

## CONFIDENTIALITY AGREEMENT

**THIS AGREEMENT** made as of \_\_\_\_\_ between \_\_\_\_\_ (the “**Recipient Party**”) and Suncor Energy Oil and Gas Partnership, by its managing partner, Suncor Energy Inc. (the “**Disclosing Party**”).

The parties are entering into discussions concerning a Proposed Transaction and recognize the need to exchange information of a sensitive or confidential nature relating to the Proposed Transaction.

The parties wish to establish certain guidelines for the protection, use and treatment of such confidential information;

In consideration of the mutual promises and conditions contained in this Agreement (the sufficiency of which the parties hereby acknowledge) the parties agree that:

### 1. **Definitions.**

- (a) “Affiliate(s)” means any person or legal entity which:
- (i) controls a party either directly or indirectly,
  - (ii) is controlled directly or indirectly by such party, or
  - (iii) is directly or indirectly controlled by a person or legal entity which indirectly or directly controls such party.

For the purposes of the definition of Affiliate, “control” means the right to exercise 50% or more of the voting rights in the appointment of the directors or managers of the relevant legal entity or possession of the power directly or indirectly, whether through the ownership of voting securities, by contract or otherwise to direct the management of its day to day affairs;

- (b) “Confidential Information” means, collectively, information furnished by Disclosing Party or any of Disclosing Party’s Representatives (by written, electronic, visual, oral or other means) to Recipient Party or its Representatives in conjunction with the Proposed Transaction which is related to any or any combination of Disclosing Party, Disclosing Party’s Affiliates or the Proposed Transaction including Evaluation Material and, all Interpretative Material derived therefrom but excluding any information which Recipient Party can demonstrate:
- (i) was already in the public domain at the time furnished to Recipient Party or which subsequently becomes part of the public domain through no action by or reason attributable to Recipient Party, or any Representative of Recipient Party, or any Representative of Recipient Party's Affiliates; or

- (ii) was at the time of disclosure already in the possession of Recipient Party or Recipient Party's Representatives, as evidenced by Recipient Party's records, and was not directly or indirectly acquired by Recipient Party or Recipient Party's Representatives under an obligation of confidence (whether arising by way of contract, trust, duty of confidence imposed by common law, fiduciary obligation or otherwise); or
- (iii) was received by Recipient Party after the time of disclosure to Recipient Party by Disclosing Party or Disclosing Party's Representatives from any Person who did not require Recipient Party to hold such information in confidence and who did not acquire such information directly or indirectly from Disclosing Party or a predecessor in title to Disclosing Party under any obligation of confidence (whether arising by way of contract, trust, duty of confidence imposed by common law, fiduciary obligation or otherwise);

The Confidential Information shall not be deemed to be within the foregoing categories merely because such Confidential Information is embraced by more general information lawfully in the public domain or in Recipient Party's possession. In addition, any combination of features shall not be deemed to be within the foregoing categories merely because individual features are in the public domain or in Recipient Party's possession but only if the combination itself is lawfully in the public domain or in Recipient Party's possession;

- (c) "Disclosing Party" means Suncor Energy Oil and Gas Partnership;
- (d) "Effective Date" means \*;
- (e) "Evaluation Material" means any information directly or indirectly obtained by Recipient Party from Disclosing Party, or its Representatives in conjunction with the Proposed Transaction relating to the business, affairs, financial position, property, undertaking, operations, or other matters concerning Disclosing Party or Disclosing Party's Affiliates or the Proposed Transaction (whether prepared by Disclosing Party, Disclosing Party's Representatives or otherwise) which is furnished to or otherwise obtained by Recipient Party (including any of Recipient Party's Representatives while acting for or representing Recipient Party) whether oral, visual, in writing, in electronic media or in computer readable format or by way of any other form including (by way of illustration) without limiting the foregoing definition:
  - (i) land information (including land reports and summaries);
  - (ii) well information (including well logs and production summaries);
  - (iii) production, engineering, and operational information;
  - (iv) reserve reports and evaluations (internal and external);

- (v) legal title reviews and other legal opinions;
- (vi) financial statements and other financial or accounting information;
- (vii) budgets, plans and programs;
- (viii) information concerning operations, staff (including names and backgrounds) and management; and
- (ix) technical information;

Evaluation Material also shall include any information which comes to the attention of Recipient Party or any Representative of Recipient Party during any visits to the office or property locations of Disclosing Party whether through discussion or visual inspection;

