

## AGENCY AGREEMENT

June 12, 2009

Tethys Petroleum Limited  
P.O. Box 524  
St. Peter Port  
Guernsey, GY1 6EL, Channel Islands

Attention: Dr. David Robson,  
President and Chief Executive Officer

Dear Mesdames/Sirs:

**Re: Tethys Petroleum Limited – Public Offering**

Fraser Mackenzie Limited (the "**Agent**") understands that Tethys Petroleum Limited (the "**Company**") proposes to issue and sell a minimum of 20,672,000 Ordinary Shares (as defined below) and a maximum of 51,680,000 Ordinary Shares (the "**Shares**").

The Agent also understands that the Company has prepared and filed the Preliminary Prospectus (as defined below) with respect to the Shares with the Securities Commissions (as defined below) in the Qualifying Jurisdictions (as defined below) and has received the Preliminary Receipt (as defined below). The Agent also understands that the Company has prepared the Final Prospectus (as defined below) and will file the same with the Securities Commissions promptly after execution of this Agreement (as defined below).

Upon and subject to the terms and conditions, and in reliance on the representations and warranties contained herein, the Agent hereby agrees to act as the agent of the Company to offer the Shares for sale from the Company and to use its reasonable commercial efforts to obtain subscriptions therefor, and the Company hereby appoints the Agent as its agent in respect of such offering, and in connection therewith the Company agrees to offer and sell through the Agent the Shares at the purchase price of US\$0.387 per Offered Share, being aggregate minimum gross proceeds of US\$8,000,064 and aggregate maximum gross proceeds of US\$20,000,160 in respect of the Shares, provided that Shares may be purchased by the subscribers therefor at a purchase price of CDNS\$0.425 per Offered Share. The Agent proposes to distribute the Shares in the Qualifying Jurisdictions pursuant to the Final Prospectus. In addition, the Company has retained the Special Selling Agents (as defined below) to distribute the Shares in certain other jurisdictions, including the United States pursuant to the U.S. Placement Memorandum (as defined below) dated the date hereof, as agreed between the Company, the Agent and the Special Selling Agents (the "**Other Jurisdictions**"), all in the manner contemplated by this Agreement. In consideration of the agreement of the Agent to distribute the Shares in the manner set forth herein, the Company agrees to pay to the Agent the Agency Fee as specified in Section 14 of this Agreement at the Time of Closing (as defined below).

## Terms and Conditions

The following are additional terms and conditions of this Agreement among the Company and the Agent.

### **1. Definitions**

Where used in this Agreement, or in any amendment to this Agreement, the following terms will have the following meanings, respectively:

- 1.1 "**affiliate**" has the meaning ascribed thereto in section 1.2 of National Instrument 45-106 of the Canadian Securities Administrators, as constituted on the date of this Agreement;
- 1.2 "**Agency Fee**" has the meaning given to that term in Section 14.1 of this Agreement;
- 1.3 "**Agreement**" means the agreement resulting from the acceptance by the Company of the offer made by the Agent by this letter and the agreement of the Agent and the Company, to be bound hereby, and includes any amendment to or restatement of this Agreement made in accordance with the terms of this Agreement;
- 1.4 "**Akkulka Block**" means the area in Kazakhstan that is subject to the Akkulka Exploration License and Contract;
- 1.5 "**Akkulka Exploration License and Contract**" means TAG's exploration license and contract in respect of the Akkulka Block;
- 1.6 "**Asia Oilfield**" means Asia Oilfield Equipment B.V., an indirect wholly-owned subsidiary of the Company incorporated under the laws of the Netherlands;
- 1.7 "**Authorization**" means, with respect to any Person, any order, permit, approval, consent, waiver, license, qualification, registration or similar authorization of any Governmental Body having jurisdiction over the Person;
- 1.8 "**BHCL**" means Baker Hughes (Cyprus) Limited, an indirect wholly-owned subsidiary of the Company incorporated under the laws of Cyprus;
- 1.9 "**Beneficiaries**" has the meaning given to that term in Section 12.5 of this Agreement;
- 1.10 "**Bokhtar PSC**" means the production sharing contract dated June 13, 2008 between KPL and the Ministry of Energy and Industry of Tajikistan;
- 1.11 "**Business Day**" means a day other than a Saturday, a Sunday or a day on which chartered banks are not open for business in Calgary, Alberta or in Toronto, Ontario;
- 1.12 "**Capital Loans**" means the loan agreements: (i) dated February 14, 2008 between TPI and certain investors; and (ii) dated May 22, 2009 between TPL and certain investors, each providing secured loan financing to TPI and TPL, respectively, to purchase, in the aggregate, two new drilling rigs.

- 1.13 **"CEO Services Agreement"** means the management services agreement between the Company and Vazon providing for, among other things, the services of Dr. David Robson as President and Chief Executive Officer of the Company;
- 1.14 **"Claim"** has the meaning given to that term in Section 12.1 of this Agreement;
- 1.15 **"Closing"** means a closing of the purchase and sale of Shares hereunder;
- 1.16 **"Closing Date"** means June 19, 2009 and/or such other earlier or later date or dates as may be agreed to in writing by the Company and the Agent, each acting reasonably, provided that the Closing Date shall not be later than the date which is 90 days following the date on which the Final Receipt is issued;
- 1.17 **"Companies Law"** means the *Companies Law (Revised)* of the Cayman Islands;
- 1.18 **"Contracts"** means, collectively, the Kyzylol Field License and Production Contract, the Akkulka Exploration License and Contract, the Kul-Bas Exploration and Production Contract, the Bokhtar PSC and the PEC;
- 1.19 **"distribution"** means "distribution" or "distribution to the public", as the case may be, as those terms are defined in applicable Securities Laws;
- 1.20 **"Environmental Laws"** means any federal, provincial, local or municipal Laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants applicable to the Company or its subsidiaries in the jurisdictions each carries on business;
- 1.21 **"Final Prospectus"** means the final (short form) prospectus of the Company dated June 12, 2009 including the documents incorporated by reference therein, approved, signed and certified in accordance with the Securities Laws, relating to the qualification for distribution of the Shares under applicable Securities Laws in the Qualifying Jurisdictions;
- 1.22 **"Final Receipt"** means the receipt for the Final Prospectus issued by the Alberta Securities Commission on its own behalf and on behalf of the other Securities Commissions;
- 1.23 **"Financial Information"** means the following financial statements (which are incorporated by reference in the Final Prospectus):
- (a) the audited consolidated balance sheets of the Company as at December 31, 2008 and 2007 and the audited consolidated statements of operations, changes in stockholders' equity and cash flows for each of the years then ended together with the notes thereto and the report of PWC thereon; and
  - (b) the unaudited interim consolidated statement of financial position of the Company as at March 31, 2009 and the unaudited interim consolidated statements of

comprehensive loss, changes in equity and cash flows for the three month periods ended March 31, 2009 and 2008, together with the notes thereto;

- 1.24 "**Gas Supply Contract**" means the take-or-pay natural gas supply contract between BNM and Kazakhstani Petrochemical Company Kemikal LLP dated December 3, 2007 in respect of gas sales from the Kyzylloi Field;
- 1.25 "**Governmental Body**" means any (a) multinational, federal, provincial, state, municipal, local or other governmental or public department, central bank, court, commission, board, bureau, agency or instrumentality, domestic or foreign, (b) any subdivision or authority of any of the foregoing, or (c) any quasi-governmental, self-regulatory organization or private body exercising any regulatory, expropriation or taxing authority under or for the account of its members or any of the above, and includes the Regulatory Authorities;
- 1.26 "**Indemnified Party**" has the meaning given to that term in Section 12.1 of this Agreement;
- 1.27 "**Indemnifying Party**" has the meaning given to that term in Section 12.2 of this Agreement;
- 1.28 "**KPL**" means Kulob Petroleum Limited, a wholly-owned subsidiary of TTL;
- 1.29 "**Kul-Bas**" means Kul-Bas LLP, a limited liability partnership registered in Kazakhstan in which TAG has a 100% interest;
- 1.30 "**Kul-Bas Block**" means the area that is subject to the Kul-Bas Exploration and Production Contract;
- 1.31 "**Kul-Bas Exploration and Production Contract**" means the exploration and production contract in respect of the Kul-Bas Block to which Kul-Bas is a party;
- 1.32 "**Kyzylloi Field**" means the area that is subject to the Kyzylloi Field License and Production Contract;
- 1.33 "**Kyzylloi Field License and Production Contract**" means TAG's field license and production contract in respect of the Kyzylloi Field;
- 1.34 "**Law**" means any and all applicable laws, including all statutes, codes, ordinances, decrees, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, binding on or affecting the Person referred to in the context in which the word is used;
- 1.35 "**Legal Due Diligence Reports**" means the legal due diligence reports prepared by Ogier (in respect of the laws of the Cayman Islands), Denton Wilde Sapte (in respect of the laws of Kazakhstan and Uzbekistan) and Grata (in respect of the laws of Tajikistan);
- 1.36 "**Liens**" means, with respect to any property or assets, any encumbrance or title defect of whatever kind or nature, regardless of form, whether or not registered or registrable and

whether or not consensual or arising by law (statutory or otherwise), including any mortgage, lien, charge, pledge or security interest, whether fixed or floating, or any assignment, lease, option, right of pre-emption, privilege, encumbrance, easement, servitude, right of way, community property right, restriction on transfer, restrictive covenant, right of use or any other right or claim of any kind or nature whatever which affects ownership or possession of, or title to, any interest in, or the right to use or occupy such property or assets;

- 1.37 "**Material Adverse Effect**" or "**Material Adverse Change**" means any effect on or change to the business of the Company and its subsidiaries, taken as a whole, that is or is reasonably likely to be materially adverse to the results of operations, financial condition, assets, liabilities (contingent or otherwise), cash flow, income or business operations or prospects of such business, taken as a whole, or to the completion of the transactions contemplated by this Agreement or the Material Agreements;
- 1.38 "**Material Agreements**" means, collectively, this Agreement, the Selling Agency Agreement, the CEO Services Agreement, the Contracts, the Gas Supply Contract, the Tajik Gas Supply Contract, the Capital Loan and the Umbrella Management Services Agreement;
- 1.39 "**material change**", "**material fact**" and "**misrepresentation**" have the meanings attributed thereto under applicable Securities Laws;
- 1.40 "**Material Subsidiaries**" means TKL, TAG, Kul-Bas, BHCL and KPL;
- 1.41 "**McDaniel**" means McDaniel & Associates Consultants Ltd., independent oil and natural gas reservoir engineers of Calgary, Alberta;
- 1.42 "**McDaniel Reserve Report**" means the independent engineering evaluation of the Company's natural gas reserves in Kazakhstan prepared by McDaniel, effective December 31, 2008;
- 1.43 "**Offering Documents**" has the meaning given to that term in Section 4.1 of this Agreement;
- 1.44 "**Option Plan**" means the stock incentive plan of the Company referred to as the "2007 Long Term Stock Incentive Plan" adopted by the Company in May 2007, as amended effective April 24, 2008 and as amended effective May 7, 2009;
- 1.45 "**Ordinary Shares**" means the US\$0.10 par value ordinary shares in the share capital of the Company as constituted on the date hereof;
- 1.46 "**PEC**" means the Production Enhancement Contract dated August 19, 1999 among BHCL, Joint Stock Company Uzgeoneftegazdobycha and Joint Stock Company Uznefteperabotka, as amended;
- 1.47 "**Person**" includes any individual, general partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, joint

stock company, association, trust, trust company, bank, pension fund, trustee, executor, administrator or other legal personal representative, regulatory body or agency, Governmental Body or other organization or entity, whether or not a legal entity, however designated or constituted;

- 1.48 "**Plans**" has the meaning given to that term in Section 9.1.6.4 of this Agreement;
- 1.49 "**Preliminary Prospectus**" means the preliminary short form prospectus of the Company dated May 22, 2009 including the documents incorporated by reference therein relating to the qualification for distribution of the Shares under applicable Securities Laws in the Qualifying Jurisdictions;
- 1.50 "**Preliminary Receipt**" means the receipt dated May 22, 2009 for the Preliminary Prospectus issued by the Alberta Securities Commission on its own behalf and on behalf of the other Securities Commissions;
- 1.51 "**Prospectus**" means the Preliminary Prospectus and the Final Prospectus;
- 1.52 "**PWC**" PricewaterhouseCoopers LLP, independent auditors of the Company;
- 1.53 "**Qualifying Jurisdictions**" means, collectively, the provinces of Alberta, British Columbia and Ontario;
- 1.54 "**Quam**" means Quam Securities Company Limited;
- 1.55 "**Regulation D**" means Regulation D adopted by the SEC pursuant to the U.S. Securities Act;
- 1.56 "**Regulation S**" means Regulation S adopted by the SEC pursuant to the U.S. Securities Act;
- 1.57 "**Regulatory Authorities**" means the Securities Commissions, the SEC, U.S. State Securities Commissions, the TSX and the Investment Industry Regulatory Authority of Canada or any other regulatory authority having jurisdiction over the Company or the trading of the Ordinary Shares generally;
- 1.58 "**Renaissance Capital**" means Renaissance Securities (Cyprus) Limited;
- 1.59 "**SEC**" means the United States Securities and Exchange Commission;
- 1.60 "**Securities Commission**" means the applicable securities commission or regulatory authority in each of the Qualifying Jurisdictions;
- 1.61 "**Securities Laws**" means, collectively, the applicable securities laws of each of the Qualifying Jurisdictions and the respective regulations and rules made under those securities laws together with all applicable policy statements, blanket orders and rulings of the Securities Commissions and all discretionary orders or rulings, if any, of the Securities Commissions made in connection with the transactions contemplated by this

