

## AGENCY AGREEMENT

November 18, 2021

Southern Energy Corp.  
Suite 2400, 333 – 7<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 2Z1

**Attention: Mr. Ian Atkinson**  
**President and Chief Executive Officer**

Dear Sir:

**Re: Short Form Prospectus Offering of Common Shares**

Eight Capital, as lead agent (the "**Lead Agent**"), together with Haywood Securities Inc., Canaccord Genuity Corp., INFOR Financial Inc. and Paradigm Capital Inc. (collectively, the "**Agents**" and each, an "**Agent**"), understand that Southern Energy Corp. (the "**Corporation**") proposes to issue and sell by way of a short form prospectus offering, and the Agents hereby agree to offer for sale, up to 165,000,000 common shares (the "**Common Shares**"), on a "best efforts" marketed basis, at a price of \$0.05 per Common Share (the "**Offering Price**") for aggregate gross proceeds of up to \$8,250,000.00 (the "**Offering**").

Based upon the foregoing and subject to the terms and conditions set forth herein, the Agents propose to offer the Common Shares for sale, as agents of the Corporation, and the Corporation appoints the Agents as the sole and exclusive agents of the Corporation to offer the Common Shares for sale and to use their best efforts to secure subscriptions therefor. It is understood and agreed by the Corporation and the Agents that the Agents shall act as agents only and are under no obligation to purchase any of the Common Shares.

To give effect to the foregoing, the Agents understand that the Corporation has filed the Preliminary Prospectus (as defined herein) and will prepare and file, in accordance with the terms hereof, the Prospectus (as defined herein) and all necessary documents with the Securities Commissions (as defined herein) in each of the Selling Jurisdictions (as defined herein) in Canada in order to qualify for distribution to the public the Common Shares in each of the Selling Jurisdictions in Canada.

The Agents and the Corporation acknowledge that, notwithstanding the foregoing, the Agents, acting through their United States broker-dealer affiliates, may offer and sell the Common Shares in the United States only in transactions in accordance with Schedule "A" to this Agreement, which forms part of this Agreement. The Agents anticipate the distribution of Common Shares in the United States on a private placement basis to "qualified institutional buyers" ("**Qualified Institutional Buyers**") under Rule 506(b) of Regulation D under the U.S. Securities Act.

The Agents shall have the option (the "**Agents' Option**") to offer for sale up to an additional 24,750,000 Common Shares (the "**Agents' Option Shares**", and together with the Common Shares, the "**Offered Shares**") at the Offering Price for the purpose of covering over-allotments, if any, and for market stabilization purposes. The Agents' Option is exercisable, in whole or in part, at any time up to 30 days following the date of the closing of the Offering (the "**Closing Date**").

The Corporation intends to use the net proceeds of the Offering to fund the drilling and completion of up to three horizontal wells in area of Gwinville, Mississippi. However, there may be circumstances where a

reallocation of funds may be advisable for reasons that management believes are in the best interests of the Corporation.

In connection with the offering and sale of the Offered Shares, the Agents shall be entitled to retain as sub-agents other registered securities dealers and may receive offers for Offered Shares from purchasers from other registered dealers. The fee payable to any such sub-agent shall be for the account of the Agents.

In consideration for the services rendered hereunder, the Agents will receive a commission fee (the "**Agents' Fee**") equal to 6% of the aggregate gross proceeds from the sale of the Offered Shares, payable on the Closing Date in cash. The Agents will also receive reimbursement for their reasonable costs and expenses in accordance with Section 10 hereof payable out of the proceeds of the Offering. For greater certainty, the Agents' Fee payable to the Agents in connection herewith will not be subject to the Goods and Services Tax provided for in the *Excise Tax Act* (Canada) and taxable supplies provided will be incidental to the exempt financial services provided.

The Lead Agent will also be entitled to a corporate finance fee for its advisory services provided to the Corporation in connection with the Offering and, as such, the Corporation shall pay to the Lead Agent the amount of US\$100,000, payable in cash on the Closing Date.

The parties acknowledge that the Offered Shares have not been, and will not be, registered under the U.S. Securities Act or the securities laws of any state of the United States, and may only be offered and sold in the United States or to, or for the benefit or account of persons in the United States pursuant to exemptions from the registration requirements of the U.S. Securities Act and the applicable laws of any state of the United States.

The following are the terms and conditions of the agreement between the Corporation and the Agents:

## **1. Definitions and Interpretation**

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

"**ABCA**" means the *Business Corporations Act* (Alberta), as amended, including the regulations promulgated thereunder.

"**Agents' counsel**" means Dentons Canada LLP.

"**Agents' Expenses**" has the meaning ascribed thereto in Section 10.

"**Agents' Fee**" has the meaning ascribed thereto on the second page of this Agreement.

"**Agreement**" means this agency agreement as it may be amended from time to time and not any particular section or portion except as may be specified, and words such as "**hereto**", "**herein**" and "**hereby**" refer to this Agreement as the context requires.

"**Alternative Transaction**" means the issuance of securities of the Corporation in excess of 5% (on an as-converted basis, if applicable) of the total number of Common Shares issued and outstanding as at the date hereof, or the completion of a business transaction involving a change in control of the Corporation or any Southern Subsidiary, including a merger, amalgamation, arrangement take-over bid, insider bid, reorganization, joint venture, sale of all or substantially all assets, exchange of assets or any similar transaction, excluding the issuance of securities pursuant to the exercise of convertible securities of the

Corporation outstanding as at the date hereof, and excluding any transaction in which the Lead Agent is retained as agent or advisor.

**"Applicable Securities Laws"** means, unless the context otherwise requires, all applicable securities laws in each of the Selling Jurisdictions and the applicable securities laws of all other jurisdictions other than the Selling Jurisdictions in which the Offered Shares are offered for sale, as applicable, and the respective regulations and rules made thereunder, together with applicable published fee schedules, prescribed forms, policy statements, national or multilateral instruments, orders, blanket rulings and other regulatory instruments of the securities regulatory authorities in such jurisdictions, and **"Canadian Securities Laws"** means the Applicable Securities Laws in each of the Selling Jurisdictions.

**"ASC"** means the Alberta Securities Commission.

**"Business Day"** means a day other than a Saturday, Sunday or any other day on which the principal chartered banks located in the City of Calgary, Alberta, are not open for business.

**"Closing Date"** means November 24, 2021, or such other date as agreed to by the Corporation and the Agents.

**"Closing Time"** means 7:00 a.m. (Calgary time) on the Closing Date or such other time as agreed to by the Corporation and the Agents.

**"Common Shares"** means the common shares in the capital of the Corporation, as presently constituted.

**"Corporation Financial Statements"** means (a) the unaudited consolidated annual financial statements of the Corporation as at and for the years ended December 31, 2020 and 2019, together with the related notes thereto and the auditors' report thereon; and (b) the condensed consolidated interim financial statements of the Corporation as at and for the three and six month periods ended June 30, 2021 and 2020.

**"Corporation's auditors"** means Deloitte LLP.

**"Corporation's counsel"** means Stikeman Elliott LLP.

**"Disclosure Record"** means all information filed by or on behalf of the Corporation with the Securities Commissions since January 1, 2021 and accessible on SEDAR, including without limitation, the Documents, the Preliminary Prospectus, the Prospectus, any Supplementary Material and any information filed with any Securities Commission in compliance, or intended compliance, with any Canadian Securities Laws.

**"distribution"** means "distribution" or "distribution to the public", as the case may be, as defined under Canadian Securities Laws and "distribute" has a corresponding meaning.

**"Documents"** means all financial statements, management's discussion and analysis, management information circulars, annual information forms, material change reports, business acquisition reports, Marketing Materials or other documents filed by the Corporation with the Securities Commissions, whether before or after the date of this Agreement, that are required by Canadian Securities Laws to be incorporated by reference into the Prospectus.

**"Due Diligence Responses"** means the written and verbal responses (to the extent such verbal responses are subsequently reduced to writing in a form acceptable to the Corporation, acting reasonably) provided

by the Corporation together with all materials provided to the Agents during any due diligence session held in connection with the Offering.

**"Engagement Letter"** means the engagement letter dated October 19, 2021 between the Lead Agent and the Corporation.

**"Exchange"** means the TSX Venture Exchange Inc.

**"Final Passport System Decision Document"** means a receipt for the Prospectus issued in accordance with the Passport System.

**"Final U.S. Wrap"** means the final private placement memorandum, containing the Prospectus, prepared for use in connection with the offer and sale of the Offered Shares to Qualified Institutional Buyers that are, or are acting for the account or benefit of, persons in the United States.

**"IFRS"** means International Financial Reporting Standards, as adopted by the International Accounting Standards Board, as amended from time to time.

**"Marketing Materials"** has the meaning ascribed to such term in NI 41-101, including any template version, revised template version or limited use version thereof.

**"material adverse effect"** means, with respect to the Corporation, any matter or action that has an effect or change that is, or would reasonably be expected to be, material and adverse to the business, operations, assets, capitalization, condition (financial or otherwise), liabilities (contingent or otherwise), or cash flow of the Corporation and the Southern Subsidiaries (taken as a whole).

**"material change"**, **"material fact"** and **"misrepresentation"** shall have the meanings ascribed thereto under the Applicable Securities Laws.

**"NI 41-101"** means National Instrument 41-101 – *General Prospectus Requirements*.

**"NI 44-101"** means National Instrument 44-101 – *Short Form Prospectus Distributions*.

**"NI 45-102"** means National Instrument 45-102 – *Resale of Securities*.

**"NI 45-106"** means National Instrument 45-106 – *Prospectus Exemptions*.

**"NP 11-202"** means National Policy 11-202 – *Process for Prospectus Reviews in Multiple Jurisdictions*.

**"NSAI"** means Netherland, Sewell & Associates, Inc., independent petroleum consultants of Texas, United States.

**"Passport System"** means the system and procedures for prospectus filing and review under Multilateral Instrument 11-102, entitled "Passport System" and NP 11-202.

**"Preliminary Passport System Decision Document"** means a receipt for the Preliminary Prospectus issued in accordance with the Passport System.

**"Preliminary Prospectus"** means the preliminary short form prospectus of the Corporation dated October 28, 2021 and any amendments thereto, in respect of the distribution of the Offered Shares, including all documents incorporated by reference therein, including the Documents.

**"Preliminary U.S. Wrap"** means the preliminary private placement memorandum, containing the Preliminary Prospectus, prepared for use in connection with the offer and sale of the Offered Shares to Qualified Institutional Buyers that are, or are acting for the account or benefit of, persons in the United States.

**"Prospectus"** means the (final) short form prospectus of the Corporation, and any amendments thereto, in respect of the distribution of the Offered Shares, including all documents incorporated by reference therein, including the Documents.

**"SEDAR"** means the System for Electronic Document Analysis and Retrieval at [www.sedar.com](http://www.sedar.com).

**"Securities Commissions"** means, collectively, the securities commissions or similar regulatory authorities in the Selling Jurisdictions, and **"Securities Commission"** means any of them.

**"Selling Dealer Group"** means the dealers and brokers other than the Agents who participate in the offer and sale of the Offered Shares pursuant to this Agreement.

**"Selling Jurisdictions"** means each of the provinces of Canada, except Québec.

**"Southern Reserves Report"** means the report prepared by NSAI, evaluating the crude oil, natural gas and natural gas liquids reserves of the Corporation as at April 1, 2021, with a preparation date of June 25, 2021.

**"Southern Subsidiaries"** means, collectively, Southern Energy Corporation, a Delaware corporation, Southern Energy Operating, LLC, a Delaware limited liability company, Southern Energy BWB, LLC, a Delaware limited liability company, Southern Energy CMS, LLC, a Delaware limited liability company, Southern Energy LA, LLC, a Delaware limited liability company, and Southern Energy SO, LLC, a Delaware limited liability company.

**"Standard Term Sheets"** has the meaning ascribed to such term in NI 41-101.

**"subsidiary"** has the meaning ascribed thereto in the ABCA.

**"Supplementary Material"** means, collectively, any amendment to the Preliminary Prospectus or Prospectus, any amended or supplemental Preliminary Prospectus or Prospectus or any material, information, evidence, return, report, application, statement or document ancillary to the Preliminary Prospectus or the Prospectus, which may be filed by or on behalf of the Corporation under Canadian Securities Laws.

**"Swaps"** means any transaction which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, forward sale, exchange traded futures contract or any other similar transaction (including any option with respect to any of these transactions or any combination of these transactions).

**"Transfer Agent"** means Odyssey Trust Company in its capacity as transfer agent and registrar of the Corporation at its principal offices in Calgary, Alberta.

**"United States"** and **"U.S."** mean the United States of America, its territories and possessions, any state of the United States and the District of Columbia.

**"U.S. Affiliate"** means the U.S. registered broker-dealer affiliate of an Agent.

**"U.S. GAAP"** means the United States generally accepted accounting principles.

**"U.S. Purchaser Letter"** means a purchaser letter in form and substance substantially similar to Appendix I to the Final U.S. Wrap.

**"U.S. Securities Act"** means the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

**"U.S. Wrap"** means, collectively, the Preliminary U.S. Wrap and the Final U.S. Wrap.

In this Agreement, **"to the best of the Corporation's knowledge, information and belief"**, or equivalent statement, means a statement as to the knowledge of the President and Chief Executive Officer, Vice President, Finance and Chief Financial Officer, Vice President, Engineering and Vice President, Land of the Corporation about the facts or circumstances to which such phrase related, after having made due and applicable inquiries and investigations in connection with such facts and circumstances that would ordinarily be made by senior officers of oil and gas exploration and production companies in the discharge of their duties for the purpose of this Offering. In this Agreement, **"to the knowledge of the Corporation"**, **"to the Corporation's knowledge"** or equivalent statement, means a statement as to the actual knowledge, without further inquiry or investigation, of the President and Chief Executive Officer, Vice President, Finance and Chief Financial Officer, Vice President, Engineering and Vice President, Land of the Corporation about the facts or circumstances to which such phrase related.

