

**PURCHASE AND SALE AGREEMENT**

**BETWEEN**

**ATP OIL & GAS CORPORATION**

**AS SELLER**

**AND**

**MARLIN COASTAL, L.L.C.**

**AS BUYER**

**COVERING THE PLATFORM (PLATFORM I.D. NO. 23942 1), PIPELINES AND  
EQUIPMENT, EUGENE ISLAND BLOCK 142**

**EFFECTIVE**

**MAY \_\_, 2014**

## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”) is entered into this \_\_\_\_ day of May, 2014 (the “**Execution Date**”), by and between ATP Oil & Gas Corporation (“**Seller**”) and Marlin Coastal, L.L.C. (“**Buyer**”). Buyer and Seller are collectively referred to herein as the “**Parties**” and are sometimes referred to individually as a “**Party**.”

### RECITALS OF FACT:

**WHEREAS**, Seller held certain interests (non-operating interests) under that certain expired federal oil and gas lease OCS-G-10726 (“**Expired Lease**”) covering Eugene Island Block 142 (the “**Subject Block**”) and Seller is responsible under the terms of the Expired Lease for paying its proportionate share of the plugging, abandonment and removal of all wells, platforms, pipelines and other structures owned by the Seller and located on the Subject Block;

**WHEREAS**, Seller is the subject of a case under the Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code, 11 U.S.C. §§ 101 through 1532, as may have been or are amended from time to time (the “**Bankruptcy Code**”) before the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “**Bankruptcy Court**”) as Case No. 12-36187 (the “**Bankruptcy Case**”) and is subject to the jurisdiction thereof;

**WHEREAS**, the transactions contemplated by this Agreement (collectively, the “**Transactions**”) are subject to the authorization and approval of the Bankruptcy Court; and

**WHEREAS**, Buyer desires to purchase and Seller desires to sell all of the Assets (as hereinafter defined) in accordance with the terms and conditions of this Agreement and the orders of the Bankruptcy Court with respect thereto.

**NOW, THEREFORE**, in consideration of the covenants, representations, and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

### Article I Definitions

Section 1.01 Defined Terms. The defined terms in the introductory paragraph, the defined terms in the recitals, the defined terms set forth below and the defined terms in the remainder of this Agreement each has the meaning given to it. All defined terms include the singular and the plural. All references to Sections and Articles refer to Sections and Articles in this Agreement, and all references to Exhibits refer to the Exhibits attached to and made a part of this Agreement.

“**ABOS**” is defined as set forth in Section 8.02.

“**Agreement**” is defined as set forth in the introductory paragraph.

“**Affiliate**” means any company or legal entity which (a) controls either directly or indirectly a Party, or (b) which is controlled directly or indirectly by a Party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls a Party. For the

purpose of this definition, the term “**control**” means the right to exercise more than fifty percent (50%) of the voting rights or interests in the appointment of the directors of such company or entity.

“**Assets**” is defined as set forth in Section 2.02.

“**Assumed Agreements**” is defined as set forth in Section 2.02.

“**Assumed Obligations**” is defined as set forth in Section 10.01.

“**Bankruptcy Case**” is defined as set forth in the Recitals.

“**Bankruptcy Code**” is defined as set forth in the Recitals.

“**Bankruptcy Court**” is defined as set forth in the Recitals.

“**BOEM**” means the Bureau of Ocean Energy Management.

“**Business Day**” shall mean a day when federally chartered banks in the State of Texas are open for business.

“**Buyer**” is defined as set forth in the introductory paragraph.

“**Buyer's Certificate**” is defined as set forth in Section 7.01.

“**Claim Notice**” is defined as set forth in Section 10.03.

“**Claims**” means any and all claims, demands, suits, causes of action, losses, damages, liabilities, fines, penalties and costs (including attorneys’ fees and costs of litigation), whether known or unknown (including Environmental Claims and Non-Environmental Claims), that are brought by or owed to a Third Party.

“**Closing**” is defined as set forth in Section 8.01.

“**Closing Date**” is defined as set forth in Section 8.01.

“**Contracts**” is defined as set forth in Section 2.02.

“**Defect**” means (i) a condition affecting all or any portion of the Assets that renders Seller’s title to the Assets and/or any portion of the Assets less than good and marketable title; or (ii) the existence of an environmental condition affecting the Assets and/or any portion of the Assets.

“**Environmental Claims**” means all Claims based on breach of Environmental Laws.

“**Environmental Condition**” means a condition or activity with respect to all or any portion of the Assets for which remediation is required by Environmental Laws, excluding any governmental request or requirement for Plugging and Abandonment.

**“Environmental Laws”** is defined as set forth in Section 11.02.

**“Equipment”** is defined as set forth in Section 2.02.

**“Excluded Obligations”** is defined as set forth in Section 10.01.

**“Execution Date”** is defined as set forth in the introductory paragraph.

**“Existing Liens”** are any contractual or statutory liens or mortgages encumbering the Assets, regardless of whether a Lien Identification Statement was filed in accordance with the January 15, 2013 , order of the Bankruptcy Court in the Bankruptcy Case; the Existing Liens, if any, or identified on Exhibit “C.”

**“Expired Lease”** is defined as set forth in the Recitals.

**“Indemnified Party”** is defined as set forth in Section 10.03.

**“Indemnifying Party”** is defined as set forth in Section 10.03.

**“Laws”** shall mean any and all applicable laws, statutes, codes, ordinances, permits, licenses, authorizations, agreements, decrees, orders, judgments, rules or regulations (including Environmental Laws) that are promulgated, issued or enacted by a Governmental Entity or authority having appropriate jurisdiction of the Assets or the Parties.

