

**SPECIAL WARRANT INDENTURE**

Providing for the Issue of  
Special Warrants

BETWEEN

**TRUE ENERGY INC.**

- and -

**MONTREAL TRUST COMPANY OF CANADA**

Dated as of February 5, 2001

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THIS SPECIAL WARRANT INDENTURE is made as of the 5th day of February, 2001.

BETWEEN:

TRUE ENERGY INC., a corporation amalgamated under the laws of the Province of Alberta having an office in the City of Calgary, in the Province of Alberta (hereinafter referred to as the "Corporation")

OF THE FIRST PART

AND

MONTREAL TRUST COMPANY OF CANADA, a trust company incorporated under the laws of Canada and authorized to carry on business in all provinces of Canada (hereinafter referred to as the "Trustee")

OF THE SECOND PART

WHEREAS:

A. the Corporation is proposing to create and issue Special Warrants in the manner herein set forth;

B. one Special Warrant shall, subject to adjustment, entitle the holder thereof to acquire one Common Share at no additional cost upon the terms and conditions herein set forth; and

C. all acts and deeds necessary have been done and performed to make the Special Warrants, when created and issued as provided in this Indenture, legal, valid and binding upon the Corporation with the benefits and subject to the terms of this Indenture.

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- a. "**Adjustment Period**" means the period from and including the date of issuance of the Special Warrants up to and including the Expiry Time;
- b. "**Applicable Legislation**" means the provisions of the *Business Corporations Act*, (Alberta), as from time to time amended, and any statute of Canada or a province thereof, and the regulations under any such named or other statute, relating to trust indentures or to the rights, duties and obligations of trustees and of corporations under trust indentures, to the extent that such provisions are at the time in force and applicable to this Indenture;
- c. "**Business Day**" means a day which is not Saturday or Sunday or a legal holiday in the City of Calgary, Alberta;
- d. "**Commencement Date**" shall have the meaning ascribed thereto in subsection 2.2(a);
- e. "**Closing Notice**" shall have the meaning ascribed thereto in subsection 4.1(b) hereof;
- f. "**Common Shares**" means, subject to Section 5.1, fully paid and non-assessable common shares of the Corporation as presently constituted;
- g. "**Corporation**" means True Energy Inc. or its successors from time to time;
- h. "**Corporation's Auditors**" means a firm of chartered accountants duly appointed as auditors of the Corporation;
- i. "**Counsel**" means a barrister or solicitor or a firm of barristers and solicitors retained by the Trustee or retained by the Corporation and acceptable to the Trustee;
- j. "**Current Market Price**" of the Common Shares at any date means the weighted average of the trading price for such shares for the 20 consecutive Trading Days immediately preceding such date on the Canadian Venture Exchange or, if on such date the Common Shares are not listed on the Canadian Venture Exchange, on such stock exchange upon which such shares are listed and as selected by the directors, or, if such shares are not listed on any stock exchange, then on such over-the-counter market as may be selected for such purpose by the directors;
- k. "**Deposited Subscription Funds**" means the aggregate amount of the issue price paid by or on behalf of the original purchasers of the Special Warrants, other than the Non-Repurchase Special Warrants, together with any amount required to be paid by the Corporation to the Trustee pursuant to subsection 4.2(c);
- l. "**director**" means a director of the Corporation for the time being and, unless otherwise specified herein, reference to action "by the directors" means action by the directors of the Corporation as a board or, whenever duly empowered, action by any committee of such board;
- m. "**Dividend Funds**" means all cash dividends and other distributions deposited with the Trustee pursuant to subsection 6.2(i);

- n. "**Effective Date**" means the date of this Indenture;
- o. "**Exercise Date**" means, with respect to any Special Warrant, the date on which the Warrant Certificate representing such Special Warrant is surrendered for exercise in accordance with Section 3.1 and includes the date Special Warrants are deemed to be exercised pursuant to Section 3.6;
- p. "**Expiry Date**" means the earlier of:
  - i. 5 Business Days following the date upon which a receipt for a Prospectus has been obtained from each of the Securities Commissions; and
  - ii. February 5, 2002;
- q. "**Expiry Time**" means 4:30 p.m. (Calgary time) on the Expiry Date;
- r. "**extraordinary resolution**" has the meaning set forth in Section 8.11;
- s. "**Filing Jurisdictions**" means each of the provinces of Alberta and Ontario and such other provinces in which the Corporation has been required to file a Prospectus pursuant to the Underwriting Agreement;
- t. "**Marengo**" means Marengo Exploration Ltd.;
- u. "**Non-Repurchase Special Warrants**" means an aggregate of 825,553 Special Warrants issued to Royston S. Baay, Paul R. Baay, 285893 Alberta Ltd. and Interward Capital Corporation which will not be repurchased in the event that a Repurchase Event occurs but will be deemed to have been exercised on the Repurchase Event Date, without any further action on the part of the holder, and in respect of which the Warrant Certificate representing such Non-Repurchase Special Warrants shall contain a notation or legend to the effect that they are Non-Repurchase Special Warrants;
- v. "**person**" means an individual, body corporate, partnership, trust, trustee, executor, administrator, legal representative or any unincorporated organization;
- w. "**Property**" means all property and securities deposited with the Trustee pursuant to subsection 6.2(i);
- x. "**Prospectus**" means a (final) prospectus in respect of the distribution of Common Shares upon the exercise of Special Warrants;
- y. "**Qualification Date**" means June 5, 2001;
- z. "**Repurchase Event**" shall have the meaning ascribed thereto in subsection 4.2(a) hereof;

- aa. "**Repurchase Event Date**" shall have the meaning ascribed thereto in subsection 4.2(a) hereof;
- ab. "**Retraction Price**" means \$1.20;
- ac. "**Securities Commissions**" means, collectively, the securities commissions or similar regulatory authorities in the Filing Jurisdictions;
- ad. "**Shareholder**" means a holder of record of one or more Common Shares;
- ae. "**Special Warrants**" means the warrants issued, created and certified hereunder and for the time being outstanding entitling the holder to acquire Common Shares;
- af. "**this Special Warrant Indenture**", "**this Indenture**", "**herein**", "**hereby**", "**hereof**" and similar expressions mean and refer to this Indenture and any indenture, deed or instrument supplemental hereto; and the expressions "**Article**", "**Section**", "**subsection**" and "**paragraph**" followed by a number, letter or both mean and refer to the specified article, section, subsection or paragraph of this Indenture;
- ag. "**Subsidiary of the Corporation**" or "**Subsidiary**" means any corporation of which more than fifty (50%) percent of the outstanding Voting Shares are owned, directly or indirectly, by or for the Corporation, provided that the ownership of such shares confers the right to elect at least a majority of the board of directors of such corporation and includes any corporation in like relation to a Subsidiary;
- ah. "**successor corporation**" has the meaning set forth in Section 9.2;
- ai. "**Take-Over Bid**" means an offer to acquire all of the outstanding Class A Shares and Class B Shares of Marengo Exploration Ltd.
- aj. "**Take-Over Termination Notice**" shall have the meaning ascribed thereto in subsection 4.2(a);
- ak. "**Trading Day**" means, with respect to a stock exchange, a day on which such exchange is open for the transaction of business and with respect to the over-the-counter market means a day on which The Toronto Stock Exchange is open for the transaction of business;
- al. "**Transfer Agent**" means the transfer agent for the time being of the Common Shares;
- am. "**Trustee**" means Montreal Trust Company of Canada or its successors from time to time in the trust hereby created;
- an. "**Underwriting Agreement**" means the underwriting agreement dated as of January 17, 2001 between the Corporation and the Underwriters relating to the offering of Special Warrants;
- ao. "**Underwriters**" means, collectively, FirstEnergy Capital Corp. and Peters & Co. Limited;

- ap. **"United States"** means the United States of America, its territories and possessions, any State of the United States and the District of Columbia;
- aq. **"U.S. Securities Act"** means the *United States Securities Act of 1933*, as amended;
- ar. **"Voting Shares"** means shares of the capital stock of any class of any corporation carrying voting rights under all circumstances, provided that, for the purposes of such definition, shares which only carry the right to vote conditionally on the happening of an event shall not be considered Voting Shares, whether or not such event shall have occurred, nor shall any shares be deemed to cease to be Voting Shares solely by reason of a right to vote accruing to shares of another class or classes by reason of the happening of any such event;
- as. **"Warrant Agency"** means the principal office of the Trustee in the City of Calgary or such other place(s) as may be designated in accordance with subsection 3.1(c);
- at. **"Warrant Certificate"** means a certificate, substantially in the form set forth in Schedule "A" hereto, issued on or after the Effective Date to evidence Special Warrants;
- au. **"Warrantholders"**, or **"holders"** without reference to Common Shares, means the persons who are registered owners of Special Warrants;
- av. **"Warrantholders' Request"** means an instrument signed in one or more counterparts by Warrantholders entitled to acquire in the aggregate not less than 25% of the aggregate number of Common Shares which could be acquired pursuant to all Special Warrants then unexercised and outstanding, requesting the Trustee to take some action or proceeding specified therein; and
- aw. **"written order of the Corporation"**, **"written request of the Corporation"**, **"written consent of the Corporation"** and **"certificate of the Corporation"** mean, respectively, a written order, request, consent and certificate signed in the name of the Corporation by its Chairman, President or a Vice-President, and may consist of one or more instruments so executed.

## 1.2 Gender and Number

Unless herein otherwise expressly provided or unless the context otherwise requires, words importing the singular include the plural and *vice versa* and words importing gender include all genders.

## 1.3 Interpretation not Affected by Headings, etc.

The division of this Indenture into Articles and Sections, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Indenture.

#### **1.4 Day not a Business Day**

In the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day.

#### **1.5 Time of the Essence**

Time shall be of the essence of this Indenture.

#### **1.6 Currency**

Except as otherwise expressly provided, all dollar amounts herein are expressed in Canadian dollars.

#### **1.7 Applicable Law**

This Indenture and the Warrant Certificates and all documents relating thereto, which by common accord have been and will be drafted in English, shall be construed in accordance with the laws of the Province of Alberta and the federal laws applicable therein and shall be treated in all respects as Alberta contracts.

#### **1.8 Date of Issue**

A receipt for a Prospectus shall conclusively be deemed to be issued and obtained by the Corporation on the date appearing on such receipt as the receipt's date.

### **ARTICLE 2 ISSUE OF SPECIAL WARRANTS**

#### **2.1 Creation and Issue of Special Warrants**

Four Million, One Hundred Sixty Six Thousand, Six Hundred and Sixty Seven (4,166,667) Special Warrants are hereby created and authorized to be issued. The Warrant Certificates shall be certified and delivered by the Trustee to such persons as the Corporation may direct by written order of the Corporation without the Trustee receiving consideration therefor.

#### **2.2 Terms of Special Warrants**

- a. Each Special Warrant shall entitle the holder thereof, upon exercise, to acquire one Common Share, subject to adjustment in accordance with Sections 4.2, 4.5 and Article 5, at any time during the period commencing: (i) in the case of the Non-Repurchase Special Warrants, on the date of issuance thereof; and (ii) in the case of Special Warrants other than the Non-Repurchase Warrants, on the date that the Closing Notice is provided (such applicable date referred to as

the "Commencement Date"), and ending, in each case, at the Expiry Time, at no additional cost to the holder.

- b. No fractional Special Warrants shall be issued or otherwise provided for hereunder.
- c. Each Special Warrant shall entitle the holder thereof to such other rights and privileges as are set forth in this Indenture.

### **2.3 Warrantholder not a Shareholder**

Except as provided for in subsection 6.2(i), nothing in this Indenture or in the holding of a Special Warrant or Warrant Certificate or otherwise, shall, in itself, confer or be construed as conferring upon a Warrantholder any right or interest whatsoever as a Shareholder or as any other shareholder of the Corporation, including, but not limited to, the right to vote at, to receive notice of, or to attend, meetings of shareholders or any other proceedings of the Corporation, or the right to receive dividends and other distributions.

### **2.4 Special Warrants to Rank *Pari Passu***

Subject to Sections 3.6 and 4.2, all Special Warrants shall rank equally and without preference over each other, whatever may be the actual date of issue thereof.

### **2.5 Form of Special Warrants**

The Warrant Certificates (including all replacements issued in accordance with this Indenture) shall be substantially in the form set out in Schedule "A" hereto, shall be dated as of the Effective Date, shall bear such distinguishing letters and numbers as the Corporation may, with the approval of the Trustee, prescribe, and shall be issuable in any denomination excluding fractions.

