

Wyoming County Landowners  
OIL AND GAS LEASE

THIS OIL AND GAS LEASE (the "Lease") made this \_\_\_\_\_ day of \_\_\_\_\_, 2009, between \_\_\_\_\_, hereinafter called Lessor (whether one or more), whose address is: \_\_\_\_\_ and CHESAPEAKE APPALACHIA, L.L.C., an Oklahoma limited liability company, P. O. Box 18496, Oklahoma City, OK 73154-0496, hereinafter called "Lessee".

WITNESSETH:

1. **Construction of Lease.** Lessor, in consideration of a cash bonus in hand paid, of the royalties herein provided and of the covenants and agreements of Lessee hereinafter contained, does hereby lease and let unto Lessee the land covered hereby for the purposes of exploring and with the exclusive right of drilling, and operating for, and producing oil, gas, and other liquid or gaseous hydrocarbons produced in association with oil or gas through the well borehole from the land covered hereby or lands pooled therewith. Lessee agrees to act as a reasonably prudent operator assuming the obligation to exercise due diligence and act competently and in good faith taking into consideration the legitimate interests of the Lessor. Lessee and Lessor agree to a signing bonus of Five Thousand Seven Hundred and Fifty and No /dollars (\$5,750.00) for each acre, One Thousand and No /100 dollars (\$1,000.00) per acre of which is non refundable paid at the time of signing Lessee's Lease Commitment Agreement, with the remainder payable pursuant to Order of Payment on the date Lessor's title is confirmed. This lease shall become effective on the date of receipt by Lessor of the final signing bonus payment. Lessee and Lessor agree that all rental and bonus payments made by Lessee for this Lease are non-refundable. The total paid up amount shall be based on Five Thousand Seven Hundred and Fifty and No /dollars (\$5,750.00), for each acre leased hereunder, for a total of \$ \_\_\_\_\_. Lessee acknowledges receipt of One Thousand dollars (\$1,000.00) per acre for \$ \_\_\_\_\_ paid by Lessee upon the execution of Lessee's Lease Commitment Agreement dated \_\_\_\_\_. The balance of Four Thousand Seven Hundred and Fifty and No/dollars (\$4,750.00) per acre for a total of \$ \_\_\_\_\_ to be paid in full upon the execution hereof; provided however, title shall be confirmed or title defect(s) shall be documented, payment shall be received by Lessor, in hand, not later than December 31, 2009. For the purposes of this paragraph (1), an unsubordinated mortgage will not be considered a title defect. The lands covered hereby, herein called the "leased premises," is located in the County of \_\_\_\_\_, Commonwealth of Pennsylvania, and is described as follows:

For the purpose of determining the amount of any bonus, delay rental or other payment hereunder, the leased premises shall be deemed to contain \_\_\_\_\_ acres, whether actually containing more or less, and the above recital of acreage in any tract shall be deemed to be the true acreage thereof unless either party provides conclusive evidence to the contrary.

2. **Term.**

(a) Except as expressly provided below and unless sooner terminated under other provisions herein, the lease shall remain in full force and effect for a period of five (5) years from the date set forth above (hereinafter referred to as "Primary Term"). The Lease may be extended beyond the Primary Term under the following terms and conditions: (i) the Lease will continue for so long as Lessor receives royalty payments as provided for herein; or (ii) in the event a well is being drilled, completed, reworked, recompleted, deepened, plugged back or repaired upon the leased premises or lands pooled therewith and the Primary Term expires prior to the completion of said well, Lessee shall be granted a one hundred eighty (180) day extension to complete the well and place it into production.

(b) Lessee is hereby given the option to extend the primary term of this lease for one (1) additional five (5) year period.. This option may be exercised by Lessee at any time on or before the expiration of the original primary term by notifying Lessor of its intent to exercise its option to extend the term and simultaneously therewith paying a lease bonus to Lessor in an amount equal to the original signing bonus, Five Thousand Seven Hundred and Fifty and No /dollars (\$5,750.00), per acre paid to Lessor by Lessee; this payment shall be based upon the number of net acres then covered by this Lease and not at such time being maintained by other provisions hereof. If, at the time this payment is made, various parties are entitled to specific amounts according to Lessee's records, this payment may be divided between said parties and paid in proportion to each party's rightful ownership in the leased premises. Should this option be exercised as herein provided, it shall be considered for all purposes as though this Lease originally provided for a primary term of ten (10) years. .

3. **Reservations.** Lessor reserves all rights not specifically provided for in paragraph 1, including but not

limited to those listed in this paragraph 3.

(a) Lessee shall have the right to conduct seismic operations on the leased premises and to contract with third parties to conduct seismic operations, for Lessee's own account and use. If Lessee contracts with an independent contractor third party to perform seismic operations on Lessee's behalf, Lessor shall nevertheless be entitled to deal only with a representative of Lessee in connection with such operations, and shall not be required to contract or negotiate with such independent contractor. Lessor shall have the right to conduct seismic operations on the leased premises, and to grant permits to third parties for the conduct of such operations, and Lessor shall be entitled to all consideration paid by any third party for such right, and Lessee shall have no interest in or right to such seismic information.

