option of (i) Remediating the Environmental Defect Notice(s), Environmental Condition, (ii) contesting the existence of the Environmental Condition or the Environmental Defect Value, (iii) paying the Environmental Defect Value as an adjustment to the Purchase Price subject to the limitations set forth below, or (iv) excluding the affected Property and reducing the Purchase Price by the value allocated to the Property. Seller shall notify Buyer in writing of its election no more than five (5) days following its receipt of an Environmental Defect Notice.

(a) If Seller elects to Remediate an Environmental Condition, Seller shall give written notice of such an election to Buyer no more than four (4) days after receipt of the Environmental Defect Notice, together with Seller's proposed plan and timing for such Remediation and Seller shall remain liable for all Losses arising out of or in connection with such Environmental Condition until such time as the Remediation is completed.

(b) If Seller contests the existence of an Environmental Defect or the Environmental Defect Value, then Seller shall so notify Buyer in writing no more than

four (4) days after receipt of the Environmental Defect Notice ("Environmental Rejection Notice"). The Environmental Rejection Notice shall state with reasonable specificity the basis of Seller's rejection of the Environmental Defect or the Environmental Defect Value. Within ten (10) days of Buyer's receipt of the Environmental Rejection Notice, representatives of Buyer and Seller, knowledgeable in environmental matters, shall meet and, within twenty (20) days after Buyer's receipt of such Environmental Rejection Notice, either: (i) agree to mutually reject the particular Environmental Defect Notice, or (ii) agree on the validity of such Notice including the Environmental Defect Value, in which case Seller shall have sixty (60) days after the date of such agreement within which to elect in writing to Remediate the Environmental Condition pursuant to Section 6.2(a) above or to pay Buyer the Environmental Defect Value pursuant to Section 6.2 (c) above. If the Parties cannot agree on either options (i) or (ii) in the preceding sentence, the dispute shall be submitted to arbitration in accordance with the procedures set forth in Section 10.13. In such case, Seller shall have five (5) days following the final decision of the arbitration panel to notify Buyer in writing of its election to Remediate the Environmental Defect or to pay the Buyer the Environmental Defect Value.

(c) In the event a contested Environmental Defect cannot be resolved prior to Closing, Seller shall convey the affected Property to Buyer and Buyer shall pay for the Property at Closing in accordance with the Agreement as though there were no Environmental Defect, subject to Seller's obligations as set forth above upon resolution of the contested matter.

(d) If the Purchase Price is adjusted pursuant to Section 6.2(iii) above, or if Buyer waives an Environmental Condition pursuant to Section 6.2 above or otherwise, Buyer shall assume all Losses associated with such Environmental Condition(s).

Section 6.4 Covenant of Cooperation. The Parties shall cooperate fully with each other and act in good faith in implementing Part Six, including but not limited to the following:

(a) sharing with the other Party in a timely manner all material, non-privileged, non-confidential correspondence received from any Affiliate or Third Person that is relevant to such an Environmental Condition for which a Party is responsible pursuant to this Part Six;

(b) affording the other Party timely access to and an opportunity to comment on (both draft and final versions) any material non-privileged, non-

confidential correspondence to Affiliates or Third Persons, study protocols and results, drawings, charts remediation plans or reports, or other documentation relating to an Environmental Condition for which a Party is responsible pursuant to this Part Six;

(c) providing the other Party timely notice of and an opportunity to attend and participate in any meetings or hearing with Governmental Bodies or courts relating to any Environmental Condition for which a Party is responsible pursuant to this Part Six;

(d) preparing all material strategies and plans affecting any matter with respect to which the other Party may have liability hereunder or that may affect the future operations of the other Party in consultation with the other Party using appropriate cost-effective technology and clean-up criteria, including risk-based clean-up standards where permitted, in accordance with Applicable Law;

(e) permitting each other post-Closing access, as described in Section 4.3(h); and

(f) cooperating with each other to assist in the collection of any amounts that may be collectible from joint interest owners to offset Buyer's and Seller's liabilities pursuant to Part Six;

Section 6.5 Post-Closing Access. After the Closing with prior consent of Buyer (which consent shall be timely given and shall not be unreasonably withheld) and, where required, the prior written consent of any operator and landowner of any affected Property, Seller and Seller's agents and representatives shall have the right to enter onto the affected Property during normal business hours for the purpose of conducting any environmental inspection, audit, test, Remediation, or any other purpose deemed necessary by Seller for purposes of fulfilling its responsibilities under Part Six. Buyer shall use its reasonable efforts to obtain for Seller any consent required from any Third Person (including but not limited to the operator and landowner) to obtain such access.

Section 6.6 Limitation. Payments of the Environmental Defect Values shall be made by Seller to Buyer as an adjustment to the Purchase Price at Closing if then determined or if not determined as of the Closing, thereafter, consistent with the time frames set forth above. Notwithstanding the provisions of Sections 6.2 and 6.3, no adjustment to the Purchase Price for Environmental Defect Values pursuant to Section 6.2(b) shall be made unless and until the aggregate value of all such Values (the "Aggregate Environmental Defect Value")

exceeds a deductible (not a threshold) equal to Five Hundred Thousand Dollars (\$500,000.00). If the Environmental Defect Value with respect to any single Environmental Condition is less than \$5,000, such cost shall not be considered in calculating the Aggregate Environmental Defect Value. In the event the Aggregate Environmental Defect Value exceeds ten percent (10%) of the Purchase Price, either Seller or Buyer may terminate this Agreement upon written notice to the other, and neither Party thereafter shall have any further rights or obligations hereunder.

Section 6.7 Exclusive Remedies. The rights and remedies granted each Party in Part Six are exclusive rights and remedies against the other Party related to any Environmental Condition, or Losses related thereto and the other matters contained in this Part Six, and, EXCEPT AS PROVIDED IN PART 8, EACH PARTY EXPRESSLY WAIVES ANY AND ALL OTHER RIGHTS AND REMEDIES WHICH IT MAY HAVE AGAINST THE OTHER PARTY REGARDING ENVIRONMENTAL CONDITIONS, WHETHER FOR CONTRIBUTION, INDEMNITY OR OTHERWISE, REGARDLESS OF THE FAULT OR NEGLIGENCE OF THE CLAIMING PARTY, INCLUDING STRICT OR STATUTORY LIABILITY OF THAT PARTY UNDER ANY APPLICABLE LAW.

PART SEVEN

TITLE MATTERS

Section 7.1 Confidentiality Agreement. During the Review Period, Buyer upon written request and at Buyer's sole cost and expense, may inspect and review all of Seller's non-privileged and non-confidential files, records, and similar materials relating to the Fee Interests, Leases, Beneficial Interests and Contracts. All information made available to Buyer and designated by Seller as confidential or proprietary shall be maintained confidential pursuant to the Confidentiality Agreement, which shall continue in force under its terms.

Section 7.2 Preferential Purchase Rights. Seller shall have a period of sixty (60) days from the date of the Agreement to resolve preferential purchase rights to the Properties set forth on Schedule 7.2. To the extent any preferential purchase rights are exercised by any Third Person entitled to exercise such rights, or waivers thereof are not obtained prior to the Closing Date, then the Properties subject to such preferential purchase rights shall not be sold to Buyer and shall be excluded from the Agreement. The Purchase Price shall be adjusted by the dollar value allocated to the Properties subject to such preferential purchase right set forth in Schedule 2.3. In the event any Third Person initially elects to exercise a particular preferential right, but subsequently refuses or elects not to consummate the purchase under the

preferential right (whether such failure occurs before or after the Closing Date), the Parties agree that Buyer shall purchase such interests covered by the preferential right in accordance with the values set forth in Schedule 2.3 and the closing of such transaction shall take place on a date designated by Seller not more than ninety (90) days after the Closing Date.

Section 7.3 Required Consents. If Seller shall fail to obtain any consent or waiver of maintenance of uniform interest provision required for the transfer of any Property, Seller's failure shall be handled as follows:

(a) If the holder of the right to consent or party to a maintenance of uniform interest provision affirmatively refuses to consent or waive prior to Closing, such refusal shall be considered a Title Defect under this Part Seven and the Title Indemnity Payment therefore shall equal the value (or portion thereof) allocated to the affected Property (or portion thereof) in Schedule 2.3.

(b) Except for approvals from Governmental Bodies normally received subsequent to assignment, if Seller believes a consent or waiver may be obtained subsequent to Closing, the Property shall be held by Seller for the benefit of Buyer after Closing and Seller shall provide Buyer with the economic benefits thereof until such consent or waiver is received or until ninety (90) days following Closing, if later, and Buyer shall pay for the Property at Closing in accordance with the Agreement as though the consent or waiver had been obtained. If Seller obtains the consent or waiver on or before ninety (90) days following Closing, then Seller shall deliver conveyances of the Property to Buyer. If the consent or waiver is not obtained or is affirmatively refused on or before ninety (90) days following Closing, Seller shall refund the value allocated to the affected portion of the Property to Buyer less any net revenues (revenues net of costs and Burdens) received by Buyer in connection with such affected portion of the Property and Seller's holding for the benefit of Buyer shall terminate.

Section 7.4 Title Defects. Buyer shall notify Seller in writing of any Title Defects ("Title Defect Notice(s)") no later than 5:00 p.m. CDT on August 26, 2004. The Title Defect Notice shall state with reasonable specificity: (i) the Property affected; (ii) the particular Title Defect claimed; (iii) Buyer's good faith estimate of the amount the Title Defect reduces the value allocated to the affected Property on Schedule 2.3 (the "Defect Value"); and (iv) appropriate documentation substantiating Buyer's claim. Buyer shall conclusively be deemed to have waived any Title Defects not asserted by a Title Defect Notice no later than 5:00 p.m. CDT on August 26, 2004. For all Title Defects asserted in Title Defect Notices, Seller shall have the option of (a) curing the Title Defect, (b) contesting the Title Defect or Buyer's good faith estimate of the Defect Value, (c) paying Buyer's good faith estimate of the Defect Value as an adjustment to the Purchase Price subject to the limitations set forth below (a "Title Indemnity Payment"), or

(d) excluding the affected Property and reducing the Purchase Price by the value allocated to such Property. Seller shall notify Buyer in writing of its election no more than four (4) days following its receipt of a Title Defect Notice.

Section 7.5 Seller's Right to Cure. If Seller elects to cure a Title Defect, then Seller shall so notify Buyer in writing within four (4) days after receipt of the particular Title Defect Notice ("Cure Notice"). Within sixty (60) days after receipt of the Title Defect Notice, Seller shall either cure the Title Defect to the reasonable satisfaction of Buyer ("Cure") or if Seller is unable to Cure such Title Defect, make a Title Indemnity Payment for such Title Defect equal to Buyer's good faith estimate of the Defect Value set forth in the Title Defect Notice.

If Seller is unable to Cure a Title Defect prior to Closing, Seller shall convey the Property to Buyer and Buyer shall pay for the Property at Closing in accordance with the Agreement as though the Title Defect had been Cured, subject to Seller's obligation to make a Title Indemnity Payment to Buyer less any net revenues (revenues net of costs and Burdens) received by Buyer in connection with the affected portion of the Property if the Title Defect cannot be Cured during the sixty (60) days following receipt of the Title Defect Notice.

Section 7.6 Contested Title Defects. If Seller contests the existence of a Title Defect or Buyer's good faith estimate of the Defect Value, then Seller shall so notify Buyer in writing no more than five (5) days after Seller's receipt of the Title Defect Notice ("Rejection Notice"). The Rejection Notice shall state with reasonable specificity the basis of Seller's rejection of the Title Defect or Buyer's good faith estimate of the Defect Value. Within thirty

(30) days of Buyer's receipt of the Rejection Notice, representatives of Buyer and Seller, knowledgeable in title matters, shall meet and, within ten (10) days after Buyer's receipt of such Rejection Notice, either: (i) agree to mutually reject the particular Title Defect, or (ii) agree on the validity of such Title Defect and the Defect Value, in which case Seller shall have sixty (60) days after the date of such agreement within which to Cure such Title Defect and failing such Cure, to make the Title Indemnity Payment therefore. If the Parties cannot agree on either options (i) or (ii) in the preceding sentence, the Title Defect or the Defect Value subject to the Rejection Notice shall be submitted to arbitration in accordance with the procedures set forth in Section 10.13. If Seller fails to timely deliver a Rejection Notice or a Cure Notice, Seller shall be deemed to have accepted the validity of the Title Defect and Buyer's good faith estimate of the Defect Value, and shall pay Buyer a Title Indemnity Payment for the Title Defect equal to the Defect Value within sixty (60) days of Seller's receipt of the applicable Title Defect Notice.

In the event a contested Title Defect cannot be resolved prior to Closing, Seller shall convey the affected Property to Buyer and Buyer shall pay for the Property at Closing in

accordance with the Agreement as though there were no Title Defect, subject to Seller's obligations as set forth in this Section 7.6 to Cure or to make a Title Indemnity Payment to Buyer less any net revenues (revenues net of costs and Burdens) received by Buyer in connection with the affected Property.

Section 7.7 Title Indemnity Payments. Title Indemnity Payments shall be made by Seller to Buyer as an adjustment to the Purchase Price at Closing if then determined or if not determined as of the Closing, thereafter, consistent with the time frames set forth above Notwithstanding the provisions of Sections 7.3, 7.4, 7.5 and 7.6, Seller is obligated to make a Title Indemnity Payment only if the aggregate Defect Value of all Title Defects that Seller has agreed to pay pursuant to Section 7.4 or which is resolved pursuant to Section 7.6 (the "Aggregate Title Defect Value") exceed a deductible (not a threshold) equal to Five Hundred Thousand Dollars (\$500,000.00). If the Defect Value for any single Property is less than \$5,000, such value shall not be considered in calculating the Aggregate Title Defect Value. If a Defect Value is not liquidated or certain in amount, the Defect Value shall be the amount necessary to compensate Buyer for the adverse economic effect on the Property, taking into account all relevant factors, including without limitation, the Property's Allocated Value, the time value of money, the practical and legal effect of the Title Defect, and the amount of reduction in Net Revenue Interest or increase in the Working Interest of the affected Property. The aggregated Defect Value(s) for any Property shall never exceed the value allocated to such Property in Schedule 2.3. In the event the Aggregate Title Defect Value exceeds ten percent (10%) of the Purchase Price either Buyer or Seller may terminate this Agreement upon written notice to the other, and neither Party thereafter shall have any further rights or obligations hereunder.

Section 7.8 Interest Additions. If Seller discovers an increase in the Net Revenue Interest shown on Schedule H with respect to a Property Interest which is free of Title Defects (an "Interest Addition"), then Seller shall, from time to time and without limitation, have the right to give Buyer written notice of such Interest Additions ("Interest Addition Notice"), as soon as practicable but no less than fifteen (15) days before Closing, stating with reasonable specificity the Property affected, the particular Interest Addition claimed, and Seller's good faith estimate of the amount the Additional Interest increases the value of the affected Property over and above the value allocated to such Property in Schedule 2.3 ("Interest Addition Value"). Seller shall conclusively be deemed to have waived any additional Interest not asserted by an Interest Addition Notice on or before fifteen (15) days prior to Closing. If Buyer agrees with the existence of the Additional Interest and Seller's good faith estimate of the Interest Addition Value, then the Interest Addition Value shall be applied as an offset to any Title Indemnity Payment required of Seller ("Offset"). If the Interest Addition Value exceeds the amount of any Title Indemnity Payment(s) due Buyer, the amount of such difference (an "Interest Addition Payment") shall be paid by Buyer to Seller as an adjustment

to the Purchase Price at Closing. If Buyer contests the existence of the Interest Addition or Seller's good faith estimate of the Interest Addition Value, then Buyer shall so notify Seller in writing within ten (10) days after Buyer's receipt of the Interest Addition Notice ("Interest Addition Rejection Notice"). The Interest Addition Rejection Notice shall state with reasonable specificity the basis of Buyer's rejection of the Additional Interest or Buyer's good faith estimate of the Interest Addition Value. Within ten (10) days of Seller's receipt of the Interest Addition Rejection Notice, representatives of Buyer and Seller, knowledgeable in title matters, shall meet and, within sixty (60) days after Seller's receipt of such Interest Addition Rejection Notice, either (a) agree to mutually reject the Interest Addition in which case Seller shall waive the Interest Addition, or (b) agree on validity of such Interest Addition and the Interest Addition Value, in which case Seller shall be entitled to an Offset or Interest Addition Payment. If the Parties cannot agree on either option (a) or (b) in the preceding sentence, the Interest Addition subject to the Interest Addition Rejection Notice shall be submitted to arbitration in accordance with the procedures set forth in Section 10.13. If Buyer fails to timely deliver an Interest Addition Rejection Notice, Buyer shall be deemed to have accepted the validity of the Interest Addition and Seller's good faith estimate of the Interest Addition Value, and Seller shall be entitled to an Offset or Interest Addition Payment as described above.

Section 7.9 Reconveyance. If Seller makes a payment for Title Defect pursuant to Part Seven for one hundred percent (100%) of the Defect Value, Buyer shall, at Seller's sole option to be exercised no later than sixty (60) days after such payment, reconvey to Seller the Property or portion of the Property, and all proceeds accruing thereto, with respect to which the Title Indemnity Payment was made (effective as of the Effective Date).

PART EIGHT

INDEMNITY

Section 8.1 General Indemnification. Buyer and Seller agree that:

(a) Seller. Except with respect to Taxes (which are covered by Part Five), and title matters (which are covered by Part Seven) Seller shall indemnify, defend and hold harmless Buyer, its Affiliates and its and their respective officers, directors, agents and employees from and against all Losses based upon, arising out of, in connection with, or relating to:

- (i) any breach of any representation, warranty, covenant or agreement of Seller contained in the Agreement;
- (ii) except for the Assumed Liabilities, any matter arising in connection with the ownership or operation of the Assets prior to the Effective Date;
- (iii) all actions, proceedings, claims, litigation, arbitration, mediation or other dispute resolution procedure pending or to the Actual Knowledge of Seller threatened, as of the Effective Date relating to or affecting the Assets;

and for which Buyer has submitted a Claim Notice on or before December 31, 2005 in compliance with Section 8.2. NOTWITHSTANDING THE FOREGOING, SELLER'S FINANCIAL OBLIGATIONS UNDER THIS SECTION 8.1(a) SHALL NOT EXCEED, IN THE AGGREGATE, AN AMOUNT EQUAL TO FIFTY PERCENT (50%) OF THE PURCHASE PRICE AS ADJUSTED PURSUANT TO SECTION 2.2.

(b) Buyer. Except with respect to Taxes (which are covered in Part Five), Buyer shall indemnify, defend and hold harmless Seller, its Affiliates and its and their respective officers, directors, agents and employees from and against all Losses based upon, arising out of, in connection with, or relating to:

- (i) any breach of any representation, warranty, covenant or agreement of Buyer contained in the Agreement;
- (ii) if the Closing occurs, any matter arising in connection with the ownership or operation of the Assets from and after the Effective Date;
- (iii) Buyer's inspection of the Assets as set forth in Section 3.2(g) and 4.1(a);
- (iv) if the Closing occurs, any dispute or claim arising after Closing in connection with preferential purchase rights on Assets conveyed to Buyer at the Closing;
- (v) any claims asserted by Third Persons against Seller in reliance on any interpretive data conveyed by Seller to Buyer, to the extent such claims arise as a consequence of Buyer's disclosure of such data;

(vi) If Closing occurs, Losses attributable to claims against Seller's bonds or similar instruments that remain in place after the Closing pursuant to Section 4.2;

(vii) if the Closing occurs, the Assumed Liabilities; and

(viii) any Losses not indemnified by Seller by reason of the limitations set forth in Section 8.1 (a).

Section 8.2 Method of Asserting Claims, Etc. Except for Claims under Parts 5 and 7, all claims for indemnification under the Agreement shall be asserted and resolved as follows:

(a) Third Party Claims. In the event that any claim for which a Party providing indemnification (the "Indemnifying Party") would be liable to a Party or any of its officers, directors, employees, agents, representatives or others entitled to indemnification hereunder (the "Indemnified Party") is asserted against or sought to be collected by a Third Person, the Indemnified Party shall promptly notify the Indemnifying Party of such claim, specifying the nature of such claim and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim) (the "Claim Notice"). The Indemnified Party shall have thirty (30) days from its receipt of the Claim Notice (the "Notice Period") to notify the Indemnified Party (i) whether or not it disputes its liability to the Indemnifying Party hereunder with respect to such claim, and (ii) if it does not dispute such liability, whether or not it desires, at its sole cost and expense, to defend the Indemnified Party against such claim; provided, however, that the Indemnified Party is hereby authorized prior to and during the Notice Period to file any motion, answer or other pleading which it shall deem necessary or appropriate to protect its interests. In the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it does not dispute such liability and desires to defend against such claim or demand, then, except as hereinafter provided, the Indemnifying Party shall have the right to defend such claim or demand by appropriate proceedings, which proceedings shall be promptly settled or prosecuted to a final conclusion, in such a manner as to avoid any risk of the Indemnified Party becoming subject to liability. If the Indemnified Party desires to participate in, but not control, any such defense or settlement, it may do so at its own cost and expense. If the Indemnifying Party disputes its liability with respect to such claim, or elects not to defend against such claim, whether by not giving timely notice as provided above or otherwise, the Indemnified Party shall have the right

but not the obligation to defend against such claim, and the amount of any such claim, or if the same be contested by the Indemnifying Party or by the Indemnified Party, then that portion thereof as to which such defense is unsuccessful, shall be conclusively deemed to be a liability of the Indemnifying Party hereunder (subject, if it has timely disputed liability, to a determination in accordance with Section 10.13 that the disputed liability is covered by this Part Eight.)

(b) Other Claims. In the event that the Indemnified Party shall have a claim against the Indemnifying Party hereunder which does not involve a claim or demand being asserted against or sought to be collected from it by a Third Person, the Indemnified Party shall promptly send a Claim Notice with respect to such claim to the Indemnifying Party. If the Indemnifying Party does not notify the Indemnified Party within the Notice Period that it disputes such claim, the amount of such claim shall be conclusively deemed a liability of the Indemnifying Party hereunder.

Section 8.3 Payment. Payments under this Part Eight shall be made as follows:

(a) Payment for Undisputed Amounts. In the event that the Indemnifying Party is required to make any payment under this Part Eight, the Indemnifying Party shall promptly pay the Indemnified Party the amount so determined. If there should be a dispute as to the amount or manner of determination of any indemnity obligation owed under Part Six or this Part Eight, the Indemnifying Party shall nevertheless pay when due such portion, if any, of the obligation as shall not be subject to dispute. The difference, if any, between the amount of the obligation ultimately determined as properly payable under Part Six or this Part Eight and the portion, if any theretofore paid, shall bear interest at the Agreed Rate as provided in Section 8.3(b). Upon the payment in full of any claim, the Indemnifying Party shall be subrogated to the rights of the Indemnified Party against any Person or other entity with respect to the subject matter of such claim.

(b) Interest. If all or part of any indemnification obligation under the Agreement is not paid when due upon resolution of the claim, then the Indemnifying Party shall pay on demand to the Indemnified Party interest at the Agreed Rate on the unpaid amount of the obligation for each day from the date the amount became due until payment in full.

Section 8.4 Disputed Claims. If the Indemnifying Party shall notify the Indemnified Party during the Notice Period of any Disputed Claim under Section 8.2, the Disputed Claims shall be subject to the Dispute Resolution Procedure pursuant to Section 10.13.

Section 8.5 Applicability of Part Eight. This Part Eight does not apply to title matters (which are covered by Part Seven) or Tax matters (which are covered by Part Five). This Part Eight applies to certain Environmental Conditions only to the extent of a breach of the representation set forth in

Section 3.1(g), and Seller's obligations (if any) under Section 6.3(a) all other Environmental Conditions or other matters being expressly subject to the terms and conditions of Part Six.

PART NINE

CONDITIONS PRECEDENT

Section 9.1 Conditions Precedent of Seller. The obligations of Seller under the Agreement are subject, at the sole option of Seller, to the satisfaction, in Seller's sole opinion, at or prior to the Closing of the following conditions:

- (a) Representations and Warranties True at Closing. The representations and warranties of Buyer contained in the Agreement or in any certificate or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, were true and complete when made, and shall be true and complete on and as of the Closing Date as though such representations and warranties were made at and as of such date except as otherwise expressly provided herein.
- (b) Compliance with Agreement. On and as of the Closing Date, Buyer shall have performed and complied with all agreements, covenants and conditions required by the Agreement to be performed and complied with prior to or on the Closing Date.
- (c) Validity of Agreement. The execution, delivery and performance of this Agreement and the transactions contemplated thereby have been duly and validly authorized by all necessary action, corporate or otherwise, on the part of Buyer.
- (d) Approvals. Seller shall have obtained all approvals including, without limitation, those of its senior management and board of directors, necessary to consummate the proposed transaction.

(e) Opinion of Counsel. Seller shall have received an opinion dated as of the closing from Buyer's counsel in substantially the form set forth in Exhibit 3.

(f) Buyer's Certificates. Seller shall have received (i) a certificate executed by a duly qualified officer of Buyer dated as of the Closing in substantially the form set forth in Exhibit 4 and a certificate of incumbency for such officer and (ii) certified copies of resolutions of Buyer's board of directors, as appropriate, authorizing and approving the execution, delivery and performance of the Agreement.

(g) Consents. Buyer shall have used reasonable best efforts to obtain all necessary consents of and filings with any Governmental Body relating to the consummation of the transactions contemplated by this Agreement.

(h) Injunction. On the Closing Date, there shall be no injunction, writ, or preliminary restraining order or any order of any nature issued by a court or other Governmental Body of competent jurisdiction directing that the transaction provided for herein or any of them not be consummated as herein provided or imposing any conditions on the consummation of the transactions contemplated hereby and no material proceeding or lawsuit shall have been commenced or threatened by any Governmental Body or other Third Person with respect to any of the transactions contemplated by the Agreement.

(i) Due Diligence Acknowledgment. Buyer shall deliver to Seller at Closing a signed acknowledgment in substantially the form set forth in Exhibit 5, stating that Buyer had sufficient and adequate time and opportunity to review all files, documents, and other information, which Seller has made available. Buyer shall also acknowledge that as a result of Buyer's due diligence, including but not limited to the aforementioned file review, it has fully satisfied itself as to the condition and value of the Assets.

(j) Conveyances. Buyer shall execute and acknowledge the assignments which are contained in Exhibit 1 (the "Assignments"), the deeds which are contained in Exhibit 2 (the "Deeds"), as well as such certificates or other documents as are required to effect the transfer of the Assets.

(k) Additional Agreements. Buyer shall execute, acknowledge and deliver to Seller such other agreements as may be necessary to carry out the purposes of the Agreement

Section 9.2 Conditions Precedent of Buyer. The obligations of Buyer under this Agreement are subject, at the option of Buyer, to the satisfaction, in Buyer's sole opinion, at or prior to the Closing of the following conditions:

- (a) Representations and Warranties True at Closing. The representations and warranties of Seller contained in the Agreement or in any certificate or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, were true and complete when made, and shall be true and complete on and as of the Closing Date as though such representations and warranties were made at and as of such date except as otherwise expressly provided herein.
- (b) Compliance with Agreement. On and as of the Closing Date, Seller shall have performed and complied with all agreements, covenants, and conditions required by the Agreement to be performed and complied with prior to or on the Closing Date.
- (c) Validity of Agreement. The execution, delivery and performance of this Agreement and the transactions contemplated thereby have been duly and validly authorized by all necessary action, corporate or otherwise, on the part of Seller.
- (d) Opinion of Counsel. Buyer shall have received an opinion dated as of the Closing from Seller's counsel in substantially the form set forth in Exhibit 3.
- (e) Seller's Certificate. Buyer shall have received (i) a Certificate executed by a duly qualified officer of Seller dated as of the Closing in substantially the form set forth in Exhibit 4 and a certificate of incumbency for such officer and (ii) certified copies of resolutions of Buyer's board of directors, as appropriate authorizing and approving the execution, delivery and performance of the Agreement.
- (f) Consents. Seller shall have used reasonable efforts to obtain all necessary consents of and filings with any Governmental Body relating to the consummation of the transactions contemplated by the Agreement.
- (g) Injunction. On the Closing Date, there shall be no injunction, writ, or preliminary restraining order or any order of any nature issued by a court or other Governmental Body of competent jurisdiction directing that the transaction provided for herein or any of them-not be consummated as herein provided or imposing any conditions on the consummation of the transactions contemplated hereby and no

material proceeding or lawsuit shall have been commenced or threatened by any Governmental Body or other Third Person with respect to any of the transactions contemplated by the Agreement.

(h) Conveyances. Seller shall execute, acknowledge and deliver to Buyer the Assignments as well as such certificates or other documents as are required to effect the transfer of the Assets, or the subsequent operation thereof. Buyer shall also execute and deliver such change of operator forms as are required by applicable Governmental Bodies to transfer operatorship of the Assets. Such documents as may be necessary to carry out the purpose of the Agreement.

(i) Release of Lien. Seller shall have delivered to Buyer a release, as to the Assets, of the liens and security interests created by the Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as of May 1, 2002 as delivered to the Bank of Nova Scotia as agent as amended by the Amended and Restated Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated July 16, 2003.

(k) Additional Agreements. Seller shall execute, acknowledge and deliver to Seller such other agreements as may be necessary to carry out the purposes of the Agreement.

PART TEN

MISCELLANEOUS

Section 10.1 Notices. Except as otherwise expressly provided herein, all communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given and received when actually delivered to the addressee or received via facsimile at the number set forth below of the Party to be notified.

If to Seller:

Calpine Corp.

717 Texas Avenue
Houston, Texas 77002

Fax: 713.651.3056
Phone: 713.335.4001
Attention: B. A. Berilgen, President

with a copy to:

50 West San Fernando Street San Jose, California 95113

Fax: 408.975.4648
Phone: 408.792.1226
Attention: Lisa Bodensteiner, General Counsel

If to Buyer:

Pogo Producing Company
5 Greenway Plaza, Suite 2700
Houston, Texas 77046

Fax: 713.297.5000
Phone: 713.295.5100
Attention: General Counsel

with a copy to:

Cotton, Bledsoe, Tighe & Dawson, P.C.

1415 Louisiana, Suite 2100
Houston, Texas 77002

Fax: 713.759.0458
Phone: 713.759.9281
Attention: Michael J. Byrd

Any Party may, by written notice so delivered to the other, change the address to which the delivery shall thereafter be made.

Section 10.2 Modification. The Agreement, including this Section 10.2 and the Exhibits and Schedules, shall not be modified except by an instrument in writing signed by or on behalf of all of the Parties.

Section 10.3 GOVERNING LAW. THE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS THEREOF WHICH WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. ALL ASSIGNMENTS AND INSTRUMENTS EXECUTED IN ACCORDANCE WITH THE CONVEYANCES TO BE DELIVERED HEREUNDER SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE PROPERTIES CONVEYED THEREBY ARE LOCATED.

Section 10.4 Exhibits. All Exhibits and Schedules thereto, and the terms thereof, which are referred to herein are hereby made a part of and incorporated herein by reference.

Section 10.5 Counterparts. The Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 10.6 Invalidity. If any of the provisions of the Agreement including the Schedules and Exhibits, are held invalid or unenforceable, such invalidity or unenforceability shall not affect in any way the validity or enforceability of any other provision of the Agreement. In the event any provision is held invalid or unenforceable, the Parties shall attempt to agree on a valid or enforceable provision which shall be a reasonable substitute for such invalid or unenforceable provision in light of the tenor of the Agreement and, on so agreeing, shall incorporate such substitute provision in the Agreement.

Section 10.7 Entire Agreement and Construction. Except for the Confidentiality Agreement, this Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby and all prior understandings and agreements shall merge herein. There are no additional terms, whether consistent or inconsistent, oral or written, which are intended to be part of the Parties' understandings which have not been incorporated into the Agreement and the Schedules. The Parties agree that they have jointly participated in the drafting and preparation of the Agreement and that the language of the Agreement shall be construed as a whole according to its fair meaning and not for or against either of the Parties hereto based upon that Party's role in the preparation of the Agreement.

Section 10.8 Expenses. Except as otherwise expressly provided herein, each Party shall bear its fees, costs and expenses in connection with the transactions contemplated herein, including, without limitation, all legal and accounting fees and disbursements and fees and expenses of other advisors retained by such Party.

Section 10.9 Waivers and Amendments. All amendments and other modifications hereof shall be in writing and signed by each of the Parties. Any Party may by written instrument (i) waive any inaccuracies in any of the representations or warranties made to it by any other Party contained in the Agreement or in any instruments and documents delivered to it pursuant to the Agreement, or (ii) waive compliance or performance by any other Party with or of any of the covenants or agreements made to it by any other Party contained in the Agreement. The delay or failure on the part of any Party hereto to insist, in any one instance or more, upon strict performance of any of the terms or conditions of the Agreement, or to exercise any right or privilege herein conferred shall not be construed as a waiver or any such terms, conditions, rights or privileges but the same shall continue and remain in full force and effect. All rights and remedies are cumulative.

Section 10.10 Expenses. Except as otherwise provided herein, each Party shall be solely responsible for all expenses incurred by it in connection with this transaction (including without limitation, fees and expenses of its own legal counsel and accounts).

Section 10.11 Binding Effect: Assignment. All the terms, provisions, covenants, obligations, indemnities, representations, warranties and conditions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns. This Agreement may not be assigned by Buyer or Seller without the express written consent of the other, such consent not to be unreasonably withheld. Seller may condition its consent to assign this Agreement on Buyer providing Seller with an appropriate guarantee of its assignee's performance. In the event Buyer sells or assigns all or a portion of the Assets, this Agreement shall remain in effect between Buyer and Seller as to all the Assets regardless of such assignment.

Section 10.12 Survival of Representations and Covenants. All representations and warranties contained in the Agreement shall survive the Closing and continue for one (1) year following the Closing Date, except those contained in Parts Six and Seven. The covenants, indemnities and agreements contained in the Agreement shall survive the Closing and continue in accordance with their respective terms.

Section 10.13 Arbitration of Disputes. Seller and Buyer covenant with each other as follows:

(a) Generally. Any claim, controversy or dispute arising out of, relating to, or in connection with the Agreement or the agreements and transactions contemplated hereby, by Buyer or Seller, including the interpretation, validity, termination or breach thereof, shall be resolved solely in accordance with the dispute resolution procedures set forth in Schedule 10.13. The Parties covenant that they shall not resort to court remedies except as provided for in Schedule 10.13, or for preliminary relief in aid of arbitration.

(b) Violations. A Party who violates the covenants in Section 10.13(a) shall pay all the legal costs incurred by the other Parties in connection with the enforcement thereof. Suits, actions or proceedings in connection with violations of the covenants in Section 10.13 and Schedule 10.13 shall be instituted in the United States District Court for the District of New Mexico and pursuant to Title IX of the United States Code. Each Party waives any option or objection which it may now or thereafter have to the laying of the venue in any such suit, action or proceeding and irrevocably submits to the jurisdiction of such court in any such suit, action or proceeding.

BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THIS AGREEMENT DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY NEW MEXICO LAW AND THIS SECTION 10.13. YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE ARBITRATION OF DISPUTES PROVISIONS. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE NEW MEXICO CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF MATTERS INCLUDED IN THE ARBITRATION OF DISPUTES PROVISION TO NEUTRAL ARBITRATION.

BUYER'S INITIALS: SB SELLER'S INITIALS: MG

Section 10.14 Conflict. Should terms and conditions of this Agreement be in conflict with the Assignment and Bill of Sale, or the Deed, as such are executed pursuant to the terms of this Agreement, the terms and conditions of this Agreement shall prevail.

IN WITNESS WHEREOF, the Parties hereto have entered into the Agreement as of the date first herein above written.

