

## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (the “**Agreement**”) is dated effective as of the 12th day of September, 2017 (the “**Effective Date**”).

### **BETWEEN:**

**ELBOW RIVER MARKETING LTD.**, a corporation incorporated under the laws of the Province of Alberta, and having its principal place of business located at Calgary, Alberta (the “**Purchaser**”)

### **AND**

**GEN III OIL CORP.**, a corporation incorporated under the laws of the Province of British Columbia, and having its principal place of business located at Calgary, Alberta (the “**Seller**”)

**WHEREAS** the Seller intends to construct a re-refinery plant (the “**Plant**”) at the Bowden, Alberta facility owned by Parkland Refining Ltd., which Plant will produce approximately 2,800 bbls/day in total of Group II, Group II+ and Group III Base Oils, asphalt flux, ultra-low sulphur diesel, and naphtha (collectively the “**Produced Products**”);

**AND WHEREAS** the Seller has agreed to sell to the Purchaser, and the Purchaser has agreed to buy from the Seller, all of the Produced Products except for ultra-low sulphur diesel (the “**Products**”) produced by the Seller from the Plant, on the terms set forth in this Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSES THAT** in consideration of the mutual premises and covenants contained herein, the receipt and sufficiency of which consideration is hereby acknowledged by the Parties, the Parties agree as follows:

### **1.0 Interpretation**

1.01 In this Agreement, including in the recitals hereto, the following words, terms and phrases shall have the meanings set forth below:

- (a) “**Agreement**” has the meaning ascribed thereto in the header to this Agreement;
- (b) “**Alternative Sale**” has the meaning ascribed thereto in Section 17.03 hereto;
- (c) “**Commercial Operations Date**” means the date of first production of Group II and Group III Base Oils from the Plant as more fully described in Article 4.0;
- (d) “**Confidential Information**” means any and all information disclosed during the Contract Term by either Party to the other Party and any information of either Party that comes into the possession or control of the other Party (the “**Receiving Party**”) during the Contract Term, including the identities or particulars of any of the customers or suppliers of either Party, but shall not include:

- i. information that the Receiving Party can prove was in its possession prior to disclosure,
  - ii. information that the Receiving Party can prove beyond a reasonable doubt was independently developed by the Receiving Party without the use of any of the Confidential Information,
  - iii. information within the public domain through no act or omission of the Receiving Party, or
  - iv. information independently obtained by the Receiving Party from third parties through no wrongful or illegal acts by the Receiving Party or such third parties;
- (e) “**Contract Term**” means collectively (i) the Initial Period and (ii) each consecutive [Redacted – Timing] Year Term;
- (f) “**Customers**” means the third party customers of the Purchaser to whom the Purchaser sells Product purchased from the Seller hereunder, and “**Customer**” means any one of them;
- (g) “**Delivery Point**” means the place of delivery of Product sold by the Purchaser to Customers;
- (h) “**Effective Date**” has the meaning ascribed thereto in the header to this Agreement;
- (i) “**Force Majeure**” has the meaning ascribed thereto in Section 16.01 hereof;
- (j) “**Gross Price**” means the actual sales price of Product realized by the Purchaser from its Customers;
- (k) “**Initial Period**” means the period of time commencing from 12:01 a.m. on the Effective Date and terminating [Redacted – Timing] years after the Commercial Operations Date;
- (l) “**Marketing Fee**” means [Redacted – Marketing Fee]%;
- (m) “**Outsourced Purchase**” shall have the meaning ascribed thereto in Section 17.01 hereof;
- (n) “**Parties**” means both the Seller and the Purchaser, and each individually is a “**Party**”;
- (o) “**Prime Commercial Lending Rate**” means the prime commercial lending rate of Scotia Bank for Canadian dollar loans;
- (p) “**Product**” has the meaning ascribed thereto in the Recitals to this Agreement;
- (q) “**Purchase Price**” has the meaning ascribed thereto in Section 9.01 hereof;
- (r) “**Taxes**” has the meaning ascribed thereto in Section 9.03 hereof;
- (s) “**Total Initial Annual Plant Production**” means the entire planned production of Products from the Plant as of the Commercial Operations Date;

(t) [Redacted – Transportation and Other Costs]

(u) “[Redacted – Term] **Year Term**” has the meaning ascribed thereto in Section 2.03 hereof.

1.02 The headings herein contained are intended for convenience of reference only and shall form no part hereof nor affect the interpretation of this Agreement.

1.03 If any covenant, obligation or provision contained in this Agreement or the application thereof to any person or circumstance shall to any extent be found to be invalid or unenforceable, the remainder of this Agreement or the application thereof to any person or circumstance shall not be affected thereby and each covenant, obligation and provision of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

1.04 The words in all the covenants, provisos, conditions and agreements herein contained which impart the singular number or the masculine gender shall be read and construed as applying to the plural and each and every corporate, male or female party hereto and to its or their heirs, executors, administrators, personal representatives and successors and assigns, as the case or context requires.

1.05 This Agreement shall be governed by and interpreted in accordance with the laws in force in the Province of Alberta. The parties hereto hereby irrevocably attorn to the exclusive jurisdiction of the Courts of the Province of Alberta for the determination of all matters arising under or in connection with this Agreement.

1.06 This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior contracts, agreements and understandings between the parties hereto pertaining to the subject matter of this Agreement. No modification, alteration or waiver of this Agreement or any provision of this Agreement shall be binding unless executed in writing by the parties hereto. There are no representations, warranties, collateral agreements or conditions affecting this transaction other than as are expressed or referred to herein in writing.