- (f) "Interpretative Material" means all originals, copies, reproductions, and extracts of documents, memoranda, notes, summaries, evaluations, reports, compilations, studies, analyses and other writings prepared by Recipient Party or any Representative of Recipient Party which is based, in whole or in part, upon the Evaluation Material or reflecting the review of or inquiry into Disclosing Party;
- (g) "Person" shall be broadly interpreted to include without limitation any individual, corporation, partnership, trust, government or governmental body or other incorporated or unincorporated entity;
- (h) "Privacy Laws" means the Personal Information Protection and Electronic Documents Act (Canada), Personal Information Protection Act (Alberta), Freedom of Information and Protection of Privacy Act (Alberta), the Health Information Act (Alberta), equivalent legislation in other Provinces and Territories, all regulations thereunder, and all Commissioner orders issued pursuant thereto;
- (i) "Proposed Transaction" means the evaluation and possible acquisition by the Recipient Party of certain exploration and production rights held by the Disclosing Party in the areas in South Western Saskatchewan as outlined in red and depicted in the map attached as Schedule A;
- (j) "Recipient Party" means the party receiving the Confidential Information; and
- (k) "Representatives" means, collectively, a party's Affiliates, the directors, officers, employees, or agents of a party or a party's Affiliates, including without limitation, attorneys, accountants, consultants and financial advisors.

2. **Purpose.** In connection with Recipient Party's wish to evaluate the Proposed Transaction, Disclosing Party will provide Confidential Information to Recipient Party.

The Confidential Information will be used solely for the purpose of evaluating a possible Proposed Transaction. This Agreement shall not obligate Disclosing Party to provide any information to Recipient Party and Disclosing Party may terminate or further condition the furnishing of Confidential Information at any time.

3. **Term.** The duties and obligations of each party under this Agreement are deemed to commence as of the Effective Date and shall remain in effect until the earlier of:
- (a) the later of:
    - (i) two (2) years from the Effective Date; and
    - (ii) for each specific disposition package identified on the attached Schedule A, two (2) years from the date the recipient Party receives the specific Confidential Information with respect to such disposition package which date, in the event of a dispute, shall be verified by reference to the Disclosing Party's records; or
  - (b) the date the contemplated Proposed Transaction is completed between the Recipient Party and Disclosing Party and, if applicable, its respective Affiliates, pursuant to a definitive agreement;

provided however, that such expiry or termination of this Agreement shall not:

- (c) release any obligations, liabilities, rights and remedies arising out of any breach of or failure to comply with this Agreement accruing prior to such expiry or termination; or
  - (d) release, impair or affect the covenants and agreements contained in Sections 3(c) and 3(d), 6, 8, 9, 10, 14, 17, 20, 21, 24 and 26 of this Agreement each of which shall survive such termination and continue in full force and effect.
4. **Status of Confidential Information.** The Confidential Information is either non-public, confidential, or proprietary in nature and Recipient Party may in its examination of such Confidential Information, be exposed to material non-public information concerning the business of any of or any combination of Disclosing Party or its Affiliates.
5. **Non-Disclosure.**
- (a) The Confidential Information will be kept strictly confidential by Recipient Party, and Representatives of Recipient Party, and, subject to the provisions of this Agreement, will not be disclosed by Recipient Party or any Representative of Recipient Party to any Person, without the prior written consent of Disclosing Party.
  - (b) Recipient Party agrees to disclose the Confidential Information only to Recipient Party's Representatives who:

- (i) have a need to know for the purpose of evaluating the Proposed Transaction;
- (ii) are fully informed by the Recipient Party of the confidential nature of the Confidential Information;
- (iii) are subject to confidentiality obligations on terms at least as onerous as the terms of this Agreement.

Recipient Party shall upon request by Disclosing Party provide Disclosing Party with a list of all persons to whom Confidential Information has been provided.

- (c) Recipient Party and its Representatives will not disclose the fact that the Confidential Information has been made available, that discussions or negotiations are taking place concerning the Proposed Transaction, or any of the terms, conditions or other facts relating thereto, including the status thereof, except subject to disclosures made pursuant to Section 7 below.
- (d) Recipient Party and Representatives of Recipient Party will not knowingly discuss or disclose information relating to Disclosing Party in the context of the Proposed Transaction (including information which is not Confidential Information) with or to representatives of the media except for disclosure of non-proprietary information required to be disclosed in the necessary course of business.
- (e) Recipient Party shall be responsible for any breach of this Agreement by any of its Representatives and Recipient Party agrees, at its sole expense, to take all reasonable measures (including, but not limited to, judicial proceedings) to restrain its Representatives from prohibited or unauthorized disclosure or use of the Confidential Information.
- (f) All requests for Confidential Information shall be addressed to those Disclosing Party's Representatives as designated by Disclosing Party in accordance with Section 19. Recipient Party agrees that Recipient Party and Representatives of Recipient shall not request Confidential Information from any other Disclosing Party Representative without the written consent of Disclosing Party.