CALPINE CORPORATION

By: /s/ Michael A. Gerlich

Michael A. Gerlich, Senior Vice President
Date: August 20, 2004

CALPINE NATURAL GAS L.P.

By: /s/ Michael A. Gerlich

Michael A. Gerlich, Senior Vice President
Date: August 20, 2004

POGO PRODUCING COMPANY

By: /s/ Stephen R. Brunner

Stephen R. Brunner, Executive Vice President
Date: August 20, 2004

EXHIBIT 99.2

PURCHASE AND SALE AGREEMENT

AMONG

CALPINE CORPORATION

CALPINE NATURAL GAS L.P.

AND

BILL BARRETT CORPORATION

DATED AUGUST 17, 2004

EFFECTIVE DATE: JULY 1, 2004

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- 2.3 Allocation of Purchase Price
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- 3.1(f) Seller's Consents Not Received
- 3.1(g) Environmental Claims
- 3.1(h) Current Commitments
- 3.1(o) Gas Imbalances
- 7.2 Preferential Rights
- 10.12 Dispute Resolution

Exhibits

- 1. Form of Assignment
- 2. Form of Deed
- 3. Form of Opinion Letter
- 4. Form of Certificates
- 5. Due Diligence Certificate

PURCHASE AND SALE AGREEMENT

The Agreement dated as of August 17, 2004, is made and entered into between Calpine Corp., a Delaware corporation and Calpine Natural Gas L.P., a Delaware limited partnership both having an office at 717 Texas Avenue, Suite 1000, Houston, Texas 77002, (collectively "Seller") and Bill Barrett Corporation, a Delaware corporation, having an office at 1099 18th Street, Suite 2300, Denver, Colorado 80202 ("Buyer").

PART ONE

SUBJECT MATTER. DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1 Subject Matter. The subject matter of the Agreement is the sale, assignment, transfer or conveyance of Seller's interest in the Assets, the purchase of the Assets and the assumption of the Assumed Liabilities by Buyer, and the terms and conditions upon which the sale shall take place.

Section 1.2 Definitions. For purposes of the Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section 1.2 have the meanings herein assigned to them and the capitalized terms defined elsewhere in the Agreement, by inclusion in quotation marks and parentheses, shall have the meanings so ascribed to them.

"Actual Knowledge" means actually known, after due inquiry by Hugo Cartaya (Director of Operations), Art Klavan (Sr. Vice President, Calpine Fuels Corp.), Ed Seeman (Director Reservoir Engineering), Bill Berilgen (President, Calpine Fuels Corp), Roxy Blu (Director of Land) or Bert Bates (Director, North America EH&S).

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing, it being understood and agreed that with respect to a corporation, control shall mean a direct or indirect ownership of more than fifty percent (50%) of the voting stock.

"Agreed Rate" means a rate per annum which is equal to the lesser of (i) a rate which is one percent (1%) above the prime rate of interest of J.P. Morgan Chase Bank, New York,

New York, as announced or published by such bank from time to time (adjusted from time to time to reflect any changes in such rate determined hereunder), or (ii) the maximum rate from time to time permitted by Applicable Law.

"Agreement" means this Purchase and Sale Agreement, including the Schedules and Exhibits.

"Applicable Law" means any applicable law, order, regulation, permit, judgment or decree of any Governmental Body, including the common or civil law of any Governmental Body, including but not limited to those relating to occupational safety and health, consumer product safety, employee benefits, environmental laws, securities, or zoning laws or regulations.

"Assets" mean the Fee Interests, Gathering System, Leases, Personal Property, Facilities, Easements, Contracts, and Beneficial Interests, but excluding the Excluded Assets.

"Assumed Liabilities" means:

- (a) all liabilities, duties, and obligations that accrue on and after the Effective Date from ownership or operation of the Assets;
- (b) all liabilities and obligations with respect to Plugging and Abandonment;
- (c) all duties, liabilities and obligations that accrue on and after the Effective Date under the Contracts, Fee Interests, Leases, Easements and Beneficial Interests, including, without limitation, all obligations with respect to gas imbalances associated with the Assets as set forth in Section 4.3(o);
- (d) all liabilities and obligations with respect to funds attributable to Third Persons but suspended or impounded by Seller prior to the Effective Date but only to the extent of the amount of such suspended or impounded funds.
- (e) all other duties, liabilities, and obligations assumed by Buyer under the Agreement.

"Beneficial Interests" means any and all rights, titles and interests owned by Seller in, under or derived from all of the presently existing pooling, unitization and communization agreements or other operating agreements and the units created thereby (including without limitation, all units formed under orders, regulations, rules or other

official acts of any Governmental Body having jurisdiction) insofar and only insofar as they relate to any of the Leases or Fee Interests or to the production of Hydrocarbons from or attributable to such Leases or Fee Interests as set forth on Schedule D.

"Burdens" means royalties (including both lessor royalties and nonparticipating royalty interests), overriding royalties, production payments, and other similar obligations payable out of production.

"Business Day" means any day when commercial banks are generally open for regular business in the State of Colorado.

"Closing" means the closing of the transactions contemplated by the Agreement at 10:00 a.m., at Seller's offices at 717 Texas Ave., Suite 1000, Houston, Texas 77002, on the Closing Date or at such other time or place as the Parties may mutually agree upon in writing.

"Closing Date" means September 1, 2004, or such other date as the Parties may mutually agree upon in writing.

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

"Confidentiality Agreement" means the Confidentiality Agreement between Seller and Buyer dated August 6, 2004.

"Contracts" means all contracts and agreements whether recorded or unrecorded in existence at the Effective Date, which affect the Leases, Fee Interests, Personal Property, Beneficial Interests, Facilities and Easements, insofar and only insofar and only to the extent as they specifically relate to the Leases, Fee Interests, Personal Property, Beneficial Interests, Facilities and Easements, including but not limited to the contracts and agreements set forth on Schedule C, but specifically excluding the Easements, Leases, Beneficial Interests, and the contracts and agreements set forth on Schedule E.

"Corporate Documents" means with respect to a Delaware corporation the Certificate of Incorporation and By-Laws or the equivalent documents of a corporation or other business entity organized under the laws of another jurisdiction.

"Easements" means Seller's non-exclusive rights to the use and occupancy of the surface, including, without limitation, tenements, appurtenances, surface leases, easements, permits, licenses, franchises, servitudes and rights-of-way in any way appertaining, belonging, affixed or incidental to or used in connection with the ownership or operation

of the Fee Interests, Leases, Facilities and Beneficial Interests, whether recorded or unrecorded;

"Effective Date" means 7:00 a.m., MDT, July 1, 2004 at the location of the Assets.

"Environmental Condition" means any condition existing prior to the Effective Date, and only to the extent in existence on the Effective Date with respect to the air, land, soil, surface, subsurface strata, surface water, ground water, or sediments which causes a Property to be subject to remediation under, or not in compliance with, an Environmental Law, Environmental Permit, a Lease or a Contract, but excluding the conditions associated with, or included in the definition of, Plugging and Abandonment.

"Environmental Law" means any existing or future Applicable Law relating to pollution or the protection of the environment, health or safety including, without limitation, laws relating to air, water, land and the generation, storage, treatment, transportation, handling, release or disposal of waste materials including, without limitation, the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, the Safe Drinking Water Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), as amended, the Resource Conservation and Recovery Act ("RCRA"), as amended, the Hazardous and Solid Waste Amendments Act of 1984, as amended, the Toxic Substance Control Act, as amended, and the Occupational Safety and Health Act ("OSHA"), as amended but shall not include any Applicable Law associated with Plugging and Abandonment.

"Environmental Permits" means any environmental and health and safety permits, licenses, approvals, consents, certificates and other authorizations necessary for the ownership or operation of the Properties.

"Excluded Assets " means:

- (a) all (i) trade credits, accounts receivable, notes receivables and other receivables attributable to Seller's interest in the Assets with respect to any period of time prior to the Effective Date; (ii) deposits, cash, checks in process of collection, cash equivalents and funds attributable to Seller's interest in the Assets with respect to any period of time prior to the Effective Date.
- (b) all corporate, financial, legal, personnel and Tax records of Seller; provided however that Seller shall provide reasonable access to such records that are related to the Assets to the extent that such records are not privileged or confidential;

- (c) all claims and causes of action of Seller (i) arising from acts, omissions or events, or damage to or destruction of property, occurring prior to the Effective Date or (ii) affecting any of the excluded assets as set forth in (a) through (r) of this definition;
- (d) all rights, titles, claims and interests of Seller (i) under any policy or agreement of insurance or indemnity; (ii) under any bond; or (iii) to any insurance or condemnation proceeds or awards;
- (e) subject to the provisions of Section 4.3(p), all Hydrocarbons produced from or attributable to the Assets with respect to all periods prior to the Effective Date;
- (f) claims of Seller for refunds of or loss carry forwards with respect to (i) Taxes attributable to any period prior to the Effective Date; (ii) Taxes attributable to any of the excluded assets as set forth in (a) through (r) of this definition; or (iii) any Tax credits accruing to the Assets prior to the Effective Date.
- (g) all amounts due or payable to Seller as adjustments or refunds under any Contracts affecting the Assets, with respect to any period prior to the Effective Date including, without limitation, amounts recoverable from audits under operating agreements;
- (h) all amounts due or payable to Seller as adjustments to insurance premiums related to the Assets with respect to any period prior to the Effective Date;
- (i) all proceeds, benefits, income or revenues accruing (and any security or other deposits made) with respect to (i) the Assets prior to the Effective Date; and (ii) any of the excluded assets as set forth in (a) through (r) of this definition;
- (j) all of Seller's seismic and geophysical information and data, together with all geological information and data, whether proprietary in Seller or licensed from Third Persons, and whether or not covering or affecting the Assets;
- (k) all of Seller's interpretive data;
- (l) the non-exclusive right reserved unto the Seller to use the Easements;

(m) all of Seller's intellectual property, including but not limited to computer software, patents, trade secrets, copyrights, names, marks, and logos;

(n) all of Seller's vehicles, trucks (including associated tools), boats, tools, pulling machines, warehouse stocks, microwave equipment, computer equipment and remote terminal units; equipment and material temporarily located on the Assets; and any pipelines, easements, fixtures, LACT units, tanks or equipment located on the Assets which belong to lessors or other Third Persons engaged in the business of purchasing, processing or transporting Hydrocarbons;

(o) all of Seller's interest in any lands or depths covered by the Leases, Fee Interests and Beneficial Interests which are specifically excluded from the descriptions set forth on Schedules A, B and C.

(p) records and documents subject to confidentiality provisions, claims of privilege, or other restrictions on access;

(q) all rights of ingress, egress and surface use retained by Seller in connection with its obligations under Part Six of this Agreement; and

(r) all other assets set forth on Schedule F.

"Facilities" means facilities and equipment, whether active or inactive, that are customarily used directly in the production of Hydrocarbons, including, but not limited to injection facilities, disposal facilities, field separators, liquid extractors, compressors, LACT units, plants, tanks and the like.

"Fee Interests" means all rights, titles and interests owned by Seller in all the fee and mineral fee interests described on Schedule B, insofar and only insofar as such Fee Interests cover the lands and depths set forth in Schedule B. The Fee Interests shall include all of Seller's right, title and interest to all depths unless specifically limited on Schedule B.

"Gathering System" means the Gibson Gulch gas gathering system and all related pipelines, processing and compression facilities associated with the Properties.

"Governmental Body" means any federal, state, Indian, county, municipal, or other federal, state or local governmental authority, or judicial or regulatory agency, board, body, department, bureau, commission, instrumentality, court, tribunal or quasi-governmental authority in any jurisdiction (domestic or foreign) having jurisdiction over

any Asset or Party to this transaction, or any of the transactions contemplated by the Agreement.

"Hydrocarbons" means crude oil, natural gas, casinghead gas, condensate, sulphur, natural gas liquids, plant products and other liquid or gaseous hydrocarbons (including Co₂), and all other minerals of every kind and character which may be covered by or included in the Assets.

"Leases" means any and all rights, tides and interests owned by Seller in all of the oil, gas or mineral leases and other interests described on Schedule A insofar and only insofar as such Leases cover the lands and depths set forth in Schedule A. The Leases shall include all of Seller's right, title and interest to all depths unless specifically limited on Schedule A and shall include, whether or not specifically set forth on Schedule A any rights, titles and interests owned by Seller in all of the oil, gas or mineral leases owned by Seller as of the Effective Date within the area shown on Schedule A-1.

"Losses" means any and all losses, liabilities, claims, demands, penalties, fines, assessments, settlements, damages and any related expenses of whatever kind or nature, known or contingent or otherwise, including, without limitation, legal, accounting, consulting and investigation expenses and litigation costs including without limitation, response, remedial or inspection costs or any cleanup and laboratory costs, but excluding consequential damages.

"Net Revenue Interest" means Seller's share of production or revenue from (or where subject to a unit or pooling agreement, allocated under such agreement to) a Property, net of all Burdens related to such Property as set forth on Schedule H..

"Party" means either Buyer or Seller.

"Permitted Encumbrances" means

- (a) Burdens to the extent that the aggregate effect of such Burdens do not reduce the Net Revenue Interest of a Property or Lease below that shown on Schedule H or Schedule 2.3, respectively;
- (b) division orders and sales contracts;
- (c) rights of reassignment, which arise prior to abandonment, surrender or release of oil, gas or mineral leases;

(d) rights to consent by, required notices to, filings with, or other actions by, any Governmental Body in connection with the sale or conveyance of oil and gas leases or interests therein, or the assumption of operatorship, if they are customarily obtained subsequent to the sale or conveyance;

(e) easements, rights-of-way, servitudes, permits, surface leases and other rights relative to surface use and occupancy including, without limitation, pipeline operations, grazing, logging, canals, ditches, reservoirs and similar rights and conditions, covenants or other similar restrictions on and over the surface of the Leases, Easements, Beneficial Interests or Fee Interests provided that any unrecorded easements, rights-of-way, servitudes, permits, surface leases and such other rights do not materially interfere with the use or operation of the Leases, Easements, Beneficial Interests or Fee Interests;

(f) recorded easements for streets, alleys, highways, pipelines, telephone lines, power lines, railways and similar easements and rights-of-way, on, over or in respect to the Leases, Beneficial Interests, Easements or Fee Interests;

(g) all leases, operating agreements, operator liens and working interest owner liens, unit, communization and pooling agreements, farmout and subleases and farmin agreements and all Contracts that do not affect the Net Revenue Interest;

(h) all Applicable Laws of any Governmental Body, and all rights reserved to or vested in any Governmental Body to control or regulate the Assets in any manner, including, without limitation, any adjustment in the Net Revenue Interest or Working Interest of a particular Property or Lease, caused by, or as the result of, any action of a Governmental Body which is not the result of any negligent act or omission of Seller;

(i) liens for Taxes or assessments not yet due and payable or not yet delinquent, or if delinquent, that are being contested in good faith by appropriate action brought in the normal course;

(j) reversionary interests arising under farmout and farmin agreements, subleases, and the non-consent provisions of applicable operating agreements;

(k) liens imposed by Applicable Law, such as carriers', warehousemen's and mechanics' liens and other similar liens arising in the ordinary course of business which secure payment of obligations not more than sixty (60) days past due or which are being contested in good faith or for which funds have been set aside;

(l) consents to assign that have been obtained or waived and preferential rights to purchase that have been waived or for which the time period to exercise has expired;

(m) defects that have been cured by possession under applicable statutes of limitation;

(n) other minor defects or irregularities generally waived by prudent purchasers of oil and gas properties and that do not materially impair the value, ownership or use of the affected Property or Lease; and

(o) others as set forth on Schedule G.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, estate, unincorporated organization, other business entity or any Governmental Body.

"Personal Property" means to the extent attributable to the Fee Interests, Leases, Easements, Contracts and Beneficial Interests, but excluding any personal property owned by any Third Person as described on Schedule F or any of Seller's Affiliates and subject to the limitations below, all of Seller's right, title and interest in and to:

(a) all Wells (whether plugged or unplugged), equipment, Facilities and personal property of any kind including, but not limited to, tubing, casing, wellheads, pumping units, production units, compressors, valves, meters, flowlines, tanks, heaters, separators, dehydrators, pumps, injection units, gates and fences, which are located on or connected with the Fee Interests, Gathering System, Leases, and Beneficial Interests and which are used solely and exclusively in connection with the production, separation, storage, treatment, gathering or transportation of Hydrocarbons from or attributable to the Fee Interests, Leases, and Beneficial Interests and that are not presently used in connection with any excluded assets;

(b) all licenses, authorizations, permits, variances and similar rights and interests related to the Fee Interests, Gathering System, Leases, Facilities, Easements, Contracts and Beneficial Interests and personal property defined in (a) above;

(c) all other rights, privileges, benefits and powers conferred upon the owner and holder of the Fee Interests, Gathering System, Leases, Facilities, Easements, Contracts and Beneficial Interests and personal property defined in (a) and (b) above; and

(d) copies of applicable general operating records, well files (including applicable well logs and production data), lease files, land files, environmental compliance files, regulatory reports and certificates, abstracts and title work pertaining to the Fee Interests, Leases, Easements, Facilities, Contracts and Beneficial Interests and personal property defined in (a) above, but excluding: records containing trade secrets unrelated to the Assets (copies of which records shall be made available to Buyer with information concerning trade secrets unrelated to the Assets being redacted by Seller), legal files, attorney-client communications or attorney work product materials and other similar documents covered by privilege, records and documents subject to confidentiality provisions and auditor's reports.

"Plugging and Abandonment" means all plugging, replugging, abandonment, removal, disposal or restoration associated with the Assets, including, but not limited to, all plugging and abandonment, removal, surface restoration, site clearance and disposal of the wells, structures and Personal Property located on or associated with the Assets, the removal or capping and burying of all associated flowlines, the restoration of the surface in accordance with Applicable Laws or the terms and conditions of the applicable Leases or Contracts, whichever is more stringent, site clearance, as required by Applicable Laws, and any disposal of related waste materials, including naturally occurring radioactive material ("NORM") and asbestos, and shall include such Wells, structures, and Personal Property associated with any of the Assets, whether drilled or placed on a Lease, Fee Interest, or Beneficial Interest prior to, at, or after the Closing Date.

"Property" means a Well, or a unitized or communitized area described on Schedule H.

"Remediation" or "Remediate" means affirmative actions or remedial work taken to remove or otherwise remedy an Environmental Condition, including but not limited to any survey, site assessment, audit, investigation, inspection, sampling, analysis, removal, excavation, pump and treat, cleanup, disposal, storage, handling or treatment, excluding those actions associated with Plugging and Abandonment.

"Tax" means any and all fees (including, without limitation, documentation, license, recording, filing and registration fees), taxes (including without limitation, production, gross receipts, ad valorem, value added, windfall profit tax, environmental tax, turnover, sales, use, personal property (tangible and intangible), stamp, leasing, lease, user, leasing use, excise, franchise, transfer, heating value, fuel, excess profits, occupational, interest equalization, lifting, oil, gas, or mineral production or severance, and other taxes), levies, imposts, duties, charges or withholdings of any nature whatsoever, imposed by any Governmental Body or taxing authority thereof, domestic or foreign, together with any

and all penalties, fines, additions to tax and interest thereon, whether or not such tax shall be existing or hereafter adopted.

"Third Person" means a Person other than a Party or an Affiliate of a Party.

"Title Defect" means any one of the following:

(1) Seller's title as of the Effective Date as to all or any part of the Property or a Lease is subject to an outstanding mortgage, deed of trust, lien, or other monetary encumbrance or adverse claim not listed or referenced on Schedule G that would induce a purchaser to suspend payment of proceeds for the Property or a Lease or require the furnishing of security or indemnity, or title to any Property or Lease is not vested in Seller such that would induce a purchaser to suspend payment of proceeds for the Property or Lease or require the furnishing of security or indemnity;

(2) Seller's Net Revenue Interest attributable to a Property or a Lease as of the Effective Date is less than that shown on Schedule H or Schedule 2.3, respectively, or Seller's Working Interest attributable to a Property or a Lease as of the Effective Date is greater than that shown on Schedule H, or Schedule 2.3, respectively, without a corresponding increase in Seller's Net Revenue Interest in the Property or the Lease; or

(3) Seller's Net Revenue Interest would be reduced if a Third Person were to exercise a reversionary, back-in, or other similar right not listed or referenced on Schedule H;

but shall not include any Permitted Encumbrances or preferential rights to purchase.

"Wells" means, whether active or inactive, any orifice in the ground, completed or being drilled, including without limitation, those previously plugged and abandoned, those drilled for the production of Hydrocarbons, for injection, for disposal or for water sources.

"Working Interest" means that share of costs and expenses associated with the exploration, maintenance, development and operation of a Property that Seller is required to bear and pay.

Section 1.3 Other Definitions in the Agreement. The following terms shall have the respective meanings ascribed to them in the Sections of the Agreement set forth below opposite such terms:

	Section

AFE	3.1(h)
Aggregate Environmental Defect Value	6.6
Aggregate Title Defect Value	7.7
Assignments	9.1(i)
Buyer	Preamble
Claim Notice	8.2(a)
Cure	7.5
Cure Notice	7.5
Deeds	9.1(j)
Defect Value	7.4
Environmental Defect Notice	6.2
Environmental Defect Value	6.2
Environmental Notice Deadline	6.2
Environmental Rejection Notice	6.3(b)
Final Recap Amount	4.3(h)
Final Recapitulation Statement	4.3(h)
Final Settlement Date	4.3(h)
Indemnified Party	8.2(a)
Indemnifying Party	8.2(a)
Interest Addition	7.8
Interest Addition Notice	7.8
Interest Addition Payment	7.8
Interest Addition Rejection Notice	7.8
Interest Addition Value	7.8
Individual Threshold	6.1
NORM	1.2
Notice Period	8.2(a)
Offset	7.8
Performance Deposit	2.4
Permits	3.1(1)
Precedent Agreement	4.3(f)

Purchase Price	2.2
Rejection Notice	7.6
Review Period	6.1
Seller	Preamble
Title Defect Notices	7.4
Title Indemnity Payment	7.4

Section 1.4 Rules of Construction. For purposes of the Agreement:

- (a) General. Unless the context otherwise requires (i) "or" is not exclusive; (ii) an accounting term not otherwise defined has the meaning assigned to it in accordance with accounting principles that are generally accepted in the United States of America; (iii) words in the singular include the plural and words in the plural include the singular; (iv) words in the masculine include the feminine and words in the feminine include the masculine; (v) any date specified for any action that is not a Business Day shall be deemed to mean the first Business Day after such date; and (vi) a reference to a Person includes its successors and assigns.
- (b) Parts and Sections. References to Parts and Sections are, unless otherwise specified, to Parts and Sections of the Agreement. Neither the captions to Parts or Sections hereof nor the Table of Contents shall be deemed to be a part of the Agreement.
- (c) Exhibits and Schedules. The Exhibits and Schedules form part of the Agreement and shall have the same force and effect as if set out in the body of the Agreement.
- (d) Other Agreements. References herein to any agreement or other instrument shall, unless the context otherwise requires (or the definition thereof otherwise specifies), be deemed references to that agreement or instrument as it may from time to time be changed, amended or extended. There is no incorporation by reference unless stated.

PART TWO

SALE AND PURCHASE

Section 2.1 Assets. At Closing, Seller agrees to sell, assign, transfer and convey to Buyer the Assets and Buyer agrees to purchase and pay for the Assets and assume the Assumed Liabilities.

Section 2.2 Purchase Price. The purchase price shall be One Hundred Thirty Nine Million Seven Hundred and Fifty Thousand Dollars (\$139,750,000) plus or minus the adjustments specifically set forth in the Agreement (the "Purchase Price").

Section 2.3 Allocation of Purchase Price. Schedule 2.3 sets forth a good faith allocation of the Purchase Price among the Properties which comprise the Assets, which allocation was prepared by Buyer and delivered to Seller on August 17, 2004. Such allocation has been provided for the purpose of (i) establishing a basis for certain Taxes, (ii) obtaining waivers of or making offers with respect to any preferential rights to purchase the Assets, and (iii) handling those instances for which the Purchase Price is adjusted as provided herein.

Section 2.4 Performance Deposit and Liquidated Damages. Buyer shall tender to Seller immediately upon execution of the Agreement, a non-refundable (except as provided in Section 2.6, below) cash performance deposit in the amount of Seven Million Dollars (\$7,000,000) (the "Performance Deposit"). At Closing, Buyer shall pay and deliver to Seller the remaining unpaid portion of the Purchase Price adjusted as provided herein, and adjusted upward or downward pursuant to Parts Six and Seven.

EXCEPT AS PROVIDED IN SECTIONS 2.6(a) OR (c), IF BUYER FAILS TO COMPLETE THE TRANSACTION SET FORTH IN THIS AGREEMENT, THE PARTIES AGREE THAT SELLER SHALL RETAIN THE PERFORMANCE DEPOSIT AS LIQUIDATED DAMAGES, WHICH THE PARTIES AGREE IS A REASONABLE SUM CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, INCLUDING THE RELATIONSHIP OF THE SUM OF THE RANGE OF HARM TO SELLER THAT REASONABLY COULD BE ANTICIPATED AND THE ANTICIPATION THAT PROOF OF ACTUAL DAMAGES WOULD BE COSTLY OR INCONVENIENT. IN PLACING THEIR INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION AT THE TIME THIS AGREEMENT WAS MADE.

Section 2.6 Termination. The following provisions shall apply in the event of termination of this Agreement:

(a) If this Agreement is terminated (i) by the mutual agreement of the Seller and the Buyer and not as the result of the failure of either Party to perform its obligations hereunder, or (ii) pursuant to Sections 4.3(e), 6.6 or 7.7 or (ii) because the conditions precedent to a Party's performance as set forth in Part Nine have not occurred, such termination shall be without liability of any Party or any affiliate, director, officer, employee, agent or representative of such Party, and Seller shall return the Performance Deposit to Buyer.

(b) If this Agreement is terminated as a result of the failure of Buyer to perform its obligations hereunder, then Seller shall retain the Performance Deposit together with interest accrued thereon as liquidated damages, as its sole remedy, for such failure.

(c) If this Agreement shall be terminated as a result of the failure of Seller to perform its obligations hereunder, then Seller shall refund the Performance Deposit together with interest accrued at the Agreed Rate to Purchaser.

Section 2.7 Method of Payment. Any amount payable under the Agreement shall be payable in immediately available funds by means of a wire transfer, if to Seller, to Seller's account at Bank One, Houston NA, ABA #111000614, account number 188-414-8246 (with immediate telephone notice to Michael Gerlich at phone number 713.335.4037, or to such other account number as Seller may by written notice direct, or if to Buyer, to Buyer's account as may be designated by Buyer.

PART THREE

REPRESENTATIONS AND WARRANTIES

Section 3.1 Seller. Seller represents and warrants to Buyer that:

(a) Organization and Standing. Calpine Corp. is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware,

EXCEPT AS PROVIDED IN SECTIONS 2.6(a) OR (c), IF BUYER FAILS TO COMPLETE THE TRANSACTION SET FORTH IN THIS AGREEMENT, THE PARTIES AGREE THAT SELLER SHALL RETAIN THE PERFORMANCE DEPOSIT AS LIQUIDATED DAMAGES, WHICH THE PARTIES AGREE IS A REASONABLE SUM CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, INCLUDING THE RELATIONSHIP OF THE SUM OF THE RANGE OF HARM TO SELLER THAT REASONABLY COULD BE ANTICIPATED AND THE ANTICIPATION THAT PROOF OF ACTUAL DAMAGES WOULD BE COSTLY OR INCONVENIENT. IN PLACING THEIR INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION AT THE TIME THIS AGREEMENT WAS MADE.

Section 2.6 Termination. The following provisions shall apply in the event of termination of this Agreement:

(a) If this Agreement is terminated (i) by the mutual agreement of the Seller and the Buyer and not as the result of the failure of either Party to perform its obligations hereunder, or (ii) pursuant to Sections 4.3(e), 6.6 or 7.7 or (ii) because the conditions precedent to a Party's performance as set forth in Part Nine have not occurred, such termination shall be without liability of any Party or any affiliate, director, officer, employee, agent or representative of such Party, and Seller shall return the Performance Deposit to Buyer.

(b) If this Agreement is terminated as a result of the failure of Buyer to perform its obligations hereunder, then Seller shall retain the Performance Deposit together with interest accrued thereon as liquidated damages, as its sole remedy, for such failure.

(c) If this Agreement shall be terminated as a result of the failure of Seller to perform its obligations hereunder, then Seller shall refund the Performance Deposit together with interest accrued at the Agreed Rate to Purchaser.

Section 2.7 Method of Payment. Any amount payable under the Agreement shall be payable in immediately available funds by means of a wire transfer, if to Seller, to Seller's account at Bank One, Houston NA, ABA #111000614, account number 188-414-8246 (with immediate telephone notice to Michael Gerlich at phone number 713.335.4037, or to such other account number as Seller may by written notice direct, or if to Buyer, to Buyer's account as may be designated by Buyer.

and is in good standing as a foreign corporation in all jurisdictions where the nature of the Assets requires it. Calpine Natural Gas L.P. is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Delaware and is in good standing as a foreign partnership in all jurisdictions where the nature of the Assets requires it.

(b) Authority. Seller has the corporate power and authority to enter into and perform the Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Seller of the Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action and the Agreement has been duly executed and delivered by Seller.

(c) Validity of Agreement. The Agreement is a legal, valid and binding obligation of Seller enforceable against Seller in accordance with the terms of the Agreement, except as enforcement may be limited by bankruptcy, insolvency or other similar Applicable Laws now or hereafter in effect affecting the enforcement of creditors' rights in general. The enforceability of Seller's obligations under the Agreement is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(d) No Violation. The execution and delivery of the Agreement and the performance by the Seller of the terms of the Agreement do not conflict with or result in a violation of the Corporate Documents of Seller or any agreement, instrument, order, writ, judgment or decree to which Seller is a party or is subject.

(e) Litigation. Except as set forth on Schedule 3.1(e), there are no actions, suits, or proceedings pending or to the Actual Knowledge of Seller threatened against Seller as to the Assets, before any court or arbitration tribunal or before or by any Governmental Body in which the claim is in excess of Fifty Thousand Dollars (\$50,000.00) for any one claim or One Million Dollars (\$1,000,000.00) in the aggregate.

(f) No Consents Required. Except as set forth in Section 4.3(d) and on Schedule 3.1(f), no preferential purchase rights, consents, approvals or other action by, or filings with any Person or Governmental Body are required in connection with the execution, delivery and performance by Seller of the Agreement.

(g) Environmental Claims. Except as set forth on Schedule 3.1(g), to Seller's Actual Knowledge, there are no pending written claims, actions or proceedings by

any Third Person or Governmental Body caused by or arising out of any Condition against the Seller, the Assets, or the ownership or operation thereof and there are no Environmental Conditions presently under Remediation.

(h) Current Commitments. Schedule 3.1(h) contains a complete and accurate list as of the date of this Agreement of (i) all authorities for expenditures ("AFEs") in excess of \$50,000 to drill or rework Well or for capital expenditures pursuant to any of the Contracts that have been proposed by any person on or after the Effective Date, whether or not accepted by Seller or any Third Person, and (ii) all AFEs and oral or written commitments in excess of \$50,000 to drill or rework Wells or for other capital expenditures pursuant to any of the Contracts for which all of the activities anticipated in such AFEs or commitments have not been completed by the date of this Agreement.

(i) Personal Property. The Personal Property located on the Assets currently operated by Seller constitutes the equipment and fixtures reasonably necessary for the operations of the Assets for the production of the Hydrocarbons. Such Personal Property currently in service is, in good repair and operating condition and is suitable for the purpose for which such Personal Property is employed.

(j) Status of Contracts. Seller has all Contracts necessary to conduct the business and operations of those Assets currently operated by Seller as they are currently operated. All of the Contracts and Easements

(i) are in full force and effect, (ii) neither Seller nor, to Seller's Actual Knowledge, any other party to the Contracts or Easements, (1) is in breach of or default, or with the lapse of time or the giving of notice, or both, would be in breach or default, with respect to any of its obligations thereunder to the extent that such breaches or default have a material adverse impact on any of the Assets or (2) has given notice of any default or action to alter, terminate, rescind or procure a judicial reformation of any Contract or Easement. Except as set forth on Schedule C, there are no Contracts (i) that cannot be terminated upon no more than ninety (90) days notice or (ii) for which the amount of Buyer's exposure would exceed One Hundred Thousand Dollars (\$100,000).

(k) Taxes. All ad valorem, property, production, severance and other taxes based on or measured by the ownership of the Properties or the production of Hydrocarbons from the Properties due and payable prior to the Effective Date have been properly and timely paid except those disputed in ordinary course of business, which disputed Taxes shall be disclosed by Seller to Buyer in writing prior to the Closing Date.

(l) License. With respect to those Properties currently operated by Seller, Seller has all material licenses, authorizations, permits, variances and similar rights and interests from Governmental Bodies (collectively "Permits"), which are necessary to operate the Subject Interests. The conveyance of the Assets to Buyer shall not cause revocation of any of such Permits. No violations of any of such Permit exists which could result in a termination of such Permit or that would materially impair Buyer's ability to enjoy the economic benefit of the Assets.

(m) Tax Partnerships. None of the Assets are subject to a tax partnership, including, without limitation, none of such properties are subject to any operating agreement or other agreement under which the parties hereto have not made an effective election pursuant to Section 761 of the Internal Revenue Code, and the Treasury Regulations promulgated thereunder, to be excluded from the application of Subchapter K, Chapter 1, Subtitle A, of the Code.

(n) Not a Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445 (or similar provisions) of the Code (i.e., Seller is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the Code and regulations promulgated thereunder). Calpine Corporation's taxpayer identification number is 770212977. Calpine Natural Gas LP.'s taxpayer identification number is 710882453.

(o) Gas Imbalances. Schedule 3.1(o) sets forth the current status of all gas imbalances with respect to Assets as of the Effective Date.

(p) No Broker. Seller has not employed or otherwise benefited from the services of a broker, finder or similar person in connection with the transaction contemplated by this Agreement.

Section 3.2 Buyer. Buyer represents and warrants to Seller that:

(a) Organization and Standing. Buyer is a corporation duly organized, validly existing in good standing under the laws of the State of Delaware and is in good standing as a foreign corporation in all jurisdictions where the nature of the Assets requires it and is duly qualified to own federal and state leases in the State of Colorado.

(b) Authority. Buyer has the corporate power and authority to enter into and perform the Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Buyer of the Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all

requisite corporate action and the Agreement has been duly executed and delivered by Buyer.

(c) Validity of Agreement. The Agreement is a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with the terms of the Agreement, except as enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the enforcement of creditors' rights in general. The enforceability of Buyer's obligations under the Agreement is subject to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(d) No Violation. The execution and delivery of the Agreement and the performance by Buyer of the terms of Agreement do not conflict with or result in a violation of the Corporate Documents of Buyer or of any agreement, instrument, order, writ, judgment or decree to which Buyer is a party or is subject.

(e) No Consents Required. Except as set forth in Section 4.3(d), no consents, approvals or other action by, or filings with any Person or Governmental Body are required in connection with the execution, delivery and performance by Buyer of the Agreement.

(f) Securities Representation. Buyer is an experienced and knowledgeable investor and operator in the oil and gas business and is acquiring the Assets for Buyer's own account and not with a view to, or for offer of resale in connection with, a distribution thereof, within the meaning of the Securities Act of 1933, or any other Applicable Laws pertaining to the distribution of securities.

(g) Buyers' Sole Reliance on Own Investigation. Buyer has, subject to necessary Third Person operator approval as to those Assets not operated by Seller, availed itself of the opportunity to conduct a pre-acquisition review of the Assets. Buyer is purchasing the Assets solely in reliance on Buyer's own investigation of the Assets and Seller's representations and warranties set forth in this Agreement.