## 2. Qualification for Sale

- (a) The Corporation represents and warrants to the Agents that it is eligible to use the short form prospectus offering qualification system described in NI 44-101 for the distribution of the Offered Shares, and that it has filed the Preliminary Prospectus relating to the distribution of the Offered Shares with the Securities Commissions and the Preliminary Passport System Decision Document was issued on October 28, 2021 in respect of the Preliminary Prospectus by the Alberta Securities Commission, evidencing that a receipt for the Preliminary Prospectus has been issued in Alberta and Ontario and has been deemed to have been issued in each of the Selling Jurisdictions other than Alberta and Ontario.
- (b) The Corporation shall elect and comply in all material respects with the Passport System and shall:
  - (i) forthwith after any comments with respect to the Preliminary Prospectus have been received from the Securities Commissions and in any event not later than 5:00 p.m. (Calgary time) on November 18, 2021 (or such later date as may be agreed to in writing by the Corporation and the Agents), have prepared and filed the Prospectus and other documents required under Canadian Securities Laws with the Securities Commissions; and

- (ii) have obtained from the ASC a Final Passport System Decision Document not later than November 18, 2021 (or such later date as may be agreed to in writing by the Corporation and the Agents), evidencing that a receipt for the Prospectus has been issued in Alberta and Ontario and has been deemed to have been issued in each of the Selling Jurisdictions other than Alberta and Ontario or otherwise obtained a receipt for the Prospectus from each of the Securities Commissions, and otherwise have fulfilled all legal requirements to enable the Offered Shares to be offered and sold to the public in each of the Selling Jurisdictions through the Agents or any other investment dealer or broker registered in the applicable Selling Jurisdiction; and
  - (iii) until the completion of the distribution of the Offered Shares, promptly take all additional steps and proceedings that from time to time may be required under Canadian Securities Laws to continue to qualify the Offered Shares for distribution or, in the event that the Offered Shares have, for any reason, ceased to so qualify, to again qualify the Offered Shares for distribution in each Selling Jurisdiction.
- (c) Prior to the filing of the Prospectus and, prior to the filing with any Securities Commissions of any Supplementary Material or any documents incorporated by reference therein after the date hereof, the Corporation shall have allowed the Agents and the Agents' counsel to participate fully in the preparation of, and, acting reasonably, to approve the form of, such documents and to have reviewed any documents incorporated by reference therein (including, without limitation, the U.S. Wrap).
- (d) During the period from the date hereof until completion of the distribution of the Offered Shares, the Corporation shall allow the Agents to conduct all due diligence which they may reasonably require in order to fulfill their obligations as agents and in order to enable the Agents responsibly to execute the certificates required to be executed by them in the Prospectus or in any Supplementary Material. Without limiting the generality of the foregoing, the Corporation shall make available its senior management, and shall use reasonable commercial efforts to have its auditors, independent engineers and legal counsel, and the auditors of any other financial statements included in or incorporated by reference in the Prospectus, to answer any questions which the Agents may have and to participate in one or more due diligence sessions to be held prior to the Closing Time (collectively, the "**Due Diligence Session**"). The Agents shall distribute a list of written questions to be answered in advance of each such Due Diligence Session and the Corporation shall provide written responses to such questions in advance of the Due Diligence Session and shall use commercially reasonable efforts to have the above-mentioned auditors, engineers and legal counsel provide written responses to such questions in advance of the Due Diligence Session.
- (e) The Corporation shall take or cause to be taken all such other steps and proceedings, including fulfilling all legal, regulatory and other requirements, as required under the Applicable Securities Laws, to qualify the Offered Shares for distribution to the public in the Selling Jurisdictions and, to the extent within the control of the Corporation, to offer the Offered Shares for sale internationally as permitted by applicable laws, including the timely filing of all post-closing notices and filings and payment of applicable fees required under Applicable Securities Laws.

- (f) The Corporation will ensure that management of the Corporation will make themselves available to assist in the marketing of the Offered Shares in accordance with, and subject to the restrictions contained in, Applicable Securities Laws, at such times and in such manner as the Agents may reasonably request, including, without limitation, to participate in meetings with institutional investors as reasonably requested by the Agents.
- (g) During the period from the date hereof until completion of the distribution of the Offered Shares:
  - (i) the Corporation, acting reasonably, shall prepare, in consultation with the Lead Agent, and approve in writing, prior to such time Marketing Materials are provided to potential investors in Offered Shares, a template version of any Marketing Materials reasonably requested by the Agents to be provided to any such potential investor, such Marketing Materials to comply with Canadian Securities Laws and to be acceptable in form and substance to the Agents and their counsel, acting reasonably. The Lead Agent shall, on behalf of the Agents, approve a template version of any such Marketing Materials in writing prior to such time such Marketing Materials are provided to potential investors in Offered Shares. The Corporation shall file a template version of such Marketing Materials with the Securities Commissions as soon as reasonably practicable after such Marketing Materials are so approved in writing by the Corporation and the Lead Agent, on behalf of the Agent, and in any event on or before the day the Marketing Materials are first provided to any potential investor of Offered Shares, and such filing shall constitute the Agents' authority to use such Marketing Materials in connection with the Offering. The Corporation shall cause to be provided to the Agents such number of commercial copies of any such Marketing Materials as the Agents may reasonably request, at the time and at those delivery points as the Agents may reasonably request. Any comparables shall be redacted from the template version in accordance with NI 44-101 prior to filing such template version with the Securities Commissions and a complete template version containing such comparables and any disclosure relating to the comparables, if any, shall be delivered to the Securities Commissions by the Corporation. The Corporation shall prepare and file with the Securities Commissions a revised template version of any Marketing Materials provided to potential investors of Offered Shares where required under Canadian Securities Laws;
  - (ii) the Corporation and the Agents, on a several basis, covenant and agree:
    - (A) not to provide any potential investor in Offered Shares in Canada with any Marketing Materials unless a template version of such Marketing Materials has been: (i) approved in writing by the Corporation and the Lead Agent; and (ii) filed by the Corporation in accordance with this Subsection 2(g) with the Securities Commissions, on or before the day such Marketing Materials are first provided to any potential investor of Offered Shares;
    - (B) not to provide any potential investor in Offered Shares in Canada with any materials or information in relation to the distribution of the Offered Shares or the Corporation other than: (i) such Marketing Materials that have been approved and filed in accordance with this Subsection 2(g); (ii) the

Preliminary Prospectus and the Prospectus; and (iii) any Standard Term Sheets approved in writing by the Corporation and the Lead Agent; and

- (C) that any Marketing Materials approved and filed in accordance with this Subsection 2(g), and any Standard Term Sheets approved in writing by the Corporation and the Lead Agent, shall only be provided to potential investors of Offered Shares in the Selling Jurisdictions, and such other international jurisdictions as may be agreed to by the Corporation and the Lead Agent.

### **3. Delivery of Prospectus and Related Documents**

The Corporation shall deliver or cause to be delivered without charge to the Agents and the Agents' counsel the documents set out below at the respective times indicated:

- (a) prior to or contemporaneously, as nearly as practicable, with the filing with the Securities Commissions of each of the Preliminary Prospectus and the Prospectus:
  - (i) copies of the Preliminary Prospectus and the Prospectus, respectively, signed as required by Canadian Securities Laws; and
  - (ii) copies of any documents incorporated by reference therein, which have not previously been delivered to the Agents or are otherwise available on SEDAR;
- (b) as soon as they are available, copies of any Supplementary Material signed as required by Canadian Securities Laws and including, in each case, copies of any documents incorporated by reference therein, which have not been previously delivered to the Agents;
- (c) as soon as they are available, copies of the Final U.S. Wrap prepared as contemplated herein; and
- (d) prior to the filing of the Prospectus with the Securities Commissions, a "comfort letter" from the Corporation's auditors and any other auditors who have audited any of the financial statements included in or incorporated by reference in the Prospectus, dated the date of the Prospectus, addressed to the Agents and satisfactory in form and substance to the Agents and the Agents' counsel, acting reasonably, to the effect that they have carried out certain procedures performed for the purposes of comparing certain specified financial information and percentages appearing in the Prospectus and the documents incorporated therein by reference with indicated amounts in the financial statements or accounting records of the Corporation or other applicable entity, asset or business and have found such information and percentages to be in agreement, which comfort letter shall be based on the applicable auditors' review having a cut-off date of not more than two Business Days prior to the date of the Prospectus.

Comfort letters similar to the foregoing shall be provided to the Agents with respect to any Supplementary Material and any other relevant document at the time the same is presented to the Agents for their signature or, if the Agents' signature is not required, at the time the same is filed. All such comfort letters shall be in form and substance acceptable to the Agents and the Agents' counsel, acting reasonably.

The deliveries referred to in Subsections 3(a) and (b) shall also constitute the Corporation's consent to the use by the Agents and members of the Selling Dealer Group of the Documents, the Preliminary Prospectus, the Prospectus, the U.S. Wrap and any Supplementary Material in connection with the offering and sale of the Offered Shares in the Selling Jurisdictions and internationally, as applicable.

#### **4. Commercial Copies**

- (a) The Corporation shall, as soon as reasonably practicable but in any event not later than 4:00 p.m. (local time at the place of delivery) on the Business Day following the date of the Preliminary Passport System Decision Document or the Final Passport Decision Document, as the case may be (or such other date or time as the Agents and the Corporation may agree), and no later than noon (local time) on the first Business Day following the execution of any Supplementary Material in connection with the Preliminary Prospectus or Prospectus, cause to be delivered to the Agents, without charge, commercial copies of the Preliminary Prospectus, the Prospectus, the Final U.S. Wrap or any such Supplementary Material, in such numbers and in such cities as the Agents may reasonably request by oral or written instructions to the Corporation or the printer thereof given no later than the time when the Corporation authorizes the printing of the commercial copies of such documents.
- (b) The Corporation shall cause to be provided to the Agents such number of copies of any documents incorporated by reference in the Preliminary Prospectus, the Prospectus or any Supplementary Materials as the Agents may reasonably request.

#### **5. Material Change and Certain Other Covenants**

- (a) During the period of distribution of the Offered Shares, the Corporation will promptly inform the Agents in writing of the full particulars of the occurrence or discovery of:
  - (i) any material change (actual, anticipated or threatened) in or affecting the business, operations, revenues, capital, properties, assets, liabilities (absolute, accrued, contingent or otherwise), condition (financial or otherwise) or results of operations of the Corporation;
  - (ii) any change in any material fact contained or referred to in the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any Supplementary Material; and
  - (iii) a fact or event which, in any such case, is, or may be, of such a nature as to:
    - (A) render the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any Supplementary Material untrue, false or misleading in any material respect;
    - (B) result in a misrepresentation in the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any Supplementary Material; or
    - (C) result in the Preliminary Prospectus, the Prospectus or any Supplementary Material not complying in any material respect with Canadian Securities Laws,

provided that if the Corporation is uncertain as to whether a material change, fact or event of the nature referred to in this section has occurred or been discovered, the Corporation shall promptly inform the Agents of the full particulars of the occurrence giving rise to the uncertainty and shall consult with the Agents as to whether the occurrence is of such nature prior to making any filing referred to in Subsection 5(c).

- (b) During the period of distribution of the Offered Shares, the Corporation will promptly inform the Agents in writing of the full particulars of:
  - (i) any request of any Securities Commission, the United States Securities and Exchange Commission (the "**SEC**") or similar regulatory authority for any amendment to, or to suspend or prevent the use of, the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any other part of the Disclosure Record or for any additional information of a material nature;
  - (ii) the issuance by any Securities Commission, the SEC or similar regulatory authority, the Exchange or any other competent authority of any order to cease or suspend trading of any securities of the Corporation or of the institution or threat of institution of any proceedings for that purpose; and
  - (iii) the receipt by the Corporation of any communication from any Securities Commission, the SEC or similar regulatory authority, the Exchange or any other competent authority relating to the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any part of the Disclosure Record or the distribution of the Offered Shares.
- (c) The Corporation will promptly comply to the reasonable satisfaction of the Agents and the Agents' counsel with Applicable Securities Laws with respect to any material change, fact or event of the nature referred to in Subsections 2(a) or 2(b) above and the Corporation will prepare and file promptly at the Agents' request, acting reasonably, any amendment to the Preliminary Prospectus, the Prospectus, the U.S. Wrap or Supplementary Material as may be required under Applicable Securities Laws; provided that the Corporation shall have allowed the Agents and the Agents' counsel to participate fully in the preparation of any Supplementary Material, to have reviewed any other documents incorporated by reference therein and to conduct all due diligence investigations which the Agents may reasonably require in order to fulfill their obligations as agents and in order to enable the Agents responsibly to execute the certificate required to be executed by them in, or in connection with, any Supplementary Material, such approval not to be unreasonably withheld and to be provided in a timely manner. The Corporation shall further promptly deliver to each of the Agents and the Agents' counsel a copy of each Supplementary Material as filed with the Securities Commissions and of comfort letters with respect to each such Supplementary Material substantially similar to those referred to in Section 3 above.
- (d) During the period of distribution of the Offered Shares, the Corporation will promptly provide to the Agents, for review by the Agents and the Agents' counsel, prior to filing or issuance:

- (i) any financial statement or management's discussion and analysis of the Corporation;
- (ii) any proposed document, including without limitation any amendment to a Document, or new annual information form, business acquisition report, material change report, interim report, or information circular, which may be incorporated, or deemed to be incorporated, by reference in the Prospectus;
- (iii) any press release of the Corporation; and
- (iv) any amendment to the Preliminary Prospectus, the Prospectus, the U.S. Wrap, the Marketing Materials or any Supplementary Material,

subject in all cases to the Corporation's filing timelines imposed by Applicable Securities Laws and the Corporation's obligation to make timely disclosure of material information under Applicable Securities Laws.

- (e) The Corporation shall use its reasonable commercial efforts to obtain the approval of the Exchange to the listing of the Offered Shares on the facilities of the Exchange as soon as practicable following the Closing Date, subject only to standard listing conditions.