6. **Top Leasing Strictly Prohibited.** Where any of the Confidential Information includes information which indicates that title to any of Disclosing Party's property is or may be susceptible to attack (often referred to as "top lease" opportunity), then even if the various pieces of information necessary to identify the title defect (e.g. lease agreements, production histories) are available to the public the existence of such a title defect shall not be considered to be "available to the public" if the existence of such defect is first discovered or learned of by Recipient Party in connection with the review of the Confidential Information. Recipient Party agrees that Recipient Party shall not and shall assure that all of the Representatives of Recipient Party do not take advantage of or inform any other person of the existence of any such title defect.

7. **Permitted Disclosures.**

- (a) In the event that Recipient Party or anyone to whom Recipient Party transmits the Confidential Information pursuant to this Agreement is requested or required by a court or regulatory body of competent jurisdiction (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information, Recipient Party will provide Disclosing Party with immediate written notice thereof so that Disclosing Party may seek a protective order or other appropriate remedy. In the event such court or regulatory body compels disclosure of the Confidential Information, Recipient Party will furnish only that portion of the Confidential Information which is legally required and will exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.
- (b) Recipient Party shall cooperate with Disclosing Party in any attempt that Disclosing Party may make, at its expense, to obtain an order or other reliable assurance that confidential treatment will be accorded to designated portions of such information.

8. **Records.**

- (a) Recipient Party shall keep a record of the Confidential Information furnished to it and a record of all of its Representatives who are granted access to any portion of the Confidential Information. Upon the request of Disclosing Party, the Recipient Party shall immediately (and in no event more than fourteen (14) days from receipt of such request) destroy or return the Confidential Information and all copies thereof to Disclosing Party without retaining any copies. Upon written request by Disclosing Party, Recipient Party shall promptly furnish to Disclosing Party a written statement signed by a senior officer of Recipient Party certifying compliance by Recipient Party and its Representatives with the provisions of this Section 8.
- (b) Notwithstanding anything to the contrary in this Section 8:
  - (i) Recipient Party may for corporate governance purposes retain in a controlled access file a copy of the presentations made to its board or executive management that contain Confidential Information but only to the extent that such Confidential Information is comprised of Recipient Party's own evaluations, analyses and interpretations; and
  - (ii) Confidential Information disclosed to it under this Agreement may be automatically backed-up by Recipient Party's computer system and retained in Recipient Party's computer archive or back-up storage for the period back-up storage or archives are generally retained, provided that

Recipient Party does not seek to access the backed up records during that retention period.

9. **No License. No Obligation.**

- (a) Neither this Agreement nor disclosure of any Confidential Information to the Recipient Party shall be construed as granting to the Recipient Party any license or rights in respect of all or part of the Confidential Information except as otherwise explicitly granted in writing.
- (b) This Agreement and the disclosure of Confidential Information hereunder shall create no obligation on the part of any of Disclosing Party or its Affiliates to enter into any further agreement with Recipient Party. Unless and until a definitive agreement has been fully executed and delivered, no contract or agreement providing for a Proposed Transaction between the parties shall be deemed to exist and neither party shall be under any legal obligation of any kind whatsoever with respect to such transaction by virtue of this or any written or oral expression thereof, except, in the case of this Agreement, for the matters specifically agreed to herein. For the purposes of this Agreement the term “definitive agreement” means a definitive written agreement with respect to the Proposed Transaction, but does not include an executed letter of intent, negotiations between the parties, exchanges of drafts or documents relating to a possible transaction or any other preliminary written agreement or offer, unless specifically so designated in writing and executed by both parties.

10. **No Agency.** Nothing in this Agreement implies any partnership or joint venture between the parties or is to be construed as making one party the agent of the other.