(h) No Broker. Buyer has not retained or otherwise benefited from the services of a broker, finder or similar person in connection with the Agreement or the transaction contemplated herein.

(i) Buyer's Qualifications. Buyer is, or will as of the Closing be, fully qualified and bonded as an operator by all applicable Governmental Bodies as necessary to operate the Assets.

Section 3.3. Disclaimers and Notifications. The Parties make the following disclaimers and notifications:

- (a) No Other Warranties. Except as otherwise provided herein there are no express or implied warranties that apply to the transactions contemplated herein.
- (b) Disclaimer and Assumption of Risk. EXCEPT AS EXPRESSLY SET FORTH TO THE CONTRARY HEREIN, IT IS EXPRESSLY UNDERSTOOD BY THE PARTIES THAT SELLER DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED WITH RESPECT TO THE ASSETS. WITHOUT LIMITATION OF THE FOREGOING, SELLER MAKES NO REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, AS TO TITLE OR THE CONDITION OR STATE OF REPAIR OF THE ASSETS, THEIR VALUE, QUALITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR USES OR PURPOSES, NOR AS TO THE CURRENT VOLUME, NATURE, QUALITY, CLASSIFICATION, OR VALUE OF THE HYDROCARBONS RESERVES THEREUNDER OR COVERED THEREBY, NOR WITH RESPECT TO ANY APPURTENANCES THERETO BELONGING OR APPERTAINING TO THE ASSETS, AND BUYER SHALL ACCEPT THE ASSETS IN "AS IS," "WHERE IS," CONDITION. WITHOUT LIMITATION OF THE FOREGOING, BUYER HEREBY WAIVES ANY AND ALL RIGHTS AND REMEDIES BUYER MAY HAVE AGAINST SELLER ARISING FROM SAME INCLUDING, WITHOUT LIMITATION, ANY RIGHTS AND REMEDIES BUYER MAY HAVE AGAINST SELLER PURSUANT TO THE COLORADO CONSUMER PROTECTION ACT (COLORADO REVISED STATUTES Section 61-1-1001 ET SEQ.).
- (c) Disclaimer with Respect to NORM, etc. BUYER ACKNOWLEDGES AND AGREES THAT THE ASSETS HAVE BEEN UTILIZED BY SELLER FOR THE PURPOSE OF EXPLORATION, DEVELOPMENT, AND PRODUCTION OF OIL AND GAS, AS WELL AS PROCESSING AND REFINING OPERATIONS, AND THAT MATERIALS ASSOCIATED THEREWITH MAY HAVE BEEN STORED, KEPT OR DISPOSED OF ON OR IN THE ASSETS. BUYER ACKNOWLEDGES THAT EQUIPMENT, PLANTS, BUILDINGS, STRUCTURES, IMPROVEMENTS, ABANDONED AND OTHER TANKS AND PIPING, STORAGE FACILITIES, GATHERING AND DISTRIBUTION LINES, WELLS AND OTHER PETROLEUM PRODUCTION FACILITIES AND APPURTENANCES MAY BE LOCATED THEREON. BUYER ACKNOWLEDGES THAT THERE MAY HAVE BEEN SPILLS OF CRUDE OIL, PRODUCED WATER OR OTHER MATERIALS IN THE PAST ON OR IN THE ASSETS. IN ADDITION, SOME PRODUCTION EQUIPMENT MAY CONTAIN ASBESTOS AND NORM. IN THIS REGARD, BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT NORM MAY AFFIX

OR ATTACH ITSELF TO THE INSIDE OF WELLS, MATERIALS AND EQUIPMENT AS SCALE, OR IN OTHER FORMS, AND THAT WELLS, MATERIALS AND EQUIPMENT LOCATED ON THE ASSETS MAY CONTAIN NORM AND THAT NORM-CONTAINING MATERIAL MAY BE BURIED AND OTHERWISE DISPOSED OF ON THE ASSETS. BUYER ALSO EXPRESSLY UNDERSTANDS THAT SPECIAL PROCEDURES MAY BE REQUIRED FOR THE REMOVAL AND DISPOSAL OF ASBESTOS AND NORM FROM THE EQUIPMENT AND LAND WHERE IT MAY BE FOUND AND THAT BUYER ASSUMES ALL LIABILITY AND EXPENSE FOR SUCH ASSESSMENT, REMOVAL AND DISPOSAL OF ANY SUCH MATERIALS AND ASSOCIATED ACTIVITIES.

(d) Disclaimer with Respect to Data. All descriptions set forth herein and all data, evaluations, reports, and any other information, heretofore or hereafter furnished Buyer by Seller concerning any or all of the Assets, and the operation thereof, have been and shall be furnished solely for Buyer's convenience and have not constituted and shall not constitute a representation or warranty of any kind by Seller, and any reliance thereupon by Buyer shall be at Buyer's sole risk and liability. Seller does not warrant or represent the accuracy or completeness of any information, data or materials furnished to Buyer with respect to this transaction. Buyer acknowledges that Seller's information with respect to the Assets is incomplete and Seller does not have the requisite information with which to determine the exact nature or condition of the Assets.

PART FOUR

COVENANTS

Section 4.1 Covenants of Seller. Seller covenants with Buyer as follows:

(a) Access. Except for such of the Assets not operated by Seller, Seller shall afford Buyer and Buyer's representatives full and reasonable access to the Assets in the possession of Seller during normal working hours. In addition, the Seller shall, and shall cause officers of Seller to, afford the officers of Buyer complete access at all reasonable times from the date hereof through the Closing to Seller's officers, properties, facilities, and its non-privileged, non-confidential books, records and contracts

related to, or with knowledge of, the Assets and shall furnish Buyer all financial, operating and other data and information regarding the Assets, as Buyer through its officers, employees or agents, may reasonably request in a form that Buyer may reasonably request, including data required for Buyer to operate the Assets after Closing; provided there is no material cost to or effort required by Seller to furnish such information. Without limiting the foregoing, Seller shall provide Buyer with such unaudited accounting information as Buyer may reasonably request in order to prepare its financial statements, which information shall be audited by Buyer or its designee. Notwithstanding the foregoing, access to Tax records shall be governed by Part Five.

(b) Operations Prior to Closing. After the date hereof and until Closing, except as otherwise consented to by Buyer in writing, Seller shall use and maintain the Assets in substantially the same manner in which they have been used and maintained prior to the Agreement. Seller shall pay in a timely manner in the ordinary course of business all expenditures relating to the Assets after the Effective Date; provided however, that Seller shall not (i) pay any single amount in excess of \$50,000 and which is unrelated to any of the AFEs set forth on Schedule 3.1(h) or (ii) enter into any new agreement with respect to operations on the Assets for which Buyer's liability would exceed \$50,000 without the prior consent of Buyer, which consent shall not be unreasonably delayed or withheld; and provided further however, that all expenditures made in compliance with this Section 4.1(b) shall become an adjustment to the Purchase Price in accordance with Section 4.3(h). Without limitation of the foregoing, after the execution of the Agreement and prior to Closing, Seller shall have the right to make any changes, repairs or modifications, or incur any expenditures necessary or desirable in Seller's opinion for the protection of the Assets or to comply with any Applicable Law or other legal requirement relative to the premises or to prevent or react to an emergency or environmental incident. Seller shall have the right to effect such expenditure or action with or without such approval, acting as would any prudent operator under similar circumstances. Unless Buyer and Seller otherwise agree, Seller shall not materially alter the Assets (other than the use of supplies and consumables or the normal production of Hydrocarbons from the Assets) or remove any improvements, equipment or property which comprise the Assets (other than the use of supplies and consumables).

(c) Consents. Subject to 4.3(d), Seller shall use reasonable efforts to obtain all waivers, consents, approvals, permits and authorizations and actions of Third Parties to complete the transactions contemplated by the Agreement. Seller shall reasonably endeavor to notify all holders of such rights of consent to the assignment of the Assets of its intention to sell the portion of the Assets affected thereby, and of such terms and conditions of the Agreement to which the holders of the rights are entitled. Seller shall promptly notify Buyer if any consents or approvals are denied, or if the requisite period has elapsed without said consents or approvals having been received.

Section 4.2 Covenants of Buyer. Buyer covenants with Seller as follows:

- (a) Performance Bonds, Guaranties, Etc. With respect to any surety bonds, performance bonds, guarantees or financial assurances relating to the Assets, on which Seller or Seller's Affiliates is a principal or a guarantor, Buyer shall cause such surety bonds, performance bonds, guarantees or financial assurances to be replaced or otherwise released within ninety (90) days after the Closing Date. Buyer shall reimburse Seller for any amounts paid by Seller with respect to such surety bonds, performance bonds, guarantees or financial assurances related to periods on and after the Effective Date.
- (b) Plugging and Abandonment. Upon Closing, Buyer shall assume all of Seller's responsibility for Plugging and Abandonment associated with the Assets, and shall conduct all Plugging and Abandonment in a good and workmanlike manner. If at any time during Buyer's ownership of the Assets, Buyer sells an interest or assigns an interest or obligation in any of the Leases, Fee Interests or Beneficial Interests, then Buyer shall provide Seller a performance bond (in a form and with a surety satisfactory to Seller) or other security satisfactory to Seller in an amount reasonably calculated by Seller at that time to pay for any of Buyer's remaining Plugging and Abandonment obligations with respect to the Assets.
- (c) No Use of Calpine Mark. At the Closing Buyer shall cease to use any trademarks, symbols or trade names containing "Calpine," or similar words. Notwithstanding anything to the contrary herein, Buyer shall have sixty (60) days from the Closing Date to remove or replace any identifications and signs.
- (d) Transfer Orders. Buyer shall execute, acknowledge and deliver transfer orders or letters in lieu prepared by Buyer directing all purchasers of Hydrocarbons to make payments to buyer of proceeds attributable to Hydrocarbons produced from the Assets within sixty (60) days after Closing.

Section 4.3 Covenants of Seller and Buyer. Seller and Buyer covenant to each other as follows:

- (a) Compliance with Conditions Precedent. Each Party shall use its commercially reasonable efforts to cause the conditions precedent set forth in Part Nine, applicable to such Party, to be fulfilled and satisfied as soon as practicable.

(b) Recording. Seller shall be solely responsible for recording of the Assignments, and any other documents related to the conveyance of the Assets, and shall promptly furnish Buyer with either the recorded originals or with the recording information thereof. Seller shall also be solely responsible for all filings with any Governmental Body for change of operator, and shall promptly provide Buyer with the original approved copies of all such filings, or confirmation thereof. All recording and filing shall be at the sole cost and expense of Buyer and Buyer shall promptly reimburse Seller for all such costs upon presentation of appropriate invoices.

(c) Press Release. No Party shall make any press release or other announcement respecting the Agreement without the consent of the other Party unless a Party refuses to consent and the Party desiring to make the release or other announcement is advised by its counsel that the release or other announcement is required to comply with any Applicable Law or stock exchange rule.

(d) Certain Filings, Consents and Permits. With respect to filings and consents required by any Governmental Body, the Parties agree that Buyer and Seller shall cooperate with one another to make all filings necessary and to obtain any necessary consents, permits, authorizations, approvals or waivers.

(e) Risk of Loss. The risk of casualty loss relating to the Assets shall pass from Seller to Buyer as of the Effective Date. If, after the Effective Date but prior to Closing, all or any material portion of the Assets is destroyed by fire or other casualty, is taken in condemnation or under the right of eminent domain or proceedings for such purposes are pending or threatened, Buyer shall purchase such portion of the Assets notwithstanding any such destruction, taking or pending or threatened taking, and the Purchase Price shall not be adjusted. Seller shall, at Closing, pay to Buyer all sums paid to Seller by Third Persons by reason of the destruction or taking of such portion of the Assets to be assigned to Buyer, and shall assign, transfer and set over to Buyer all of the right, title and interest of Seller in and to any unpaid awards or other payments from Third Persons arising out of the destruction, taking or pending or threatened taking as to such interest. Seller shall not voluntarily compromise, settle or adjust any material amounts payable by reason of any material destruction, taking or pending or threatened taking as to any of the Assets without first obtaining the written consent of Buyer, which shall not be unreasonably withheld. In the event a casualty loss or other loss or potential loss described in this Section 4.3(e) together with all other such losses or potential losses in the aggregate exceeds ten percent (10%) of the Purchase Price, either Seller or Buyer may terminate this Agreement upon written notice to the other, and neither Party thereafter shall have any further rights or obligations hereunder.

(f) Questar Capacity. As soon after the Closing as is reasonably practical, Seller shall permanently release to Buyer and Buyer shall assume all of Seller's capacity on the Questar Pipeline Southern System Expansion pursuant to the Precedent Agreement for Firm Transportation Service between Calpine Corporation and Questar Pipeline Company dated March 28, 2003 (the "Precedent Agreement"). Buyer shall undertake all steps necessary to become a qualified replacement shipper on Questar Pipeline Company's Southern System on the same terms and conditions set forth in the Precedent Agreement.

(g) Post-Closing Access. Except as otherwise expressly provided herein, from and after the Closing Date, Buyer and Seller shall reasonably cooperate and afford each other or cause to be afforded to their respective officers, employees, accountants and other representatives access, upon reasonable notice, during business hours with respect to that portion of the Assets to which access has been requested, to review and copy the books, documents, databases or other records relating to the Assets, but excluding those documents subject to Third Party confidentiality obligations or subject to the attorney-client privilege or otherwise excluded from the definition of Assets (which books, documents, databases, records, or employees files or other information the Parties shall cooperate and assist one another in identifying and locating), interview, depose or seek testimony of employees, provide assistance in proceedings with employees as witnesses or advisors, investigate the physical premises, take photographs or videotapes, identify employees and contractors with knowledge of any matter which is the subject of a claim for which a Party has responsibility and make such employees available to such Party and provide reasonable office space to do any of the foregoing in connection with any matter affecting or alleged to affect the Party requesting such access. Without limiting the foregoing, Seller shall provide Buyer with unaudited accounting information as Buyer may reasonably request in order to prepare its financial statements, which information shall be audited by Buyer or its designee. Notwithstanding the foregoing, access to Tax records shall be governed by Part Five.

(h) Final Recapitulation Settlement. On or before ninety (90) days after Closing ("Final Settlement Date"), Seller shall deliver to Buyer a final statement (the "Final Recapitulation Statement"), which shall set forth all of the adjustments to the Purchase Price called for in this Section 4.3(h) ("Final Recap Amount").

(1) Seller Adjustments. The Final Settlement Statement shall incorporate the following adjustments in favor of Seller:

(a) If appropriate, the proceeds, net to Seller's net revenue interest, received from any and all merchantable liquids in sales tanks above the pipeline connections on the Effective

Date that is credited to the Assets, less any Taxes required to be withheld by the purchaser of such.

(b) If appropriate, the proceeds, net to Seller's net revenue interest, received for any and all natural gas produced and credited to the Assets as of the Effective Date.

(c) An amount equal to all capital costs, expenses, and any Taxes that are paid by Seller, and that are, in accordance with generally accepted accounting principles, attributable to the Assets from and after the Effective Date, including, without limitation:

(i) royalties, rentals or other similar charges;

(ii) expenses paid by or on behalf of Seller under applicable operating agreements and, in the absence of an operating agreement, expenses of the sort customarily billed under such agreements; and

(iii) ad valorem, property and other Taxes and assessments (but not including income Taxes) based upon or measured by the ownership of the Property or the production of Hydrocarbons or the receipt of proceeds therefrom. For the purposes of this Agreement ad valorem taxes shall be prorated as of the Effective Date in the manner provided in Section 5.1 (a).

(iv) amounts paid by Seller with respect to surety bonds, performance bonds or other financial assurances pursuant to Section 4.2(a); and

(d) Any other adjustments in favor of Seller as provided for in this Agreement.

(2) Buyer Adjustments. The Final Settlement Statement shall incorporate adjustments in favor of Buyer:

(a) to the extent not already remitted to Buyer pursuant to Section 4.3 (p), the proceeds received for any and all merchantable liquids below the pipeline connections on the Effective Date that is credited to the Assets less any Taxes required to be withheld by the purchaser of such.

(b) to the extent not already remitted to Buyer pursuant to Section 4.3 (p), the actual sales price received by Seller from any and all natural gas proceeds and credited to the Assets after the Effective Date; and

(c) Any other adjustments in favor of Buyer as provided for in this Agreement.

(3) Buyer shall have the right, within fifteen (15) days after receipt of the Final Recapitulation Statement, to audit and object to such statement. If Buyer objects to the Final Recapitulation Statement in writing within the fifteen (15) day period, Buyer and Seller shall attempt to resolve such objections within fifteen (15) days after receipt of said objection. If the Parties are unable to resolve such objections within the fifteen (15) day period, then either Party shall have the right thereafter to submit the matter to arbitration pursuant to the terms of the Dispute Resolution Procedure attached as Schedule 10.12 for determination of the Final Recap Amount.

(4) Payment of the undisputed portion of the Final Recap Amount is due fifteen (15) days after the Final Recapitulation Statement is received by Buyer. Payment of the Final Recap Amount, less any amounts previously paid, is due fifteen (15) days from receipt of the Final Recapitulation Statement, or ten (10) days from the determination of the Final Recap Amount under the Dispute Resolution Procedure, whichever is later. Interest will be applied at the Agreed Rate to any amounts if not paid when due.

(i) Audit Rights. Within one year after the Closing Date, each of Seller and Buyer may, at its own expense and by appointment only, audit the other Party's books, accounts and records relating to such production proceeds, capital costs, Taxes, Expenses and Burdens relating to this transaction. Such audit shall be conducted so as to cause a minimum of inconvenience to the audited Party.

(j) Further Assurances. Each Party shall, from time to time at the request of the other, and without further consideration, execute and deliver such other instruments of sale, transfer, conveyance, assignment, clarification and termination and take such other action as the Party making the request may reasonably require to effectuate the intentions of the Parties, including those reasonably required to sell, transfer, convey and assign to and vest in Buyer, and to place Buyer in possession of the Assets and to transfer, assign or convey the excluded Assets to Seller and to fulfill Seller's obligations under this Agreement. Seller intends to convey the Assets at Closing; however, in the event it is

determined after Closing that: (i) any part of the Assets was not in fact conveyed to Buyer, and that the title to any part of the Assets is incorrectly in the name of Seller; (ii) any excluded Asset is conveyed to Buyer and that the title to such excluded Asset is incorrectly in the name of Buyer; then each Party shall take all such action necessary to correctly convey any part of Assets to Buyer, or any part of the excluded assets to Seller.

(k) Affiliates Access. Seller and its Affiliates shall have a non-exclusive right of access to and over the Fee Interests, Leases and Easements, after notice to Buyer, reasonably necessary to operate, maintain or remove any facilities or personal property in existence and owned or operated by such Affiliates on the Effective Date that is not included in the Assets.

(l) Files Transfer. Originals (or copies if originals are not in possession of Seller) of all non-privileged and non-confidential files, contracts, and documents, including those in electronic form, affecting title to the Assets which are in Seller's possession shall be shipped, using reasonable efforts, to Buyer within thirty (30) days after Closing. Buyer shall designate the method of shipment and the carrier far enough in advance to allow for timely shipment and shall be solely responsible for the cost and expense of shipment and for any Losses occurring as a result of such shipment. In the event Buyer has not provided for shipment within a reasonable time, then Seller may arrange and pay for shipment to Buyer; in such event, Buyer shall reimburse Seller for all expenses associated with such shipment within thirty (30) days of Seller's request for reimbursement.

(m) Copies. Copies of all non-privileged and non-confidential books, records, production records, logs (originals if in possession of Seller), well files (originals if in possession of Seller), information, and engineering data relating to the Assets, including those in electronic form, (except information and data excluded from the definition of Assets), shall be shipped, using reasonable efforts, to Buyer within thirty (30) days after Closing.

(n) Assumption of Operatorship. Unless otherwise agreed to by the Parties and subject to the terms and conditions of all applicable Contracts, Buyer shall assume Seller's obligations for operatorship of any Seller operated Assets conveyed herein at 7:00 a.m. on the first Business Day following the Closing, and thereafter shall perform all duties required in the course of business, including without limitation, paying Burdens and severance Taxes, pumping and gauging wells, marketing Hydrocarbons, working over wells, drilling new wells, filing all necessary reports required by Applicable Law or otherwise, and performing maintenance or repair work on the Assets until such time as a successor operator is duly elected pursuant to any applicable Contract. Seller shall

cooperate with Buyer in the transition of Buyer's assumption of Seller's obligations for operatorship pursuant to this Section 4.3(n), including but not limited to coordinating with Buyer with respect to the receipt of revenue and the timing of payments. Notwithstanding the foregoing, Seller does not warrant or guarantee that Buyer shall succeed Seller as operator.

(o) Assumption of Gas Imbalances. Buyer agrees to assume and bear any and all gas imbalances with respect to the Assets that are in effect on the Effective Date and set forth on Schedule 3.1(o). Buyer understands that the existence of a gas imbalance in the form of overproduction may result in a cash payment by Buyer or in Buyer's inability to further produce and sell gas. Further, to the extent any of the Wells are underproduced, there are no warranties that any rights of makeup or cash payment exist with respect to such underproduction. WITHOUT LIMITATION OF ANY OTHER PROVISION CONTAINED HEREIN, BUYER HEREBY SPECIFICALLY RELEASES SELLER FROM, AND AGREES TO FULLY DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS SELLER, ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES, FROM AND AGAINST EACH AND EVERY LOSS THAT MAY BE ASSERTED BY ANY THIRD PERSON, RELATING TO GAS IMBALANCES RESPECTING THE WELLS CONVEYED WHETHER ARISING UNDER THE TERMS OF ANY GAS BALANCING OR OTHER SIMILAR AGREEMENT, BY OPERATION OF APPLICABLE LAW OR OTHERWISE. Buyer represents that it has independently investigated, to its satisfaction, the gas balancing account associated with the Assets.

On or before the date that the Final Recapitulation Statement is due, Seller and Buyer shall, based upon data available at that time, determine (a) the total amount of overproduction of gas attributable to Seller's interest (e.g. volumes of gas taken from the Properties, or on lands unitized therewith, by Seller in excess of those volumes which Seller's interest would be entitled to receive) and (b) the total amount of underproduction of gas attributable to Seller's interest (e.g. volumes of gas not taken from the Properties, or on lands unitized therewith, by Seller despite Seller's interest in and right to receive such volumes). If the total amount of overproduction (as so determined) exceeds the total amount of underproduction (as so determined) Buyer shall receive a credit against the Purchase Price equal to the actual price per Mcf received by Seller for July 2004 production times such excess. If the total amount of underproduction (as so determined) exceeds the total amount of overproduction (as so determined) Buyer shall in addition to the amount of Purchase Price payable, pay to Seller an amount equal to the actual price per Mcf received by Seller for July 2004 production times such excess.

(p) Post-Closing Proceeds. Following the Closing, Seller shall remit to Buyer, within five (5) business days of Seller's receipt thereof, the net proceeds actually received by Seller for the sale of Hydrocarbons attributable to the Assets for the production months subsequent to the Effective Date.

PART FIVE

TAXES

Section 5.1 Payment and Apportionment of Real Property Taxes and Personal Property Taxes. With respect to Taxes:

(a) 2004 Taxes. All property Taxes accruing during the Tax year in which the Effective Date occurs with respect to ownership of the Assets or production from the Assets during the period from January 1 of such year up to the Effective Date and regardless of when payable, including, without limitation, ad valorem Taxes, benefit assessments, and special assessments, shall be allocated to the Seller and all such Taxes accruing on and after the Effective Date through the end of such Tax year shall be allocated to the Buyer. Any Taxes determined by the value of any production shall be deemed to be attributable to the period during which such production occurred and not attributable to the year in which such Taxes are assessed. Buyer shall pay such Taxes to the appropriate taxing authorities. Seller shall be charged for and shall reimburse Buyer for the Seller's allocated share of property Taxes paid or to be paid by Buyer.

(b) 2003 Taxes. All real property Taxes and personal property Taxes imposed as a result of ownership of the Assets at any time during 2003 shall be paid by Seller.

(c) 2005 Taxes. All real property Taxes and personal property Taxes imposed as a result of ownership of the Assets at any time during 2005 shall be paid by Buyer.

Section 5.2 Sales Taxes. The Purchase Price does not include any sales Taxes or other transfer Taxes imposed in connection with the sale of the Assets. Buyer shall reimburse Seller for or otherwise pay any sales Tax or other transfer Tax, as well as any applicable conveyance, transfer and recording fee, and real estate transfer stamps or Taxes imposed on the transfer of the Assets pursuant to the Agreement. If Buyer is of the opinion that it is exempt from the payment of any such sales Tax or other transfer Tax in connection with the purchase of the Assets, Buyer

shall furnish to Seller the appropriate Tax exemption certification. Sales and other transfer Taxes shall be accounted for pursuant to Section 4.3 (h).

Section 5.3 Other Taxes. All excise, windfall profit and other Taxes (other than income Taxes) relating to production of Hydrocarbons prior to the Effective Date shall be paid by Seller, and all such Taxes relating to such production on or after the Effective Date shall be paid by Buyer.

Section 5.4 Cooperation. For the period ending on the seventh anniversary of the Closing Date, each Party to the Agreement shall provide the other Party with reasonable access to all relevant documents, data and other information which may be required by the other Party for the purpose of preparing Tax returns, establishing or defending a Tax position and responding to any audit by any taxing jurisdiction. Each Party to the Agreement shall cooperate with all reasonable requests of the other Party made in connection with contesting the imposition of Taxes. Notwithstanding anything to the contrary in the Agreement, neither Party to the Agreement shall be required at any time to disclose to the other Party any Tax returns or other confidential or privileged Tax information.

Section 5.5 Tax Proceedings. In the event Buyer receives notice of any examination, claim, adjustment or other proceeding relating to the liability for Taxes of or with respect to Seller for any period Seller is or may be liable under the Agreement, Buyer shall within ten (10) days notify Seller in writing thereof. As to any such Taxes for which Seller is or may be liable under the Agreement, and Seller does not contest such liability as against Buyer, Seller shall be entitled at Seller's expense to control or settle the contest of such examination, claim, adjustment or other proceeding, provided Seller notifies Buyer in writing within thirty (30) days after receipt of the notice described in the preceding sentence that Seller desires to do so. The Parties shall cooperate with each in the negotiations and settlement of any proceeding described in this Section 5.5. Buyer shall provide, or cause to be provided, to Seller necessary authorizations, including powers of attorney, to control any proceeding which Seller is entitled to control pursuant to this Part Five to the extent that Seller is so entitled to control such proceeding.

Section 5.6 Purchase Price Allocation. The allocation of Purchase Price provided for in Section 2.3 is intended to comply with the allocation method required by Section 1060 of the Code. Buyer and Seller shall cooperate to comply with all substantive and procedural requirements of Section 1060 and regulations thereunder, including without limitation the filing by Buyer and Seller of an IRS Form 8594 with their federal income Tax returns for the taxable year in which the Closing occurs. Buyer and Seller agree that each will not take for income Tax purposes, or permit any Affiliate to take, any position inconsistent with the allocation of Purchase Price prescribed in Section 2.3.

PART SIX

ENVIRONMENTAL MATTERS

6.1 Phase I Environmental Assessment. Beginning on the date of this Agreement and ending on August 20, 2004 (the "Review Period"), Buyer shall have the right, at its sole cost, risk and expense, to conduct an environmental assessment of the Assets. During normal business hours and after providing Seller reasonable prior notice of any such activities, Buyer and its representatives shall be permitted to enter upon the Assets operated by Seller and all buildings and improvements thereon, inspect the same, review all of Seller's non-privileged and non-confidential files and records related to the Assets and generally conduct such tests, examinations, and investigations as are consistent with the American Society for Testing and Materials standard Phase I environmental audit. Seller will have the right to (i) observe such investigation and (ii) promptly receive a copy of all results, analyses and reviews. All information obtained or reviewed by Buyer shall be maintained confidential pursuant to the Confidentiality Agreement, which shall continue in force under its terms.

6.2 Environmental Defect Notice. Buyer shall notify Seller in writing of any Environmental Conditions (an "Environmental Defect Notice(s)") on or before August 20, 2004. The Environmental Defect Notice shall state with reasonable specificity: (i) the Property affected or on which the Asset is located; (ii) a complete description of the Environmental Condition claimed; (iii) Buyer's good faith estimate of the cost of Remediation of such Environmental Condition (the "Environmental Defect Value"); and (iv) appropriate documentation substantiating Buyer's claim. Buyer shall conclusively be deemed to have waived any Environmental Condition not asserted by an Environmental Defect Notice on or before August 20, 2004 (the "Environmental Notice Deadline").

6.3 Seller's Election. For any Environmental Conditions asserted in an Environmental Defect Notice(s), Seller shall have the option of (i) Remediating the Environmental Condition, (ii) contesting the existence of the Environmental Condition or the Environmental Defect Value, (iii) paying the Environmental Defect Value as an adjustment to the Purchase Price subject to the limitations set forth below, or (iv) excluding the affected Property and reducing the Purchase Price by the value allocated to the Property. Seller shall notify Buyer in writing of its election no more than five (5) days following its receipt of an Environmental Defect Notice.

(a) If Seller elects to Remediate an Environmental Condition, Seller shall give written notice of such an election to Buyer no more than five (5) days after receipt of the Environmental Defect Notice, together with Seller's proposed plan and timing for such Remediation and Seller shall remain liable for all Losses arising out of or in connection with such Environmental Condition until such time as the Remediation is completed.

(b) If Seller contests the existence of an Environmental Defect or the Environmental Defect Value, then Seller shall so notify Buyer in writing no more than five (5) days after receipt of the Environmental Defect Notice ("Environmental Rejection Notice"). The Environmental Rejection Notice shall state with reasonable specificity the basis of Seller's rejection of the Environmental Defect or the Environmental Defect Value. Within ten (10) days of Buyer's receipt of the Environmental Rejection Notice, representatives of Buyer and Seller, knowledgeable in environmental matters, shall meet and, within twenty (20) days after Buyer's receipt of such Environmental Rejection Notice, either: (i) agree to mutually reject the particular Environmental Defect Notice, or (ii) agree on the validity of such Notice including the Environmental Defect Value, in which case Seller shall have sixty (60) days after the date of such agreement within which to elect in writing to Remediate the Environmental Condition pursuant to Section 6.2(a) above or to pay Buyer the Environmental Defect Value pursuant to Section 6.2 (c) above. If the Parties cannot agree on either options (i) or (ii) in the preceding sentence, the dispute shall be submitted to arbitration in accordance with the procedures set forth in Section 10.12. In such case, Seller shall have five (5) days following the final decision of the arbitration panel to notify Buyer in writing of its election to Remediate the Environmental Defect or to pay the Buyer the Environmental Defect Value.

(c) In the event a contested Environmental Defect cannot be resolved prior to Closing, Seller shall convey the affected Property to Buyer and Buyer shall pay for the Property at Closing in accordance with the Agreement as though there were no Environmental Defect, subject to Seller's obligations as set forth above upon resolution of the contested matter.

(d) If the Purchase Price is adjusted pursuant to Section 6.2(iii) above, or if Buyer waives an Environmental Condition pursuant to Section 6.2 above or otherwise, Buyer shall assume all Losses associated with such Environmental Condition(s).

Section 6.4 Covenant of Cooperation. The Parties shall cooperate fully with each other and act in good faith in implementing Part Six, including but not limited to the following:

- (a) sharing with the other Party in a timely manner all material, non-privileged, non-confidential correspondence received from any Affiliate or Third Person that is relevant to such an Environmental Condition for which a Party is responsible pursuant to this Part Six;
- (b) affording the other Party timely access to and an opportunity to comment on (both draft and final versions) any material non-privileged, non-confidential correspondence to Affiliates or Third Persons, study protocols and results, drawings, charts remediation plans or reports, or other documentation relating to an Environmental Condition for which a Party is responsible pursuant to this Part Six;
- (c) providing the other Party timely notice of and an opportunity to attend and participate in any meetings or hearing with Governmental Bodies or courts relating to any Environmental Condition for which a Party is responsible pursuant to this Part Six;
- (d) preparing all material strategies and plans affecting any matter with respect to which the other Party may have liability hereunder or that may affect the future operations of the other Party in consultation with the other Party using appropriate cost-effective technology and clean-up criteria, including risk-based clean-up standards where permitted, in accordance with Applicable Law;
- (e) permitting each other post-Closing access, as described in Section 4.3(h); and

(f) cooperating with each other to assist in the collection of any amounts that may be collectible from joint interest owners to offset Buyer's and Seller's liabilities pursuant to Part Six;

Section 6.5 Post-Closing Access. After the Closing with prior consent of Buyer (which consent shall be timely given and shall not be unreasonably withheld) and, where required, the prior written consent of any operator and landowner of any affected Property, Seller and Seller's agents and representatives shall have the right to enter onto the affected Property during normal business hours for the purpose of conducting any environmental inspection, audit, test, Remediation, or any other purpose deemed necessary by Seller for purposes of fulfilling its responsibilities under Part Six. Buyer shall use its reasonable efforts to obtain for Seller any consent required from any Third Person (including but not limited to the operator and landowner) to obtain such access.

Section 6.6 Limitation. Payments of the Environmental Defect Values shall be made by Seller to Buyer as an adjustment to the Purchase Price at Closing if then determined or if not determined as of the Closing, thereafter, consistent with the time frames set forth above. Notwithstanding the provisions of Sections 6.2 and 6.3, no adjustment to the Purchase Price for Environmental Defect Values pursuant to Section 6.2(b) shall be made unless and until the aggregate value of all such Values (the "Aggregate Environmental Defect Value") exceeds a deductible (not a threshold) equal to One Million Dollars (\$1,000,000). If the Environmental Defect Value with respect to any single Environmental Condition is less than \$5,000, such cost shall not be considered in calculating the Aggregate Environmental Defect Value. In the event the Aggregate Environmental Defect Value exceeds ten percent (10%) of the Purchase Price, either Seller or Buyer may terminate this Agreement upon written notice to the other, and neither Party thereafter shall have any further rights or obligations hereunder.

Section 6.7 Exclusive Remedies. The rights and remedies granted each Party in Part Six are exclusive rights and remedies against the other Party related to any Environmental Condition, or Losses related thereto and the other matters contained in this Part Six, and, EXCEPT AS PROVIDED IN PART 8, EACH PARTY EXPRESSLY WAIVES ANY AND ALL OTHER RIGHTS AND REMEDIES WHICH IT MAY HAVE AGAINST THE OTHER PARTY REGARDING ENVIRONMENTAL CONDITIONS, WHETHER FOR CONTRIBUTION, INDEMNITY OR OTHERWISE, REGARDLESS OF THE FAULT OR NEGLIGENCE OF THE CLAIMING PARTY, INCLUDING STRICT OR STATUTORY LIABILITY OF THAT PARTY UNDER ANY APPLICABLE LAW.

PART SEVEN

TITLE MATTERS

Section 7.1 Confidentiality Agreement. During the Review Period, Buyer upon written request and at Buyer's sole cost and expense, may inspect and review all of Seller's non-privileged and non-confidential files, records, and similar materials relating to the Fee Interests, Leases, Beneficial Interests and Contracts. All information made available to Buyer and designated by Seller as confidential or proprietary shall be maintained confidential pursuant to the Confidentiality Agreement, which shall continue in force under its terms.