## **6. Representations and Warranties of the Corporation**

- (a) Each delivery of the Preliminary Prospectus, the Prospectus, the U.S. Wrap and any Supplementary Material pursuant to Section 3 above shall constitute a representation and warranty to the Agents by the Corporation (and the Corporation hereby acknowledges that each of the Agents is relying on such representations and warranties in entering into this Agreement) that:
  - (i) all of the information and statements (except information and statements furnished by and relating solely to the Agents and furnished to the Corporation by the Agents expressly for inclusion in the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any Supplementary Material or such other document or material or which are modified or superseded by information or statements contained in the Preliminary Prospectus, the Prospectus, the U.S. Wrap or in any Supplementary Material) contained in the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any Supplementary Material, as applicable, including, without limitation, the documents incorporated by reference, as the case may be:
    - (A) are at the respective dates of such documents, true and correct in all material respects;
    - (B) contain no misrepresentation; and
    - (C) constitute full, true and plain disclosure of all material facts relating to the Corporation and the Offered Shares;
  - (ii) the Preliminary Prospectus, the Prospectus, or any Supplementary Material, as applicable, including, without limitation, the documents incorporated by reference,

as the case may be, comply in all material respects with Canadian Securities Laws, including without limitation NI 44-101; and

- (iii) there has been no intervening material change (actual, proposed or prospective, whether financial or otherwise), from the date of the Preliminary Prospectus, the Prospectus, the U.S. Wrap and any Supplementary Material to the respective times of delivery thereof, in the business, operations, revenues, capital, properties, assets, liabilities (absolute, accrued, contingent or otherwise), condition (financial or otherwise) or results of operations of the Corporation.
- (b) In addition to the representations and warranties contained in Subsection 6(a) hereof, the Corporation represents and warrants to the Agents, acknowledges that the subscribers for Offered Shares may rely on such representations and warranties and acknowledges that each of them is relying upon such representations and warranties in connection with the completion of the Offering, that:
- (i) the Corporation is a corporation duly continued and validly subsisting under the ABCA, and has the requisite power and authority to carry on its business as it is now being conducted and as described in the Disclosure Record;
  - (ii) each of the Southern Subsidiaries have been duly incorporated, formed or organized, as applicable, and are validly subsisting under the laws of the jurisdiction in which they were incorporated, formed or organized, as the case may be, and have the requisite power and authority to carry on their business as now being conducted and as described in the Disclosure Record;
  - (iii) the Corporation and each of the Southern Subsidiaries are duly registered to do business and are in good standing in each jurisdiction in which the character of their respective properties, owned or leased, or the nature of their activities make such registration necessary, except where the failure to be so registered or in good standing would not have a material adverse effect on the Corporation and the Southern Subsidiaries (taken as a whole);
  - (iv) other than the Southern Subsidiaries, the Corporation has no subsidiaries, is not "affiliated" with or a "holding body corporate" of any other body corporate (within the meaning of the ABCA), is not a partner of any partnerships or limited partnerships, and has no material shareholdings in any other corporation or business organization;
  - (v) the Corporation and each of the Southern Subsidiaries have conducted and are conducting and will conduct their business in compliance in all respects with all applicable laws, rules and regulations and, in particular, all applicable licensing and environmental legislation, regulations or by-laws or other lawful requirements of any governmental or regulatory bodies applicable to them of each jurisdiction in which they respectively carry on business and hold all licences, registrations and qualifications in all jurisdictions in which they respectively carry on business as now conducted which are necessary or desirable to carry on the business of the Corporation and each of the Southern Subsidiaries as now conducted and as contemplated to be conducted in the Disclosure Record (except where the failure

to so conduct its business or to hold such licences, registrations or qualifications would not, individually or in the aggregate, have a material adverse effect on the Corporation and the Southern Subsidiaries (taken as a whole) or the Corporation's and the Southern Subsidiaries' properties or assets (taken as a whole)), all such licences, registrations or qualifications are valid and existing and in good standing (except where the lack of such valid or existing license would not have any material adverse effect) and none of such licences, registrations or qualifications contain any burdensome term, provision, condition or limitation which has or is likely to have any material adverse effect on the Corporation and the Southern Subsidiaries (taken as a whole) as now conducted or as proposed to be conducted, and the Corporation is not aware of any legislation, regulation, rule or lawful requirements presently in force or proposed to be brought into force which the Corporation anticipates the Corporation or any of the Southern Subsidiaries will be unable to comply with without a material adverse effect on the Corporation and the Southern Subsidiaries (taken as a whole);

- (vi) the minute books of the Corporation and of each of the Southern Subsidiaries, contain true and correct copies of all constating documents of the Corporation and each of the Southern Subsidiaries and contain copies of all minutes of all meetings and all resolutions of the directors, committees of directors, members and shareholders of the Corporation and the Southern Subsidiaries (some of which are in draft form), and all such meetings were duly called and properly held and all consent resolutions were properly adopted;
- (vii) the books of account and other records of the Corporation and each of the Southern Subsidiaries, whether of a financial or accounting nature or otherwise, have been maintained in accordance with prudent business practices;
- (viii) the Corporation and each of the Southern Subsidiaries have duly and on a timely basis, filed all tax returns required to be filed by them, have paid all taxes due and payable by them and have paid all assessments and reassessments and all other taxes, governmental charges, penalties, interest and other fines due and payable by them and which were claimed by any governmental authority to be due and owing and adequate provision has been made for taxes payable for any completed fiscal period for which tax returns are not yet required (except where the failure to so file or pay does not have and will not have a material adverse effect on the Corporation or the Southern Subsidiaries) and there are no agreements, waivers, or other arrangements providing for an extension of time with respect to the filing of any tax return or payment of any tax, governmental charge or deficiency by the Corporation or the Southern Subsidiaries and to the best of the knowledge, information and belief of the Corporation there are no actions, suits, proceedings, investigations or claims threatened or pending against the Corporation or the Southern Subsidiaries in respect of taxes, governmental charges or assessments or any matters under discussion with any governmental authority relating to taxes, governmental charges or assessments asserted by any such authority. The Corporation and each of the Southern Subsidiaries have duly and timely withheld from any amount paid or credited by them to or for the account or benefit of any person, including any employee, officer, director, or non-resident person, the amount of all taxes and other deductions required by applicable law to be withheld

and have duly and timely remitted the withheld amount to the appropriate taxing or other authority and have duly and timely issued tax reporting slips or returns in respect of any amount so paid or credited by them as required by applicable law;

- (ix) all filings made by the Corporation and each of the Southern Subsidiaries under which the Corporation and each of the Southern Subsidiaries has received or are entitled to government incentives, have been made in accordance, in all material respects, with all applicable legislation and contain no misrepresentations of material fact or omit to state any material fact which could cause any material amount previously paid to the Corporation or any of the Southern Subsidiaries or previously accrued on the accounts thereof to be recovered or disallowed;
- (x) except to the extent that any violation or other matter referred to in this subsection does not have a material adverse effect on the business, financial condition, assets, properties, liabilities or operations of the Corporation and the Southern Subsidiaries (taken as a whole):
  - (A) neither the Corporation nor any of the Southern Subsidiaries are in violation of any applicable federal, provincial, state, municipal or local laws, regulations, orders, government decrees or ordinances with respect to environmental, health or safety matters (collectively, "**Environmental Laws**");
  - (B) the Corporation and each of the Southern Subsidiaries have operated their business at all times and have received, handled, used, stored, treated, shipped and disposed of all contaminants without violation of Environmental Laws;
  - (C) there have been no spills, releases, deposits or discharges of hazardous or toxic substances, contaminants or wastes into the earth, air or into any body of water or any municipal or other sewer or drain water systems by the Corporation or any of the Southern Subsidiaries that have not been remedied or that are not presently being remedied;
  - (D) no orders, directions or notices have been issued and remain outstanding pursuant to any Environmental Laws relating to the business or assets of the Corporation or any of the Southern Subsidiaries;
  - (E) neither the Corporation nor any of the Southern Subsidiaries have failed to report to the proper federal, provincial, state, municipal or other political subdivision, government, department, commission, board, bureau, agency or instrumentality, domestic or foreign ("**Government Authority**") the occurrence of any event which is required to be so reported by any Environmental Law; and
  - (F) the Corporation and each of the Southern Subsidiaries hold all licences, permits and approvals required under any Environmental Laws in connection with the operation of their business as presently conducted and the ownership and use of their assets, all such licences, permits and

approvals are in full force and effect, and except for (1) notifications and conditions of general application to assets of the type owned by the Corporation and each of the Southern Subsidiaries, and (2) notifications relating to reclamation obligations under the *Environmental Protection and Enhancement Act* (Alberta) or equivalent legislation in other provinces or in the States of Mississippi, Alabama or Louisiana, neither the Corporation nor any of the Southern Subsidiaries have received any notification pursuant to any Environmental Laws that any work, repairs, constructions or capital expenditures are required to be made by them as a condition of continued compliance with any Environmental Laws, or any licence, permit or approval issued pursuant thereto, or that any licence, permit or approval referred to above is about to be reviewed, made subject to limitation or conditions, revoked, withdrawn or terminated;

- (xi) any and all operations of the Corporation and each of the Southern Subsidiaries have been conducted in accordance with good Canadian oil and gas industry practices, or good oil and gas industry practices in the jurisdictions in which they operate, and in material compliance with applicable laws, rules, regulations, orders and directions of governmental and other competent authorities, except where the failure to so operate would not have a material adverse effect on the Corporation and the Southern Subsidiaries (taken as a whole);
- (xii) except for: (i) final acceptance of the listing of the Offered Shares; and (ii) the payment of fees and filing of forms with certain of the Securities Commissions following the Closing Time, no consent, approval, permit, authorization, order or filing with any court or governmental agency, the securities authorities or any other jurisdiction or agency is required by the Corporation or necessary for the execution, delivery and the performance by the Corporation of its obligations under this Agreement, other than such consents, approvals, authorizations, registrations or qualifications as may be required under Applicable Securities Laws or by the Exchange, all of which will be obtained by the Corporation prior to the Closing Time;
- (xiii) the Corporation has the necessary corporate capacity, power and authority to enter into this Agreement and to perform its obligations set out herein, and this Agreement will be, on the Closing Date, duly authorized, executed and delivered by the Corporation and this Agreement will be, on the Closing Date, a legal, valid and binding obligation of the Corporation enforceable against the Corporation in accordance with its terms, except that the validity, binding effect and enforceability of the terms of agreements and documents are subject to the qualification that such validity, binding effect and enforceability may be limited by: (i) applicable bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally; (ii) equitable remedies, including the remedies of specific performance and injunctive relief, being available only in the discretion of the applicable court; (iii) the statutory and inherent powers of a court to grant relief from forfeiture, to stay execution of proceedings before it and to stay executions on judgements; (iv) the applicable laws regarding limitations of actions; (v) enforceability of provisions which purport to sever any provision which is prohibited or unenforceable under applicable law without affecting the enforceability or

validity of the remainder of such document would be determined only in the discretion of the court; (vi) enforceability of the provisions exculpating a party from liability or duty otherwise owed by it may be limited under applicable law; and (vii) that rights to indemnity, contribution and waiver under the documents may be limited or unavailable under applicable law;

- (xiv) no action, approval, consent or vote on the part of the shareholders of the Corporation or the Southern Subsidiaries is or shall be necessary to consummate the transactions contemplated by this Agreement;
- (xv) the Corporation has full corporate capacity, power and authority to issue the Offered Shares and, at the Closing Time, the Offered Shares will be duly and validly authorized, allotted and reserved for issuance, and, upon receipt of the purchase price therefor, the Offered Shares will be duly and validly issued as fully paid and non-assessable Common Shares;
- (xvi) the Corporation is not in default under or breach of, and the execution and delivery of, and the performance of and compliance with the terms of this Agreement by the Corporation or any of the transactions contemplated thereby, does not and will not result in any breach of, or constitute a default under, and does not and will not create a state of facts which, after notice or lapse of time or both, would result in a breach, of or constitute a default under: (i) any term or provision of the articles, by-laws or constating documents of the Corporation or the Southern Subsidiaries; (ii) any resolutions of shareholders or directors (or any committee thereof) of the Corporation; (iii) any resolutions of the shareholders, directors (or any committee thereof), members or managers (or any committee thereof), as applicable, of any of the Southern Subsidiaries; (iv) any indenture, mortgage, note, contract, agreement (written or oral), instrument, lease or other document to which the Corporation or any of the Southern Subsidiaries is a party or by which any of them are bound; or (v) any law, judgment, decree, order, statute, rule or regulation applicable to the Corporation or any of the Southern Subsidiaries or any of their properties or assets, which default or breach might reasonably be expected to have a material adverse effect on the Corporation or would impair the ability of the Corporation to consummate the transactions contemplated hereby or to duly observe and perform any of its covenants or obligations contained in this Agreement;
- (xvii) the Corporation Financial Statements fairly present in accordance with IFRS, consistently applied, the financial position and condition of the Corporation at the dates thereof and the results of the operations of the Corporation for the periods then ended and reflect in accordance with IFRS, consistently applied, all material assets, liabilities or obligations (absolute, accrued, contingent or otherwise) of the Corporation as at the dates thereof;
- (xviii) subject to applicable laws, neither the Corporation nor any of the Southern Subsidiaries is currently prohibited, directly or indirectly, from paying dividends, from making distributions on their securities, or from paying any interest or repaying any of their loans, advances or other indebtedness;

