

# MASTER PRODUCTION WATER CUSTODY TRANSFER AGREEMENT

This MASTER PRODUCTION WATER CUSTODY TRANSFER AGREEMENT is made effective June 30, 2014 ("Effective Date"), by and between Encana Oil & Gas (USA) Inc. ("Encana") and Ursa Operating Company LLC ("Ursa") sometimes referred to collectively as "Parties" or singularly as "Party" or "Supplier/Shipper" or "Receiver".

## RECITALS

- A. The Parties are entering into this Master Production Water Custody Transfer Agreement, to set forth the terms and conditions for possible transfers of water from either Party's operations in the Piceance Basin of Colorado. Actual transfers of water shall be also subject to the specific terms and conditions of Records of Transfer and of the Production Water Reuse and Waste Minimization Plan of even date herewith. This Master Production Water Custody Transfer Agreement together with executed Records of Transfer, if any, shall be referred to as the "Water Transfer Agreement" or "Agreement".
- B. The water subject to the transfer under this Agreement consists primarily of produced water from non-tributary, non-coalbed methane wells and flowback water from the Parties respective completion operations (collectively "Production/Flowback Water").
- C. Transfer of Production/Flowback Water between the Parties is expected to significantly reduce water disposal volumes, wastes, haul distances, truck traffic and monetary costs, in addition to being consistent with State of Colorado regulatory agencies' objectives of resource conservation, waste minimization and recycling and re-use of water.
- D. The Parties desire to include this Water Custody Transfer Agreement as an Appendix to the Production Water Reuse and Waste Minimization Plan to give notice of the existence of the Water Transfer Agreement and the legal responsibility for Production/Flowback Water transferred between the Parties.

## AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, Encana and Ursa agree as follows:

**Term.** The Water Transfer Agreement shall be in effect for all time periods and volumes of Production/Flowback Water transferred between the Parties until terminated by either Party by providing written notice to the other Party [at least thirty (30) days prior to the effective date of the termination]. [The terminating Party is also responsible for notifying the Colorado Oil and Gas Conservation Commission (COGCC) in writing of the termination of the Water Transfer Agreement between the Parties.] However, notwithstanding the above, this Agreement shall terminate 10 years from the date of execution unless extended in writing by the parties.

**Terms of Transfer.** This Water Transfer Agreement alone does not obligate either Party to transfer Production/Flowback Water. Prior to each transfer of water under this Agreement, the Parties shall enter into a Record of Transfer in which the Parties agree on the terms and conditions applicable to such transfer including (i) identifying the Supplier/Shipper and the Receiver, (ii) quantities to be transferred, (iii) any economic terms applicable to the transfer, (iv) the Delivery location; (v) specifications for the Production/Flowback Water; and (vi) such other terms and conditions on which the Parties may agree.

**Custody Transfer.** It is agreed that the company providing the Production/Flowback Water ("Supplier/Shipper") shall maintain all legal and regulatory responsibility, custody and control for any Production/Flowback Water that is transferred under this Agreement until such time as it is Delivered to the receiving company ("Receiver") or its designee at which point the Receiver will assume all legal and regulatory responsibility, custody and control for the Production/Flowback Water. For purposes of this Agreement, "Delivered" or "Delivery" shall mean the instant the water is purposely discharged from the water truck(s) or pipeline(s) transferring Production/Flowback Water via the mutually agreed upon Transfer Location of the Transferee. The Party having legal custody of the Production/Flowback Water, as described in this Paragraph, shall be the Party with responsibility for any spills or releases of Production/Flowback Water, including notifications and clean-up, if and as applicable.