(b) Lessor reserves the right to construct any structure or other improvements, at any location selected by Lessor, anywhere on the leased premises. If, prior to Lessee coordinating site location (paragraph 17(a)), Lessor commences construction of a structure or other improvement on the leased premises, Lessee will not locate any equipment, nor conduct any operations within 300 feet of the proposed structure or improvement (within 500 feet if a habitable structure) without Lessor's written permission.

(c) Lessor reserves the right to raise livestock and grow all types of crops including timber on the leased premises except in those areas covered in paragraph 20(b). If Lessor is currently using or elects in the future to use all or any part of the leased premises to raise livestock, Lessee will construct the necessary fence, gates and cattleguards in accordance with paragraph 20(c), and otherwise accommodate Lessor's use of the leased premises for raising livestock.

(d) Lessor reserves the right to initiate or continue irrigation and agricultural activities on the leased premises. If Lessor decides to conduct agricultural activities on the leased premises, to include irrigation and recognized soil conservation practices, Lessee will accommodate Lessor's agricultural use of the leased premises.

(e) This Lease does not include and there is hereby excepted and reserved unto Lessor all of the sulphur, coal, lignite, uranium and other fissionable materials, geothermal energy, base and precious metals, rock, stone, gravel, and any other mineral substances (excepting oil, condensate, distillate, gas and natural gas liquids, including any hydrocarbon or non-hydrocarbon minerals or products that may be associated with oil or gas produced therewith) presently owned by Lessor in, under or upon the leased premises, together with rights of ingress and egress and use of the leased premises by Lessor and its agents, and or mineral lessees, for purposes of exploration for and production and marketing of the materials and minerals reserved herein to Lessor.

(f) Lessor retains the right to negotiate, lease, explore for and develop wind energy and receive any and all benefits therefrom. Lessee agrees that it shall cooperate in good faith with Lessor and any wind lessee, not unreasonably impede such activities and not unreasonably interfere with installation and maintenance of wind turbines, substations, transmission lines, anemometers or other related equipment.

(g) All of the rights retained by Lessor and the rights granted the Lessee herein shall be exercised in such manner that neither shall unreasonably interfere with the operations of the other upon the leased premises.

#### 4. **Royalty.**

(a) The royalties payable to the Lessor under this Lease shall be on a well by well basis. As to each and every well completed as a producer of oil and/or gas on the leased premises or on lands pooled therewith, the royalties paid to Lessor shall be twenty percent (20%) of all the oil, gas and casinghead gas removed or recovered from the leased premises or, at Lessor's option (which shall be presumed to be exercised unless Lessor advises Lessee to the contrary prior to any applicable production month) the Gross Proceeds (as hereinafter defined in paragraph 4(d)) of the total gross production attributable to the applicable well.

(b) Lessee covenants and agrees:

(i) To sell and execute division orders for the sale of all oil, condensate and liquid hydrocarbons produced and saved by Lessee from the leased premises, including Lessor's share with Lessee's share and shall pay Lessor royalty (in accordance with paragraph (a) above), where applicable, based on the Gross Proceeds paid to Lessee or any Affiliate (as hereafter defined in paragraph 4 (c)) of Lessee from the sale. From time to time, at the option of Lessor, to deliver or cause to be delivered to the credit of Lessor, in the pipeline or tanks to which Lessee may connect its wells, percentages (in accordance with paragraph (a) above) of all oil, condensate and liquid

hydrocarbons produced and saved from the leased premises;

(ii) To pay Lessor on gas and casinghead gas produced from the leased premises, percentages of proceeds (in accordance with paragraph (a) above) based on:

- (1) the Gross Proceeds paid to Lessee from the sale of such gas and casinghead gas when sold by Lessee in an arms-length sale to an unaffiliated third party, or
- (2) the Gross Proceeds, paid to an Affiliate of Lessee, computed at the point of sale, for gas sold by lessee to an Affiliate of Lessee, and
- (3) the market value at the point of use, when used by Lessee.

(iii) To pay Lessor on all other byproducts and /or constituents marketed or utilized by Lessee from the leased premises, in accordance with paragraph (a), the percentages of the Gross Proceeds paid at the point of sale.

(c) For purposes of this Lease, an "Affiliate of Lessee" is any corporation, firm or other entity in which Lessee, or any parent company, subsidiary or affiliate of Lessee, owns an interest of more than ten percent (10%), whether by stock ownership or otherwise, or over which Lessee or any parent company or Affiliate of Lessee exercises any degree of control, directly or indirectly, by ownership, interlocking directorate, or in any other manner; and any corporation, firm or other entity which owns any interest in Lessee, whether by stock ownership or otherwise, or which exercises any degree of control, directly or indirectly, over Lessee, by stock ownership, interlocking directorate, or in any other manner.