Agreement, together with applicable published policy statements of the Canadian Securities Administrators;

- 1.62 "**Selling Agency Agreement**" means the selling agreement dated the date hereof entered into among the Company, the Agent and the Special Selling Agents providing for the terms under which the Special Selling Agents will offer and sell the Shares in the Other Jurisdictions;
- 1.63 "**Selling Firms**" has the meaning given to that term in Section 3.1 of this Agreement;
- 1.64 "**Special Selling Agents**" has the meaning given to such term in Section 3.6 of this Agreement;
- 1.65 "**Standard Listing Conditions**" has the meaning given to that term in Section 4.3.3 of this Agreement;
- 1.66 "**Subsidiaries**" means, collectively, TAG, TPI, TSL, TKL, TMG, TTL, TST, KPL, Kul-Bas, TSK, Asia Oilfield, Tethyda, TTR and BHCL;
- 1.67 "**subsidiary**" has the meaning ascribed thereto in National Instrument 45-106 of the Canadian Securities Administrators, as constituted at the date of this Agreement;
- 1.68 "**Supplementary Material**" means, collectively, any amendment to the Final Prospectus, any amended or supplemental prospectus or ancillary materials that may be filed by or on behalf of the Company under the Securities Laws relating to the qualification for distribution of the Shares under applicable Securities Laws;
- 1.69 "**TAG**" means TethysAralGaz LLP (formerly known as BN Munai LLP), a limited liability partnership registered in Kazakhstan in which the Company, through TKL, has a 100% interest;
- 1.70 "**Tajik Gas Supply Contract**" means the natural gas supply agreement effective January 1, 2009 between KPL and OJSC Kulyabgaz;
- 1.71 "**Tajikistan Contract Area**" means the 8.6 million acre area subject to the Bokhter PSC in southwestern Tajikistan;
- 1.72 "**Tax Act**" means the *Income Tax Act* (Canada), as amended;
- 1.73 "**Tethyda**" means Tethyda Limited, a wholly-owned subsidiary of the Company incorporated under the laws of the Republic of Cyprus;
- 1.74 "**Time of Closing**" means 8:30 a.m. (Toronto time) on the Closing Date, or any other time on the Closing Date as may be agreed to by the Company and the Agent;
- 1.75 "**TKL**" means Tethys Kazakhstan Limited, a wholly-owned subsidiary of the Company incorporated under the laws of Guernsey;

- 1.76 "**TMG**" means TethysMunaiGaz LLP, a limited liability partnership registered in Kazakhstan in which the Company, through TKL, has a 100% interest;
- 1.77 "**TPI**" means Tethys Petroleum Incorporated a wholly-owned subsidiary of the Company incorporated under the laws of Delaware;
- 1.78 "**TRACS**" means TRACS International Ltd., independent oil and gas engineers ;
- 1.79 "**TRACS Reserve Report**" means the independent engineering evaluation of the Company's oil and natural gas reserves in the Tajikistan Contract Area prepared by TRACS, effective March 31, 2009;
- 1.80 "**TRACS Resource Report**" means the independent engineering evaluation of the contingent and prospective resources of the Company attributable to the Tajikistan Contract Area prepared by TRACS, effective March 31, 2009;
- 1.81 "**Transfer Agent**" means Equity Transfer & Trust Company;
- 1.82 "**TSK**" means Tethys Services Kazakhstan LLP, a limited liability partnership registered in Kazakhstan in which the Company, through TKL, has a 100% interest;
- 1.83 "**TSL**" means Tethys Services Limited, a wholly-owned subsidiary of the Company incorporated under the laws of England;
- 1.84 "**TST**" means Tethys Services Tajikistan Limited, a wholly-owned subsidiary of TTL incorporated under the laws of Tajikistan;
- 1.85 "**TSX**" means the Toronto Stock Exchange;
- 1.86 "**TTL**" means Tethys Tajikistan Limited, a wholly-owned subsidiary of the Company incorporated under the laws of Jersey;
- 1.87 "**TTR**" means Tethys Tajikistan R.O., an indirect wholly-owned subsidiary of the Company incorporated under the laws of the Republic of Tajikistan;
- 1.88 "**Umbrella Management Services Agreement**" means the management services agreement between the Company and Vazon dated June 8, 2007 providing for, among other things, the services of Vazon and the services of certain executive officers of the Company;
- 1.89 "**United States**" or "**U.S.**" means the United States of America, its territories and possessions, any state of the United States and the District of Colombia;
- 1.90 "**U.S. Dealer**" means a broker-dealer registered as such with the SEC under section 15 of the U.S. Exchange Act and who is a member of the National Association of Securities Dealers, Inc.;
- 1.91 "**U.S. Exchange Act**" means the U.S. *Securities Exchange Act of 1934*, as amended;



- 1.92 **"U.S. Placement Memorandum"** means the Final Prospectus supplemented with wrap pages describing, among other things, restrictions imposed under the U.S. Securities Act;
- 1.93 **"U.S. Qualifying Jurisdictions"** means, collectively, each of the states of the United States in which Shares are offered and/or sold;
- 1.94 **"U.S. Securities Act"** means the United States *Securities Act of 1933*, as amended, together with the rules and regulations enacted thereunder;
- 1.95 **"U.S. Securities Laws"** means all of the applicable federal securities laws and regulations of the United States, including, without limitation, the U.S. Securities Act, and the U.S. Exchange Act, and the state securities or "blue sky" laws of the U.S. Qualifying Jurisdictions;
- 1.96 **"U.S. State Securities Commissions"** means the Governmental Bodies charged with administering the state securities or "blue sky" laws of the U.S. Qualifying Jurisdictions; and
- 1.97 **"Vazon"** means Vazon Energy Limited, a company incorporated in Guernsey.

Capitalized terms used but not defined in this Agreement have the meanings given to them in the Final Prospectus.

Any reference in this Agreement to a section, paragraph, subsection, subparagraph, clause or subclause will refer to a section, paragraph, subsection, subparagraph, clause or subclause of this Agreement.

All words and personal pronouns relating to those words will be read and construed as the number and gender of the party or parties referred to in each case required and the verb will be construed as agreeing with the required word and/or pronoun.

## **2. Filing of Prospectus and Qualification of Shares**

- 2.1 The Company will, as soon as possible following the execution of this Agreement, file the Final Prospectus, in form and substance satisfactory to the Agent acting reasonably, and all other documents required under the Securities Laws with the Securities Commission in each of the Qualifying Jurisdictions, and will obtain the Final Receipt as soon as possible after such filing and, in any event, not later than 5:00 p.m. (Calgary time) on June 12, 2009 (or such other time and/or later date as the Company and the Agent may agree) and will have taken all other steps and proceedings that may be necessary on its part: (a) in order to qualify the Shares for distribution in each of the Qualifying Jurisdictions by the Agent and other Persons who are registered in a category permitting it to distribute the Shares under the Securities Laws and who comply with the Securities Laws and (b) to enable the Shares to be lawfully offered and sold on a private placement basis through one or more U.S. Dealers in the United States in accordance with the provisions of Schedule A to this Agreement; and (c) to enable the Shares to be lawfully offered and sold on a private placement basis in the Other Jurisdictions.

### **3. Distribution of the Shares and Certain Obligations of the Agent**

- 3.1 The Agent shall distribute the Shares to the public in the Qualifying Jurisdictions and on a private placement basis in the United States and the Other Jurisdictions directly and through other investment dealers and brokers, only as permitted by Securities Laws, U.S. Securities Laws and the securities legislation of the Other Jurisdictions and upon the terms and conditions set forth in the Final Prospectus, the U.S. Placement Memorandum and in this Agreement. The Agent and such other investment dealers and brokers (including the Special Selling Agents) are collectively referred to herein as the "**Selling Firms**". The Agent will not directly sell or distribute any Shares in the United States but may arrange for sale of the Shares in the United States as contemplated by Schedule A hereto, the provisions of which are agreed to by the Company and the Agent and are incorporated by reference herein. The Agent will not solicit offers to purchase or sell the Shares so as to require registration thereof or the filing of a prospectus or any similar document under the laws of any jurisdiction outside the Qualifying Jurisdictions and shall comply with all applicable Securities Laws in each of the Qualifying Jurisdictions into and from which it may offer or sell the Shares. Any agreements between the Agent and the other Selling Firms will contain similar restrictions to the foregoing and the Agent will use its commercially reasonable efforts to cause the Selling Firms to comply with all applicable Securities Laws, U.S. Securities Laws and the securities legislation of the Other Jurisdictions. For the purposes of this section, the Agent will be entitled to assume that the Shares are qualified for distribution in any Qualifying Jurisdiction in respect of which the Final Receipt evidences that a receipt or similar acceptance of the Final Prospectus has been obtained from the applicable Securities Commission following the filing of the Final Prospectus, unless the Agent, receives notice to the contrary from the Company or the applicable Securities Commission.
- 3.2 The Agent will complete, and will use its reasonable commercial efforts to cause the Selling Firms (if any) to complete, the distribution of the Shares as promptly as possible after the Time of Closing. The Agent will notify the Company when, in the Agent's opinion, the Agent and the Selling Firms (if any) have ceased distribution of the Shares and, promptly after completion of the distribution of Shares, will provide the Company, in writing, with a breakdown of the number of Shares distributed in each of the Qualifying Jurisdictions and the U.S. Qualifying Jurisdictions where that breakdown is required by the Securities Commission or U.S. State Securities Commission of that province or state for the purpose of calculating fees payable to that Securities Commission or U.S. State Securities Commission and for the purpose of making any required filing with any Regulatory Authority.
- 3.3 The Agent will not be liable to the Company under this Section 3 with respect to a default by any Selling Firms unless such Agent participated in or contributed to such default.
- 3.4 The Agent makes the representations, warranties and covenants in Schedule A hereto, and agrees on behalf of itself and the United States broker dealer retained by the Agent to make offers for sale of the Shares in the United States, for the benefit of the Company to comply with the selling restrictions imposed by the U.S. Securities Laws and set forth in

Schedule A hereto, which is incorporated by reference herein and forms part of this Agreement.

- 3.5 The Agent shall act as custodian of funds received from subscribers for Shares pending the Closing of the Offering. Such funds shall be released at the Closing in accordance with Section 12 of this Agreement, provided that if the minimum offering amount of US\$8,000,000 has not been subscribed for prior to the date that is 90 days following the issuance of the Final Receipt, then the Agent shall promptly return such funds to the subscribers without interest or deduction unless such subscribers have instructed the Agent otherwise.
- 3.6 The parties hereto agree that Quam and Renaissance Capital will be designated as special selling agents (the "**Special Selling Agents**") for the purpose of procuring subscribers of Shares in certain countries outside Canada where such Special Selling Agents are duly qualified to carry on business and solicit purchasers for the Shares. In connection therewith the Special Selling Agents, the Company and the Agent have entered into the Selling Agency Agreement. Each of the Company and the Agent agrees to perform its obligations under such agreement in accordance with its terms.

#### **4. Delivery of Prospectus and Related Matters**

- 4.1 The Company will cause to be delivered to the Agent and the Special Selling Agents, at those delivery points as the Agent may reasonably request, as soon as possible, and, with respect to the Agent, in any event at locations in the City of Toronto no later than 5:00 p.m. (Toronto time), on the Business Day immediately following the issuance of the Final Receipt, and thereafter from time to time during the distribution of the Shares in Canada, as many commercial copies of the Final Prospectus as the Agent and the Special Selling Agents may reasonably request. The Company will similarly cause to be delivered to the Agent and the Special Selling Agents, without charge, at those delivery points and in such number as the Agent may reasonably request, commercial copies of the U.S. Placement Memorandum and any Supplementary Material required to be delivered to purchasers or prospective purchasers of the Shares. Each delivery of the Preliminary Prospectus, Final Prospectus, the U.S. Placement Memorandum or any Supplementary Material (collectively, the "**Offering Documents**") will constitute the Company's consent to the use of the Offering Documents by the Agent and the Selling Firms in connection with the distribution of the Shares in the Qualifying Jurisdictions and the private placement of the Shares in the United States and the Other Jurisdictions in compliance with the provisions of this Agreement, the Securities Laws and U.S. Securities Laws.
- 4.2 Each delivery of the Offering Documents to the Agent by the Company in accordance with Sections 4.1 and 4.3 will constitute the representation and warranty of the Company to the Agent that (except for the information and statements relating solely to the Agent and furnished by it specifically for use in such document), at the respective times of delivery and, in the case of the Final Prospectus and the U.S. Placement Memorandum, together with Supplementary Material, if any, at the Time of Closing:
- 4.2.1 the information and statements contained in each of the Offering Documents:

- 4.2.1.1 are true and correct in all material respects;
  - 4.2.1.2 do not contain a misrepresentation; and
  - 4.2.1.3 constitute full, true and plain disclosure of all material facts relating to the Shares and to the Company and its subsidiaries, considered as a whole, in accordance with the Securities Laws; and
- 4.2.2 each of the Offering Documents complies in all material respects with Securities Laws and U.S. Securities Laws applicable to such Offering Document.
- 4.3 The Company will deliver to the Agent and the Special Selling Agents, without charge, in Toronto, Ontario, contemporaneously with or prior to the filing of the Final Prospectus, unless otherwise indicated:
  - 4.3.1 a copy of the Final Prospectus, signed on behalf of the Company as required by the Securities Laws of each of the Qualifying Jurisdictions;
  - 4.3.2 a copy of any other document required to be filed by the Company under the Securities Laws in connection with the distribution of the Shares contemplated by this Agreement;
  - 4.3.3 evidence satisfactory to the Agent of the approval of the listing and posting for trading on the TSX of the Shares, subject only to satisfaction by the Company of customary conditions imposed by the TSX in similar circumstances (the "**Standard Listing Conditions**") as set out in the letter from the TSX to the Company dated June 11, 2009; and
  - 4.3.4 a "long-form" comfort letter or comfort letters dated the date of the Final Prospectus, in form and substance satisfactory to the Agent, addressed to the Agent, the board of directors of the Company and the Special Selling Agents from PWC, and based on a review completed not more than two Business Days prior to the date of the Final Prospectus, with respect to certain financial and accounting information relating to the Company in the Final Prospectus, which letter shall be in addition to the auditors' reports incorporated by reference in the Final Prospectus.
- 4.4 Comfort letters and other documents substantially similar to those referred to in Sections 4.3.2 and 4.3.4 of this Agreement will be delivered to the Agent, the Special Selling Agents and their respective counsel with respect to any Supplementary Material or other relevant document, concurrently with the filing of the Supplementary Material or other relevant document.
- 4.5 The Company will deliver to the Agent and the Special Selling Agents, contemporaneously with or prior to the filing of the Final Prospectus, the Legal Due Diligence Reports effective not more than five days prior to the date of the Final Prospectus, each in form and substance acceptable to the Agent, acting reasonably.