**EACH PARTY SHALL INDEMNIFY THE OTHER PARTY AND ITS PARENTS, AFFILIATES, SUBSIDIARIES, PARTNERS, JOINT OWNERS, JOINT VENTURERS, AND CONTRACTORS AND THEIR RESPECTIVE DIRECTORS, AGENTS, REPRESENTATIVES, EMPLOYEES, INSURERS, INVITEES, AND CONSULTANTS**

FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES (INCLUDING FEES AND PENALTIES) AND ALL RELATED COSTS AND EXPENSES, INCLUDING REASONABLE LEGAL FEES AND DISBURSEMENTS, COSTS OF INVESTIGATION, LITIGATION, SETTLEMENT, JUDGMENT, INTEREST AND PENALTIES (COLLECTIVELY "LOSSES"), AND THREATENED LOSSES, RELATING TO THE PRODUCTION WATER WHILE IN ITS CUSTODY AND CONTROL IN ACCORDANCE WITH THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, LOSSES OR THREATENED LOSSES ON ACCOUNT OF POLLUTION OR CONTAMINATION DUE TO, ARISING FROM OR RELATING TO THE PRODUCTION WATER.

**Quality.** Supplier/Shipper shall verify that the quality of its Production/Flowback Water is suitable for the intended use by the Receiver and shall maintain laboratory analytical results for the water samples that are representative of the Production/Flowback Water quality.

**Record Keeping and Reporting.** The Supplier/Shipper shall be the Party to maintain records of its Production/Flowback Water and all transfers of Production/Flowback Water between the Parties in accordance with applicable laws and promulgated regulations. The Supplier/Shipper shall provide copies of its Record of Transfer within 30 days of completing the transfer. The Supplier/Shipper shall be responsible for preparing and submitting an Annual Report to the COGCC which summarizes its respective Production/Flowback Water transfers for the previous calendar year. The Annual Report will include a spreadsheet that summarizes the information contained in the Record(s) of Transfer. The annual report for the previous calendar year will be submitted to the COGCC by April 15 of the following year.

**Usage.** The Supplier/Shipper warrants and represents that it has the right to use and consume all of the Production/Flowback Water to be delivered to the Receiver and that such Production/Flowback Water will come from non-coalbed methane energy production wells determined to be "non-tributary" in accordance with applicable Colorado laws and regulations. In addition, the Supplier/Shipper warrants and represents that it has complied with all water permitting and other related legal requirements concerning its Production/Flowback Water, including but not limited to any requirements from the Colorado State Engineer's office, and the COGCC

**Compliance.** Each Party shall comply with all applicable laws and promulgated regulations of governmental entities having jurisdiction over the Production/Flowback Water, the Transfer Location, or the transfer process including without limitation: a) maintaining an approved plan for the management of its Production/Flowback Water and its reuse; b) timely notifying and reporting reportable spills or releases of Production/Flowback Water; c) maintaining laboratory analytical results of representative samples of its Production/Flowback Water and waste

generator/transfer records; d) conducting and maintaining records of environmental, health, and safety training of personnel and procedures, and e) submitting electronically an annual report to the COGCC summarizing water transfers for the previous calendar year by April 15 of the following year.

**Relationship of the Parties.** Neither Party is the partner, agent, or legal representative of the other, and there is no fiduciary relationship between them.

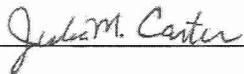
**No Third Party Beneficiary Rights.** This Agreement shall be construed to benefit the Parties and their respective successors and assigns only, and shall not be construed to create third party beneficiary rights.

**Entire Agreement; Successors and Assigns.** This Agreement and the Production Water Reuse and Waste Minimization Plan contain the entire understanding of the Parties and supersedes all prior agreements and understandings between the Parties relating to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties. The Parties have also executed a Memorandum of Master Production Water Custody Transfer Agreement for notice purposes.

IN WITNESS WHEREOF, the Parties have executed this Water Transfer Agreement effective as of the date first above written.

By   
DON SIMPSON, VP BUS. DEV.

Ursa Operating Company LLC

By 

Encana Services Company Ltd.

**Encana Oil & Gas (USA) Inc., acting by  
and through its authorized agent,  
Encana Services Company Ltd.**

## **EXHIBIT "A"**

### **to the Production Water Reuse and Water Minimization Plan**

## **MASTER PRODUCTION WATER CUSTODY TRANSFER AGREEMENT**

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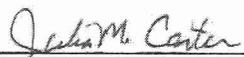
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By   
DON SIMPSON, VP BUSINESS DEV.

Ursa Operating Company LLC

By   
Encana Services Company Ltd.

Encana Oil & Gas (USA) Inc., acting by  
and through its authorized agent,  
Encana Services Company Ltd.