1.07 The terms, conditions, covenants, agreements, obligations and provisos contained in this Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives and successors and permitted assigns.

1.08 Time shall be of the essence hereof.

1.09 This Agreement may be:

- (a) executed in one or more counterparts, each of which so executed shall constitute an original and all which together executed individually or otherwise by all parties shall constitute one and the same Agreement; and
- (b) delivered by facsimile transmission or such other means of electronic communications as produces a printed copy of this Agreement, and if so transmitted by such means shall be deemed to have been effectively delivered as of the date and time of transmission.

1.10 Failure by any party hereto to insist in any one or more instances upon the strict performance of any of the covenants contained herein shall not be construed as a waiver or relinquishment of such covenant in any other instance. No waiver by any party hereto of any covenant shall be deemed to have been made unless it is set forth in a written document signed by the waiving party.

1.11 Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” and the words following “include”, “includes” or “including” shall not be considered to set forth an exhaustive list.

1.12 The words “hereof”, “herein”, “hereto”, “hereinafter”, “hereunder”, “hereby” and “similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular section or portion of it.

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

1.14 Nothing in this Agreement is intended to, and nothing in this Agreement shall be interpreted or construed to:

- (a) entitle any person other than a Party to a right or a remedy against a Party; or
- (b) confer any benefit upon any person that is not a Party,

unless the contrary is specified or provided for elsewhere in this Agreement.

1.15 Neither Party shall be entitled to assign its interest in this Agreement, in whole or in part, without first obtaining the prior written consent of the other Party, which consent shall not be unreasonably withheld or unduly delayed.

1.16 Schedule A (Produced Product Specifications) attached hereto is incorporated into and forms a part of this Agreement, which schedule may be amended from time to time during the Contract Term by agreement in writing executed by both Parties acting reasonably.

1.17 Unless otherwise noted in this Agreement, all references to “dollars” or “\$” herein shall be references to amounts expressed in United States dollars, and all calculations of monetary sums to be hereunder shall be made in United States dollars.

1.18 This Agreement has been reviewed and approved by each of the Parties. The Seller and the Purchaser have each participated in the negotiation of this Agreement, have proposed language incorporated within this Agreement, and have otherwise been instrumental in the drafting of this Agreement. Each Party has been represented by legal counsel in the negotiation and drafting of this Agreement, and has had ample opportunity to confer with that counsel. Therefore, in the event that it should be determined that any provision of the Agreement is uncertain or ambiguous, the language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly construed for nor against any Party. The Parties agree that the contract, and any of its provisions,

shall not be construed against any Party merely because that Party caused the contract, or such provision, to be drafted.

1.19 Unless otherwise specifically provided herein, the rights, powers and remedies of each of the Parties provided herein are cumulative and the exercise of any right, power or remedy hereunder does not affect any other right, power or remedy that may be available to either Party hereunder or otherwise at law or in equity.

1.20 This Agreement shall not create or be constructed to create in any respect a partnership between the Parties. Neither Party shall be entitled to bind the other Party in any legal obligation or to pledge the credit of the other Party. The Parties have as their sole relationship that of buyer and seller and neither Party shall be deemed to be the agent for the other.

## **2.0 Contract Term**

2.01 Subject to the terms hereof, this Agreement shall subsist for the Contract Term.

2.02 Either Party to this Agreement may terminate this Agreement effective as at the end of the Initial Period or as at the end of any [Redacted – Term] Year Term upon providing the other Party with a written notice to that effect not less than [Redacted – Timing] days prior to the end of the Initial Period or the then current [Redacted – Term] Year Term, as the case may be.

2.03 If neither Party terminates this Agreement pursuant to Section 2.02 hereof, this Agreement shall automatically be renewed for successive [Redacted – Term Periods] year terms, each of which is called a “[Redacted – Term] **Year Term**”.

2.04 Each Party shall have the right to immediately terminate this Agreement upon written notice delivered to the other Party (the “**Defaulting Party**”) if the Defaulting Party becomes insolvent or suffers the filing of a petition of bankruptcy, executes an assignment for the benefit of creditors or becomes the subject of any insolvency proceedings of any nature that it has not assiduously defended within a period of [Redacted – Timing] days after the commencement of such proceedings.

2.05 Either Party may terminate this Agreement at any time during the Contract Term upon written notice delivered to the other Party if such Party fails to perform its material obligations hereunder and fails to remedy such default within [Redacted – Timing] days of receipt of written notice of such default.

2.06 This Agreement may be terminated by the Purchaser, acting reasonably, by notice in writing to the Seller if (a) the Commercial Operations Date has not occurred by the [Redacted – Date] , or (b) the Seller has not made substantial progress in constructing the Facility (as reasonably determined by the Purchaser) by the [Redacted – Date]. Seller to provide monthly construction project status updates. This provision is for the sole benefit of the Purchaser, and the Purchaser may waive this provision at its sole discretion.

2.07 Notwithstanding the provisions of this Article 2.0, if at the date this Agreement terminates there are any purchase and sale transactions that have been commenced but not completed, the Parties shall be obligated to complete such transactions in accordance with the provisions of this Agreement, provided however that the Purchaser shall not be entitled to renew, extend, increase or otherwise modify Customer

sale contracts for Product without the written consent of the Seller and provided that the Seller shall not be obliged to extend any credit in respect of such purchase and sale transactions.

2.08 The termination of this Agreement shall not affect the accrued rights of the Parties, including the obligations of the Parties to make payments hereunder.