- (xix) neither the Corporation nor the Southern Subsidiaries have any liabilities, obligations, indebtedness or commitments, whether accrued, absolute, contingent or otherwise, which are not disclosed or referred to in the Corporation Financial Statements, or referred to or disclosed in the Disclosure Record, other than liabilities, obligations, or indebtedness or commitments: (i) incurred in the normal course of business; or (ii) which would not have a material adverse effect on the Corporation and the Southern Subsidiaries (taken as a whole);
- (xx) there has not been any material change in the capital, assets, liabilities or obligations (absolute, accrued, contingent or otherwise) of the Corporation and the Southern Subsidiaries (taken as a whole) from the position set forth in the Disclosure Record, and there has not been any adverse material change in the business, operations, capital, properties, assets, liabilities (absolute, accrued, contingent or otherwise), condition (financial or otherwise) or results of operations of the Corporation and the Southern Subsidiaries (taken as a whole) since December 31, 2020 except as disclosed in the Disclosure Record; and since that date there have been no material facts, transactions, events or occurrences which could materially adversely affect the business, operations, capital, properties, assets, liabilities (absolute, accrued, contingent or otherwise), condition (financial or otherwise) or results of operations of the Corporation and the Southern Subsidiaries (taken as a whole) which have not been disclosed in the Disclosure Record;
- (xxi) based upon representations made by the Corporation's auditors, Deloitte LLP are independent chartered accountants with respect to the Corporation as required by Canadian Securities Laws;
- (xxii) there has not been any reportable disagreement (within the meaning of Section 4.11 of National Instrument 51-102 of the Canadian Securities Administrators) with the Corporation's auditors and the Corporation has no current intention to change auditors;
- (xxiii) the Corporation maintains a system of internal accounting controls that are designed to provide reasonable assurance that transactions are recorded as necessary to facilitate preparation of financial statements in conformity with Canadian generally accepted accounting principles and to maintain accountability for assets;
- (xxiv) the Corporation and each of the Southern Subsidiaries have their properties and assets insured against loss or damage by insurable hazards or risks on a replacement cost basis. Such insurance coverage is of a type and in an amount typical to the business in which the Corporation and each of the Southern Subsidiaries operates as conducted by a reasonably prudent person based on the advice of reputable insurance brokers consulted by such person. In the last 12 months, neither the Corporation nor any of the Southern Subsidiaries have made any material claim on any policy of insurance or been refused any insurance coverage sought or applied for. The Corporation does not have any reason to believe that it will not be able to renew the existing insurance coverage of the Corporation and the Southern Subsidiaries as and when such coverage expires or

obtain similar coverage from similar insurers as may be necessary to continue with its businesses as presently conducted at a cost that would not have a material adverse effect on the Corporation and the Southern Subsidiaries (taken as a whole);

- (xxv) neither the Corporation nor the Southern Subsidiaries are in default or breach of any real property lease, and neither the Corporation nor the Southern Subsidiaries have received any notice or other communication from the owner or manager of any real property subject to such real property lease that the Corporation or any Southern Subsidiaries are not in compliance with any such real property lease, and to the knowledge of the Corporation, no such notice or other communication is pending or has been threatened, except in each case where such default, breach or non-compliance would not have a material adverse effect on the Corporation and the Southern Subsidiaries (taken as a whole);
- (xxvi) all material bonuses, commissions, salaries and other amounts owing to employees are reflected and have been accrued in the books of account of the Corporation;
- (xxvii) other than pursuant to this Agreement, neither the Corporation nor the Southern Subsidiaries are a party to or bound by any agreement of guarantee, indemnification (other than an indemnification of directors and officers in accordance with the by-laws of the Corporation and each of the Southern Subsidiaries and applicable laws, indemnification agreements or covenants that are entered into arising in the ordinary course of business, including operating and similar agreements, indemnification and contribution provisions in agency and underwriting agreements, asset purchase and sale agreements, transfer agency agreements and credit borrowing agreements) or any other like commitment of the obligations, liabilities (contingent or otherwise) of indebtedness of any other person;
- (xxviii) the Corporation does not have any loans or other indebtedness which have been made to or from any of its shareholders, officers, directors or employees or any other person not dealing at arm's length with the Corporation that are currently outstanding;
- (xxix) other than as disclosed in the Disclosure Record, there are no actions, suits, proceedings or inquiries in existence or, to the knowledge of the Corporation, pending or threatened against or affecting the Corporation or any of the Southern Subsidiaries at law or in equity or before or by any federal, state, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality which in any way materially adversely affects, or may reasonably be expected to materially adversely affect, the business, operations, capital, properties, assets, liabilities (absolute, accrued, contingent or otherwise), condition (financial or otherwise) or results of operations of the Corporation and the Southern Subsidiaries (taken as a whole), or their properties or assets (taken as a whole) or which affects or may affect the distribution of the Offered Shares or which would impair the ability of the Corporation to consummate the transactions contemplated by this Agreement, or to duly observe and perform any of its covenants or

obligations contained in this Agreement, and the Corporation is not aware of any existing ground on which such action, suit, proceeding or inquiry might be commenced with any reasonable likelihood of success;

- (xxx) the information and statements set forth in the Disclosure Record, as such relates to the business, operations, results of operations, affairs, assets, capitalization, financial condition, rights or liabilities of the Corporation, were true, correct, and complete and did not contain any misrepresentation, as of the date of such information or statement, and the Corporation has not filed any confidential material change report still maintained on a confidential basis;
- (xxxi) the authorized capital of the Corporation consists of an unlimited number of Common Shares and an unlimited number of preferred shares, of which only 362,597,054 Common Shares and nil preferred shares are currently issued and outstanding, all of which shares are validly issued, fully paid and non-assessable;
- (xxxii) no person, firm, corporation or other entity holds any securities convertible or exchangeable into securities of the Corporation or has any agreement, warrant, option, right or privilege (whether pre-emptive or contractual) being or capable of becoming an agreement, warrant, option or right (whether or not on condition(s)) for the purchase or other acquisition of any unissued securities of the Corporation except: (i) up to 57,920,000 Common Shares issuable pursuant to 57,920,000 performance Common Share purchase warrants granted by the Corporation pursuant to its private placement which closed December 19, 2018 and exercisable at a price of \$0.10 per performance Common Share purchase warrant; (ii) up to 135.3 million Common Shares issuable pursuant to 135.3 million Common Share purchase warrants granted by the Corporation pursuant to its private placement which closed April 30, 2021 and exercisable at a price of \$0.04 per Common Share purchase warrant; (iii) up to 83,890,000 Common Shares issuable pursuant to an aggregate principal amount of \$8,389,000 debentures that are convertible into Common Shares at a conversion price of \$0.10 per Common Share; (iv) up to 30,825,000 Common Shares issuable pursuant to 30,825,000 options to purchase Common Shares granted under the Corporation's stock option plan and exercisable at an average price of \$0.09 per Common Share; and (v) up to 41,250,000 Common Shares issuable pursuant to 41,250,000 Facility warrants granted by the Corporation pursuant to its Credit Agreement which closed April 30, 2021 and exercisable at a price of \$0.05 per Facility warrant.
- (xxxiii) other than as disclosed in the Disclosure Record, none of the directors, officers or employees of the Corporation, or any person who owns, directly or indirectly, more than 10% of any class of securities of the Corporation, or any associate or affiliate of any of the foregoing, had or has any material interest, direct or indirect, in any material transaction or any proposed material transaction with the Corporation which, as the case may be, materially affects, is material to or will materially affect the Corporation;
- (xxxiv) Odyssey Trust Company, at its principal offices in the city of Calgary, Alberta has been duly appointed registrar and transfer agent of the Common Shares;

- (xxxv) Odyssey Trust Company will, on the Closing Date, be the duly appointed registrar and transfer agent of the Offered Shares;
- (xxxvi) no Securities Commission, other securities commission or similar regulatory authority, the Exchange or other exchange in Canada or the United States has issued any order which is currently outstanding, preventing or suspending trading in any securities of the Corporation, no such proceeding is, to the knowledge of the Corporation, pending, contemplated or threatened and the Corporation is not in default of any material requirement of Applicable Securities Laws;
- (xxxvii) the issued and outstanding Common Shares are listed and posted for trading on the Exchange, and the Offered Shares will be listed and posted for trading on the Exchange upon the Corporation complying with the usual conditions imposed by the Exchange with respect thereto, and the Corporation is in compliance in all material respects with the by-laws, rules and regulations of the Exchange;
- (xxxviii) as at the date hereof, the Corporation is a reporting issuer in British Columbia and Alberta, and is not currently in material default of any requirement of Canadian Securities Laws of such jurisdictions and the Corporation is not included on a list of defaulting reporting issuers maintained by any of the Securities Commissions of such jurisdictions;
- (xxxix) to the knowledge of the Corporation, no insider of the Corporation has a present intention to sell any securities of the Corporation;
- (xl) other than as provided for in this Agreement or as disclosed in the Disclosure Record, the Corporation has not incurred any obligation or liability, contingent or otherwise, for brokerage fees, finder's fees, underwriter's or agent's commission or other similar forms of compensation with respect to the transactions contemplated hereby;
- (xli) the definitive form of certificates for the Common Shares have been, and the definitive form of certificates for the Offered Shares will be, on the Closing Date, duly approved and adopted by the Corporation and comply with all legal requirements of the ABCA and the Exchange relating thereto;
- (xlii) the Corporation had made available to NSAI, prior to the issuance of the Southern Reserves Report, for the purpose of preparing the Southern Reserves Report, all information requested by NSAI, which information did not contain any misrepresentation at the time such information was provided. Except with respect to changes in commodity prices and royalties and as otherwise disclosed in the Documents, there has not occurred any material adverse change in any production, cost, reserves or other relevant information provided to NSAI since the dates that such information was so provided. The Corporation believes that the Southern Reserves Report reasonably presents the quantity and pre-tax present worth values on an aggregate basis of the oil and gas reserves attributable to the crude oil, natural gas liquids and natural gas properties evaluated in such report as at April 1, 2021 based upon information available at the time the Southern Reserves Report was prepared, and the Corporation believes that at the date of

such report it did not (and as of the date hereof, except as may be attributable to changes in commodity prices and production since the date of such report does not) materially overstate the aggregate quantity or pre-tax present worth values of such reserves or the estimated monthly production volumes therefrom;

- (xliii) the properties and assets of the Corporation and the Southern Subsidiaries are free and clear of all mortgages, pledges, liens, charges and encumbrances other than those encumbrances that are standard in the oil and gas industry, encumbrances pursuant to the Corporation's existing credit facility, or which do not and will not have a material adverse effect on the ownership or operation of such assets and properties ("**Permitted Encumbrances**") and, other than Permitted Encumbrances, neither the Corporation nor any of the Southern Subsidiaries have done any act or suffered or permitted any action to be done whereby any person has acquired or may acquire an interest in or to the material properties and assets of the Corporation or the Southern Subsidiaries (taken as a whole), nor have they done any act, omitted to do any act or permitted any act to be done that may adversely affect or defeat its title to any of their material properties or assets;
- (xliv) although it does not warrant title, the Corporation does not have reason to believe that the Corporation and each of the Southern Subsidiaries do not have title to or the right to produce and sell their petroleum, natural gas and related hydrocarbons (for the purpose of this subsection, the foregoing are referred to as the "**Interest**") and does represent and warrant that the Interest is free and clear of adverse claims created by, through or under the Corporation and the Southern Subsidiaries (taken as a whole) and except for those arising in the ordinary course of business, and that, to its knowledge, the Corporation and each of the Southern Subsidiaries hold their respective Interest under valid and subsisting leases, licenses, permits, concessions, concession agreements, contracts, subleases, reservations or other agreements except where the failure to so hold their respective Interest would not have a material adverse effect on the Corporation and the Southern Subsidiaries or their properties or assets (taken as a whole);
- (xlv) to the best of the Corporation's knowledge, information and belief, there are no defects, failures or impairments in the title of the Corporation and the Southern Subsidiaries to their respective oil and gas properties, whether or not an action, suit, proceeding or inquiry is pending or threatened and whether or not discovered by any third party, which in aggregate could have a material adverse effect on items (A), (B) and (C) set forth immediately below and the Corporation is not aware of any pending or threatened action, suit, proceeding or inquiry which, in aggregate, could have a material adverse effect on: (A) the quantity of and pre-tax present value of estimated future net revenue from the oil and natural gas reserves of the Corporation as shown in the NSAI Reserves Report; (B) the current production of the Corporation and the Southern Subsidiaries (taken as a whole); or (C) the current cash flow of the Corporation and the Southern Subsidiaries (taken as a whole);
- (xlvii) there are no transportation, processing or marketing agreements to which the Corporation or any of the Southern Subsidiaries is a party, except for agreements

terminable by the Corporation or the Southern Subsidiaries, as applicable, without bonus, penalty or other costs on not more than 31 days' notice;

- (xlvi) the description of the wells, facilities and lands of the Corporation and the Southern Subsidiaries that has been disclosed in writing to the Agents prior to the date hereof, sets out a materially complete and accurate description of the assets of the Corporation and the Southern Subsidiaries;
- (xlvii) no royalty or joint venture audits have been demanded or are underway pursuant to any of the applicable title and operating documents in respect of any of the Corporation's or the Southern Subsidiaries' assets;
- (xlviii) neither the Corporation nor any of the Southern Subsidiaries has received any written notices pertaining to any of the Corporation's or the Southern Subsidiaries' assets in respect of, and to its knowledge, none of the assets of the Corporation or the Southern Subsidiaries, are subject to, any offset obligations (including obligations to drill wells, surrender rights or pay compensatory royalty) which have not been satisfied;
- (l) there is no order, agreement, commitment or understanding, written or oral, binding upon the Corporation, the Southern Subsidiaries or upon any director, officer or employee of such person, that would now or hereafter, in any way, limit the business or operations of the Corporation and any of the Southern Subsidiaries, taken as a whole, in any material respect, including any order, agreement, commitment or understanding that includes a non-competition restriction, area of mutual interest, right of first refusal, right of first offer, exclusivity or other similar provision that has or would reasonably be expected to have the effect of prohibiting, restricting or impairing the Offering or any business practices of the Corporation and any of the Southern Subsidiaries, taken as a whole, in any material respect;
- (li) neither the Corporation, nor any of the Southern Subsidiaries, has received notice of (nor is it aware of) any default in respect of any of the assets of the Corporation or the Southern Subsidiaries or under any title or operating documents or any other agreement or instrument pertaining to its oil and natural gas assets to which it is a party or by which it or any such assets are bound or subject;
- (lii) none of the wells in which the Corporation and the Southern Subsidiaries holds an interest, or proposes to hold an interest, is being produced in excess of applicable production allowables imposed by any applicable law or any governmental authority and the Corporation does not have any knowledge of any impending change in production allowables imposed by any applicable law or any governmental authority that may be applicable to any of the wells in which any of them holds an interest, other than changes of general application in the jurisdiction in which such wells are situate;
- (liii) to the best of the knowledge, information and belief of the Corporation, all wells located on any lands in which the Corporation or any of the Southern Subsidiaries has an interest or proposes to have an interest, or lands with which such lands

have been pooled or unitized, which have been abandoned have been abandoned in all material respects in accordance with the applicable laws regarding the abandonment of wells in the jurisdiction in which such wells were situate;

