CONFIDENTIALITY AGREEMENT

**THIS AGREEMENT** is made as of this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023 (the “**Effective Date**”).

**B E T W E E N:**

**[NAME]**, a company having its head office at ***[address]***

(hereinafter called “**Company**”)

- and -

**ÉNERGIR, L.P.** a limited partnership having its head officeat 1717 du Havre Street, Montreal (Québec) Canada, H2K 2X3, acting through its general partner Énergir, inc.

(hereinafter called "**Énergir**")

(Company and Énergir are individually referred to herein as “**Party**” and collectively as “**Parties**”)

**WHEREAS** Company and Énergir wish to wish to undertake discussions and exchanges of information related to the potential realization of a renewable natural gas production project (the “**Project**”);

**AND WHEREAS** in the course of evaluating the Project, it will become necessary for Company and Énergir to provide each other with information and documentation that each Party herein considers to be of a confidential nature;

**NOW THEREFORE** in consideration of each Party being provided with such Confidential Information (as hereinafter defined) and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

For the purposes of this Agreement,

* 1. “**Affiliate**” in reference to a Person, means any other Person that directly or indirectly controls, is controlled by, or is under common control with, the first Person, and a Person shall control another Person if such Person has the power to direct the management and policies of the other Person, whether directly or indirectly; and
	2. "**Confidential Information**" means, with respect to each Party (the “**Disclosing Party**”) to this Agreement, all information relating to the business, operations, activities or projects (whether communicated orally, in writing or in electronic media), which such Party treats as confidential or proprietary, including, but not limited to, business plans, financial information, economic data, market data and other information that is not generally ascertainable from public or published information.

"Confidential Information" shall not include information which:

* + 1. was already known to or owned by the receiving Party (the “**Receiving Party**”) prior to the date of disclosure by the Disclosing Party hereto;
		2. at the time of disclosure or thereafter becomes public knowledge through no fault or omission of the Receiving Party;
		3. is lawfully obtained by the Receiving Party from a third party who, to the knowledge of the Receiving Party, is not under any obligation of confidence to the Disclosing Party hereto; or
		4. is required to be publicly disclosed by order of any court, administrative tribunal or governmental authority having jurisdiction over the Receiving Party pursuant to Section 7 below.

## Any Party claiming that any of the foregoing exceptions apply shall have a burden of proof to establish such applicability.

* 1. “**Person**” means any individual, partnership, limited partnership, firm, trust, body corporate, government, governmental body, agency or instrumentality, unincorporated body of persons or association;
	2. “**Representatives**” means any directors, officers, employees, consultants, agents, advisors or representatives of a Party.

Each Party agrees that it will keep confidential and will require its Representatives and those of its Affiliates receiving Confidential Information to keep confidential, all Confidential Information disclosed by the Disclosing Party hereto. Each Party hereto further agrees that it will neither use nor disclose to others, nor permit the use or disclosure of, any such Confidential Information except as may be required for the purposes of the Project. Without limiting the foregoing, neither Party shall be permitted to disclose the existence of this Agreement or the fact that the Parties are engaging in the confidential discussions described above without the express written consent of the other Party.

Each Party hereto agrees to disseminate the other Party’s Confidential Information only to its Representatives or those of its Affiliates, if any, directly involved in the evaluation of the Project who have a reasonable need-to-know and to ensure that such persons are made aware of this Agreement and agree to be bound by it. The foregoing shall not release either Party of any obligations hereunder, including, but not limited to, its responsibility for unauthorized use or disclosure by any of its Representatives or those of its Affiliates.

Neither Party represents or warrants that any Confidential Information disclosed by it to the other Party is accurate or complete, or that such Confidential Information constitutes any representation, warranty, assurance or guarantee to the other Party with respect to the infringement of rights, including, without limitation, intellectual property and privacy rights, of third persons. Neither Party shall be liable for any errors or omissions in its Confidential Information.

Neither the execution of this Agreement nor the furnishing of any information hereunder shall be construed as granting the Receiving Party, either expressly or by implication, a license under intellectual property rights of the Disclosing Party, or an Affiliate of the Disclosing Party, or any rights in respect of the Disclosing Party’s Confidential Information other than those specifically set out herein.

The Confidential Information shall remain the property of the Disclosing Party. Upon completion of the evaluation of the Project or immediately upon the written request of either Party, the Receiving Party shall either destroy or return to the Disclosing Party all Confidential Information provided to it by the Disclosing Party, including all originals and all summaries and partial and complete copies thereof, except that the Receiving Party may retain such copies of materials containing Confidential Information as may be required by law, regulation or internal compliance and record retention policies (including back-up tapes or other back-up media made in the ordinary course of business and including the retention of one archival copy of the Confidential Information in order to monitor the Receiving Party’s compliance with its obligations under this Agreement) which shall be kept in confidence in accordance with the terms of this Agreement. If the Receiving Party elects destruction, and not the return, of such Confidential Information, it shall provide the Disclosing Party with a written certification of a duly authorized officer attesting to the destruction of such Confidential Information.

Notwithstanding the return or destruction of all or any part of the Confidential Information, the terms of this Agreement shall nevertheless remain in full force and effect for a period of three (3) years from the Effective Date.

In the event that the Receiving Party, or anyone to whom the Receiving Party transmits the Confidential Information pursuant to this Agreement, becomes legally compelled to disclose any of the Confidential Information, the Receiving Party, unless legally prohibited, will provide the Disclosing Party with prompt notice of such circumstance so that it may seek a protective order or other appropriate remedy to prevent such disclosure or waive compliance with the provisions of this Agreement. ln the event that such protective order or other remedy is not obtained, or the Disclosing Party does not waive compliance with the provisions of this Agreement, the Receiving Party or the person to whom the Confidential Information was disclosed will furnish only that portion of the Confidential Information which it is advised by legal counsel is legally required.

The Parties acknowledge that damages alone would not be an adequate remedy for any breach of this Agreement by a Party or its respective directors, officers, employees, consultants, agents, advisors, Affiliates and representatives (“**Breaching Party**”) and that the Party not in breach (“**Other Party**”) shall be entitled to the remedies of injunction, specific performance, and other equitable relieve in the event of any breach of the provisions of this Agreement by the Breaching Party. Such remedies shall not be deemed to be the exclusive remedies available to the Other Party for a breach of this Agreement by the Breaching Party, but shall be in addition to all other remedies available at law or in equity.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Quebec and the laws of Canada applicable therein and the Parties hereby irrevocably submit to the jurisdiction of the Courts of the Province of Quebec without regard to any choice of law rules.

This Agreement constitutes the entire agreement between the Parties and supersedes any and all prior understandings with regard to the subject matter hereof and shall be binding upon the Parties hereto and their respective successors, assigns and Affiliates and may be modified only in writing signed by the Parties hereto.

No waiver of any of the provisions or a breach of this Agreement shall constitute a waiver of any other provision or other breach of this Agreement unless expressly provided otherwise. No waiver shall be binding unless executed in writing.

Any provision of this Agreement which is held to be illegal or unenforceable by a court of competent jurisdiction shall be ineffective to the extent of such illegality or unenforceability without invalidating the remaining provisions of this Agreement.

Neither Party may assign its rights and obligations hereunder without first obtaining the express consent in writing to such assignment from the other Party.

This Agreement shall not be construed to grant either Party any license or other right except as expressly noted herein. Neither the holding of discussions between the Parties nor the disclosure of Confidential Information will be construed as an obligation on the part of either Party to (i) proceed with a transaction or further cooperation regarding the Project or (ii) refrain from engaging at any time in the same business or any business similar or dissimilar to the business in which the other is now engaged. Further, except as otherwise agreed in writing, Confidential Information received concerning the other Party’s future plans is tentative and does not represent firm decisions or commitments by either Party. Either Party may meet with third persons and may receive information similar to the Confidential Information which the Party receives under this Agreement.

This Agreement may be executed by the Parties hereto in one or more counterparts, and may be delivered by facsimile or other electronic signature, and all such counterparts and facsimiles or other electronic signatures shall together constitute one and the same agreement.

*[Signatures appear on the next page]*

# **IN WITNESS WHEREOF** the parties have executed this Agreement by the signatures of their duly authorized representatives set out below.

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| --- | --- |
| **Company**  | **Énergir, L.P., by its general partner Énergir, inc.**  |
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| Per:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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