- 4.6 During the period commencing on the date hereof and until completion of the distribution of the Shares, the Company will, so far as practicable, provide to the Agent drafts of any press releases of the Company that includes information regarding the Company or the offering of the Shares, for review by the Agent and the Agent's counsel prior to issuance, provided that any such review will be completed in a timely manner.
- 4.7 Prior to the filing of the Final Prospectus or any Supplementary Material and the Time of Closing, the Company will allow the Agent and the Special Selling Agents to participate fully in the preparation of such documents and will allow the Agent, the Special Selling Agents and their advisors and representatives to conduct all additional due diligence investigations which it may reasonably require in order to fulfill their respective obligations as agents in connection with the distribution of the Shares and in order to enable the Agent to execute the certificate required to be executed by it in the Final Prospectus and any Supplementary Material, which may include investigations conducted up to the Time of Closing, including without limitation the holding of a "due diligence" meeting at or prior to the Time of Closing with officials of the Company, its outside counsel and PWC as auditors of the Company.

## **5. Material Change**

- 5.1 The Company will promptly inform the Agent in writing during the period prior to the completion of the distribution of the Shares of the full particulars of:
- 5.1.1 any change (whether actual, anticipated, contemplated or proposed by, or threatened against, the Company and whether financial or otherwise) in the assets, liabilities (contingent or otherwise), business, affairs, prospects, operations, capital or control of the Company, considered as a whole, that would be material to the Company, considered as a whole;
- 5.1.2 any material fact which has arisen or has been discovered and would have been required to have been stated in the Offering Documents had that fact arisen or been discovered on, or prior to, the date of any of the Offering Documents; or
- 5.1.3 any change in any material fact or any misstatement of any material fact contained in any of the Offering Documents or any new material fact that has occurred or been discovered after the date of this Agreement,

which, in any case, is of such a nature as to render any of the Offering Documents untrue or misleading in any material respect or to result in any misrepresentation in any of the Offering Documents or which would result in any of the Offering Documents not complying in all material respects with Securities Laws.

- 5.2 The Company will comply with Section 6.6(1) of National Instrument 41-101 and Section 57(1) of the *Securities Act* (Ontario), and the Company will prepare and will file promptly at the request of the Agent any Supplementary Material which, in the opinion of the Agent, acting reasonably, may be necessary or advisable, and will otherwise comply with all legal requirements necessary to continue to qualify the Shares for distribution in each of the Qualifying Jurisdictions.

- 5.3 In addition to the provisions of Sections 5.1 and 5.2, the Company will, in good faith, discuss with the Agent any change or fact contemplated in Section 5.1 which is of such a nature that there may be reasonable doubt as to whether notice should be given to the Agent under Section 5.1 and will consult with the Agent with respect to the form and content of any Supplementary Material proposed to be filed by the Company, it being understood and agreed that no such Supplementary Material will be filed with any Securities Commission prior to the review and approval by the Agent and its counsel, acting reasonably.
- 5.4 The Company, will promptly inform the Agent in writing during the period prior to the completion of the distribution of the Shares of the full particulars of:
- 5.4.1 any request of any Regulatory Authority for any amendment to the Final Prospectus or any Supplementary Material or for any additional information in respect of the distribution of the Shares or the Company;
  - 5.4.2 the receipt by the Company of any material communication, whether written or oral, from any Regulatory Authority relating to the Offering Documents or the distribution of the Shares;
  - 5.4.3 any notice or other correspondence received by the Company from any Governmental Body requesting any information, meeting or hearing relating to the Company, its subsidiaries, the distribution of the Shares or any other event or state of affairs that the Company reasonably believes could have a Material Adverse Effect; or
  - 5.4.4 the issuance by any Regulatory Authority of any order to cease or suspend trading or distribution of the Ordinary Shares, or of the institution, or threat of institution of any proceedings for that purpose or any notice of investigation that could potentially result in an order to cease or suspend trading or distribution of the Ordinary Shares.

## **6. Regulatory Approvals**

- 6.1 The Company will file or cause to be filed with the TSX prior to the filing of the Final Prospectus with the Securities Commissions, all necessary documents and will take or cause to be taken all necessary steps to ensure that the Shares have been approved for listing and posting for trading on the TSX, subject only to satisfaction by the Company of the Standard Listing Conditions.
- 6.2 The Company will make all necessary filings, take all necessary steps and pay all filing fees required to be paid in connection with the transactions contemplated in this Agreement.
- 6.3 Prior to filing of the Final Prospectus, the Company shall provide the Agent and its counsel with written evidence of the receipt of each material regulatory approval (other than the Final Receipt) required to give effect to the transactions contemplated in this Agreement.

## **7. Representations and Warranties of the Company**

The Company represents and warrants to, and agrees with, the Agent that:

- 7.1 each of the Company and the Subsidiaries has been duly incorporated, continued or amalgamated and organized and is validly existing under the laws of its jurisdiction of incorporation, continuance, amalgamation or organization, as applicable, and has all requisite corporate power, capacity and authority to own its properties and assets and to carry on its business and affairs as currently conducted and as disclosed in the Final Prospectus, and the Company has all requisite corporate power, capacity and authority to enter into and deliver this Agreement, the Selling Agency Agreement and each other Material Agreement to which it is a party and to perform its obligations hereunder and thereunder;
- 7.2 each of the Company and the Subsidiaries is duly registered, licensed or qualified to carry on business in each jurisdiction and with such regulatory authorities, including without limitation the applicable Governmental Body, if any, where the failure to be so registered, licensed or qualified would have a Material Adverse Effect;
- 7.3 the Company or a Subsidiary is the beneficial owner and registered holder (directly or indirectly, as described in the Final Prospectus) of 100% of the outstanding securities or equity of each of the Subsidiaries and none of the Company or any subsidiaries, directly or indirectly, holds any shares, other securities, options or rights to subscribe for shares or other securities of any other corporation, partnership or other entity material to the Company, other than as described in the Final Prospectus;
- 7.4 the Shares to be sold under this Agreement by the Company (including for the avoidance of doubt, any to be placed by the Special Selling Agents in accordance with the Selling Agency Agreement) will be duly and validly created and issued by the Company and when issued and sold by the Company will be fully paid and non-assessable Ordinary Shares free from encumbrances, will have the attributes set out in the Final Prospectus, and will not have been issued in violation of or subject to any third party or other pre-emptive rights or contractual rights to purchase securities issued by the Company;
- 7.5 except as disclosed in the Final Prospectus, there is no action, suit, investigation, arbitration or proceeding before any Regulatory Authority or Governmental Body or, to the knowledge of the Company, by any other Person, pending, or, to the knowledge of the Company, threatened against or affecting the Company or any of the Subsidiaries or their businesses or the distribution of the Shares which, individually or in the aggregate, if determined adversely to the interest of the Company or a Subsidiary, as the case may be, would have a Material Adverse Effect and the Company is not aware of any existing ground on which such action, suit, proceeding or inquiry might be commenced with any reasonable likelihood of success;
- 7.6 the execution, delivery and performance by the Company of this Agreement, and each of the Material Agreements to which it is a party, and the execution, delivery and

performance by the Subsidiaries of the Material Agreements to which they are parties, as the case may be:

7.6.1 has been duly authorized by all necessary action on the part of the Company and the applicable Subsidiaries;

7.6.2 does not require the consent, approval, authorization, registration, filing or qualification of or with any court, Governmental Body or other third party, except: (a) those which have been obtained (or will be obtained prior to the Time of Closing), (b) those as may be required (and will be obtained prior to the Time of Closing) under applicable Securities Laws, or (c) in respect of certain Material Agreements those that are described in the Prospectus;

7.6.3 does not (or will not with the giving of notice, the lapse of time or the happening of any other event or condition) result in a breach or a violation of, or conflict with or result in a default under, or allow any other Person to exercise any rights under:

7.6.3.1 any of the terms or provisions of the constating documents or resolutions of the board of directors (or any committee thereof) or resolutions of securityholders of the Company or the Subsidiaries; or

7.6.3.2 any Law applicable to the Company or the Subsidiaries, or any judgment, decree, order or award of any court, Governmental Body or arbitrator having jurisdiction over either the Company or any of the Subsidiaries, of which the Company is aware, or any agreement, license or permit necessary for the conduct of their businesses, to which either of the Company or any of the Subsidiaries is a party or by which their businesses may be affected;

unless in each case, such breach, violation, conflict, default or rights would not have a Material Adverse Effect or affect the ability of the Company or the Subsidiaries to perform their respective obligations under this Agreement and each of the other Material Agreements;

7.6.4 will not, to the knowledge of the Company, give rise to any Lien on or with respect to the properties or assets now owned or hereafter acquired by the Company or the Subsidiaries or the acceleration of or the maturity of any debt under any material indenture, mortgage, lease, agreement or instrument binding or affecting any of them or any of their properties;

7.7 this Agreement and the Selling Agency Agreement have been and, at the Time of Closing, each of the other Material Agreements will have been, duly executed and delivered by the Company and the Subsidiaries that are parties thereto, as the case may be, and this Agreement, the Selling Agency Agreement and each of the other Material Agreements constitutes or will constitute, as applicable, a legal, valid and binding obligation of the Company or the applicable Subsidiaries, as the case may be, enforceable against it in accordance with its terms, except as enforcement thereof may be limited by



bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally, and subject to the qualification that equitable remedies (including specific performance and injunctive relief) may only be granted in the discretion of a court of competent jurisdiction and that rights of indemnity, contribution and waiver and the ability to sever unenforceable terms may be limited by applicable law;

- 7.8 each of the Company and the Subsidiaries is not (a) in breach or violation of any of the terms or provisions of, or in default under (whether after notice or lapse of time or both) any indenture, mortgage, note, contract, deed of trust, loan agreement, lease or other agreement (written or oral), including the Material Agreements, or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject, or (b) in violation of the provisions of the articles or resolutions or any statute or any judgment, decree, order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its properties, in each case which breach or violation or the consequences thereof would, alone or in the aggregate, have a Material Adverse Effect;
- 7.9 each of the Company and the Subsidiaries has conducted and is conducting its business in compliance with all applicable Laws, rules and regulations of each jurisdiction in which it carries on business (except where non-compliance with such laws, rules or regulations would not have a Material Adverse Effect), and holds all licences, registrations and qualifications (the "**Licences**") which are material to the Company and its subsidiaries, taken as a whole, in all jurisdictions in which it carries on business and the Licences are in good standing and there is no event that constitutes, or with the giving of notice, the lapse of time or the happening of any other event or condition, will constitute a default under the Licences and the Licences are in full force and effect, and have not been rescinded, terminated or otherwise nullified except where such default would not have a Material Adverse Effect;
- 7.10 there is no agreement in force or effect to which the Company is a party or of which the Company is aware and which in any manner affects or will affect the voting or control of any of the securities of the Company and which will be in effect at the Time of Closing;
- 7.11 other than the Material Agreements and contracts entered into in the ordinary course of business, there are no contracts, written or oral, to which the Company is a party or by which it is bound which are material to the Company.
- 7.12 the authorized share capital of the Company consists of 700,000,000 Ordinary Shares, all having a par value of US\$0.10 per share, and as at the Time of Closing (prior to the completion of the sale of the Shares) there will be 82,874,769 Ordinary Shares validly issued and outstanding as fully paid and non-assessable and, other than (a) pursuant to the terms of this Agreement; (b) 7,005,000 Ordinary Shares reserved for issuance pursuant to the options issued under the Option Plan; (c) 6,767,504 Ordinary Shares reserved for issuance pursuant to performance warrants issued to certain executive officers of the Company; (d) 2,090,000 Ordinary Shares reserved for issuance pursuant to warrants issued by the Company on June 8, 2007; (e) 1,346,154 Ordinary Shares reserved for issuance pursuant to warrants issued by the Company on June 5, 2007; (f) 638,298 Ordinary Shares reserved for issuance pursuant to warrants issued by the Company to

certain lenders; (g) 1,433,298 Ordinary Shares reserved for issuance pursuant to warrants issued by the Company to the lenders of the Capital Loans and (h) 2,500,000 Ordinary Shares reserved for issuance pursuant to warrants issued to certain lenders;