- (liv) the tangible depreciable property used or comprising part of the Corporation's of the Southern Subsidiaries' assets is not subject to any sale-leaseback arrangements and is not leased or rented;
- (lv) to the knowledge of the Corporation, none of its directors or officers are subject to an order or ruling of any securities regulatory authority or stock exchange prohibiting such individual from acting as a director or officer of a public company or of a company listed on a particular stock exchange;
- (lvi) except for such matters as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the business, operations, capital, properties, assets, liabilities (absolute, accrued, contingent or otherwise) or results of operations of the Corporation or any of the Southern Subsidiaries: (i) the Corporation and the Southern Subsidiaries are in compliance with the provisions of all applicable federal, provincial, state, local and foreign laws and regulations respecting employment and employment practices, terms and conditions of employment and wages and hours (collectively, "**Employment Laws**"); (ii) no collective labour dispute, grievance, arbitration or legal proceeding is ongoing or, to the knowledge of the Corporation, pending or threatened, and no individual labour dispute, grievance, arbitration or legal proceeding is ongoing or, to the knowledge of the Corporation, pending or threatened, with any employee of the Corporation or the Southern Subsidiaries and, to the knowledge of the Corporation, none has occurred during the past year; and (iii) no union has been accredited or otherwise designated to represent any employees of the Corporation or the Southern Subsidiaries and, to the knowledge of the Corporation, no accreditation request or other representation question is pending with respect to the employees of the Corporation or the Southern Subsidiaries and no collective agreement or collective bargaining agreement or modification thereof has expired or is in effect in any of the facilities of the Corporation or the Southern Subsidiaries and none is currently being negotiated by the Corporation or the Southern Subsidiaries;
- (lvii) to the extent that such laws apply, neither the Corporation nor the Southern Subsidiaries nor, to the knowledge of the Corporation, any officer, director, employee or agent of the Corporation or the Southern Subsidiaries has, directly or indirectly: (i) paid or delivered any fee, commission or other sum of money or item of property, however characterized, to any broker, finder, agent, client representative, employee, political party or campaign, government official or other Person, which any officer, director, employee or agent of any the Corporation or of the Southern Subsidiaries knew or had reason to believe, or ought to have known, was in violation of the *Corruption of Foreign Public Officials Act* (Canada), the United States Foreign Corrupt Practices Act of 1977, as amended, any applicable law implementing the provisions of the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), or the United States Uniting and Strengthening America by Providing Appropriate Tools

Required to Intercept and Obstruct Terrorism Act; or (ii) made or received a bribe, rebate, payoff, influence payment, kickback or other unlawful payment;

- (lviii) other than as disclosed in the Disclosure Record, the Corporation is not a party to any contracts of employment which may not be terminated on three months' notice or which provide for payments occurring on a change of control of the Corporation;
- (lix) other than this Agreement and the Corporation's existing credit facility as disclosed in the Disclosure Record, there are no material contracts or agreements to which the Corporation or the Southern Subsidiaries are a party or by which they are bound or which are required by the Corporation or the Southern Subsidiaries to carry on their business as now conducted by them and presently proposed to be conducted by them, and each of such contracts and agreements constitute a legally valid and binding agreement of the Corporation or the Southern Subsidiaries enforceable in accordance with their respective terms and, to the knowledge of the Corporation, no party thereto is in default thereunder, which default may have a material adverse effect on the Corporation, the Southern Subsidiaries or their properties and assets (taken as a whole). For the purposes of this subsection, any contract or agreement pursuant to which the Corporation or the Southern Subsidiaries will, or may reasonably be expected to, result in a requirement to expend more than an aggregate of \$500,000 or receive or be entitled to receive revenue of more than \$500,000, in either case in the next 12 months, or is out of the ordinary course of business of the Corporation or the Southern Subsidiaries, shall be considered to be material;
- (lx) other than as disclosed in the Disclosure Record, the Corporation is not a party to any Swaps or arrangements for Swaps;
- (lxi) the Corporation is not a party to any shareholder rights plan or any other similar form of plan, agreement, contract or instrument that shall trigger any rights to acquire Common Shares or other securities of the Corporation;
- (lxii) neither the Corporation nor, to its knowledge, any of its shareholders is a party to any unanimous shareholders agreement, pooling agreement, voting trust or other similar type of arrangements in respect of outstanding securities of the Corporation; and
- (lxiii) the Due Diligence Responses, where they relate to matters of fact, will be true and correct in all material respects as at the time such responses are given and, to the knowledge of the Corporation, such responses taken as a whole shall not omit any fact or information necessary to make any of the responses not misleading in light of the circumstances in which such responses were given, and the Corporation and its directors and officers will have responded in a thorough and complete fashion. Where the Due Diligence Responses reflect the opinion or view of the Corporation or its directors or officers (including Due Diligence Responses or portions of Due Diligence Responses which are forward-looking or otherwise related to projections, forecasts or estimates of future performance or results (operating, financial or otherwise)) ("**Forward-Looking Statements**"), such opinions or views are subject to the qualifications and provisions set forth in the

Due Diligence Responses and will be honestly held and believed to be reasonable at the time they are given provided, however, it shall not constitute a breach of this paragraph solely if the actual results vary or differ from those contained in Forward-Looking Statements.

## 7. Representations, Warranties and Covenants of the Agents

Each of the Agents hereby severally represent, warrant and covenant to the Corporation, and acknowledge that the Corporation is relying upon such representations, warranties and covenants, that it:

- (a) is a valid and subsisting corporation and in good standing under the law of the jurisdiction in which it was incorporated;
- (b) has good and sufficient right and authority to enter in this Agreement and complete the transactions contemplated under this Agreement on the terms and conditions set forth herein;
- (c) is, and will remain, until the completion of the Offering, appropriately registered as a dealer registered under Applicable Securities Laws; and
- (d) will sell the Offered Shares in compliance with Applicable Securities Laws and will fulfil all legal requirements to be fulfilled by it to act as the Corporations agent in undertaking the Offering in the Selling Jurisdictions.

## 8. Indemnity

- (a) The Corporation shall indemnify and save each of the Agents and their respective affiliates, and each of their respective agents, directors, officers, partners, principals, shareholders and employees (collectively, the "**Indemnified Persons**" and individually, an "**Indemnified Person**"), harmless against and from all liabilities, claims, demands, losses (other than losses of profit), costs (including, without limitation, legal fees and disbursements on a full indemnity basis), damages and expenses to which an Indemnified Person may be subject or which an Indemnified Person may suffer or incur, whether under the provisions of any statute or otherwise, in any way caused by, or arising directly or indirectly from or in consequence of:
  - (i) any information or statement contained in the Preliminary Prospectus, the Prospectus, the U.S. Wrap, any Supplementary Material, any part of the Disclosure Record or in any other document or material filed or delivered by or on behalf of the Corporation pursuant hereto (other than any information or statement relating solely to the Agents and furnished to the Corporation by the Agents expressly for inclusion in the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any Supplementary Material or such other document or material) which is or is alleged to be untrue or any omission or alleged omission to provide any information or state any fact (other than any information or fact relating solely to the Agents) the omission of which makes or is alleged to make any such information or statement untrue or misleading in light of the circumstances in which it was made;
  - (ii) any misrepresentation or alleged misrepresentation (except a misrepresentation which is based upon information relating solely to the Agents and furnished to the

Corporation by the Agents in writing expressly for inclusion in the Preliminary Prospectus, the Prospectus, the U.S. Wrap, any Supplementary Material or in any document or other part of the Disclosure Record) contained in the Preliminary Prospectus, the Prospectus, the U.S. Wrap, any Supplementary Material or in any other document or any other part of the Disclosure Record filed by or on behalf of the Corporation;

- (iii) any prohibition or restriction of trading in the securities of the Corporation or any prohibition or restriction affecting the distribution of the Offered Shares (not based solely upon the activities or alleged activities of any of the Agents or the Selling Dealer Group, if any) imposed by any competent authority if such prohibition or restriction is based on any misrepresentation or alleged misrepresentation of a kind referred to in Subsection 8(a)(ii);
- (iv) any order made or any inquiry, investigation (whether formal or informal) or other proceeding commenced or threatened by any one or more competent authorities (not based solely upon the activities or alleged activities of any of the Agents or the Selling Dealer Group, if any) prohibiting, restricting, relating to or materially affecting the trading or distribution of the Offered Shares;
- (v) any breach of, default under or non-compliance by the Corporation with any requirements of the Applicable Securities Laws, the by-laws, rules or regulations of the Exchange or any representation, warranty, term or condition of this Agreement or in any certificate or other document delivered by or on behalf of the Corporation hereunder or pursuant hereto; or
- (vi) the exercise by any subscriber for Offered Shares of any contractual or statutory right of rescission for damages in connection with the purchase of the Offered Shares based on any misrepresentation or alleged misrepresentation of a kind referred to in Paragraph 8(a)(ii);

provided, however, no party who has engaged in any fraud, wilful misconduct or gross negligence, as determined by a court of competent jurisdiction in a final judgment that has become non-appealable, shall be entitled, to the extent that the liabilities, claims, demands, losses, costs, damages and expenses were directly caused by such activity, to indemnification from any person who has not engaged in such fraud, wilful misconduct or gross negligence (provided that for greater certainty, the foregoing shall not disentitle an Agent from claiming indemnification hereunder to the extent that the gross negligence, if any, relates to the Agents failure to conduct adequate "due diligence"), and in such case the indemnity provided for in this section shall cease to apply and the Indemnified Person shall promptly reimburse the Corporation for any funds advanced to the Indemnified Person in respect of such liabilities, claims, demands, losses, costs, damages or expenses.

- (b) If any claim contemplated by Subsection 8(a) shall be asserted against any Indemnified Person in respect of which indemnification is or might reasonably be considered to be provided for in such subsection, such Indemnified Person shall notify the Corporation as soon as possible of the nature of such claim (provided that failure to so notify the Corporation of the nature of such claim in a timely fashion shall relieve the Corporation of liability hereunder only if and to the extent that such failure materially prejudices the

Corporation's ability to defend such claim) and the Corporation shall be entitled (but not required) to assume the defense of any suit brought to enforce such claim; provided however, that the defense shall be through legal counsel selected by the Corporation and acceptable to the Indemnified Person acting reasonably and that no admission of liability or settlement may be made by the Corporation or the Indemnified Person without the prior written consent of the other, such consent not to be unreasonably withheld. The Indemnified Person shall have the right to retain its own counsel in any proceeding relating to a claim contemplated by Subsection 8(a) if:

- (i) the Indemnified Person has been advised by counsel that representation of the Indemnified Person and the Corporation by the same counsel would be inappropriate due to the actual or potential differing interests between them, including without limitation where there may be a reasonable legal defense available to the Indemnified Person which is different from or additional to a defense available to the Corporation;
- (ii) the Corporation shall not have taken the defense of such proceedings and employed counsel within 10 days after notice has been given to the Corporation of commencement of such proceedings; or
- (iii) the employment of such counsel has been authorized by the Corporation in connection with the defense of such proceedings,

and, in any such case, the Corporation shall not have the right to assume the defense of such proceedings on the Indemnified Person's behalf, and, in any such case, the reasonable fees and expenses of such Indemnified Person's counsel (on a solicitor and his client basis) shall be paid by the Corporation, provided that the Corporation shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate law firm (in addition to any local counsel) for all such Indemnified Persons.

- (c) The Corporation hereby waives its rights to recover contribution from the Agents with respect to any liability of the Corporation by reason of or arising out of any misrepresentation in the Preliminary Prospectus, the Prospectus, the U.S. Wrap, any Supplementary Material or any other part of the Disclosure Record; provided, however, that such waiver shall not apply in respect of liability caused or incurred by reason of any misrepresentation which is based upon information relating solely to the Agents contained in such document and furnished to the Corporation by the Agents expressly for inclusion in the Preliminary Prospectus, the Prospectus, the U.S. Wrap or any Supplementary Material.
- (d) If any legal proceedings shall be instituted against the Corporation in respect of the Preliminary Prospectus, the Prospectus, the U.S. Wrap, any Supplementary Material or any other part of the Disclosure Record or the Offered Shares or if any regulatory authority or stock exchange shall carry out an investigation of the Corporation in respect of the Preliminary Prospectus, the Prospectus, the U.S. Wrap, any Supplementary Material or any other part of the Disclosure Record or the Offered Shares and, in either case, any Indemnified Person is required to testify, or respond to procedures designed to discover

information, in connection with or by reason of the services performed by the Agents hereunder, the Indemnified Person may employ its own legal counsel and the Corporation shall pay and reimburse the Indemnified Person for the reasonable fees, charges and disbursements (on a full indemnity basis) of such legal counsel, the other expenses reasonably incurred by the Indemnified Person in connection with such proceedings or investigation and a fee at the normal per diem rate for any director, officer or employee of the Agents involved in the preparation for or attendance at such proceedings or investigation.

- (e) The rights and remedies of the Indemnified Persons set forth in Sections 8, 9 and 10 (in the case of the Agents) hereof are to the fullest extent possible in law, cumulative and not alternative and the election by any Agent or other Indemnified Person to exercise any such right or remedy shall not be, and shall not be deemed to be, a waiver of any other rights and remedies.
- (f) The Corporation hereby acknowledges that the Agents are acting as agents for the Indemnified Persons other than the Agents under this Section 8, and under Section 9 with respect to all such Indemnified Persons other than the Agents.
- (g) The Corporation waives any right it may have of first requiring an Indemnified Person to proceed against or enforce any other right, power, remedy or security or claim or to claim payment from any other person before claiming under this indemnity. It is not necessary for an Indemnified Person to incur expense or make payment before enforcing such indemnity.
- (h) If the Corporation has assumed the defense of any suit brought to enforce a claim hereunder, the Indemnified Person shall provide the Corporation copies of all documents and information in its possession pertaining to the claim, take all reasonable actions necessary to preserve its rights to object to or defend against the claim, consult and reasonably cooperate with the Corporation in determining whether the claim and any legal proceeding resulting therefrom should be resisted, compromised or settled and reasonably cooperate and assist in any negotiations to compromise or settle, or in any defense of, a claim undertaken by the Corporation.