### **2.6 Signing of Warrant Certificates**

The Warrant Certificates shall be signed by any one of the directors and officers of the Corporation and may, but need not be, under seal of the Corporation or a reproduction thereof. The signatures of any such director or officer may be mechanically reproduced in facsimile and Warrant Certificates bearing such facsimile signatures shall be binding upon the Corporation as if they had been manually signed by such director or officer. Notwithstanding that any person whose manual or facsimile signature appears on any Warrant Certificate as a director or an officer may no longer hold office at the date of such Warrant Certificate or at the date of certification or delivery thereof, any Warrant Certificate signed as aforesaid shall, subject to Section 2.7, be valid and binding upon the Corporation and the holder thereof shall be entitled to the benefits of this Indenture.

### **2.7 Certification by the Trustee**

- a. No Warrant Certificate shall be issued or, if issued, shall be valid for any purpose or entitle the holder to the benefit hereof until it has been certified by manual signature by or on behalf of

the Trustee substantially in the form of the certificate set out in Schedule "A" hereto, and such certification by the Trustee upon any Warrant Certificate shall be conclusive evidence as against the Corporation that the Warrant Certificate so certified has been duly issued hereunder and that the holder is entitled to the benefits hereof.

- b. The certification of the Trustee on Warrant Certificates issued hereunder shall not be construed as a representation or warranty by the Trustee as to the validity of this Indenture or the Warrant Certificates (except the due certification thereof) and the Trustee shall in no respect be liable or answerable for the use made of the Warrant Certificates or any of them or of the consideration therefor except as otherwise specified herein.

## **2.8 Issue in Substitution for Warrant Certificates Lost, etc.**

- a. If any Warrant Certificate becomes mutilated or is lost, destroyed or stolen, the Corporation, subject to applicable law, shall issue and thereupon the Trustee shall certify and deliver, a new Warrant Certificate of like tenor as the one mutilated, lost, destroyed or stolen in exchange for and in place of and upon cancellation of such mutilated Warrant Certificate, or in lieu of and in substitution for such lost, destroyed or stolen Warrant Certificate, and the substituted Warrant Certificate shall be in a form approved by the Trustee and the Special Warrants evidenced thereby shall be entitled to the benefits hereof and shall rank equally in accordance with its terms with all other Special Warrants issued or to be issued hereunder.
- b. The applicant for the issue of a new Warrant Certificate pursuant to this Section 2.8 shall bear the cost of the issue thereof and in case of loss, destruction or theft shall, as a condition precedent to the issuance thereof, furnish to the Corporation and to the Trustee such evidence of ownership and of the loss, destruction or theft of the Warrant Certificate so lost, destroyed or stolen as shall be satisfactory to the Corporation and to the Trustee, in their sole discretion, and such applicant may also be required to furnish an indemnity or security in amount and form satisfactory to the Corporation and the Trustee, in their sole discretion, and shall pay the reasonable charges of the Corporation and the Trustee in connection therewith.

## **2.9 Exchange of Warrant Certificates**

- a. Any one or more Warrant Certificates representing any number of Special Warrants may, upon compliance with the reasonable requirements of the Trustee, be exchanged for one or more other Warrant Certificates representing the same aggregate number of Special Warrants as represented by the Warrant Certificate or Warrant Certificates so exchanged.
- b. Warrant Certificates may be exchanged only at the Warrant Agency or at any other place that is designated by the Corporation with the approval of the Trustee. Any Warrant Certificate tendered for exchange shall be cancelled and surrendered by the Warrant Agency to the Trustee.

## **2.10 Transfer and Ownership of Special Warrants**

a. The Special Warrants may only be transferred on the register kept by the Trustee at the Warrant Agency by the holder or its legal representatives or its attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee only upon surrendering to the Trustee at the Warrant Agency the Warrant Certificates representing the Special Warrants to be transferred and upon compliance with:

- i. the conditions herein;
- ii. such reasonable requirements as the Trustee may prescribe; and
- iii. all applicable securities legislation and requirements of regulatory authorities;

and such transfer shall be duly noted in such register by the Trustee. Upon compliance with such requirements, the Trustee shall issue to the transferee a Warrant Certificate representing the Special Warrants transferred.

b. Subject to the provisions of this Indenture and applicable law, the Warrantholder shall be entitled to the rights and privileges attaching to the Special Warrants and the issue of Common Shares by the Corporation upon the exercise of Special Warrants by any Warrantholder in accordance with the terms and conditions herein contained (together with the payment by the Trustee of the amount, if any, and the delivery by the Trustee of the property and securities, if any, required to be paid and delivered, respectively, pursuant to Section 4.3) shall discharge all responsibilities of the Corporation and the Trustee with respect to such Special Warrants and neither the Corporation nor the Trustee shall be bound to inquire into the title of any such holder.

## **2.11 Charges for Exchange or Transfer**

Except as otherwise herein provided, a reasonable charge may be levied on and paid by the transferor in respect of the transfer or the exchange of any Warrant Certificate or the issue of a new Warrant Certificate(s) pursuant hereto provided that the reimbursement of the Trustee or the Corporation for any and all transfer, stamp or similar taxes or other governmental charges required to be paid shall be made by the holder requesting such transfer or exchange as a condition precedent to such transfer or exchange.

## **2.12 Cancellation of Surrendered Special Warrants**

All Warrant Certificates surrendered pursuant to Sections 2.8, 2.9, 2.10, 3.1, 3.3, 3.6, 4.2 or 6.1 shall be returned to the Trustee for cancellation and, after the expiry of any period of retention prescribed by law, destroyed by the Trustee. Upon request by the Corporation, the Trustee shall furnish to the Corporation a destruction certificate identifying the Warrant Certificates so destroyed, the number of Special Warrants evidenced thereby, the number of Common Shares, if any,

issued pursuant to such Special Warrants and the details of any Warrant Certificates issued in substitution or exchange for such Warrant Certificates destroyed.

### **2.13 Registration of Special Warrants**

The Trustee shall keep at the Warrant Agency: (i) a register of Warrantholders in which shall be entered in alphabetical order the names and addresses of the holders of Special Warrants and particulars of the Special Warrants held by them and (ii) a register of transfers in which all transfers of Special Warrants and the date and other particulars of each transfer shall be entered. Branch registers shall also be kept at such other place or places, if any, as the Corporation, with the approval of the Trustee, may designate. Such registers will at all reasonable times be open for inspection by the Corporation and/or any Warrantholder. The Trustee will from time to time when requested to do so by the Corporation or any Warrantholder, upon payment of the Trustee's reasonable charges, furnish a list of the names and addresses of Warrantholders showing the number of Special Warrants held by each such Warrantholder.

### **2.14 U.S. Legends**

The Trustee acknowledges that the Special Warrants and Common Shares have not been registered under the U.S. Securities Act. Each Special Warrant originally issued to a person in the United States and all certificates representing Common Shares issued upon the exercise of such Special Warrants in accordance with Article 3 hereof (and each Special Warrant certificate or Common Share certificate issued in exchange therefor or in substitution on transfer thereof) shall be overprinted with the following legend:

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND MAY NOT BE OFFERED, SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED OR DISPOSED OF EXCEPT: (A) TO THE ISSUER OF SUCH SECURITIES; (B) IN A TRANSACTION OUTSIDE THE UNITED STATES MEETING THE REQUIREMENTS OF RULE 904 OF REGULATIONS UNDER THE SECURITIES ACT; OR (C) IN A TRANSACTION INSIDE THE UNITED STATES THAT IS EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT AND ANY APPLICABLE U.S. STATE LAWS AND REGULATIONS GOVERNING THE OFFER AND SALE OF SECURITIES, PROVIDED THAT PRIOR TO ANY TRANSFER PURSUANT TO THE FOREGOING CLAUSE (C), THE ISSUER SHALL HAVE BEEN FURNISHED WITH AN OPINION OF COUNSEL, SATISFACTORY TO IT, TO THE EFFECT THAT SUCH TRANSFER WILL BE SO EXEMPT. A NEW CERTIFICATE, BEARING NO LEGEND, MAY BE OBTAINED FROM MONTREAL TRUST COMPANY OF CANADA UPON PRESENTATION OF A CERTIFICATE IN FORM ACCEPTABLE TO THE CORPORATION, TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS

BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT.

In addition, any certificates representing Common Shares issued upon exercise of the Special Warrants bearing such legend may also be overprinted with the following legend:

DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA.

## **2.15 Certain Transfers**

- a. If the Special Warrant Certificate tendered for transfer bears the legend set forth in Section 2.14 hereof, the Trustee shall not issue or register a Special Warrant Certificate for the Special Warrants represented thereby in the name of or for the benefit of a person outside the United States unless it has been established to the satisfaction of the Corporation that the transferee acquired the Special Warrants evidenced by such Special Warrant Certificate in a transaction pursuant to Rule 904 of Regulation S.
- b. If the transferee of a Special Warrant that bears the legend set forth in Section 2.14 hereof is in the United States, the Special Warrant Certificate issued to such transferee shall be overprinted with the legend set forth in Section 2.14, and the requirement of Section 2.14 relating to legending the Common Shares upon exercise of the Special Warrants shall also apply, unless the Corporation receives an opinion of counsel in form and substance satisfactory to it that no legend is required.

## **ARTICLE 3 EXERCISE OF SPECIAL WARRANTS**

### **3.1 Method of Exercise of Special Warrants**

- a. The holder of any Special Warrant may exercise the right conferred on such holder to acquire Common Shares by surrendering, on or after the Commencement Date and prior to the Expiry Time, to the Warrant Agency the Warrant Certificate with a duly completed and executed exercise form.

A Warrant Certificate with the duly completed and executed exercise form referred to in this subsection 3.1(a) shall be deemed to be surrendered only upon personal delivery thereof or, if sent by mail or other means of transmission, upon actual receipt thereof at, in each case, the Warrant Agency.

- b. Any exercise form referred to in subsection 3.1(a) shall be signed by the Warrantholder and shall specify:

- i. the number of Common Shares which the holder wishes to acquire (being not more than those which the holder is entitled to acquire pursuant to the Warrant Certificate(s) surrendered);
- ii. the person or persons in whose name or names such Common Shares are to be issued and if such persons are individuals, their respective social insurance numbers;
- iii. the address or addresses of such persons; and
- iv. the number of Common Shares to be issued to each such person if more than one is so specified.

If any of the Common Shares subscribed for are to be issued to a person or persons other than the Warrantholder, the Warrantholder shall pay to the Corporation or the Warrant Agency on behalf of the Corporation, all applicable transfer or similar taxes and the Corporation shall not be required to issue or deliver certificates evidencing Common Shares unless or until such Warrantholder shall have paid to the Corporation, or the Warrant Agency on behalf of the Corporation, the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid or that no tax is due.

- c. In connection with the exchange of Warrant Certificates and exercise of Special Warrants and compliance with such other terms and conditions hereof as may be required, the Corporation has appointed the principal offices of the Trustee in Calgary as the agency at which Warrant Certificates may be surrendered for exchange or transfer or at which Special Warrants may be exercised and the Trustee has accepted such appointment. The Corporation may from time to time designate alternate or additional places as the Warrant Agency and shall give notice to the Trustee of any change of the Warrant Agency.

### **3.2 Effect of Exercise of Special Warrants**

- a. Upon the exercise of Special Warrants pursuant to Section 3.1 or upon a deemed exercise pursuant to Section 3.6, and subject to Section 3.3, the Common Shares subscribed for or, in the case of a deemed exercise pursuant to Section 3.6, all of the Common Shares issuable pursuant to the Special Warrants deemed to be exercised, shall be deemed to have been issued and the person or persons to whom such Common Shares are to be issued shall be deemed to have become the holder or holders of record of such Common Shares on the Exercise Date unless the transfer registers of the Corporation shall be closed on such date, in which case the Common Shares subscribed for shall be deemed to have been issued and such person or persons deemed to have become the holder or holders of record of such Common Shares, on the date on which such transfer registers are reopened.
- b. Subject to Section 3.6, within five Business Days after the Exercise Date with respect to a Special Warrant, the Corporation shall cause to be mailed to the person or persons in whose name or names the Common Shares so subscribed for have been issued, as specified in the exercise form, at the address specified in such exercise form, or, if so specified in such exercise

form, cause to be delivered to such person or persons at the Warrant Agency where the Warrant Certificate was surrendered, a share certificate or certificates for the appropriate number of Common Shares subscribed for.