- 7.13 except as disclosed in the Final Prospectus, no Person has any written or oral agreement, option, understanding or commitment, or any right or privilege capable of becoming such (i) under which the Company, is, or may become, obligated to issue any of its securities or (ii) for the purchase of any security (including debt) of the Company or any of the Subsidiaries or any part of their respective businesses;
- 7.14 other than as may be required under the Securities Laws or by the TSX or as otherwise disclosed in the Prospectus, no consent, approval, authorization, order, registration or qualification of or with any court, Governmental Body or other third party is required for the issue, sale, delivery and distribution of the Shares, as contemplated by this Agreement and the Selling Agency Agreement, or the consummation by the Company of the other transactions contemplated by this Agreement and the Selling Agency Agreement except as have been obtained, or where a failure to satisfy such requirement would not have a Material Adverse Effect or would not prevent the consummation of the transactions contemplated by this Agreement;
- 7.15 since March 31, 2009, other than as disclosed in the Final Prospectus:
- 7.15.1 there has not been any material change (actual, anticipated, proposed or prospective, whether financial or otherwise) in the investments, affairs, assets or liabilities (contingent or otherwise) of the Company and its subsidiaries, taken as a whole;
- 7.15.2 there has not been any material change in the equity capitalization or long-term or short-term debt of the Company and its subsidiaries, taken as a whole;
- 7.15.3 there has not been any material change in the business, business prospects, condition (financial or otherwise) or results of the operations of the Company and its subsidiaries, taken as a whole; and
- 7.15.4 the Company and the Subsidiaries have carried on their respective businesses in the ordinary course and in the manner described in the Final Prospectus;
- 7.16 the Transfer Agent at its principal office in Toronto has been the duly appointed registrar and transfer agent of the Company with respect to the Ordinary Shares;
- 7.17 the TSX has conditionally approved the listing of the Shares, subject to satisfaction by the Company of the Standard Listing Conditions;
- 7.18 the form and terms of the certificate for the Ordinary Shares have been approved and adopted by the board of directors of the Company and do not conflict with any applicable Laws and comply with the rules of each of the Regulatory Authorities;

- 7.19 the Financial Information for December 31, 2008 has been prepared in accordance with U.S. generally accepted accounting principles and the Financial Information for March 31, 2009 has been prepared in accordance with International Financial Reporting Standards, and each present fairly, in all material respects, the financial condition of the Company as at the dates referred to in such information;
- 7.20 although it does not warrant title, the Company has no reason to believe that, except as disclosed in the Final Prospectus, the Company or a Subsidiary, as applicable, has title to or the irrevocable right to produce and sell its petroleum and related hydrocarbons (for the purpose of this clause, the foregoing are referred to as the "**Interest**") on the terms described in the Final Prospectus and does represent and warrant that the Interest is free and clear of adverse claims created by, through or under the Company or the Subsidiaries, as applicable, except as disclosed in the Final Prospectus, related to bank financing or those arising in the ordinary course of business, which are not material in the aggregate and that to their knowledge after due inquiry, the Company or a Subsidiary, as applicable, holds its Interest under valid and subsisting leases, licenses, permits, concessions, concession agreements, contracts, subleases, reservations or other agreements;
- 7.21 the Company has made available to McDaniel prior to the issuance of the McDaniel Reserve Report, for the purpose of preparing the McDaniel Reserve Report, all information requested by McDaniel which information did not contain any misrepresentation at its date. The Company has no knowledge of a material adverse change in any reserves information provided to McDaniel since the date that such information was so provided. The Company has no reason to believe that the McDaniel Reserve Report does not reasonably present the aggregate quantity and net present values of the estimated future net revenues of oil and natural gas reserves of the Company as at its effective date in respect of the reserves information therein based upon information available in respect of such reserves at the time the McDaniel Reserve Report was provided and the assumptions contained therein as to commodity prices and costs and the Company does not believe such report overstated the aggregate quantity and net present values of such reserves;
- 7.22 the Company has made available to TRACS prior to the issuance of the TRACS Reserve Report, for the purpose of preparing the TRACS Reserve Report, all information requested by TRACS which information did not contain any misrepresentation at its date. The Company has no knowledge of a material adverse change in any reserves information provided to TRACS since the date that such information was so provided. The Company has no reason to believe that the TRACS Reserve Report does not reasonably present the aggregate quantity and net present values of the estimated future net revenues of oil, natural gas and condensate reserves, if any, of the Company as at its effective date in respect of the reserves information therein based upon information available in respect of such reserves at the time the TRACS Reserve Report was provided and the assumptions contained therein as to commodity prices and costs and the Company does not believe such report overstated the aggregate quantity and net present values of such reserves;

- 7.23 the Company has made available to TRACS prior to the issuance of the TRACS Resource Report, for the purpose of preparing the TRACS Resource Report, all information requested by TRACS which information did not contain any misrepresentation at its date. The Company has no knowledge of a material adverse change in any information provided to TRACS since the date that such information was so provided. The Company has no reason to believe that the TRACS Resource Report does not reasonably present the aggregate estimated prospective and contingent resource volumes of Tajikistan Contract Area as at its effective date in respect of the resource information therein based upon information available in respect of such resources at the time the TRACS Resource Report was prepared and the assumptions contained therein and the Company does not believe such estimate overstated the aggregate quantity of such resources;
- 7.24 the Company has made available to PWC prior to the issuance of the "long-form" comfort letter dated the date of the Final Prospectus all information requested by PWC which information did not contain any misrepresentation at its date and no further information was withheld the absence of which might reasonably have affected the contents of the long-form" comfort letter or comfort letters in any material respect. The Company has no knowledge of a material adverse change in any information provided to PWC since the date that such information was so provided;
- 7.25 the Company has made available to each of Ogier, Denton Wilde Sapte and Grata prior to the issuance of the Legal Due Diligence Reports, for the purpose of preparing the Legal Due Diligence Reports, all information requested by Ogier, Denton Wilde Sapte and Grata which information did not contain any misrepresentation at its date and no further information was withheld the absence of which might reasonably have affected the contents of the Legal Due Diligence Reports in any material respect. The Company has no knowledge of a material adverse change in any information provided to Ogier, Denton Wilde Sapte and Grata since the date that such information was so provided. The Company has no reason to believe that the Legal Due Diligence Reports do not accurately present in all material respects the matters stated therein;
- 7.26 the Company is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are customary in the businesses in which it is engaged; all policies of insurance and fidelity or surety bonds insuring the Company or its business, assets, employees, officers and directors are in full force and effect; the Company is in compliance with the terms of such policies and instruments in all material respects; and there are no material claims by the Company under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; the Company has no reason to believe that it will not be able to renew their existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue their business at a cost that would not have a Material Adverse Effect;
- 7.27 except as disclosed in the Final Prospectus, (i) each of the Company and the Subsidiaries is in compliance with Environmental Laws, (ii) each of the Company and the Subsidiaries has received and is in compliance with all permits, licenses or other approvals required of

it under applicable Environmental Laws to conduct its business; and (iii) each of the Company and the Subsidiaries has not received notice of any actual or potential liability for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate, have a Material Adverse Effect;

- 7.28 in the ordinary course of the business of each of the Company and the Material Subsidiaries, such entities periodically review the effect of Environmental Laws on the business, operations and properties of the Company and its subsidiaries, taken as a whole, in the course of which they identify and evaluate associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws, or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties); each of the Company and the Subsidiaries also conducts pre-acquisition investigations of new assets to identify potential violations of Environmental Laws, train management personnel in the recognition of and proper response to incidents of non-compliance with Environmental Laws and establish procedures for communicating such incidents to its senior management. On the basis of such review, except as set forth in the Final Prospectus, neither the Company nor any Material Subsidiary has concluded that such associated costs and liabilities would singly or in the aggregate, have a Material Adverse Effect;
- 7.29 neither the Company nor any Subsidiary has any outstanding liability, contingent or otherwise, and neither the Company nor any Subsidiary was a party to or bound by any agreement of guarantee, support, indemnification, assumption or endorsement of, or any other similar commitment with respect to, the obligations, liabilities (contingent or otherwise) or indebtedness of any Person other than those reflected in the Final Prospectus, the indemnification and contribution provisions in this Agreement and the Selling Agency Agreement or other liabilities in the ordinary course of business, consistent with past practice;
- 7.30 the Company does not have any loans or other indebtedness outstanding 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 Company;
- 7.31 neither the Company nor any Subsidiary will be, at the Time of Closing, prohibited, directly or indirectly, from paying any dividends, from making any other distribution on its capital stock, shares or other securities, or from paying any interest or repaying any loans, advances or other indebtedness;
- 7.32 no securities commission, stock exchange or comparable authority has issued any order preventing the use of any of the Offering Documents or preventing or suspending the distribution of the Shares or the trading of securities of the Company generally and the Company is not aware of any investigation, order, inquiry or proceeding that has been commenced or which is pending, contemplated or threatened by any such authority;

- 7.33 the attributes of the Shares will be, at the Time of Closing, consistent in all material respects with the descriptions thereof in the Final Prospectus;
- 7.34 to the knowledge of the Company, other than the Agent, the Selling Firms and the Special Selling Agents, or as otherwise provided in this Agreement, there is no Person acting or purporting to act at the request of the Company who is entitled to any brokerage, finder's or agency fee in connection with the distribution of the Shares;
- 7.35 the books and records of the Company and the Subsidiaries made available to the Agent, or its counsel or foreign counsel engaged to conduct due diligence on behalf of the Agent, in connection with their due diligence investigations for the periods from their respective dates of creation, incorporation or amalgamation, as the case may be, to the date of examination thereof are the original books and records of the Company and the Subsidiaries and contain copies of all proceedings (or certified copies thereof) of the shareholders, the board of directors and all committees of the board of directors of such entities and there have been no other meetings, resolutions or proceedings of the shareholders, board of directors or any committee of the board of directors to the date of review of such books and records not reflected in such books and records other than those which have been disclosed to the Agent;
- 7.36 each of the Company and the Subsidiaries have properly completed and filed on a timely basis all tax returns required to be filed by them and all federal, state, provincial, local and foreign income, profits, franchise, sales, use, occupancy, excise and other taxes and assessments (including interest and penalties) that are or may become payable by or due from the Company or the Subsidiaries have been fully paid when due or adequate provisions have been made in respect thereof in the books and records of the Company, except where failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect;
- 7.37 PWC has advised that they are independent public accountants as required under applicable laws and there has not been any disagreement (within the meaning of National Instrument 51-102 of the Canadian Securities Administrators) since December 31, 2008 with PWC in its capacity as the auditors of the Company;
- 7.38 to the knowledge of the Company, none of the Company's directors or officers are now, or have ever been, 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;
- 7.39 except as disclosed in the Final Prospectus, none of the directors, officers or employees of the Company or any of its subsidiaries, no Person who owns, directly or indirectly, more than 10% of any class of securities of the Company or securities of any Person exchangeable for more than 10% of any class of securities of the Company, nor 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 Company or its subsidiaries which, as the case may be, materially affects, is material to or will materially affect the Company and its subsidiaries, taken as a whole;

- 7.40 the operations of the Company and its subsidiaries are and have at all times been conducted in compliance with applicable money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "**Money Laundering laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitration involving the Company or any of its subsidiaries with respect of the Money Laundering laws is pending or, to the best knowledge of the Company, threatened; and
- 7.41 the Company makes the applicable representations, warranties and covenants in Schedule A hereto, which is incorporated by reference herein and forms part of this Agreement.

## **8. Covenants of the Company**

- 8.1 The Company covenants and agrees with the Agent that the Company will advise the Agent, promptly after receiving notice thereof, of the time when the Final Prospectus and any Supplementary Material has been filed and receipts therefore have been obtained and will provide evidence satisfactory to the Agent, acting reasonably, of each filing and the issuance of receipts.
- 8.2 Until the distribution of the Shares has been completed, the Company covenants and agrees with the Agent that the Company will advise the Agent, promptly after receiving notice or obtaining knowledge, of (a) the issuance by any Regulatory Authority of any order suspending or preventing the use of any of the Offering Documents; (b) the suspension of the qualification of the Shares for distribution in any of the Qualifying Jurisdictions, the United States or the Other Jurisdictions; (c) the institution, threatening or contemplation of any proceeding for any of those purposes; or (d) any requests made by any Regulatory Authority for amendments or supplements to the Final Prospectus or for additional information, and will use their commercially reasonable efforts to prevent the issuance of any such order and, if any such order is issued, to obtain the withdrawal of the order as quickly as possible.
- 8.3 The Company covenants and agrees with the Agent that the Company will not at any time, directly or indirectly, take any action intended, or which might reasonably be expected, to cause or result in, or which will constitute, stabilization or manipulation of the price of the securities of the Company to facilitate the sale or resale of any of the Shares or otherwise.
- 8.4 The Company will apply the proceeds from the issue and sale of the Shares in accordance with the disclosure set out under the heading "Use of Proceeds" in the Final Prospectus.
- 8.5 The Company will use its reasonable commercial efforts to promptly do, make, execute, deliver or cause to be done, made, executed or delivered, all such acts, documents and things as the Agent may reasonably require from time to time for the purpose of giving effect to this Agreement and the Selling Agency Agreement and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement and the Selling Agency Agreement.