## **9. Contribution**

In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in this Agreement is due in accordance with its terms but is, for any reason, held by a court to be unavailable from the Corporation on grounds of policy or otherwise, the Corporation and the party or parties seeking indemnification shall contribute to the aggregate liabilities, claims, demands, losses (other than losses of profit), costs (including, without limitation, legal fees and disbursements on a full indemnity basis), damages and expenses (or claims, actions, suits or proceedings in respect thereof) to which they may be subject or which they may suffer or incur:

- (a) in such proportion as is appropriate to reflect the relative benefit received by the Corporation on the one hand, and by the Agents on the other hand, from the offering of the Offered Shares; or

- (b) if the allocation provided by Subsection 9(a) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in Subsection 9(a) above but also to reflect the relative fault of the Agents on the one hand, and the Corporation, on the other hand, in connection with the statements, commissions or omissions or other matters which resulted in such liabilities, claims, demands, losses, costs, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Corporation, on the one hand, and the Agents, on the other hand, shall be deemed to be in the same proportion that the total proceeds of the Offering received by the Corporation (net of fees but before deducting expenses) bear to the fees received by the Agents. In the case of liability arising out of the Offering, the relative fault of the Corporation, on the one hand, and the Agents, on the other hand, shall be determined by reference, among other things, to whether the misrepresentation or alleged misrepresentation, order, inquiry, investigation or other matter or thing referred to in Section 8 relates to information supplied or which ought to have been supplied by, or steps or actions taken or done on behalf of or which ought to have been taken or done on behalf of the Corporation of the Agents and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such misrepresentation or alleged misrepresentation, order, inquiry, investigation or other matter or thing referred to in Section 8.

The amount paid or payable by an Indemnified Person as a result of liabilities, claims, demands, losses (other than losses of profit), costs, damages and expenses (or claims, actions, suits or proceedings in respect thereof) referred to above shall, without limitation, include any legal or other expenses reasonably incurred by the Indemnified Person in connection with investigating or defending such liabilities, claims, demands, losses, costs, damages and expenses (or claims, actions, suits or proceedings in respect thereof) whether or not resulting in any action, suit, proceeding or claim.

Each of the Corporation and the Agents agree that it would not be just and equitable if contributions pursuant to this Agreement were determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to in the immediately preceding paragraphs. The rights to contribution provided in this Section 9 shall be in addition to, and without prejudice to, any other right to contribution which the Agents or other Indemnified Persons may have.

The Corporation shall, in any event, contribute to the amount of aggregate liabilities, claims, demands, losses (other than losses of profit), costs, damages and expenses (or claims, actions, suits or proceedings in respect thereof) paid or payable by an Agent under this Section 9, that proportion of such amount which exceeds the Agents' Fee actually received by such Agent.

## **10. Expenses**

Whether or not the transactions contemplated herein shall be completed, all costs and expenses (including applicable GST and HST) of or incidental to the transactions contemplated hereby including, without limitation, those relating to the distribution of the Offered Shares, shall be borne by the Corporation including, without limitation, all costs and expenses of or incidental to the preparation, filing and reproduction (including the commercial copies thereof) of the Preliminary Prospectus, the Prospectus, the U.S. Wrap, the Marketing Materials, any Supplementary Material, and the delivery thereof to the Agents, the fees and expenses of the Corporation's counsel, the fees and expenses of agent counsel retained by the Corporation or the Corporation's counsel, the fees and expenses of the Corporation's transfer agent, any auditors, engineers and other outside consultants, all stock exchange fees, and all other costs and expenses relating to this transaction including, without limitation, the legal fees of Agents' counsel (subject

to an aggregate maximum of \$85,000.00, exclusive of taxes and disbursements) and disbursements of Agents' counsel (which disbursements may include the fees, disbursements and taxes of any local due diligence legal counsel of the Agents) together with applicable GST, as well as the out-of-pocket and travel expenses in connection with due diligence and marketing meetings for a payment to the Lead Agent in the amount of \$10,000 and all taxes incurred by the Agents or Agents' counsel, including GST (the "**Agents' Expenses**"). All fees and expenses incurred by the Agents which are reimbursable hereunder shall be payable by the Corporation immediately upon receiving an invoice therefor from the Agents.

## 11. Termination

- (a) In addition to any other rights or remedies available to the Agents, the Agents, or any of them, may, without liability, terminate their obligations hereunder, by written notice to the Corporation in the event that after the date hereof and at or prior to the Closing Time:
  - (i) the due diligence investigations performed by the Agents or their representatives reveal any information or fact, which, in the opinion of the Agents, constitutes an adverse change or effect to the business and affairs of the Corporation, or materially adversely affects the price or value of the Offered Shares, Common Shares or any other securities of the Corporation;
  - (ii) there is a material change or a change in a material fact or new material fact shall arise or there should be discovered any previously undisclosed material fact required to be disclosed in the Preliminary Prospectus or the Prospectus or any amendment(s) thereto, in each case, that has or would be expected to have, in the opinion of the Agents or any one of them, a significant adverse change or effect on the business or affairs of the Corporation or on the market price or the value of the Offered Shares, the Common Shares or any other securities of the Corporation;
  - (iii) (A) there should develop, occur or come into effect or existence any event, action, state, condition (including without limitation, terrorism or accident) or major financial occurrence of national or international consequence or a new or a change in any law or regulation which, in the sole opinion of the Agents or any one of them, seriously adversely affects or involves, or may seriously adversely affect or involve, the financial markets or the business, operations or affairs of the Corporation and the Southern Subsidiaries (taken as a whole), or the market price or value of the Offered Shares, the Common Shares or any other securities of the Corporation; (B) any inquiry, action, suit, proceeding or investigation (whether formal or informal) is commenced, announced or threatened in relation to the Corporation or any of its the officers or directors of the Corporation or any of its principal shareholders where wrong-doing is alleged or any order is made by an federal, provincial, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality including, without limitation, the Exchange or securities commissions, which involves a finding of wrong-doing; or (C) any order, action or proceeding which cease trades or otherwise operates to prevent or restrict the trading of the Offered Shares, the Common Shares or any other securities of the Corporation is made or threatened by a securities regulatory authority;

- (iv) the Corporation shall be in breach of a material term condition or covenant of the Engagement Letter or this Agreement, or any representation or warranty given by the Corporation in the Engagement Letter or this Agreement becomes or is false in any material respect; or
  - (v) the state of the national financial markets in Canada or elsewhere where it is planned to market the Offered Shares is such that, in the opinion of the Agents, the Offered Shares cannot be profitably marketed.
- (b) The Agents, or any of them, may exercise any or all of the rights provided for in Subsection 11(a) or Section 12 notwithstanding any material change, change, event or state of facts and (except where the Agent purporting to exercise any of such rights is in breach of its obligations under this Agreement) notwithstanding any act or thing taken or done by the Agents or any inaction by the Agents, whether before or after the occurrence of any material change, change, event or state of facts including, without limitation, any act of the Agents related to the offering or continued offering of the Offered Shares for sale and the Agents shall only be considered to have waived or be estopped from exercising or relying upon any of their rights under or pursuant to Subsection 11(a) or Section 12 if such waiver or estoppel is in writing and specifically waives or estops such exercise or reliance.
- (c) Any termination pursuant to the terms of this Agreement shall be effected by notice in writing delivered to the Corporation, with a copy to the other Agents, provided that no termination shall discharge or otherwise affect any obligation of the Corporation under Sections 8, 9, 10 or 17. The rights of the Agents to terminate their obligations hereunder are in addition to, and without prejudice to, any other rights or remedies they may have.
- (d) If an Agent elects to terminate its obligation to purchase the Offered Shares as aforesaid, whether the reason for such termination is within or beyond the control of the Corporation, the liability of the Corporation hereunder with respect to such Agent shall be limited to the indemnity referred to in Section 8, the contribution rights referred to in Section 9 and the payment of expenses referred to in Section 10.

## **12. Closing Documents**

Each subscriber's obligation to purchase the Offered Shares at the Closing Time shall be conditional upon all representations and warranties and other statements of the Corporation herein being, at and as of the Closing Time, true and correct in all material respects, the Corporation having performed in all material respects, at the Closing Time, all of its obligations hereunder theretofore to be performed and each of the following conditions:

- (a) the Agents receiving, at the applicable Closing Time a legal opinion dated the applicable Closing Date, to be addressed to the Agents, in form and substance acceptable to the Agents acting reasonably, of Stikeman Elliott LLP, counsel to the Corporation (who may rely, to the extent appropriate in the circumstances, on the opinions of local counsel acceptable to the Agents and may rely, to the extent appropriate in the circumstances, as to matters of fact, on certificates of officers, public and exchange officials or of the auditors of the Corporation), with respect to the following matters:

- (i) the Corporation has been duly continued and is validly subsisting and has all requisite corporate capacity, power and authority to carry on its business as now conducted by it and to own its properties and assets and is qualified to carry on business under the laws of each of the jurisdictions in which it carries on a material portion of its business;
- (ii) the Corporation has the necessary corporate power and authority to enter into this Agreement and to perform its obligations set out herein, and this Agreement has been duly authorized, executed and delivered by the Corporation and this Agreement constitutes a legal, valid and binding obligation of the Corporation enforceable against the Corporation in accordance with its terms, except that the validity, binding effect and enforceability of the terms of agreements and documents are subject to the qualifications in Subsection 6(b)(xiii);
- (iii) the execution and delivery of this Agreement and the performance of and compliance with the terms of this Agreement by the Corporation does not and will not result in a breach of, or constitute a default under, and does not and will not create a state of facts which, after notice or lapse of time or both, will result in a breach of, or constitute a default under: (A) any applicable laws of the Province of Alberta or the federal laws of Canada applicable therein; (B) any term or provision of the articles, by-laws or other constating documents of the Corporation; (C) of which counsel is aware, (1) any resolutions of the shareholders or directors (or any committee thereof) of the Corporation, or (2) any resolutions of the shareholders, directors (or any committee thereof), members or managers (or any committee thereof); (D) of which counsel is aware, any indenture, mortgage, note, contract, agreement (written or oral), instrument, lease or other document to which the Corporation is a party or by which it is bound on the Closing Date; or (E) of which counsel is aware, any judgment, decree or order, of any court, governmental agency or body or regulatory authority having jurisdiction over or binding the Corporation or the Southern Subsidiaries or their properties or assets;
- (iv) the Corporation is a "reporting issuer" in each of British Columbia and Alberta and is not included in a list of defaulting reporting issuers maintained pursuant to the applicable securities legislation of such provinces, and is eligible to participate in NI 44-101 in each Selling Jurisdiction;
- (v) the Offered Shares have been duly and validly created, allotted and will, upon issuance in accordance with this Agreement, be issued as fully paid and non-assessable Common Shares;
- (vi) the Offered Shares are eligible investments as out under the heading "Eligibility for Investment" in the Prospectus;
- (vii) no filing with, or authorization, approval, consent, qualification or decree of, any court or governmental authority or agency in any Selling Jurisdiction is necessary or required of the Corporation for the offering or sale of the Offered Shares in the manner contemplated by this Agreement, except such as have been obtained;

- (viii) all necessary documents have been filed, all necessary proceedings have been taken and all legal requirements have been fulfilled as required under Canadian Securities Laws of each of the Selling Jurisdictions in order to qualify the Offered Shares for distribution and sale to the public in each of such Selling Jurisdictions by or through investment dealers and brokers duly registered under the applicable laws of such provinces who have complied with the relevant provisions of such Canadian Securities Laws;
- (ix) the Corporation has the necessary corporate power and authority to execute and deliver the Preliminary Prospectus and the Prospectus and all necessary corporate action has been taken by the Corporation to authorize the execution and delivery by it of the Preliminary Prospectus and the Prospectus and the filing thereof, as the case may be, in each of the Selling Jurisdictions in accordance with Canadian Securities Laws;
- (x) the Exchange has conditionally accepted the Offering, and the Offered Shares and are conditionally approved for listing, and, upon notification to the Exchange of the issuance and sale thereof and fulfillment of the conditions of the Exchange, will be listed and posted for trading on the Exchange;
- (xi) Odyssey Trust Company, at its principal office in Calgary, Alberta has been duly appointed the transfer agent and registrar for the Common Shares and the Offered Shares;
- (xii) the form and terms of the definitive certificates representing the Offered Shares have been duly approved and adopted by the board of directors of the Corporation and comply with the ABCA and the requirements of the Exchange relating thereto; and
- (xiii) the authorized and issued capital of the Corporation.

It is understood that counsel may rely on the opinions of local counsel acceptable to it as to matters governed by the laws of jurisdictions other than where they are qualified to practice law, and on certificates of officers of the Corporation, the transfer agent and public officials as to relevant matters of fact;

- (b) if any Offered Shares are sold in the United States, there shall be delivered to the Agents an opinion of Carter Ledyard & Milburn LLP, United States counsel to the Corporation, addressed to the Agents and dated the Closing Date, in form and substance satisfactory to the Agents acting reasonably, to the effect that the offer and sale of the Offered Shares in the United States in the manner contemplated by this Agreement, including Schedule "A" hereto, does not require registration under the U.S. Securities Act;
- (c) a certificate of the Corporation dated the Closing Date addressed to the Agents and signed on behalf of the Corporation by the President and Chief Executive Officer and the Chief Financial Officer of the Corporation or such other officers of the Corporation satisfactory to the Agents, acting reasonably, certifying, on behalf of the Corporation and without personal liability, that:

- (i) the Corporation has complied with and satisfied, in all material respects, all terms and conditions of this Agreement on its part to be complied with or satisfied at or prior to the Closing Time;
- (ii) the representations and warranties of the Corporation set forth in this Agreement are true and correct in all material respects at the Closing Time, as if made at such time; and
- (iii) no event of a nature referred to in Subsections 11(a)(i), 11(a)(ii), 11(a)(iii), 11(a)(iv) or 11(a)(v) has occurred or to the knowledge of such officer is pending, contemplated or threatened (excluding any requirement to make any determination as to any Agent's opinion),

and each such statement shall be true;

- (d) evidence satisfactory to the Agents that the Corporation has obtained all necessary third party approvals and all necessary approvals of the Exchange for the issuance of the Offered Shares and the issuance and listing of the Offered Shares, subject only to the payment of applicable fees; and
- (e) such other certificates and documents as the Agents may request, acting reasonably.