Section 7.2 Preferential Purchase Rights. Seller shall have a period of sixty (60) days from the date of the Agreement to resolve preferential purchase rights to the Properties set forth on Schedule 7.2. To the extent any preferential purchase rights are exercised by any Third Person entitled to exercise such rights, or waivers thereof, are not obtained prior to the Closing Date, then the Properties subject to such preferential purchase rights shall not be sold to Buyer

and shall be excluded from the Agreement. The Purchase Price shall be adjusted by the dollar value allocated to the Properties subject to such preferential purchase right set forth in Schedule 2.3. In the event any Third Person initially elects to exercise a particular preferential right, but subsequently refuses or elects not to consummate the purchase under the preferential right (whether such failure occurs before or after the Closing Date), the Parties agree that Buyer shall purchase such interests covered by the preferential right in accordance with the values set forth in Schedule 2.3 and the closing of such transaction shall take place on a date designated by Seller not more than ninety (90) days after the Closing Date.

Section 7.3 Required Consents. If Seller shall fail to obtain any consent or waiver of maintenance of uniform interest provision required for the transfer of any Property, Seller's failure shall be handled as follows:

(a) If the holder of the right to consent or party to a maintenance of uniform interest provision affirmatively refuses to consent or waive prior to Closing, such refusal shall be considered a Title Defect under this Part Seven and the Title Indemnity Payment therefor shall equal the value (or portion thereof) allocated to the affected Property (or portion thereof) in Schedule 2.3.

(b) Except for approvals from Governmental Bodies normally received subsequent to assignment, if Seller believes a consent or waiver may be obtained subsequent to Closing, the Property shall be held by Seller for the benefit of Buyer after Closing and Seller shall provide Buyer with the economic benefits thereof until such consent or waiver is received or until ninety (90) days following Closing, if later, and Buyer shall pay for the Property at Closing in accordance with the Agreement as though the consent or waiver had been obtained. If Seller obtains the consent or waiver on or before ninety (90) days following Closing, then Seller shall deliver conveyances of the Property to Buyer. If the consent or waiver is not obtained or is affirmatively refused on or before ninety (90) days following Closing, Seller shall refund the value allocated to the affected portion of the Property to Buyer less any net revenues (revenues net of costs and Burdens) received by Buyer in connection with such affected portion of the Property and Seller's holding for the benefit of Buyer shall terminate.

Section 7.4 Title Defects. Buyer shall notify Seller in writing of any Title Defects ("Title Defect Notice(s)") on or before August 25, 2004. The Title Defect Notice shall state with reasonable specificity: (i) the Property or Lease affected; (ii) the particular Title Defect claimed; (iii) Buyer's good faith estimate of the amount the Title Defect reduces the value allocated to the affected Property or Lease on Schedule 2.3 (the "Defect Value"); and (iv) appropriate documentation substantiating Buyer's claim. For purposes of this Part Seven, the value allocated to an affected Lease for an undeveloped parcel listed on Schedule 2.3 shall be the

aggregate amount shown on Schedule 2.3 for the 40-acre governmental quarter-quarter section, which amount is equal to the sum of the two adjacent 20-acre parcels shown on Schedule 2.3 comprising the 40-acre governmental quarter-quarter section. Buyer shall conclusively be deemed to have waived any Title Defects not asserted by a Title Defect Notice on or before on or before August 25, 2004. For all Title Defects asserted in Tide Defect Notices, Seller shall have the option of (a) curing the Title Defect, (b) contesting the Title Defect or Buyer's good faith estimate of the Defect Value, (c) paying Buyer's good faith estimate of the Defect Value as an adjustment to the Purchase Price subject to the limitations set forth below (a "Title Indemnity Payment"), or (d) excluding the affected Property or Lease and reducing the Purchase Price by the value allocated to such Property or Lease. Seller shall notify Buyer in writing of its election no more than five (5) days following its receipt of a Title Defect Notice.

Section 7.5 Seller's Right to Cure. If Seller elects to cure a Title Defect, then Seller shall so notify Buyer in writing within five (5) days after receipt of the particular Title Defect Notice ("Cure Notice"). Within sixty (60) days after receipt of the Title Defect Notice, Seller shall either cure the Title Defect to the reasonable satisfaction of Buyer ("Cure") or if Seller is unable to Cure such Title Defect, make a Title Indemnity Payment for such Title Defect equal to Buyer's good faith estimate of the Defect Value set forth in the Title Defect Notice.

If Seller is unable to Cure a Title Defect prior to Closing, Seller shall convey the Property or Lease to Buyer and Buyer shall pay for the Property or Lease at Closing in accordance with the Agreement as though the Title Defect had been Cured, subject to Seller's obligation to make a Title Indemnity Payment to Buyer less any net revenues (revenues net of costs and Burdens) received by Buyer in connection with the affected portion of the Property or Lease if the Title Defect cannot be Cured during the sixty (60) days following receipt of the Title Defect Notice.

Section 7.6 Contested Title Defects. If Seller contests the existence of a Title Defect a Buyer's good faith estimate of the Defect Value, then Seller shall so notify Buyer in writing no more than five (5) days after Seller's receipt of the Title Defect Notice ("Rejection Notice"). The Rejection Notice shall state with reasonable specificity the basis of Seller's rejection of the Title Defect or Buyer's good faith estimate of the Defect Value. Within thirty

(30) days of Buyer's receipt of the Rejection Notice, representatives of Buyer and Seller, knowledgeable in title matters, shall meet and, within ten (10) days after Buyer's receipt of such Rejection Notice, either: (i) agree to mutually reject the particular Title Defect, or (ii) agree on the validity of such Title Defect and the Defect Value, in which case Seller shall have sixty (60) days after the date of such agreement within which to Cure such Title Defect and failing such Cure, to make the Title Indemnity Payment therefore. If the Parties cannot agree on either options (i) or (ii) in the preceding sentence, the Title Defect or the Defect Value subject to the Rejection Notice shall be submitted to arbitration in accordance with the procedures set forth in Section 10.12. If Seller fails to timely deliver a Rejection Notice or a Cure Notice, Seller shall be deemed to have

accepted the validity of the Title Defect and Buyer's good faith estimate of the Defect Value, and shall pay Buyer a Title Indemnity Payment for the Title Defect equal to the Defect Value within sixty (60) days of Seller's receipt of the applicable Title Defect Notice.

In the event a contested Title Defect cannot be resolved prior to Closing, Seller shall convey the affected Property or Lease to Buyer and Buyer shall pay for the Property at Closing in accordance with the Agreement as though there were no Title Defect, subject to Seller's obligations as set forth in this

Section 7.6 to Cure or to make a Title Indemnity Payment to Buyer less any net revenues (revenues net of costs and Burdens) received by Buyer in connection with the affected Property or Lease.

Section 7.7 Title Indemnity Payments. Title Indemnity Payments shall be made by Seller to Buyer as an adjustment to the Purchase Price at Closing if then determined or if not determined as of the Closing, thereafter, consistent with the time frames set forth above. Notwithstanding the provisions of Sections 7.3, 7.4, 7.5 and 7.6, Seller is obligated to make a Title Indemnity Payment only if the aggregate Defect Value of all Title Defects that Seller has agreed to pay pursuant to Section 7.4 or which is resolved pursuant to Section 7.6 (the "Aggregate Title Defect Value") exceed a deductible (not a threshold) equal to One Million Dollars (\$1,000,000). If the Defect Value for any single Property or Lease is less than \$5,000, such value shall not be considered in calculating the Aggregate Title Defect Value. If a Defect Value is not liquidated or certain in amount, the Defect Value shall be the amount necessary to compensate Buyer for the adverse economic effect on the Property or Lease, taking into account all relevant factors, including without limitation, the Property or Lease's allocated value, the time value of money, the practical and legal effect of the Title Defect, and the amount of reduction in Net Revenue Interest or increase in the Working Interest of the affected Property or Lease. The aggregated Defect Value(s) for any Property shall never exceed the value allocated to such Property in Schedule 2.3. In the event the Aggregate Title Defect Value exceeds ten percent (10%) of the Purchase Price either Buyer or Seller may terminate this Agreement upon written notice to the other, and neither Party thereafter shall have any further rights or obligations hereunder.

Section 7.8 Interest Additions. If Seller discovers an increase in the Net Revenue Interest shown on Schedule H with respect to a Property Interest or on Schedule 2.3 with respect to a Lease which is free of Title Defects (an "Interest Addition"), then Seller shall, from time to time and without limitation, have the right to give Buyer written notice of such Interest Additions ("Interest Addition Notice"), as soon as practicable but no less than five (5) days before Closing, stating with reasonable specificity the Property or Lease affected, the particular Interest Addition claimed, and Seller's good faith estimate of the amount the Additional Interest increases the value of the affected Property or Lease over and above the value allocated to such Property or Lease in Schedule 2.3 ("Interest Addition Value"). Seller shall conclusively be deemed to have waived

any additional interest not asserted by an Interest Addition Notice on or before five (5) days prior to Closing. If Buyer agrees with the existence of the Additional Interest and Seller's good faith estimate of the Interest Addition Value, then the Interest Addition Value shall be applied as an offset to any Title Indemnity Payment required of Seller ("Offset"). If the Interest Addition Value exceeds the amount of any Title Indemnity Payment(s) due Buyer, the amount of such difference (an "Interest Addition Payment") shall be paid by Buyer to Seller as an adjustment to the Purchase Price at Closing. If Buyer contests the existence of the Interest Addition or Seller's good faith estimate of the Interest Addition Value, then Buyer shall so notify Seller in writing within ten

(10) days after Buyer's receipt of the Interest Addition Notice ("Interest Addition Rejection Notice"). The Interest Addition Rejection Notice shall state with reasonable specificity the basis of Buyer's rejection of the Additional Interest or Buyer's good faith estimate of the Interest Addition Value. Within ten (10) days of Seller's receipt of the Interest Addition Rejection Notice, representatives of Buyer and Seller, knowledgeable in title matters, shall meet and, within sixty (60) days after Seller's receipt of such Interest Addition Rejection Notice, either (a) agree to mutually reject the Interest Addition in which case Seller shall waive the Interest Addition, or (b) agree on validity of such Interest Addition and the Interest Addition Value, in which case Seller shall be entitled to an Offset or Interest Addition Payment. If the Parties cannot agree on either option (a) or (b) in the preceding sentence, the Interest Addition subject to the Interest Addition Rejection Notice shall be submitted to arbitration in accordance with the procedures set forth in Section 10.12. If Buyer fails to timely deliver an Interest Addition Rejection Notice, Buyer shall be deemed to have accepted the validity of the Interest Addition and Seller's good faith estimate of the Interest Addition Value, and Seller shall be entitled to an Offset or Interest Addition Payment as described above.

Section 7.9 Reconveyance. If Seller makes a payment for Title Defect pursuant to Part Seven for one hundred percent (100%) of the Defect Value, Buyer shall, at Seller's sole option to be exercised no later than sixty (60) days after such payment, reconvey to Seller the Property or Lease or portion of the Property or Lease, and all proceeds accruing thereto, with respect to which the Title Indemnity Payment was made (effective as of the Effective Date).

PART EIGHT

INDEMNITY

Section 8.1 General Indemnification. Buyer and Seller agree that:

(a) Seller. Except with respect to Taxes (which are covered by Part Five), and title matters (which are covered by Part Seven) Seller shall indemnify, defend and hold harmless Buyer, its Affiliates and its and their respective officers, directors, agents

and employees from and against all Losses based upon, arising out of, in connection with, or relating to:

- (i) any breach of any representation, warranty, covenant or agreement of Seller contained in the Agreement;
- (ii) except for the Assumed Liabilities, any matter arising in connection with the ownership or operation of the Assets prior to the Effective Date;
- (iii) all actions, proceedings, claims, litigation, arbitration, mediation or other dispute resolution procedure pending or to the Actual Knowledge of Seller threatened, as of the Effective Date relating to or affecting the Assets;

and for which Buyer has submitted a Claim Notice within one (1) year following the Closing Date in compliance with Section 8.2.
NOTWITHSTANDING THE FOREGOING, SELLER'S FINANCIAL OBLIGATIONS UNDER THIS SECTION 8.1(a) SHALL NOT EXCEED, IN THE AGGREGATE, AN AMOUNT EQUAL TO FIFTY PERCENT (50%) OF THE PURCHASE PRICE AS ADJUSTED PURSUANT TO SECTION 2.2.

(b) Buyer. Except with respect to Taxes (which are covered in Part Five), Buyer shall indemnify, defend and hold harmless Seller, its Affiliates and its and their respective officers, directors, agents and employees from and against all Losses based upon, arising out of, in connection with, or relating to:

- (i) any breach of any representation, warranty, covenant or agreement of Buyer contained in the Agreement;
- (ii) if the Closing occurs, any matter arising in connection with the ownership or operation of the Assets from and after the Effective Date;
- (iii) Buyer's inspection of the Assets as set forth in Section 3.2(g) and 4.1(a);
- (iv) any claims asserted by Third Persons against Seller in reliance on any interpretive data conveyed by Seller to Buyer, to the extent such claims arise as a consequence of Buyer's disclosure of such data; and

(v) If Closing occurs, Losses attributable to claims against Seller's bonds or similar instruments that remain in place after the Closing pursuant to Section 4.2;

(vi) if the Closing occurs, the Assumed Liabilities.

Section 8.2 Method of Asserting Claims, Etc. Except for Claims under Parts 5 and 7, all claims for indemnification under the Agreement shall be asserted and resolved as follows:

(a) Third Party Claims. In the event that any claim for which a Party providing indemnification (the "Indemnifying Party") would be liable to a Party or any of its officers, directors, employees, agents, representatives or others entitled to indemnification hereunder (the "Indemnified Party") is asserted against or sought to be collected by a Third Person, the Indemnified Party shall promptly notify the Indemnifying Party of such claim, specifying the nature of such claim and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim) (the "Claim Notice"). The Indemnified Party shall have thirty (30) days from its receipt of the Claim Notice (the "Notice Period") to notify the Indemnified Party (i) whether or not it disputes its liability to the Indemnifying Party hereunder with respect to such claim, and (ii) if it does not dispute such liability, whether or not it desires, at its sole cost and expense, to defend the Indemnified Party against such claim; provided, however, that the Indemnified Party is hereby authorized prior to and during the Notice Period to file any motion, answer or other pleading which it shall deem necessary or appropriate to protect its interests. In the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it does not dispute such liability and desires to defend against such claim or demand, then, except as hereinafter provided, the Indemnifying Party shall have the right to defend such claim or demand by appropriate proceedings, which proceedings shall be promptly settled or prosecuted to a final conclusion, in such a manner as to avoid any risk of the Indemnified Party becoming subject to liability. If the Indemnified Party desires to participate in, but not control, any such defense or settlement, it may do so at its own cost and expense. If the Indemnifying Party disputes its liability with respect to such claim, or elects not to defend against such claim, whether by not giving timely notice as provided above or otherwise, the Indemnified Party shall have the right but not the obligation to defend against such claim, and the amount of any such claim, or if the same be contested by the Indemnifying Party or by the Indemnified Party, then that portion thereof as to which such defense is unsuccessful, shall be conclusively deemed to be a liability of the Indemnifying Party hereunder (subject, if it has timely disputed liability, to a determination in accordance with Section 10.12 that the disputed liability is covered by this Part Eight.)

(b) Other Claims. In the event that the Indemnified Party shall have a claim against the Indemnifying Party hereunder which does not involve a claim or demand being asserted against or sought to be collected from it by a Third Person, the Indemnified Party shall promptly send a Claim Notice with respect to such claim to the Indemnifying Party. If the Indemnifying Party does not notify the Indemnified Party within the Notice Period that it disputes such claim, the amount of such claim shall be conclusively deemed a liability of the Indemnifying Party hereunder.

Section 8.3 Payment. Payments under this Part Eight shall be made as follows:

(a) Payment for Undisputed Amounts. In the event that the Indemnifying Party is required to make any payment under this Part Eight, the Indemnifying Party shall promptly pay the Indemnified Party the amount so determined. If there should be a dispute as to the amount or manner of determination of any indemnity obligation owed under Part Six or this Part Eight, the Indemnifying Party shall nevertheless pay when due such portion, if any, of the obligation as shall not be subject to dispute. The difference, if any, between the amount of the obligation ultimately determined as properly payable under Part Six or this Part Eight and the portion, if any theretofore paid, shall bear interest at the Agreed Rate as provided in Section 8.3(b). Upon the payment in full of any claim, the Indemnifying Party shall be subrogated to the rights of the Indemnified Party against any Person or other entity with respect to the subject matter of such claim.

(b) Interest. If all or part of any indemnification obligation under the Agreement is not paid when due upon resolution of the claim, then the Indemnifying Party shall pay on demand to the Indemnified Party interest at the Agreed Rate on the unpaid amount of the obligation for each day from the date the amount became due until payment in full.

Section 8.4 Disputed Claims. If the Indemnifying Party shall notify the Indemnified Party during the Notice Period of any Disputed Claim under Section 8.2, the Disputed Claims shall be subject to the Dispute Resolution Procedure pursuant to Section 10.12.

Section 8.5 Applicability of Part Eight. This Part Eight does not apply to title matters (which are covered by Part Seven) or Tax matters (which are covered by Part Five). This Part Eight applies to certain Environmental Conditions only to the extent of a breach of the representation set forth in

Section 3.1(g), and Seller's obligation as set forth in Section 6.3(a), all other Environmental Conditions or other matters being expressly subject to the terms and conditions of Part Six.

PART NINE

CONDITIONS PRECEDENT

Section 9.1 Conditions Precedent of Seller. The obligations of Seller under the Agreement are subject, at the sole option of Seller, to the satisfaction, in Seller's sole opinion, at or prior to the Closing of the following conditions:

- (a) Representations and Warranties True at Closing. The representations and warranties of Buyer contained in the Agreement or in any certificate or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, were true and complete when made, and shall be true and complete on and as of the Closing Date as though such representations and warranties were made at and as of such date except as otherwise expressly provided herein.
- (b) Compliance with Agreement. On and as of the Closing Date, Buyer shall have performed and complied with all agreements, covenants and conditions required by the Agreement to be performed and complied with prior to or on the Closing Date.
- (c) Validity of Agreement. The execution, delivery and performance of this Agreement and the transactions contemplated thereby have been duly and validly authorized by all necessary action, corporate or otherwise, on the part of Buyer.
- (d) Approvals. Seller shall have obtained all approvals including, without limitation, those of its senior management and board of directors, necessary to consummate the proposed transaction.
- (e) Opinion of Counsel. Seller shall have received an opinion dated as of the closing from Buyer's general counsel in substantially the form set forth in Exhibit 3.
- (f) Buyer's Certificates. Seller shall have received (i) a certificate executed by a duly qualified officer of Buyer dated as of the Closing in substantially the form set forth in Exhibit 4 and a certificate of incumbency for such officer and (ii) certified copies of resolutions of Buyer's board of directors, as appropriate, authorizing and approving the execution, delivery and performance of the Agreement.

(g) Consents. Buyer shall have used reasonable best efforts to obtain all necessary consents of and filings with any Governmental Body relating to the consummation of the transactions contemplated by this Agreement.

(h) Injunction. On the Closing Date, there shall be no injunction, writ, or preliminary restraining order or any order of any nature issued by a court or other Governmental Body of competent jurisdiction directing that the transaction provided for herein or any of them not be consummated as herein provided or imposing any conditions on the consummation of the transactions contemplated hereby and no material proceeding or lawsuit shall have been commenced or threatened by any Governmental Body or other Third Person with respect to any of the transactions contemplated by the Agreement.

(i) Due Diligence Acknowledgment. Buyer shall deliver to Seller at Closing a signed acknowledgment in substantially the form set forth in Exhibit 5, stating that Buyer had sufficient and adequate time and opportunity to review all files, documents, and other information, which Seller has made available. Buyer shall also acknowledge that as a result of Buyer's due diligence, including but not limited to the aforementioned file review, it has fully satisfied itself as to the condition and value of the Assets.

(j) Conveyances. Buyer shall execute and acknowledge the assignments which are contained in Exhibit 1 (the "Assignments"), the deeds which are contained in Exhibit 2 (the "Deeds"), as well as such certificates or other documents as are required to effect the transfer of the Assets.

(k) Additional Agreements, Buyer shall execute, acknowledge and deliver to Seller such other agreements as may be necessary to carry out the purposes of the Agreement.

Section 9.2 Conditions Precedent of Buyer. The obligations of Buyer under this Agreement are subject, at the option of Buyer, to the satisfaction, in Buyer's sole opinion, at or prior to the Closing of the following conditions:

(a) Representations and Warranties True at Closing. The representations and warranties of Seller contained in the Agreement or in any certificate or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, were true and complete when made, and shall be true and complete on and as of the Closing Date as though such representations and warranties were made at and as of such date except as otherwise expressly provided herein.

(b) Compliance with Agreement. On and as of the Closing Date, Seller shall have performed and complied with all agreements, covenants, and conditions required by the Agreement to be performed and complied with prior to or on the Closing Date.

(c) Validity of Agreement. The execution, delivery and performance of this Agreement and the transactions contemplated thereby have been duly and validly authorized by all necessary action, corporate or otherwise, on the part of Seller.

(d) Opinion of Counsel. Buyer shall have received an opinion dated as of the Closing from Seller's counsel in substantially the form set forth in Exhibit 3.

(e) Seller's Certificate. Buyer shall have received (i) a Certificate executed by a duly qualified officer of Seller dated as of the Closing in substantially the form set forth in Exhibit 4 and a certificate of incumbency for such officer and (ii) certified copies of resolutions of Buyer's board of directors, as appropriate authorizing and approving the execution, delivery and performance of the Agreement.

(f) Consents. Seller shall have used reasonable efforts to obtain all necessary consents of and filings with any Governmental Body relating to the consummation of the transactions contemplated by the Agreement.

(g) Injunction. On the Closing Date, there shall be no injunction, writ, or preliminary restraining order or any order of any nature issued by a court or other Governmental Body of competent jurisdiction directing that the transaction provided for herein or any of them not be consummated as herein provided or imposing any conditions on the consummation of the transactions contemplated hereby and no material proceeding or lawsuit shall have been commenced or threatened by any Governmental Body or other Third Person with respect to any of the transactions contemplated by the Agreement.

(h) Conveyances. Seller shall execute, acknowledge and deliver to Buyer the Assignments as well as such certificates or other documents as are required to effect the transfer of the Assets, or the subsequent operation thereof. Buyer shall also execute and deliver such change of operator forms as are required by applicable Governmental Bodies to transfer operatorship of the Assets. Such documents as may be necessary to carry out the purpose of the Agreement.

(i) Release of Lien. Seller shall have delivered to Buyer, a release, as to the Assets, of the liens and security interests created by the Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated

as of May 1, 2002 as delivered to the Bank of Nova Scotia as agent as amended by the Amended and Restated Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated July 16, 2003.

(j) Geophysical License. Seller shall deliver to Buyer, at no additional cost to Buyer beyond the Purchase Price, a geophysical license in a mutually agreeable form granting Buyer a license for the geophysical data acquired by Seller pursuant to the approximately 34 mile 2D seismic shoot in Garfield County, Colorado conducted on or about August 14, 2004 by Tesla Exploration, which license shall allow Buyer to provide access to (but not a copy or license of) such data to Buyer's partners and joint interest owners in the Assets. Should Buyer sell all or substantially all of the Assets, Buyer may transfer such license by notifying Seller in writing of the sale and Seller shall not be due any fee in connection with such transfer.

(k) Additional Agreements. Seller shall execute, acknowledge and deliver to Seller such other agreements as may be necessary to carry out the purposes of the Agreement.

Section 9.3 Market Disruption. Notwithstanding anything to the contrary contained herein, in the event that a general moratorium on commercial banking activities or clearance services is declared by Federal authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States occurs; Buyer's obligation to close may be delayed for a period not to exceed seven (7) days until such moratorium or disruption is resolved without forfeiture of the Performance Deposit; provided that Buyer uses its best efforts to effect the Closing as soon thereafter as possible. In the event that Buyer is unable to Close within such seven (7) day period, this Agreement may be terminated at Seller's sole option and Buyer shall forfeit the Performance Deposit.

PART TEN

MISCELLANEOUS

Section 10.1 Notices. Except as otherwise expressly provided herein, all communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given and received when actually delivered to the addressee or received via facsimile at the number set forth below of the Party to be notified.

If to Seller:

Calpine Corp.

717 Texas Avenue
Houston, Texas 77002

Fax: 713.651.3056
Phone: 713.335.4001
Attention: B. A. Berilgen

With a copy to:

50 West San Fernando Street
San Jose, California 95113

Fax: 408.975.4648
Phone: 408.792.1226
Attention: Lisa Bodensteiner

If to Buyer:

Bill Barrett Corporation
1099 18th Street, Suite 2300
Denver, Colorado 80202

Fax: (303) 291-0420
Phone: (303) 293-9100
Attention: President

With a copy to:

General Counsel

Any Party may, by written notice so delivered to the other, change the address to which the delivery shall thereafter be made.

Section 10.2 Modification. The Agreement, including this Section 10.2 and the Exhibits and Schedules, shall not be modified except by an instrument in writing signed by or on behalf of all of the Parties.

Section 10.3 GOVERNING LAW. THE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS THEREOF WHICH WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. ALL ASSIGNMENTS AND INSTRUMENTS EXECUTED IN ACCORDANCE WITH THE CONVEYANCES TO BE DELIVERED HEREUNDER SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE PROPERTIES CONVEYED THEREBY ARE LOCATED.

Section 10.4 Exhibits. All Exhibits and Schedules thereto, and the terms thereof, which are referred to herein are hereby made a part of and incorporated herein by reference.

Section 10.5 Counterparts. The Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 10.6 Invalidity. If any of the provisions of the Agreement including the Schedules and Exhibits, are held invalid or unenforceable, such invalidity or unenforceability shall not affect in any way the validity or enforceability of any other provision of the Agreement. In the event any provision is held invalid or unenforceable, the Parties shall attempt to agree on a valid or enforceable provision which shall be a reasonable substitute for such invalid or unenforceable provision in light of the tenor of the Agreement and, on so agreeing, shall incorporate such substitute provision in the Agreement.

Section 10.7 Entire Agreement and Construction. Except for the Confidentiality Agreement, which shall terminate upon the Closing Date if the Closing occurs, this Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby and all prior understandings and agreements shall merge herein. There are no additional terms, whether consistent or inconsistent, oral or written, which are intended to be part of the Parties' understandings which have not been incorporated into the Agreement and the Schedules. The Parties agree that they have jointly participated in the drafting and preparation of the Agreement and that the language of the Agreement shall be construed as a whole according to its fair meaning and not for or against either of the Parties hereto based upon that Party's role in the preparation of the Agreement.

Section 10.8 Expenses. Except as otherwise expressly provided herein, each Party shall bear its fees, costs and expenses in connection with the transactions contemplated herein, including, without limitation, all legal and accounting fees and disbursements and fees and expenses of other advisors retained by such Party.

Section 10.9 Waivers and Amendments. All amendments and other modifications hereof shall be in writing and signed by each of the Parties. Any Party may by written instrument (i) waive any inaccuracies in any of the representations or warranties made to it by any other Party contained in the Agreement or in any instruments and documents delivered to it pursuant to the Agreement, or (ii) waive compliance or performance by any other Party with or of any of the covenants or agreements made to it by any other Party contained in the Agreement. The delay or failure on the part of any Party hereto to insist, in any one instance or more, upon strict performance of any of the terms or conditions of the Agreement, or to exercise any right or privilege herein conferred shall not be construed as a waiver or any such terms, conditions, rights or privileges but the same shall continue and remain in full force and effect. All rights and remedies are cumulative.

Section 10.10 Binding Effect: Assignment. All the terms, provisions, covenants, obligations, indemnities, representations, warranties and conditions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns. This Agreement may not be assigned by Buyer or Seller without the express written consent of the other, such consent not to be unreasonably withheld. Seller may condition its consent to assign this Agreement on Buyer providing Seller with an appropriate guarantee of its assignee's performance. In the event Buyer sells or assigns all or a portion of the Assets, this Agreement shall remain in effect between Buyer and Seller as to all the Assets regardless of such assignment.

Section 10.11 Survival of Representations and Covenants. All representations and warranties contained in the Agreement shall survive the Closing and continue for one (1) year following the Closing Date, except those contained in Parts Six and Seven. The covenants, indemnities and agreements contained in the Agreement shall survive the Closing and continue in accordance with their respective terms.

Section 10.12 Arbitration of Disputes. Seller and Buyer covenant with each other as follows:

(a) **Generally.** Any claim, controversy or dispute arising out of, relating to, or in connection with the Agreement or the agreements and transactions contemplated hereby, by Buyer or Seller, including the interpretation, validity, termination or breach thereof, shall be resolved solely in accordance with the dispute resolution procedures set forth in Schedule 10.12. The Parties covenant that they shall not resort to court remedies except as provided for in Schedule 10.12, or for preliminary relief in aid of arbitration.

(b) Violations. A Party who violates the covenants in Section 10.12(a) shall pay all the legal costs incurred by the other Parties in connection with the enforcement thereof. Suits, actions or proceedings in connection with violations of the covenants in Section 10.12 and Schedule 10.12 shall be instituted in the United States District Court for the District of Colorado, and pursuant to Title IX of the United States Code. Each Party waives any option or objection which it may now or thereafter have to the laying of the venue in any such suit, action or proceeding and irrevocably submits to the jurisdiction of such court in any such suit, action or proceeding.

BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THIS AGREEMENT DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY COLORADO LAW AND THIS SECTION 10.12. YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE ARBITRATION OF DISPUTES PROVISIONS. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE COLORADO CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF MATTERS INCLUDED IN THE ARBITRATION OF DISPUTES PROVISION TO NEUTRAL ARBITRATION.

BUYER'S INITIALS: WB SELLER'S INITIALS: MG

(a) Generally. Any claim, controversy or dispute arising out of, relating to, or in connection with the Agreement or the agreements and transactions contemplated hereby, by Buyer or Seller, including the interpretation, validity, termination or breach thereof, shall be resolved solely in accordance with the dispute resolution procedures set forth in Schedule 10.12. The Parties covenant that they shall not resort to court remedies except as provided for in Schedule 10.12, or for preliminary relief in aid of arbitration.

(b) Violations. A Party who violates the covenants in Section 10.12(a) shall pay all the legal costs incurred by the other Parties in connection with the enforcement thereof. Suits, actions or proceedings in connection with violations of the covenants in Section 10.12 and Schedule 10.12 shall be instituted in the United States District Court for the District of Colorado, and pursuant to Title IX of the United States Code. Each Party waives any option or objection which it may now or thereafter have to the laying of the venue in any such suit, action or proceeding and irrevocably submits to the jurisdiction of such court in any such suit, action or proceeding.

BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THIS AGREEMENT DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY COLORADO LAW AND THIS SECTION 10.12. YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE ARBITRATION OF DISPUTES PROVISIONS. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE COLORADO CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF MATTERS INCLUDED IN THE ARBITRATION OF DISPUTES PROVISION TO NEUTRAL ARBITRATION.

BUYER'S INITIALS: WB SELLER'S INITIALS: MG

Section 10.13 Conflict. Should terms and conditions of this Agreement be in conflict with the Assignment and Bill of Sale, or the Deed, as such are executed pursuant to the terms of this Agreement, the terms and conditions of this Agreement shall prevail.

IN WITNESS WHEREOF, the Parties hereto have entered into the Agreement as of the date first herein above written.

CALPINE CORPORATION

By: /s/ Michael A. Gerlich

*Michael A. Gerlich
Senior Vice President*

Date: August 18, 2004

CALPINE NATURAL GAS L.P.

By: /s/ Michael A. Gerlich

*Michael A. Gerlich
Vice President*

Date: August 18, 2004

BILL BARRETT CORPORATION

By: /s/ William J. Barrett

*William J. Barrett
Chief Executive Officer*

Date: August 18, 2004

EXHIBIT 99.3

**ASSET AND TRUST UNIT
PURCHASE AND SALE AGREEMENT**

AMONG

CALPINE CANADA NATURAL GAS PARTNERSHIP

AND

CALPINE ENERGY HOLDINGS LIMITED

AND

CALPINE CORPORATION

AND

PRIMEWEST GAS CORP.

AND

PRIMEWEST ENERGY TRUST

JULY 1, 2004

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**ASSET AND TRUST UNIT
PURCHASE AND SALE AGREEMENT**

THIS AGREEMENT made as of the 1st day of July, 2004

AMONG:

CALPINE CANADA NATURAL GAS PARTNERSHIP, a general partnership, having an office and carrying on business in Calgary, Alberta

(hereinafter referred to as "CCNGP")

- and -

CALPINE ENERGY HOLDINGS LIMITED, a body corporate, having an office and carrying on business in Calgary, Alberta (hereinafter referred to as "CEHL")

(CCNGP and CEHL are hereinafter collectively referred to as "VENDOR")

- and -

CALPINE CORPORATION, a body corporate incorporated under the laws of Delaware, USA (hereinafter referred to as "CALPINE")

- and -

PRIMEWEST GAS CORP., a body corporate, having an office and carrying on business in Calgary, Alberta (hereinafter referred to as "GAS CORP.")

- and -

PRIMEWEST ENERGY TRUST, a trust, having an office and carrying on business in Calgary, Alberta (hereinafter referred to as the "TRUST")

(Gas Corp. and the Trust are hereinafter collectively referred to as
"PURCHASER")

WHEREAS CCNGP wishes to sell the Assets to Gas Corp. and Gas Corp. wishes to purchase the Assets from CCNGP, subject to and in accordance with the terms and conditions hereof.

WHEREAS CEHL, wishes to sell the Trust Units to the Trust and the Trust wishes to purchase the Trust Units from CEHL, subject to and in accordance with the terms and conditions hereof.

IN CONSIDERATION of the premises and the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 DEFINITIONS

In this Agreement, including the recitals and the Schedules, the following terms have the following meanings:

"ABANDONMENT AND RECLAMATION OBLIGATIONS" means all past, present and future obligations under contracts, Applicable Law, equity or common law to:

- (a) abandon the Wells;
- (b) close, decommission, dismantle and remove the Tangibles including associated foundations and structures;
- (c) restore, remediate and reclaim the surface or subsurface of the lands used in connection with the Wells or the Tangibles, including lands in or on which they are or were located and lands which are or were used to gain access to them; and
- (d) restore, remediate and reclaim the surface or subsurface of lands affected by seismic or other geological or geophysical exploration activities conducted by or on behalf of Vendor or any of its Affiliates in the White Map Area prior to the Effective Time.

"ACCEPTING CONSULTANTS" means those Listed Consultants who agree to provide services to Gas Corp.

"ACCEPTING EMPLOYEES" means those Employees who accept employment with Gas Corp.

"ADJUSTED ASSET PURCHASE PRICE" has the meaning specified in Section 2.2.

"ADJUSTED TRUST UNIT PURCHASE PRICE" has the meaning specified in Section 2.2.

"AFEs" means authorities for expenditures, cash calls or mail ballots issued under the Title and Operating Documents agreements relating to any of the Assets authorizing expenditures and similar items.

"AFFILIATE" means with respect to CCNGP and CEHL, the other respectively, Calpine Canada Resources Company and Calpine Canada Energy Ltd. and with respect to the Trust and Gas Corp., the other respectively, and PrimeWest Energy Inc.

"AGREEMENT" means this Asset and Trust Unit Purchase and Sale Agreement including the recitals hereto, this Section 1.1 and all schedules hereto.

"APPLICABLE LAW" means all laws, statutes, rules, regulations, official directives and orders of Government Authorities (whether administrative, legislative, executive or otherwise) including judgments, orders and decrees of courts, commissions or bodies exercising similar functions, as amended, and includes, without limitation, the provisions and conditions of any permit, license or other governmental or regulatory authorization in respect of the Assets, the Trust Units or any of them;

"ASSET BID PRICE" has the meaning specified in Section 2.2.

"ASSET PURCHASE PRICE" means the amount set forth in Section 2.2.