## **9. Conditions of Closing**

9.1 The obligation of the Agent to act as agent with respect to the offer and sale of the Shares by the Company will be subject to the following conditions, which conditions may be waived in writing in whole or in part by the Agent:

9.1.1 the Agent and the Special Selling Agents will have received separate legal opinions from Ogier, as Guernsey, Jersey and Cayman Islands counsel, respectively, to the Company, dated and delivered the Closing Date, in form and substance satisfactory to the Agent and its counsel, acting reasonably (and such counsel may rely upon opinions of local counsel where such counsel deems such reliance proper as to the laws other than the laws of Guernsey, Jersey and the Cayman Islands and may rely as to matters of fact, on certificates of auditors, public officials and officers of the Company or a Subsidiary, as applicable) with respect to the following matters:

9.1.1.1 the Company: (a) is a corporation duly incorporated and validly existing under the laws of the Cayman Islands, (b) is duly qualified under Cayman law to carry on its business in each jurisdiction in which it currently carries on business, and (c) has all requisite corporate power and authority under Cayman law to carry on its business and to own, lease and operate its property and assets, as described in the Final Prospectus, except to the extent that the failure to be so qualified does not have a material adverse impact on the business and affairs of the Company and its subsidiaries, taken as a whole;

9.1.1.2 TKL: (a) is a corporation duly incorporated and validly existing under the laws of Guernsey, (b) is duly qualified under Guernsey law to carry on its business in each jurisdiction in which it currently carries on business, and (c) has all requisite corporate power and authority under Guernsey law to carry on its business and to own, lease and operate its property and assets, as described in the Final Prospectus, except to the extent that the failure to be so qualified does not have a material adverse impact on the business and affairs of the Company and its subsidiaries, taken as a whole;

9.1.1.3 KPL: (a) is a corporation duly incorporated and validly existing under the laws of Jersey, (b) is duly qualified under Jersey law to carry on its business in each jurisdiction in which it currently carries on business, and (c) has all requisite corporate power and authority under Jersey law to carry on its business and to own, lease and operate its property and assets, as described in the Final Prospectus, except to the extent that the failure to be so qualified does not have a material adverse impact on the business and affairs of the Company and its subsidiaries, taken as a whole



- 9.1.1.4 as to the authorized capital of the Company, KPL and TKL and as to the number of Ordinary Shares which will, upon receipt of the consideration therefor be issued and outstanding as fully paid and non-assessable Ordinary Shares as at the date of such opinion;
- 9.1.1.5 as to the holder of all of the outstanding shares of each of KPL and TKL;
- 9.1.1.6 the execution and filing of each of the Preliminary Prospectus and the Final Prospectus with the Securities Commissions, have been duly approved and authorized by all necessary action on the part of the Company;
- 9.1.1.7 the Shares have been validly authorized and issued and are outstanding as fully paid and non-assessable Ordinary Shares of the Company;
- 9.1.1.8 the attributes of the Ordinary Shares are consistent in all material respects with the description thereof in the Final Prospectus;
- 9.1.1.9 all necessary action has been taken by the board of directors of each of the Company, KPL and TKL to authorize the execution and delivery by each such entity of this Agreement, the Selling Agency Agreement and each other Material Agreement to which it is a party, as applicable, and the performance of their respective obligations under this Agreement, the Selling Agency Agreement and each other Material Agreement to which it is a party, as applicable, and this Agreement, the Selling Agency Agreement and each other Material Agreement to which it is a party, as applicable, has been duly executed and delivered by each of the Company, KPL and TKL, provided that such an opinion in respect of the CEO Services Agreement and the Umbrella Services Agreement shall not be required;
- 9.1.1.10 the form and terms of the certificate for the Ordinary Shares (a) have been approved and adopted by the board of directors of the Company, and (b) do not conflict with the applicable Laws of the Cayman Islands or the constating documents of the Company; and
- 9.1.1.11 the execution and delivery of this Agreement and the Selling Agency Agreement and the fulfilment of the terms of this Agreement and the Selling Agency Agreement by the Company:
  - (a) do not and will not result in a breach of or default under, and do 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 default under, and do not and will not conflict with:
    - (i) any of the terms, conditions or provisions of the constating documents or resolutions of the

securityholders or board of directors, or any committee of the board of directors, of the Company; or

(ii) any Laws of the Cayman Islands applicable to the Company; and

(b) to counsel's knowledge, do not require the consent, approval, authorization, registration or qualification of or with any court, Governmental Body or other third party under Cayman law or regulation (other than those that have been obtained).

9.1.2 the Agent and the Special Selling Agents will have received a legal opinion from Ashurst LLP, U.K. counsel to the Company, dated and delivered the Closing Date, in form and substance satisfactory to the Agent and its counsel, acting reasonably (and such counsel may rely as to matters of fact, on certificates of auditors, public officials and officers of the Company and its Subsidiaries) with respect to the following matters:

9.1.2.1 the Selling Agency Agreement constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to customary exceptions and limitations relating to bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights and equitable remedies generally;

9.1.3 the Agent and the Special Selling Agents will have received a legal opinion from Denton Wilde Sapte, Kazakhstan and Uzbekistan counsel to the Company, dated and delivered the Closing Date, in form and substance satisfactory to the Agent and its counsel, acting reasonably (and such counsel may rely as to matters of fact, on certificates of auditors, public officials and officers of the Company and its Subsidiaries) with respect to the following matters:

9.1.3.1 each of TAG, Kul-Bas and TSK: (a) is a limited liability partnership duly formed and validly existing under the laws of Kazakhstan, (b) is duly qualified to carry on its business in each jurisdiction in which it currently carries on business, and (c) has all requisite power and authority to carry on its business and to own, lease and operate its property and assets, as described in the Final Prospectus, except to the extent that the failure to be so qualified does not have a material adverse impact on the business and affairs of the Company and its subsidiaries, taken as a whole;

9.1.3.2 all necessary action has been taken by each of TAG and Kul-Bas to authorize the execution and delivery by each such entity of the Contracts to which it is a party, as applicable, and the performance of their respective obligations under the Contracts, to which each is a party, as applicable;

- 9.1.3.3 BHCL is duly authorized to carry on the business required by the PEC in Uzbekistan;
- 9.1.3.4 the statements in the sections in the Company's 2008 annual information form entitled "Risk Factors Related to the Republics of Kazakhstan and Tajikistan – Legal and Regulatory Environment in Kazakhstan" and "– Taxation Risks and Issues in Kazakhstan" and the statements in the Final Prospectus entitled "Risk Factors Relating to Uzbekistan – Legal and Regulatory Framework in Uzbekistan" and "– Taxation Risks and Issues in Uzbekistan" to the extent that such statements are statements as to matters of the laws of Kazakhstan and Uzbekistan, are correct in all material respects;
- 9.1.4 the Agent and the Special Selling Agents will have received a legal opinion from Grata, Tajikistan counsel to the Company, dated and delivered the Closing Date, in form and substance satisfactory to the Agent and its counsel, acting reasonably (and such counsel may rely as to matters of fact, on certificates of auditors, public officials and officers of the Company and its Subsidiaries) with respect to the following matters:
  - 9.1.4.1 KPL is duly authorized to carry on business in Tajikistan;
  - 9.1.4.2 the statements in the sections in the Company's 2008 annual information form entitled "Risk Factors Related to the Republics of Kazakhstan and Tajikistan –Legal and Regulatory Framework in Tajikistan" and "– Taxation Risks and Issues in Tajikistan", to the extent that such statements are statements as to matters of the laws of Tajikistan, are correct in all material respects;
- 9.1.5 the Agent and the Special Selling Agents will have received a legal opinion from Antis Triantafyllides & Sons, Cyprus counsel to the Company, dated and delivered the Closing Date, in form and substance satisfactory to the Agent and its counsel, acting reasonably (and such counsel may rely as to matters of fact, on certificates of auditors, public officials and officers of the Company and its Subsidiaries) with respect to the following matters:
  - 9.1.5.1 BHCL (a) is a company duly formed and validly existing under the laws of Cyprus, (b) is duly qualified to carry on its business in each jurisdiction in which it currently carries on business, and (c) has all requisite power and authority to carry on its business and to own, lease and operate its property and assets, as described in the Final Prospectus, except to the extent that the failure to be so qualified does not have a material adverse impact on the business and affairs of the Company and its subsidiaries, taken as a whole; and

- 9.1.5.2 all necessary action has been taken by BHCL to authorize the execution and delivery by it of the PEC and the performance of its obligations under the PEC;
- 9.1.6 the Agent and the Special Selling Agents will have received a legal opinion from Borden Ladner Gervais LLP, Canadian counsel to the Company, dated and delivered the Closing Date, in form and substance satisfactory to the Agent and its counsel, acting reasonably (and such counsel may rely upon opinions of local counsel where such counsel deems such reliance proper as to the laws other than Canada, British Columbia, Alberta and Ontario and may rely, as to matters of fact, on certificates of auditors, public officials and officers of the Company) with respect to the following matters:
  - 9.1.6.1 all necessary documents have been filed, all requisite proceedings have been taken and all necessary approvals, permits, consents and authorizations have been obtained by the Company under the laws of each of the Qualifying Jurisdictions in order to qualify the distribution of the Shares through investment dealers or brokers who are registered under applicable legislation of the Qualifying Jurisdictions and who have complied with the relevant provisions of such applicable legislation;
  - 9.1.6.2 the TSX has conditionally approved the listing of the Shares, subject to the satisfaction of the Standard Listing Conditions;
  - 9.1.6.3 the form and terms of the certificate for the Ordinary Shares comply with the applicable requirements of the TSX;
  - 9.1.6.4 the Shares will be qualified investments under the Tax Act for trusts governed by registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered disability savings plans, registered education savings plans and tax free savings accounts ("**Plans**") subject to certain qualifications set out in the Final Prospectus;
  - 9.1.6.5 the confirmation of the opinion in the Final Prospectus entitled "Canadian Federal Income Tax Considerations";
  - 9.1.6.6 based solely on a review of the relevant lists published by the Securities Commissions the Company is a reporting issuer or its equivalent in each of the Qualifying Jurisdictions in which such concept exists, and is not in default of the requirements of the Securities Laws of such Qualifying Jurisdictions; and
  - 9.1.6.7 assuming the due authorization, execution and delivery of this Agreement by the Company, this Agreement constitutes a legal, valid and binding obligation of the Company enforceable against it in accordance with its terms, subject to customary exceptions and

limitations relating to bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights and equitable remedies generally and subject to customary limitations in respect of the rights of indemnity and contribution contained in the Agreement.

- 9.1.7 the Agent and the Special Selling Agents will have received an opinion, in form and substance acceptable to the Agent and its counsel, Allen & Overy, acting reasonably, to the effect that the offer, sale and delivery of the Shares in the United States in accordance with the provisions of this Agreement does not require registration under the U.S. Securities Act;
- 9.1.8 the Agent will have received from its counsel, Blake, Cassels & Graydon LLP, a legal opinion dated and delivered the Closing Date, in form and substance satisfactory to the Agent, with respect to those matters as the Agent may reasonably require relating to the distribution of the Shares. In connection with that opinion, counsel to the Agent may rely on the opinions of counsel to the Company, any underlying certificates and, with respect to matters governed by the laws of jurisdictions other than the Province of Alberta, on the opinions of local counsel to the Company;
- 9.1.9 the Agent and the Special Selling Agents will have received certificates dated the Closing Date signed by those senior officers of the Company as may be acceptable to the Agent, acting reasonably, in form and content satisfactory to the Agent, acting reasonably, with respect to:
  - 9.1.9.1 the constating documents of the Company;
  - 9.1.9.2 the resolutions of the board of directors of the Company relevant to the issue and sale of the Shares, listing of the Shares on the TSX, the execution of this Agreement, the Selling Agency Agreement and each of the other Material Agreements and matters ancillary thereto; and
  - 9.1.9.3 the incumbency and signatures of signing officers of the Company;
- 9.1.10 the Agent and the Special Selling Agents will have received from PWC a comfort letter, dated the Closing Date, in form and substance satisfactory to the Agent, acting reasonably, bringing forward to the date which is two Business Days prior to the Closing Date the information contained in the comfort letter referred to in Section 4.3.4;
- 9.1.11 the Company will have delivered to the Agent and the Special Selling Agents, at the Time of Closing, a certificate dated the Closing Date addressed to the Agent and the Special Selling Agents and signed by the President and Chief Executive Officer of the Company and the Chief Financial Officer of the Company, certifying for and on behalf of the Company, after having made due inquiries, with respect to the following matters:

- 9.1.11.1 the Company has complied with all the covenants and satisfied all the terms and conditions of this Agreement and the Selling Agency Agreement on its part to be complied with and satisfied at or prior to the Time of Closing, except to the extent that the same have been waived by the Agent pursuant hereto;
  - 9.1.11.2 the representations and warranties of the Company contained in this Agreement, in the Selling Agency Agreement and in any certificates of the Company delivered pursuant to or in connection herewith or therewith, are true and correct as at the Time of Closing, with the same force and effect as if made on and as at the Time of Closing, after giving effect to the transactions contemplated by this Agreement;
  - 9.1.11.3 no order, ruling or determination having the effect of ceasing the trading or suspending the sale of the Shares has been issued and no proceedings for that purpose have been instituted or are pending or, to the knowledge of such officers, contemplated or threatened by any regulatory authority; and
  - 9.1.11.4 as to such other matters as the Agent may reasonably request.
- 9.1.12 all actions required to be taken by or on behalf of the Company, including the passing of all requisite resolutions of the board of directors of the Company and all requisite filings with Governmental Bodies and Regulatory Authorities will have occurred at or prior to the Time of Closing so as to validly authorize the execution and filing of the Preliminary Prospectus, the Final Prospectus and any Supplementary Material;
- 9.1.13 the Shares will have been accepted for listing on the TSX effective as of the Closing Date, subject only to the Standard Listing Conditions; and
- 9.1.14 the Agent and the Special Selling Agents will have received such other certificates, opinions, agreements, materials or documents in form and substance satisfactory to the Agent and its counsel as the Agent and its counsel may reasonably request.