### **13. Deliveries**

The sale of the Offered Shares to be purchased hereunder shall be completed at the Closing Time at the offices of the Corporation's counsel in Calgary, Alberta or at such other place as the Corporation and the Agents may agree. Subject to the conditions set forth in Section 12, the Corporation, on the Closing Date, shall cause the Transfer Agent to register, issue and deposit that number of Offered Shares electronically with CDS Clearing and Depository Services Inc. or its nominee, for credit to the Agents, through the non-certificated inventory system of CDS Clearing and Depository Services Inc. representing, as requested, the Offered Shares registered in such names as the Agents may notify the Corporation in writing not less than 24 hours prior to the Closing Time, against payment by the Agents to the Corporation, at the direction of the Corporation, of the aggregate purchase price for the Offered Shares less an amount equal to the Agents' Fees and Agents' Expenses payable pursuant to Section 10, by wire transfer, or if permitted by applicable law, certified cheque or bank draft, in Canadian currency payable at par in Calgary, Alberta, together with a receipt signed by the Lead Agent for such certificates and the Agents' Fee and the Agents' Expenses.

If requested by the Agents, the Corporation, instead of delivering the Offered Shares electronically, will deliver physical certificates representing the Offered Shares, registered as directed by the Lead Agent, at the Closing Time.

### **14. Restrictions on Offerings, Standstill and Alternative Transactions**

- (a) The Corporation agrees that, from the date hereof and ending on the date that is 90 days following the Closing Date that it will not, without the written consent of the Lead Agent, issue, agree to issue, or announce an intention to issue, any additional debt, Common Shares or any securities convertible into or exchangeable for Common Shares of the Corporation (except in connection with the exchange, transfer, conversion or exercise

rights of existing outstanding securities or existing commitments to issue securities and/or an arm's length acquisition), such consent not to be unreasonably withheld or delayed.

- (b) The Corporation further acknowledges and understands that it will use its best efforts to cause its officers and directors to enter into an agreement with the Lead Agent pursuant to which each of such individuals will agree not to sell, transfer or pledge, or otherwise dispose of, any securities of the Corporation until the date which is 60 days after the Closing Date, in each without the prior written consent of the Lead Agent, such consent not to be unreasonably withheld or delayed.
- (c) In the event that the Corporation does not complete the Offering (unrelated to the Agents' inability to complete the Offering), but the Corporation completes an Alternative Transaction within 12 months of the termination of this Agreement, the Corporation shall pay to the Lead Agent, promptly upon closing of the Alternative Transaction, a fee equal to the maximum amount of the Agents' Fee otherwise payable under this Agreement calculated on the basis of an Offering for aggregate gross proceeds equal to US\$5,000,000.

## 15. Advertisements

If the Offering is successfully completed, the Corporation acknowledges and agrees that the Agents will be permitted to publish, at their own expense, public announcements or other communications relating to their services in connection with the Offering as they consider appropriate.

## 16. Notices

Any notice or other communication to be given hereunder shall, in the case of notice to be given to the Corporation be addressed to the Corporation, c/o Mr. Ian Atkinson, President and Chief Executive Officer, at the above address, Fax No. (403) 452-9249, with a copy to:

Stikeman Elliott LLP  
4300 Bankers Hall West  
888 – 3<sup>rd</sup> Street SW  
Calgary, Alberta T2P 5C5  
Attention: Sony Gill  
Email: [sgill@stikeman.com](mailto:sgill@stikeman.com)

and, in the case of notice to be given to the Agents, be addressed to:

Eight Capital  
Suite 2110, 355 – 8<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 1C9

Attention: Tony Loria, Principal, Vice Chairman  
Email: [tloria@viiicapital.com](mailto:tloria@viiicapital.com)

and to:

Haywood Securities Inc.  
Brookfield Place  
181 Bay Street, Suite 2910  
Toronto, Ontario M5J 2T3

Attention: Mathieu Couillard, Managing Director, Investment Banking  
Email: [mcouillard@haywood.com](mailto:mcouillard@haywood.com)

and to:

Canaccord Genuity Corp.  
Centennial Place – East Tower  
Suite 2400, 520 – 3<sup>rd</sup> Avenue SW  
Calgary, Alberta T2P 0R3

Attention: Andrew Birkby, Managing Director, Investment Banking  
Email: [abirkby@cgf.com](mailto:abirkby@cgf.com)

and to:

INFOR Financial Inc.  
South Tower, Royal Bank Plaza  
200 Bay Street, Suite 2350  
Toronto, Ontario M5J 2J2

Attention: Ross Prokopy, Principal, Head of Investment Banking, Western Canada  
Email: [rprokopy@inforfg.com](mailto:rprokopy@inforfg.com)

and to:

Paradigm Capital Inc.  
95 Wellington Street West, Suite 2101  
Toronto, Ontario M5J 2N7

Attention: Jason Tucker, Managing Director  
Email: [jtucker@paradigmcap.com](mailto:jtucker@paradigmcap.com)

and a copy to:

Dentons Canada LLP  
15<sup>th</sup> Floor, Bankers Court  
850 – 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 0R8

Attention: Bennett Wong  
Email: [bennett.wong@dentons.com](mailto:bennett.wong@dentons.com)

or to such other address as the party may designate by notice given to the other. Each communication shall be personally delivered to the addressee or sent by email to the addressee, and:

- (a) a communication which is personally delivered shall, if delivered before 4:00 p.m. (local time at the place of delivery) on a Business Day, be deemed to be given and received on that day and, in any other case be deemed to be given and received on the first Business Day following the day on which it is delivered; and

- (b) a communication which is sent by email shall, if sent on a Business Day before 4:00 p.m. (local time at the place of receipt), be deemed to be given and received on that day and, in any other case, be deemed to be given and received on the first Business Day following the day on which it is sent.

**17. Conditions**

All terms, covenants and conditions of this Agreement to be performed by the Corporation shall be construed as conditions, and any breach or failure to comply with any material terms and conditions which are for the benefit of the Agents shall entitle the Agents to terminate their obligations hereunder. The Agents may waive in whole or in part any breach of, default under or non-compliance with any representation, warranty, term or condition hereof, or extend the time for compliance therewith, without prejudice to any of their rights in respect of any other representation, warranty, term or condition hereof or any other breach of, default under or non-compliance with any other representation, warranty, term or condition hereof, provided that any such waiver or extension shall be binding on the Agents only if the same is in writing and signed by such Agent.

**18. Survival of Representations and Warranties**

All representations, warranties, terms and conditions herein (including, without limitation, those contained in Section 6) or contained in certificates or documents submitted pursuant to or in connection with the transactions contemplated herein shall survive the Closing Time and shall continue in full force and effect for the benefit of the Agents, the subscribers for the Offered Shares or the Corporation, as applicable, and in the case of the Agents regardless of any investigation by or on behalf of the Agents with respect thereto.

**19. Agents' Obligations**

The Agents' rights and obligations under this Agreement are several and not joint and several. The Agents shall share the Agents' Fee in the following percentages:

Eight Capital	57.5%
Haywood Securities Inc.	20%
Canaccord Genuity Corp.	10%
INFOR Financial Inc.	7.5%
Paradigm Capital Inc.	5%

**20. Severance**

If one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

**21. Authority to Bind Agents**

The Corporation shall be entitled to and shall act on any notice, waiver, extension or communication given by or on behalf of the Agents by the Lead Agent, which shall represent the Agents, and which shall have the authority to bind the Agents in respect of all matters hereunder, except in respect of any settlement under Sections 8 or 9 or any matter referred to in Section 11. While not affecting the foregoing, the Lead Agent shall consult with the other Agents with respect to any such notice, waiver, extension or other communication

**22. Successors and Assigns**

The terms and provisions of this Agreement will be binding upon and enure to the benefit of the Corporation and the Agents and their respective successors and assigns; provided that, except as otherwise provided in this Agreement, this Agreement will not be assignable by any party without the written consent of the others and any purported assignment without that consent will be invalid and of no force and effect.

**23. No Fiduciary Duty**

The Corporation: (a) acknowledges and agrees that the Agents have certain statutory obligations as registrants under Canadian Securities Laws and may have relationships with their clients; (b) acknowledges and agrees that the Agents are neither the agents of the Corporation nor has any Agent assumed a fiduciary responsibility in favour of the Corporation with respect to the Offering or the process leading thereto or any other obligation to the Corporation except as expressly set forth in this Agreement; and (c) consents to the Agents acting hereunder while continuing to act for their clients. To the extent that the Agents' statutory obligations as registrants under Canadian Securities Laws or relationships with their clients conflicts with their obligations hereunder the Agents shall be entitled to fulfil their statutory obligations as registrants under Canadian Securities Laws and their duties to their clients. Nothing in this Agreement shall be interpreted to prevent the Agents from fulfilling their statutory obligations as registrants under Canadian Securities Laws or duties to their clients.

**24. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. Each of the Corporation and the Agents hereby attorn to the non-exclusive jurisdiction of the courts of the Province of Alberta.

**25. Time of the Essence**

Time shall be of the essence of this Agreement.

**26. Counterpart Execution**

This Agreement may be executed in one or more counterparts each of which so executed shall constitute an original and all of which together shall constitute one and the same agreement. Delivery of counterparts may be effected by facsimile or other electronic transmission.

**27. Further Assurances**

Each party to this Agreement covenants and agrees that from time to time, it will, at the request of the requesting party, execute and deliver all such documents and do all such other acts and things as any party

hereto, acting reasonably, may from time to time request be executed or done in order to better evidence or perfect or effectuate any provision of this Agreement or of any agreement or other document executed pursuant to this Agreement or any of the respective obligations intended to be created hereby or thereby.

**28. Entire Agreement**

It is understood that the terms and conditions of this Agreement represent the entire agreement between the parties with respect to the subject matter hereof and the terms and conditions of this Agreement supersede any previous verbal or written agreement between the Agents and the Corporation including the Engagement Letter.

*[The remainder of this page is intentionally left blank.]*

If the foregoing is in accordance with your understanding and is agreed to by you, please confirm your acceptance by signing below and by returning the same to Agents' counsel.

**EIGHT CAPITAL**

Per: (signed) "*Tony Loria*"

\_\_\_\_\_  
Authorized Signatory

**HAYWOOD SECURITIES INC.**

Per: (signed) "*Mathieu Couillard*"

\_\_\_\_\_  
Authorized Signatory

**CANACCORD GENUITY CORP.**

Per: (signed) "*Andrew D. Birkby*"

\_\_\_\_\_  
Authorized Signatory

**INFOR FINANCIAL INC.**

Per: (signed) "*Ross Prokopy*"

\_\_\_\_\_  
Authorized Signatory

**PARADIGM CAPITAL INC.**

Per: (signed) "*Jason Tucker*"

\_\_\_\_\_  
Authorized Signatory

**ACCEPTED AND AGREED** to as of the date of this Agreement.

**SOUTHERN ENERGY CORP.**

Per: (signed) "*Ian Atkinson*"

---

Authorized Signatory

**SCHEDULE "A"**  
**COMPLIANCE WITH UNITED STATES SECURITIES LAWS**

For the purposes of this Schedule "A", the following terms will have the meanings set forth below:

- (a) **"Directed Selling Efforts"** means "directed selling efforts" as defined in Rule 902 of Regulation S and, without limiting the foregoing, but for greater clarity, it means, subject to the exclusions from the definition of directed selling efforts contained in Rule 902 of Regulation S, any activity undertaken for the purpose of, or that could reasonably be expected to have the effect of, conditioning the market in the United States for the Offered Shares, and includes the placement of any advertisement in a publication with a general circulation in the United States that refers to the offering of the Offered Shares;
- (b) **"Disqualification Event"** means any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) of Regulation D;
- (c) **"Foreign Issuer"** means "foreign issuer" as that term is defined in Rule 902(e) of Regulation S. Without limiting the foregoing, but for greater clarity in this Schedule "A", it means any issuer that is (a) the government of any country, or of any political subdivision of a country, other than the United States, or (b) a corporation or other organization incorporated or organized under the laws of any country other than the United States, except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter: (1) more than 50 percent of the outstanding voting securities of such issuer are directly or indirectly owned of record by residents of the United States, and (2) any of the following: (i) the majority of the executive officers or directors are United States citizens or residents, (ii) more than 50 percent of the assets of the issuer are located in the United States, or (iii) the business of the issuer is administered principally in the United States;
- (d) **"General Solicitation"** and **"General Advertising"** mean "general solicitation" and "general advertising", respectively, as used in Rule 502(c) of Regulation D under the U.S. Securities Act, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio or television, or any seminar or meeting whose attendees had been invited by general solicitation or general advertising;
- (e) **"Offshore Transaction"** means an "offshore transaction" as that term is defined in Rule 902(h) of Regulation S;
- (f) **"Regulation D"** means Regulation D under the U.S. Securities Act;
- (g) **"Regulation S"** means Regulation S under the U.S. Securities Act;
- (h) **"Substantial U.S. Market Interest"** means "substantial U.S. market interest" as defined in Rule 902(j) of Regulation S; and
- (i) **"U.S. Exchange Act"** means the United States Securities Exchange Act of 1934, as amended.

All other capitalized terms used but not otherwise defined in this Schedule "A" shall have the meanings assigned to them in the Agreement to which this Schedule "A" is attached.