2.09 Articles 8.0, 12.0, 13.0, 17.0, 18.0, 19.0, and 20.01 of this Agreement, together with all necessary supporting and interpretation sections shall survive the termination of this Agreement.

### **3.0 Representatives**

3.01 Concurrently with the execution of this Agreement by the Parties, each Party shall designate two employees, each of whom shall be fully authorized to administer all purchases and sales of Product pursuant to this Agreement and represent such Party in all ancillary matters. Each Party shall be entitled to change its representatives at any time during the Contract Term by providing the other Party with a written notice to that effect.

### **4.0 COD and Estimated Production**

4.01 No less than [Redacted – Timing] months in advance, the Seller shall provide the Purchaser with a projected Commercial Operations Date for the Plant, including the production estimates contemplated in Section 4.02.

4.02 Concurrently with the execution of this Agreement by the Parties, and at [Redacted – Timing] month intervals thereafter during the Contract Term, the Seller shall provide the Purchaser with estimates of its monthly production from the Plant.

4.03 During the Contract Term, the Seller shall, not less than [Redacted – Timing] full month in advance, provide the Purchaser with a monthly estimate of production from the Plant available for delivery to the Purchaser for the ensuing calendar month.

4.04 During the Contract Term, the Seller shall promptly notify the Purchaser in writing of any adjustments to its production schedule that come into effect.

### **5.0 Purchase, Delivery and Marketing Obligations**

5.01 Subject to the terms and conditions set forth herein, the Seller shall sell and deliver to the Purchaser, and the Purchaser shall purchase and take delivery from the Seller, the Total Initial Annual Plant Production. For certainty hereunder, the Purchaser, and no other party, shall have the exclusive right to purchase the Total Initial Annual Plant Production from the Seller. The Parties acknowledge that the estimated Total Initial Annual Plant Production as of the date hereof is approximately 2,600 bbls per day in total of the Products. As long as the actual production of the Products is within a reasonable range of this estimate, the Purchaser shall be obliged to take delivery of all such production. However, if from time to time the production is significantly higher than this estimate, the Purchaser shall have the right, but not the obligation, to take all such production. The Parties shall have regular discussions with respect to the production volumes.

5.02 If, from time to time during the Contract Term, the Seller expands or modifies the Plant and produces additional volumes or one or more of the Products or begins to produce different petrochemical products, the Purchaser shall have the unilateral right, but not the obligation, to amend this Agreement to add any or all of such additional volumes to this Agreement to be marketed on terms to be negotiated in good faith by the Parties at such time.

5.03 During the Contract Term, and for the purpose of carrying out the Purchaser's obligations hereunder:

- (a) the Seller shall provide the Purchaser with such access to the Plant as may be necessary to take delivery of Product produced by the Plant in accordance with the Seller's estimated weekly production;
- (b) the Purchaser and Seller shall, in good faith, attempt to coordinate delivery of Product in order to accord with the requirements of Purchaser's Customer sales contracts; and
- (c) the Seller shall:
  - i. handle and supervise the loading, dispatch and delivery of Product to the Purchaser's carriers,
  - ii. prepare and distribute delivery documentation and generally be responsible for all ancillary matters, and
  - iii. supply all equipment necessary to load the Purchaser's carriers at the Plant without charge to the Purchaser.

5.04 The Purchaser retains sole responsibility for purchase and sale and marketing of the Plant's production. In order to fulfill this responsibility, the Purchaser shall enter into sales agreements for the sales of Product hereunder to any third party Customer Purchaser wishes.

5.05 The Purchaser agrees to diligently pursue, secure and maintain all necessary agreements to transport Product from the Plant to the Delivery Point.

5.06 The Purchaser will plan its resources (including but not limited to staffing levels and truck and railcar leasing and deployment) on the basis of the scheduled Commercial Operations Date and the production estimates contemplated in Sections 4.01, 4.02, and 4.03. If the actual Commercial Operations Date and/or production volumes differ from the scheduled Commercial Operations Date and/or production volumes for any given month, then:

- (a) Purchaser will make commercially reasonable efforts to mitigate the costs that result from these differences, and
- (b) Seller will reimburse Purchaser, as liquidated damages and not a penalty, for any and all costs that result from the differences, including without limitation increased staffing costs, costs with respect to idle railcars (lease costs for unused railcars, detention charges, etc.) and trucks, and penalties or other charges that Purchaser is required to pay to customers as a result of failing to

meet supply commitments. Such costs shall be supported by reasonable backup, and shall not be subject to any markup by the Purchaser. Such reimbursement shall, at the Seller's option, be paid (i) by an immediate lump sum payment made by the Seller to the Purchaser, or (ii) by increasing the Marketing Fee for up to [Redacted – Timing] subsequent months by sufficient additional percentage points to ensure full reimbursement within that [Redacted – Timing] month period, until the Purchaser has been fully reimbursed.

## **6.0 Annual Marketing Plan**

6.01 Not later than [Redacted – Timing] days prior to the commencement of each year within the Contract Term, the Purchaser shall compile and submit a marketing plan to the Seller for the Seller's consultation, information and approval, such approval not to be unreasonably withheld. The marketing plan shall reflect the production capabilities of the Seller, the estimates provided by the Seller under Sections 4.01 and 4.03 and the experience of the Parties arising from the prior year's production schedule. The marketing plan for any particular year shall include:

- (a) a summary of the purchase and sale activities of the Purchaser for the prior period under this Agreement;
- (b) a preliminary schedule of quantities of Product to be sold and marketed by the Purchaser for the ensuing year, and their geographic/market areas;
- (c) projected Product prices for each geographic/market areas;
- (d) projected costs for transportation from the Plant to each geographic/market areas; and
- (e) calculated net Product prices FOB the Plant.