"ASSETS" means the Petroleum and Natural Gas Rights, the Tangibles, the Seismic Data and the Miscellaneous Interests, including the Scheduled Assets, but excluding the Excluded Assets.

"BUSINESS DAY" means a day other than a Saturday, a Sunday or a statutory holiday in Calgary, Alberta.

"CALL ON PRODUCTION AGREEMENT" means that call on production agreement attached hereto as Schedule "J", to be entered into at Closing by Calpine Energy Services Canada Partnership and Gas Corp. and which provides for the purchase of natural gas by Calpine Energy Services Canada Partnership from the White Map Area.

"CLAIM" means any claim, demand, lawsuit, proceeding, arbitration or governmental proceeding or investigation other than a claim in respect of Taxes.

"CLOSING" means the transfer of beneficial ownership of the Assets from CCNGP to Gas Corp., the payment by Gas Corp. of the amount specified in Section 2.3(b), the transfer of beneficial ownership of the Trust Units from CEHL to the Trust, the payment by the Trust of the amount specified in Section 2.3 and the delivery of all items required to be delivered at Closing pursuant hereto.

"CLOSING DATE" means 10:00 a.m., Calgary time, on the 2nd day of September, 2004 or such other time and date as may be agreed upon in writing by the Parties or as may otherwise be determined pursuant to the provisions hereof.

"CLOSING PLACE" means the offices of Vendor in Calgary, Alberta or such other place as may be agreed upon in writing by the Parties.

"CNGT" means Calpine Natural Gas Trust, an unincorporated open-ended trust established under the laws of Alberta.

"COMPETITION ACT" means the Competition Act R.S.C. 1985, c. C-34.

"COMPETITION ACT APPROVAL" means that:

(a) the Commissioner of Competition (the "COMMISSIONER") appointed under the Competition Act has issued an advance ruling certificate pursuant to section 102 of the Competition Act in respect of the Transaction on terms and conditions satisfactory to the Parties acting reasonably; or

(b) notification of the Transaction pursuant to section 114 of the Competition Act has been waived pursuant to Section 113(c) of the Competition Act or given and either:

(i) the applicable waiting period under section 123 of the Competition Act has expired without the Commissioner having advised the Parties that he intends to apply to the Competition Tribunal established by subsection 3(1) of the Competition Tribunal Act

for an order under section 92 or section 100 of the Competition Act in respect of the Transaction; or

(ii) the Commissioner has advised Purchaser that the Commissioner does not intend to apply to the Competition Tribunal for an order under section 92 of the Competition Act in respect of the Transaction.

"CONFIDENTIAL INFORMATION MEMORANDUM" means the confidential information memorandum issued by Waterous & Co. on or about June, 2004 in respect of the Assets and the Trust Units.

"CONFIDENTIALITY AGREEMENT" means the Confidentiality Agreement dated June 16, 2004 between CCNGP and PrimeWest Energy Inc.;

"CONTRACT OPERATING AGREEMENTS" means all contracts pursuant to which the Vendor operates, on a fee for services basis, wells or facilities owned by Third Parties and located in the White Map Area.

"CONTRACTS DISCLOSURE SCHEDULE" means Schedule "F".

"CUSTOMARY POST CLOSING CONSENTS" means consents and approvals from Government Authorities or Third Parties that are customarily obtained after closing in connection with transactions similar to the Transaction.

"DATA ROOM" means the room established on behalf of Vendor containing books, accounts, records, maps, documents, files, materials and information relating to the Assets, for the purposes of the Transaction; the Confidential Information Memorandum in respect of assets of the Vendor provided to Gas Corp. or its Affiliates pursuant to the sale process that resulted in this Agreement, the computer discs provided to Gas Corp. or its Affiliates in the course of such sale process and the Waterous Securities' web site established as part of that sale process.

"DEFAULT" means a Purchaser Default or a Vendor Default.

"DEPOSIT" has the meaning given to such term in Section 2.4.

"DISPUTE" has the meaning specified in Subsection 11.4(a).

"DISPUTE NOTICE" has the meaning specified in Subsection 11.4(a).

"DISTRIBUTIONS" has the meaning set forth in Section 2.2.

"DOLLAR" or "\$" means, unless otherwise provided herein, a dollar in the lawful money of Canada.

"EFFECTIVE TIME" means 8:00 a.m., Calgary time, on the 1st day of July, 2004.

"ENCUMBRANCE" means a lien, mortgage, pledge, claim, option, encumbrance, charge, Security Interest, penalty, royalty, burden, net profits interest, carried working interest or other adverse claim.

"ENVIRONMENT" means the atmosphere, the surface and sub-surface of the earth, groundwater and surface water and plants and animals and "ENVIRONMENTAL" means relating to or in respect of the Environment.

"ENVIRONMENTAL LIABILITIES" means all past, present and future Liabilities and obligations associated with or arising from any of the following and all costs associated therewith:

- (a) the manufacture, construction, processing, distribution, use, holding, collection, accumulation, generation, treatment, stabilization, storage, disposal, handling or transportation of Hazardous Substances, Petroleum Substances, oilfield wastes or produced water;
- (b) compliance with present and future Applicable Law relating to the Environment or the protection thereof and Applicable Law related to employee and public health and safety matters;
- (c) Abandonment and Reclamation Obligations;
- (d) Releases of Hazardous Substances, Petroleum Substances, oilfield wastes, produced water or other substances;
- (e) sampling, assessment and monitoring of the Environment;
- (f) the removal, assessment, monitoring, sampling, response, abatement, clean-up, investigation and reporting of contamination or pollution of or other adverse effects on the Environment, including compensation of Third Parties for Losses suffered by them in respect thereof;
- (g) the protection, reclamation, remediation or restoration of the Environment, including related human health and safety;

that relate to the Assets, or that have arisen or hereafter arise from or in respect of any past, present or future operations and activities (including Operations) related to the Assets conducted by or on behalf of Vendor or its Affiliates in the White Map Area.

"EUB" means the Alberta Energy and Utilities Board.

"ESCROW AGENT" means Heenan Blaikie LLP in its capacity as Escrow Agent.

"EXAMINATION PERIOD" means the period commencing on the date of this Agreement and terminating at 4:00 p.m. (Calgary time) on August 26, 2004.

"EXCLUDED ASSETS" means:

- (a) Retained Production;
- (b) unexpended cash call and operating fund advances and deposits made to or deposited with operators, Government Authorities or other Persons by Vendor, or any of its Affiliates prior to the Effective Time to secure obligations or as prepayments of costs or expenses;

- (c) insurance policies, insurance proceeds and rights to insurance proceeds, including rights to proceeds of JV Insurance except any insurance proceeds payable in the event of any physical loss to Tangibles occurring after the Effective Date;
- (d) items used, consumed or otherwise disposed of in the ordinary course of business prior to Closing or with Gas Corp.'s consent;
- (e) forecasts, evaluations and reserve estimates;
- (f) tax and financial records related to Vendor;
- (g) legal opinions except title opinions;
- (h) documents prepared by or on behalf of Vendor or any of its Affiliates in contemplation of litigation (with the exception of title opinions) and any other documents within the possession of Vendor or any of its Affiliates which are subject to solicitor-client privilege under the laws of the Province of Alberta or any other jurisdiction;
- (i) technology which cannot be transferred by Vendor to Gas Corp. unless one or both of the following occurs: (i) the consent of a Third Party is obtained (other than a consent which cannot be unreasonably withheld); or (ii) a transfer fee is paid, provided that if Gas Corp. obtains such consent or agrees to pay such transfer fee, such technology shall not be considered Excluded Assets;
- (j) all computer hardware and software (excluding such computer hardware located in field locations and all items described in Subsection (e) of the definition of Miscellaneous Interests) and all files, documents, reports, data, intellectual property and geological information and data, that is owned or licensed by Third Parties with restrictions on their deliverability or disclosure to Gas Corp., provided that if Gas Corp. obtains the agreement of Third Parties to waive such restrictions, such items shall not be considered Excluded Assets;
- (k) Vendors' Calgary office and all leasehold improvements, furniture and office equipment and supplies located therein; and
- (l) subject to subclauses (i) and (j) above, any proprietary policies, manuals and other confidential business or technical information not used exclusively in the operation of the Assets.

"FACILITIES" means the gas plants, oil batteries, gas gathering systems and pipelines described in Schedule "B".

"FINAL STATEMENT OF ADJUSTMENTS" has the meaning given to such term in Section 7.3(a).

"GENERAL CONVEYANCE" means a General Conveyance in the form of Schedule "C".

"GOVERNMENT AUTHORITY" means a federal, provincial, territorial, municipal or other government or government department, agency, board or other authority (including a court of law).

"GST" means the goods and services tax prescribed by the GST Legislation.

"GST LEGISLATION" means the Excise Tax Act, R.S.C. 1985, c. E-15, as amended, and the regulations thereunder.

"HAZARDOUS SUBSTANCES" means hazardous, deleterious, or toxic substances; oilfield wastes; radioactive material; asbestos; polychlorinated biphenyls; pollutants; contaminants; dangerous goods; and unrefined and refined petroleum products; including all substances, materials and wastes regulated under Applicable Law relating to Environmental or health and safety matters.

"HUMAN RIGHTS LEGISLATION" means the Human Rights, Citizenship and Multiculturalism Act, R.S.A. 2000, C.H-14, as amended and the regulations thereunder.

"INCOME TAX ACT" means the Income Tax Act R.S.C. 1985, c. I (5th Supplement), as amended, and the Income Tax Regulations.

"INDEMNITEE" has the meaning specified in Section 6.10.

"INDEMNITOR" has the meaning specified in Section 6.10.

"INTEREST ON THE ASSET PURCHASE PRICE" means an adjustment to the Asset Purchase Price computed as an amount equivalent to simple interest on the Asset Purchase Price from (and including) the Effective Time to (but excluding) the Closing Date at the Prime Rate plus one (1%), provided that if Closing is delayed beyond September 3, 2004 due to the direct and proximate fault of CCNGP or CEHL, interest shall cease to accrue upon the commencement of such delay.

"INTEREST ON THE TRUST UNIT PURCHASE PRICE" means an adjustment to the Trust Unit Purchase Price computed as an amount equivalent to simple interest on the Trust Unit Purchase Price from (and including) the Effective Time to (but excluding) the Closing Date at the Prime Rate plus one percent (1%), provided that if Closing is delayed beyond September 3, 2004 due to the direct and proximate fault of CCNGP or CEHL, interest shall cease to accrue upon the commencement of such delay.

"INTERIM PERIOD" means the period from the Effective Time until the Closing Date.

"INTERIM PERIOD NET OPERATION REVENUES" has the meaning given to such term in Section 7. 1(i).

"INTERIM PERIOD PRODUCTION" means Petroleum Substances which are (i) produced from the White Map Area during the Interim Period and (ii) owned by the Vendor at the time they are produced.

"INTERIM STATEMENT OF ADJUSTMENTS" has the meaning given to such term in Section 7.2.

"JV INSURANCE" means insurance, if any, maintained by an operator pursuant to a Title and Operating Document for the benefit of CCNGP or any of its Affiliates and one or more Third Parties.

"LIABILITIES" means any and all liabilities and obligations, whether under common law, in equity, under Applicable Law or otherwise; whether tortious, contractual, vicarious, statutory or otherwise; whether absolute or contingent; and whether based on fault, strict liability or otherwise.

"LICENCE TRANSFERS" means the transfers of Permits related to the Assets that are in the name of CCNGP.

"LICENCEE LIABILITY RATING" means the licensee liability rating as set forth by the EUB under ID-2001-8 and related EUB regulations, guidelines, interim directives, information letters and policies.

"LISTED CONSULTANT" means the consultants of Vendor whose names are on the list provided by Vendor to Gas Corp. pursuant to subsection 13.1(b).

"LISTED EMPLOYEES" means the employees of Vendor whose names are on the list provided by Vendor to Gas Corp. pursuant to Subsection 13.1 (a).

"LOSSES" means, in respect of a Person and in relation to a matter, any and all losses, damages, costs, expenses, charges (including all penalties, assessments and fines) which such Person suffers, sustains, pays or incurs in connection with such matter and includes reasonable costs of legal counsel (on a solicitor and client basis) and other professional advisors and consultants and reasonable costs of investigating and defending Claims arising from the matter, regardless of whether such Claims are sustained and also includes Taxes on a settlement payment or damage award in respect of such matter, but does not include consequential or indirect losses.

"MATERIAL CONTRACTS" means any agreement that has, or to Vendors' knowledge may have, a material adverse effect on the Assets or the Trust Units arising as a result of the Trust's acquisition of the Trust Units, including without limitation, those agreements listed in Schedule "L" (the "LISTED MATERIAL CONTRACTS").

"MISCELLANEOUS INTERESTS" means the entire right, title, estate and interest of CCNGP and its Affiliates (whether absolute or contingent, legal or beneficial) in and to all property, assets, interests and rights associated with, or used in connection with the Petroleum and Natural Gas Rights, the Tangibles or the Seismic Data (other than the Petroleum and Natural Gas Rights, the Tangibles and the Seismic Data), including the following to the extent they relate to the Petroleum and Natural Gas Rights, the Tangibles or the Seismic Data:

- (a) contracts and agreements, including the Title and Operating Documents;
- (b) records, files, reports, data and information, including well files, lease files, agreement files and production records;
- (c) Surface Interests;
- (d) Wells, including the wellbores thereof and the casing therein;
- (e) computer hardware, printers, routers and software used exclusively with SCADA and maintenance management systems and other computer hardware and software used exclusively with field measurement facilities;
- (f) the Contract Operating Agreements; and
- (g) production, accounting, environmental, facility and other records, files, reports, data, correspondence and documents that, in CCNGP's reasonable judgment, relate to the Assets, all title reports and opinions relating to the Assets and all other reports, files, data, and records prepared for the joint account,

but excluding only the Excluded Assets.

"OPERATIONS" means any and all operations on or in respect of lands in the White Map Area including drilling, completion, testing, recompleting, deepening, plugging back, side tracking, whipstocking, fracturing, stimulating, equipping, operating and abandoning wells; construction, repair, expansion, decommissioning, maintenance and operation of oilfield facilities and equipment; production, treatment, storage, processing, gathering, compression and transportation of Petroleum Substances (including processing, treatment and storage of sulphur); and geological, geophysical and seismic activities.

"ORIGINAL CLOSING DATE" has the meaning specified in Subsection 11.4(a).

"PARTY" means CCNGP, CEHL, Gas Corp. or the Trust and "PARTIES" means CCNGP, CEHL, Gas Corp. and the Trust, collectively.

"PERMITS" means permits, licenses, approvals and authorizations issued or granted by Government Authorities.

"PERMITTED ENCUMBRANCES" means:

- (a) liens for Taxes, assessments and governmental charges which are not due or delinquent or if due the validity of which is being diligently contested in good faith by or on behalf of Vendor, provided that any such lien which is being contested must be disclosed in this Agreement in order to qualify as a Permitted Encumbrance;
- (b) mechanics', builders' and materialmen's liens in respect of services rendered or goods supplied for which payment is not due;
- (c) easements, rights of way, servitudes and other similar rights in land, including rights of way and servitudes for highways and other roads, railways, sewers, drains, gas and oil pipelines, gas and water mains and electric light, power, telephone, telegraph and cable television conduits, poles, wires and cables;
- (d) the right reserved to or vested in any Government Authority by the terms of any lease, license, franchise, grant or permit or by any Applicable Law, to terminate any such lease, license, franchise, grant or permit or to require payment of rent or other periodic payments as a condition of the continuance thereof, provided that any existing right of termination that has arisen as a result of a default of the lessee shall not be considered a Permitted Encumbrance;
- (e) undetermined or inchoate liens (including processors', operators', mechanics', builders', materialmen's and similar liens) incurred or created as security in favour of the Person conducting Operations arising in the ordinary course of business for the Vendors' proportionate share of the costs and expenses of such Operations which are not due or delinquent;
- (f) liens or security granted in the ordinary course of business to a public utility, municipality or Government Authority in connection with Operations;
- (g) the reservations, limitations, provisos and conditions in any original grants or transfers from the Crown and exceptions to title under Applicable Law;

(h) rights of general application reserved to or vested in any Government Authority to levy taxes on any of the Assets or the income therefrom, or to limit, control or regulate any of the Assets or Operations in any manner;

(i) any Security Interest held by a Person encumbering CCNGP's interest in the Assets or any part or portion thereof, in respect of which the Vendor delivers a release or no interest letter to Purchaser at or prior to Closing in accordance with Section 4.1(g);

(j) the terms and conditions of the Title and Operating Documents, including provisions for penalties and forfeitures arising under or pursuant to any of the Title and Operating Documents, provided that the following items must be identified in a Schedule to this Agreement to qualify as Permitted Encumbrances:

(i) any overriding royalties, net profits interests or other Encumbrances applicable to the Assets for which Purchaser will assume responsibility;

(ii) any existing or potential alteration of the Vendor's interest in the Assets because of a payout conversion or farmin, farmout or other such agreement or as a result of any other disposition of an interest in any of the Assets; and

(iii) any penalty or forfeiture that applies to the Assets at the Effective Time because of Vendor's election not to participate in a particular operation;

(k) the Rights of First Refusal applicable to the Assets described in Schedule "A";

(l) the Encumbrances described in Schedules "A" and "D";

(m) the rights of Third Parties to purchase Petroleum Substances pursuant to production sale contracts listed in Schedule "F" and any other production sales contract terminable by Vendor on notice of 60 days or less;

(n) any Security Interest held by any Third Party encumbering any Third Party's interest in and to lands within the White Map Area or any part or portion thereof; and

(o) any defects or deficiencies in title to the Assets disclosed in this Agreement and any Schedule and Title Defects that are waived or deemed to be waived under Article 11.

"PERSON" means any individual or entity, including any partnership, body corporate, trust, unincorporated organization, union, government or Government Authority and any heir, executor, administrator or other legal representative of an individual.

"PERSONAL INFORMATION" means the personal information of the Listed Employees and Listed Consultants to be disclosed or conveyed to Gas Corp. or any of its Related Parties by or on behalf of Vendor as a result of or in connection with the Transaction, and includes all such personal information disclosed to Gas Corp. or any of its Related Parties prior to the Closing Date.

"PETROLEUM AND NATURAL GAS RIGHTS" means all of the right, title, estate and interest of CCNGP and its Affiliates (whether absolute or contingent, legal or beneficial) in:

- (a) rights (including fee simple interests, leasehold interests and working interests) to drill for and produce, save and market Petroleum Substances from the White Map Area;
- (b) lessor royalties, overriding royalties, net profits interests and similar interests entitling the holder thereof to a share of the Petroleum Substances produced from the White Map Area or to a payment calculated by reference to the quantity of such production, the proceeds from the sale thereof or the profits therefrom; and
- (c) rights to acquire any of the foregoing.

"PETROLEUM SUBSTANCES" means petroleum, natural gas and all related hydrocarbons (including liquid hydrocarbons) and all other substances, whether liquids, gases or solids and whether hydrocarbons or not (including sulphur) produced in association with petroleum, natural gas or related hydrocarbons to the extent rights in respect of which are granted by the Title and Operating Documents.

"PRIME RATE" means for any day, the rate of interest expressed as a rate per annum which The Bank of Nova Scotia, Main Branch, Calgary, Alberta, announces publicly in Calgary, Alberta, from time to time as the reference rate used by it for determining the rates of interest on Canadian dollar commercial loans made by it in Canada and which it refers to as its "prime rate".

"PRODUCTION" means the Retained Production and the Interim Period Production.

"PURCHASE PRICE" means the amount set forth in Section 2.2.

"PURCHASER DEFAULT" means a breach of a representation or warranty made by Gas Corp. or the Trust in Sections 5.4 or 5.5 or a breach by Gas Corp. or the Trust of a covenant or agreement in this Agreement.

"RELATED PARTY" means, in reference to a Party: (i) its Affiliates, successors and assigns; (ii) its directors, officers and employees; (iii) its Affiliates' directors, officers and employees and (iv) its Representatives.

"RELEASE" means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration of a Hazardous Substance, oilfield wastes or produced water into or through the Environment.

"REPLY" has the meaning specified in Subsection 11.4(g).

"REPRESENTATIVES" means, in reference to a Party, its and its Affiliates' representatives, agents, legal counsel, consultants and advisors.

"RETAINED PRODUCTION" means Petroleum Substances that are (i) produced from the White Map Area prior to the Effective Time (ii) owned by CCNGP or its Affiliates when produced and (iii) not past the point of delivery to the buyer thereof at the Effective Time.

"RIGHT OF FIRST REFUSAL" or "ROFR" means a right of first refusal, pre-emptive right of purchase or similar right whereby a Person, other than Gas Corp. or its Affiliates, has the right to acquire or purchase all or a portion of the Assets in accordance herewith.

"ROFR ASSETS" has the meaning specified in Section 9.1.

"SCADA" means supervisory control and data acquisition.

"SCHEDULED ASSETS" means (i) the Petroleum and Natural Gas Rights set forth in Part 2 of Schedule "A" and the Tangibles and Miscellaneous Interests directly related thereto; and (ii) the Facilities interests set forth in Schedule "B".

"SECURITY INTEREST" means any mortgage, charge, pledge, lien, hypothec, assignment by way of or in effect as security, or security interest whatsoever, but does not include a right of set-off or a set-off.

"SEISMIC DATA" means all of the right, title, estate and interest of CCNGP and its Affiliates (whether absolute or contingent, legal or beneficial) in data and information including without limitation, interpretations and reprocessing in respect of the seismic in the White Map Areas including the seismic described in Schedule "E", to the extent such information is proprietary to CCNGP, or such seismic which can be transferred lawfully by CCNGP to Gas Corp. and excluding any and all other data and information that is owned by a Third Party and licensed to CCNGP, provided that CCNGP shall use its reasonable efforts to allow Gas Corp. to review such Third Party and licensed data at Vendors' offices as requested by Gas Corp. up to the expiration of the Transition Period;

"SPECIFIC CONVEYANCES" means all conveyances, assignments, transfers, novations and other documents or instruments that are reasonably required or desirable, in accordance with normal oil and gas industry practices, to convey, assign and transfer CCNGP's and its Affiliate's title to the Assets to Gas Corp. and to novate Gas Corp. into the Title and Operating Documents that are contracts in the place and stead of CCNGP and its Affiliates to the extent they relate to the Assets.

"SUBMISSION DATE" has the meaning specified in Subsection 11.4(e).

"SURFACE INTERESTS" means all rights of CCNGP to enter upon, use, occupy and enjoy the surface of lands for purposes related to the use, ownership or operation of the Petroleum and Natural Gas Rights, the Wells or the Tangibles or gaining access thereto, whether the same are held in fee simple, by lease, by right-of-way, or otherwise.

"SUPPORTING STATEMENT" has the meaning specified in Subsection 11.4(e).

"TANGIBLES" means all of the right, title, estate and interest of CCNGP and its Affiliates (including leasehold interests and whether absolute or contingent, legal or beneficial) in:

(a) the Facilities; and

(b) the following that are used or held for use in respect of the Petroleum and Natural Gas Rights, the Wells or the Facilities and that are located in the White Map Area:

(i) all tangible depreciable equipment and facilities used in the production, dehydration, processing, gathering, treatment, measurement, storage or transportation of Petroleum Substances, including: gas plants; oil batteries; buildings; compressors; production equipment; active, inactive or decommissioned pipelines and tangible equipment;

wellheads, pipelines, gathering lines; flow lines; pipeline connections; meters; generators; motors; compressors; treaters; dehydrators; scrubbers; separators; pumps; pumpjacks; tanks and boilers;

(ii) field offices, including all leasehold improvements, furniture and office supplies located therein;

(iii) motorized vehicles;

(iv) tangible equipment used exclusively with SCADA, maintenance management systems and field measurement facilities;

(v) satellite communications equipment, excluding satellite communications equipment used to send information from the field to CCNGP's head office in Calgary; and

(vi) all inventory located within the White Map Area and all other inventory wherever located that was purchased for, is used or is intended to be used in association with the Assets and the proceeds of the sale of all inventory sold from and after the Effective Date,

but excluding only Excluded Assets.

"TAXES" means all income, capital, sales, excise, value added, goods and services, customs, duties and property taxes; all other fees, assessments withholdings and charges imposed by Government Authorities; and all penalties, interest and fines or additions attributable to or imposed on or with respect to such taxes, fees, assessments withholdings and charges.

"THIRD PARTY" means any Person other than Vendor, Gas Corp., the Trust and their respective Affiliates.

"THIRTEENTH MONTH ADJUSTMENT" means a reconciliation payment made pursuant to an agreement which provides that during a period (usually a calendar year) revenues and/or expenses will be distributed to or paid by one or more parties to the agreement on the basis of estimates thereof and following the end of the period (usually the first calendar month after the end of the period), the actual amount of the revenues or costs will be determined and a reconciliation between the estimated amounts and the actual amounts will be made.

"TITLE AND OPERATING DOCUMENTS" means:

(a) petroleum and/or natural gas leases, permits and licenses (whether freehold or Crown), titles evidencing fee simple interests and similar instruments;

(b) agreements relating to the ownership, operation or development of the Assets entered into in the normal course of the oil and gas business, including, without limitation: operating procedures; unit agreements; unit operating agreements; agreements for the construction, ownership and operation of gas plants, batteries, pipelines, gas gathering systems and similar facilities; pooling agreements; royalty agreements; farmin and farmout agreements; joint operating agreements, participation and subparticipation agreements; trust declarations and agreements; purchase and sale agreements, asset exchange agreements; agreements providing for the gathering, measurement, processing, compression or transportation of Petroleum

Substances; common stream agreements; well operating contracts and surface leases, pipeline easements, road use agreements and other contracts granting Surface Interests; and

(c) Permits pertaining to the ownership of the Assets or Operations;

(d) but excluding only Excluded Assets.

"TITLE DEFECT" means a defect, discrepancy or deficiency in the title of CCNGP to any of the Assets which is such that a reasonable, prudent and otherwise willing buyer of the Assets affected thereby would refuse to purchase such Assets for a price equal to the fair market value thereof (determined as if such defect, discrepancy or deficiency did not exist) solely because of such defect, discrepancy or deficiency; but specifically excludes:

(a) CCNGP's interests as described in Schedule "A" having converted from a before-payout interest to an after-payout interest as a result of payout having occurred prior to Closing;

(b) Permitted Encumbrances;

(c) failure to confirm delay rental payments, where the failure to pay such payments will not result in termination or an obligation to pay material costs or expenses;

(d) CCNGP's or any predecessor's interest being a beneficial interest rather than a legal interest;

(e) items disclosed in the Schedules hereto; or

(f) any missing or unsigned documents the terms of which could not result in a reduction of CCNGP's interest or an Encumbrance on CCNGP's interest reflected in Schedule "A".

"TITLE DEFECT NOTICE" has the meaning specified in Subsection 11.1(a).

"TITLE DEFECT VALUE" has the meaning specified in Subsection 11.1(a).

"TITLE EVALUATOR" has the meaning specified in Subsection 11.4(c).

"TRANSACTION" means the sale and purchase of the Assets and the Trust Units as contemplated by this Agreement.

"TRANSITION PERIOD" means the period commencing on the day after the Closing Date and terminating at 4:00 p.m. (Calgary time) on approximately October 29, 2004.

"TRANSITIONAL EMPLOYEES" means those Listed Employees who remain employed by CCNGP during the Transition Period.

"TRANSITIONAL CONSULTANTS" means those Listed Consultants who agree to provide services during the Transition Period.

"TRUST UNIT PURCHASE PRICE" means the amount set forth in Section 2.2.

"TRUST UNITS" means 6,766,540 trust units of CNGT, representing 25% of all of the issued and outstanding securities of CNGT, including without limitation, all rights to acquire any such securities;

"UNCURED TITLE DEFECT" has the meaning specified in Subsection 11.2(b).

"UNCURED TITLE DEFECTS VALUE" has the meaning specified in Subsection 11.2(b).

"VENDOR DEFAULT" means a breach of a representation or warranty made by Vendor in Section 5.1 or Section 5.2, or a breach by Vendor of a covenant or agreement in this Agreement.

"WELLS" means all wells located in the White Map Area in which CCNGP has an interest, including all producing, shut-in, suspended, abandoned, capped, injection and disposal wells, and without limiting the foregoing, includes any well set out in Schedule "G".

"WHITE MAP AREA" means all lands outlined on the plat(s) comprising Part 1 of Schedule "A" and includes, as the context requires, the surface of such lands and the Petroleum Substances within such lands.

1.2 INTERPRETATION

Unless otherwise stated or the context otherwise necessarily requires, in this Agreement:

- (a) references herein to any agreement or instrument, including this Agreement, shall be a reference to the agreement or instrument as varied, amended, modified, supplemented or replaced from time to time;
- (b) the terms "in writing" or "written" include printing, typewriting or facsimile transmission;
- (c) references to a statute shall be a reference to (i) such enactment as amended or reenacted from time to time and every statute that may be substituted therefor; and (ii) the regulations, bylaws or other subsidiary legislation made pursuant to such statute;
- (d) words importing the singular number only shall include the plural and vice versa, and words importing the use of any gender shall include all genders,
- (e) a reference to time shall, unless otherwise specified, refer to Mountain Standard Time or Mountain Daylight Savings Time during the respective intervals in which each is in force in Alberta;
- (f) "including", "includes" and like terms means "including without limitation" and "includes without limitation";
- (g) the headings of Articles, Sections, Subsections and Paragraphs in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) the terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement in its entirety and include any agreement supplemental hereto;

(i) unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections, Subsections and Paragraphs are to Articles, Sections, Subsections and Paragraphs of this Agreement and references herein to Schedules are references to Schedules to this Agreement, and

(j) subject to Article 16, all references to Vendor and Purchaser in this Agreement shall be deemed to include Vendor and Vendors' Affiliates and Purchaser and Purchasers' Affiliates (as applicable) and, where appropriate, Vendors' Related Parties and Purchaser's Related Parties (as applicable) and all such references to Vendor and Purchaser shall be read according to the context of the Agreement with respect to applicability to the Assets or the Trust Units.

1.3 INTERPRETATION IF CLOSING DOES NOT OCCUR

In the event that Closing does not occur, each provision of this Agreement which presumes that Gas Corp. has acquired the Assets and the Trust has acquired the Trust Units shall be construed as having been contingent upon Closing having occurred.

1.4 CONFLICTS

If there is any conflict or inconsistency between a provision of the body of this Agreement and that of a Schedule or a conveyance document, the provision of the body of this Agreement shall prevail.

1.5 SCHEDULES

The following Schedules are incorporated herein by reference and made a part of this Agreement:

Schedule "A"

Part 1	White Map Area Land Plat(s)
Part 2	Description of Scheduled Petroleum and Natural Gas Rights
Schedule "B"	Facilities
Schedule "C"	General Conveyance
Schedule "D"	Claims
Schedule "E"	Seismic
Schedule "F"	Contracts Disclosure
Schedule "G"	Wells
Schedule "H"	Officer's Certificate
Schedule "I"	Outstanding AFEs
Schedule "J"	Call on Production Agreement
Schedule "K"	ROFRs
Schedule "L"	Listed Material Agreements

1.6 VENDORS' KNOWLEDGE

For all purposes of this Agreement, the knowledge of Vendor consists of the actual knowledge of its current employees at or above the supervisory level and who are primarily responsible for the matter in question in the course of their normal duties after reasonable inquiry. For these purposes, knowledge does not include the knowledge of any other Person or constructive knowledge. Neither Vendor nor any of such employees has any obligation to make additional inquiry of any Person, any files and records or any Government Authority in connection with representations and warranties that are made to Vendor's knowledge.

ARTICLE 2 **PURCHASE AND SALE**

2.1 PURCHASE AND SALE

Upon the terms and subject to the conditions of this Agreement: (a) CCNGP agrees to sell the Assets to Gas Corp., and Gas Corp. agrees to purchase the Assets from CCNGP on the Closing Date; and (b) CEHL agrees to sell the Trust Units to the Trust, and the Trust agrees to purchase the Trust Units from CEHL on the Closing Date.

2.2 BID PRICE, PURCHASE PRICE AND ADJUSTED PURCHASE PRICE

The price to be paid by Gas Corp. to CCNGP for the Assets shall be the following amount:

- (a) SEVEN HUNDRED FORTY SEVEN MILLION DOLLARS (\$747,000,000) to CCNGP as full consideration for the purchase of the Assets (the "ASSET BID PRICE") less the adjustments (if any) to the Asset Bid Price on account of exercised Rights of First Refusal and Uncured Title Defects pursuant to Article 9 and Article 11 (the Asset Bid Price less the amount of such adjustments is the "ASSET PURCHASE PRICE"); plus
- (b) the Interest on the Asset Purchase Price; plus or minus
- (c) the net amount of the adjustment pursuant to Article 7 in respect of the Interim Period;
- (collectively the "ADJUSTED ASSET PURCHASE PRICE").

The price to be paid by the Trust to CEHL for the Trust Units shall be the following amount:

- (d) Seventy-Eight Million Dollars (\$78,000,000) to CEHL as full consideration for the purchase of the Trust Units (the "TRUST UNIT PURCHASE PRICE"); plus
- (e) the Interest on the Trust Unit Purchase Price; minus
- (f) the aggregate amount of any and all distributions or any other benefits paid or payable by or on behalf of CNGT to CEHL in respect of the Trust Units for the period from July 1, 2004 up to the day immediately prior to the Closing Date (the "DISTRIBUTIONS");
- (collectively the "ADJUSTED TRUST UNIT PURCHASE PRICE"). The Adjusted Asset Purchase Price and the Adjusted Trust Unit Purchase Price shall hereinafter be referred to collectively as the "PURCHASE PRICE".

2.3 PAYMENT OF ADJUSTED ASSET PURCHASE PRICE AND ADJUSTED TRUST UNIT PURCHASE PRICE

The Adjusted Asset Purchase Price shall be paid by Gas Corp. to CCNGP as follows:

- (a) the Deposit shall be paid to CCNGP in accordance with Section 2.4;
- (b) at Closing, subject to Section 4.4, Gas Corp. shall pay to CCNGP an amount equal to the aggregate of:

(i) the Adjusted Asset Purchase Price, minus

(ii) the Deposit (and any interest earned thereon in accordance with Subsection 2.4(a)).

At Closing, subject to Section 4.4, the Trust shall pay to CEHL an amount equal to the Adjusted Trust Unit Purchase Price.

2.4 DEPOSIT

(a) Upon execution and delivery of this Agreement, Gas Corp. shall pay an amount equal to Thirty Seven Million Five Hundred Thousand (\$37,500,000) (the "DEPOSIT") as a deposit against the payment of the Asset Purchase Price. The Deposit shall be held in escrow in an interest bearing account by the Escrow Agent and shall be dealt with by the Escrow Agent, all in accordance with the terms of this Agreement.

(b) If Closing occurs, the Deposit shall be applied to payment of the Adjusted Asset Purchase Price.

(c) If Closing does not occur due to a Purchaser Default, the Deposit and the interest earned thereon while held by Escrow Agent shall be forfeited to CCNGP for its own account absolutely as the genuine pre-estimate by CCNGP and Gas Corp. of CCNGP's liquidated damages as a result of Closing not occurring, in full and final satisfaction of Gas Corp.'s obligations under this Agreement and CCNGP shall have no further rights or remedies whatsoever under this Agreement or otherwise as a result of any Purchaser Default.

(d) If Closing does not occur for any reason or circumstance other than a Purchaser Default, the Deposit plus interest thereon at the Prime Rate plus one percent (1%) shall be returned to Gas Corp. for the account of Gas Corp. absolutely.