1. The Corporation represents, warrants, covenants and agrees to and with the Agents, as at the date hereof and as at the Closing Date, that:
  - (a) the Corporation is and, as at the Closing Date will be, a Foreign Issuer and reasonably believes there is no Substantial U.S. Market Interest with respect to the Common Shares;
  - (b) the Corporation is not, and following the application of the proceeds from the sale of the Offered Shares will not be, registered or required to be registered as an "investment company" under the United States Investment Company Act of 1940, as amended;
  - (c) none of the Corporation, any of its affiliates, including, but not limited to, the Southern Subsidiaries, or any person acting on any of their behalf (other than the Agents, their affiliates (including the U.S. Affiliates), any members of the selling group, or any person acting on any of their behalf, as to whom no representation, warranty, covenant or agreement is made) has engaged or will engage in any Directed Selling Efforts or has taken or will take any action that would cause the exemption from the registration requirements of the U.S. Securities Act afforded by Rule 506(b) of Regulation D to be unavailable for offers and sales of the Offered Shares to, or for the account or benefit of, persons in the United States pursuant to this Agreement, or the exclusion from the registration requirements of the U.S. Securities Act afforded by Rule 903 of Regulation S to be unavailable for offers and sales of the Offered Shares in Offshore Transactions pursuant to this Agreement, including Schedule "A";
  - (d) the Corporation acknowledges that the Offered Shares have not been and will not be registered under the U.S. Securities Act or any state securities laws and that the Offered Shares may be offered and sold only in transactions exempt from or not subject to the registration requirements of the U.S. Securities Act and applicable state securities laws. Except with respect to offers and sales in accordance with this Agreement (including this Schedule "A") to, or for the account or benefit of, persons in the United States that are Qualified Institutional Buyers in reliance upon the exemption from registration provided by Rule 506(b) of Regulation D and similar exemptions under applicable state securities laws, none of the Corporation, any of its affiliates, or any person acting on any their behalf (other than the Agents, their affiliates (including the U.S. Affiliates), any members of the selling group, or any person acting on any of their behalf, as to whom no representation, warranty, covenant or agreement is made), has made or will make: (A) any offer to sell, or any solicitation of an offer to buy, any Offered Shares to, or for the account or benefit of, a person in the United States; or (B) any sale of Offered Shares unless, at the time the buy order was or will have been originated, the subscriber is (i) outside the United States, or (ii) the Corporation, its affiliates, and any person acting on any of their behalf reasonably believe that the subscriber is outside the United States.
  - (e) none of the Corporation, any of its affiliates or any person acting on any of their behalf (other than the Agents, their affiliates (including the U.S. Affiliates), any members of the selling group, or any person acting on any of their behalf, as to whom no representation, warranty, covenant or agreement is made) has engaged or will engage in any form of General Solicitation or General Advertising, any conduct involving a public offering within the meaning of Section 4(a)(2) of the U.S. Securities Act or any action which would constitute a violation of Regulation M under the U.S. Exchange Act in connection with the offer and sale of the Offered Shares to, or for the account or benefit of, persons in the United States;

- (f) the Corporation has not, for a period beginning 30 calendar days prior to the commencement of the Offering, sold, offered for sale or solicited any offer to buy any of the Corporation's securities, and will not do so during the Offering or for a period of 30 calendar days following the completion of this Offering, in a manner that would be integrated with the offer and sale of the Offered Shares and would cause the exemption from registration set forth in Rule 506(b) of Regulation D to become unavailable with respect to the offer and sale of the Offered Shares to, or for the account or benefit of, persons in the United States;
  - (g) none of the Corporation or any of its predecessors or affiliates has been subject to any order, judgment or decree of any court of competent jurisdiction temporarily, preliminarily or permanently enjoining such person for failure to comply with Rule 503 of Regulation D;
  - (h) with respect to the Offered Shares offered and sold in reliance on Rule 506(b) of Regulation D, none of the Corporation, any of its predecessors, any affiliated issuer that is issuing Offered Shares in this Offering, any director, executive officer, or other officer of the Corporation participating in the Offering, any beneficial owner of 20% or more of the Corporation's outstanding voting equity securities, calculated on the basis of voting power, or any promoter (as that term is defined in Rule 405 under the U.S. Securities Act) connected with the Corporation in any capacity at the time of sale of the Offered Shares (but excluding the Regulation D Agents (as defined below), as to whom no representation, warranty or covenant is made) (each, a "**Company Covered Person**" and, collectively, the "**Company Covered Persons**") is subject to a Disqualification Event. The Corporation will notify the Agents in writing, prior to any Closing Date of (i) any Disqualification Event relating to a Company Covered Person not previously disclosed to the Agents in accordance with this section, and (ii) any event that would, with the passage of time, become a Disqualification Event relating to any Company Covered Person. As of any Closing Date, the Corporation is not aware of any person (other than any Regulation D Agent Covered Person (as defined below)) that has been or will be paid (directly or indirectly) remuneration for solicitation of subscribers in connection with the offer and sale of any Offered Shares pursuant to Rule 506(b) of Regulation D; and
  - (i) the Corporation shall file such forms, notices and other documents as are required to be filed under the U.S. Securities Act and the state securities or "blue sky" laws of the states in which Offered Shares are sold.
2. The Agents acknowledge that the Offered Shares have not been and will not be registered under the U.S. Securities Act or any applicable state securities laws and may only be offered and sold in transactions exempt from or not subject to the registration requirements of the U.S. Securities Act and exempt from applicable state securities laws. In addition, until 40 days after the commencement of the offering of the Offered Shares, an offer or sale of the Offered Shares within the United States by any dealer (whether or not participating in the Offering) may violate the registration requirements of the U.S. Securities Act if such offer or sale is made otherwise than in accordance with an available exemption from such registration requirements. Accordingly, each Agent represents, warrants, covenants and agrees to and with the Corporation (and will cause its U.S. Affiliate to comply with such representations, warranties, covenants and agreements), as at the date hereof and as at the Closing Date, that:

- (a) it and its U.S. Affiliate have not offered or sold, and will not offer or sell, any Offered Shares (i) to, or for the account or benefit of, persons in the United States except as permitted in this Schedule "A", or (ii) outside of the United States except in Offshore Transactions in accordance with Rule 903 of Regulation S. Accordingly, except as permitted in this Schedule "A", none of it, its affiliates (including its U.S. Affiliate), or any person acting on any of their behalf has engaged or will engage in:
  - (i) any offer to sell or any solicitation of an offer to buy, any Offered Shares, to, or for the account or benefit of, persons in the United States;
  - (ii) any sale of Offered Shares to any subscriber unless, at the time the buy order was or will have been originated, the subscriber was outside the United States, or the Agent, any of its affiliates (including its U.S. Affiliate) or person acting on any of their behalf, reasonably believed that such subscriber was outside the United States; or
  - (iii) any Directed Selling Efforts;
- (b) none of it, any of its affiliates (including its U.S. Affiliate), or any person acting on any of their behalf has engaged or will engage in any form of General Solicitation or General Advertising, any conduct involving a public offering within the meaning of Section 4(a)(2) of the U.S. Securities Act, or any action which would constitute a violation of Regulation M under the U.S. Exchange Act in connection with its offers or sales of the Offered Shares to, or for the account or benefit of, persons in the United States. It will not take any action that would cause the exclusion or exemption provided by Rule 903 of Regulation S or Rule 506(b) of Regulation D to be unavailable for offers and sales of the Offered Shares in Offshore Transactions pursuant to this Agreement, including Schedule "A";
- (c) all offers of Offered Shares for sale by the Corporation to, or for the account or benefit of, persons in the United States shall be solicited and arranged by the Agent through its U.S. Affiliate, which on the dates of such offers and subsequent sales by the Corporation was and will be duly registered as a broker-dealer under the U.S. Exchange Act and under the laws of each state where such offers and sales are made (unless exempted therefrom) and a member of, and in good standing with, the Financial Industry Regulatory Authority, Inc., in accordance with all applicable United States state and federal securities (including broker-dealer) laws;
- (d) any offers, or solicitation of offers to buy, Offered Shares that have been made or will be made to, or for the account or benefit of, persons in the United States was or will be made only to persons reasonably believed to be Qualified Institutional Buyers, as applicable, in compliance with Rule 506(b) of Regulation D and applicable U.S. state securities laws;
- (e) immediately prior to soliciting any subscriber that is, or is acting for the account or benefit of, a person in the United States, the Agent, its affiliates (including its U.S. Affiliate), and any person acting on any of their behalf, had reasonable grounds to believe and did believe that each such subscriber was a Qualified Institutional Buyer, as applicable, and at the time of completion of each sale by the Corporation to, or for the benefit or account of, a person in the United States identified by the Agent through its U.S. Affiliate, the Agent, its affiliates (including its U.S. Affiliate), and any person acting on any of their behalf will have

reasonable grounds to believe and will believe, that each such subscriber designated by the Agent or the U.S. Affiliate to purchase Offered Shares from the Corporation is a Qualified Institutional Buyer;

- (f) each subscriber will be informed that the Offered Shares have not been and will not be registered under the U.S. Securities Act and are being offered by the Agent through its U.S. Affiliate and sold by the Corporation to such subscriber in reliance on the exemption from the registration requirements of the U.S. Securities Act provided by Rule 506(b) of Regulation D and similar exemptions under applicable state securities laws;
- (g) it has not entered and will not enter into any contractual arrangement with respect to the offer and sale of the Offered Shares, except with its U.S. Affiliate, any selling group members or with the prior written consent of the Corporation. It shall require its U.S. Affiliate and each selling group member to agree, for the benefit of the Corporation, to comply with, and shall use its commercially reasonable efforts to ensure that its U.S. Affiliate and each selling group member complies with, the provisions of this Schedule "A" applicable to the Agent as if such provisions applied directly to its U.S. Affiliate and such selling group member;
- (h) with respect to Offered Shares offered in reliance on Rule 506(b) of Regulation D, neither the Agent nor its affiliates (including its U.S. Affiliate) (collectively, the "**Regulation D Agents**"), any general partner or managing member of the Regulation D Agents, any director, executive officer or other officer of the Regulation D Agents participating in the offering of the Offered Shares or general partner or managing member of the Regulation D Agents or any officer, employee or agent of the Regulation D Agents or general partner or managing member of the Regulation D Agents that have been or will be paid (directly or indirectly) remuneration for solicitation of subscribers in connection with the offer and sale of any Offered Shares (each, a "**Regulation D Agent Covered Person**" and collectively, the "**Regulation D Agent Covered Persons**") is subject to any Disqualification Event, except for a Disqualification Event contemplated by Rule 506(d)(2) of the U.S. Securities Act and a description of which has been furnished in writing to the Corporation prior to the date hereof. Each Regulation D Agent will notify the Corporation in writing, prior to any Closing Date of (i) any Disqualification Event relating to any Regulation D Agent Covered Person not previously disclosed to the Corporation in accordance with this section, and (ii) any event that would, with the passage of time, become a Disqualified Event relating to any Regulation D Agent Covered Person. As of the Closing Date, the Agent is not aware of any person (other than any Regulation D Agent Covered Person) that has been or will be paid (directly or indirectly) remuneration for solicitation of subscribers in connection with the offer and sale of any Offered Shares pursuant to Rule 506(b) of Regulation D.

3. Each Agent further agrees with the Corporation that:

- (a) prior to the Closing Date, it will provide the transfer agent and registrar for the Common Shares with a list of all subscribers of the Offered Shares that are, or are acting for the account or benefit of, persons in the United States;
- (b) at the Closing Time it, together with its U.S. Affiliate, will provide a certificate, substantially in the form of Annex "A" relating to the manner of the offer and sale of the Offered Shares to, or for the account or benefit of, persons in the United States, or be deemed to represent

and warrant that no offers or sales of the Offered Shares were made to, or for the account or benefit of, persons in the United States by such persons.

**ANNEX "A"**  
**AGENT CERTIFICATE**

In connection with the private placement to, or for the account or benefit of, persons in the United States of the Offered Shares of Southern Energy Corp. (the "**Corporation**") pursuant to the agency agreement dated November 18, 2021 between the Corporation and the Agents named therein (the "**Agency Agreement**"), each of the undersigned does hereby certify as follows:

- I. **[Name of U.S. broker-dealer Affiliate]** is and was a duly registered broker or dealer under Section 15(b) of the United States Securities and Exchange Act of 1934, as amended, and is and was a member of and in good standing with the Financial Industry Regulatory Authority, Inc., on the date hereof and on the date of each offer and sale made by it to, or for the account or benefit of, a person in the United States, and all offers and sales of Offered Securities to, or for the account or benefit of, persons in the United States have been and will be effected by **[Name of U.S. broker-dealer Affiliate]** in accordance with the terms of the Agency Agreement (including Schedule "A" thereto) and all U.S. federal and state broker-dealer requirements;
- II. immediately prior to transmitting the U.S. Wrap to offerees that were, or were acting for the account or benefit of, persons in the United States, we had reasonable grounds to believe and did believe that each such person was a Qualified Institutional Buyer, and we continue to believe that each subscriber of Offered Shares that we have arranged that is, or is acting for the account or benefit of, a person in the United States is a Qualified Institutional Buyer on the date hereof;
- III. no form of "general solicitation" or "general advertising" (as those terms are used in Regulation D under the U.S. Securities Act) was used by us, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or the internet or broadcast over radio or television or the internet, or any seminar or meeting whose attendees had been invited by general solicitation or general advertising, in connection with the offer or sale of the Offered Shares to, or for the account or benefit of, persons in the United States;
- IV. prior to any sale of Offered Shares to, or for the account or benefit of, a person in the United States, each such subscriber thereof that is purchasing Offered Shares provided an executed U.S. Purchaser Letter, and we provided the Corporation with copies of all such completed and executed U.S. Purchaser Letters;
- V. with respect to Offered Shares offered or sold to, or for the account or benefit of, persons in the United States, none of the Regulation D Agent Covered Persons relating to the undersigned is subject to any Disqualification Event except for a Disqualification Event (A) covered by Rule 506(d)(2) of Regulation D and (B) a description of which has been furnished in writing to the Corporation prior to the date hereof, and the undersigned are not aware of any person (other than any Regulation D Agent Covered Person) that has been or will be paid (directly or indirectly) remuneration for solicitation of subscribers in connection with the sale of any Offered Shares to, or for the account or benefit of, persons in the United States;
- VI. we are not aware of any person (other than any Regulation D Agent Covered Person) that has been or will be paid (directly or indirectly) remuneration for solicitation of subscribers of Offered Shares in reliance upon Regulation D;

- VII. neither we nor any of our affiliates have taken or will take, directly or indirectly, any action in violation of Regulation M under the U.S. Exchange Act with respect to the offer or sale of the Offered Shares; and
- VIII. the offering of the Offered Shares to, or for the account or benefit of, persons in the United States has been conducted by us in accordance with the terms of the Agency Agreement, including Schedule "A" attached thereto.

Unless otherwise defined, terms used in this certificate have the meanings given to them in the Agency Agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**[AGENT]**

**[U.S. BROKER-DEALER AFFILIATE]**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title: