

## CONFIDENTIALITY AGREEMENT

This Agreement made effective as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

### BETWEEN:

\_\_\_\_\_, a body corporate formed pursuant to the laws  
of the **Province/State of** \_\_\_\_\_ (the "**Recipient Party**")

- and -

**Western Divestments Inc.**, a body corporate formed pursuant to the  
laws of the **Province of Alberta** ("**Disclosing Party**")

WHEREAS the parties hereto wish to engage in discussions regarding the potential divestiture of certain assets, business and/or undertaking of the Disclosing Party (the "**Permitted Purpose**");

AND WHEREAS Disclosing Party intends to disclose to the Recipient Party and its representatives certain Confidential Information;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the Parties hereby agree as follows:

### 1. **Definitions**

In this Agreement, the following terms shall have the meanings set forth below:

"**Affiliate**" means, in respect to a Person, any other Person that, directly or indirectly, controls, is controlled by, or is under common control with such first Person, and "**control**" shall mean the ability to appoint a majority of the members of a Person's board of directors or similar management body or the ownership of a majority of a Person's issued capital;

"**Confidential Information**" means any and all written or oral information, whether or not on paper or in electronic form, whether or not marked or identified as confidential, whether or not disclosed prior to the execution of this Agreement and whether or not disclosed or to be disclosed to the Recipient Party or any of a Recipient Party's Representatives by the Disclosing Party or any of the Disclosing Party's Representatives, including without limitation, all offers, financial statements, corporate records, loan agreements, leases, maps, reports, assay or other statistical, engineering, geological or geophysical data, operating or other information related to the business, operations, assets or affairs of the Disclosing Party or its Affiliates and information set forth in any Data Room, and all analyses, compilations, forecasts, studies or other documents prepared by the Recipient Party or a Recipient Party's Representatives in connection with the review and evaluation of such information provided to the Recipient Party or the Recipient Party's Representatives or otherwise prepared by the Recipient Party or the Recipient Party's Representatives pursuant to or in furtherance of the Permitted Purpose;

**"Disclosing Party"** means Disclosing Party and/or a Disclosing Party Affiliate;

**"Disclosing Party's Representative"** means any Person that provides Confidential Information to the Recipient Party or any of the Recipient Party's Representatives on behalf of the Disclosing Party, including without limitation, the directors, officers, employees, professional consultants, contractors, legal counsel, accountants, advisors and agents of the Disclosing Party;

**"Parties"** means the parties to this Agreement and **"Party"** means any one of such Parties;

**"Person"** includes any individual, company, corporation, firm, partnership, joint venture, association, organization, trust, government or any department or agency thereof (in each case, whether or not having separate legal personality); and

**"Recipient Party's Representative"** means any Person that receives Confidential Information from the Disclosing Party on behalf of the Recipient Party, including without limitation, the directors, officers, employees, professional consultants, contractors, legal counsel, accountants, advisors and agents of the Recipient Party.

## 2. **Proprietary**

The Recipient Party agrees that all Confidential Information is confidential and proprietary to the Disclosing Party disclosing such Confidential Information (whether such Confidential Information was made available prior to the date of this Agreement or after such date) and will be so treated by the Recipient Party and the Recipient Party's Representatives and shall remain the property of the Disclosing Party.

## 3. **Confidentiality Requirements**

- (a) Without restricting the generality of the foregoing, and for greater certainty and clarity, the term "Permitted Purpose" shall include the fact that assets, business and/or undertaking of the Disclosing Party are being considered or offered for sale.
- (b) The Recipient Party agrees that all Confidential Information and the Permitted Purpose shall be kept in strict confidence. The Recipient Party agrees that the Confidential Information shall not be used, dealt with or exploited for any purpose other than the Permitted Purpose and not for any other business or competitive purpose and none of the Confidential Information and/or the Permitted Purpose shall be disclosed to any Person other than the Recipient Party's Representatives who are directly involved in and require access to such Confidential Information in connection with the Permitted Purpose, and may only be disclosed to such Recipient Party's Representatives if each such Person agrees to keep such Confidential Information and Permitted Purpose in strict confidence and to be bound by the confidentiality and non-disclosure provisions of this Agreement to the same extent as if they were parties hereto and in respect of whom the Recipient Party agrees that any Confidential Information and the Permitted Purpose will be kept in strict confidence and shall not be used, dealt with, exploited or disclosed other than as contemplated herein and in strict accordance herewith.
- (c) The Recipient shall, if so requested by the Disclosing Party, provide the Disclosing Party with a list of Representatives who have received the Confidential Information and knowledge of the Permitted Purpose. The Recipient shall, if so requested by the Disclosing Party, provide to the Disclosing Party a certificate certifying that the Recipient Party and its Representatives have complied with the terms and conditions of this Clause 3.

- (d) The Recipient Party and its Representatives shall not visit any of the business sites of the Disclosing Party without the latter's prior written consent. Any such visit consented to by the Disclosing Party shall be at the sole cost and risk of the Recipient Party.
- (e) The Disclosing Party further requires a list of the Representatives attending a viewing of Confidential Information at the Data Room at least 24 hours in advance of the scheduled viewing session.
- (f) The Recipient Party shall be liable for any breach of this Agreement by any of such Recipient Party's Representatives.

#### 4. **Exceptions to Confidentiality Requirements**

With respect to the Recipient Party, the confidentiality requirements set forth in Clauses 2 and 3 shall not apply to any part of the Confidential Information or the Permitted Purpose which:

- (a) is, at the time of disclosure, or thereafter becomes, a part of the public record through no violation or breach of this Agreement;
- (b) was, as evidenced by its records, in the lawful possession of the Recipient Party prior to its disclosure hereunder;
- (c) is hereafter lawfully acquired by the Recipient Party through a third Person, which, to the best of the Recipient Party's knowledge, is not under an obligation of confidence to the Disclosing Party or is not in a contractual or fiduciary relationship with the Disclosing Party;
- (d) is disclosed following receipt of the written consent of the Disclosing Party that such Confidential Information or Permitted Purpose may be disclosed;
- (e) has been independently acquired or developed by the Recipient Party without violating any of its obligations under this Agreement; or
- (f) is otherwise disclosed pursuant to the provisions of this Agreement.

#### 5. **Return, Destruction of Confidential Information**

At the request of the applicable Disclosing Party, the Recipient Party and each Recipient Party's Representatives shall immediately return or cause to be returned to the Disclosing Party the Confidential Information in whatever form it may be held by the Recipient Party or any of the Recipient Party's Representatives, and shall not retain any copies or other reproductions thereof, or any reports, extracts, notes, memoranda or other records in respect thereof, (whether written, electronic, magnetic or otherwise), and shall destroy or have destroyed all such copies, other reproductions, reports, extracts, notes, memoranda and other records in respect of any Confidential Information. Furthermore, the Recipient Party shall, upon request, provide written confirmation to the Disclosing Party of compliance with the terms and conditions of this Clause.

Notwithstanding the foregoing:

- (a) the portion of the Confidential Information stored in electronic form may be retained in the Recipient Party's back up servers if not intentionally made available to any Person, and is deleted in accordance with the Recipient Party's normal policies with respect to the retention of electronic records; and

- (b) if and to the extent that the Recipient Party or its Representatives are required by applicable law, regulation or policy of the Recipient Party's board of directors to retain any Confidential Information, the Recipient Party will be permitted to retain one copy of such Confidential Information for the period required by such law, regulation or policy, provided that the obligations of confidentiality set forth in this Agreement shall continue to apply to such retained Confidential Information.

**6. Equitable Relief**

It is agreed that each Disclosing Party will be irreparably injured by a breach of the provisions of this Agreement relating to the protection of Confidential Information and the Permitted Purpose by the Recipient Party or any of the Recipient Party's Representatives, which injury could not be adequately compensated for by damages, and each Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of such provisions. Such remedies shall not be deemed to be exclusive remedies for the breach of such provisions but shall be in addition to all other remedies available hereunder or otherwise at law or in equity.

**7. Liability and Indemnification**

Without limitation and in addition to any other rights of the Disclosing Party against the Recipient Party or any of the Recipient Party's Representatives arising by reason of any breach hereof, the Recipient Party shall:

- (a) be liable to the Disclosing Party and its directors, officers, employees, Affiliates and Representatives for any and all losses, costs, damages and expenses whatsoever (including legal, accounting and other professional costs, expenses, fees and disbursements, with legal fees determined on a solicitor-client basis) which such parties may suffer, sustain, pay or incur; and
- (b) indemnify and hold the Disclosing Party and its directors, officers, employees, Affiliates and Representatives harmless against all actions, proceedings, claims, demands, losses, costs, damages and expenses whatsoever (including legal, accounting and other professional costs, expenses, fees and disbursements, with legal fees determined on a solicitor-client basis) which may be brought against or suffered by any of them or which any of them may sustain, pay or incur;

which are established to result or arise, directly or indirectly, from disclosure of all or any part of the Confidential Information or Permitted Purpose contrary to the provisions hereof or any other breach of this Agreement.

In the event that the Recipient Party or its Representatives visit a business site of the Disclosing Party, with or without the consent required herein, such visit shall be at the sole risk of the Recipient Party and its attending Representatives and the Recipient Party shall indemnify and save harmless the Disclosing Party from and against any loss, cost, damages and expenses (including legal fees on a solicitor and own client basis) whatsoever which the Disclosing Party may suffer, sustain, pay or incur as a result of such visit or claims, suits, or charges arising therefrom, except where such loss, costs, damages and expenses are caused by the gross negligence or willful misconduct of the Disclosing Party or its Representatives.

8. **Legal Compulsion to Disclose**

If the Recipient Party or any of the Recipient Party's Representatives becomes legally compelled (by oral questions, interrogatories, requests for confidential information, documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information (after using its commercially reasonable efforts to avoid such disclosure), the Recipient Party or the Recipient Party's Representative to whom the request was made or who is legally compelled as aforesaid shall provide the applicable Disclosing Party with prompt written notice of same so that the Disclosing Party may either seek a protective order or other appropriate remedy. If such protective order or remedy is not obtained, the Recipient Party or the Recipient Party's Representative, as the case may be, shall furnish only that portion of the Confidential Information which it is advised by counsel is legally required and will, where permitted under applicable law, use its commercially reasonable efforts to obtain reliable assurance that the Confidential Information will be accorded confidential treatment.

9. **Term and Survival**

This Agreement shall remain in full force and effect for a period of one (1) year following the effective date hereof (notwithstanding that the Confidential Information may have been returned or copies or other reproductions thereof destroyed prior to the expiration of such period) and thereupon shall terminate.

10. **Absence of Representations, Warranties and Commitment**

In making available the Confidential Information, the Disclosing Party makes no representation or warranty as to the accuracy or completeness thereof or otherwise or with respect to any conclusions, interpretations or analysis with respect to any thereof and neither the Disclosing Party nor any of its Affiliates or its or their shareholders, directors, officers, employees, professional advisors (including, without limitation, financial advisors, lawyers and accountants) or agents shall have any liability whatsoever to the Recipient Party or any Recipient Party Representative as a result of the use of or reliance upon any of the Confidential Information, or any information from public sources or other sources whatsoever, by the Recipient Party of any thereof; it being understood that only those particular express representations and warranties which may be made by the Disclosing Party in an agreement executed by the Disclosing Party, when and if executed, shall have any legal effect.

11. **Notices**

- (a) All notices, communications and statements (hereinafter called "notices") required, permitted or contemplated hereunder shall be in writing, and shall be sufficiently given and received if:
  - (i) personally served on the other Party during normal business hours at the address set forth below (personally served notices shall be deemed received by the addressee when actually delivered);
  - (ii) received by email; or
  - (iii) sent by first class registered mail, postage prepaid, to the intended recipient (notices so served shall be deemed to have been received by the addressees on the fifth business day of such addressee following the date of mailing thereof), provided that in the event of an actual or threatened postal strike or other labour disruption that may affect the mail service, notices shall not be mailed.

(b)! The address of each of the Parties for the purposes of clause 11(a) shall be as follows:

Address: Western Divestments Inc.  
327 Hawkdale Bay NW,  
Calgary, Alberta T3G 3M8  
Attention: Moya Little  
Phone No.: (403) 519-8351  
E-Mail: moyalittle@westerndivestments.com

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Address:  
Attention:  
Phone No.:  
E-Mail:

(c)! Any Party may change its said address by notice to the other Party given in accordance with this Clause.

## 12.! **Miscellaneous**

- (a)! This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement.
- (b)! No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing and signed by a duly authorized representative of each of the Parties.
- (c)! This Agreement and the obligations set forth hereunder shall not be assigned in whole or in part by any Party or any Person bound hereby without the express written consent of the other Party.
- (d)! This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.
- (e)! This Agreement shall be construed and interpreted in accordance with the laws in force in the Province of Alberta and the Recipient Party agrees that the courts of the Province of Alberta shall have exclusive jurisdiction in relation to the enforcement of the provisions of this agreement.
- (f)! If any Clause of this Agreement or the application thereof to any Person or any circumstance shall be held to be invalid or unenforceable to any extent, the remainder of the Clause in question, or its application to any circumstance other than that to which it has been held invalid or unenforceable, and the remainder of this Agreement, shall not be affected thereby.
- (g)! No waiver by any Party hereto shall be effective unless in writing and any such waiver shall only affect the matter, and the occurrence thereof, specifically identified therein and shall not extend to any other matter or occurrence.

- (h) This Agreement may be executed in separate counterparts and all such executed counterparts together shall constitute one agreement.

IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the date first above written.

\_\_\_\_\_  
COMPANY NAME

**WESTERN DIVESTMENTS INC.**

\_\_\_\_\_  
NAME AND TITLE (Typed or Printed)

\_\_\_\_\_  
Moya Little, President

\_\_\_\_\_  
SIGNATURE