## **10. Closing**

- 10.1 The closing of the purchase and sale of the Shares will be completed at the Time of Closing at the offices of Borden Ladner Gervais LLP in Toronto, Ontario, or at any other place determined in writing by the Company and the Agent. For the avoidance of doubt, the Agent and the Company can arrange for additional closings after the completion of the initial Closing, in which case the conditions set forth in Section 11 and the deliveries contemplated in this Section 10.1 shall apply to each of the initial Closing and such subsequent Closings.

- 10.2 The Company will deliver to the Agent one or more definitive certificates representing in aggregate the Shares, registered in such name or names as the Agent shall notify the Company in writing not less than 48 hours prior to the Time of Closing.
- 10.3 Delivery of the Shares pursuant to Section 10.2 above will be made against payment by the Agent of the purchase price for the Shares, net of the Agency Fee and the Agent's expenses payable by the Company pursuant to Section 14, by wire transfer of immediately available funds to such account of the Company as the Company shall direct. The directions referred to in this Section 10.3 shall be delivered to the Agent in writing not less than 48 hours prior to the Time of Closing.
- 10.4 At or prior to the Time of Closing, the Agent shall have received all of the certificates, opinions, agreements, materials or other documents specified in Section 9.1. Such certificates, opinions, agreements, materials and other documents, and the securities and purchase price specified in Section 10.3 may be delivered prior to the Time of Closing and held in escrow, to be released upon the conditions agreed among the Agent and the Company.

## **11. Restrictions on Further Issues or Sales**

- 11.1 During the period commencing on the date of this Agreement and ending on the day which is 180 days following the Closing Date, the Company will not, and will cause its subsidiaries not to, directly or indirectly, without the prior written consent of the Agent (which consent will not be unreasonably withheld), directly or indirectly issue, sell, grant an option or right in respect of, or otherwise dispose of any Ordinary Shares or any securities convertible into or exercisable or exchangeable for any Ordinary Shares, other than: (a) the sale of Shares pursuant to this Agreement, (b) the grant or exercise of stock options and other similar issuances pursuant to the Option Plan, (c) the issue of Ordinary Shares upon exercise of the convertible securities, warrants or options outstanding prior to the Closing Date, and (d) the issue of Ordinary Shares or other equity securities of the Company as consideration for the acquisition of oil and natural gas properties or shares of companies in the energy industry or for the acquisition of equipment required for its operations in compliance with applicable Securities Laws and the rules and policies of applicable Regulatory Authorities.

## **12. Indemnification**

- 12.1 The Company will (subject to Section 12.3 and Section 13) protect, hold harmless and indemnify the Agent and its affiliates and their respective directors, officers, employees, shareholders and agents (collectively, the "**Indemnified Parties**" and individually an "**Indemnified Party**") from and against all losses (other than losses of profit in connection with the distribution of the Shares), claims, damages, liabilities, costs and expenses, including, without limitation, all amounts paid to settle actions or satisfy judgments or awards and all reasonable legal fees and expenses (collectively, a "**Claim**") caused by or arising directly or indirectly out of the services rendered or duties performed by the Indemnified Parties under this Agreement or otherwise in connection with the making or implementation of issue and sale of the Shares, including by reason of:

- 12.1.1 any breach of or default under any representation, warranty, covenant or agreement of the Company in this Agreement or any other document or certificate to be delivered by the Company pursuant hereto or the failure of the Company to comply with any of its obligations hereunder or thereunder;
- 12.1.2 any information or statement (except for any information or statement relating solely to the Agent and furnished by the Agent specifically for use in such documents) contained in any of the Offering Documents or in any announcement or press release issued in connection with offer being or being alleged to be a misrepresentation or untrue or any omission or alleged omission to state in those documents any material fact (except for any information and statements relating solely to the Agent, and furnished by it specifically for use in such document) required to be stated in those documents or necessary to make any of the statements therein not misleading in light of the circumstances in which they were made;
- 12.1.3 any statement (except for matters relating solely to the Agent, and furnished by it specifically for use in such statements) contained in any information or documents filed by or on behalf of the Company with the Securities Commissions in compliance, or intended compliance, with the Securities Laws until the date on which the distribution of Shares is completed, which at the time and in the light of the circumstances in which it was made contained or is alleged to have contained a misrepresentation or was untrue, false or misleading;
- 12.1.4 any order made or any inquiry, investigation or proceeding instituted, threatened or announced by any court, securities regulatory authority, stock exchange or by any other competent authority, based upon any untrue statement, omission or misrepresentation or alleged untrue statement, omission or misrepresentation (except a statement, omission or misrepresentation relating solely to the Agent and furnished by it specifically for use in such document) contained in any of the Offering Documents, preventing or restricting the trading in or the sale or distribution of the Shares; or
- 12.1.5 the Company not complying with any requirement of any Securities Laws, the U.S. Securities Act or the applicable laws or any Other Jurisdictions (except where such non-compliance results solely from the actions of the Agent or its affiliates or representatives), in particular any failure to comply with the U.S. Securities Laws in connection with the private placement into the US;

and will reimburse the Indemnified Parties for all reasonable costs, charges and expenses, as incurred, which any of them may pay or incur in connection with investigating or disputing any Claim or alleged Claim or action related thereto in accordance with the provisions of this Section 12. This indemnity will be in addition to any liability which the Company may otherwise have.

- 12.2 If any Claim contemplated by Section 12.1 is asserted against any of the Indemnified Parties, or if any potential Claim contemplated by this section comes to the knowledge of



any of the Indemnified Parties, the Indemnified Party concerned will notify in writing the applicable indemnifying parties hereunder (collectively, the "**Indemnifying Parties**" and individually an "**Indemnifying Party**"), as soon as reasonably practicable, of the nature of the Claim (provided that any failure to so notify in respect of any potential Claim will not affect the liability of the Indemnifying Parties under this Section). The Indemnifying Parties will, subject to the following, be entitled (but not required) to assume the defence on behalf of the Indemnified Party of any suit brought to enforce the Claim; provided that the defence will be through legal counsel selected by the Indemnifying Parties and acceptable to the Indemnified Party, acting reasonably, and no admission of liability will be made by the Indemnifying Parties or the Indemnified Party without, in each case, the prior written consent of all the Indemnified Parties affected and the Indemnifying Parties, in each case, which consent will not be unreasonably withheld. An Indemnified Party will have the right to employ separate counsel in any such suit and participate in its defence but the fees and expenses of that counsel will be at the expense of the Indemnified Party unless:

12.2.1 the Indemnifying Parties fail to assume the defence of the suit on behalf of the Indemnified Party within ten days of receiving notice of the suit;

12.2.2 the employment of that counsel has been authorized by the Indemnifying Parties;  
or

12.2.3 the named parties to the suit (including any added or third parties) include the Indemnified Party and any of the Indemnifying Parties and the Indemnified Party has been advised in writing by counsel that there are legal defences available to the Indemnified Parties that are different or in addition to those available to the Indemnifying Parties or that representation of the Indemnified Party by counsel for the Indemnifying Parties is inappropriate as a result of the potential or actual conflicting interests of those represented;

(in each of subsections 12.2.1, 12.2.2 or 12.2.3, the Indemnifying Parties will not have the right to assume the defence of the suit on behalf of the Indemnified Party, but the Indemnifying Parties will be liable to pay the reasonable fees and expenses of separate counsel for all Indemnified Parties and, in addition, of local counsel in each applicable jurisdiction). Notwithstanding the foregoing, no settlement may be made by an Indemnified Party without the prior written consent of the Indemnifying Parties, which consent will not be unreasonably withheld.

12.3 The rights of indemnity contained in Section 12.1 will not enure to the benefit of the Agent if the provisions of Sections 4 and 5 have been complied with and the Person asserting any Claim contemplated by Section 12.1 was, due to the default of the Agent, not provided with a copy of the Final Prospectus, the U.S. Placement Memorandum or Supplementary Material, as the case may be, which corrects any untrue statement or information, misrepresentation (for the purposes of Securities Laws or any of them) or omission which is the basis of the Claim and which is required under Securities Laws or the U.S. Securities Act to be delivered to that Person by the Agent or the Selling Firms (if any).

- 12.4 The Indemnifying Parties waive any right they may have of first requiring an Indemnified Party to proceed against or enforce any other right, power, remedy or security or to claim payment from any other Person before claiming under the indemnity provided for in this Section 12. It is not necessary for an Indemnified Party to incur expense or make payment before enforcing such indemnity.
- 12.5 The Indemnifying Parties hereby acknowledge and agree that, with respect to Sections 12 and 13 of this Agreement, the Agent is contracting on its own behalf and as agent for its affiliates, directors, officers, employees, shareholders and agents and their respective affiliates, directors, officers, employees, shareholders and agents (collectively, the "**Beneficiaries**"). In this regard, the Agent will act as trustee for the Beneficiaries of the covenants of the Indemnifying Parties under Sections 12 and 13 of this Agreement with respect to the Beneficiaries and accepts these trusts and will hold and enforce those covenants on behalf of the Beneficiaries.
- 12.6 If any Claim is brought in connection with the transactions contemplated by this Agreement and any of the Agent is required to testify in connection therewith or is required to respond to procedures designed to discover information relating thereto, the reasonable fees of the Agent at the normal per diem rate for its directors, officers, employees and agents involved in preparation for, and attendance at, such proceedings or in so responding and any other reasonable costs and out-of-pocket expenses incurred by it in connection therewith will be paid by the Indemnifying Parties as they are incurred.
- 12.7 The obligations under Sections 12 and 13 shall apply whether or not the transactions contemplated by this Agreement are completed and shall survive the completion of the transactions contemplated under this Agreement and the termination of this Agreement.
- 12.8 No Indemnified Party shall have the right to recover any amount from an Indemnifying Party if such Indemnified Party's claim has been satisfied by another Indemnified Party.

### **13. Right of Contribution**

- 13.1 In order to provide for just and equitable contribution in circumstances in which an indemnity provided in Section 12 of this Agreement would otherwise be available in accordance with its terms but is, for any reason not solely attributable to any one or more of the Indemnified Parties, held to be unavailable to or unenforceable by the Indemnified Parties or enforceable otherwise than in accordance with its terms, the Indemnified Parties and the Indemnifying Parties, as the case may be, will contribute to the aggregate of all claims, damages, liabilities, costs and expenses and all losses (other than losses of profits in connection with the distribution of the Shares) of the nature contemplated in Section 12 of this Agreement:
- 13.1.1 in such proportion as is appropriate to reflect the relative benefits received by the Indemnifying Parties on the one hand and any Indemnified Party on the other hand, from, in the case of the Indemnifying Parties, the distribution of the Shares and, in the case of the Indemnified Parties, the distribution of the Shares; or

13.1.2 if the allocation provided by subsection 13.1.1 above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in subsection 13.1.1 above but also the relative fault of the Indemnifying Parties on the one hand and the Agent on the other hand, in connection with the matters or things referred to in Section 12.1 which resulted in such Claims, as well as any other relevant equitable considerations;

provided that the Indemnified Parties shall not in any event be liable to contribute, in the aggregate, any amount in excess of the total fee or any portion thereof actually received by them pursuant to this Agreement. The relative benefits received by the Indemnifying Parties on the one hand and the Indemnified Parties on the other shall be deemed to be in the same ratio as the total proceeds from the distribution of the Shares received by the Indemnifying Parties is to the Agent's total fee received by the Agent pursuant to this Agreement. The relative fault of the Indemnifying Parties on the one hand and of the Agent on the other hand shall be determined by reference to, among other things, whether the matters or things referred to in Section 12.1 which resulted in such Claims relate to information supplied by or steps or actions taken or done or not taken or done by or on behalf of the Indemnifying Parties, or to information supplied by or steps or actions taken or done or not taken or done by or on behalf of the Agent and the relative intent, knowledge, access to information and opportunity to correct or prevent such statement, omission or misrepresentation, or other matter or thing referred to in Section 12.1. The parties agree that it would not be just and equitable if contribution pursuant to this Section 13.1 were determined by any method of allocation that does not take into account the equitable considerations referred to above in this Section 13.1.

- 13.2 For greater certainty, the Indemnifying Parties will not have any obligation to contribute pursuant to this Section 13 in respect of any Claim except to the extent the indemnity given by them in Section 12 of this Agreement would have been applicable to that Claim in accordance with its terms, had that indemnity been found to be enforceable and available to the Indemnified Parties.
- 13.3 The rights to contribution provided in this section will be in addition to and not in derogation of any other right to contribution which the Indemnified Parties may have by statute or otherwise at law, provided that Sections 13.1 and 13.2 will apply, *mutatis mutandis*, in respect of that other right. Notwithstanding the foregoing, in the event that rights of contribution are claimed under Section 12 of the Selling Agency Agreement by any party thereto, then the provisions of Section 12 of the Selling Agency Agreement shall supersede and prevail over the provisions of this Section 13, and any claims for contribution shall be determined in accordance with Section 12 of the Selling Agency Agreement.
- 13.4 No party will be entitled to claim indemnity under Section 12.1 or contribution under Section 13.1 to the extent that any such Claim is finally judicially determined to have arisen from the fraud, wilful default, fraudulent misrepresentation, gross negligence, wilful misconduct or reckless disregard of such party, provided that this limitation shall not apply to any Claim in respect of clause 12.1.2.

## 14. Fees

- 14.1 In consideration of the services to be rendered by the Agent in connection with the purchase and sale of the Shares, the Agent shall be paid at the Time of Closing, a cash fee equal to the sum of: (i) 1.33% (exclusive of federal goods and services tax, if applicable) of the purchase price for each of the Shares placed by the Agent and the Special Selling Agents, or US\$0.0051471 per Share (representing and aggregate of 4% (exclusive of federal goods and services tax, if applicable) of the purchase price for the aggregate number of Shares sold pursuant to the Offering, or US\$0.01548 per Share); plus (ii) 2% (exclusive of federal goods and services tax, if applicable) of the purchase price for each of the Shares placed by the Agent, or US\$0.00774 Per Share; plus (iii) an additional 1.0% (exclusive of federal goods and services tax, if applicable) or US\$0.00387 per Share, payable in the discretion of the Company (the "**Discretionary Fee**"), such fees payable to the Agent in Canadian dollars (collectively, the "**Agency Fee**"), to be paid from the gross proceeds of the sale of the Shares. The obligations of the Company to pay the Agency Fee, other than the Discretionary Fee, shall arise at the Time of Closing and the Agency Fee, other than the Discretionary Fee, unless paid at such time, shall be fully earned by the Agent at that time.

## 15. Expenses

- 15.1 Whether or not the purchase and sale of the Shares pursuant to this Agreement is completed, the Company shall be liable for all expenses of or incidental to the purchase, sale, delivery and distribution of the Shares and of or incidental to all matters in connection with the transactions set out in this Agreement including, without limitation:
- 15.1.1 reasonable fees, expenses and disbursements of the Agent's counsel and the out-of-pocket expenses reasonably incurred by or on behalf of the Agent including, without limitation, any advertising, printing, courier, telecommunications, data search, roadshow presentations, travel or other expenses and the reasonable fees, disbursements, and taxes of counsel to the Agent.
  - 15.1.2 fees and expenses payable in connection with the qualification for distribution of the Shares under applicable Securities Laws and the listing of the Shares on the TSX;
  - 15.1.3 the fees and expenses of the auditors of the Company, and Canadian and foreign counsel to the Company;
  - 15.1.4 all costs incurred in connection with the preparation, filing and printing of the Offering Documents and any Share certification costs; and
  - 15.1.5 all fees and expenses of the Transfer Agent and CDS Clearing and Depository Services Inc.;

including Canadian federal goods and services tax and provincial sales tax eligible in respect of any of the foregoing.

15.2 The Company shall also be liable for any stamp, issue, registration, documentary or other tax or duty imposed under the laws of any jurisdiction in which the Shares have been offered for sale (together with any interest or penalties thereon which arise due to late payment by the Company) which is paid or payable by the Agent or by any subscribers of the Shares.

## **16. All Terms to be Conditions**

16.1 The Company agrees that the conditions contained in Section 9 of this Agreement will be complied with insofar as they relate to acts to be performed or caused to be performed by the Company and that it will use its commercially reasonable efforts to cause all of those conditions to be complied with insofar as they relate to acts to be performed or caused to be performed by it. Each certificate required to be provided in accordance with the terms of this Agreement, signed by any officer or officers of the Company and delivered to the Agent or the Agent's counsel, will constitute a representation and warranty by the Company to the Agent as to the matters covered thereby. Each certificate required to be provided in accordance with the terms of this Agreement, signed by any officer or officers of the Company and delivered to the Special Selling Agent, will constitute a representation and warranty by the Company to the Special Selling Agent as to the matters covered thereby. All representations, warranties, covenants and other terms of this Agreement will be and will be deemed to be conditions, and any breach or failure to comply with any of them or any of the conditions set out in Section 9 will entitle the Agent to terminate its obligation to offer the Shares, by written notice to that effect given to the Company at or prior to the Time of Closing. It is understood that the Agent may waive, in whole or in part, or extend the time for compliance with, any of those terms and conditions without prejudice to the rights of the Agent in respect of any of those terms and conditions or any other or subsequent breach or non-compliance, provided that to be binding on the Agent any such waiver or extension must be in writing.

## **17. Termination by the Agent in Certain Events**

17.1 Without prejudice to any other provision of this Agreement, the Agent will also be entitled to terminate its obligations under this Agreement by written notice to that effect given to the Company at or prior to the Time of Closing if:

17.1.1 any inquiry, action, suit, investigation or other proceeding (whether formal or informal) in relation to the Company is instituted or threatened or announced or any order is made by any Governmental Body having jurisdiction over the Company (other than an inquiry, action, suit, investigation or proceeding or order based solely upon the activities or alleged activities of the Agent or the Selling Firms), which has not been rescinded, revoked or withdrawn and which, in the opinion of the Agent, acting reasonably, operates to prevent or materially restrict the distribution of the Shares in any of the Qualifying Jurisdictions, the United States or Other Jurisdictions or would prevent or materially restrict the distribution of the Shares under this Agreement or the Selling Agency Agreement or would prevent or materially restrict trading in the Shares or would reasonably

be expected to have a Material Adverse Effect or to materially adversely effect the market price or value of the Shares or any of them;

- 17.1.2 there should occur any event, change or any change in any material fact or other change, event, development or fact such as is contemplated in Section 5 hereof, which, in the opinion of the Agent, acting reasonably, results or would reasonably be expected to result in the purchasers of a material number of Shares exercising their right under applicable legislation to withdraw or rescind from their purchase thereof or sue for damages in respect thereof or would, in the opinion of the Agent, acting reasonably, be expected to have a Material Adverse Effect or to materially adversely effect the market price or value of the Shares or any of them;
  - 17.1.3 the state of the financial markets in Canada, the United States or the United Kingdom becomes such that, in the opinion of the Agent, acting reasonably, the Shares cannot be marketed;
  - 17.1.4 trading in any of the Company's securities has been suspended or there is any suspension or limitation on trading generally on the TSX;
  - 17.1.5 there should develop, occur or come into effect or existence any event, action, state, condition or major financial, monetary, economical or political occurrence of national or international consequence or any Law or regulation which, in the opinion of the Agent, acting reasonably, seriously adversely affects or may seriously adversely affect the financial markets in Canada, the United States or the Other Jurisdictions or the business, operations or affairs of the Company and the Subsidiaries, taken as a whole, or the market price, value or marketability of the Shares or any of them;
  - 17.1.6 the Agent shall become aware, whether as a result of its due diligence review of the Company, and the Subsidiaries, or otherwise, of any adverse material change or adverse material fact, as determined by the Agent in its sole discretion, with respect to the Company, the distribution of the Shares or the matters contemplated by this Agreement or the Selling Agency Agreement which had not been publicly disclosed or disclosed in writing to the Agent prior to the date of this Agreement;  
or
  - 17.1.7 the Company shall be in breach or default under or non-compliance with any representation or warranty or any material term or condition of this Agreement or the Selling Agency Agreement.
- 17.2 If this Agreement is terminated by the Agent pursuant to Section 17.1 of this Agreement or is terminated pursuant to Section 17.4 of this Agreement, there will be no further liability on the part of the Agent or of the Company to that Agent, except in respect of any liability which may have arisen or may later arise under Sections 12, 13, 15 and 16 of this Agreement.

- 17.3 The right of the Agent to terminate its obligations under this Agreement is in addition to all other remedies they may have in respect of any default, act or failure to act of the Company in respect of any of the matters contemplated by this Agreement.
- 17.4 The offering provided hereunder shall be discontinued, and the parties' obligations under this Agreement shall be terminated (subject to Section 17.2 of this Agreement) if the minimum subscription amount of US\$8,000,000 has not been subscribed by the date that is 90 days following the date on which the Final Receipt is issued, unless each of the persons or companies who subscribed within that period has consented to the continuation of the offering of the Shares.

## **18. Notice**

- 18.1 Any notice or other communication required or permitted to be given under this Agreement will be in writing and will be delivered to:

(a) in the case of the Company: P.O. Box 524  
St. Peter Port  
Guernsey, GY1 6EL, Channel Islands  
Attention: Chief Executive Officer  
Facsimile No.: +44 1481 729982

with a copy to: Borden Ladner Gervais LLP  
Scotia Plaza, 40 King Street West  
Toronto, ON M5H 3Y4  
Attention: Philippe Tardif  
Facsimile No.: (416) 361-2559

(b) in the case of the Agent: Fraser Mackenzie Limited  
48 Yonge Street, Suite 1100  
Toronto, Ontario M5E 1G6  
Attention: JC St-Amour  
Facsimile No.: (416) 955-4630

with a copy to: Blake, Cassels & Graydon LLP  
3500 Bankers Hall East  
855 – 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4J8  
Attention: Daniel McLeod  
Facsimile No.: (403) 260-9700

The parties may change their respective addresses for notices by notice given in the manner set out above. Any notice or other communication will be in writing, and unless delivered personally to the addressee or to a responsible officer of the addressee, as applicable, will be given by facsimile and will be deemed to have been given when (i) in the case of a notice delivered personally to a responsible officer of the addressee, when so

delivered; and (ii) in the case of a notice delivered or given by facsimile, on the first Business Day following the day on which it is sent.

## **19. Miscellaneous**

- 19.1 This Agreement will be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 19.2 The parties hereby irrevocably and unconditionally consent to and submit to the courts of Ontario for any actions, suits or proceedings arising out of or relating to this Agreement or the matters contemplated hereby (and agree not to commence any action, suit or proceeding relating thereto except in such courts) and further agree that service of any process, summons, notice or document by single registered mail to the address of the parties set forth in this Agreement shall be effective service of process for any action, suit or proceeding brought against any party in such court. The parties hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the matters contemplated hereby in the courts of Ontario and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding so brought has been brought in an inconvenient forum.
- 19.3 Time will be of the essence of this Agreement and, following any waiver or indulgence by any party, time will again be of the essence of this Agreement.
- 19.4 The words "hereof", "hereunder" and similar phrases mean and refer to this Agreement.
- 19.5 All representations, warranties, covenants and agreements of the Company contained in this Agreement or contained in documents submitted pursuant to this Agreement and in connection with the transaction of purchase and sale contemplated by this Agreement will survive the purchase and sale of the Shares and the termination of this Agreement and will continue in full force and effect for the benefit of the Agent for a period of three years after the Closing Date, regardless of any subsequent disposition of the Shares or any investigation by or on behalf of the Agent with respect thereto. The Agent will be entitled to rely on the representations and warranties of the Company contained in this Agreement or delivered pursuant to this Agreement notwithstanding any investigation which the Agent may undertake or which may be undertaken on the Agent's behalf.
- 19.6 Each of the parties to this Agreement will be entitled to rely on delivery of a facsimile copy of this Agreement and acceptance by each party of any such facsimile copy will be legally effective to create a valid and binding agreement between the parties to this Agreement in accordance with the terms of this Agreement.
- 19.7 This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original and all of which, when taken together, will constitute one and the same agreement.



- 19.8 To the extent permitted by applicable law, the invalidity or unenforceability of any particular provision of this Agreement will not affect or limit the validity or enforceability of the remaining provisions of this Agreement.
- 19.9 Except as provided for herein, this Agreement and the other documents referred to in this Agreement constitute the entire agreement between the Agent and the Company relating to the subject matter of this Agreement and supersede all prior agreements between those parties with respect to their respective rights and obligations in respect of the transactions contemplated under this Agreement.
- 19.10 The terms and provisions of this Agreement will be binding upon and enure to the benefit of the Company and the Agent and its 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.

If this Agreement accurately reflects the terms of the transactions which we are to enter into and are agreed to by you, please communicate your acceptance by executing the enclosed copies of this letter where indicated and returning them to the undersigned.

Yours very truly,

**FRASER MACKENZIE LIMITED**

Per: "*JC St-Amour*"

Accepted and agreed to by the undersigned as of the date of this letter first written above.

**TETHYS PETROLEUM LIMITED**

Per: "*David Robson*"

**SCHEDULE A**  
**UNITED STATES OFFERS AND SALES**

**SCHEDULE A**  
**U.S. SELLING RESTRICTIONS**

**1. Definitions**

In this Schedule, the following words and phrases shall have the following meanings. Capitalized terms that are not defined in this Schedule shall have the meanings given to them in the Agency Agreement to which this Schedule A is attached:

- (a) "**Agent Affiliate**" means RenCap Securities, Inc.;
- (b) "**Directed Selling Efforts**" means "direct selling efforts" as that term is defined in Rule 902 of Regulation S. Without limiting the foregoing, but for greater clarity, such term means, subject to the exclusions from the definition of "directed selling efforts" contained in 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 any of the Shares, and includes, without limitation, the placement of any advertisement in a publication with a general circulation in the United States that refers to the offering of any of the Shares;
- (c) "**Foreign Issuer**" means foreign issuer as that term is defined in Rule 902 of Regulation S. Without limiting the foregoing, but for greater clarity, it means any issuer that is (1) the government of any country, or of any political subdivision of a country, other than the United States; or (2) a Company or other organization incorporated under the laws of any country other than the United States, except an issuer meeting the following conditions: (a) 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 (b) 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) "**Institutional Accredited Investors**" means institutions that are "accredited investors" within the meaning of Rule 501(a)(1), (a)(2), (a)(3) or (a)(7) under Regulation D under the U.S. Securities Act;
- (e) "**Preliminary U.S. Placement Memorandum**" means the Preliminary Prospectus supplemented with wrap pages describing, among other things, restrictions imposed under the U.S. Securities Act;
- (f) "**Rule 144A**" means Rule 144A adopted by the SEC under the U.S. Securities Act;

- (g) "**SEC**" means the United States Securities and Exchange Commission;
- (h) "**Section 4(2)**" means Section 4(2) of the U.S. Securities Act;
- (i) "**Substantial U.S. Market Interest**" means substantial U.S. market interest as that term is defined in Rule 902(j) of Regulation S;
- (j) "**United States**" means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia;
- (k) "**U.S. Exchange Act**" means the United States Securities Exchange Act of 1934, as amended; and
- (l) "**U.S. Securities Act**" means the United States Securities Act of 1933, as amended.

## 2. U.S. Securities Matters

The Agent and the Company agree as follows:

- (a) The Agent acknowledges that none of the Shares have been or will be registered under the U.S. Securities Act and that the Shares are being offered and sold outside the United States pursuant to U.S. Securities Laws in reliance upon and in compliance with Regulation S and that the Shares may not be offered or sold within the United States except pursuant to an exemption from the registration requirements of the U.S. Securities Act provided in connection with sales to Institutional Accredited Investors, and the Agent represents and agrees that neither the Agent nor the Agent Affiliate, nor any of their affiliates, nor any person acting on their behalf (a) has made or will make any Directed Selling Efforts, (b) has made or will make (except to the extent permitted by this Section 2) (1) any offer to sell or solicitation of any offer to buy any of the Shares to any person in the United States except to Institutional Accredited Investors in accordance with 2(b) - (d) and 2(g) - (i) and 2(j) of this Schedule A or (2) any sale of the Shares to any person outside the United States unless, at the time the order to purchase such Shares was placed, such person was outside the United States or the seller of such Shares and any person acting on its behalf reasonably believed that, at the time the order to purchase such Shares was placed, such person was outside the United States within the meaning of Regulation S, or (c) has taken or will take any action that would constitute a violation of Regulation M under the U.S. Exchange Act. The Agent agrees that all offers and sales in the United States shall be made by the Agent Affiliate in compliance with all applicable United States federal and state laws and regulations governing registration and conduct of broker-dealers.
- (b) The Company and the Agent agree that the Shares may be offered and sold in the United States pursuant only to an exemption from the registration requirements of the U.S. Securities Act and only to institutions the offeror had reasonable basis to believe and did believe to be Institutional Accredited Investors and, on the date

hereof, continues to believe that each purchaser is an Institutional Accredited Investor.

- (c) In connection with the offers and sales in the United States, the Agent agrees for themselves and for their affiliates, including the Agent Affiliate, not to offer or sell, or to solicit any offer to buy, by any form of general solicitation or general advertising (as those terms are used in Regulation D).
- (d) The Agent agrees that offers to sell, solicitations of offers to buy and sales of Shares in the United States shall be made only in transactions that are exempt from the registration or qualification requirements of applicable U.S. state securities ("**Blue Sky**") laws, in accordance with the applicable U.S. federal and state requirements relating to the registration of brokers and dealers only by the Agent Affiliate, and only to persons who, prior to the sale and delivery of the Shares to them, execute and deliver an investor representation letter in the form agreed upon by the parties hereto.
- (e) The Company represents that it is and as of the date of issuance of the Shares will be a Foreign Issuer and that as of the date hereof there is and as of the date of issuance of the Shares there will be no Substantial U.S. Market Interest in the Shares.
- (f) The Company represents and agree that neither it, nor any of its affiliates, nor any person (other than the Agent and the Agent Affiliate as to which the Company makes no representation) acting on behalf of it or its affiliates:
  - (i) has made or will make any Directed Selling Efforts, or has taken or will take any action, including any Directed Selling Efforts, that would (A) cause the exemptions from registration relied upon by the Agents in connection with offers and sales to Institutional Accredited Investors or the exclusion from registration afforded by Regulation S to be unavailable for offers and sales of the Shares pursuant to this Agreement; or (B) constitute a violation of Regulation M under the U.S. Exchange Act;
  - (ii) in connection with the offer or sale of the Shares in the United States has engaged or will engage in any general solicitation or general advertising (as those terms are used in Regulation D);
  - (iii) has made or will make (A) any offer to sell or solicitation of any offer to buy any of the Shares to any person in the United States or (B) any sale of the Shares to any person outside the United States unless, at the time the order to purchase such Shares was placed, such person was outside the United States or the seller of such Shares and any person acting on its behalf reasonably believe that, at the time the order to purchase such Shares was placed, such person was outside the United States within the meaning of Regulation S;

- (iv) has taken or will take any action that would constitute a violation of Regulation M under the U.S. Exchange Act;
  - (v) is not and, as a result of the sale of the Shares contemplated hereby, will not be required to register as an "investment company" as defined in the *United States Investment Company Act of 1940*, as amended; and
  - (vi) within the six month period prior to the date hereof has offered or sold in the United States any Shares or other securities of the Company that would be "integrated" with the sale of the Shares pursuant to Regulation D.
- (g) The Agent has not entered, and will not enter, into any contractual arrangements with respect to the distribution of the Shares in the United States other than as provided herein (except with the Agent Affiliate), except that nothing in this Section shall in any way restrict offers and sales in accordance with the provisions of this Agreement.
  - (h) The Agent shall cause the Agent Affiliate to agree, for the benefit of the Company, to the same provisions as are contained in this Section 2 and which affiliate will be bound by the provisions of this Agreement and will otherwise comply with applicable U.S. broker-dealer laws.
  - (i) Each offeree in the United States was provided with a copy of the Preliminary U.S. Placement Memorandum and U.S. Placement Memorandum and no other written material has been or will be used in connection with offers and sales of the Shares in the United States.
  - (j) At least one business day prior to the Closing Date, the Agent shall cause the Agent Affiliate to provide the Company with a list of all purchasers of Shares in the United States.
  - (k) At Closing, the Agent, together with the Agent Affiliate, who has offered or sold Shares in the United States, will provide a certificate, substantially in the form of Schedule B-1 hereto.
  - (l) The Agent agrees that the certificates for Shares will bear the legend provided for in the U.S. Placement Memorandum.
  - (m) The Company will:
    - (i) use, and will cause any direct and indirect subsidiary to use, commercially reasonable efforts to avoid classification as a passive foreign investment company ("**PFIC**") within the meaning of Section 1297 of the United States Internal Revenue Code of 1986, as amended (the "**Code**"), for the current year or any subsequent year. The Company agrees, at the Company's expense, to make available to any U.S. Investor (as defined below) upon request, the books and records of the Company and any of its

direct and indirect subsidiaries, and to provide information to such U.S. Investor pertinent to the Company's or any subsidiary's status or potential status as a PFIC. Upon a determination by the Company, any U.S. Investor or any taxing authority that the Company or any direct or indirect subsidiary has been or is likely to become a PFIC, the Company will provide such U.S. Investor, at the Company's expense, with all information reasonably available to the Company or any of its subsidiaries to permit such U.S. Investor to (i) accurately prepare all tax returns and comply with any reporting requirements as a result of such determination and (ii) make any election (including, without limitation, a "qualified electing fund" election under Section 1295 of the Code), with respect to the Company or any of its direct or indirect subsidiaries, and comply with any reporting or other requirements incident to such election. If a determination is made by the Company, any U.S. Investor or any taxing authority that the Company is a PFIC for a particular year, then for such year and for each year thereafter, the Company, at the Company's expense, will also provide each known U.S. Investor with a completed "PFIC Annual Information Statement" as required by Treasury Regulation Section 1.1295-1(g) and otherwise comply with applicable Treasury Regulation requirements. The Company will promptly notify the U.S. Investors of any assertion by the U.S. Internal Revenue Service that the Company or any of its subsidiaries is or is likely to become a PFIC, and

- (ii) (A) furnish to each "United States shareholder" of the Company as defined by Section 951(b) of the Code (a "**U.S. Shareholder**") upon its reasonable request, on a timely basis, and at the Company's expense, all information necessary to satisfy the U.S. income tax return filing requirements of such U.S. Shareholder arising from its investment in the Company and, as applicable, relating to the Company's or any subsidiary's classification as a "controlled foreign corporation" ("**CFC**") within the meaning of Section 957 of the Code. As applicable, if the Company or any subsidiary ceases to be a CFC at any time, the Company will provide prompt written notice to known U.S. Shareholders if at any time thereafter the Company becomes aware that it or any subsidiary has become a CFC. Upon written request of a U.S. Shareholder from time to time, subject to obtaining the consent of its shareholders to release such information, the Company will promptly provide in writing such information in its possession concerning its shareholders and, to the Company's actual knowledge, the direct and indirect interest holders in each shareholder sufficient for such U.S. Investor to determine whether the Company is a CFC.

For purposes of paragraphs (i) and (ii) of this Section 2(p): (a) "**U.S. Investor**" means (A) any holder of Ordinary Shares that is a United States person and (B) any holder of Ordinary Shares that is an entity treated as a foreign partnership for U.S. federal income tax purposes, one or more of the owners of which are United States persons; (b) "**United States person**" means any person described in Section 7701(a)(30) of the Code.

## SCHEDULE B-1

### AGENTS' CERTIFICATE

In connection with the offer and sale of Ordinary Shares (the "**Securities**") of Tethys Petroleum Limited (the "**Company**") to one or more U.S. institutional accredited investors (the "**U.S. Purchasers**"), the undersigned, \_\_\_\_\_, on behalf of the Agent (the "**Agent**") referred to in the agency agreement dated as of \_\_\_\_\_, 2009 among the Company and the Agent (the "**Agency Agreement**") and \_\_\_\_\_, as its U.S. Affiliate, who has signed below in its capacity as placement agent in the United States for the Agents (the "**U.S. Placement Agent**"), do hereby certify that:

- (a) the U.S. Placement Agent is a duly registered broker or dealer with the United States Securities and Exchange Commission, is a member of, and in good standing with, the Financial Industry Regulatory Authority, Inc. and all offers and sales of Securities in the United States will be effected by the U.S. Placement Agent in accordance with all applicable U.S. broker-dealer requirements;
- (b) all offers and sales of Securities in the United States were made to institutional "accredited investors" within the meaning of Rule 501(a)(1),(2),(3) or (7) of the United States Securities Act of 1933, as amended ("**Institutional Accredited Investors**");
- (c) neither we nor any of our affiliates have solicited offers for, or offers to sell, the Securities by means of any form of general solicitation or general advertising (as those terms are used in Regulation D under the United States Securities Act of 1933, as amended (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, in connection with the offer or sale of the Securities or the securities to be issued thereunder in the United States;
- (d) each offeree of the Securities in the United States was provided with a copy of the Preliminary U.S. Placement Memorandum and U.S. Placement Memorandum and no other written material was used in connection with offers or sales in the United States;
- (e) immediately prior to transmitting the Offering Documents to offerees, we had reasonable grounds to believe and did believe that each offeree was an Institutional Accredited Investor and, on the date hereof, we continue to believe that each purchaser of the Securities in the United States or who was offered Securities in the United States is an Institutional Accredited Investor;
- (f) prior to any sale of Securities in the United States, we caused each purchaser in the United States or who was offered Securities in the United States to sign a U.S. investor's representation letter substantially in the form agreed between the parties to the Agency Agreement;



- (g) neither we, nor any of our affiliates, have taken or will take any action which would constitute a violation of Regulation M under the United States Securities Exchange Act of 1934, as amended; and
- (h) the offering of the Securities in the United States has been conducted by us in accordance with the terms of the Agency Agreement.

Dated: \_\_\_\_\_, 2009.

\_\_\_\_\_, on its behalf and on \_\_\_\_\_, as U.S.  
behalf of the Agents Placement Agent