6.02 The Parties acknowledge that the Purchaser is free to sell Product for whatever price it chooses, provided Purchaser takes reasonable commercial efforts to maximize the Purchase Price in accordance with the approved annual marketing plan as described in Article 6.01. The purpose of the marketing plan is to allow each of the Parties to plan its activities and finances for the ensuing period and to enhance cooperation between the Parties.

6.03 The Purchaser's representatives shall meet with the Seller's representatives (collectively, such representatives being the "**Marketing Committee**") at least quarterly during each year of the Contract Term to discuss the then current marketing plan and any issues and required actions associated therewith as same relates to current and projected market conditions. At such meetings, the Purchaser shall provide the Seller with a written progress report for that portion of the current year of the Contract Term that has been completed and projections of activities and Product prices for that portion of the current year that has yet to be completed.

## **7.0 Quantity**

7.01 Subject to Section 7.02 hereof and in conjunction with Article 4.0, delivery and receipt of volumes of Product hereunder shall take place at the Plant at uniform weekly rates, as nearly as is

practical, such that Product delivered in any one month shall approximately equal 1/12th of the total production from the Plant during such year.

7.02 The Purchaser understands that Seller generally has one or more scheduled Plant shutdowns each year for maintenance, as well as periodic unscheduled plant shutdowns outside the Seller's control that may affect the uniformity of the volumes of Product to be delivered under this Agreement. The Seller shall use its best efforts to ensure that such shutdowns will have as little impact as possible on the rateable delivery of Product to the Purchaser. The Seller covenants that it will provide the Purchaser with not less than [Redacted – Timing] days' prior written notice of any scheduled production downtime and/or scheduled interruptions to Product availability/delivery;

7.03 The quantity of Product delivered to the Purchaser from the Plant shall be established by outbound meter tickets or per certified scale expressed in net temperature-corrected gallons in accordance with standards commonly used within the industry in Canada. The meter and/or scale tickets shall be obtained from meters/scales which are certified as of the time of loading and which shall comply with all applicable laws, rules and regulations. The outbound meter and/or scale tickets shall be determinative, in the absence of fraud or manifest error of the quantity of Product for which Purchaser is obligated to pay pursuant to Article 9.0 hereof.

7.04 In the event of a discrepancy of more than [Redacted – Percentage]% between loaded and unloaded volumes, a discrepancy affidavit will be filed using an agreed upon neutral third party witness. The findings of the third party will be taken as the official unload volume of the carrier vessel and with any shortage reimbursed by the Seller to the Purchaser or any overage reimbursed by the Purchaser to the Seller. Fees for the third party witness, should any be charged, will be paid equally and jointly by the Seller and Purchaser.

## **8.0 Quality**

8.01 All Product delivered by the Seller to the Purchaser hereunder shall meet or exceed applicable industry standards and shall conform to the specifications set forth in Schedule A hereto at the time of delivery of such Product by the Seller to the Purchaser hereunder.

8.02 If Product does not meet the standards set forth in Schedule A hereto when delivered by the Seller to the Purchaser's carriers, and quality claims arise as a result thereof, such quality claims will be administered by the Purchaser upon notice to the Seller and shall be solely for the Seller's account, and Purchaser shall not be responsible in any manner whatsoever for such claims or any costs or expenses related thereto. Purchaser shall not charge Seller for the administration costs associated with the administration of such claims but Seller will remain responsible for external legal costs and non-administrative settlement costs. Purchaser shall not bind Seller in any settlement without Seller's prior written consent.

## **9.0 Product Pricing and Payment**

9.01 With respect to each gallon of Product lifted by the Purchaser at the Delivery Point, the Purchaser shall pay to the Seller:

[Redacted – Purchase Price Calculation] (the "**Purchase Price**").

9.02 The Purchaser shall use commercially reasonable efforts and methods to influence market selection, the price obtained for Product sold to Customers, and Transportation and Other Costs, in order to maximize the Purchase Price.

9.03 Purchaser and Seller mutually recognize that from time to time Purchaser may be able to develop an opportunity to optimize around the fuel marketing plan that will allow Seller to capture a netback greater than netbacks received with the base contracts put in place to market the fuel (a “**value-added transaction**”). Examples of value-added transactions may include the development of an alternative niche for the fuel through continuous market development and by specification changes to the fuel, as well as creative hedge strategies.

Purchaser will present value-added transactions to the Seller for approval prior to execution with a written strategy and calculation showing the expected added margin. Seller has the sole discretion to accept or reject the value-added opportunity. If Seller accepts the opportunity, the value-added margin will be shared at the ratio of [Redacted – Margin]% for the Purchaser and [Redacted – Margin] % for the Seller. If a value-added transactions extends for a period greater than [Redacted – Timing] months, the marketing plan will be updated to reflect same and it will then be considered to be the new normal pricing and no longer eligible for value added margin split beyond that date.

9.04 The Seller shall pay or cause to be paid all valid levies, assessments, duties, rates and taxes (collectively, “**Taxes**”) on Product delivered hereunder. Where any Taxes are included in the price payable by the Purchaser or by any Customer, the Purchase Price hereunder shall be net after such Taxes.

9.05 For all Product purchased by the Purchaser from the Seller hereunder and shipped from the Plant during a one-week period beginning on Monday and ending on the following Sunday, the Purchaser shall pay the actual Purchase Price, if known, or an estimate of the Purchase Price if not known, to the Seller by wire transfer not later than [Redacted – Timing] days following the end of said one-week period. If, at calendar month’s end, the actual Purchase Price for the month exceeds the estimated Purchase Price, the Purchaser shall pay the Seller on or before the [Redacted – Timing] day of the following calendar month an amount equal to the product of (i) the difference between the actual and estimated Purchase Price and (ii) the aggregate quantity of Product purchased by the Purchaser from the Seller and shipped from the Plant under this Agreement during such month. If at calendar month’s end, the actual Purchase Price is less than the estimated Purchase Price, the Seller shall pay the Purchaser on or before the [Redacted – Timing] day of the following calendar month, or the Purchaser shall have the right to withhold and set-off from payments to the Seller, an amount equal to the product of (x) the difference between the actual and estimated Purchase Price and (y) the aggregate quantity of Product purchased by the Purchaser from the Seller and shipped from the Plant under this Agreement during such month.

9.06 If either Party fails to pay all or any portion of the amount owing by it when due, such unpaid amount will bear simple interest at a rate equal to [Redacted – Interest Rate] per annum above the Prime Commercial Lending Rate calculated daily from the date such amount is due hereunder until the date it is actually paid. Upon failure of a party to pay the unpaid amount, including interest thereon, within [Redacted – Timing] days after the due date set out in this Agreement, the party to whom sums are due may suspend in whole or in part its delivery or acceptance of Product, as the case may be, hereunder until such outstanding amount has been paid in full.

9.07 Any payment made pursuant to this Article 9.0 will not preclude a Party from subsequently auditing the accounts of the other Party as provided for herein.

## **10.0 Transportation**

10.01 The Purchaser agrees to diligently pursue, secure, and maintain all necessary agreements to transport Product from the Plant to the Delivery Point, and shall be solely responsible for arranging transportation.

## **11.0 Storage**

11.01 The Seller shall provide for a minimum of [Redacted – Timing] days of storage of Product at the Plant at no cost to Purchaser.

11.02 The Parties may determine that it is in the best interest of the Seller to maintain storage of Product outside the Seller's facility, in which case the Purchaser shall arrange for such outside storage as well as transportation to such outside facilities, and the costs and expenses associated therewith shall form part of the Transportation and Other Costs. Transfer of any Product to such outside facilities would not constitute a change in title or ownership of the Product.

## **12.0 Title and Risk**

12.01 Delivery shall be deemed to occur when Product is loaded into the carriers of the Purchaser at the Plant.

12.02 Title and risk of loss or damage to Product, including Product stored by the Seller in any outside storage facility shall pass from the Seller to the Purchaser only upon delivery of Product to the Purchaser, and until such time, the Seller shall be deemed to be in control of, and in possession of, and shall have title to and risk in the Product.

12.03 The Purchaser will have no responsibility or liability with respect to any Product deliverable under the Agreement until it is delivered to the Purchaser in accordance with Section 12.01 hereof.

12.04 Subject to Article 8.0 hereof, the Seller shall not be liable for Product after its delivery to the Purchaser, as described in Section 12.01 hereof, or on account of anything which may be done or happen to arise with respect to Product after such delivery unless as a result of matters affecting Product prior to delivery.

12.05 The Seller shall arrange and maintain a minimum of \$[Redacted – Insurance Amount] commercial general liability insurance (which may be covered by a combination of commercial general liability insurance and umbrella coverage at the Seller's discretion), which includes accidental and sudden release and pollution coverage. The Seller shall cause the Purchaser to be designated as an additional insured, as their respective interests may appear, on such policy with waiver of subrogation by the insurer against Purchaser. The Seller shall arrange and maintain employer's liability insurance or workers' compensation coverage meeting all statutory requirements. The Seller shall provide the Purchaser with a Certificate of Insurance evidencing the existence of the required insurance.

12.06 The Purchaser shall arrange and maintain a minimum of \$[Redacted – Insurance Amount] commercial general liability insurance (which may be covered by a combination of commercial general liability insurance and umbrella coverage at the Purchaser’s discretion) and shall cause the Seller to be designated as an additional insured, as their respective interests may appear, on such policy, with waiver of subrogation by the insurer against Seller. The Purchaser shall provide to the Seller a Certificate of Insurance evidencing the existence of the required insurance.

### **13.0 Representations, Warranties and Covenants**

13.01 The Seller represents and warrants to the Purchaser, as of the date hereof, and covenants with the Purchaser at all times during the Contract Term, as follows, and acknowledges that the Purchaser is relying upon such representations, warranties and covenants in connection with the purchase of Product hereunder:

- (a) this Agreement has been duly and validly executed and delivered by the Seller;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Seller, enforceable in accordance with its terms, except to the extent its enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally or by general principles of equity;
- (c) the Seller shall have good and marketable title to all Product delivered to the Purchaser hereunder;
- (d) the Seller has the right to sell the Product to the Purchaser pursuant to the terms of this Agreement;
- (e) all Product shall be free and clear of liens, charges, encumbrances and third party rights and interests of every nature and kind;
- (f) the Seller covenants that it shall procure and maintain in force all licenses, consents and approvals required for its operation of the Plant and the manufacture and sale of the Product to the Purchaser under this Agreement, and shall be solely responsible for and indemnify the Purchaser against any costs, liabilities or fines arising out of the Seller's failure to comply with any applicable requirements of such licenses, consents and approvals;
- (g) the Seller covenants that it will maintain accurate and complete production and delivery records in a prudent and businesslike manner in accordance with sound commercial practices in respect of Product sold by the Seller to the Purchaser hereunder;
- (h) the Seller is a duly incorporated, valid, and subsisting corporation under the laws of the Province of British Columbia;
- (i) the Seller is a Canadian entity for purposes of provincial and federal income and excise taxes; and
- (j) the Seller covenants that it will provide the Purchaser, as soon as available each year upon request of the Purchaser, with a copy of its audited financial statements.

13.02 The Purchaser represents and warrants to the Seller, as of the date hereof and covenants with the Seller at all times during the Contract Term, as follows, and acknowledges that the Seller is relying upon such representations, warranties and covenants in connection with the sale of Product hereunder:

- (a) this Agreement has been duly and validly executed and delivered by the Purchaser;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Purchaser, enforceable in accordance with its terms, except to the extent its enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally or by general principles of equity;
- (c) the Purchaser covenants that it will maintain or cause to be maintained accurate and complete records in a prudent and businesslike manner in accordance with sound commercial practices, of the selling prices described in Article 9.0 hereof and the associated transportation and other costs in respect of Product purchased by the Purchaser from the Seller hereunder;
- (d) the Seller is a duly incorporated, valid, and subsisting corporation under the laws of the Province of Alberta;
- (e) the Purchaser covenants that it will provide to the Seller, as soon as available each year upon request of the Seller, with a copy of the audited financial statements of the Purchaser; and
- (f) the Purchaser covenants that it shall procure and maintain in force all licenses, consents and approvals required to allow it to carry out its obligations under this Agreement, except for those licenses for which the Seller is responsible to obtain and maintain, and shall be solely responsible for and indemnify the Seller against any costs, liabilities or fines arising out of the Purchaser's failure to comply with any applicable requirements of such licenses, consents and approvals.

#### **14.0 Liability and Indemnity**

14.01 The Seller shall indemnify and hold harmless the Purchaser and its representatives from and against all claims, losses, and liabilities that may be brought against them or which they may otherwise suffer, sustain, pay or incur insofar as they are a direct result of: (i) the delivery of any Product by or on behalf of the Seller that does not satisfy the specifications set out in Schedule A; (ii) any claims or other encumbrances involving the Seller's title to or right to sell the Product delivered hereunder; (iii) any act, omission, circumstance or other matter (whether negligent or otherwise) arising out of, resulting from, attributable to, or connected with the performance of the Purchaser's obligations under this Agreement; (iv) a breach of a provision herein by the Seller or a breach of any representation and warranty made herein by the Seller; or (v) the negligence or wilful misconduct of the Seller; provided that the Seller shall not be liable to or be required to indemnify and save harmless the Purchaser in respect of any claims, losses, or liabilities to the extent they are directly caused by or a direct result of the gross negligence or wilful misconduct of the Purchaser.

14.02 The Purchaser shall indemnify and hold harmless the Seller and its representatives from and against all claims, losses, and liabilities that may be brought against them or which they may otherwise suffer, sustain, pay, or incur insofar as they are a direct result of: (i) any act, omission, circumstance or other matter (whether negligent or otherwise) arising out of, resulting from, attributable to, or connected

with the performance of the Purchaser's obligations under this Agreement; (ii) a breach of a provision herein by the Purchaser or a breach of any representation and warranty made herein by the Purchaser; or (iii) the negligence or wilful misconduct of the Purchaser; provided that the Purchaser shall not be liable to or be required to indemnify and save harmless the Seller in respect of any claims, losses, or liabilities to the extent they are directly caused by or a direct result of the gross negligence or wilful misconduct of the Seller.

## **15.0 Confidentiality and Non-Circumvention**

15.01 Subject to Section 15.02 hereof, each of the Parties agrees:

- (a) not to disclose Confidential Information to any party not bound to Seller or Purchaser to maintain its confidentiality;
- (b) except as required to meet its obligations under this Agreement or obtain the benefits of this Agreement, not to use the Confidential Information for its benefit or the benefit of any other party;
- (c) to take reasonable steps to protect the security of the Confidential Information and avoid the disclosure of the Confidential Information in order to prevent same from falling into the public domain or into the hands of any party not bound to Seller or Purchaser to maintain its confidentiality; and
- (d) upon demand to return all Confidential Information to the other Party in whatever form and however stored or manifested, whether in original, extracted, summarised or reproduced form.

15.02 Notwithstanding Section 15.01 hereof, each Party may:

- (a) prudently use the Confidential Information to carry out its obligations hereunder;
- (b) retain copies of Confidential Information in its working files for the purpose of maintaining the records required to be maintained hereunder; and
- (c) retain copies of Confidential Information as may exist in its backup and archival systems (the "**Archival Copies**"), provided that: (1) deletion of such Confidential Information retained in such Archival Copies is not reasonably practical; (2) such Archival Copies are used only for backup and archival purposes; and (3) the Confidential Information residing in the Archival Copies is retained in confidence and not used for any purpose.

15.03 This Agreement, the terms and conditions of this Agreement and the nature and extent of the relationship between the Parties shall be kept in the strictest confidence by the Parties, except to the extent that Seller or Purchaser, as the case may be, is required to disclose information directly or through its parent entities under applicable legislation.