11. **No Representations.** Recipient Party understands that Disclosing Party has endeavored to include in the Confidential Information those materials which are believed to be reliable and relevant for the purpose of its evaluation, but Recipient Party acknowledges that neither Disclosing Party nor any of its Representatives makes any representation or warranty as to the accuracy or completeness of the Confidential Information. Recipient Party agrees that neither Disclosing Party nor any of its Representatives shall have any liability to Recipient Party or to any of its Representatives as a result of the use of the Confidential Information by Recipient Party and its Representatives, it being understood that only those particular representations and warranties which may be made in a definitive agreement among the parties hereto pertaining to the Proposed Transaction, when, as, and if it is executed and subject to such limitations and restrictions as may be specified in such agreement, shall have any legal effect.

12. **Securities Law.** Recipient Party is aware, and it will advise its Representatives who are informed of the matters that are the subject of this Agreement, of the restrictions imposed by applicable securities laws on the purchase or sale of securities by any Person who has received material, non-public information from the issuer of such securities and on the communications of such information to any other Person when it is reasonably

foreseeable that such other Person is likely to purchase or sell such securities in reliance upon such information and that the Confidential Information may well constitute such information.

13. **Site Visit Indemnity.** If any of the Recipient Party's Representatives visit any of the business sites of Disclosing Party, Recipient Party hereby agrees to be liable to and, in addition, to indemnify and save Disclosing Party and its employees and agents harmless from any claims, liabilities, costs, damages and expense whatsoever (including solicitors and own client costs) resulting from the negligence or misconduct of Recipient Party's Representatives during such visit.

14. **Liability, Indemnity, and Equitable Relief.**

(a) Recipient Party acknowledges that the Confidential Information includes information which results from the expenditure of considerable time, effort, money and other resources by Disclosing Party and that Disclosing Party has a legitimate interest in protecting the value of the Confidential Information.

(b) Accordingly, without limitation and in addition to any rights of Disclosing Party against Recipient Party or any of its Representatives arising by reason of any breach hereof, Recipient Party shall:

(i) be liable to Disclosing Party and its Representatives for all losses, costs (including solicitor and own-client costs), damages and expenses whatsoever which they may suffer, sustain, pay or incur; and in addition,

(ii) indemnify Disclosing Party and its Representatives against all actions, proceedings, claims, demands, losses, costs, damages and expenses whatsoever (including solicitor and own-client costs) which may be brought against or suffered by Disclosing Party or which they may suffer, sustain, pay or incur;

arising or resulting from a breach of this Agreement or the unauthorized use or disclosure by the Recipient Party or its Representatives, of all or any part of the Confidential Information.

(c) Recipient Party agrees that Disclosing Party will be irreparably injured by a breach of this Agreement by Recipient Party or its Representatives, which could not be adequately compensated for by damages. Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Agreement. Such remedies shall not be deemed to be exclusive remedies for the breach of the Agreement by the Recipient Party or its Representatives (or both) but shall be in addition to all other remedies available at law or at equity.

15. **Non-Exclusivity.**

- (a) The parties acknowledge and agree that this is a non-exclusive arrangement between Recipient Party and Disclosing Party, and that at any time, at Disclosing Party's sole discretion, the assets and business opportunities shown by Disclosing Party hereunder shall be subject to withdrawal and prior sale and nothing herein shall require Disclosing Party to provide notice to Recipient Party with respect to any such withdrawal or sale. Disclosing Party reserves the right, in its sole discretion, to reject any and all proposals made by Recipient Party with respect to a Proposed Transaction between Disclosing Party and Recipient Party and, subject to the terms hereof, to terminate discussions with the Recipient Party at any time.
- (b) Recipient Party understands and agrees that:
  - (i) Disclosing Party may negotiate transactions with other persons as Disclosing Party in Disclosing Party's sole discretion may determine including, without limitation, negotiating with any prospective purchaser and entering into a definitive agreement without prior notice to Recipient Party or any other Person;
  - (ii) any procedures relating to such sale may be changed at any time without notice to Recipient Party or any other Person; and
  - (iii) Recipient Party shall not have any claims whatsoever against Disclosing Party or any of Disclosing Party's stockholders, or Representatives arising out of or in relation to a Proposed Transaction (other than as a party to a definitive acquisition agreement with Disclosing Party and then only against Disclosing Party in accordance with the terms thereof).

16. **Contact with Disclosing Party Personnel.** Until the earlier of:

- (a) the date a definitive agreement between Recipient Party and Disclosing Party relating to the Proposed Transaction is executed, or
- (b) one year after the Effective Date,

neither Recipient Party nor any of its Affiliates shall solicit to employ any current employees of Disclosing Party or its Representatives, without obtaining the prior written consent of Disclosing Party's General Manager, Acquisitions & Divestitures, Natural Gas. For the purposes of this clause "solicit" shall not include advertising in a newspaper, on the internet or periodical of general circulation.

17. **Privacy Laws.**

- (a) All disclosures of "personal information" pursuant to this Agreement shall only be carried out in compliance with applicable Privacy Laws. The parties agree that the Proposed Transaction constitutes a "business transaction" within the meaning of Privacy Laws. Recipient Party agrees only to request from Disclosing Party and Disclosing Party agrees only to provide to Recipient Party, "personal information" which is necessary for Recipient Party to determine whether to proceed with an Proposed Transaction. The parties agree that the collection, use and disclosure of "personal information" shall be restricted to the purposes that relate to the Proposed Transaction.
- (b) If Disclosing Party determines not to provide any personal information to Recipient Party on the basis that Disclosing Party has determined that disclosure of such personal information may constitute a breach of Privacy Law, Disclosing Party shall advise Recipient Party of this exclusion as well as a general description of the type of information that has been excluded from disclosure.

**GENERAL MATTERS**

18. **Assignment.** This Agreement shall not be assigned by Recipient Party without the consent of Disclosing Party, which consent may be unreasonably and arbitrarily withheld, except that this Agreement and the rights hereunder may be assigned by a party hereto to any third party which amalgamates or merges with such party or which third party acquires all or substantially all of the assets of such party. Notwithstanding the foregoing, this Agreement may be assigned by a party to an Affiliate of such party, provided that such party shall not be released from any obligations or other liability or burden hereunder upon any such assignment. Subject to the foregoing, this Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.
19. **Notices.** Except as otherwise expressly provided herein, any notice or other communication required or permitted to be given hereunder shall be in writing and shall be sufficiently given if transmitted by facsimile or delivery by hand or courier delivery:

- (a) if to Disclosing Party, to:

Suncor Energy Oil and Gas Partnership  
P.O. Box 2844  
150 – 6th Avenue S.W.  
Calgary, Alberta T2P 3E3

Attention: Director, Acquisitions & Divestitures, Exploration &  
Production  
Facsimile: (403) 296-5971

(b) if to Recipient Party, to:

\*

Attention: \*

Facsimile: \*

Notice delivered or transmitted as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a business day prior to 4:00 p.m. local time or if such day is not a business day, then such notice shall be deemed to have been given and received on the next business day. For the purposes of this clause, "business day" means any day other than a Saturday, Sunday, or statutory holiday in Alberta. Either party hereto may, by written notice to the other, change its address to which notices are to be sent.