**“Lease”** is defined as set forth in Exhibit “A”.

**"Loss" and "Losses"** are defined as set forth in Section 10.02.

**“Mutual Release”** is defined as set forth in Section 12.01.

**“Non-Environmental Claims”** means all Claims, except for Environmental Claims.

**“Party”** and **“Parties”** are defined as set forth in the introductory paragraph.

**"Permitted Encumbrances"** is defined as set forth in Section 10.05.

**“Pipeline”** and **“Pipelines”** are defined as set forth in Section 2.02.

**“Platform”** is defined as set forth in Section 2.02.

**“Plugging and Abandonment Obligations”** is defined as set forth in Section 3.01.

**“ROW Assignment”** is defined as set forth in Section 8.02.

**“RUE”** is defined as set forth in Section 2.02.

**“Sale Order”** is defined as set forth in Section 5.01.

**“Seller”** is defined as set forth in the introductory paragraph.

“**Seller Group**” means each and all of: (a) Seller and its officers, directors, agents, consultants, contractors and employees, and (b) Seller’s Affiliates and their officers, directors, agents, consultants, contractors and employees.

“**Seller's Certificate**” is defined as set forth in Section 7.02.

“**Subject Block**” is defined as set forth in the Recitals.

“**Tangible Property**” is defined as set forth in Section 11.03.

“**Third Party**” (whether or not capitalized) means any person or entity, governmental or otherwise, other than Buyer and Seller Group.

“**Transactions**” is defined as set forth in the Recitals.

## **Article II**

### **Assets**

Section 2.01 Agreement to Sell and Purchase. Subject to and in accordance with the terms and conditions of this Agreement, at Closing Buyer agrees to purchase the Assets from Seller, and Seller agrees to sell and quitclaim all of its rights and interests and pursuant to the Bankruptcy Code the herein defined Assets to Buyer free of any liens, privileges, claims or encumbrances except for the Permitted Encumbrances (as defined below).

Section 2.02 Assets. The term “**Assets**”, or in the singular “**Asset**”, shall mean all of Seller’s right, title and interest in and to the following described property:

(a) The Eugene Island Block 142 “A” Platform (Platform ID No. 23942 1) which is a 4 pile production platform installed in 1991 on the Subject Block and located at 7,476' FSL and 4,297' FWL of the Subject Block (the “**Platform**”), and in which Seller owns an undivided forty percent (40%) interest;

(b) All machinery, equipment, tools, fixtures, furnishings and other property, whether personal or real, tangible or intangible, located on the Platform as of the Execution Date (collectively, the “**Equipment**”);

(c) The following two (2) pipelines (each a “**Pipeline**” and collectively, the “**Pipelines**”) associated with the Platform:

(i) Seller’s undivided forty percent (40%) interest in Pipeline Segment #9351 (ROW #OCS-G 12732); and

(ii) Seller’s undivided forty percent (40%) interest in Pipeline Segment #9676 (ROW #OCS-G 13740); and

(d) Right-of-Use and Easement (RUE No. OCS-G-30155) dated October 25, 2012 (the “**RUE**”); and

(e) The contracts listed on Exhibit "A" attached to and made a part of this Agreement, but limited to only those portions or provisions of the contracts related to the operation and removal of the Assets from the lands covered by the Expired Lease ("**Assumed Agreements**").

Seller makes no warranty of title to Buyer, but the assignment and conveyance of the Assets is made with full substitution and subrogation in and to all the rights and actions of warranty that Seller has or may have against all preceding owners and vendors.

### **Article III Purchase Price**

Section 3.01 Consideration. The consideration for the purchase, sale and conveyance of the Assets to Buyer is Buyer's assumption at Closing of Seller's obligations and liabilities associated with the Assets pertaining to (i) any plugging, abandonment, dismantlement, removal and surface restoration obligations (collectively, the "**Plug and Abandonment Obligations**") and (ii) any and all environmental obligations and Losses, regardless of when arising, associated with the Assets located on the Subject Block (collectively, the "**Environmental Obligations**"). Additionally, Buyer will withdraw the Proof-of-Claim filed in the Bankruptcy Case (Claim No. 468) in the amount of \$1,643,135.20, which claim represented Buyer's estimate of Seller's proportionate share of the Abandonment Obligations and Environmental Obligations pertaining to the Assets. Further, subject to the terms and conditions hereof, at Closing Buyer shall wire into the escrow account that Mayer Brown LLP is maintaining for the retained professionals in this chapter 11 case (the "**Escrow**") an amount equal to the actual fees and expenses incurred by the Seller's professionals in connection with obtaining approval of and closing upon this Agreement and the transactions contemplated thereby up to an aggregate amount of \$25,000 with any amount in excess of \$25,000 requiring proof thereof to the satisfaction of Buyer in its reasonable discretion (collectively, the "**Seller's Fees and Expenses**"). The purchase, sale and conveyance of the Assets will be free and clear of all liens, encumbrances and interests, including, without limitation, the Existing Liens, affecting the Assets under the provisions of Section 363(f) of the Bankruptcy Code.

Section 3.02 Effective Date. If the Transactions are consummated in accordance with the terms and provisions of this Agreement, the ownership of the Assets shall be transferred from Seller to Buyer on the Closing Date, and the Transactions shall be effective as of the Closing Date (the "**Effective Date**").

### **Article IV Title Matters**

Section 4.01 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.01 OF THIS AGREEMENT, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS, STATUTORY OR IMPLIED, AS TO TITLE TO THE ASSETS.

## **Article V**

### **Representations and Warranties**

Section 5.01 Seller's Representations and Warranties to Buyer. Seller represents and warrants to Buyer that, as of the Execution Date and continuing through the Closing, the following statements are accurate:

(a) Authorization of the Transactions. Subject to the entry of the order of sale by the Bankruptcy Court in the Bankruptcy Case authorizing the sale of the Assets to Buyer free and clear of all liens, claims, encumbrances and interest (including, without limitation, the Existing Liens) except for the Abandonment Obligations and Environmental Obligations (the "**Sale Order**"), Seller has full corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder. Without limiting the generality of the foregoing, subject to the entry of the Sale Order, Seller is duly and validly authorized to execute, deliver, and perform this Agreement. Subject to the entry of the Sale Order, this Agreement constitutes the legal, valid, and binding obligation of Seller enforceable in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, moratorium or other laws from time to time in effect which affect creditors' rights generally and by legal and equitable limitations on the enforceability of specific remedies.

(b) Power and Authority. Seller has full corporate power and authority to carry on its business as presently being conducted by it and, subject to entry of the Sale Order, to perform its obligations under this Agreement.

(c) Approvals, Consents and Preferential Rights. Except for the approval of the Bankruptcy Court, no action, approval, consent or authorization, including but not limited to, any action, approval, consent or authorization by any court, Governmental Entity (being defined as any department, court, tribunal, exchange, authority, commission, board, instrumentality or agency of any municipal, local, state, federal or other governmental authority (including regulatory authorities and administrative bodies) and any subdivision of the foregoing) or instrumentality is necessary as to Seller in order to constitute this Agreement as a valid, binding and enforceable obligation of Seller in accordance with its terms. To Seller's knowledge, there are no consents to assignment or preferential rights to purchase that burden the Assets.

(d) Bonds and Other Security. To Seller's knowledge, the Assets are not subject to any non-governmental bonds, letters of credit, or other securities.

(e) Third Party Plugging and Abandonment Funds. Seller is not holding any funds on behalf of third parties (as opposed to reservations or accruals for accounting purposes) in order to apply toward the satisfaction of the Abandonment Obligations and Environmental Obligations.

(f) Litigation and Claims. Except as disclosed in Schedule 4.01(h), as to matters which will be binding upon Buyer after Closing, there is (i) no action, suit or proceeding pending or, to Seller's knowledge, threatened in writing against Seller involving its interest in the Assets or affecting the value of the Assets or (ii) no report of personal injury or property damage claims affecting the Assets.

Section 5.02 Buyer's Representations and Warranties. Buyer represents and warrants to Seller that, as of the Execution Date and continuing through Closing, the following statements are accurate:

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(a) Authorization of the Transactions. Buyer has full corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder and the execution and delivery by Buyer of this Agreement and the consummation of the Transactions have been duly and validly authorized by all necessary corporate action on the part of Buyer. This Agreement constitutes the legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, moratorium or other laws from time to time in effect which affect creditors' rights generally and by legal and equitable limitations on the enforceability of specific remedies.

(b) Approvals, Consents and Preferential Rights. Except for the approval of the Bankruptcy Court, no action, approval, consent or authorization, including but not limited to, any action, approval, consent or authorization by any court, Governmental Entity (being defined as any department, court, tribunal, exchange, authority, commission, board, instrumentality or agency of any municipal, local, state, federal or other governmental authority (including regulatory authorities and administrative bodies) and any subdivision of the foregoing) or instrumentality is necessary as to Seller in order to constitute this Agreement as a valid, binding and enforceable obligation of Seller in accordance with its terms. To Buyer's knowledge, there are no consents to assignment or preferential rights to purchase that burden the Assets.

(c) Abandonment and Environmental Obligations. Buyer represents that it is now, and after Closing shall continue to be, capable of and financially able to perform the Abandonment Obligations and Environmental Obligations, and Buyer (on behalf of Buyer and its Successors and Assigns) irrevocably waives any and all claims it may have against Seller associated with the same, but nothing in this Agreement shall impose an obligation to plug, abandon, or otherwise decommission the Assets that is not otherwise imposed by a separate law, regulation, or agreement.

## **Article VI**

### **Sale Order and Assumption of Contracts**

Section 6.01 Sale Order. Seller shall obtain the Sale Order consistent with the terms of this Agreement, in form and content satisfactory to Buyer in its sole discretion and consistent with the Bankruptcy Code. In the event the entry of the Sale Order is appealed, Seller shall cooperate with Buyer to defend such appeal; provided, however, that Buyer fully reimburses Seller for all reasonable and necessary expenses, including professional fees, that may be incurred by Seller with respect to any such appeal.

Section 6.02 Assumption of Contracts. Seller shall assume and assign to Buyer the Assumed Agreements, which Buyer shall timely perform and discharge all of Seller's duties and obligations associated with same relating to the period on and after the Effective Date, as further limited as set forth in Exhibit "A" to this Agreement; and in fulfilling such obligations, Buyer shall comply with the applicable Laws.

## **Article VII**

### **Conditions to Closing**

Section 7.01 Conditions to the Obligations of Seller to Close. The obligations of Seller to consummate the Transactions shall be subject to the satisfaction, or waiver by Seller, at or prior to Closing, of the following conditions:

(a) Representations and Warranties; Covenants and Certificate. (i) The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the Execution Date and shall be true and correct on the Closing Date with the same force and effect as if made on the Closing Date, except in each case to the extent that inaccuracies in such representations and warranties have not had a material adverse effect on Buyer's ability to perform the Transactions; (ii) all of the covenants contained in this Agreement to be complied with by Buyer on or prior to the Closing Date shall have been complied with by Buyer, as the case may be, in all material respects unless waived by Seller, and (iii) Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer ("**Buyer's Certificate**").

(b) Buyer Deliveries. Seller shall have received from Buyer the deliverables referred to in Section 8.02 in form and substance reasonably satisfactory to Seller.

(c) Sale Order. The Bankruptcy Court shall have entered the Sale Order, which, as of the Closing, shall be final and non-appealable and not subject to stay unless Buyer waives the requirement that the Sale Order be final and non-appealable.

Section 7.02 Conditions to the Obligations of Buyer to Close. The obligations of Buyer to consummate the Transactions shall be subject to the satisfaction, or waiver by Buyer, at or prior to Closing, of the following conditions:

(a) Representations and Warranties, Covenants and Certificate. (i) The representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the Execution Date and shall be true and correct on the Closing Date with the same force and effect as if made on the Closing Date, except in each case to the extent that inaccuracies in such representations and warranties have not had a material adverse effect on Seller's ability to perform the Transactions, (ii) all of the covenants contained in this Agreement to be complied with by Seller on or prior to the Closing Date shall have been complied with by Seller, as the case may be, in all material respects unless waived by Buyer, and (iii) Buyer shall have received a certificate of Seller to such effect signed by a duly authorized officer of Seller ("**Seller's Certificate**").

(b) Seller Deliveries. Buyer shall have received from Seller the deliverables referred to in Section 8.02 in form and substance reasonably satisfactory to Buyer.

(c) Sale Order. The Bankruptcy Court shall have entered the Sale Order which as of the Closing shall be final and non-appealable and not subject to stay.

## **Article VIII**

### **The Closing**

Section 8.01 Time and Place of the Closing. If the conditions referred to in this Agreement have been satisfied or waived in writing, the consummation of the Transactions (the “Closing”) shall take place within one (1) business day of the date of entry of the Sale Order (the “**Closing Date**”) at the offices of Mayer Brown LLP, whose address is 700 Louisiana, Suite 3400, Houston, TX 77002.

Section 8.02 Deliverables of the Parties at Closing. At Closing, the Parties will take the following actions to close the Transactions:

- (a) Buyer and Seller shall execute and acknowledge eight (8) counterparts of the Assignment and Bill of Sale in the form attached as Exhibit “B” (the (i) “**ABOS**”), which, as further provided in Section 9.02, will be recorded in the official records of Cameron Parish, Louisiana, and (ii) the non-required files of the BOEM;
- (b) Seller will execute and deliver to Buyer a notarized statement that the Seller is not a “foreign person” within the meaning of the Internal Revenue Code of 1986, as amended; and
- (c) Buyer shall deposit into Escrow an amount equal to the Seller’s Fees and Expenses.

## **Article IX**

### **Post Closing Obligations**

Section 9.01 Further Assurances. After the Closing Date, each Party, at the written request of the other (made pursuant to Section 12.04) and without additional consideration, shall execute and deliver, or shall cause to be executed and delivered, from time to time, such further instruments of conveyance and transfer and shall take such other action as the other Party may reasonably request, in order to convey and deliver the Assets to Buyer, and to accomplish the orderly transfer of the Assets to Buyer in the manner contemplated by this Agreement.

Section 9.02 Recording. Buyer will promptly record the ABOS in (i) the BOEM non-required files and (ii) the official records of St. Mary Parish, Louisiana. Buyer will promptly provide Seller with evidence of all such filings and recordings.

Section 9.03 Sharing of Documents Regarding Existing Liens. Prior to Closing, Seller will provide Buyer with all relevant account and other data relevant to any liens or claims against Seller that may burden the Assets (the “**Existing Liens**”) and that may be reasonably necessary to Buyer’s efforts to determine the validity and/or amount of the Existing Liens. Seller will further authorize its contractor, vendors, professionals, and agents to share any information in their possession regarding the Existing Liens with Buyer, at Buyer’s cost.

## Article X

### Assumed Obligations, Indemnification and Permitted Encumbrances

Section 10.01 Assumed Obligations. Upon Closing, Buyer will assume all duties, obligations and liabilities with respect to the Assets or the ownership or operation thereof, attributable to the period after the Effective Date, including, without limitation, those arising out of (a) the Platform, the Equipment, the Pipelines, the RUE and the Assumed Agreements which comprise the Assets, (b) ad valorem, property, severance and other similar taxes or assessments based upon or measured by the ownership of the Assets or the production therefrom, (c) the condition of the Assets after the Effective Date, (d) Plugging and Abandonment Obligations regardless of whether said obligations accrued before or after the Effective Date, and (e) Environmental Obligations regardless of whether said obligations accrued before or after the Effective Date (collectively, the “**Assumed Obligations**”). Notwithstanding anything to the contrary in this Agreement, after Closing, Seller shall retain (i) those obligations and liabilities associated with the Assets which arise before the Closing Date, other than with respect to the Environmental Obligations and the Plugging and Abandonment Obligations, but specifically including those obligations and liabilities associated with any injury or death to person(s), or any damage to the property of third parties on the Subject Block arising prior to the Closing Date; (ii) any and all gas imbalances and make-up obligations related to the Assets which exist on the Closing Date, regardless of whether such imbalances or make-up obligations arise at the wellhead, pipeline, gathering system or other level, and regardless of whether the same arise under contract or otherwise; the Parties expressly acknowledge and agree that Buyer shall not assume or in any manner whatsoever be liable or responsible for any Losses or liability of the Seller, or of any predecessor or Affiliate of Seller other than the Assumed Obligations. Herein, all Liabilities other than Assumed Obligations are referred to as “**Excluded Obligations**.”

Section 10.02 Buyer Indemnifications. **PROVIDED THAT THE CLOSING OCCURS, BUYER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER, ITS SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITIES, LOSSES, CAUSES OF ACTION, COSTS AND EXPENSES (COLLECTIVELY, THE “LOSSES” OR IN THE SINGULAR, A “LOSS”) ARISING AFTER THE EFFECTIVE DATE, AS A RESULT OF, ARISING OUT OF, OR RELATED TO BUYER’S OWNERSHIP OR OPERATION OF THE ASSETS, BUT ONLY TO THE EXTENT SUCH LOSS OR LOSSES ARISE FROM THE NEGLIGENCE OF BUYER.**

Section 10.03 Notice of Claims. If a Claim is asserted against Seller for which Buyer may have an obligation of indemnity and defense (whether under this Article X or any other provision of this Agreement), the Seller (“**Indemnified Party**”) will give Buyer (“**Indemnifying Party**”) prompt written notice of the Claim, setting forth the particulars associated with the Claim (including a copy of the written Claim, if any) as then known by the Indemnified Party (“**Claim Notice**”).

Section 10.04 Defense of Claims. Within thirty (30) days after the Indemnifying Party receives a Claim Notice, the Indemnifying Party will notify the Indemnified Party whether or not the Indemnifying Party will assume responsibility for defense and payment of the Claim. If the Indemnifying Party elects not to assume responsibility for defense and payment of the Claim, the Indemnified Party may defend against, or enter into any settlement with respect to, the Claim as it deems appropriate without relieving the Indemnifying Party of any indemnification obligations the

Indemnifying Party may have with respect to such Claim. The Indemnifying Party's failure to respond in writing to the Claim Notice within the thirty (30) day period will be deemed an election by the Indemnifying Party not to assume responsibility for defense and payment of the Claim. If the Indemnifying Party elects to assume responsibility for defense and payment of the Claim: (a) the Indemnifying Party will defend the Indemnified Party against the Claim with counsel of the Indemnifying Party's choice (reasonably acceptable to Indemnified Party which will cooperate with the Indemnifying Party in all reasonable respects in such defense), (b) the Indemnifying Party will pay any judgment entered or settlement with respect to such Claim, (c) the Indemnifying Party will not consent to entry of any judgment or enter into any settlement with respect to the Claim that does not include a provision whereby the plaintiff or claimant in the matter releases the Indemnified Party from all liability with respect to the Claim, and (d) the Indemnified Party will not consent to entry of any judgment or enter into any settlement with respect to the Claim without the Indemnifying Party's prior written consent. In all instances the Indemnified Party may employ separate counsel and participate in the defense of a Claim, but the Indemnified Party will bear all fees and expenses of counsel employed by the Indemnified Party.

Section 10.05 Permitted Encumbrances. "Permitted Encumbrances" means the following:

- (a) Preferential rights to purchase and required third party consents to assignments and similar agreements; provided that with respect to Seller or its predecessors such preferential right were waived or not exercised;
- (b) All rights to consent by, required notices to, filings with, or other actions by governmental entities in connection with the sale or conveyance of oil and gas leases or interests therein;
- (c) Easements, rights-of-way, servitudes, permits, surface leases and other similar rights;
- (d) Such Defects as Buyer has waived or released in writing or is deemed to have waived pursuant to the terms of this Agreement;
- (e) The terms and conditions of all leases, agreements, orders, instruments, documents and other matters described or referred to in this Agreement or Exhibits; and
- (f) Rights reserved to or vested in any municipality or governmental, statutory or public authority to control or regulate any of the Assets in any manner, and all applicable laws, rules and orders of governmental authority.

## Article XI

### Limitations on Representations and Warranties

Section 11.01 Disclaimers of Representations and Warranties. The express representations and warranties of Seller contained in this Agreement are exclusive and are in lieu of all other representations and warranties, express, implied or statutory.

Section 11.02 Sale "As Is" "Where Is". **BUYER REPRESENTS THAT IT HAS INSPECTED, OR HAS HAD THE OPPORTUNITY TO INSPECT, THE ASSETS AND ACCEPTED THE PHYSICAL AND ENVIRONMENTAL CONDITION OF SAME ON AN "AS IS-WHERE IS" BASIS, AND EXCEPT OTHER MATTERS AS TO WHICH**

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SELLER HAS REPRESENTED AND WARRANTED OR OTHERWISE AGREED, BUYER, UPON CLOSING (i) ACCEPTS THE ASSETS WITHOUT WARRANTY OF MERCHANTABILITY, CONDITION OR FITNESS FOR A PARTICULAR PURPOSE, EITHER EXPRESS OR IMPLIED, (ii) FOREVER RELEASES SELLER FROM ANY LIABILITY WITH RESPECT TO THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE ASSETS AT THE CLOSING WHETHER OR NOT CAUSED BY OR ATTRIBUTABLE TO SELLER'S NEGLIGENCE, FAULT, OR STRICT LIABILITY, AND REGARDLESS OF WHEN ARISING AND (iii) WAIVES ANY RIGHT TO RECOVER FROM SELLER ANY AND ALL DAMAGES, CLAIMS, LOSSES, LIABILITIES, PENALTIES, FINES, LIENS, JUDGMENTS, COSTS AND EXPENSES WHATSOEVER, (INCLUDING WITHOUT LIMITATION, ATTORNEYS' FEES AND COURT COSTS), WHETHER DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, THAT MAY ARISE ON ACCOUNT OF OR IN ANY WAY BE CONNECTED WITH THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE ASSETS OR ANY LAW OR REGULATION APPLICABLE TO THE ASSETS, INCLUDING ANY ENVIRONMENTAL LAWS (AS DEFINED BELOW) AND REGULATIONS REGARDLESS OF WHEN ARISING. "ENVIRONMENTAL LAWS" MEANS ANY AND ALL LAWS, REGARDLESS OF WHEN ENACTED, THAT RELATE TO (A) PREVENTION OF POLLUTION OR ENVIRONMENTAL DAMAGE, (B) REMOVAL OR REMEDIATION OF POLLUTION OR ENVIRONMENTAL DAMAGE OR (C) PROTECTION OF THE ENVIRONMENT, INCLUDING, WITHOUT LIMITATION, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED (42 U.S.C. § 9601 et. seq.), THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (42 U.S.C. § 6901 et. seq.), THE CLEAN WATER ACT (33 U.S.C. § § 466 et. seq.), THE SAFE DRINKING WATER ACT (14 U.S.C. § 1401-1450), THE HAZARDOUS MATERIALS TRANSPORTATION ACT (49 U.S.C. § 7401 et. seq.), AS AMENDED, THE CLEAN AIR ACT AMENDMENTS OF 1990.

Section 11.03 DISCLAIMER REGARDING THE ASSETS. BUYER ACKNOWLEDGES THAT UNDER THIS AGREEMENT, SELLER HAS NOT MADE, AND SELLER HEREBY EXPRESSLY DISCLAIMS AND NEGATES, ANY COVENANT, REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, RELATING TO THE CONDITION OF ANY BUILDINGS, PLATFORMS & FACILITIES, WELLS, EQUIPMENT, INVENTORY, MACHINERY, FIXTURES AND PERSONAL/MOVABLE PROPERTY CONSTITUTING PART OF THE ASSETS (COLLECTIVELY, THE "TANGIBLE PROPERTY") (INCLUDING, WITHOUT LIMITATION, (a) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, (b) ANY IMPLIED OR EXPRESS WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (c) ANY IMPLIED OR EXPRESS WARRANTY OF CONFORMITY TO MODELS OR SAMPLES OF MATERIALS, (d) ANY IMPLIED OR EXPRESS WARRANTY OF FREEDOM FROM PATENT OR TRADEMARK INFRINGEMENT, (e) ANY IMPLIED OR EXPRESS WARRANTY OF FREEDOM FROM REDHIBITORY VICES OR DEFECTS OR OTHER VICES OR DEFECTS, WHETHER KNOWN OR UNKNOWN, AND (f) ANY AND ALL IMPLIED WARRANTIES EXISTING UNDER APPLICABLE LAW NOW OR HEREAFTER IN EFFECT IT BEING THE EXPRESS INTENTION OF SELLER AND BUYER THAT THE TANGIBLE PROPERTY SHALL BE CONVEYED TO BUYER AS IS AND IN THEIR PRESENT CONDITION AND STATE OF REPAIR. BUYER REPRESENTS TO SELLER THAT BUYER HAS MADE OR CAUSED TO BE MADE

**SUCH INSPECTIONS WITH RESPECT TO THE TANGIBLE PROPERTY AS BUYER DEEMS APPROPRIATE AND BUYER WILL ACCEPT THE TANGIBLE PROPERTY AS IS, IN THEIR PRESENT CONDITION AND STATE OF REPAIR.**

Section 11.04 Independent Investigation. Buyer represents and acknowledges that it is knowledgeable of the oil and gas business and of the usual and customary practices of producers such as Seller and that it has had (or will have prior to the Closing) access to the Assets, the officers and employees of Seller, and the books, records and files of Seller relating to the Assets, and in making the decision to enter into this Agreement and consummate the Transactions, Buyer has relied solely on the basis of its own independent due diligence investigation of the Assets, upon the representations and warranties made in Article VI, and not on any other representations or warranties of Seller or any other person or entity.

Section 11.05 Survival. The representations, warranties, covenants and obligations of Buyer and Seller under this Agreement shall survive the Closing for a period of twelve (12) months from the Closing. **Notwithstanding the foregoing, except as expressly stated otherwise in this Agreement, the waivers, disclaimers, releases and Buyer's obligations of indemnity and defense contained in this Agreement survive the Closing indefinitely.**

Section 11.06 Limitation on Liability of Seller. Notwithstanding anything to the contrary in this Agreement, in no event shall any amounts be recovered from Seller or any of its Affiliates with respect to this Agreement or the Transactions, nor shall Seller or any of its Affiliates have any liability arising from, based upon related to or associated with any of its representations or warranties set forth in this Agreement, for aggregate Losses in excess of the Consideration.

Section 11.07 Non-Compensatory Damages. Neither Buyer nor Seller shall be entitled to recover from the other, or their respective Affiliates, any indirect, special, consequential, punitive or exemplary damages, or damages for lost profits of any kind or loss of business opportunity, arising under or in connection with this Agreement or the Transactions. Subject to the preceding sentence, Buyer, on behalf of itself and each of its Affiliates, and Seller, on behalf of itself and each of its Affiliates, waive any right to recover any indirect, special, consequential, punitive or exemplary damages, or damages for lost profits of any kind or loss of business opportunity, arising in connection with or with respect to this Agreement or the Transactions.

**Article XII  
Release of Claims**

Section 12.01 Mutual Release of Claims. As additional consideration for the Transactions, Seller and Buyer agree to execute at Closing a mutual release of all claims against each other arising out of or related in any manner to the Assets (including, without limitation, any claim for administrative expenses pursuant to Section 503 of the Bankruptcy Code) in a form mutually agreeable by Seller and Buyer (the "**Mutual Release**").

**Article XIII  
Miscellaneous**

Section 13.01 Governing Law. Except as may be otherwise required under the Outer Continental Shelf Lands Act, 43 U.S.C. § 1331, *et seq.*, this Agreement, other documents delivered pursuant to this Agreement, and all disputes and the legal relations between the Parties

shall be governed and construed in accordance with the laws of the State of Louisiana, without giving effect to principles of conflicts of laws that would result in the application of the Laws of another jurisdiction, and any disputes between the Parties shall be governed by Exhibit “D”.

Section 13.02 Termination. This Agreement may be terminated at any time at or prior to the Closing (i) by either Party if any Governmental Entity or judicial authority having jurisdiction thereof shall have issued a final and non-appealable order, judgment or decree or taken any other action challenging, delaying, restraining, enjoining, prohibiting or invalidating the consummation of the Transactions; (ii) by mutual consent of the parties; or if any Party is in breach of any of the conditions in this Agreement.

Section 13.03 Counterpart Execution. This Agreement may be executed in any number of identical counterparts, and, upon each Party’s execution of a counterpart, each such counterpart shall be effective as to each Party that executes the same whether or not all such Parties execute the same counterpart. When counterparts of this Agreement have been executed by each Party, the signature pages from the various counterparts shall be combined into one composite instrument for all purposes. All counterparts together shall constitute only one Agreement, but each counterpart shall be considered an original.

Section 13.04 Notices. All notices and other communications required or desired to be given hereunder must be in writing and sent (properly addressed as set forth below) by (a) first class United States Mail, addressed to the Party to be notified, postage prepaid, (b) certified or registered U.S. mail, return receipt requested, with all postage and other charges fully prepaid, (c) hand or courier delivery, (d) facsimile transmission, or (e) email. Date of service by mail and delivery is the date on which such notice is actually received by the addressee, by facsimile is the date sent (as evidenced by fax machine generated confirmation of transmission) and by email upon receipt from the receiving Party of a written reply by email or other evidence the email was read by the intended recipient (excluding, however, any automated response, including, without limitation, one evidencing delivery or one evidencing the email was read by the recipient). Notwithstanding the foregoing, with respect to service by any means except email, if the date it is received is not a Business Day, then date of receipt will be on the next date that is a Business Day. Each Party may change its address by notifying the other Party in writing of such address change. “**Business Day**” means a day when federally chartered banks in the State of Louisiana are open for business.

SELLER	BUYER
ATP Oil & Gas Corporation Attention: President 4600 Post Oak Place Suite 100 Houston, Texas 77027 Phone (713) 622-3311  with a copy (which shall not constitute notice) to:  Mayer Brown LLP	Marlin Coastal, L.L.C. Attn: F. Michael Lipari 3861 Ambassador Caffery Parkway Suite 600 Lafayette, Louisiana 70503 Facsimile: (337) 769-4339 Phone: (337) 769-4342 Email: mike.lipari@marlinenergy.net

700 Louisiana Street Suite 3400 Houston, Texas 77002 Attention: Robert F. Gray, Jr. Charles S. Kelley Fax (713) 238-4600	
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Section 13.05 **WAIVER OF CONSUMER RIGHTS.** As partial consideration for the Parties agreeing to enter into this Agreement, the Parties each can and do expressly waive the provisions of the Texas Deceptive Trade Practices - Consumer Protection Act, Article 17.41 et seq., Texas Business and Commerce Code, a law that gives consumers special rights and protections, and all other consumer protection Laws of the State of Texas, or any other state, applicable to the Transactions that may be waived by the Parties. It is not the intent of the Parties hereto to waive and the Parties shall not waive any applicable Law or sub-part thereof which is prohibited by Law from being waived. The Parties hereto represent that they have had an adequate opportunity to review the preceding waiver provision, including the opportunity to submit the same to legal counsel for review and comment and after consultation with an attorney of their own selection voluntarily consent to this waiver, and understand the rights being waived herein.

Section 13.06 **Redhibition Waiver.** BUYER: (I) WAIVES ALL RIGHTS IN REDHIBITION PURSUANT TO LOUISIANA CIVIL CODE ARTICLES 2420, ET SEQ.; (II) ACKNOWLEDGES THAT THIS EXPRESS WAIVER SHALL BE CONSIDERED A MATERIAL AND INTEGRAL PART OF THIS SALE AND THE CONSIDERATION THEREOF; AND (III) ACKNOWLEDGES THAT THIS WAIVER HAS BEEN BROUGHT TO THE ATTENTION OF BUYER, HAS BEEN EXPLAINED IN DETAIL AND THAT BUYER HAS VOLUNTARILY AND KNOWINGLY CONSENTED TO THIS WAIVER OF WARRANTY OF FITNESS AND WARRANTY AGAINST REDHIDIBITORY VICES AND DEFECTS FOR THE ASSETS.

Section 13.07 **UTPCPL Waiver.** TO THE EXTENT APPLICABLE TO THE ASSETS OR ANY PORTION THEREOF, BUYER HEREBY WAIVES THE PROVISIONS OF THE LOUISIANA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW (LA. R.S. 51:1402, ET SEQ.). BUYER WARRANTS AND REPRESENTS THAT IT: (I) IS EXPERIENCED AND KNOWLEDGEABLE WITH RESPECT TO THE OIL AND GAS INDUSTRY GENERALLY AND WITH TRANSACTIONS OF THIS TYPE SPECIFICALLY; (II) POSSESSES AMPLE KNOWLEDGE, EXPERIENCE AND EXPERTISE TO EVALUATE INDEPENDENTLY THE MERITS AND RISKS OF THE TRANSACTIONS; AND (III) IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION.

Section 13.08 **Severance of Invalid Provisions.** In case of a conflict between the provisions herein and the provisions of any applicable Laws, the provisions of the Laws shall govern over the provisions herein. Any such invalid provision shall be deemed severed as if it had never been included.

Section 13.09 Headings. Except for the definitions in Article I, titles and headings in this Agreement have been included solely for ease of reference and will not be considered in interpretation or construction of this Agreement.