15.04 The Seller agrees, at the Seller's option, either: (i) for a [Redacted – Period] year period after the expiration, termination, or non-renewal of this Agreement which is by the Seller's choice (meaning the Purchaser was ready to continue or renew the Agreement but the Seller determined not to), not to enter

into or continue any agreement or transaction, whether directly or indirectly (including without limitation through another marketer or agent), to sell the Products to any party to which the Purchaser sold Products during the year prior to the effective date of expiration, termination, or non-renewal, or (ii) upon the expiration, termination, or non-renewal of this Agreement which is by the Seller's choice (meaning the Purchaser was ready to continue or renew the Agreement but the Seller determined not to), to pay an amount equal to the aggregate marketing fee earned by the Purchaser during the [Redacted – Timing] month period immediately prior to the effective date of expiration, termination, or non-renewal (meaning, for greater certainty, the Marketing Fee multiplied by the aggregate Net Price with respect to each gallon of Product lifted by the Purchaser during such [Redacted – Timing]-month period).

## **16.0 Force Majeure**

16.01 A delay in or failure of performance (other than payment of money) by either Party shall not constitute default, or breach of this Agreement, nor shall either Party be held liable to the other for any delay, failure, loss or damage to the extent such delay, failure, loss or damage is caused by occurrences reasonably beyond the control of the Party affected (a “**Force Majeure**”), including but not limited to acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any governmental authority or person purporting to act therefor; failure to obtain or maintain permits or other necessary authorization; acts of declared or undeclared war; any weapon of war employing atomic fission or radioactive force, whether in the time of peace or war; public disorders, rebellion, riots, sabotage, revolution; earthquakes, floods; strikes, labour or employment difficulties; interruption or delay caused by accident or sabotage; in the case of the Purchaser, if its customer or carrier experience or declares a force majeure event; or any causes whether or not the same class or kind as those specifically above named, not within the reasonable control of the party affected or which, by the exercise of reasonable diligence said Party is unable to prevent. In the event that deliveries or receipt of Product are suspended because of force majeure on the part of either Party, then the Purchaser shall not have any obligation at any time to take, make-up, receive or purchase and/or pay for any quantity of Product not delivered or received during any period in which delivery or receipt, as the case may be, is suspended, nor shall the Seller be required to deliver or make up deliveries omitted by reason of force majeure.

## **17.0 Default in Delivery or Default in Pick-up**

17.01 If the Seller fails to deliver Product to the Purchaser in accordance with the terms of this Agreement (including without limitation during an occurrence of Force Majeure or during an unscheduled outage) and the Purchaser has previously committed to deliver Product pursuant to sale agreements with Customers, the Purchaser shall be entitled, upon [Redacted – Timing] days written notice delivered to the Seller, to purchase such quantities of Products in the open marketplace (an “**Outsourced Purchase**”) as may be necessary to allow the Purchaser to perform its obligations under such sale agreements, in which case the Seller shall use commercially reasonable efforts to assist the Purchaser in carrying out the Outsourced Purchase.

17.02 If, pursuant to an Outsourced Purchase, the Purchaser purchases replacement Products, the Seller shall reimburse the Purchaser to the extent required to ensure the Purchaser earns the complete amount of the Marketing Fee on all such sales of replacement Products.

17.03 Subject to Article 11.0, if the Purchaser fails to take delivery of Product when available in accordance with the terms of this Agreement, the Seller shall be entitled, upon [Redacted –Timing] days’

written notice delivered to the Purchaser, to sell such quantities of Products in the open marketplace as may be necessary to allow the Seller to dispose of same, in which case the Purchaser shall use commercially reasonable efforts to assist the Seller in carrying out such disposal (an “**Alternative Sale**”).

## **18.0 Limitation of Liability**

18.01 Subject to the terms of this Agreement, neither Party shall be liable to the other Party for any indirect, consequential, punitive or special damages, loss of business expectations, business interruptions or any damage to third parties arising in any way out of this Agreement or any breach thereof.

## **19.0 Audit Rights**

19.01 Each Party will establish and maintain at all times true and accurate books, records and accounts in accordance with generally accepted accounting principles applied consistently from year to year consistent with good industry practices, distinguishable from all other books and records in respect of all transactions undertaken by such Party pursuant to this Agreement.

19.02 During normal business hours, each Party shall have the right, exercisable no more than [Redacted – Timing] per year, to audit such books, records and accounts of the other Party, provided such right to audit shall be limited to two calendar years following the completion of any sale or other transaction associated with this Agreement; provided that if either Party from time to time is able to provide evidence reasonably demonstrating a concern that the relevant books, records or accounts of the other Party are not correct, such Party may exercise the audit right described in this section within [Redacted – Timing] days of providing such evidence, notwithstanding the limitation of [Redacted – Number of Audits] audit per year that would otherwise apply.

19.03 Subject to Section 19.02 hereof, for a period of [Redacted – Timing] year after the expiration of the Contract Term, each Party shall have the right to have a third-party auditor, who will be a member of a chartered accounting firm with no fewer than fifty (50) partners, audit on such Party's behalf the relevant accounts, books and records of the other Party, to the extent necessary in order to verify the accuracy of any statement, charge, computation or demand made under or pursuant to any of the provisions of this Agreement.

19.04 If any error is discovered in any statement rendered hereunder, such error will be adjusted by the Parties within a period of [Redacted – Timing] days from the date of discovery, but no adjustment will be made for any error discovered in a statement more than [Redacted – Time Period] years after delivery of such statement.

19.05 If a difference of [Redacted – Percentage] percent or \$[Redacted – Amount], whichever is greater, from a statement rendered hereunder by any Party is discovered by any audit, the Party which rendered such statement will pay the costs of such audit. If no such material difference appears, the Party requesting the audit of such statement will pay such costs.