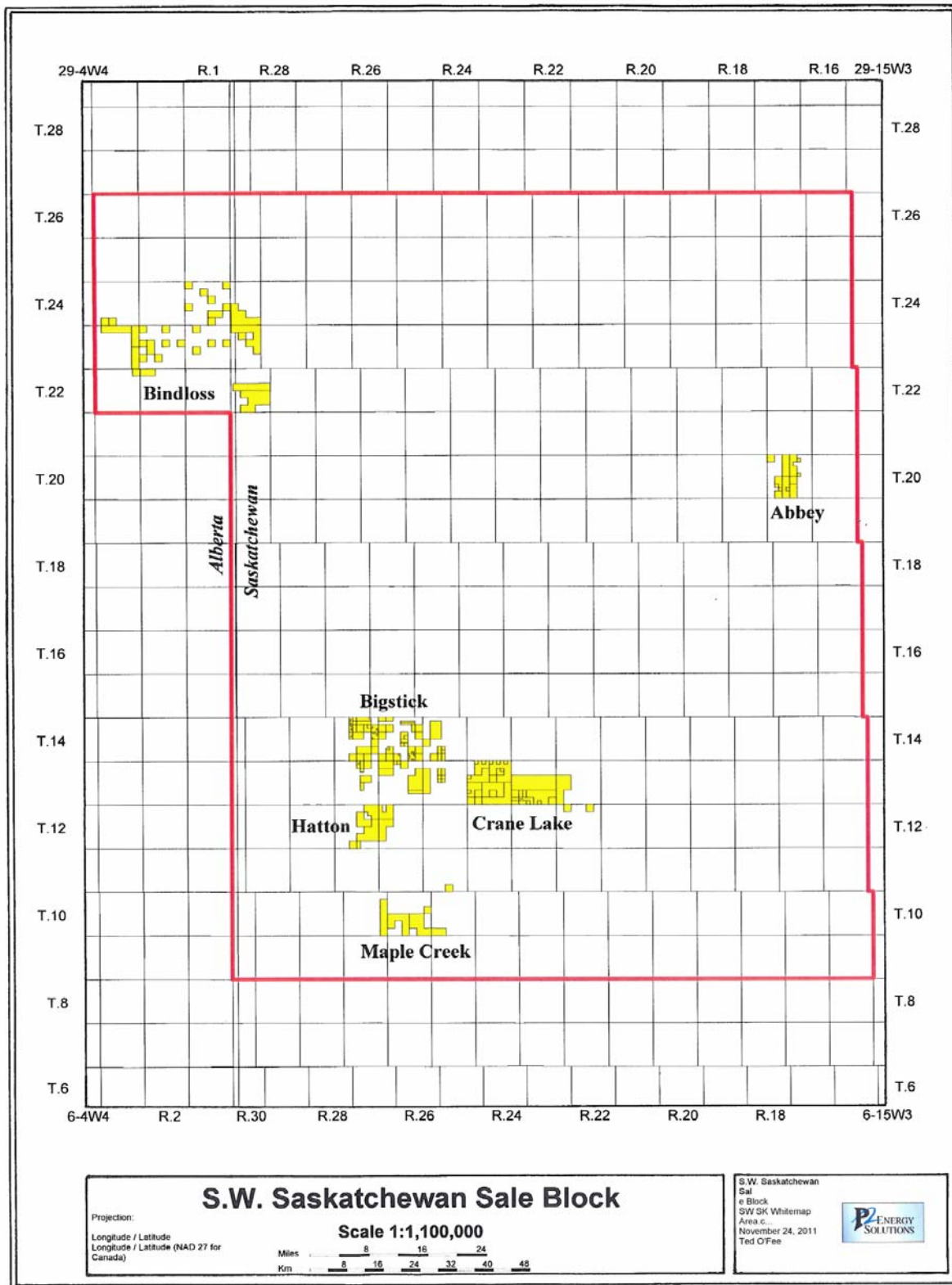
20. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the Province of Alberta. The parties hereto agree to submit to the original and exclusive jurisdiction of the courts of such Province in any actions related to this Agreement.
21. **Limitations Act Extension.** The two-year period for seeking a remedial order under section 3(1)(a) of the Limitations Act, R.S.A. 2000 c. L-12, as may be amended from time to time, for any claim (as defined in that Act) arising in connection with this Agreement is extended to six years.
22. **Time of the Essence.** Time shall be of the essence of this Agreement.
23. **No Waiver.** No failure or delay by a party to exercise any of its rights, powers or privileges under this Agreement shall operate as a waiver thereof.
24. **Entire Agreement.** This Agreement comprises the full and complete agreement of the parties with respect to the disclosure of the Confidential Information and supersedes and cancels all prior communications, understandings and agreements between the parties, whether written or oral, expressed or implied.
25. **Amendment.** No amendment to this Agreement shall be binding on the parties unless made in writing and signed by both parties.
26. **Severability.** If, and to the extent that, any Alberta court of competent jurisdiction determines that it is impossible to construe any provision of this Agreement and consequently holds that provision to be invalid, illegal or unenforceable, such holding shall in no way affect the validity of the other provisions of this Agreement, which shall remain in full force and effect.

27. **Interpretation.** The division of this Agreement into clauses and paragraphs and the provision of headings for all or any portion thereof is for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Any rule or principle of contractual construction that would otherwise require any aspect of this Agreement to be interpreted against the party primarily responsible for its drafting shall not be employed in the interpretation hereof.
28. **Counterpart Execution.** This Agreement may be executed in counterparts that together shall be deemed to constitute one valid and binding Agreement and execution of the counterparts may be effected by electronic means or means of facsimile transmission with the same effect as if original copies had been signed; provided that originally signed counterpart execution copies shall be delivered promptly after the electronic delivery or delivery of the facsimile transmission.

**IN WITNESS WHEREOF** the parties have caused this Agreement to be duly executed on the day and year first above written.

<b>SUNCOR ENERGY OIL AND GAS PARTNERSHIP by its managing partner SUNCOR ENERGY INC., by its agent, SUNCOR ENERGY SERVICES INC.</b>	*
<b>Per:</b>	<b>Per:</b>
<b>Title</b>	<b>Title</b>

Schedule A attached to and forming part of a Confidentiality Agreement made as of \* between \* as Recipient Party and Suncor Energy Oil and Gas Partnership as Disclosing Party



**CONFIDENTIAL AGREEMENT**

Please forward the Confidential Information for Company to:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_