### **3.3 Partial Exercise of Special Warrants; Fractions**

- a. The holder of any Special Warrants may exercise his right to acquire a number of Common Shares less than the aggregate number which the holder is entitled to acquire pursuant to the surrendered Warrant Certificate(s). In the event of any exercise of a number of Special Warrants less than the number which the holder is entitled to exercise, the holder of the Special Warrants upon such exercise shall, in addition, be entitled to receive, without charge therefor, a new Warrant Certificate(s) in respect of the balance of the Special Warrants represented by the surrendered Warrant Certificate(s) and which were not then exercised.
- b. Notwithstanding anything herein contained including any adjustment provided for in Article 5, the Corporation shall not be required, upon the exercise of any Special Warrants, to issue fractions of Common Shares or to distribute certificates which evidence fractional Common Shares. In lieu of fractional Common Shares, the Corporation shall pay to the holder who would otherwise be entitled to receive fractional Common Shares upon an exercise of Special Warrants, within ten Business Days after the date upon which the fractional Common Shares would otherwise have been deemed to have been issued pursuant to Section 3.2, an amount in lawful money of Canada equal to the Current Market Price of the Common Shares on the such date multiplied by an amount equal to the fractional interest of Common Shares such holder would otherwise be entitled to receive upon such exercise, provided that the Corporation shall not be required to make any payment, calculated as aforesaid, that is less than \$10.00.

### **3.4 Expiration of Special Warrants**

Subject to Section 3.6, immediately after the Expiry Time, all rights under any Special Warrants not exercised in accordance with the terms and conditions of this Indenture shall cease and terminate and such Special Warrant shall be void and of no further force or effect.

### **3.5 Accounting and Recording**

- a. The Trustee shall promptly account to the Corporation with respect to Special Warrants exercised. Any securities or other instruments, from time to time received by the Trustee shall be received in trust for, and shall be segregated and kept apart by the Trustee in trust for, the Corporation.
- b. The Trustee shall record the particulars of Special Warrants exercised, which particulars shall include the names and addresses of the persons who become holders of Common Shares on exercise and the Exercise Date, if any, in respect thereof. The Trustee shall provide such particulars in writing to the Corporation within five Business Days of any request by the Corporation therefor.

### **3.6 Deemed Exercise**

On a Repurchase Event occurring, effective at 4:30 p.m. (Calgary time) on the Repurchase Event Date, the rights of all holders of the Non-Repurchase Special Warrants to acquire Common Shares shall be deemed to be exercised without any further action on the part of such holders or the Corporation and the Common Shares issuable thereby shall be deemed to be issued to the holders of the Non-Repurchase Special Warrants at such time.

At the Expiry Time, the rights of all holders of Special Warrants (other than Special Warrants repurchased pursuant to Section 4.2 or in respect of which the holder duly exercises its right to acquire Common Shares pursuant to Section 3.1) to acquire Common Shares shall be deemed to be exercised without any further action on the part of such holders or the Corporation and the Common Shares issuable thereby shall be deemed to be issued to the Warrantholders at such time.

The Corporation shall cause to be mailed or, if so specified in the exercise form, cause to be delivered at the Warrant Agency where the Warrant Certificate was surrendered, to the person or persons specified in the exercise form a share certificate or share certificates for the appropriate number of Common Shares upon, unless otherwise determined by the Corporation, actual receipt at the Warrant Agency of the Warrant Certificate with the duly completed and executed exercise form specifying the matters referred to in paragraphs 3.1(b)ii., iii. and iv. together with any payment of the nature referred to in subsection 3.1(b).

### **3.7 Securities Restrictions**

- a. Notwithstanding anything herein contained, Common Shares will only be issued pursuant to any Special Warrant in compliance with the securities laws of any applicable jurisdiction, and without limiting the generality of the foregoing, in the event that the Special Warrants are exercised pursuant to Section 3.1 or deemed to have been exercised pursuant to Section 3.6 prior to the issuance of a receipt for the Prospectus by each of the Securities Commissions, the certificates representing the Common Shares thereby issued will bear such legend as may, in the opinion of Counsel to the Corporation, be necessary in order to avoid a violation of any securities laws of any province in Canada or of the United States or to comply with the requirements of any stock exchange on which the Common Shares are listed, provided that if, at any time, in the opinion of Counsel to the Corporation, such legends are no longer necessary in order to avoid a violation of any such laws, or the holder of any such legended certificate, at the holder's expense, provides the Corporation with evidence satisfactory in form and substance to the Corporation (which may include an opinion of counsel satisfactory to the Corporation) to the effect that such holder is entitled to sell or otherwise transfer such Common Shares in a transaction in which such legends are not required, such legended certificate may thereafter be surrendered to the Corporation in exchange for a certificate which does not bear such legend.
- b. Special Warrants may not be exercised in the United States, nor will certificates for Common Shares issuable upon exercise of Special Warrants be registered or delivered to an address in the United States without registration under the U.S. Securities Act and the securities laws of

all applicable states, unless an exemption from registration is available. The Corporation may, at its option, require an opinion of counsel or other evidence in form and substance satisfactory to the Corporation as to the availability of the exemption, provided that no opinion of counsel will be required of an institutional accredited investor (within the meaning of Rule 501(a)(1), (a)(2), (a)(3) or (a)(7) of Regulation D under the U.S. Securities Act) that acquired the Special Warrants in a transaction exempt from registration under the U.S. Securities Act, and that is exercising the Special Warrants for its own account or the account of another institutional accredited investor.

## **ARTICLE 4 ADDITIONAL RIGHTS**

### **4.1 Deposited Subscription Funds and Dividend Funds**

- a. The Corporation hereby appoints the Trustee, as trustee, to receive, hold and deal with the Deposited Subscription Funds, the Dividend Funds and Property in accordance with the terms of this Indenture and the Trustee hereby accepts such appointment and agrees to be bound by the terms of this Indenture in respect thereof.
- b. On the issuance of any Special Warrants, all Deposited Subscription Funds (except any amount required to be paid by the Corporation to the Trustee pursuant to subsection 4.2(c)) shall be deposited by the Underwriters with the Trustee. The Trustee shall not release any Deposited Subscription Funds, Dividend Funds or Property except as provided in this Article 4. Subject to Sections 4.2 and 4.3, the Trustee shall not deliver any of the Deposited Subscription Funds, or any interest accrued thereon, unless the Trustee receives a notice in writing (the "Closing Notice") signed by the Corporation and acknowledged by FirstEnergy Capital Corp., on behalf of the Underwriters, confirming that the Corporation is in a position to take up and pay for at least: (i) 66⅔% of the outstanding Class A Shares (on a fully diluted basis) of Marengo; and (ii) 66⅔% of the outstanding Class B Shares of Marengo, pursuant to the Take-Over Bid, in which event the Trustee shall forthwith release to the Corporation, or at its direction, all of the Deposited Subscription Funds, together with any interest accrued thereon.

### **4.2 Repurchase Rights**

- a. If either (i) the Closing Notice shall not have been provided on or before the earlier of: (A) 45 days following the original expiry date of the Take-Over Bid, and (B) April 25, 2001; or (ii) if the Corporation shall, prior to April 25, 2001, have provided notice in writing (the "Take-Over Termination Notice") to the Trustee and holders of the Special Warrants that it will not be acquiring any Class A Shares or Class B Shares of Marengo pursuant to the Take-Over Bid (either such event referred to as the "Repurchase Event"), on the date of the Repurchase Event (the "Repurchase Event Date"), the Corporation will be deemed to have repurchased, and each holder of Special Warrants, other than the Non-Repurchase Special Warrants, will have been deemed to have sold to the Corporation, all of the outstanding Special Warrants, other than the Non-Repurchase Special Warrants, at a price equal to the Retraction Price per Special Warrant, together with interest equal to the product of the amount of all interest earned by the

Trustee on the Deposited Subscription Funds from the Effective Date to the date immediately preceding the date of payment (less any interest paid out by the Trustee pursuant to this Indenture prior to the date of payment) multiplied by a fraction of which the numerator is the number of Special Warrants repurchased from each Warrantholder pursuant to the provisions of this subsection 4.2(a) and the denominator is the number of Special Warrants outstanding (other than the Non-Repurchase Special Warrants) on the day immediately preceding the Repurchase Event Date. The Trustee shall make payment of the Retraction Price per Special Warrant so repurchased and payment of the interest amounts payable in respect of such repurchase from the Deposited Subscription Funds and from the interest earned by the Trustee on the Deposited Subscription Funds, respectively. Payments will be made by cheque payable at par in the City of Calgary sent to the Warrantholder at its address appearing on the register of Special Warrants. Upon the Repurchase Event occurring, the Special Warrants, other than the Non-Repurchase Special Warrants, will cease to represent any right other than to receive the Retraction Price in respect of each Special Warrant, together with accrued interest as provided herein. In such event, the Non-Repurchase Special Warrants not yet exercised will be deemed to have been exercised in accordance with Section 3.6 hereof.

- b. If, following the payment to Warrantholders in satisfaction of the purchase obligations described in subsection 4.2(a), there remain excess Deposited Subscription Funds or interest accrued thereon, the Trustee shall as soon as practicable following the Repurchase Event Date deliver to the Corporation all of such excess Deposited Subscription Funds together with all interest accrued thereon.
- c. If the Trustee determines that the Deposited Subscription Funds will not be sufficient to allow the Trustee to pay the Retraction Price and interest in accordance with subsection 4.2(a) with respect to the outstanding Special Warrants (other than the Non-Repurchase Special Warrants), the Trustee shall give notice of such determination and the Corporation shall, within three Business Days of the date upon which such notice is given, pay to the Trustee such amount as will, together with the Deposited Subscription Funds held by the Trustee prior to such payment, be sufficient to allow the Trustee to pay, from Deposited Subscription Funds, the Retraction Price in accordance with subsection 4.2(a) with respect to the outstanding Special Warrants to be repurchased.

#### **4.3 Conditions to Release of Dividend Funds and Property**

- a. If any Warrantholder, at any time prior to the Expiry Time elects or is deemed to elect to exercise the entitlement to acquire Common Shares pursuant to Special Warrant(s) held by it, the Trustee shall within five Business Days:
  - i. pay to such Warrantholder from Dividend Funds an amount equal to the product obtained by multiplying the sum of the amount of Dividend Funds held by the Trustee on the date of such exercise and interest earned by the Trustee thereon to the date immediately preceding the date of payment (less interest thereon paid out by the Trustee pursuant to this Indenture prior to the date of payment) by a fraction of which the numerator is the number of Special Warrants tendered to the Trustee by such

Warrantheader for exercise and the denominator is the number of Special Warrants outstanding at the end of the day immediately preceding the date of such exercise; and

- ii. deliver to such Warrantheader its *pro rata* share of the Property determined on the same basis as the calculation set forth in (i) above.
- b. The Trustee shall within five Business Days after the Expiry Time:
- i. pay to each Warrantheader, in respect of Special Warrants held by it deemed to be exercised, from Dividend Funds an amount equal to the product obtained by multiplying the sum of the amount of Dividend Funds held by the Trustee on the date of such exercise and interest earned by the Trustee thereon to the date immediately preceding the date of payment (less any interest thereon paid out by the Trustee pursuant to this Indenture prior to the date of payment) by a fraction of which the numerator is the number of Special Warrants deemed to be exercised held by the Warrantheader and the denominator is the number of Special Warrants deemed to be exercised; and
  - ii. deliver to such Warrantheader its *pro rata* share of the Property determined on the same basis as the calculation set forth in (i) above.
- c. Upon the repurchase by the Corporation of any Special Warrants as contemplated by subsection 4.2(a) hereof, the Trustee shall within five Business Days:
- i. pay to the Corporation from Dividend Funds and interest earned by the Trustee thereon an amount equal to the product obtained by multiplying the sum of the amount of Dividend Funds held by the Trustee on the date of such exercise and interest earned thereon by the Trustee to the date immediately preceding the date of payment (less any interest thereon paid out by the Trustee prior to the date of payment) by a fraction of which the numerator is the number of Special Warrants held by the Warrantheader required to be purchased and the denominator is the number of Special Warrants outstanding at the end of the day immediately prior to the date of such repurchase; and
  - ii. deliver to the Corporation its *pro rata* share of the Property determined on the same basis as the calculation set forth in (i) above.
- d. Provided that the Trustee shall have paid and delivered, or set aside for payment and delivery, all Dividend Funds, interest earned thereon and Property required to be paid or delivered to Warrantheaders pursuant to subsections 4.3(a) and (b), the Trustee shall, at the time that the Trustee delivers excess Deposited Subscription Funds to the Corporation in accordance with subsection 4.2(b) , pay to the Corporation all remaining Dividend Funds together with all interest accrued thereon to the date of payment and shall deliver to the Corporation all remaining Property held by the Trustee.