2.5 GST AND OTHER SALES TAXES

(a) The Asset Purchase Price does not include GST or any provincial sales taxes that may be applicable to the sale of the Assets hereunder. Unless Gas Corp. elects to proceed under Subclause 2.5(d) at Closing, Gas Corp. shall pay to CCNGP an amount equal to seven percent (7%) of the portion of the Adjusted Asset Purchase Price allocated to Tangibles, Seismic Data and Miscellaneous Interests pursuant to Section 2.6. CCNGP shall remit such amount to the appropriate taxation authorities in accordance with the GST Legislation. Each of CCNGP and Gas Corp. represents that it holds a valid GST registration account number at the date of Closing and that its registration number for GST purposes is:

CCNGP: 897181517

Gas Corp.: 89963 1105 RT0001

(b) At Closing, Gas Corp. will also remit to CCNGP any provincial sales taxes that CCNGP is required to collect from Gas Corp. under Applicable Law in respect of the Transaction. CCNGP shall remit such amounts to the appropriate taxation authorities in accordance with Applicable Law.

(c) After Closing, Gas Corp. shall be responsible for, and shall indemnify and save CCNGP and its Related Parties harmless in respect of, any and all GST and sales taxes imposed by a Government Authority (including interest and penalties) in respect of the Transaction which are in excess of the amounts collected by CCNGP from Gas Corp. at Closing.

(d) If requested by Gas Corp., CCNGP and Gas Corp. shall jointly elect at Closing pursuant to Section 167 of the Excise Tax Act (Canada) to have the provisions thereof concerning the acquisition of part of a business applied to this Transaction and Gas Corp. undertakes to file such election with the Canada Revenue Agency in a timely and proper fashion. Gas Corp. shall be liable for and, in addition, shall indemnify CCNGP from any and all claims, liabilities, actions, proceedings, demands, losses, costs, penalties, GST payable, fines, damages, interest and expenses suffered by or sustained by CCNGP pertaining to this election.

2.6 ALLOCATION OF ADJUSTED ASSET PURCHASE PRICE

(a) CCNGP and Gas Corp. shall allocate the Adjusted Asset Purchase Price for all purposes (including for purposes of the Income Tax Act and the GST Legislation) as follows:

(i) Petroleum & Natural Gas Rights:	\$591,919,999.20
(ii) Tangibles:	\$147,979,999.80
(iii) Seismic Data:	\$ 7,100,000.00
(iv) Miscellaneous Interests:	\$ 1.00

	\$747,000,000.00

(b) CCNGP and Gas Corp. shall allocate the Interest on the Asset Purchase Price and all adjustments to the Asset Purchase Price calculated pursuant to Article 7 for all purposes (including for purposes of the Income Tax Act and the GST Legislation) to the Petroleum and Natural Gas Rights.

2.7 FORM OF PAYMENT

All payments to be made pursuant to this Agreement shall be made in immediately available Canadian funds. Payments to be made at or prior to Closing shall be made by wire transfer while payments to be made after Closing may be made by wire transfer, certified cheque or bank draft.

ARTICLE 3 CLOSING

3.1 PLACE AND DATE OF CLOSING

Closing shall take place at the Closing Place on the Closing Date if there has been satisfaction or waiver of the conditions of Closing herein contained.

3.2 TRANSFER OF OWNERSHIP AND RISK

The transfer of the Assets from CCNGP to Gas Corp. and the transfer of the Trust Units from CEHL to the Trust and the assumption of the benefits, obligations and risks associated with the Assets by Gas Corp. and the Trust Units by the Trust will be effective as of the Effective Time, provided Closing occurs. Possession of the Assets will pass to Gas Corp. upon Closing and transfer of ownership of the Trust Units to the Trust will occur upon Closing.

3.3 VENDOR DELIVERIES AT CLOSING

At Closing, CCNGP shall deliver, or cause to be delivered, to Gas Corp., the following:

- (a) the General Conveyance executed by CCNGP;
- (b) a receipt for payment of the Adjusted Asset Purchase Price payable pursuant to Subsection 2.3(b);
- (c) copies of all Third Party consents to the sale of the Assets pursuant hereto obtained prior to Closing and copies of all Right of First Refusal notices sent by CCNGP and notices of exercise and waivers of Rights of First Refusal provided by Third Parties at or prior to Closing;
- (d) the Specific Conveyances referred to in Section 3.5 executed by CCNGP;
- (e) an officer's certificate of CCNGP in the form of Schedule "H" attached hereto;
- (f) the Call on Production Agreement and any agreed security related thereto, in each case duly executed by the parties (other than Gas Corp.) expressed to be party thereto;
- (g) the election referred to in Schedule 2.5(d), if applicable, duly executed by CCNGP;
- (h) a certified copy of a partners' resolution approving the Transaction; and
- (i) any other documents required to be delivered by CCNGP to Gas Corp. at Closing pursuant to this Agreement.

At Closing, CEHL shall deliver, or cause to be delivered, to the Trust, the following:

- (j) documentation evidencing the transfer of ownership of the Trust Units from CEHL to the Trust in form satisfactory to the Trust, in its sole discretion;
- (k) information acceptable to the Trust, acting reasonably, of the status and plans relating to following agreements:
 - (i) the Services Agreement dated October 15, 2003 among Calpine Natural Gas, L.P., Calpine Natural Gas Limited, Calpine Natural Gas Holdings Limited and Calpine Natural Gas Services Limited; and
 - (ii) the Energy Management Services Agreement dated October 15, 2003 between Calpine Canada Natural Gas Partnership and Calpine Natural Gas, L.P.;

- (l) a certified copy of a resolution of the board of directors of CEHL approving the sale of the Trust Units from CEHL to the Trust; and
- (m) any other documents required to be delivered by CEHL to the Trust at Closing pursuant to this Agreement.

3.4 DELIVERIES OF GAS CORP. AND THE TRUST AT CLOSING

At Closing, Gas Corp. shall deliver, or cause to be delivered, to CCNGP, the following:

- (a) the amount payable by Gas Corp. at the Closing pursuant to Section 2.3(b);
- (b) an officer's certificate of Gas Corp. in the form of Schedule "H";
- (c) the election referred to in Section 2.5(d), if applicable, duly executed by Gas Corp;
- (d) copies of the Competition Act Approval; and
- (e) any other documents required to be delivered by Gas Corp. to CCNGP at the Closing pursuant to this Agreement.

In addition, at or before Closing, Gas Corp. shall execute the Specific Conveyances and the General Conveyance tabled by CCNGP pursuant to Section 3.3.

At Closing, the Trust shall deliver, or cause to be delivered, to CEHL, the following:

- (f) the amount payable by the Trust at the Closing pursuant to Section 2.3;
- (g) an officer's certificate of the Trust substantially in the form of Schedule "H"; and
- (h) any other documents required to be delivered by the Trust to CEHL at the Closing pursuant to this Agreement.

3.5 SPECIFIC CONVEYANCES

- (a) CCNGP shall use commercially reasonable efforts to prepare the Specific Conveyances at its cost prior to Closing, provided that if all Specific Conveyances are not delivered at Closing, the balance of the Specific Conveyances outstanding shall be delivered within 30 days following Closing. None of the Specific Conveyances shall confer or impose upon a Party any greater right or obligation than contemplated in this Agreement. It shall not be necessary for those Specific Conveyances that are prepared and circulated to Gas Corp. in a reasonable time prior to Closing to have been executed prior to or at Closing by Third Parties. Promptly after Closing, and at Gas Corp.'s cost, CCNGP shall deliver all Specific Conveyances to Third Parties and Government Authorities in accordance with normal industry practices and shall attend to the registration of Specific Conveyances with Government Authorities in accordance with normal industry practices. Gas Corp. shall use all reasonable efforts to become, as soon as reasonably practicable following Closing, the recognized and beneficial holder of the Assets in the place and stead of CCNGP, and shall where CCNGP is the registering party, promptly take whatever steps are necessary to verify such registrations.

(b) Gas Corp. shall bear all costs, fees and deposits of every nature and kind incurred (whether by CCNGP or Gas Corp.) in registering any Specific Conveyances and registering any further assurances required to convey the Assets to Gas Corp.

(c) By notice delivered to Gas Corp. not later than three Business Days prior to the Closing Date, CCNGP may request Gas Corp. to pay to CCNGP at Closing CCNGP's bona fide estimate as set forth in the notice of the costs, fees and deposits referred to in Subsection 3.5(b). In that event, Gas Corp. shall pay such amount to CCNGP at Closing and if the estimate is less than the actual amount of the costs, fees and deposits, Gas Corp. shall pay the deficiency shortfall to CCNGP promptly after receipt of a request therefor, and if the estimate exceeds the actual amount of the costs, fees and deposits, CCNGP shall reimburse the excess to Gas Corp.

3.6 POST - CLOSING DELIVERIES

CCNGP shall deliver or cause to be delivered to Gas Corp. within 30 days following Closing, the original copies of the Title and Operating Documents and the original copies of records, documents, licenses, reports and data including, to the extent available, electronic records comprising Miscellaneous Interests, which are now in the possession of CCNGP or to which CCNGP has reasonable access. Notwithstanding the foregoing, if and to the extent such contracts, agreements, records, documents, licenses, reports and data also pertain to interests other than the Assets, photocopies or other copies may be provided to Gas Corp. in lieu of original copies.

ARTICLE 4 CONDITIONS OF CLOSING

4.1 CONDITIONS OF GAS CORP. AND THE TRUST

The obligation of Gas Corp. to complete the acquisition of the Assets pursuant hereto is subject to the following conditions, which are for the exclusive benefit of Gas Corp. and may be waived in whole or in part by Gas Corp. by written notice to CCNGP at or before Closing:

(a) COMPETITION ACT APPROVAL: The Competition Act Approval shall have been obtained on terms acceptable to Gas Corp. acting reasonably;

(b) REPRESENTATIONS AND WARRANTIES: The representations and warranties of CCNGP in Section 5.1 shall be true when made and as of the Closing Date except to the extent that does not, in the aggregate, have a material adverse effect on the value of the Assets and CCNGP shall have delivered an officer's certificate in the form of Schedule "H" to that effect to Gas Corp. at Closing;

(c) COMPLIANCE WITH COVENANTS: CCNGP shall have performed or complied in all material respects with all of its obligations, covenants and agreements contained in this Agreement to be performed or complied with by CCNGP at or prior to Closing, except to the extent that does not, in the aggregate, have a material adverse effect on the value of the Assets;

(d) NO ACTION OR PROCEEDING: At the time Closing occurs, no Claim shall be pending before any court or Government Authority seeking to restrain or prohibit the purchase and sale of the Assets contemplated hereby or to obtain material damages or other relief in connection with the consummation of the Transaction, excluding Claims in respect of Rights of First Refusal;

(e) DAMAGE TO THE TANGIBLES: If there has been physical damage to the Tangibles, between the date hereof and the Closing Date, the costs of repairing all of such damage shall not exceed \$20,000,000;

(f) CLOSING DELIVERIES: CCNGP shall have complied with its obligations under Section 3.3; and

(g) DISCHARGES: CCNGP shall have delivered to Gas Corp. releases and registerable discharges or no-interest letters in form and substance satisfactory to Gas Corp., acting reasonably, from all parties holding security interests or similar encumbrances in the Assets, except to the extent that such security interests or encumbrances do not, in the aggregate, exceed \$20,000,000.

The obligation of the Trust to complete the acquisition of the Trust Units pursuant hereto is subject to the following conditions, which are for the exclusive benefit of the Trust and may be waived in whole or in part by the Trust by written notice to CEHL at or before Closing:

(h) REPRESENTATIONS AND WARRANTIES: The representations and warranties of CEHL in Section 5.2 shall be true when made and as of the Closing Date except to the extent that does not, in the aggregate, have a material adverse effect on the value of the Trust Units and CEHL shall have delivered an officer's certificate in the form of Schedule "H" to that effect to the Trust at Closing;

(i) COMPLIANCE WITH COVENANTS: CEHL shall have performed or complied in all material respects with all of its obligations, covenants and agreements contained in this Agreement to be performed or complied with by CEHL at or prior to Closing, except to the extent that does not, in the aggregate, have a material adverse effect on the value of the Trust Units;

(j) NO ACTION OR PROCEEDING: At the time Closing occurs, no Claim shall be pending before any court or Government Authority seeking to restrain or prohibit the purchase and sale of the Trust Units contemplated hereby or to obtain material damages or other relief from CEHL in connection with the completion of the purchase and sale of the Trust Units contemplated hereby;

(k) RESIGNATION OF DIRECTORS: Bill A. Berilgen, Toby Austin and John King shall have resigned as directors of Calpine Natural Gas Limited and each of its Affiliates;

(l) AVAILABLE EXEMPTION: If the purchase price per Trust Unit exceeds 115% of the "market price" of the trust units of CNGT, determined in accordance with section 161(l)(c) of the Securities Act (Alberta) and section 172 of the Alberta Securities Commission Rules (General) (and the equivalent provisions of other applicable securities laws), the Trust shall have available to it an alternative and proper exemption(s) to satisfy applicable securities laws with respect to prospectus, registration and take-over bid requirements;

(m) COMPLETION OF ASSET ACQUISITION: Gas Corp. shall have completed the acquisition of the Assets; and

(n) CLOSING DELIVERIES: CEHL shall have complied with its obligations under Section 3.3.

(o) AGREEMENTS UNAMENDED: At the time Closing occurs, none of the Listed Material Contracts shall have been amended, modified or assigned.

4.2 VENDOR CONDITIONS

The obligation of CCNGP to complete the sale of the Assets pursuant hereto is subject to the following conditions, which are for the exclusive benefit of GCNGP and may be waived in whole or in part by CCNGP by written notice to Gas Corp. at or before Closing:

- (a) COMPETITION ACT APPROVAL: The Competition Act Approval shall have been obtained at or prior to Closing, on terms acceptable to CCNGP acting reasonably;
- (b) REPRESENTATIONS AND WARRANTIES: The representations and warranties of Gas Corp. in Section 5.4 shall be true when made and as of the Closing Date, except to the extent that does not, in the aggregate, have a material adverse effect on CCNGP, and Gas Corp. shall have delivered an officer's certificate in the form of Schedule "II" to that effect to CCNGP at Closing;
- (c) COMPLIANCE WITH COVENANTS: Gas Corp. shall have performed or complied in all material respects with all of its obligations, covenants and agreements contained in this Agreement to be performed or complied with by Gas Corp. at or prior to Closing, except to the extent that such non-compliance does not have an adverse effect on Gas Corp.'s ability to complete the acquisition of the Assets;
- (d) TENDER: Gas Corp. shall have tendered or caused to be tendered to CCNGP, all amounts to be paid by Gas Corp. to CCNGP at Closing in the form stipulated in this Agreement;
- (e) NO ACTION OR PROCEEDING: At the time Closing occurs, no Claim shall be pending before any court or Government Authority seeking to restrain or prohibit the purchase and sale of the Assets contemplated hereby or to obtain material damages or other relief from CCNGP in connection with the completion of the purchase and sale of the Assets contemplated hereby excluding Claims in respect of Rights of First Refusal; and
- (f) CLOSING DELIVERIES: Gas Corp. shall have complied with its obligations under Section 3.4.
- (g) CORPORATE APPROVAL: Calpine Corporation shall have approved the Transaction on behalf of Vendor on or before August 16, 2004.

The obligation of CEHL to complete the sale of the Trust Units pursuant hereto is subject to the following conditions, which are for the exclusive benefit of CEHL and may be waived in whole or in part by CEHL by written notice to the Trust at or before Closing:

- (h) REPRESENTATIONS AND WARRANTIES: The representations and warranties of the Trust in Section 5.5 shall be true when made and as of the Closing Date, except to the extent that does not, in the aggregate, have a material adverse effect on CEHL, and the Trust shall have delivered an officer's certificate substantially in the form of Schedule "H" to that effect to CEHL at Closing;
- (i) COMPLIANCE WITH COVENANTS: The Trust shall have performed or complied in all material respects with all of its obligations, covenants and agreements contained in this Agreement to be performed or complied with by the Trust at or prior to Closing, except to the extent that such non-compliance does not have an adverse effect on the Trust's ability to complete the acquisition of the Trust Units;

(j) TENDER: The Trust shall have tendered or caused to be tendered to CEHL, all amounts to be paid by the Trust to CEHL at Closing in the form stipulated in this Agreement;

(k) NO ACTION OR PROCEEDING: At the time Closing occurs, no Claim shall be pending before any court or Government Authority seeking to restrain or prohibit the purchase and sale of the Trust Units contemplated hereby or to obtain material damages or other relief from CEHL in connection with the completion of the purchase and sale of the Trust Units contemplated hereby; and

(l) CLOSING DELIVERIES: The Trust shall have complied with its obligations under Section 3.4.

4.3 EFFORTS TO FULFILL CONDITIONS

(a) Each of the Parties shall proceed diligently, honestly and in good faith and use all reasonable efforts to satisfy and comply with and assist in the satisfaction of and compliance with the conditions set forth in Sections 4.1 and 4.2.

(b) Gas Corp. shall provide Vendor with copies of the Competition Act Approval immediately upon receipt of same.

(c) The Parties shall use all reasonable efforts to obtain the Competition Act Approval prior to Closing. Gas Corp. shall promptly (and in any event, within 14 days following the date of execution of this Agreement) give the requisite notice of the Transaction under Section 114 of the Competition Act and/or file a request for an advance ruling certificate under Section 102 of the Competition Act in respect of the Transaction and Gas Corp. shall pay the applicable filing fee and all Taxes thereon. Notwithstanding the foregoing, Vendor shall co-operate with and provide reasonable assistance to Gas Corp. in the preparation of such notice and/or request. Purchaser shall provide to Vendor in advance copies of all applications and filings for approval by Vendor, not to be unreasonably withheld.

(d) Notwithstanding Section 3.5, any transfer or assignment of Title and Operating Documents requiring notice to or consent from a Third Party (including transfers of Permits requiring approvals of Government Authorities other than Customary Post Closing Consents) shall not be assigned or transferred to Gas Corp. until and unless the notice or consent requirements have been satisfied. Each Party shall use commercially reasonable efforts, as to matters within its control, to satisfy such requirements as of the Closing Date, and Gas Corp. shall furnish any deposits or security reasonably required to complete such transfers and assignments in accordance with normal industry practices or the provisions of the Title and Operating Documents or Applicable Law after the applicable consent or approval has been obtained. If any such consent or notice requirement (other than Customary Post Closing Consents) is not satisfied as of Closing, the Parties shall consider whether to exclude the affected Title and Operating Documents from the sale of the Assets pursuant hereto or to enter into alternative arrangements, including escrow arrangements but, regardless of such circumstances (and subject to a reasonable materiality standard), the sale of the Assets shall be completed.

(e) On or after the Closing Date, Gas Corp. shall take reasonable steps to cause to be released and returned to CCNGP any guarantees, bonds or other security provided by CCNGP or any of its Affiliates to Government Authorities or other Third Parties in connection with the Assets by arranging for and providing substitute security therefor provided that such obligation shall not arise until after any required consent or approval has been obtained.

(f) If a Party for whose benefit a condition has been included in Section 4.1 or 4.2 fails to notify the other applicable Party at or prior to Closing as to whether or not the condition has been satisfied or complied with, the condition shall be conclusively deemed to have been waived by such Party.

4.4 FAILURE OF A CONDITION

If a condition in Sections 4.1 or 4.2 has not been satisfied on or before the Closing Date and such condition has not been waived in writing by the Party for whose benefit such condition has been included herein, such Party may terminate this Agreement by written notice to the other Parties prior to the Closing, provided that a Party shall not be permitted to exercise or purport to exercise any right of termination pursuant to this Section 4.4 if the event or circumstances giving rise to such right is due to a Default by such Party.

4.5 EFFECT OF TERMINATION

If this Agreement is terminated prior to the Closing occurring pursuant to Section 4.3(d), 4.4 or 11.3(a)(iii), the Parties shall be released from all obligations under this Agreement except as follows:

- (a) subject to Section 2.4, a Party shall remain liable for Defaults by it prior to the termination;
- (b) the provisions of Section 2.4 shall remain in effect and be binding and enforceable in accordance with its terms; and
- (c) the Confidentiality Agreement shall remain in full force and effect in accordance with its terms.

Subject to the foregoing provisions of this Section, following such termination, each Party shall be responsible for the costs and expenses incurred by it in connection with this Agreement and the Transaction.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 REPRESENTATIONS AND WARRANTIES OF CCNGP

CCNGP represents and warrants to Gas Corp., that, except for matters disclosed in the Schedules and subject in all instances to the Permitted Encumbrances:

- (a) ORGANIZATION AND STANDING: CCNGP is a general partnership, duly organized and validly subsisting under the laws of its jurisdiction of organization and is duly qualified under the jurisdictions in which it is required to be qualified in order for it to own the Assets;
- (b) CAPACITY, POWER, AUTHORIZATION, EXECUTION AND ENFORCEABILITY: CCNGP has the requisite capacity, power and authority to execute, deliver and perform its obligations under this Agreement and all of the agreements, instruments and other documents contemplated hereby. The execution, delivery and performance of this Agreement and the completion of the Transaction have been duly and validly authorized by any and all requisite actions of CCNGP and provided the Competition Act Approval is obtained, do not and will not result in any violation of, be in conflict with, or constitute a default under, its articles, charter, by-laws, partnership agreement or other governing documents, as the case may be and no other authorization or approval or other action by. and no notice to or filing with any Governmental

Authority or regulatory body exercising jurisdiction over the Assets or CCNGP is required for the due execution, delivery and performance by CCNGP. This Agreement and any other agreement delivered in connection herewith, to which CCNGP is party, has been or will at the appropriate time be validly executed and delivered by CCNGP and constitute valid and binding obligations of CCNGP and provided the Competition Act Approval is obtained, will be enforceable against CCNGP in accordance with their terms, subject to (i) bankruptcy, insolvency, fraudulent preference, reorganization or other laws affecting creditors' rights generally, and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or equity);

(c) NO CONFLICT: The execution and delivery of this Agreement are not, and, provided the Competition Act Approval is obtained and except for Customary Post Closing Consents, the completion of the Transaction in accordance with the terms of this Agreement will not be, in violation or breach of or in conflict with or require any consent, authorization or approval under:

(i) any term or provision of the constating documents of CCNGP;

(ii) any agreement, instrument, license, permit or other governmental authorization to which CCNGP is a party or by which CCNGP is bound; or

(iii) any judgment, decree, order, statute, regulation, rule, or license applicable to CCNGP (other than Licence Transfer approvals);

(d) NO FINDER'S FEE: CCNGP has not incurred any obligation or liability, contingent or otherwise, for brokers' or finders' fees in respect of this Agreement or the Transaction for which Gas Corp. or any of its Affiliates shall have any obligation or liability;

(e) RESIDENCY: Neither of the partners of CCNGP is a "non-resident" of Canada for the purposes of the Income Tax Act;

(f) JUDGMENTS AND CLAIMS: Except as set forth in the Schedule "D", there are no unsatisfied judgments nor any Claims in existence against CCNGP that relate to the Assets, and to the knowledge of CCNGP no such Claims have been threatened and there are no particular circumstances that exist which could give rise to any such judgments or Claims;

(g) TITLE TO ASSETS: CCNGP does not warrant title to the Assets but does warrant that it has not done any act or thing whereby any of the Scheduled Assets may be encumbered, alienated, cancelled or determined and that the Scheduled Assets are now and will be at the Closing Date, free and clear of all Encumbrances created by, through or under CCNGP, or of which CCNGP is aware, except Permitted Encumbrances;

(h) COMPLIANCE WITH AGREEMENTS: Except as described in Schedule "D", to CCNGP's knowledge:

(i) CCNGP is not in default under Applicable Law or the Title and Operating Documents; and

(ii) CCNGP has not failed to comply with, perform, observe or satisfy, in all material respects, any term, condition, obligation or liability which has heretofore arisen under the provisions of Applicable Law or any of the Title and Operating Documents.

which default or failure would reasonably be expected to materially adversely affect the value of the Assets taken as a whole;

(i) NO DEFAULT NOTICES: Except as described in Schedule "D", CCNGP has not received notice of violation of or default under any other obligation, agreement, document, order, writ, injunction or decree of any Government Authority that relates to the Assets and to CCNGP's knowledge, no particular circumstance presently exists which may give rise to any such violation or default and, additionally, to CCNGP's knowledge, there are no such outstanding defaults or notices of default in relation to any Third Party;

(j) FINANCIAL COMMITMENTS: Except as set forth in Schedule "I", and except for operating costs incurred in the ordinary course of business, there are no outstanding AFE's or other financial commitments respecting the Assets which are due as at the date hereof, pursuant to which individual expenditures of greater than One Hundred Thousand Dollars (\$100,000) may be required by the Gas Corp. after the Effective Time;

(k) ROYALTIES: All ad valorem, property, royalties, production, severance and similar taxes and assessments based on or measured by the ownership of the Assets or the production of Petroleum Substances or the receipt of proceeds therefrom payable by CCNGP in respect of the Assets have been paid and discharged, and to CCNGP's knowledge, all such obligations which are the responsibility of Third Parties related to the Assets have been paid and discharged;

(l) ENVIRONMENTAL MATTERS: Except as set out in Schedule "D", CCNGP has not received, nor is it aware that any Third Party has received:

(i) any notice, order or directive under Applicable Law which relates to Environmental Liabilities and which requires any work, repairs, construction or capital expenditures which is outstanding, where such orders or directives have not been complied with in all material respects; or

(ii) any demand or notice issued with respect to the breach of Applicable Law from any Third Party pertaining to the Assets that relates to the Environment, health or safety, including, without limitation, any matter respecting the release, use, storage, treatment, transportation or disposition of environmental contaminants which demand or notice remains outstanding;

and to CCNGP's knowledge, no particular circumstance presently exists which may give rise to any such orders, directives, demands or notices;

(m) OPERATION OF TANGIBLES AND WELLS: All operations in respect of the Tangibles and the Wells have been conducted in accordance with good oilfield industry practices, and to CCNGP's knowledge, all Applicable Law, all Permits and the requirements of all Government Authorities have been complied with in all material respects and all operations in respect of the Tangibles and Wells conducted by Third Parties have been conducted in accordance with good oilfield industry practices, (subject to the representations and warranties set forth in this Section 5.1);

(n) CONTRACTS: Except for contracts disclosed in Schedule "F" and agreements that can be terminated by CCNGP without penalty on notice of 60 days or less, to CCNGP's knowledge, CCNGP is not a party to or bound by any:

- (i) contracts for the sale of Petroleum Substances;
 - (ii) gas balancing, prepayment or similar agreements;
 - (iii) agreements for the gathering, transportation, compression, processing treatment, storage or disposal of Petroleum Substances;
 - (iv) take or pay arrangements or any other arrangements which obligate the Vendor to sell or deliver Petroleum Substances without being entitled to receive and retain full payment for such Petroleum Substances; or
- (v) Contract Operating Agreements or agreements to provide transportation, processing or disposal capacity or service to any Third Party that relate to the Assets;
- (o) PERMIT TRANSFERS: CCNGP is eligible under Applicable Law to transfer the Permits for the Assets operated by it and no circumstance exists which could reasonably be expected to result in an undue delay or an inability to register any of the Permit Transfers;
- (p) RIGHTS OF FIRST REFUSAL: To CCNGP's knowledge, there are no Rights of First Refusal by which CCNGP or any Affiliate thereof is bound, other than those which shall be disclosed in Schedule "K" to this Agreement;
- (q) NO THREATENED COLLECTIVE AGREEMENTS: CCNGP is not the subject of any existing, threatened or apparent union organizing activities involving any of the Accepting Employees, Transitional Employees, Accepting Consultants or Transitional Consultants;
- (r) COMPLAINTS OR PROCEEDINGS: There are no claims or complaints against CCNGP pursuant to any Applicable Law relating to the Accepting Employees, Transitional Employees, Accepting Consultants or Transitional Consultants, including employment standards, occupational health and safety, human rights, labour relations, worker's compensation, pay equity and employment equity, and to CCNGP's knowledge, no particular circumstance presently exists which may give rise to any such claims or complaints;
- (s) QUIET ENJOYMENT: Subject to the rents, covenants, conditions and stipulations in the Leases and subject to the Permitted Encumbrances, from and after Closing, Gas Corp. will be entitled to hold and enjoy the interests in the Assets attributed to CCNGP in the Schedules hereto for Gas Corp.'s own use and benefit without any interruption of or by CCNGP or any Third Party claiming by, through or under CCNGP;
- (t) EXAMINATION OF ASSETS: CCNGP shall have exercised reasonable efforts to make available to Gas Corp., prior to Closing, all of the Title and Operating Documents and documents comprising the Miscellaneous Interests in its possession or to which it has access and any other information, documents and agreements that are relevant to the Assets, including without limitation, information, documents and agreements relevant to CCNGP's title to the Assets, Abandonment and Reclamation Obligations, Environmental Liabilities pertaining to the Assets, production or revenue from the Assets and other information, documents and agreements that are reasonably required by Gas Corp. or which have otherwise been reasonably requested by Gas Corp. In addition, CCNGP has not knowingly withheld from Gas Corp. any information, documents and agreements relevant to the Assets;

(u) REDUCTION OF INTERESTS: To CCNGP's knowledge, except as otherwise disclosed on Schedule "A", CCNGP's interests in the Assets are not subject to reduction by reference to a payout or production penalty or otherwise through any right or interest granted by, through or under CCNGP or of which it has knowledge;

(v) RECEIPT OF REVENUE: To CCNGP's knowledge, CCNGP has been receiving the share of the net proceeds of production from the Assets attributable to its interests as shown in the schedules hereto;

(w) INTEREST IN TANGIBLES: To CCNGP's knowledge, the interest ascribed to CCNGP in the Facilities in Schedule "B" and CCNGP's interest in the other tangibles, are beneficially owned by CCNGP free and clear of all Security Interests, Encumbrances, and other third party claims and interests of any nature whatsoever, except Permitted Encumbrances, and none of the Tangibles are held through any lease, license, conditional sale or other similar arrangement, the terms of which are not disclosed in Schedule "B"; and

(x) MATERIAL CONTRACTS: Gas Corp. will not become a party to or be otherwise bound by the Listed Material Contracts, there are no other Material Contracts and to CCNGP's knowledge the Listed Material Contracts will not impose any obligations, Losses or Liabilities on Gas Corp.

5.2 REPRESENTATIONS AND WARRANTIES OF CEHL

CEHL represents and warrants to the Trust, that:

(a) ORGANIZATION AND STANDING: CEHL is a corporation, duly incorporated and validly subsisting under the laws of its jurisdiction of organization and is duly qualified under the jurisdictions in which it is required to be qualified in order for it to own the Trust Units;

(b) CAPACITY, POWER, AUTHORIZATION, EXECUTION AND ENFORCEABILITY: CEHL has the requisite capacity, power and authority to execute, deliver and perform its obligations under this Agreement and all of the agreements, instruments and other documents contemplated hereby. The execution, delivery and performance of this Agreement and the completion of the Transaction have been duly and validly authorized by any and all requisite actions of CEHL and provided the Competition Approval is obtained, do not and will not result in any violation of, be in conflict with, or constitute a default under, its articles, charter, by-laws or other governing documents, as the case may be. This Agreement and any other agreement delivered in connection herewith, to which CEHL is party, has been or will at the appropriate time be validly executed and delivered by CEHL and constitute valid and binding obligations of CEHL and provided the Competition Act Approval is obtained, will be enforceable against CEHL in accordance with their terms, subject to (i) bankruptcy, insolvency, fraudulent preference, reorganization or other laws affecting creditors' rights generally, and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or equity);

(c) NO CONFLICT: The execution and delivery of this Agreement are not, and, provided the Competition Act Approval is obtained and except for Customary Post Closing Consents, the completion of the Transaction in accordance with the terms of this Agreement will not be in violation or breach of or in conflict with or require any consent, authorization or approval under:

- (i) any term or provision of the constating documents of CEIIL;
- (ii) any agreement, instrument, license, permit or other governmental authorization to which CEHL is a party or by which CEHL is bound; or
- (iii) any judgment, decree, order, statute, regulation, rule, or license applicable to CEHL, except such as may be required under applicable securities laws;
- (d) NO FINDER'S FEE: CEHL has not incurred any obligation or liability, contingent or otherwise, for brokers' or finders' fees in respect of this Agreement or the Transaction for which the Trust or any of its Affiliates shall have any obligation or liability;
- (e) TRUST UNITS HELD: CEHL is the beneficial and immediately prior to Closing will be the registered owner of the Trust Units, free and clear of all Encumbrances. To CEHL's knowledge, all of the Trust Units were duly authorized and validly issued as fully paid and non assessable trust units of CNGT;
- (f) STATUS OF TRUST UNITS:
 - (i) There is no contract, option or any other right of another binding upon CEHL to sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber any of the Trust Units other than pursuant to the provisions of this Agreement;
 - (ii) other than the Trust, no Person, firm or corporation has any right, under preferential rights of purchase clauses or otherwise, which has not been waived prior to the Closing Date, to acquire any interest in the Trust Units held by CEHL;
 - (iii) no securities commission or other regulatory body has issued any order preventing or suspending trading of Trust Units; and
 - (iv) there is no restriction on the trade of any of the Trust Units except that the Trust Units are subject to "control block" resale restrictions under Canadian provincial securities laws;
- (g) JUDGMENTS AND CLAIMS: There are no unsatisfied judgments nor any Claims in existence against CEHL that relate to the Trust Units, and to the knowledge of CEHL no such Claims have been threatened and there are no particular circumstances that exist which could rise to any such judgments or Claims;
- (h) RESIDENCY: CEHL is not a "non-resident" of Canada for the purposes of the Income Tax Act;
- (i) CAPITAL PROPERTY: To CEHL's knowledge, all of the Trust Units are "capital property" (as that term is defined in the Income Tax Act) to CEHL;
- (j) NO MATERIAL CHANGE: Other than the Transaction, CEHL has no knowledge of any material fact or material change (as those terms are defined in the Securities Act (Alberta)) with respect to CNGT that has not been generally disclosed;
- (k) EXAMINATION OF TRUST UNITS: CEHL shall have exercised reasonable efforts to make available to the Trust, prior to Closing, all information, documents and agreements in its possession or to which it has access that are relevant to the Trust Units, including without

limitation, information, documents and agreements relating to CEIIL's title to the Trust Units, Liabilities pertaining to the Trust Units and other information, documents and agreements that are reasonably required by the Trust or which have otherwise been reasonably requested by the Trust, In addition, CEHL has not knowingly withheld from the Trust any information, documents and agreements directly related to ownership of the Trust Units; and

(l) MATERIAL CONTRACTS: The Trust will not become a party to or be otherwise bound by the Listed Material Contracts, there are no other Material Contracts and to CEHL's knowledge the Listed Material Contracts will not impose any obligations, Losses or Liabilities on the Trust.

5.3 LIMITATION OF REPRESENTATIONS AND WARRANTIES

(a) Vendor makes no representations or warranties of any kind or nature, express or implied, at law or in equity except as expressly set forth in Sections 5.1 and 5.2, as applicable, and in particular, and without limiting the generality of the foregoing, Vendor hereby expressly negates and disclaims, and shall not be liable for, any and all representations or warranties which may have been made or alleged to have been made in any other document or instrument or in any statement or information made or communicated to Gas Corp., the Trust or their Related Parties in any manner, except for those expressly set forth in Sections 5.1 and 5.2, as applicable.