Section 13.10 No Third Party Beneficiaries. Nothing contained in this Agreement entitles anyone other than Seller or Buyer or their authorized successors and assigns to any claim, cause of action, remedy or right of any kind whatsoever, except with respect to indemnities that expressly provide for indemnification of a group, in which case members of such group are considered third party beneficiaries for the sole purposes of those indemnities.

Section 13.11 Not Construed Against Drafter. Each Party has had an adequate opportunity to review each and every provision of this Agreement and to submit the same to legal counsel for review and advice. Based on the foregoing, the rule of construction, if any, that a contract be construed against the drafter will not apply to the interpretation or construction of this Agreement.

#### **Article XIV Exhibits**

The Exhibits listed below and attached hereto are incorporated in and made a part of this Agreement. If any provision of an Exhibit is inconsistent with any provision contained in the body of this Agreement, the provision in the body of this Agreement shall prevail to the extent of any inconsistency.

<b>Exhibit</b>	<b>Exhibit Description</b>
A	Assumed Agreements
B	Form of Assignment
C	Existing Liens
D	Dispute Resolution Procedure

**[REST OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the duly authorized representatives of Seller and Buyer have executed and delivered this Agreement as of the Execution Date.

**SELLER:**

**ATP Oil & Gas Corporation**

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

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

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

**BUYER:**

**Marlin Coastal, L.L.C.**

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

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

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

## **EXHIBIT A**

### **ASSUMED AGREEMENTS**

1. That certain Production Handling Agreement made and entered into effective October 27, 1998, by and between Apache Corporation (as successor to Union Pacific Resources Company) and ATP Oil & Gas Corporation (as successor to Petrobas America Inc.) (collectively, “Processor”), and Remington Oil & Gas Company (as successor to Samedan Oil Corporation) and Apache Corporation (collectively, “Producer”), which applies to Hydrocarbons produced from the Eugene Island Block 148 Wells.
2. That certain terminated OCS Lease, OCS-G 10726 covering Eugene Island 142 (the “**Lease**”), but only such portion or provisions of the Lease related to the operation and removal of the Assets.
3. That certain Offshore Operating Agreement made effective November 10, 1989, by and between Norcen Explorer, Inc., as Operator, and Petrobas America Inc., as Non-Operator (the “**Joint Operating Agreement**”) covering all of Block 142, OCS-G 10726, but only such portion or provisions of the Joint Operating Agreement related to the operation and removal of the Assets from the Lease.

**EXHIBIT B**

**EXISTING LIENS**

(IF ANY - TO BE SUPPLEMENTED)

EXHIBIT C

**DISPUTE RESOLUTION PROCEDURE**

1. **Governing Law.** This Agreement is governed by and interpreted under the laws of the State of Louisiana for matters governed by this law, without regard to the jurisdiction's choice of law rules.
2. **Resolution of Disputes.** The Parties shall exclusively and finally resolve any "Dispute", being any claim, cause of action or disagreement, between them using direct negotiations, mediation and arbitration as set out in this Exhibit D (the "Dispute Resolution Procedure"). A Party who violates this Dispute Resolution Procedure shall pay all legal and consulting fees and costs incurred by the other Party in any suit, action or proceeding to enforce this Dispute Resolution Procedure. While the procedures in this Dispute Resolution Procedure are pending, each Party shall continue to perform its obligations under this Agreement, unless to do so would be impossible or impracticable under the circumstances.
3. **Direct Negotiations.** If a Dispute arises, a Party shall initiate the resolution process by giving notice setting out, in writing and in detail, the issues in Dispute and the value of the claim to the other Party. A meeting between the Parties, attended by individuals with decision-making authority at the offices of the Party receiving the notice of Dispute, must take place within thirty days from the date the notice was sent in an attempt to resolve the Dispute through direct negotiations.
4. **Mediation.** If the Dispute cannot be settled by direct negotiations within thirty days of initiation of the resolution process, either Party may initiate mediation by giving notice to the other Party. Mediation shall be attended by an individual(s) representing each Party with decision-making authority and the proceeding shall take place in Houston, Texas.
5. **Exclusive Jurisdiction.** ALL ACTIONS AND PROCEEDINGS WITH RESPECT TO, ARISING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, OUT OF, RELATED TO, OR FROM THIS AGREEMENT OR THE TRANSACTIONS SHALL BE EXCLUSIVELY LITIGATED, HEARD AND DETERMINED IN THE BANKRUPTCY COURT, AND THE PARTIES HEREBY UNCONDITIONALLY AND IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION AND AUTHORITY OF THE BANKRUPTCY COURT TO HEAR AND DETERMINE ANY SUCH ACTION OR PROCEEDING; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY CASE IS CLOSED, THE PARTIES HEREBY UNCONDITIONALLY AND IRREVOCABLY SUBMIT TO THE JURISDICTION OF THE COURTS OF THE STATE OF TEXAS OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF TEXAS. EACH PARTY HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

6. **Confidentiality.** The Parties agree that any Dispute and any negotiations and mediation proceedings between the Parties in relation to any Dispute shall be confidential and will not be disclosed to any third party.

# **EXHIBIT 2**

**EXHIBIT 2**

**(List of Executory Contracts and Leases to be Assumed and Assigned)**

1. That certain Production Handling Agreement made and entered into effective October 27, 1998, by and between Apache Corporation (as successor to Union Pacific Resources Company) and ATP Oil & Gas Corporation (as successor to Petrobas America Inc.) (collectively, "Processor"), and Remington Oil & Gas Company (as successor to Samedan Oil Corporation) and Apache Corporation (collectively, "Producer"), which applies to Hydrocarbons produced from the Eugene Island Block 148 Wells.
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# **EXHIBIT 3**