#### **4.4 Administration of Deposited Subscription Funds, Dividend Funds and Property**

All Deposited Subscription Funds, Dividend Funds and Property shall be held at or administered through the principal office of the Trustee at Calgary, Alberta. The Trustee shall not be entitled to deal with the Deposited Subscription Funds, Dividend Funds and Property except in accordance with the terms of this Indenture. The Trustee is hereby specifically authorized, and granted such powers as are necessary, to deal with the Property as it shall determine in its sole discretion to be in the best interests of the Warrantholders. In the event that the Trustee determines the necessity for the approval by the Warrantholders of any matter, an extraordinary resolution of the Warrantholders shall provide sufficient authority upon which the Trustee may act and the Trustee shall not be responsible for any loss occasioned by so doing.

#### **4.5 Prospectus Failure**

If a receipt for a Prospectus dated on or before the Qualification Date is not obtained from:

- a. the Securities Commission in a province which is a Filing Jurisdiction, each Warrantholder resident in such province; or
- b. the Securities Commission in each of the Provinces of Alberta and Ontario, each Warrantholder wherever resident;

shall thereafter be entitled, notwithstanding Section 2.2, upon exercise or deemed exercise of any Special Warrants that have not been previously purchased by the Corporation pursuant to Section 4.2 or exercised, at any time after the Qualification Date, to acquire 1.1 Common Shares for each Special Warrant (in lieu of the one Common Share that each Special Warrant was previously exchangeable for), subject to adjustment in accordance with Article 5, at no additional cost to the holder.

#### **4.6 Location and Residence of Warrantholders**

For the purposes of Section 4.5, a Warrantholder shall be deemed to be and the Corporation and the Trustee may treat, for such purposes, the subscriber for the Special Warrant(s) in question as the Warrantholder, and the Warrantholder shall be deemed to be in the province of, and resident in, the province provided as the address of such subscriber as set forth in the subscription agreement for such Special Warrants, or, the address of the purchaser of the Special Warrants as set forth in the Form 20 or other filing required under applicable securities laws in respect of a transfer of the Special Warrants. If the Corporation and the Trustee shall not have been provided with a copy of such Form 20 or other filing required under applicable securities laws in respect of a transfer of beneficial ownership, then the original subscriber shall be treated for all purposes hereunder to be the beneficial holder of, and the Warrantholder of, the Special Warrants.

**ARTICLE 5**  
**ADJUSTMENT OF NUMBER OF COMMON SHARES**

**5.1 Adjustment of Number of Common Shares**

The acquisition rights in effect at any date attaching to the Special Warrants shall be subject to adjustment from time to time as follows:

- a. if and whenever at any time during the Adjustment Period, the Corporation shall:
  - i. subdivide, redivide or change its outstanding Common Shares into a greater number of shares; or
  - ii. reduce, combine or consolidate its outstanding Common Shares into a smaller number of shares;

the number of Common Shares obtainable under each Special Warrant shall be adjusted immediately after the effective date of such subdivision, redivision, change, reduction, combination or consolidation, by multiplying the number of Common Shares theretofore obtainable on the exercise thereof by a fraction of which the numerator shall be the total number of Common Shares outstanding immediately after such date and the denominator shall be the total number of Common Shares outstanding immediately prior to such date. Such adjustment shall be made successively whenever any event referred to in this subsection shall occur;

- b. if and whenever at any time during the Adjustment Period, there is a reclassification of the Common Shares or a capital reorganization of the Corporation other than as described in subsection 5.1(a) or a consolidation, amalgamation or merger of the Corporation with or into any other body corporate, trust, partnership or other entity, or a sale or conveyance of the property and assets of the Corporation as an entirety or substantially as an entirety to any other body corporate, trust, partnership or other entity, any Warrantholder who has not exercised its right of acquisition prior to the effective date of such reclassification, capital reorganization, consolidation, amalgamation, merger, sale or conveyance, upon the exercise of such right thereafter, shall be entitled to receive and shall accept, in lieu of the number of Common Shares then sought to be acquired by it, the number of shares or other securities or property of the Corporation or of the body corporate, trust, partnership or other entity resulting from such merger, amalgamation or consolidation, or to which such sale or conveyance may be made, as the case may be, that such Warrantholder would have been entitled to receive on such reclassification, capital reorganization, consolidation, amalgamation, merger, sale or conveyance, if, on the record date or the effective date thereof, as the case may be, the Warrantholder had been the registered holder of the number of Common Shares sought to be acquired by it. If determined appropriate by the Trustee to give effect to or to evidence the provisions of this subsection 5.1(b), the Corporation, its successor, or such purchasing body corporate, partnership, trust or other entity, as the case may be, shall, prior to or contemporaneously with any such reclassification, capital reorganization, consolidation,

amalgamation, merger, sale or conveyance, enter into an indenture which shall provide, to the extent possible, for the application of the provisions set forth in this Indenture with respect to the rights and interests thereafter of the Warrantholders to the end that the provisions set forth in this Indenture shall thereafter correspondingly be made applicable, as nearly as may reasonably be, with respect to any shares, other securities or property to which a Warrantholder is entitled on the exercise of its acquisition rights thereafter. Any indenture entered into between the Corporation and the Trustee pursuant to the provisions of this subsection 5.1(b) shall be a supplemental indenture entered into pursuant to the provisions of Article 9 hereof. Any indenture entered into between the Corporation, any successor to the Corporation or such purchasing body corporate, partnership, trust or other entity and the Trustee shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 5.1 and which shall apply to successive reclassifications, capital reorganizations, amalgamations, consolidations, mergers, sales or conveyances; and

- c. the adjustments provided for in this Article 5 in the number of Common Shares and classes of securities which are to be received on the exercise of Special Warrants are cumulative. After any adjustment pursuant to this Section, the term "Common Shares" where used in this Indenture shall be interpreted to mean securities of any class or classes which, as a result of such adjustment and all prior adjustments pursuant to this Section, the Warrantholder is entitled to receive upon the exercise of its Special Warrant, and the number of Common Shares indicated by any exercise made pursuant to a Special Warrant shall be interpreted to mean the number of Common Shares or other property or securities a Warrantholder is entitled to receive, as a result of such adjustment and all prior adjustments pursuant to this Section, upon the full exercise of a Special Warrant.

## **5.2 Entitlement to Shares on Exercise of Special Warrant**

All shares of any class or other securities which a Warrantholder is at the time in question entitled to receive on the exercise of its Special Warrant, whether or not as a result of adjustments made pursuant to this Article 5, shall, for the purposes of the interpretation of this Indenture, be deemed to be shares which such Warrantholder is entitled to acquire pursuant to such Special Warrant.

## **5.3 No Adjustment for Stock Options**

Notwithstanding anything in this Article 5, no adjustment shall be made in the acquisition rights attached to the Special Warrants if the issue of Common Shares is being made pursuant to this Indenture or pursuant to any stock option, stock purchase plan or stock bonus plan in force from time to time for directors, officers, employees or consultants of the Corporation.

## **5.4 Determination by Corporation's Auditors**

In the event of any question arising with respect to the adjustments provided for in this Article 5 such question shall be conclusively determined by the Corporation's Auditors who shall have

access to all necessary records of the Corporation, and such determination shall be binding upon the Corporation, the Trustee, all Warrantholders and all other persons interested therein.

### **5.5 Proceedings Prior to any Action Requiring Adjustment**

As a condition precedent to the taking of any action which would require an adjustment in any of the acquisition rights pursuant to any of the Special Warrants, including the number of Common Shares which are to be received upon the exercise thereof, the Corporation shall take any corporate action which may, in the opinion of Counsel, be necessary in order that the Corporation has unissued and reserved in its authorized capital and may validly and legally issue as fully paid and non-assessable all the shares which the holders of such Special Warrants are entitled to receive on the full exercise thereof in accordance with the provisions hereof.

### **5.6 Certificate of Adjustment**

The Corporation shall from time to time immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Article 5, deliver a certificate of the Corporation to the Trustee specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

### **5.7 Notice of Special Matters**

The Corporation covenants with the Trustee that, so long as any Special Warrant remains outstanding, it will give notice to the Trustee and to the Warrantholders of its intention to fix a record date that is prior to the Expiry Date for the issuance of rights, options or warrants (other than the Special Warrants) to all or substantially all the holders of its outstanding Common Shares. Such notice shall specify the particulars of such event and the record date for such event, provided that the Corporation shall only be required to specify in the notice such particulars of the event as shall have been fixed and determined on the date on which the notice is given. The notice shall be given in each case not less than 14 days prior to such applicable record date.

### **5.8 No Action after Notice**

The Corporation covenants with the Trustee that it will not close its transfer books or take any other corporate action which might deprive the holder of a Special Warrant of the opportunity to exercise its right of acquisition pursuant thereto during the period of 14 days after the giving of the certificate or notices set forth in Sections 5.6 and 5.7.

### **5.9 Protection of Trustee**

Except as provided in Section 10.2, the Trustee shall not:

- a. at any time be under any duty or responsibility to any Warrantholder to determine whether any facts exist which may require any adjustment contemplated by Section 5.1, or with respect to

the nature or extent of any such adjustment when made, or with respect to the method employed in making the same;

- b. be accountable with respect to the validity or value (or the kind or amount) of any Common Shares or of any shares or other securities or property which may at any time be issued or delivered upon the exercise of the rights attaching to any Special Warrant;
- c. be responsible for any failure of the Corporation to issue, transfer or deliver Common Shares or certificates for the same upon the surrender of any Special Warrants for the purpose of the exercise of such rights or to comply with any of the covenants contained in this Article; and
- d. incur any liability or responsibility whatsoever or be in any way responsible for the consequences of any breach on the part of the Corporation of any of the representations, warranties or covenants herein contained or of any acts of the directors, officers, employees, agents or servants of the Corporation.

## **ARTICLE 6 RIGHTS OF THE CORPORATION AND COVENANTS**

### **6.1 Optional Purchases by the Corporation**

The Corporation may from time to time purchase by private contract or otherwise any of the Special Warrants. Any such purchase shall be made at the lowest price or prices at which, in the opinion of the directors, such Special Warrants are then obtainable, plus reasonable costs of purchase, and may be made in such manner, from such persons and on such other terms as the Corporation, in its sole discretion, may determine. Any Warrant Certificates representing the Special Warrants purchased pursuant to this Section 6.1 shall forthwith be delivered to and cancelled by the Trustee. No Special Warrants shall be issued in replacement thereof.

### **6.2 General Covenants**

The Corporation covenants with the Trustee that so long as any Special Warrants remain outstanding:

- a. it will reserve and keep available a sufficient number of Common Shares for the purpose of enabling it to satisfy its obligations to issue Common Shares upon the exercise of the Special Warrants in the event that the Corporation does not have an unlimited number of Common Shares authorized;
- b. it will cause the Common Shares and the certificates representing the Common Shares from time to time acquired pursuant to the exercise of the Special Warrants to be duly issued and delivered in accordance with the Warrant Certificates and the terms hereof;
- c. all Common Shares which shall be issued upon exercise of the right to acquire provided for herein and in the Warrant Certificates shall be fully paid and non-assessable;

- d. it will maintain its corporate existence or the corporate existence of any successor corporation;
- e. it will use its reasonable commercial efforts to ensure that all Common Shares outstanding or issuable from time to time (including without limitation the Common Shares issuable on the exercise of the Special Warrants) continue to be or are listed and posted for trading on a stock exchange in Canada;
- f. it will make all requisite filings under applicable Canadian securities legislation and stock exchange rules, including (on a reasonable commercial efforts basis) those necessary to remain a reporting issuer not in default in each of the Filing Jurisdictions and those necessary to report the exercise of the right to acquire Common Shares pursuant to Special Warrants;
- g. it will as soon as practicable file with and use its reasonable commercial efforts to obtain a receipt on or before the Qualification Date from each of the Securities Commissions for the Prospectus so that the resale of such Common Shares will not be subject to the prospectus requirements nor any "hold period" under applicable securities legislation in such Filing Jurisdictions (except that it is not required to take such steps solely to enable a resale of Common Shares from the holdings of a "control person", as defined in applicable securities laws);
- h. it will send written notice to the Trustee and to each holder of Special Warrants of the issuance of the receipts referred to in subsection 6.2(g), together with a commercial copy of the Prospectus, specifying the date on which the Special Warrants expire and, in the case of the Trustee, copies of the receipts, as soon as practicable but, in any event, not later than three Business Days after the latest date on which such a receipt is issued by any of the Securities Commissions;
- i. if the Corporation pays a dividend or makes any other distribution in cash or property or securities of the Corporation (including rights, options or warrants to acquire Common Shares or securities convertible into or exchangeable for Common Shares and including evidences of its indebtedness) to all or substantially all of the holders of Common Shares of record on a date after the Effective Date and prior to the exercise of the Special Warrants, the Corporation agrees that it will pay the same amount of such dividend or make the same distribution of cash, property or securities as a deposit to the Trustee, as if the Warrantholders on such date were the holders of the number of Common Shares which the Warrantholders are entitled to receive upon the exercise of the Special Warrants and such payments or other distributions shall be held and dealt with by the Trustee in accordance with Article 4;
- j. it will give written notice to the Trustee and each Warrantholder specifying the particulars of each payment or distribution made in accordance with subsection 6.2(i), within three Business Days of such payment or distribution;
- k. if all Special Warrants have not been repurchased or exercised, if the Corporation shall not have received a receipt for the Prospectus on or before the Qualification Date, the Corporation will

continue, until the Expiry Date, to use its best efforts to obtain a receipt for the Prospectus from each of the Securities Commissions;

- l. it will provide to Warrantholders copies of all documentation required to be provided by applicable law to registered holders of Common Shares, as if such Warrantholders were registered shareholders of the Corporation; and
- m. generally, it will well and truly perform and carry out all of the acts or things to be done by it as provided in this Indenture.

### **6.3 Trustee's Remuneration and Expenses**

The Corporation covenants that it will pay to the Trustee from time to time reasonable remuneration for its services hereunder and will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in the administration or execution of the trusts hereby created (including the reasonable compensation and the disbursements of its Counsel and all other advisers and assistants not regularly in its employ) both before any default hereunder and thereafter until all duties of the Trustee hereunder shall be finally and fully performed, except any such expense, disbursement or advance as may arise out of or result from the Trustee's negligence, wilful misconduct or bad faith.

### **6.4 Securities Qualification Requirements**

- a. If, in the opinion of Counsel, any instrument (not including a prospectus, except as required by subsection 6.2(g)) is required to be filed with, or any permission is required to be obtained from any governmental authority in Canada or any other step is required under any federal or provincial law of Canada before any Common Shares which a Warrantholder is entitled to acquire pursuant to the exercise of any Special Warrant may properly and legally be issued upon due exercise thereof and thereafter traded, without further formality or restriction, the Corporation covenants that it will take such required action.
- b. The Corporation or, if required by the Corporation, the Trustee will give written notice of the issue of Common Shares pursuant to the exercise of Special Warrants in the manner contemplated by section 110 of the *Securities Act* (Alberta) and comparable provisions in other jurisdictions, to each securities commission or similar regulatory authority in each jurisdiction in Canada in which there is legislation or regulation permitting or requiring the giving of any such notice in order that such issue of Common Shares and the subsequent disposition of the Common Shares so issued will not be subject to the prospectus qualification requirements of such legislation or regulation.

### **6.5 Performance of Covenants by Trustee**

If the Corporation shall fail to perform any of its covenants contained in this Warrant Indenture, the Trustee may notify the Warrantholders of such failure on the part of the Corporation or may itself perform any of the covenants capable of being performed by it but, subject to Section 10.2,

shall be under no obligation to perform said covenants or to notify the Warrantholders of such performance by it. All sums expended or advanced by the Trustee in so doing shall be repayable as provided in Section 6.3. No such performance, expenditure or advance by the Trustee shall relieve the Corporation of any default hereunder or of its continuing obligations under the covenants herein contained.

## **ARTICLE 7 ENFORCEMENT**

### **7.1 Suits by Warrantholders**

All or any of the rights conferred upon any Warrantholder by any of the terms of the Warrant Certificates or of the Indenture, or of both, may be enforced by the Warrantholder by appropriate proceedings but without prejudice to the right which is hereby conferred upon the Trustee to proceed in its own name to enforce each and all of the provisions herein contained for the benefit of the Warrantholders.

### **7.2 Immunity of Shareholders, etc.**

The Trustee and, by the acceptance of the Warrant Certificates and as part of the consideration for the issue of the Special Warrants, the Warrantholders hereby waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any incorporator or any past, present or future shareholder, director, officer, employee or agent of the Corporation or any successor corporation on any covenant, agreement, representation or warranty by the Corporation herein or in the Warrant Certificates contained.

### **7.3 Limitation of Liability**

The obligations hereunder are not personally binding upon, nor shall resort hereunder be had to, the private property of any of the past, present or future directors or shareholders of the Corporation or any successor corporation or any of the past, present or future officers, employees or agents of the Corporation or any successor corporation, but only the property of the Corporation or any successor corporation shall be bound in respect hereof.

### **7.4 Waiver of Default**

Upon the happening of any default hereunder:

- a. the holders of not less than 51% of the Special Warrants then outstanding shall have power (in addition to the powers exercisable by extraordinary resolution) by requisition in writing to instruct the Trustee to waive any default hereunder and the Trustee shall thereupon waive the default upon such terms and conditions as shall be prescribed in such requisition; or

- b. the Trustee shall have power to waive any default hereunder upon such terms and conditions as the Trustee may deem advisable, if, in the Trustee's opinion, the same shall have been cured or adequate provision made therefor;

provided that no delay or omission of the Trustee or of the Warrantholders to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein and provided further that no act or omission either of the Trustee or of the Warrantholders in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent default hereunder of the rights resulting therefrom.

## **ARTICLE 8 MEETINGS OF WARRANTHOLDERS**

### **8.1 Right to Convene Meetings**

The Trustee may at any time and from time to time, and shall on receipt of a written request of the Corporation or of a Warrantholders' Request and upon being indemnified and funded to its reasonable satisfaction by the Corporation or by the Warrantholders signing such Warrantholders' Request against the cost which may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Warrantholders. In the event of the Trustee failing to so convene a meeting within seven days after receipt of such written request of the Corporation or such Warrantholders' Request and indemnity and funding being given as aforesaid, the Corporation or such Warrantholders, as the case may be, may convene such meeting. Every such meeting shall be held in the City of Calgary or at such other place as may be approved or determined by the Trustee.

### **8.2 Notice**

At least ten days' prior written notice of any meeting of Warrantholders shall be given to the Warrantholders in the manner provided for in Section 11.2 and a copy of such notice shall be sent by mail to the Trustee (unless the meeting has been called by the Trustee) and to the Corporation (unless the meeting has been called by the Corporation). Such notice shall state the time when and the place where the meeting is to be held, shall state briefly the general nature of the business to be transacted thereat and shall contain such information as is reasonably necessary to enable the Warrantholders to make a reasoned decision on the matter, but it shall not be necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article 8.

### **8.3 Chairman**

An individual (who need not be a Warrantholder) designated in writing by the Trustee shall be chairman of the meeting and if no individual is so designated, or if the individual so designated is not present within 15 minutes from the time fixed for the holding of the meeting, the Warrantholders present in person or by proxy shall choose some individual present to be chairman.

#### **8.4 Quorum**

Subject to the provisions of Section 8.11, at any meeting of the Warrantholders a quorum shall consist of Warrantholders present in person or by proxy and entitled to purchase at least 25% of the aggregate number of Common Shares which could be acquired pursuant to all the then outstanding Special Warrants, provided that at least two persons entitled to vote thereat are personally present. If a quorum of the Warrantholders shall not be present within 30 minutes from the time fixed for holding any meeting, the meeting, if summoned by Warrantholders or on a Warrantholders' Request, shall be dissolved; but in any other case the meeting shall be adjourned to the same day in the next week (unless such day is not a Business Day, in which case it shall be adjourned to the next following Business Day) at the same time and place and no notice of the adjournment need be given. Any business may be brought before or dealt with at an adjourned meeting which might have been dealt with at the original meeting in accordance with the notice calling the same. No business shall be transacted at any meeting unless a quorum be present at the commencement of business. At the adjourned meeting the Warrantholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened, notwithstanding that they may not be entitled to acquire at least 25% of the aggregate number of Common Shares which may be acquired pursuant to all then outstanding Special Warrants.

#### **8.5 Power to Adjourn**

The chairman of any meeting at which a quorum of the Warrantholders is present may, with the consent of the meeting, adjourn any such meeting, and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.

#### **8.6 Show of Hands**

Every question submitted to a meeting shall be decided in the first place by a majority of the votes given on a show of hands except that votes on an extraordinary resolution shall be given in the manner hereinafter provided. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact.

#### **8.7 Poll and Voting**

On every extraordinary resolution, and on any other question submitted to a meeting and after a vote by show of hands when demanded by the chairman or by one or more of the Warrantholders acting in person or by proxy and entitled to acquire in the aggregate at least 5% of the aggregate number of Common Shares which could be acquired pursuant to all the Special Warrants then outstanding, a poll shall be taken in such manner as the chairman shall direct. Questions other than those required to be determined by extraordinary resolution shall be decided by a majority of the votes cast on the poll.

On a show of hands, every person who is present and entitled to vote, whether as a Warrantholder or as proxy for one or more absent Warrantholders, or both, shall have one vote. On a poll, each Warrantholder present in person or represented by a proxy duly appointed by instrument in writing shall be entitled to one vote in respect of each whole Common Share which he is entitled to acquire pursuant to the Special Warrant or Special Warrants then held or represented by it. A proxy need not be a Warrantholder. The chairman of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Special Warrants, if any, held or represented by him.

## **8.8 Regulations**

The Trustee, or the Corporation with the approval of the Trustee, may from time to time make and from time to time vary such regulations as it shall think fit for:

- a. the setting of the record date for a meeting for the purpose of determining Warrantholders entitled to receive notice of and to vote at the meeting;
- b. the issue of voting certificates by any bank, trust company or other depository satisfactory to the Trustee stating that the Warrant Certificates specified therein have been deposited with it by a named person and will remain on deposit until after the meeting, which voting certificate shall entitle the persons named therein to be present and vote at any such meeting and at any adjournment thereof or to appoint a proxy or proxies to represent them and vote for them at any such meeting and at any adjournment thereof in the same manner and with the same effect as though the persons so named in such voting certificates were the actual bearers of the Warrant Certificates specified therein;
- c. the deposit of voting certificates and instruments appointing proxies at such place and time as the Trustee, the Corporation or the Warrantholders convening the meeting, as the case may be, may in the notice convening the meeting direct;
- d. the deposit of voting certificates and instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed or telecopied before the meeting to the Corporation or to the Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting;
- e. the form of the instrument of proxy; and
- f. generally for the calling of meetings of Warrantholders and the conduct of business thereat.

Any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. Save as such regulations may provide, the only persons who shall be recognized at any meeting as a Warrantholder, or be entitled to vote or be present at the meeting in respect thereof (subject to Section 8.9), shall be Warrantholders or their counsel, or proxies of Warrantholders.

## **8.9 Corporation and Trustee May be Represented**

The Corporation and the Trustee, by their respective directors, officers and employees and the Counsel for the Corporation and for the Trustee may attend any meeting of the Warranholders, but shall not be entitled to vote thereat, whether in respect of any Special Warrants held by them or otherwise.

## **8.10 Powers Exercisable by Extraordinary Resolution**

In addition to all other powers conferred upon them by any other provisions of this Indenture or by law, the Warranholders at a meeting shall, subject to the provisions of Section 8.11, have the power, exercisable from time to time by extraordinary resolution:

- a. to agree to any modification, abrogation, alteration, compromise or arrangement of the rights of Warranholders or the Trustee in its capacity as trustee hereunder or on behalf of the Warranholders against the Corporation whether such rights arise under this Indenture or the Warrant Certificates or otherwise;
- b. to amend, alter or repeal any extraordinary resolution previously passed or sanctioned by the Warranholders;
- c. to direct or to authorize the Trustee to enforce any of the covenants on the part of the Corporation contained in this Indenture or the Warrant Certificates or to enforce any of the rights of the Warranholders in any manner specified in such extraordinary resolution or to refrain from enforcing any such covenant or right;
- d. to waive, and to direct the Trustee to waive, any default on the part of the Corporation in complying with any provisions of this Indenture or the Warrant Certificates either unconditionally or upon any conditions specified in such extraordinary resolution;
- e. to restrain any Warranholder from taking or instituting any suit, action or proceeding against the Corporation for the enforcement of any of the covenants on the part of the Corporation in this Indenture or the Warrant Certificates or to enforce any of the rights of the Warranholders;
- f. to direct any Warranholder who, as such, has brought any suit, action or proceeding to stay or to discontinue or otherwise to deal with the same upon payment of the costs, charges and expenses reasonably and properly incurred by such Warranholder in connection therewith;
- g. to assent to any change in or omission from the provisions contained in the Warrant Certificates and this Indenture or any ancillary or supplemental instrument which may be agreed to by the Corporation, and to authorize the Trustee to concur in and execute any ancillary or supplemental indenture embodying the change or omission;

- h. with the consent of the Corporation, such consent not to be unreasonably withheld, to remove the Trustee or its successor in office and to appoint a new trustee or trustees to take the place of the Trustee so removed;
- i. to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any shares or other securities of the Corporation; and
- j. to direct or authorize the Trustee to deal with any Property held by it in accordance with the provisions of Section 4.4.

### **8.11 Meaning of Extraordinary Resolution**

- a. The expression "extraordinary resolution" when used in this Indenture means, subject as hereinafter provided in this Section 8.11 and in Section 8.14, a resolution proposed at a meeting of Warranholders duly convened for that purpose and held in accordance with the provisions of this Article 8 at which there are present in person or by proxy Warranholders entitled to acquire at least 25% of the aggregate number of Common Shares which may be acquired pursuant to all the then outstanding Special Warrants and passed by the affirmative votes of Warranholders entitled to acquire not less than 66 2/3% of the aggregate number of Common Shares which may be acquired pursuant to all the then outstanding Special Warrants represented at the meeting and voted on the poll upon such resolution.
- b. If, at the meeting at which an extraordinary resolution is to be considered, Warranholders entitled to acquire at least 25% of the aggregate number of Common Shares which may be acquired pursuant to all the then outstanding Special Warrants are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by Warranholders or on a Warranholders' Request, shall be dissolved; but in any other case it shall stand adjourned to such day, being not less than 15 or more than 60 days later, and to such place and time as may be appointed by the chairman. Not less than 10 days' prior notice shall be given of the time and place of such adjourned meeting in the manner provided for in Section 11.2. Such notice shall state that at the adjourned meeting the Warranholders present in person or by proxy shall form a quorum but it shall not be necessary to set forth the purposes for which the meeting was originally called or any other particulars. At the adjourned meeting the Warranholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed by the requisite vote as provided in subsection 8.11(a) shall be an extraordinary resolution within the meaning of this Indenture notwithstanding that Warranholders entitled to acquire at least 25% of the aggregate number of Common Shares which may be acquired pursuant to all the then outstanding Special Warrants are not present in person or by proxy at such adjourned meeting.
- c. Votes on an extraordinary resolution shall always be given on a poll and no demand for a poll on an extraordinary resolution shall be necessary.

## **8.12 Powers Cumulative**

Any one or more of the powers or any combination of the powers in this Indenture stated to be exercisable by the Warranholders by extraordinary resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers or any combination of powers from time to time shall not be deemed to exhaust the right of the Warranholders to exercise such power or powers or combination of powers then or thereafter from time to time.

## **8.13 Minutes**

Minutes of all resolutions and proceedings at every meeting of Warranholders shall be made and duly entered in books to be provided from time to time for that purpose by the Trustee at the expense of the Corporation, and any such minutes as aforesaid, if signed by the chairman or the secretary of the meeting at which such resolutions were passed or proceedings had shall be *prima facie* evidence of the matters therein stated and, until the contrary is proved, every such meeting in respect of the proceedings of which minutes shall have been made shall be deemed to have been duly convened and held, and all resolutions passed thereat or proceedings taken shall be deemed to have been duly passed and taken.

## **8.14 Instruments in Writing**

All actions which may be taken and all powers that may be exercised by the Warranholders at a meeting held as provided in this Article 8 may also be taken and exercised by Warranholders entitled to acquire at least 66 2/3% of the aggregate number of Common Shares which may be acquired pursuant to all the then outstanding Special Warrants by an instrument in writing signed in one or more counterparts by such Warranholders in person or by attorney duly appointed in writing, and the expression "extraordinary resolution" when used in this Indenture shall include an instrument so signed.

## **8.15 Binding Effect of Resolutions**

Every resolution and every extraordinary resolution passed in accordance with the provisions of this Article 8 at a meeting of Warranholders shall be binding upon all the Warranholders, whether present at or absent from such meeting, and every instrument in writing signed by Warranholders in accordance with Section 8.14 shall be binding upon all the Warranholders, whether signatories thereto or not, and each and every Warranholder and the Trustee (subject to the provisions for indemnity herein contained) shall be bound to give effect accordingly to every such resolution and instrument in writing.

## **8.16 Holdings by Corporation Disregarded**

In determining whether Warranholders holding Warrant Certificates evidencing the entitlement to acquire the required number of Common Shares are present at a meeting of Warranholders for the purpose of determining a quorum or have concurred in any consent, waiver, extraordinary resolution, Warranholders' Request or other action under this Indenture, Special

Warrants owned legally or beneficially by the Corporation or any Subsidiary of the Corporation shall be disregarded in accordance with the provisions of Section 11.8.

## **ARTICLE 9 SUPPLEMENTAL INDENTURES**

### **9.1 Provision for Supplemental Indentures for Certain Purposes**

From time to time the Corporation (when authorized by action of the directors) and the Trustee may, subject to the provisions hereof, and they shall, when so directed in accordance with the provisions hereof, execute and deliver by their proper officers, indentures or instruments supplemental hereto, which thereafter shall form part hereof, for any one or more or all of the following purposes:

- a. setting forth any adjustments resulting from the application of the provisions of Article 5;
- b. adding to the provisions hereof such additional covenants and enforcement provisions as, in the opinion of Counsel, are necessary or advisable in the premises, provided that the same are not in the opinion of the Trustee, on the advice of Counsel, prejudicial to the interests of the Warranholders;
- c. giving effect to any extraordinary resolution passed as provided in Article 8;
- d. making such provisions not inconsistent with this Indenture as may be necessary or desirable with respect to matters or questions arising hereunder or for the purpose of obtaining a listing or quotation of the Special Warrants on any stock exchange, provided that such provisions are not, in the opinion of the Trustee, on the advice of Counsel, prejudicial to the interests of the Warranholders;
- e. adding to or altering the provisions hereof in respect of the transfer of Special Warrants, making provision for the exchange of Warrant Certificates, and making any modification in the form of the Warrant Certificates which does not affect the substance thereof;
- f. with the prior approval of any stock exchange on which the Common Shares are listed or conditionally approved for listing, if such approval is required by such exchanges, modifying any of the provisions of this Indenture, including relieving the Corporation from any of the obligations, conditions or restrictions herein contained, provided that such modification or relief shall be or become operative or effective only if, in the opinion of the Trustee, on the advice of Counsel, such modification or relief in no way prejudices any of the rights of the Warranholders or of the Trustee, and provided further that the Trustee may in its sole discretion decline to enter into any such supplemental indenture which in its opinion may not afford adequate protection to the Trustee when the same shall become operative; and
- g. for any other purpose not inconsistent with the terms of this Indenture, including the correction or rectification of any ambiguities, defective or inconsistent provisions, errors, mistakes or

omissions herein, provided that in the opinion of the Trustee the rights of the Trustee and of the Warrantholders, on the advice of Counsel, are in no way prejudiced thereby.

## **9.2 Successor Corporations**

In the case of the consolidation, amalgamation, merger or transfer of the undertaking or assets of the Corporation as an entirety or substantially as an entirety to another Corporation ("successor corporation"), the successor corporation resulting from such consolidation, amalgamation, merger or transfer (if not the Corporation) shall expressly assume, by supplemental indenture satisfactory in form to the Trustee and executed and delivered to the Trustee, the due and punctual performance and observance of each and every covenant and condition of this Indenture to be performed and observed by the Corporation.

## **ARTICLE 10 CONCERNING THE TRUSTEE**

### **10.1 Trust Indenture Legislation**

- a. If and to the extent that any provision of this Indenture limits, qualifies or conflicts with a mandatory requirement of Applicable Legislation, such mandatory requirement shall prevail.
- b. The Corporation and the Trustee agree that each will, at all times in relation to this Indenture and any action to be taken hereunder, observe and comply with and be entitled to the benefits of Applicable Legislation.

### **10.2 Rights and Duties of Trustee**

- a. In the exercise of the rights and duties prescribed or conferred by the terms of this Indenture, the Trustee shall exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own wilful misconduct or bad faith.
- b. The obligation of the Trustee to commence or continue any act, action or proceeding for the purpose of enforcing any rights of the Trustee or the Warrantholders hereunder shall be conditional upon the Warrantholders furnishing, when required by notice by the Trustee, sufficient funds to commence or to continue such act, action or proceeding and an indemnity reasonably satisfactory to the Trustee to protect and to hold harmless the Trustee against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof. None of the provisions contained in this Indenture shall require the Trustee to expend or to risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified as aforesaid.

- c. The Trustee may, before commencing or at any time during the continuance of any such act, action or proceeding, require the Warrantholders, at whose instance it is acting to deposit with the Trustee the Special Warrants held by them, for which Special Warrants the Trustee shall issue receipts.
- d. The Trustee shall not be bound to give any notice or to do or take any act, action or proceeding by virtue of the powers conferred on it hereby unless and until it shall have been required so to do under the terms hereof; nor shall the Trustee be required to take notice of any default hereunder, unless and until notified in writing of such default, which notice shall distinctly specify the default desired to be brought to the attention of the Trustee and in the absence of any such notice the Trustee may for all purposes of this Indenture conclusively assume that no default has been made in the observance or performance of any of the representations, warranties, covenants, agreements or conditions contained herein. Any such notice shall in no way limit any discretion herein given to the Trustee to determine whether or not the Trustee shall take action with respect to any default.
- e. Every provision of this Indenture that by its terms relieves the Trustee of liability or entitles it to rely upon any evidence submitted to it is subject to the provisions of Applicable Legislation, of this Section 10.2 and of Section 10.3.

### **10.3 Evidence, Experts and Advisers**

- a. In addition to the reports, certificates, opinions and other evidence required by this Indenture, the Corporation shall furnish to the Trustee such additional evidence of compliance with any provision hereof, and in such form, as may be prescribed by Applicable Legislation or as the Trustee may reasonably require by written notice to the Corporation.
- b. In the exercise of its rights and duties hereunder, the Trustee may, if it is acting in good faith, rely as to the truth of the statements and the accuracy of the opinions expressed in statutory declarations, opinions, reports, written requests, consents, or orders of the Corporation, certificates of the Corporation or other evidence furnished to the Trustee pursuant to a request of the Trustee, provided that such evidence complies with Applicable Legislation and that the Trustee complies with Applicable Legislation and that the Trustee examines the same and determines that such evidence complies with the applicable requirements of this Indenture.
- c. Whenever it is provided in this Indenture or under Applicable Legislation that the Corporation shall deposit with the Trustee resolutions, certificates, reports, opinions, requests, orders or other documents, it is intended that the truth, accuracy and good faith on the effective date thereof and the facts and opinions stated in all such documents so deposited shall, in each and every such case, be conditions precedent to the right of the Corporation to have the Trustee take the action to be based thereon.
- d. Proof of the execution of an instrument in writing, including a Warrantholders' Request, by any Warrantholder may be made by the certificate of a notary public, or other officer with similar powers, that the person signing such instrument acknowledged to it the execution thereof, or

by an affidavit of a witness to such execution or in any other manner which the Trustee may consider adequate.

- e. The Trustee may employ or retain such Counsel, accountants, appraisers or other experts or advisers as it may reasonably require for the purpose of discharging its duties hereunder and may pay reasonable remuneration for all services so performed by any of them, without taxation of costs of any Counsel, and shall not be responsible for any misconduct or negligence on the part of any such experts or advisers who have been appointed with due care by the Trustee.

#### **10.4 Documents, Monies, etc. Held by Trustee**

Any securities, documents of title or other instruments that may at any time be held by the Trustee subject to the trusts hereof may be placed in the deposit vaults of the Trustee or of any Canadian chartered bank listed in Schedule 1 to the *Bank Act* (Canada) or of any trust company registered to do business in Canada or deposited for safekeeping with any such bank or trust company. Unless herein otherwise expressly provided, any monies so held pending the application or withdrawal thereof under any provisions of this Indenture upon the written direction of the Corporation shall be or, with the consent of the Corporation may be: (i) deposited in the name of the Trustee in any Canadian chartered bank listed in Schedule 1 to the *Bank Act* (Canada) or any trust company registered to do business in Canada at the rate of interest (if any) then current on similar deposits; or (ii) invested in treasury bills or short term interest bearing or discounted obligations issued or guaranteed by the Government of Canada or a province thereof, of any Canadian chartered bank listed in Schedule 1 of the *Bank Act* (Canada), provided that the securities shall not have a maturity date of more than sixty (60) days from the date of investment. Unless the Corporation shall be in default hereunder or unless otherwise specifically provided herein, all interest or other income received by the Trustee in respect of such deposits and investments shall belong to the Corporation.