(b) Vendor hereby expressly negates and disclaims, and shall not be liable for, any representations or warranties made or alleged to have been made to Gas Corp., the Trust or their Related Parties in this Agreement or otherwise with respect to any of the following matters:

(i) except for the representations and warranties expressly set forth in Sections 5.1 and 5.2, as applicable, any data or information provided or made available to Gas Corp. or the Trust by Vendors' Representatives in the Data Room, on plant or site visits, in management presentations, in meetings with Vendors' management or employees or otherwise;

(ii) the value of the Assets or the future cash flow therefrom;

(iii) except as expressly provided in Section 5.1, the Environmental condition of any lands or asset or any Environmental Liability;

(iv) except as provided in Section 5.1, the quality, condition, fitness, merchantability or suitability of use for any purpose, of any tangible, depreciable equipment or property that forms part of the Assets;

(v) any engineering or geological information or interpretations thereof or any economic evaluations;

(vi) except as provided in Section 5.1, title to the Assets;

(vii) except as expressly provided in Section 5.1, any Liabilities or Claims related to the Assets or Operations; or

(viii) the value of the Trust Units or the future distributions generated therefrom.

(e) Gas Corp. acknowledges and confirms that except as expressly provided in this Agreement that: (i) it is acquiring the Assets on an "as is-where is" basis without representation and warranty; (ii) it has performed its own due diligence and it has not relied on any data, information, statement or advice provided to Gas Corp. or its Related Parties by Vendor or its Related Parties, and (iii) in agreeing to enter into and to consummate the Transaction, it has relied on its own: (A) inspections and evaluations of the Assets, the Environmental Liabilities and the Liabilities and obligations assumed by Gas Corp. pursuant to Section 6.4, and (B) due diligence on and evaluation of the Trust Units.

(d) Except for its rights under this Agreement, each of Gas Corp. and the Trust hereby waives all rights and remedies (whether now existing or hereafter arising and including all common law, tort, contractual, equitable and statutory rights and remedies) against Vendor or its Related Parties in respect of any representations or statements made, or information or data furnished, to Gas Corp., the Trust or any of their Related Parties in connection herewith or otherwise (whether made or furnished by Vendor or any of its Related Parties or Third Parties and whether made or furnished orally or by electronic, faxed, written or other means).

5.4 REPRESENTATIONS AND WARRANTIES OF GAS CORP.

Gas Corp. represents and warrants to CCNGP that:

(a) ORGANIZATION AND STANDING: Gas Corp. is an Alberta corporation, duly organized and validly subsisting under the laws of its jurisdiction or organization and is duly qualified under the jurisdictions in which it is required to be qualified in order for it to own the Assets;

(b) CAPACITY, POWER, AUTHORIZATION, EXECUTION AND ENFORCEABILITY: Gas Corp. has the requisite power and authority to execute, delivery and perform its obligations under this Agreement and all the agreements, instruments and other documents contemplated hereby. The execution, delivery and performance of this Agreement and the acquisition of the Assets have been duly and validly authorized by any and all requisite actions and provided the Competition Act Approval is obtained, do not and will not result in any violation of, be in conflict with, or constitute a default under, its articles, charter, by-laws or other governing documents, as the case may be. This Agreement and any other agreement delivered in connection herewith, to which Gas Corp. is party, has been or will at the appropriate time be validly executed and delivered by Gas Corp. and constitute valid and binding obligations of Gas Corp. and provided the Competition Act Approval is obtained, will be enforceable against Gas Corp. in accordance with their terms, subject to (i) bankruptcy, insolvency, fraudulent preference, reorganization or other laws affecting creditors' rights generally, and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or equity);

(c) NO CONFLICT: The execution and delivery of this Agreement are not, and, provided the Competition Act Approval is obtained and except for Customary Post Closing Consents, the acquisition of the Assets in accordance with the terms of this Agreement will not be, in material violation or breach of or in material conflict with or require any material consent, authorization or approval under:

(i) any term or provision of the constating documents of Gas Corp.;

(ii) any agreement, instrument, license, permit or other governmental authorization to which Gas Corp. is a party or by which Gas Corp. is bound; or

- (iii) any judgment, decree, order, statute, regulation, rule, or license applicable to Gas Corp. (other than Licence Transfer approvals);
- (d) RESIDENCY: Gas Corp. is not a non-Canadian for the purposes of the Investment Canada Act;
- (e) QUALIFICATION: At Closing, Gas Corp. shall meet all qualification requirements of Government Authorities to take such transfers, including the transfer of all Permits for all Wells, Facilities and Tangibles for which Vendor or an Affiliate is currently the operator or licensee and shall accede to, comply with and perform the requirements of such Government Authorities, acting reasonably;
- (f) LICENCEE LIABILITY RATING: Gas Corp. is, or at Closing, shall be, a registrant with the EUB and Purchaser's Licencee Liability Rating:
 - (i) is greater than or equal to one (1);
 - (ii) shall, as a result of the acquisition of the Assets, be greater than or equal to one (1); and
 - (iii) shall be greater than or equal to one (1) at the time the EUB considers approval of any specific conveyance documentation pursuant to this Agreement;
- (g) NO CLAIMS: There are no Claims (i) filed by, on behalf of, or against Gas Corp., or (ii) imposed by any Government Authority or regulatory body, in either case, whether or not insured and which may adversely affect Gas Corp.'s ability to acquire the Assets;
- (h) AVAILABILITY OF FUNDS: At Closing, Gas Corp. shall have sufficient cash, available lines of credit, or other sources of immediately available funds to enable Gas Corp. to make payment of the Adjusted Asset Purchase Price at Closing and all other amounts to be paid by Gas Corp. hereunder;
- (i) REGULATORY APPROVALS: Except for the Competition Act Approval, there are no regulatory approvals or rulings required to be obtained by Gas Corp. in respect of the acquisition of the Assets; and
- (j) NO FINDER'S FEE: Gas Corp. has not incurred any obligation or liability, contingent or otherwise, for broker's or finder's fees in respect of this Agreement or the acquisition of the Assets for which Vendor shall have any obligation or liability.

5.5 REPRESENTATIONS AND WARRANTIES OF THE TRUST

The Trust represents and warrants to CEHL that:

- (a) ORGANIZATION AND STANDING: The Trust is an Alberta trust, duly organized and validly subsisting under the laws of its jurisdiction or organization and is duly qualified under the jurisdictions in which it is required to be qualified in order for it to own the Trust Units;
- (b) CAPACITY, POWER, AUTHORIZATION, EXECUTION AND ENFORCEABILITY: The Trust has the requisite power and authority to execute, delivery and perform its obligations under this Agreement and all the agreements, instruments and other documents contemplated hereby. The execution, delivery and performance of this Agreement and the acquisition of the Trust Units have been

duly and validly authorized by any and all requisite actions and provided the Competition Act Approval is obtained, do not and will not result in any violation of, be in conflict with, or constitute a default under, its articles, charter, by-laws or other governing documents, as the case may be. This Agreement and any other agreement delivered in connection herewith, to which the Trust is party, has been or will at the appropriate time be validly executed and delivered by the Trust and constitute valid and binding obligations of the Trust and provided the Competition Act Approval is obtained, will be enforceable against the Trust in accordance with their terms, subject to (i) bankruptcy, insolvency, fraudulent preference, reorganization or other laws affecting creditors' rights generally, and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or equity);

(c) NO CONFLICT: The execution and delivery of this Agreement are not, and, provided the Competition Act Approval is obtained and except for Customary Post Closing Consents, the acquisition of the Trust Units in accordance with the terms of this Agreement will not be, in material violation or breach of or in material conflict with or require any material consent, authorization or approval under:

(i) any term or provision of the constating documents of the Trust;

(ii) any agreement, instrument, license, permit or other governmental authorization to which the Trust is a party or by which the Trust is bound; or

(iii) any judgment, decree, order, statute, regulation, rule, or license applicable to the Trust;

(d) RESIDENCY: The Trust is not a non-Canadian for the purposes of the Investment Canada Act;

(e) NO CLAIMS: There are no Claims (i) filed by, on behalf of, or against the Trust, or (ii) imposed by any Government Authority or regulatory body, in either case, whether or not insured and which may adversely affect the Trust's ability to acquire the Trust Units;

(f) AVAILABILITY OF FUNDS: At Closing, the Trust shall have sufficient cash, available lines of credit, or other sources of immediately available funds to enable the Trust to make payment of the Adjusted Trust Unit Purchase Price at Closing and all other amounts to be paid by the Trust hereunder;

(g) PURCHASING AS PRINCIPAL: The Trust is purchasing the Trust Units as principal for its own account and not as agent for any other Persons;

(h) REGULATORY APPROVALS: Except for the Competition Act Approval, there are no regulatory approvals or rulings required to be obtained by the Trust in respect of the acquisition of the Trust Units; and

(i) NO FINDER'S FEE: The Trust has not incurred any obligation or liability, contingent or otherwise, for broker's or finder's fees in respect of this Agreement or the acquisition of the Trust Units for which Vendor shall have any obligation or liability.

ARTICLE 6 **LIABILITIES AND INDEMNITIES**

6.1 VENDOR INDEMNITIES

Subject to Sections 6.3, 6.6, 6.7 and 6.9, Vendor shall:

- (a) be liable to Purchaser and its Related Parties for all Losses and Liabilities they suffer, sustain, pay or incur; and
- (b) indemnify and save Purchaser and its Related Parties harmless from and against all Claims made against them;

insofar as such Losses, Liabilities and Claims are a direct result of any Vendor Default; provided that Vendor shall not be liable to, or be required to indemnify and save harmless, Purchaser or any of its Related Parties pursuant to this Section 6.1 in respect of: (i) any representation or warranty in Sections 5.1 or Section 5.2 if Purchaser did not rely upon such representations or warranty; (ii) any Losses, Liabilities or Claims to the extent they result from a Purchaser Default; or (iii) Losses, Liabilities or Claims to the extent they are caused by or result from the gross negligence or wilful misconduct of Purchaser or its Related Parties.

6.2 PURCHASER'S INDEMNITIES

Subject to Section 6.8, Purchaser shall:

- (a) be liable to Vendor and its Related Parties for all Losses and Liabilities they suffer, sustain, pay or incur; and
- (b) indemnify and save harmless Vendor and its Related Parties from and against all Claims made against them;

insofar as such Losses, Liabilities and Claims are a direct result of any Purchaser Default; provided that Purchaser shall not be liable to, or be required to indemnify and save harmless, Vendor or any of its Related Parties pursuant to this Section 6.2 in respect of: (i) any representation or warranty in Sections 5.4 or 5.5 if Vendor did not rely upon such representation or warranty; (ii) any Losses, Liabilities or Claims to the extent they result from a Vendor Default; or (iii) Losses, Liabilities or Claims to the extent they are caused by or result from the gross negligence or wilful misconduct of Vendor or its Related Parties.

6.3 ENVIRONMENTAL LIABILITIES

Subject to Closing occurring, Purchaser hereby:

- (a) assumes and agrees to duly and punctually perform, pay and discharge;
- (b) agrees to be liable to Vendor and its Related Parties for all Losses and Liabilities they suffer, sustain, pay or incur in respect of; and
- (c) agrees to indemnify and save harmless Vendor and its Related Parties from and against all Claims made against them in respect of;

any and all past, present and future Environmental Liabilities, provided that Purchaser shall not be liable to, or required to indemnify and save harmless, Vendor or its Related Parties pursuant to this Section 6.3 in respect of Losses, Liabilities or Claims to the extent they result from a breach of the representation and warranty set forth in Section 5.1.

6.4 ASSUMED OBLIGATIONS

Subject to Closing occurring, Purchaser hereby:

- (a) assumes and agrees to duly and punctually perform, pay and discharge;
- (b) agrees to be liable to Vendor and its Related Parties for all Losses and Liabilities they suffer, sustain, pay or incur in respect of; and
- (c) agrees to indemnify and save harmless Vendor and its Related Parties from and against all Claims made against them in respect of the following:
- (d) all obligations related to the Assets required to be performed or observed after the Closing Date under Applicable Law or the Title and Operating Documents; and
- (e) all obligations and Liabilities relating to the Assets that arise from or relate to acts, omissions, events or circumstances occurring after the Closing Date, including Liabilities and Claims arising from or related to Operations conducted after the Closing Date;

provided that Purchaser shall not be liable to, or required to indemnify and save harmless, Vendor or its Related Parties pursuant to this Section 6.4 in respect of Losses, Liabilities or Claims to the extent they: (i) are caused by or result from the gross negligence or wilful misconduct of Vendor or any of its Related Parties; or (ii) result from a breach of a representation and warranty set forth in Sections 5.1 or 5.2.

6.5 POST-CLOSING EMPLOYMENT INDEMNITIES OF GAS CORP.

- (a) Gas Corp. shall assume, bear and discharge all obligations and Liabilities in respect of the employment of each Accepting Employee that accrue after such Accepting Employee commences employment with Gas Corp. (including all such obligations and Liabilities that result from the termination of the employment of an Accepting Employee after such Accepting Employee commences employment with Gas Corp.) and Gas Corp. shall indemnify and save harmless each of Vendor and its Related Parties from any Losses, Liabilities and Claims suffered, sustained, paid or incurred: (i) in respect of such obligations and Liabilities; (ii) with respect to the disclosure of Vendor's employee records or other records maintained by Vendor that have been provided to Gas Corp.; and (iii) with respect to employee evaluation, selection and offer actions taken after the date of this Agreement and during the Transition Period by Gas Corp. in connection with the Transaction.
- (b) Gas Corp. shall assume, bear and discharge all obligations and Liabilities in respect of each Accepting Consultant that accrue after such Accepting Consultant commences the provision of services to Gas Corp., and Gas Corp. shall indemnify and save harmless each of Vendor and its Related Parties from any Losses, Liabilities and Claims suffered, sustained, paid or incurred in respect of such obligations and Liabilities.

6.6 POST-CLOSING EMPLOYMENT INDEMNITIES OF VENDOR

(a) Subject only to Purchaser's obligations pursuant to Sections 13.1(f) and 13.1(g), and without application of the limitations contained in Section 6.9, Vendor shall indemnify and save harmless Purchaser from and against all Losses and Liabilities that accrue in respect of the employment of the Listed Employees including without limitation Losses and Liabilities arising from a breach of Human Rights Legislation, related to severance, termination, notice or payment in lieu thereof or related to retention benefits to which such Listed Employees are entitled;

(b) Subject only to Purchaser's obligations pursuant to Sections 13.1(f) and 13.1(g), and without application of the limitations contained in Section 6.9, Vendor shall indemnify and save harmless Purchaser from and against all Losses and Liabilities that accrue in respect of the Listed Consultants, including without limitation Losses and Liabilities arising from a breach of Human Rights Legislation, related to severance, termination, notice or payment in lieu thereof or related to retention benefits to which such Listed Consultants are entitled.

6.7 VENDOR'S ADDITIONAL INDEMNITIES

Without application of the limitations contained in Section 6.9, Vendor hereby:

- (a) assumes and agrees to duly and punctually perform, pay and discharge;
- (b) agrees to be liable to Purchaser and its Related Parties for all Losses and Liabilities they suffer, sustain, pay or incur in respect of; and
- (c) agrees to indemnify and save harmless Purchaser and its Related Parties from and against,

all Losses and Liabilities in respect of the Claims and Security Interests set out and described in Schedule "D".

6.8 SURVIVAL OF REPRESENTATIONS AND WARRANTIES

No Claim under Section 6.1 or Section 6.2 in respect of a representation or warranty in Sections 5.1, 5.2, 5.4 or 5.5 shall be made or be enforceable by a Party, whether by legal proceedings or otherwise, unless written notice of such Claim, with reasonable particulars, is given by such Party to the Party against whom such Claim is made within a period of 12 months from the Closing Date. No Claim shall be made by a Party in respect of the representations and warranties made by another Party in this Agreement except pursuant to this Article 6.

6.9 LIMITATIONS ON VENDOR LIABILITIES

Subject to Vendor's Liabilities and indemnities contained in Section 6.6:

(a) Vendor shall not be liable to Purchaser or its Related Parties in respect of any individual Vendor Default unless the aggregate amount of the Losses and Liabilities suffered, sustained, paid or incurred by or made against Purchaser and its Related Parties in respect of such individual Vendor Default exceeds \$2,000,000, and then only to the extent that the limitations on the Vendors' liability contained in Subsections 6.9(b) and 6.9(c) do not apply.

(b) Vendor shall not be liable to Purchaser or its Related Parties in respect of any Vendor Defaults hereunder unless the aggregate amount of all of the Losses and Liabilities suffered, sustained, paid or incurred by Purchaser and its Related Parties in respect of all of such Vendor Defaults exceeds \$15,000,000 and, in that event, Vendor shall be liable to Purchaser and its Related Parties for all Losses and Liabilities which exceed \$15,000,000.

(c) The aggregate liability of Vendor under this Agreement for all Losses and Liabilities of Purchaser and its Related Parties in respect of all Vendor Defaults shall be limited to fifty percent (50%) of the Purchase Price.

6.10 INDEMNIFICATION PROCEDURE-THIRD PARTY CLAIMS

The following procedures shall be applicable to any Claim by a Party (the "INDEMNITEE") for indemnification pursuant to this Agreement from another Party (the "INDEMNITOR") in respect of a Claim by a Third Party:

(a) upon the Third Party Claim being made against or commenced against the Indemnitee, the Indemnitee shall promptly provide notice thereof to the Indemnitor. The notice shall describe the Third Party Claim in reasonable detail and indicate the estimated amount, if practicable, of the indemnifiable Liabilities and Losses that have been or may be sustained by the Indemnitee in respect thereof. If the Indemnitee does not give timely notice to the Indemnitor as aforesaid, then such failure shall only lessen or limit the Indemnitee's rights to indemnity hereunder to the extent that the defence of the Third Party Claim was prejudiced by such lack of timely notice;

(b) if the Indemnitor acknowledges to the Indemnitee in writing that the Indemnitor is responsible to indemnify the Indemnitee in respect of the Third Party Claim pursuant hereto, the Indemnitor shall have the right to do either or both of the following:

(i) assume carriage of the defence of the Third Party Claim using legal counsel of its choice and at its sole cost; and\or

(ii) settle the Third Party Claim provided the Indemnitor pays the full monetary amount of the settlement and the settlement does not impose any restrictions or obligations on the Indemnitee; and

(c) if the Indemnitor does not assume carriage of the defence of any Third Party Claim and/or settle the Third Party Claim, the Indemnitee shall be entitled to defend and/or settle the Third Party Claim. If it is determined that such Third Party Claim is a matter for which the Indemnitor should have indemnified the Indemnitee pursuant to this Agreement, the Indemnitee shall be entitled to reimbursement from the Indemnitor of all of its Losses and Liabilities associated with such Third Party Claim;

(d) each Party shall cooperate with the other in the defence of the Third Party Claim, including making available to the other Party, its directors, officers, employees and consultants whose assistance, testimony or presence is of material assistance in evaluating and defending the Third Party Claim;

(e) the Indemnitee shall not enter into any settlement, consent order or other compromise with respect to the Third Party Claim without the prior written consent of the Indemnitor, (which consent shall not be unreasonably withheld or delayed) unless the Indemnitee waives its rights to indemnification in respect of the Third Party Claim;

(f) upon payment of the Third Party Claim, the Indemnitor shall be subrogated to all claims the Indemnitee may have relating thereto. The Indemnitee shall give such further assurances and cooperate with the Indemnitor to permit the Indemnitor to pursue such subrogated claims as reasonably requested by it; and

(g) if the Indemnitor has paid an amount pursuant to the indemnification obligations herein and the Indemnitee shall subsequently be reimbursed from any source in respect of the Third Party Claim from any other Person, the Indemnitee shall promptly pay the amount of the reimbursement (including interest actually received) to the Indemnitor, net of Taxes required to be paid by the Indemnitee as a result of any such receipt.

6.11 CONSEQUENTIAL DAMAGES

In no event shall a Party be liable in respect of the covenants, agreements, representations, warranties and indemnities contained in this Agreement or in any certificate, agreement or other document furnished pursuant to this Agreement for consequential, indirect or punitive damages suffered, sustained, paid or incurred by another Party or its Related Parties.

ARTICLE 7 ADJUSTMENTS

7.1 ACCOUNTING ADJUSTMENTS

(a) There will be an adjustment to the Asset Purchase Price equal to the net amount of the adjustments made pursuant to this Section 7.1.

(b) Except as otherwise provided in this Article 7, the Parties will adjust and apportion all costs and revenues of every kind and nature incurred, payable or paid in respect of the Assets as at the Effective Time, including: capital and non-capital costs of Operations, proceeds from the sale of Production, royalties and Taxes (other than capital taxes and income taxes). Such adjustments shall be made on an accrual basis, in accordance with accepted Canadian oil and gas industry practices, subject to the provisions of this Article 7.

(c) For purposes of the adjustments made pursuant to this Article 7, all costs incurred in connection with work performed or goods or services provided in respect of the Assets shall be deemed to have accrued as of the date the work was performed or the goods or services were delivered, regardless of the times such costs become payable.

(d) Production will be adjusted as follows:

(i) Retained Production is not included in the Assets and will remain the property of CCNGP; and

(ii) Production will be deemed to be sold on a first in first out basis.

(e) Where CCNGP is the operator under a Title and Operating Document, CCNGP will be entitled to all overhead recoveries and operator's fees payable pursuant thereto for all periods up to the end of the calendar month in which the Closing occurs, but will not otherwise be entitled to reimbursement pursuant to this Agreement in respect of its overhead costs, subject to Section 8.4.

(f) In the adjustments made pursuant to this Article 7, all rentals and similar payments, property taxes (including Alberta and Saskatchewan freehold mineral taxes, if applicable) and other periodic costs (other than capital taxes and income taxes) that relate to the Assets and are payable in respect of a period of time that straddles the Effective Time shall be apportioned between CCNGP and Gas Corp. on a per diem basis as of the Effective Time.

(g) Except as provided in Subsection (e), there will be no adjustments for general and administrative expenses related to operating and maintaining CCNGP's head office in Calgary or for royalty tax credits or similar incentives that accrue to a Party because of financial or organizational attributes specific to it; provided that gas cost allowances (or similar cost allowances) shall not be considered incentives for these purposes.

(h) A Thirteenth Month Adjustment shall be apportioned between CCNGP and Gas Corp. as at the Effective Time on the same basis (whether on a throughput, per diem or other basis) as the Thirteenth Month Adjustment is allocated to the parties to the Title and Operating Document under which it is made.

(i) There will be no adjustment in favour of CCNGP on account of income taxes attributable to income from the Assets for the Interim Period.

(j) There will be an adjustment in favour of Purchaser for any remaining, unpaid portion of the Distributions that Vendor was unable to calculate and include in the Adjusted Trust Unit Purchase Price.

(k) There will be an interim cash adjustment to the Asset Purchase Price in favour of Purchaser in the amount of \$5,000,000.

7.2 INTERIM STATEMENT OF ADJUSTMENTS

On or before five Business Days prior to the Closing Date, Vendor shall deliver to Purchaser an interim statement of all adjustments ("INTERIM STATEMENT OF ADJUSTMENTS") to be made pursuant to Section 7.1 in respect of the costs paid and revenues received by Vendor prior to Closing. The Interim Statement of Adjustments shall be prepared on the basis of Vendors' good faith estimate of the costs and revenues and Distributions paid or payable and received or receivable in respect of the Interim Period. Vendor shall make available to Purchaser all information reasonably necessary for Purchaser to understand and confirm the calculations in such statement and any amount deemed owing by one Party to another pursuant to the Interim Statement of Adjustments shall be used to calculate the payment made by Gas Corp. at Closing pursuant to Section 2.3.

7.3 POST CLOSING ADJUSTMENTS

(a) Within 180 days following the Closing Date, the Parties shall cooperate in preparing, on the basis of information available within such period, a final statement of all adjustments and payments ("FINAL STATEMENT OF ADJUSTMENTS") to be made pursuant to Section 7.1 and upon agreement on such adjustments, the net amount thereof shall be remitted by the Party who is obliged to make payment within thirty (30) days of determination of such net amount. If amounts are not paid when due, such amounts will thereafter bear interest until paid in accordance with Section 15.9.

(b) During the 12 months after the calendar month in which Closing occurs, the Vendor and the Purchaser may have access to the records of the other Party respecting the Assets for the

limited purpose of calculating or verifying adjustments pursuant to this Article. Any such access shall be provided upon reasonable notice to the Party whose records are being examined, at such Party's offices during its normal business hours and shall be conducted at the sole expense of the examining Party.

(c) After the adjustments pursuant to Section 7.3(a), further adjustments pursuant to this Article will be made as and when items arise, provided that, subject to Subsections 7.3(b) and 7.3(d) of this Section, the Parties shall not be obligated to make an adjustment more than 12 months after the calendar month in which Closing occurs, unless such adjustment has been specifically requested by written notice from one Party to the other Party prior to the expiry of the 12-month period or through an audit commenced within such 12-month period.

(d) Notwithstanding Subsection 7.3(c), a Party will be required to make an adjustment pursuant to this Section more than 12 months after the calendar month in which Closing occurs if:

(i) the adjustment arises from a Crown royalty audit commenced not later than 48 months after the calendar year in which Closing occurs and a written request for the adjustment is given by one Party to the other Party within one hundred and twenty (120) days of the requesting Party's receipt of the results of the audit;

(ii) the adjustment arises from a joint venture audit under a Title and Operating Document commenced not later than 26 months after the end of the calendar year in which Closing occurs and a written request for the adjustment is given by one Party to the other Party within one hundred and twenty (120) days of the requesting Party's receipt of the results of the audit; or

(iii) the adjustment arises from a Thirteenth Month Adjustment within 12 months after the Closing Date and a written request for the adjustment is given by one Party to the other Party within One Hundred and Twenty (120) days of the requesting Party's receipt of the results of the Thirteenth Month Adjustment.

7.4 ARBITRATION

Any Party may, at any time, refer to arbitration a dispute between the Parties respecting the requirement for or the amount of an adjustment pursuant to the provisions of Section 15.1. The decision of the arbitrator shall be final and binding on the Parties and shall not be subject to review or appeal. All costs of the arbitration shall be borne by the Parties equally.

7.5 CASH CALLS, PREPAYMENTS AND DEPOSITS

(a) Subject to Subsections 7.5(b) or 7.5(c) unexpended cash or security deposited by the Vendor to or with operators, Government Authorities or other Persons prior to the Effective Time to secure Vendors' obligations or as prepayments of costs or Liabilities shall not be included in the Assets and shall be returned to Vendor.

(b) No later than three Business Days prior to Closing, provided that any associated Third Party consents or approvals have been obtained. Vendor may elect that any cash amount referred to in Subsection 7.5(a) be transferred to Gas Corp., in which event Vendor shall take all reasonable steps to transfer it to Gas Corp. and Gas Corp. shall agree to an adjustment to Vendor at Closing equal to the amount of such item.

(c) At any time after Closing, provided that any associated Third Party consents or approvals have been obtained, Vendor may elect that any item referred to in Subsection 7.5(a) be transferred to Gas Corp., in which event Vendor shall take all reasonable steps to transfer such item to Gas Corp, and Gas Corp. shall make a payment to Vendor within three Business Days after such election is made, equal to the amount of such item.

(d) At any time before or after Closing, Vendor may elect that any item referred to in Subsection 7.5(a) be refunded or returned by the Third Party or Government Authority who is holding it, in which event, the Parties will use all reasonable efforts to cause the Third Party or Government Authority to refund or return the item to Vendor and Gas Corp. shall provide a replacement for such item to the Third Party or Government Authority if it is necessary to do so to cause the Third Party or Government Authority to make the refund or return the item.

ARTICLE 8 **MAINTENANCE AND OPERATION OF THE ASSETS**

8.1 MAINTENANCE OF ASSETS UNTIL CLOSING

From the date hereof until the Closing Date, CCNGP shall (to the extent that CCNGP is reasonably able to do so, having regard to the nature of CCNGP's interests in the Assets and the Title and Operating Documents):

- (a) maintain the Assets in a proper and prudent manner in accordance with good oilfield practices;
- (b) pay or cause to be paid all costs and expenses relating to the Assets which become due from the date hereof to the Closing Date; and
- (c) perform and comply in all material respects with all of its obligations under the Title and Operating Documents;

provided that where CCNGP is not the operator, CCNGP shall be obligated to do only that which a prudent non-operator would be expected to do in similar circumstances in accordance with accepted industry practices.

Upon the execution of this Agreement, at such times prior to Closing as the Parties may agree, representatives of Vendor and Purchaser shall meet in Vendor's offices in Calgary, Alberta to discuss Vendor's plans for drilling, reworking or other capital expenditure commitments with respect to the Assets, which proposed expenditures are in excess of \$100,000 and are proposed to be incurred during the period between execution of this Agreement and Closing. At such meeting(s), Vendor's technical staff will present an overview of the proposed operations in reasonably sufficient detail to be evaluated by Purchaser, together with the proposed costs thereof. As soon as reasonably practicable thereafter, Purchaser will notify Vendor of any objections to the proposed operations presented by Vendor.

Upon execution of this Agreement, at Purchaser's direction, Vendor shall take all reasonable steps necessary to prepare for operations that Purchaser plans to conduct after Closing, including without limitation, submitting applications for Permits, obtaining necessary consents and arranging for the procurement of contractors, equipment and supplies.

8.2 CONSENT OF PURCHASER TO OPERATIONS BEFORE CLOSING

Subject to Section 8.1, CCNGP shall have the right to operate and maintain the Assets in accordance with good oilfield practices, provided that, notwithstanding Section 8.1, CCNGP shall not, without the written consent of Purchaser, which consent shall not be unreasonably withheld and which, if provided, shall be provided in a timely manner:

- (a) make any commitment or propose, initiate or authorize any single capital expenditure with respect to the Assets if the CCNGP's share thereof is in excess of \$100,000, except in case of: (i) an emergency; or (ii) amounts which the CCNGP may be committed to expend, pursuant to an existing approved budget disclosed to Purchaser, or be deemed to authorize for expenditure without its consent;
- (b) surrender or abandon any of the Assets, except those which have become obsolete where the rights of CCNGP thereto have expired or terminated as disclosed in this Agreement or otherwise in the ordinary course of business;
- (c) amend or terminate any agreement or document to which the Assets are subject, or enter into any new agreement or commitment relating to the Assets, except in the ordinary course of business and subject to providing notice to Purchaser of such action(s) taken; or
- (d) sell, encumber or otherwise dispose of any of the Assets or any part or portion thereof, except for the Sale of Petroleum Substances in the ordinary course of business.

8.3 POST-CLOSING ACCOUNTING

With respect to Assets for which CCNGP is the operator, CCNGP shall invoice all joint interest owners for all billable costs attributable to such operations for those periods from the Effective Time until the end of the month after the month in which Closing occurs. All subsequent joint interest billings for such Assets shall be prepared and distributed by Purchaser. For a period of one (1) year after Closing, the Parties shall provide reasonable assistance to each other in the collection or recoupment of any overpayment or underpayment of accounts receivable related to the joint operation of the Assets.

8.4 TRANSITION PERIOD

During the Transition Period, which shall extend for approximately 8 weeks after the Closing Date, Vendor shall make available to Gas Corp. employees which Gas Corp. requests (such employees to be mutually agreed upon by the Parties) to facilitate an orderly transition of the operations of Vendor to Gas Corp., Gas Corp. shall be responsible to pay all costs and expenses associated with such employees to the extent that their activities relate to the operation of the Assets. For the avoidance of doubt, such costs and expenses shall include each employees' base salary, proportionate share of overtime (if applicable), transportation and parking allowances, statutory holiday pay and actual benefit burden (which includes vacation accrual) all to be determined in accordance with reasonable documentation to be supplied by Vendor. During the Transition Period, Gas Corp. shall have reasonable access to Vendor's office space and equipment, information technology hardware and software and services (subject to applicable contractual restrictions related thereto) and support from Transitional Employees and contractors, as reasonably required. Without restriction, Gas Corp. shall be responsible to pay all reasonable costs and expenses associated with office space and equipment, information technology hardware and software and services during the Transition Period to the extent that these costs relate to the operation of the Assets.

8.5 CCNGP AS AGENT

Until Gas Corp. is novated into the Title and Operating Documents to which the Assets are subject, CCNGP shall act as the Gas Corp.'s agent to receive notices and information and serve notices as Gas Corp. reasonably and lawfully directs and shall carry out Gas Corp.'s instructions in relation to the maintenance and operation of the Assets. Gas Corp. shall be liable to CCNGP and shall, in addition, indemnify each of CCNGP and its Related Parties from and against, all Losses, Liabilities and Claims suffered, sustained, paid or incurred by CCNGP or its Related Parties or made against them in relation to acts or omissions of CCNGP in its capacity as agent of the Gas Corp. under this Section 8.5, except to the extent such acts or omissions are caused by or result from CCNGP's or any of its Related Parties' gross negligence or wilful misconduct. An act or omission will not be regarded as gross negligence or wilful misconduct under this Article 8 to the extent that it was done or omitted to be done in accordance with Gas Corp.'s instructions or concurrence.

ARTICLE 9 RIGHTS OF FIRST REFUSAL

9.1 RIGHT OF FIRST REFUSALS

(a) Vendor and Gas Corp. acknowledge that some of the Assets are subject to the Rights of First Refusal as set forth in Schedule "K". Within five Business Days after the date hereof, Vendor shall provide to Gas Corp. a written list setting forth the Assets ("ROFR ASSETS") which are subject to each Right of First Refusal. Within three Business Days after its receipt of such list, Gas Corp. shall provide Vendor, in good faith and on a reasonable basis, a written statement setting forth the portion of the Asset Purchase Price it proposes to allocate to the ROFR Assets that are subject to each Right of First Refusal. The Parties will consult with respect to the allocations as appropriate in the circumstances. Promptly after such allocations are determined, Vendor shall send notices to the Persons (and Purchaser) holding Rights of First Refusal in accordance with the terms of the Right of First Refusal. Such notices shall use the allocations provided by Gas Corp. to Vendor. Gas Corp. shall be liable to Vendor and its Related Parties for, and shall, in addition, indemnify Vendor and its Related Parties from and against, all Losses, Liabilities and Claims suffered, sustained, paid or incurred by, or made against, them as a result of, arising out of, or in connection with, the use of such allocations in respect of the Rights of First Refusal. Vendor shall notify Gas Corp. forthwith upon each Person exercising or waiving a Right of First Refusal.

(b) If any Person elects to exercise a Right of First Refusal prior to Closing:

- (i) the terms "ASSETS", "FACILITIES", "MISCELLANEOUS INTERESTS", "PETROLEUM AND NATURAL GAS RIGHTS", "TANGIBLES" and "WELLS" will be deemed to have been amended to reflect the exclusion of the ROFR Assets to which the Right of First Refusal applies and such ROFR Assets shall not be conveyed to Gas Corp. and the Schedules hereto will be deemed to be amended accordingly;
- (ii) the Asset Bid Price shall be reduced by the value allocated in accordance with Section 9.1(a) to such ROFR Assets and the adjustments will be revised accordingly; and
- (iii) Vendor shall promptly amend or revise any filings with Government Authorities in connection herewith or any documentation or material provided with or pursuant to such filings to reflect the amended definition of the Assets and the amended Purchase Price and adjustments and Gas Corp. shall co-operate with Vendor in such amendments and revisions.

(c) If at the Closing Date there is a Right of First Refusal which:

- (i) has not been exercised, but has not been extinguished by lapse of time, waiver or otherwise; or
- (ii) is subject to an outstanding Third Party Claim that challenges the validity of the notice in respect thereof served in accordance with Section 9.1(a):

(an "OUTSTANDING ROFR"), the Parties will proceed with Closing in accordance with the other provisions of this Agreement on the basis that the Outstanding ROFR has been extinguished and without any reduction in the Asset Bid Price and Gas Corp. shall be responsible for addressing any Third Party Claim associated with the value attributed to the ROFR Assets by Gas Corp. and shall indemnify and hold harmless Vendor from any Claims associated therewith.