## **20.0 Renewable Identification Numbers**

20.01 In the event that Renewable Identification Numbers (RINs) are required with respect to Products in the future for compliance with applicable regulations, the price of such RINs shall be included in the Gross Price.

## **21.0 Miscellaneous**

21.01 In the event of a default in the payment of any amounts due hereunder which continues for a period of [Redacted – Timing] business days following the due date, or a default in performance of any other obligation that continues for a period of [Redacted – Timing] days following written notice thereof, the non-defaulting party shall have all the remedies available under applicable law or equity and may pursue them.

21.02 If any dispute arises out of or in connection with this Agreement, the obligations arising under it or the interpretation of its terms, the matter shall first be referred to senior management of the Parties for settlement, failing which it shall be referred to arbitration by the Arbitrators Association of Alberta under its Commercial Arbitration Rules and according to the following terms:

- (a) Either the Purchaser or the Seller may initiate arbitration by giving written notice requesting arbitration to the other.
- (b) The Parties shall select a single arbitrator by mutual agreement, but if they fail to select a single arbitrator within [Redacted – Timing] calendar days of the receipt of notice of arbitration, then each Party shall within [Redacted – Timing] business days thereafter, appoint their respective arbitrator and the two arbitrators thus chosen shall together, within [Redacted – Timing] business days of their appointment, select a third arbitrator and that three member panel shall arbitrate the dispute. In the event that two arbitrators shall fail within [Redacted – Timing] business days of their appointment to select a third arbitrator, then upon written request of either Party, the third arbitrator shall be appointed by the Arbitrators Association of Alberta. If a Party shall fail to appoint an arbitrator as required, the arbitrator appointed by the other Party shall be the sole arbitrator.
- (c) Within [Redacted – Timing] business days of the appointment of the arbitrator or panel, as the case may be, each Party shall state in writing its position concerning the dispute, supported by the reasons therefor, and deliver its position to the arbitrator(s) and the other Party. If either Party fails to submit its position in a timely manner, the position submitted by the other Party shall be deemed correct, and the arbitration shall be deemed concluded. The Parties shall then have [Redacted – Timing] calendar days to respond to the position of the other Party and deliver that response to the arbitrator(s). The arbitrator(s) shall within [Redacted – Timing] calendar days thereafter, meet to consider the documents presented in order to make a determination by majority on the issues in dispute. Within [Redacted – Timing] business days of the end of their meeting the arbitrator(s) shall present their award. The arbitrator(s) may award a Party the right to terminate this Agreement if termination is a remedy specified herein for the claim which is the subject of the arbitration.

- (d) Each Party in such arbitration shall bear one-half each of the expenses of the arbitrator(s), including their fees and costs, and the losing Party shall reimburse the winning Party for such amount paid by the winning Party. Each Party shall bear its own expenses, including attorney's fees. Notwithstanding the foregoing, the arbitrator(s) may grant any relief which they or majority of them deem just and equitable and within the scope of the Agreement of the Parties, including a reasonable allowance for attorney's fees.

21.03 Except as herein otherwise provided, each notice, request, demand, statement, report and bill which must or may be given pursuant hereto shall be in writing and shall be either mailed by prepaid first class mail (or equivalent), delivered by hand or sent by telecopier or e-mail transmission to the addresses, fax numbers or e-mail of the parties set forth below or to such other addresses, fax numbers or e-mails as the Parties may specify in writing from time to time during the Contract Term:

- (a) to the Purchaser at:

Elbow River Marketing Ltd.  
Suite 1500, 335 - 8th Avenue S.W.  
Calgary, Alberta, Canada T2P 1C9  
Fax Number: 403-269-9576  
E-mail: [Redacted – E-mail]  
Attention: [Redacted – Personal Information]

- (b) to the Seller at:

Gen III Oil Corp.  
Suite 910, 1050 West Pender Street  
Vancouver, British Columbia, Canada V6E 3S7  
E-mail: [Redacted – E-mail]  
Attention: [Redacted – Personal Information]

The date of receipt of each such notice, demand or other communication will be the date of delivery thereof if hand delivered, the date of transmission if delivered by telecopier or e-mail or the date that is the [Redacted – Timing] day after the date on which same is mailed, provided that in the event a notice, demand or other communication is mailed to a Party in accordance with the provisions of this section during the period of a disruption of the postal service, such notice, demand or other communication shall be deemed to have been received only when actually received by the other Party.

21.04 The Parties shall faithfully perform and discharge their respective obligations under this Agreement and endeavour in good faith to negotiate and settle all matters arising during the performance of the Agreement not specifically provided for.

21.05 Each of the Parties hereto shall pay its own costs and expenses incurred in the negotiation, preparation and execution of this Agreement and of all documents referred to in it and in carrying out the transactions contemplated hereby and thereby.

**IN WITNESS WHEREOF** the Parties have executed this Agreement effective as of the 12th day of September, 2017.

**ELBOW RIVER MARKETING LTD.**

**GEN III OIL CORP.**

Per: (signed) "Mark A. H. Anderson"  
Name: Mark A. H. Anderson  
Title: VP, Refined Products & Crude Oil

Per: (signed) "Greg Clarkes"  
Name: Greg Clarkes  
Title: Chief Executive Officer

Per: (signed) "Bill Niquidet"  
Name: Bill Niquidet  
Title: VP, Treasury & Risk Management

Per: (signed) "George Davidson"  
Name: George Davidson  
Title: President

**Schedule A**

**Produced Product Specifications**

**[NTD: specs to be added]**