In the event that the Trustee has not received direction from the Corporation prior to 10:00 a.m. on the date that any investment made in accordance with this Section 10.4 matures, comes due or is otherwise required to be reinvested, the Trustee shall be authorized to reinvest such funds in an overnight investment until such time that the Trustee receives direction from the Corporation.

#### **10.5 Actions by Trustee to Protect Interest**

The Trustee shall have power to institute and to maintain such actions and proceedings as it may consider necessary or expedient to preserve, protect or enforce its interests and the interests of the Warrantholders.

#### **10.6 Trustee Not Required to Give Security**

The Trustee shall not be required to give any bond or security in respect of the execution of the trusts and powers of this Indenture or otherwise in respect of the premises.

**10.7 Protection of Trustee**

By way of supplement to the provisions of any law for the time being relating to trustees it is expressly declared and agreed as follows:

- a. the Trustee shall not be liable for or by reason of any statements of fact or recitals in this Indenture or in the Warrant Certificates (except the representation contained in Section 10.9 or in the certificate of the Trustee on the Warrant Certificates) or be required to verify the same, but all such statements or recitals are and shall be deemed to be made by the Corporation;
- b. nothing herein contained shall impose any obligation on the Trustee to see to or to require evidence of the registration or filing (or renewal thereof) of this Indenture or any instrument ancillary or supplemental hereto;
- c. the Trustee shall not be bound to give notice to any person or persons of the execution hereof; and
- d. the Corporation indemnifies and saves harmless the Trustee and its officers from and against any and all liabilities, losses, costs, claims, actions, or demands whatsoever which may be brought against the Trustee or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations under this Indenture, save only in the event of the negligent failure to act, or the wilful misconduct or bad faith of the Trustee. It is understood and agreed that this indemnification shall survive the termination or discharge of this Indenture or the resignation of the Trustee.

**10.8 Replacement of Trustee; Successor by Merger**

- a. The Trustee may resign its trust and be discharged from all further duties and liabilities hereunder, subject to this Section 10.8, by giving to the Corporation not less than 90 days' prior notice in writing or such shorter prior notice as the Corporation may accept as sufficient. The Warranholders by extraordinary resolution shall have power at any time to remove the existing Trustee and to appoint a new Trustee. In the event of the Trustee resigning or being removed as aforesaid or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Corporation shall forthwith appoint a new trustee unless a new trustee has already been appointed by the Warranholders; failing such appointment by the Corporation, the retiring Trustee or any Warranholder may apply to a justice of the Court of Queen's Bench of the Province of Alberta on such notice as such justice may direct, for the appointment of a new trustee; but any new trustee so appointed by the Corporation or by the Court shall be subject to removal as aforesaid by the Warranholders. Any new trustee appointed under any provision of this Section 10.8 shall be a corporation authorized to carry on the business of a trust company in the Filing Jurisdictions and, if required by the Applicable Legislation for any other provinces, in such other provinces. On any such appointment the new trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Trustee hereunder.

- b. Upon the appointment of a successor trustee, the Corporation shall promptly notify the Warrantholders thereof in the manner provided for in Section 11.2.
- c. Any corporation into or with which the Trustee may be merged or consolidated or amalgamated, or any corporation resulting therefrom to which the Trustee shall be a party, or any corporation succeeding to the trust business of the Trustee shall be the successor to the Trustee hereunder without any further act on its part or any of the parties hereto, provided that such corporation would be eligible for appointment as a successor trustee under subsection 10.8(a).
- d. Any Warrant Certificates certified but not delivered by a predecessor trustee may be certified by the successor trustee in the name of the predecessor or successor trustee.

#### **10.9 Conflict of Interest**

- a. The Trustee represents to the Corporation that at the time of execution and delivery hereof no material conflict of interest exists between its role as a trustee hereunder and its role in any other capacity and agrees that in the event of a material conflict of interest arising hereafter it will, within 90 days after ascertaining that it has such material conflict of interest, either eliminate the same or assign its trust hereunder to a successor trustee approved by the Corporation and meeting the requirements set forth in subsection 10.8(a). Notwithstanding the foregoing provisions of this subsection 10.9(a), if any such material conflict of interest exists or hereafter shall exist, the validity and enforceability of this Indenture and the Warrant Certificate shall not be affected in any manner whatsoever by reason thereof.
- b. Subject to subsection 10.9(a), the Trustee, in its personal or any other capacity, may buy, lend upon and deal in securities of the Corporation and generally may contract and enter into financial transactions with the Corporation or any Subsidiary of the Corporation without being liable to account for any profit made thereby.

#### **10.10 Acceptance of Trust**

The Trustee hereby accepts the trusts in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth.

#### **10.11 Trustee Not to be Appointed Receiver**

The Trustee and any person related to the Trustee shall not be appointed a receiver, a receiver and manager or liquidator of all or any part of the assets or undertaking of the Corporation.

**ARTICLE 11**  
**GENERAL**

**11.1 Notice to the Corporation and the Trustee**

- a. Unless herein otherwise expressly provided, any notice to be given hereunder to the Corporation or the Trustee shall be deemed to be validly given if delivered, sent by registered letter, postage prepaid or telecopied:

If to the Corporation:

True Energy Inc.  
300, 520 - 5th Avenue S.W.  
Calgary, Alberta  
T2P 3R7

Attention: Paul R. Baay, President and Chief Executive Officer  
Fax: (403) 264-8163

If to the Trustee:

Montreal Trust Company of Canada  
710, 530 - 8th Avenue S.W.  
Calgary, Alberta  
T2P 3S8

Attention: Manager, Corporate Trust Services  
Fax: (403) 267-6598

and any such notice delivered in accordance with the foregoing shall be deemed to have been received on the date of delivery or, if mailed, on the fifth Business Day following the date of the postmark on such notice or, if telecopied, on the next Business Day following the date of transmission, provided that its contents are transmitted and received completely and accurately.

- b. The Corporation or the Trustee, as the case may be, may from time to time notify the other in the manner provided in subsection 11.1(a) of a change of address which, from the effective date of such notice and until changed by like notice, shall be the address of the Corporation or the Trustee, as the case may be, for all purposes of this Indenture.
- c. If, by reason of a strike, lockout or other work stoppage, actual or threatened, involving postal employees, any notice to be given to the Trustee or to the Corporation hereunder could reasonably be considered unlikely to reach its destination, such notice shall be valid and effective only if it is delivered to the named officer of the party to which it is addressed or, if it is delivered to such party at the appropriate address provided in subsection 11.1(a), by telecopy or other means of prepaid, transmitted and recorded communication.

## **11.2 Notice to Warrantholders**

- a. Any notice to the Warrantholders under the provisions of this Indenture shall be valid and effective if delivered or sent by telecopy or by ordinary post addressed to such holders at their post office addresses appearing on the register hereinbefore mentioned and shall be deemed to have been effectively given on the date of delivery or, if mailed, on the fifth Business Day following the date of the postmark on such notice or, if telecopied, on the next Business Day following the date of transmission, provided that its contents are transmitted and received completely and accurately.
- b. If, by reason of a strike, lockout or other work stoppage, actual or threatened, involving postal employees, any notice to be given to the Warrantholders hereunder could reasonably be considered unlikely to reach its destination, such notice shall be valid and effective only if it is delivered personally to such Warrantholders or if delivered to the address for such Warrantholders contained in the register of Special Warrants maintained by the Trustee, by telecopy or other means of prepaid transmitted and recorded communication.

## **11.3 Ownership of Special Warrants**

Other than as provided in Section 4.6, the Corporation and the Trustee may deem and treat the registered owner of any Special Warrants as the absolute owner thereof for all purposes, and the Corporation and the Trustee shall not be affected by any notice or knowledge to the contrary except where the Corporation or the Trustee is required to take notice by statute or by order of a court of competent jurisdiction. A Warrantholder shall be entitled to the rights evidenced by its Warrant Certificate free from all equities or rights of set off or counterclaim between the Corporation and the original or any intermediate holder of the Special Warrants and all persons may act accordingly. The receipt of any such Warrantholder for the Common Shares (together with any property or securities, if any, required to be paid and delivered respectively) which may be acquired pursuant thereto, or the receipt of the amount payable to such Warrantholder upon the exercise of the right referred to in subsection 4.2(a) shall be a good discharge to the Corporation and the Trustee for the same and neither the Corporation nor the Trustee shall be bound to inquire into the title of any such holder except where the Corporation or the Trustee is required to take notice by statute or by order of a court of competent jurisdiction.

## **11.4 Evidence of Ownership**

- a. Upon receipt of a certificate of any bank, trust company or other depository satisfactory to the Trustee stating that the Special Warrants specified therein have been deposited by a named person with such bank, trust company or other depository and will remain so deposited until the expiry of the period specified therein, the Corporation and the Trustee may treat the person so named as the owner, and such certificate as sufficient evidence of the ownership by such person of such Special Warrant during such period, for the purpose of any requisition, direction, consent, instrument or other document to be made, signed or given by the holder of the Special Warrant so deposited.

- b. The Corporation and the Trustee may accept as sufficient evidence of the fact and date of the signing of any requisition, direction, consent, instrument or other document by any person (i) the signature of any officer of any bank, trust company, or other depository satisfactory to the Trustee as witness of such execution, (ii) the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded at the place where such certificate is made that the person signing acknowledged to him the execution thereof, (iii) a statutory declaration of a witness of such execution, or (iv) any other documentation satisfactory to the Corporation and the Trustee.

### **11.5 Counterparts**

This Indenture may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution they shall be deemed to be dated as of the date hereof.

### **11.6 Satisfaction and Discharge of Indenture**

Upon the earlier of:

- a. the date by which there shall have been delivered to the Trustee for exercise or destruction all Warrant Certificates theretofore certified hereunder; or
- b. the Expiry Time;

and if all certificates representing Common Shares required to be issued in compliance with the provisions hereof have been issued and delivered hereunder or to the Trustee in accordance with such provisions and if all payments required to be made in compliance with provisions of Article 4 have been made in accordance with such provisions, this Indenture shall cease to be of further effect and the Trustee, on demand of and at the cost and expense of the Corporation and upon delivery to the Trustee of a certificate of the Corporation stating that all conditions precedent to the satisfaction and discharge of this Indenture have been complied with, shall execute proper instruments acknowledging satisfaction of and discharging this Indenture. Notwithstanding the foregoing, the indemnities provided to the Trustee by the Corporation hereunder shall remain in full force and effect and survive the termination of this Indenture.

### **11.7 Provisions of Indenture and Special Warrants for the Sole Benefit of Parties and Warrantholders**

Nothing in this Indenture or in the Warrant Certificates, expressed or implied, shall give or be construed to give to any person other than the parties hereto and the Warrantholders, as the case may be, any legal or equitable right, remedy or claim under this Indenture, or under any covenant or provision herein or therein contained, all such covenants and provisions being for the sole benefit of the parties hereto and the Warrantholders.

**11.8 Common Shares or Special Warrants Owned by the Corporation or its Subsidiaries - Certificate to be Provided**

For the purpose of disregarding any Special Warrants owned legally or beneficially by the Corporation or any Subsidiary of the Corporation in Section 8.16, the Corporation shall provide to the Trustee, from time to time, a certificate of the Corporation setting forth as at the date of such certificate:

- a. the names (other than the name of the Corporation) of the registered holders of Special Warrants which, to the knowledge of the Corporation, are owned by or held for the account of the Corporation or any Subsidiary of the Corporation; and
- b. the number of Special Warrants owned legally or beneficially by the Corporation or any Subsidiary of the Corporation;

and the Trustee, in making the computations in Section 8.16, shall be entitled to rely on such certificate without any additional evidence.

**11.9 Assignment and Enurement**

The parties hereto acknowledge and agree, and any beneficiaries hereunder are hereby deemed to have acknowledged and agreed:

- a. that effective June 30, 2000, Computershare Investor Services Inc. ("Computershare") purchased the corporate trust business of the Trustee; and

- b. that the Trustee may, without the consent of any other party, assign all of its rights and duties under this Indenture, and under any ancillary agreements executed in connection herewith, to such federal trust company as may result from Computershare being continued as a trust company pursuant to the terms of the *Trust and Loan Companies Act* (Canada). Any such assignment shall be effective without the need for any further notice or advice to, or approval of, the parties hereto and without any further act or formality whatsoever.