ARTICLE 10 PRE-CLOSING MATTERS

10.1 PRODUCTION OF DOCUMENTS

(a) At all reasonable times from the date hereof until the Closing Date, Vendor shall make available to Purchaser and Purchaser's Representatives, subject to contractual restrictions of Third Parties relative to disclosure, in Vendors' offices in Calgary, the following information pertaining to the Assets and the Trust Units which are in Vendors' or any of their Affiliates' possession or control, including:

- (i) any agreement and document to which the Assets or the Trust Units are subject or to which the applicable Vendor is a party or by which the Vendor is bound and relate to the Assets or Trust Units, as applicable, including agreements for the contract operation of the Assets or any of them; and
- (ii) all documents and information relevant to Environmental Liabilities related to the Assets (if any).

(b) Prior to Closing, Purchaser and its Representatives shall keep confidential all such information disclosed to it by Vendor in accordance with the Confidentiality Agreement.

ARTICLE 11 TITLE REVIEW

11.1 NOTICE OF TITLE DEFECTS

(a) No later than the last day of the Examination Period, Purchaser may notify Vendor in writing of Title Defects. Such notice (a "TITLE DEFECT NOTICE") shall include a detailed description of each Title Defect and the Scheduled Assets affected thereby, the amount (in Purchaser's reasonable opinion) by which the value of the Assets has been reduced by the Title Defect (the "TITLE DEFECT VALUE") and Purchaser's requirements for remedying such Title Defect.

(b) In determining a Title Defect Value, only the reduction in the value of the Assets adversely affected by the Title Defect shall be taken into account.

(c) Failure to provide a Title Defect Notice in respect of a Title Defect in accordance with this Section 11.1 prior to expiration of the Examination Period shall be deemed to be a waiver by Purchaser of such Title Defect for the purposes of this Agreement.

11.2 CURING, INDEMNIFICATION AND UNCURED TITLE DEFECTS VALUE

(a) Between its receipt of a Title Defect Notice and the third Business Day prior to the Closing Date, Vendor shall have the obligation to make reasonable commercial efforts to cure the Title Defect.

(b) In this Agreement:

(i) "UNCURED TITLE DEFECT" means a Title Defect described in the Title Defect Notice other than a Title Defect which:

(A) is cured to the reasonable satisfaction of Gas Corp. on or before three Business Days before the Closing Date;

(B) is waived by Gas Corp.; or

(C) has a Title Defect Value of less than \$ 1,000,000; and

(ii) "UNCURED TITLE DEFECTS VALUE" means the aggregate amount of the Title Defects Value of all Uncured Title Defects under this Agreement.

11.3 UNCURED TITLE DEFECTS

(a) If there are Uncured Title Defects:

(i) if the Uncured Title Defects Value is equal to or less than five (5%) percent of the Asset Bid Price, the Parties shall complete the purchase and sale of the Assets pursuant hereto without adjustment to the Purchase Price on account of such Title Defects;

(ii) subject to Subsections 11.3(a)(iii) and 11.3(b), if the aggregate Uncured Title Defects Value in respect of the Assets is greater than the five (5%) percent of the Asset Bid Price, the Asset Bid Price shall be reduced in respect of the Assets by the amount by which the Uncured Title Defects Value in respect of the Assets exceeds five (5%) percent of the Asset Bid Price;

(iii) subject to Subsection 11.3(b), if the aggregate of the Uncured Title Defects Value for the Assets under this Agreement exceeds fifteen percent (15%) of the Asset Bid Price, either Vendor or Purchaser may terminate this Agreement upon written notice to the other Parties at or before Closing (but not thereafter), in which case Subsection 2.4(d) shall be applicable and the Parties shall have no further obligation to each other under this Agreement.

(b) Notwithstanding Subsections 11.3(a)(ii) and 11.3(a)(iii), if the Uncured Title Defects Value is greater than five (5%) percent of the Asset Bid Price and the Parties agree to delay Closing:

(i) Vendor shall make reasonable attempts to cure or remove the Uncured Title Defects prior to the new Closing Date; and

(ii) The provisions of Sections 11.2, 11.3 and 11.4 shall again be applicable.

11.4 DISPUTES

(a) If there is a bona fide, good faith dispute (a "DISPUTE") between the Parties regarding:

(i) the existence of a Title Defect;

(ii) whether a Title Defect has been cured; or

(iii) a Title Defects Value,

(iv) which results in uncertainty as to whether there should be an adjustment to the Asset Purchase Price pursuant to Section 113(a)(ii) or the amount of such adjustment or whether the Parties have the right to terminate this Agreement pursuant to Subsection 11.3(a)(iii), then any Party may give notice (a "DISPUTE NOTICE") of such dispute to the other Parties not later than the Business Day prior to the date the Closing would have occurred but for such Dispute (the "ORIGINAL CLOSING DATE") specifying the Dispute in reasonable detail. A Dispute Notice may relate to more than one Dispute.

(b) If a Dispute Notice in respect of the existence or curing of a Title Defect or the amount of a Title Defect Value is not delivered by any Party, the last written statement of Purchaser's position in respect thereof shall be binding on the Parties for all purposes of this Article 11.

(c) All Disputes raised in the Dispute Notices shall be submitted to Sproule & Associates ("SPROULE"), or such other firm as may be agreed to by the Parties if Sproule cannot or will not accept the engagement (the "TITLE EVALUATOR"). If Sproule is not the Title Evaluator and the Parties have not agreed on the Title Evaluator prior to the Original Closing Date, either of them may apply to the Court of Queen's Bench of Alberta at any time thereafter (unless the Parties have subsequently agreed on the Tile Evaluator) to appoint a Title Evaluator.

(d) Vendor shall cause the submission of Disputes to the Title Evaluator by promptly delivering copies of all of the Dispute Notices to the Title Evaluator together with written instructions that:

(i) the Title Evaluator may retain legal counsel of its choice to advise the Title Evaluator on the legal aspects of the Dispute, provided that such counsel does not have a conflict of interest preventing it from providing such advice;

(ii) if the Dispute relates to the amount of the Title Defect Value, the Title Evaluator, in accordance with good engineering and evaluation practices, shall select as the Title Defects Value either the value submitted by Vendor or the value submitted by Purchaser and not a compromise or other value; and

(iii) its determination must be completed within 21 Business Days from the date of submission of the Dispute.

(iv) The Disputes shall be submitted to the Title Evaluator not later than the Original Closing Date, provided that if Sproule is not the Title Evaluator, the submission will be made not later than the Business Day after the Title Evaluator is selected.

(e) Within 7 Business Days after the date the Disputes are submitted to the Title Evaluator (the date the Disputes are submitted to the Title Evaluator is referred to herein as the "SUBMISSION DATE"), each Party shall submit to the Title Evaluator and the other Parties:

- (i) a statement of its position with respect to each Dispute, including its estimate of each Title Defect Value that is in dispute; and
- (ii) any information or documentation supporting such estimate
(collectively, a "SUPPORTING STATEMENT").

(f) If only one Party timely submits a Supporting Statement in respect of a Dispute, then the Title Evaluator shall select as the resolution of that Dispute the submission set forth in that Supporting Statement.

(g) If both Vendor and Purchaser timely submit a Supporting Statement in respect of a Dispute, each Party shall have the right to submit to the Title Evaluator and the other Parties, not later than 12 Business Days after the Submission Date, a reply ("Reply") to the other Party's Supporting Statement.

(h) The Title Evaluator's determination shall be made on the basis of the Supporting Statements, the Replies and any evidence introduced and arguments made during a hearing, if there is a hearing.

(i) The Title Evaluator shall make its determination with respect to all Disputes submitted to it within 21 Business Days of the Submission Date.

(j) If any Disputes are submitted to the Title Evaluator, the Closing Date shall be extended automatically to the date that is five Business Days after the Title Evaluator's decision has been given to the Parties.

(k) If, after taking into account the determination of the Title Evaluator, the aggregate Uncured Title Defects Value exceeds 15% of the Asset Bid Price, each Party shall have the right to elect to terminate this Agreement pursuant to Section 11.3(a)(iii) not later than 3 Business Days prior to the Closing Date as extended pursuant to Subsection 11.4(j).

(l) Except as provided in this Section, any submission of a Dispute to the Title Evaluator pursuant hereto shall be conducted in accordance with the provisions of the Arbitration Act (Alberta).

(m) The Vendor and the Purchaser shall each be responsible for one-half (1/2) of the fees and reimbursable costs and expenses incurred by the Title Evaluator and each Party shall be responsible for its own costs and expenses associated with the arbitration.

ARTICLE 12 **ACCESS TO BOOKS AND RECORDS**

12.1 ACCESS TO INFORMATION

(a) After Closing and subject to contractual restrictions in favour of Third Parties relative to disclosure, Purchaser shall, upon request from Vendor, provide reasonable access to Vendor at Purchaser's offices during its normal business hours to the agreements and documents to which

the Assets and the Trust Units are subject and the contracts, agreements, records, books, documents, licenses, reports and data included in the Miscellaneous Interests (including Title and Operating Documents) which are then in the possession of Purchaser and to make copies thereof, as Vendor may require for purposes relating to its ownership of the Assets and the Trust Units prior to the Closing Date (including taxation matters and Liabilities and Claims that arise from or relate to acts, omissions, events, circumstances or Operations prior to the Closing Date), including for purposes of:

- (i) audits relating to periods prior to the Closing Date;
- (ii) Taxes relating to periods prior to the Closing Date;
- (iii) matters relating to Listed Employees relating to a period prior to the Closing Date or a matter occurring prior to the Closing Date;
- (iv) compliance with Applicable Law in respect of a period prior to the Effective Time or any matter occurring prior to the Closing Date; or
- (v) any Claim commenced or threatened by any Third Party against Vendor or Related Parties.

(b) If Purchaser disposes of any of the Assets or the Trust Units to a Third Party, Purchaser will take reasonable steps to enable Vendor to have continued reasonable access to those materials, provided that Purchaser will not be required to retain copies of those materials following any such disposition.

12.2 MAINTENANCE OF INFORMATION

All of the information, materials and other records delivered to Purchaser pursuant to the terms hereof shall be maintained in good order and good condition and kept in a reasonably accessible location by Purchaser and its Affiliates for a period of 4 years from the Closing Date or for any longer period as may be required under Applicable Law (the "RETENTION PERIOD").

ARTICLE 13 EMPLOYMENT MATTERS

13.1 LISTED EMPLOYEES, LISTED CONSULTANTS AND TRANSITION

(a) On or about August 6, 2004, Vendor shall provide to Purchaser the names and titles of all Employees who may be available to Gas Corp. (the "LISTED EMPLOYEES") along with other relevant employment information as may be mutually agreed.

(b) On or about August 6, 2004, Vendor shall provide a written list to Purchaser setting forth the names, rates, description of services and term of contract of those consultants who may be available to Gas Corp. (the "LISTED CONSULTANTS") and other information as may be mutually agreed.

(c) It is agreed that the status and termination date of all Listed Employees and Listed Consultants will be determined and communicated to all Listed Employees and Listed Consultants on or before Closing.

(d) From the Listed Employees and Listed Consultants, on or before August 27, 2004 Gas Corp. and Vendor will mutually agree on those persons required during the Transition Period for necessary operational and administrative requirements (the "TRANSITIONAL EMPLOYEES" and the "TRANSITIONAL CONSULTANTS" respectively). It is agreed that the length of transitional service shall not extend beyond October 28, 2004. Vendor agrees to make reasonable efforts to retain those mutually identified Transitional Employees and Transitional Consultants for Gas Corp. and to make such Transitional Employees and Transitional Consultants available to the extent necessary to complete the orderly transition of the operation of the Assets during the Transition Period. Vendor shall pay all retention benefits payable to the Transitional Employees and the Transitional Consultants upon Closing. Vendor shall not pay any severance amounts to any Transitional Employee or Transitional Consultant until such time as the relevant Transitional Employee or Transitional Consultant is severed.

(e) All Listed Employees and Listed Consultants not identified as Transitional Employees or Transitional Consultants will be terminated by Vendor at Vendor's expense.

(f) Gas Corp. shall reimburse to Vendor all costs and expenses associated with the Transitional Employees and Transitional Consultants in accordance with Section 8.4 and this Section 13.1(f). At any time, Gas Corp. may by notice to Vendor advise Vendor that it no longer requires the services of any Transitional Employee or Transitional Consultant and, two weeks after the receipt of such notice by Vendor, Gas Corp. shall have no further obligation to reimburse Vendor for costs and expenses associated with that Transitional Employee or Transitional Consultant. Vendor shall terminate all remaining Transitional Employees and Transitional Consultants at Vendor's expense.

(g) On or before August 27, 2004, Gas Corp. shall post the employment and consulting positions that it proposes to fill for the purpose of operating and maintaining the Assets. Any Listed Employee or Listed Consultant may apply for any of such positions by submitting to Gas Corp. a resume and a consent to the release of their resume and performance evaluations. Upon the receipt of a Listed Employee's or Listed Consultant's resume and duly executed consent, Vendor shall provide the released information to Gas Corp. and shall otherwise advise Gas Corp. in the evaluation and assessment of Listed Employee or Listed Consultant. On or before September 17, 2004, Gas Corp. may make offers of employment or consulting offers ("OFFERS") to any Listed Employee or Listed Consultant effective as mutually agreed between the parties. Gas Corp. shall reimburse Vendor for all severance or termination payments made to the Listed Employees and Listed Consultants who accept Offers within six months of Closing (the "ACCEPTING EMPLOYEES AND ACCEPTING CONSULTANTS", respectively). Such reimbursement shall be made upon the receipt by Gas Corp. of payroll documentation from the Vendor evidencing payment to all Accepting Employees, provided that under no circumstances whatsoever shall Gas Corp. be obligated to reimburse Vendor for the cost of retention benefits payable to Listed Employees or Listed Consultants.

(h) Upon execution of this Agreement, Vendor shall make reasonable efforts to provide Gas Corp. access to Applicants for interview purposes during normal working hours commencing on August 17, 2004.

(i) If Gas Corp. hires a Listed Employee that was not hired in accordance with this Article 13, prior to the expiry of six (6) months from the Closing Date, Gas Corp. shall reimburse Vendor for the severance costs paid to such Listed Employee on a pro rata basis.

13.2 COVENANT REGARDING PRIVACY

Gas Corp. covenants and agrees to use and disclose Personal Information only for those purposes for which the Personal Information was initially collected from or in respect of the individual to which such Personal Information relates, unless:

- (a) Vendor or Gas Corp. has first notified such individual of such additional purpose, and where required by Applicable Law, obtained the consent of such individual to such additional purpose; or
- (b) such use or disclosure is permitted or authorized by Applicable Law, without notice to, or consent from, such individual.

ARTICLE 14 LICENCE TRANSFERS

14.1 LICENCE TRANSFERS

- (a) Within ten (10) Business Days following Closing, CCNGP shall prepare and where applicable, electronically submit an application to the Government Authorities for the Licence Transfers and Gas Corp. shall, where applicable, electronically ratify and sign such application.
- (b) Should any Government Authority deny the Licence Transfers because of misdescription or other minor deficiencies in the application, CCNGP shall within four (4) Business Days correct the application and amend and re-submit an application for the Licence Transfers and Gas Corp. shall, where applicable, electronically ratify and sign such application.
- (c) If, for any reason, a Government Authority requires a Party to make a deposit or furnish any other form of security in order to approve the Licence Transfers, such Party shall and covenants to immediately either (i) make such deposit; or (ii) furnish such other form of security as the Government Authority requires.
- (d) If a Party (the "DEFULTING PARTY") fails to make a deposit or furnish security it is required to make or furnish under Section 14.1(c) within ten (10) days of the Defaulting Party's receipt of notification from the Government Authority that such deposit or security is required, the other applicable Party (the "NON-DEFULTING PARTY") shall have the right to make such deposit or furnish such security. In such event, the Defaulting Party shall (as applicable) reimburse the amount of such deposit or the costs of such security to the Non-Defaulting Party plus interest thereon at the Prime Rate plus 2% from the date such deposit or security is made or furnished by the Non-Defaulting Party until such reimbursement is made and, in the case of security, cause the security to be returned to the Non-Defaulting Party as soon as possible and indemnify the Non-Defaulting Party for the amount and costs of any draws on the security plus interest thereon at the Prime Rate plus 2% from the date such draw is made until such indemnification is made. In addition to all other rights to enforce such reimbursement otherwise available to the Non-Defaulting Party, it shall have the right to set-off the amount of such reimbursement or indemnification (including interest) against other monies due to the Defaulting Party pursuant to this Agreement.
- (e) Should Gas Corp. fail to perform the obligations requested, ordered or directed by a Government Authority respecting Environmental Liabilities within the time specified by the Government Authority and the Government Authority declines to approve a Licence Transfer

as a result thereof, CCNGP shall be entitled to enter upon and access the Assets to perform such obligations for and on behalf of Gas Corp., without liability to Gas Corp. for trespass or otherwise and Gas Corp. shall reimburse CCNGP for all costs, charges and expenses incurred by CCNGP in the performance of such obligations, by payment thereof to CCNGP, within thirty (30) days of CCNGP's delivery to Gas Corp. of an invoice for such costs, charges and expenses together with interest thereon at the Prime Rate plus 2% from the date such costs, charges or expenses are paid by CCNGP until such reimbursement is made.

(f) If a Permit in respect of Assets which is currently in the name of CCNGP or one of its Affiliates because it is the operator is transferred to Gas Corp. and a Third Party becomes the operator of the relevant Assets, the transferee will promptly do all commercially reasonable acts to transfer such Permit to such Third Party.

ARTICLE 15 GENERAL

15.1 DISPUTE RESOLUTION

The Parties will attempt to resolve any dispute arising hereunder through consultation and negotiation in good faith. If those attempts fail, and the Parties agree to refer the dispute to binding arbitration for final resolution or if a provision of this Agreement provides that a dispute will be resolved by binding arbitration, the arbitration will be conducted under the National Arbitration Rules of The ADR Institute of Canada Inc.

15.2 COSTS AND EXPENSES

Except as specifically provided herein, all legal and other costs and expenses in connection with this Agreement and the Transaction shall be paid by the Party which incurred the same.

15.3 FURTHER ASSURANCES

From time to time, as and when reasonably requested by any Party, the other Parties shall execute and deliver or cause to be executed and delivered all such documents and instruments and shall take or cause to be taken all such further or other actions to implement or give effect to the Transaction, provided such documents, instruments or actions are consistent with the provisions of this Agreement and accepted industry practices. All such further documents, instruments or actions shall be delivered or taken at no additional consideration other than reimbursement of any expenses reasonably incurred by the Party providing such further documents or instruments or performing such further acts, by the Party at whose request such documents or instruments were delivered or acts performed.

15.4 NO MERGER

There shall not be any merger of any of the covenants, representations, warranties and indemnities contained in this Agreement in any of the Specific Conveyances or any other document or instruments delivered pursuant hereto, at or after Closing, notwithstanding any rule of law, equity or statute to the contrary and such rules are hereby waived. Each Party will have full right of substitution and subrogation in and to all covenants and warranties by Third Parties previously given or made in respect of the Assets or any part thereof to the extent the provisions of the contracts or other arrangements with the Third Parties so permit.

15.5 ENTIRE AGREEMENT

The provisions contained in any and all documents and agreements collateral hereto (including Specific Conveyances) shall at all times be read subject to the provisions of this Agreement and, in the event of conflict, the provisions of this Agreement shall prevail. This Agreement supersedes all other agreements, documents, writings and verbal understandings among the Parties relating to the subject matter hereof, other than the Confidentiality Agreement and the Title and Operating Documents, and other than the Confidentiality Agreement and the Title and Operating Documents, expresses the entire agreement of the Parties with respect to the subject matter hereof. In the event of a conflict between the terms of this Agreement and the terms of the Confidentiality Agreement or the Title and Operating Documents, the terms of this Agreement shall govern.

15.6 GOVERNING LAW

This Agreement shall, in all respects, be subject to, interpreted, construed and enforced in accordance with and under the laws of the Province of Alberta and the laws of Canada applicable therein and shall, in all respects, be treated as a contract made in the Province of Alberta, provided that this does not affect the obligation of the Parties to comply with Applicable Law respecting any Assets located outside of the Province of Alberta. Except as provided in Sections 7.4, 11.4 and 15.1, the Parties irrevocably attorn and submit to the exclusive jurisdiction of the courts of the Province of Alberta and courts of appeal therefrom in respect of all matters arising out of or in connection with this Agreement.

15.7 SIGNS AND NOTIFICATIONS

Within 60 days following Closing, Gas Corp. shall remove any signage which indicates CCNGP's ownership or operation of the Assets. It shall be the responsibility of Gas Corp. to erect or install any signage required by Government Authorities indicating Gas Corp. to be the owner or operator of the Assets.

15.8 NO TRANSFER OF OPERATORSHIP

Nothing in this Agreement will be interpreted as an assignment of CCNGP's rights as operator of any of the Assets under the Title and Operating Documents or as any assurance by CCNGP that Gas Corp. will be able to serve as operator of any of the Assets at or after Closing. Notwithstanding the foregoing, CCNGP shall provide commercially reasonable cooperation as Gas Corp. may request to assist Gas Corp. in acquiring operatorship of any of the Assets for which CCNGP or any of its Affiliates is currently the operator.

15.9 INTEREST ACCRUES ON AMOUNTS OWING

Any amount owing to a Party by another Party hereunder after Closing and remaining unpaid will bear interest, compounded and computed monthly at the rate of one percent (1%) per annum above the Prime Rate, from the day that the amount was due to be paid until the day it is paid, regardless of whether the Party has given the other Party prior notice of the accrual of interest hereunder.

15.10 ASSIGNMENT

Prior to Closing, without in any manner whatsoever affecting Article 16, this Agreement may be assigned by Vendor in its sole and unfettered discretion to an Affiliate, provided that no such assignment shall effect Purchaser's rights to acquire the Assets and the Trust Units in accordance with the terms of this Agreement.

Prior to Closing, this Agreement may not be assigned by Purchaser without the prior written consent of Vendor, which consent may be unreasonably and arbitrarily withheld. This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective administrators, trustees, receivers, successors and permitted assigns. No Person other than the Parties and their successors and permitted assigns shall be entitled to any rights or benefits hereunder.

15.11 TIME OF ESSENCE

Time shall be of the essence in this Agreement.

15.12 NOTICES

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

CCNGP: CALPINE CANADA NATURAL GAS PARTNERSHIP
2900 - 240 - 4th Avenue SW
Calgary, AB T2P 4H4

Attention: Vice President and Managing Counsel

Fax: (403) 750-3300

CEHL: CALPINE ENERGY HOLDINGS LIMITED
2900 - 240 - 4th Avenue SW
Calgary, AB T2P 4H4

Attention: Vice President and Managing Counsel

Fax: (403) 750-3300

Calpine: CALPINE CORPORATION
2900 - 240 - 4th Avenue SW
Calgary, AB T2P 4H4

Attention: c/o Vice President and Managing Counsel

Fax: (403) 750-3300

Gas Corp.: PRIMEWEST GAS CORP.
4700, 150-6th Avenue S. W.
Calgary, Alberta
T2P 3Y7

Attention: Vice President, Business Development Fax: (403) 699-7411

The Trust: PRIMEWEST ENERGY TRUST
c/o PrimeWest Energy Inc.
4700, 150 - 6th Avenue S. W.
Calgary, Alberta
T2P 3Y7

Attention: Vice President, Business Development

Fax: (403) 699-7411

Any notice, communication and statement required, permitted or contemplated hereunder shall be in writing and sent by personal service or facsimile and shall be deemed received when delivery or reception of the transmission is complete except that, if such delivery or transmission is sent on a Saturday, Sunday or day when the receiving Party's office is not open for the regular conduct of business, or on or after 4:00 p.m., such notice or communication shall be deemed to be received on the next Business Day that such office is open for the regular conduct of business. A Party may from time to time change its address for service or its fax number or both by giving written notice of such change to the other Parties at its above address.

15.13 INVALIDITY OF PROVISIONS

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

15.14 WAIVER

Except as otherwise provided in this Agreement, no failure on the part of any Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy in law or in equity or by statute or otherwise conferred. Except as otherwise provided in this Agreement, no waiver of any provision of this Agreement, including, this Section 15.14, shall be effective otherwise than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized representative of the Party making such waiver.

15.15 AMENDMENT

Except as provided in Section 9.1 and Section 15.13, this Agreement shall not be varied in its terms or amended by oral agreement or otherwise other than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized representative of each Party.

15.16 AGREEMENT NOT SEVERABLE

This Agreement extends to the whole of the Assets and the Trust Units and is not severable without Purchaser's express written consent or as otherwise herein provided. Notwithstanding the foregoing, and for certainty, the Parties acknowledge and agree that if the purchase and sale of the Trust Units does not proceed to Closing, subject to the provisions of this Agreement, the Parties shall proceed with the Closing of the purchase and sale of the Assets and in such circumstances, this Agreement shall be amended accordingly.

15.17 PUBLIC ANNOUNCEMENTS

No Party will make any press release or other public announcement respecting this Agreement without the consent of the other Parties except to the extent another Party unreasonably withholds or delays consent and the Party desiring to make the press release or other public announcement is advised by its counsel that the release or announcement is required to comply with any Applicable Law or the rules of any listing authority or stock exchange with which the disclosing Party is bound to comply. A Party which proposes to make such a public disclosure shall, to the extent reasonably possible, provide the other Parties with a draft of such statement at least 5 Business Days prior to its release to enable the other Parties to review such draft and advise of any comments it may have with respect thereto. The Party proposing to make the public disclosures will not unreasonably refuse to incorporate the requested changes in the public announcement except to the extent its counsel advises that doing so will result in non-compliance with Applicable Law or the rules of the applicable listing authority or stock exchange.

15.18 COUNTERPART EXECUTION

This Agreement may be executed by facsimile and in counterpart, no one copy of which need be executed by all Parties, provided that any Party executing by facsimile shall promptly provide the other Parties with an original of its signed execution page of this Agreement. A valid and binding contract shall arise if and when counterpart execution pages (including as may be delivered by facsimile) are executed and delivered by all Parties.

15.19 PRICE SHARING

Vendor and Purchaser agree to a price sharing mechanism with respect to the sales of natural gas by Purchaser to Vendor after the Effective Date. With respect to such sales of natural gas by Purchaser, if the simple average of the actual price received for the sale of each mmbtu of natural gas by Purchaser pursuant to and in accordance with the Call on Production Agreement exceeds the prices set out herein for the applicable time period (inclusive from July 1, 2004 to and including December 31, 2006) Vendor and Purchaser shall be entitled to share 50% of all sale proceeds from the natural gas where such sale proceeds exceed the product of the specific identified prices, in \$/mmbtu at AECO, plus \$1.00/mmbtu multiplied by the number of mmbtu's of natural gas sold by Purchaser pursuant to the Call on Production Agreement. For the purposes of this Section 15.19, the natural gas sold by Purchaser for the period of July 1, 2004 to October 31, 2004 shall be deemed to be 50,000 mmbtu per day, notwithstanding that Vendor has not made an election for those months. All such amounts due and owing by Purchaser to Vendor hereunder shall be calculated by Purchaser and paid on a quarterly basis by Purchaser to Vendor within thirty (30) days of the end of the applicable quarter. The price sharing mechanism set forth herein shall have a quarterly cap of Two Million Five Hundred Thousand Dollars Canadian (\$2,500,000) and a maximum cap of Twenty Five Million Dollars Canadian (\$25,000,000) with respect to total payments required to be made by Purchaser to Vendor. For the avoidance of doubt, the deemed production and elected production in accordance with the Call on Production Agreement used in this calculation shall be net of any royalties associated with and payable on the sale of natural gas. After December 31, 2006, all proceeds of the sale of natural gas shall be solely for Purchaser's account. The dates and relevant prices are:

July 1, 2004 to Sept. 30, 2004: $\$6.84 + \$1.00 = \$7.84$

Oct. 1, 2004 to Dec. 31, 2004: $\$7.31 + \$1.00 = \$8.31$

Jan. 1, 2005 to March 31, 2005:	\$7.96 + \$1.00 - \$8.96
April 1, 2005 to June 30, 2005:	\$6.91 + \$1.00 = \$7.91
July 1, 2005 to Sept. 30, 2005:	\$6.91 + \$1.00 = \$7.91
Oct. 1, 2005 to Dec. 31, 2005:	\$7.18 + \$1.00 = \$8.18
Jan. 1, 2006 to March 31, 2006:	\$7.54 + \$1.00 = \$8.54
April 1, 2006 to June 30, 2006:	\$6.39 + \$1.00 = \$7.39
July 1, 2006 to Sept. 30, 2006:	\$6.38 + \$1.00 = \$7.38
Oct. 1, 2006 to Dec. 31, 2006:	\$6.74 + \$1.00 = \$7.74

15.20 NO LIABILITY OF UNITHOLDERS, THIRD PARTIES

The Parties acknowledge that Computershare Trust Company of Canada is entering into this agreement solely in its capacity as trustee of the Trust and the obligations of the Trust hereunder shall not be personally binding upon Computershare Trust Company of Canada or any of the unitholders of the Trust and that any recourse against the Trust, Computershare Trust Company of Canada or any unitholder of the Trust in any manner in respect of any indebtedness, obligation or liability of the Trust arising hereunder or arising in connection herewith or from the matters to which this Agreement relates, if any, including without limitation claims based on negligence or otherwise tortious behavior, shall be limited to, and satisfied only out of, the Trust Fund as defined in the Declaration of Trust dated August 2, 1996 and restated November 6, 2002, as amended from time to time.

ARTICLE 16 PARENTAL GUARANTEE

Calpine Corporation guarantees to Purchaser the indemnification obligations of Vendor pursuant to Sections 6.1, 6.6 and 6.7 hereunder (the "GUARANTEED OBLIGATIONS"). If Vendor fails to pay any amounts due under the Guaranteed Obligations, Calpine Corporation shall make payments therefor upon demand from Purchaser; provided, however, that upon such payment, Calpine Corporation shall be subrogated to the rights of Purchaser with respect to the amount paid under the Guaranteed Obligation. Except as provided in this Article 16, Calpine Corporation makes no covenants, representations or warranties, express or implied, and has no other obligations under this Agreement.

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

CALPINE CANADA NATURAL GAS
PARTNERSHIP, BY ITS MANAGING PARTNER,
CALPINE CANADA RESOURCES COMPANY

CALPINE CORPORATION

Per: /s/ Dale Mennis

Per: /s/ Bill Berilgen

Name:
Title:

Name:
Title:

Per: /s/ John Nearing

Name:
Title:

PRIMEWEST GAS CORP.

CALPINE ENERGY HOLDINGS LIMITED

Per: /s/ Ron Ambrozy

Per: /s/ John Nearing

Name:
Title:

Name:
Title:

Per: /s/ Craig Blackwood

Name:

Title:

**PRIMEWEST ENERGY TRUST,
BY ITS TRUSTEE,
COMPUTERSHARE TRUST COMPANY OF CANADA**

Per: /s/ Jacqueline M. Spink
Name: JACQUELINE M. SPINK, BSc LLB
Title: PROFESSIONAL, CORPORATE TRUST

**W. ANNE DEWAELLE
MANAGER, CORPORATE TRUST**

THIS IS THE EXECUTION PAGE TO THE ASSET AND TRUST UNIT PURCHASE AND SALE AGREEMENT MADE AS OF THE 1ST DAY OF JULY, 2004 BETWEEN CALPINE CANADA NATURAL GAS PARTNERSHIP, CALPINE ENERGY HOLDINGS LIMITED AND CALPINE CORPORATION AS VENDORS AND PRIMEWEST ENERGY GAS CORP. AND PRIMEWEST ENERGY TRUST, AS PURCHASER



NEWS RELEASE

CONTACTS: (408) 995-5115

Media Relations: Katherine Potter, Ext. 1168
 Investor Relations: Rick Barraza, Ext. 1125

Calpine Completes \$223 Million Sale of Rocky Mountain Gas Reserves

(SAN JOSE, Calif.) /PR Newswire — First Call/ Sept. 2, 2004 — Calpine Corporation [NYSE:CPN] has completed the sale of its natural gas reserves in the Colorado Piceance Basin and New Mexico San Juan Basin for approximately \$223 million. As previously announced, two U.S. gas companies acquired these assets for approximately \$140 million and approximately \$83 million, respectively, less adjustments to reflect a July 1, 2004 effective date.

Together, these assets represent approximately 120 billion cubic feet equivalent of proved gas reserves, producing approximately 16.3 million net cubic feet equivalent per day of gas. Net proceeds from these sales will be used to reduce the amount outstanding under Calpine's existing \$500 million first lien indebtedness. In conjunction with these sales, Calpine anticipates recognizing a pre-tax gain of approximately \$100 million.

Calpine Corporation, celebrating its 20th year in power, is a North American power company dedicated to providing electric power to customers from clean, efficient, natural gas-fired and geothermal power plants. The company generates power at plants it owns or leases in 21 states in the United States, three provinces in Canada and in the United Kingdom. The company is listed on the S&P 500 and was named *FORTUNE*'s 2004 Most Admired Energy Company. The company was founded in 1984 and is publicly traded on the New York Stock Exchange under the symbol CPN. For more information, visit www.calpine.com.

This news release discusses certain matters that may be considered "forward-looking" statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, including statements regarding the intent, belief or current expectations of Calpine Corporation ("the Company") and its management. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve a number of risks and uncertainties that could materially affect actual results such as, but not limited to, (i) the timing and extent of changes in commodity prices for energy, particularly natural gas and electricity; (ii) other risks identified from time-to-time in the Company's reports and registration statements filed with the SEC, including the risk factors identified in its Annual Report on Form 10-K for the year ended December 31, 2003 and in its Quarterly Report on Form 10-Q for the quarter ended June 30, 2004, which can also be found on the Company's website at www.calpine.com. All information set forth in this news release is as of today's date, and the Company undertakes no duty to update this information.

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NEWS RELEASE

CONTACTS: (408) 995-5115

Media Relations: Katherine Potter, Ext. 1168
 Investor Relations: Karen Bunton, Ext. 1121

Calpine Completes Canadian Gas Reserves Sale — Raises \$625 Million

(SAN JOSE, Calif.) /PR Newswire — First Call/ Sept. 2, 2004 — Calpine Corporation [NYSE:CPN] has completed the sale of all of its Canadian natural gas reserves and petroleum assets to PrimeWest Energy Trust and affiliates (PrimeWest) for a total purchase price of Cdn\$825 million, or approximately US\$625 million, less adjustments to reflect a July 1, 2004, effective date. The U.S. dollars purchase price takes into account a foreign exchange hedge established in connection with this transaction. Together with its recently completed Rocky Mountain natural gas sale, Calpine has raised nearly US\$850 million.

These Canadian assets currently represent approximately 221 billion cubic feet equivalent (bcfe) of proved reserves, producing approximately 61 million cubic feet equivalent of net gas per day (mmcfd). Also included in this sale is Calpine's 25 percent interest in approximately 80 bcfe of proved reserves (net of royalties) and 32 net mmcfd of production owned by the Calpine Natural Gas Trust (CNGT). As a result of this sale, Calpine anticipates recognizing a pre-tax gain in excess of \$100 million on its Canadian natural gas reserves and petroleum assets and its interest in CNGT. With this sale, Calpine no longer has an ownership interest in CNGT.

Calpine Corporation, celebrating its 20th year in power, is a North American power company dedicated to providing electric power to customers from clean, efficient, natural gas-fired and geothermal power plants. The company generates power at plants it owns or leases in 21 states in the United States, three provinces in Canada and in the United Kingdom. The company is listed on the S&P 500 and was named *FORTUNE*'s 2004 Most Admired Energy Company. The company was founded in 1984 and is publicly traded on the New York Stock Exchange under the symbol CPN. For more information, visit www.calpine.com.

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