IN WITNESS WHEREOF the parties hereto have executed this Indenture by their proper officers in that behalf.

TRUE ENERGY INC.

Per: (signed) "Paul R. Baay"

MONTREAL TRUST COMPANY OF CANADA

Per: (signed) "W. Anne DeWaele"

Per: (signed) "Cavell Fowler"

THIS IS SCHEDULE "A" to the Special Warrant Indenture made as of February 5, 2001 between TRUE ENERGY INC. and MONTREAL TRUST COMPANY OF CANADA, as trustee.

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**The Special Warrants represented by this certificate will be void and of no value unless exercised by 4:30 p.m. (Calgary time) on the earlier of: (i) 5 Business Days following the date upon which a receipt for a prospectus relating to the distribution of Common Shares upon the exercise of Special Warrants has been obtained from the securities commission or similar regulatory authority in each of the provinces of Alberta and Ontario and such other provinces in which the Corporation is required to file a prospectus; and (ii) February 5, 2002.**

**SPECIAL WARRANT CERTIFICATE**

**TRUE ENERGY INC.**

(Amalgamated under the laws of the Province of Alberta)

SPECIAL WARRANT

CERTIFICATE NO. \_\_\_\_\_

\_\_\_\_\_ SPECIAL WARRANTS

entitling the holder to acquire, subject to adjustment, one Common Share for each Special Warrant represented hereby.

**THIS IS TO CERTIFY THAT**

(hereinafter referred to as the "holder") is entitled to acquire in the manner and subject to the restrictions and adjustments set forth herein, at any time and from time to time during the period commencing on the Commencement Date (as defined in the Indenture) and ending at 4:30 p.m. (Calgary time) (the "Expiry Time") on the earlier of: (i) 5 Business Days following the date upon which a receipt for a prospectus relating to the distribution of Common Shares upon the exercise of Special Warrants has been obtained from the securities commission or similar regulatory authority in each of the provinces of Alberta and Ontario and such other provinces in which the Corporation is required to file a prospectus (the "Filing Jurisdictions"); and (ii) February 5, 2002 (the "Expiry Date"), one fully paid and non-assessable common share ("Common Share") without nominal or par value of True Energy Inc. (the "Corporation"), as such shares were constituted on February 5, 2001, for each Special Warrant represented hereby.

The right to acquire Common Shares may only be exercised by the holder within the time set forth above by:

- a. duly completing and executing the Exercise Form attached hereto; and
- b. surrendering this Special Warrant Certificate to Montreal Trust Company of Canada (the "Trustee") at the principal office of the Trustee in the City of Calgary.

These Special Warrants shall be deemed to be surrendered only upon personal delivery hereof or, if sent by mail or other means of transmission, upon actual receipt thereof by the Trustee at the office referred to above.

Upon surrender of these Special Warrants, the person or persons in whose name or names the Common Shares issuable upon exercise of the Special Warrants are to be issued shall be deemed for all purposes (except as provided in the Indenture hereinafter referred to) to be the holder or holders of record of such Common Shares and the Corporation has covenanted that it will (subject to the provisions of the Indenture) cause a certificate or certificates representing such Common Shares to be delivered or mailed to the person or persons at the address or addresses specified in the Exercise Form within five Business Days.

The holder of these Special Warrants may acquire any lesser number of Common Shares than the number of Common Shares which may be acquired for the Special Warrants represented by this Special Warrant Certificate. In such event, the holder shall be entitled to receive a new Special Warrant Certificate for the balance of the Common Shares which may be acquired. No fractional Common Shares will be issued.

If either (i) the Closing Notice shall not have been provided on or before the earlier of: (A) 45 days following the original expiry date of the Take-Over Bid, and (B) April 25, 2001; or (ii) if the Corporation shall, prior to April 25, 2001, have provided the Take-Over Termination Notice to the Trustee and holders of the Special Warrants that it will not be acquiring any Class A Shares or Class B Shares of Marengo pursuant to the Take-Over Bid (either such event referred to as the "Repurchase Event"), on the date of the Repurchase Event Date, the Corporation will be deemed to have repurchased, and each holder of Special Warrants, other than holders of the Non-Repurchase Special Warrants, will have been deemed to have sold to the Corporation, all of the outstanding Special Warrants, other than the Non-Repurchase Special Warrants, at a price equal to the Retraction Price per Special Warrant, together with a pro rata portion of the interest earned on the Deposit of Subscription Funds as determined under the terms of the Indenture.

If a receipt for the Prospectus dated on or before June 5, 2001 is not obtained from the securities commission or similar regulatory authority in each of the Filing Jurisdictions, each holder of Special Warrants resident in a Filing Jurisdiction in which such receipt has not been obtained (or, if a receipt has not been obtained in the Provinces of Alberta and Ontario, holders of Special Warrants wherever resident) will be entitled, upon exercise or deemed exercise of any Special Warrants that have not been repurchased by the Corporation, at any time after June 5, 2001, to acquire 1.1 Common Shares for each of such holder's Special Warrants (in lieu of the one Common Share that each Special Warrant was previously exchangeable for), subject to adjustment in certain events, without the payment of any additional consideration.

If a Repurchase Event occurs, all Non-Repurchase Special Warrants shall be deemed to have been exercised on the Repurchase Event Date, and the certificates representing the Common Shares issued thereby may be obtained by a holder of the Non-Repurchase Special Warrants upon duly completing and executing the Exercise Form attached to the certificate representing such

Non-Repurchase Special Warrants to the Trustee at the principal office of the Trustee in the City of Calgary.

At the Expiry Time, the right of a holder to acquire Common Shares represented hereby will (unless the Special Warrant represented hereby have been repurchased or in respect of which the right to acquire Common Shares has been exercised) be deemed to have been exercised and the certificates representing the Common Shares issued thereby may be obtained upon duly completing and executing the Exercise Form attached hereto and surrendering this Warrant Certificate to the Trustee at the principal office of the Trustee in the City of Calgary.

The Common Shares issuable under exercise hereof have not been registered under the United States Securities Act of 1933, as amended (the "U.S. Securities Act"), and these Special Warrants may not be exercised in the United States unless an exemption from such registration requirements is available. Common Shares issuable upon exercise of Special Warrants by or on behalf of a person in the United States may bear a legend restricting transfer.

The Special Warrants represented by this certificate are issued under and pursuant to a Special Warrant Indenture (hereinafter referred to as the "Indenture") made as of February 5, 2001 between the Corporation and the Trustee. Reference is made to the Indenture and any instruments supplemental thereto for a full description of the rights of the holders of the Special Warrants and the terms and conditions upon which the Special Warrants are, or are to be, issued and held, with the same effect as if the provisions of the Indenture and all instruments supplemental thereto were herein set forth. By acceptance hereof, the holder assents to all provisions of the Indenture. In the event of a conflict between the provisions of this Special Warrant Certificate and the Indenture, the provisions of the Indenture shall govern. Capitalized terms used in the Indenture have the meaning herein as therein, unless otherwise defined.

In the event of any alteration of the Common Shares, including any subdivision, consolidation or reclassification, and in the event of any form of reorganization of the Corporation, including any amalgamation, merger or arrangement, the holders of Special Warrants shall, upon exercise of the Special Warrants following the occurrence of any of those events, be entitled to receive the same number and kind of securities that they would have been entitled to receive had they exercised their Special Warrants immediately prior to the occurrence of those events, provided that no fractional shares will be issued.

The holder may, at any time prior to the Expiry Date, upon surrender hereof to the Trustee at its principal office in the City of Calgary, exchange this Special Warrant Certificate for other Special Warrant Certificates entitling the holder to acquire, in the aggregate, the same number of Common Shares as may be acquired under this Special Warrant Certificate.

The holding of the Special Warrants evidenced by this Special Warrant Certificate shall not constitute the holder hereof a shareholder of the Corporation or entitle the holder to any right or interest in respect thereof except as expressly provided in the Indenture and in this Special Warrant Certificate.

The Indenture provides that all holders of Special Warrants shall be bound by any resolution passed at a meeting of the holders held in accordance with the provisions of the Indenture and resolutions signed by the holders of Special Warrants entitled to acquire a specified majority of the Common Shares which may be acquired pursuant to all then outstanding Special Warrants.

The Special Warrants evidenced by this Special Warrant Certificate may be transferred on the register kept at the offices of the Trustee by the registered holder hereof or its legal representatives or its attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee, only upon compliance with the conditions prescribed in the Indenture and upon compliance with such reasonable requirements as the Trustee may prescribe.

This Special Warrant Certificate shall not be valid for any purpose whatever unless and until it has been certified by or on behalf of the Trustee.

Time shall be of the essence hereof.

IN WITNESS WHEREOF the Corporation has caused this Special Warrant Certificate to be signed by its duly authorized officer as of February 5, 2001.

TRUE ENERGY INC.

Per: \_\_\_\_\_

Certified by:

MONTREAL TRUST COMPANY OF CANADA  
Trustee

By: \_\_\_\_\_

## TRANSFER OF SPECIAL WARRANTS

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers to \_\_\_\_\_ [name of Transferee], \_\_\_\_\_ [number of Special Warrants] Special Warrants of True Energy Inc. registered in the name of the undersigned on the records of Montreal Trust Company of Canada represented by the Special Warrant Certificate attached and irrevocably appoints \_\_\_\_\_ the attorney of the undersigned to transfer the said securities on the books or register with full power of substitution.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Signature Guaranteed

\_\_\_\_\_  
(Signature of Special Warrantholder)

### Instructions:

1. Signature of the Special Warrantholder must be the signature of the person appearing on the face of this Special Warrant Certificate.
2. If the Transfer Form is signed by a trustee, executor, administrator, curator, guardian, attorney, officer of a corporation or any person acting in a fiduciary or representative capacity, the certificate must be accompanied by evidence of authority to sign satisfactory to the Trustee and the Corporation.
3. The signature on the Transfer Form must be guaranteed by an authorized officer of a Schedule 1 Canadian chartered bank, trust company or a member of an acceptable medallion guarantee program.
4. **Special Warrants shall only be transferable in accordance with applicable laws. The transfer of Special Warrants to a purchaser not resident in a Filing Jurisdiction may result in the Common Shares obtained upon the exercise of the Special Warrants (whether after or before obtaining receipts for a final prospectus relating to the distribution of Common Shares upon exercise of Special Warrants) not being freely tradeable in the jurisdiction where such purchaser is resident.**

**EXERCISE FORM**

TO: **True Energy Inc.**  
**Montreal Trust Company of Canada**

The undersigned hereby exercises the right to acquire \_\_\_\_\_ Common Shares of True Energy Inc. as constituted on February 5, 2001 (or such number of other securities or property to which such Special Warrants entitle the undersigned in lieu thereof or in addition thereto under the provisions of the Indenture referred to in the accompanying Special Warrant Certificate) in accordance with and subject to the provisions of such Indenture.

The Common Shares (or other securities or property) are to be issued as follows:

Name: \_\_\_\_\_  
(print clearly)

Address in full: \_\_\_\_\_  
\_\_\_\_\_

Social Insurance Number: \_\_\_\_\_

Number of Common Shares: \_\_\_\_\_

Note: If further nominees intended, please attach (and initial) schedule giving these particulars.

DATED this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Signature Guaranteed

\_\_\_\_\_  
(Signature of Special Warrantholder)

\_\_\_\_\_  
Print full name

\_\_\_\_\_  
Print full address

Instructions:

1. The registered holder may exercise its right to receive Common Shares by completing this form and surrendering this form and the Special Warrant Certificate representing the Special Warrants being exercised to Montreal Trust Company of Canada at its principal office at 710, 530 - 8th Avenue S.W., Calgary, Alberta, T2P 3S8. Certificates for Common Shares will be delivered or mailed within five business days after the exercise of the Special Warrants.
2. If the Exercise Form indicates that Common Shares are to be issued to a person or persons other than the registered holder of the Certificate, the signature of such holder of the Exercise Form must be guaranteed by an authorized officer of a Schedule 1 Canadian chartered bank, trust company or a member of an acceptable medallion guarantee program.
3. If the Exercise Form is signed by a trustee, executor, administrator, curator, guardian, attorney, officer of a corporation or any person acting in a fiduciary or representative capacity, the certificate must be accompanied by evidence of authority to sign satisfactory to the Trustee and the Corporation.
4. **If the registered holder exercises its right to receive Common Shares prior to a receipt being issued by the applicable securities commission the Common Shares will be subject to a hold period and may be issued with a legend reflecting such hold period.**