(d) For purposes of this Lease, "Gross Proceeds" means the total consideration paid for oil, gas, associated hydrocarbons, and marketable by-products, produced from the leased premises or consideration for relinquishing any rights relating to this Lease whether in the form of payments, bonuses, premiums, pre-payments for future production or delivery of production at a future time, or sums paid to compromise claims relating to payment obligations with the following exceptions:

(i) If gas produced from the leased premises is processed for the recovery of liquefiable hydrocarbon products prior to sale, and if such processing plant is not owned by Lessee or any Affiliate of Lessee, Lessor's royalty shall be calculated based upon the consideration paid to Lessee (or any Affiliate of Lessee) from Lessee's (or Lessee's Affiliate's) sale of such liquefiable hydrocarbons and residue gas.

(ii) If gas produced from the leased premises is processed for the recovery of liquefiable hydrocarbon products prior to sale, and if such processing plant is owned by Lessee or an Affiliate of Lessee, Lessor's royalty shall be calculated based on (a) the gross proceeds (without deduction for costs of processing) paid to Lessee (or any Affiliate of Lessee) from the sale of all products extracted from such gas, plus (b) the total consideration paid to Lessee (or any Affiliate of Lessee) from the sale of all residue gas.

(iii) If oil or gas production from the leased premises is processed in a plant for the extraction of gasoline, hydrocarbons or other products, the value of the Gross Production shall, for purposes of determining royalty due, never be less than if such gas had not been processed.

(iv) Lessee shall pay to the Lessor royalty at the applicable royalty rate (paragraph a) on any monetary settlement received by Lessee from any breach of contract by Lessee's purchaser relating to the marketing, pricing, or taking of oil or gas production from the leased premises.

(e) Lessee shall place oil and gas produced from the leased premises in marketable condition and shall market same as agent for Lessor, at no cost to Lessor. Except as expressly provided in (d) above, Lessor's royalty shall not be charged directly or indirectly with any expense required to make gas marketable, including but not limited to the following: expenses of production, gathering, dehydration, compression, manufacturing, processing, treating, transporting or marketing of gas, oil, or any liquefiable hydrocarbons extracted therefrom; provided however, that reasonable, actual costs paid to nonaffiliated third parties for gathering, compression and transportation necessary to enhance the value of otherwise marketable gas may be deducted from Lessor's royalty proportionately to Lessor's royalty percentage. However, those costs shall never cause the royalty due to Lessor to be less than what the royalty would have been if enhancements and the associated costs had never been made. The burden of proving marketability and enhanced value shall be upon the Lessee.

(f) All royalties that may become due hereunder shall commence to be paid on the first well completed on the leased premises within one hundred-twenty (120) days after the first day of the month following the month during which any well is completed and commences production into a pipeline for sale of such production. On each subsequent well, royalty payments must commence within ninety (90) days after the first day of the month following the month during which any well is completed and commences production into a pipeline for sale of such production. Thereafter, all royalties on oil shall be paid to Lessor on or before the last day of the second month following the month of production, and all royalties on gas shall be paid to Lessor on or before the last day of the third month following the month of production. Royalties not paid when due shall bear interest at the prime rate, plus five percent (5%).

(g) If royalty is not paid by the date due, Lessor may give Lessee written notice of nonpayment of royalty, by certified mail, return receipt requested, and if Lessor's royalty is not paid on or before expiration of thirty (30) days from Lessee's receipt of such notice, interest shall commence accruing on the due date and be payable by Lessee to Lessor on the delinquent balance at the rate of five percent (5%) above prime interest rate. However, Lessee may avoid any interest obligation if prior to the expiration of such thirty (30) days Lessor is furnished an attorney's written opinion citing a bona fide dispute or a good faith question of royalty entitlement (either as to ownership or as to amount), Lessee pays to Lessor the undisputed portion and Lessee pays the disputed royalty to an escrow account to be administered by, a trustee agreed to by both parties or by the American Arbitration Association, if such trustee cannot be found. If practical, such escrow funds shall be invested in interest-bearing accounts pending resolution of the entitlement issue, with the interest to follow the distribution of escrow.

(h) Lessee and any purchaser of oil or gas produced from the leased premises hereby waive any legal provisions which entitle a payer of royalties to require a signed division order as a condition to payment. If Lessor agrees to accept payment of royalties from a purchaser of oil or gas produced from the leased premises, or from another party designated to distribute royalties other than Lessee, Lessor's acceptance of such payments shall not relieve Lessee of its obligation to pay royalty hereunder except to the extent of payments actually received by Lessor from such third party, and if such third party fails to pay any sums due as royalty under this Lease, Lessee shall remain fully liable therefore, whether or not Lessee has received payment for production from such purchaser or third party. Lessee may defer payment of any royalty sum due Lessor, or to any payee hereunder, until the total amount of such royalty due shall equal One Hundred Dollars (\$100.00), whereupon payment shall promptly be made.

(i) Lessee further grants to Lessor or Lessor's designee the right at Lessor's expense, to examine, audit, copy or inspect books, records, and accounts of Lessee pertinent to the purpose of verifying the accuracy of the reports and statements furnished to Lessor, and for checking the amount of payments lawfully due the Lessor under the terms of this agreement; however, such audit rights shall be limited to not more than three (3) audits during any six (6) year period and shall not extend to any periods which are more than thirty-six (36) months prior to the date of such audit notice. In exercising this right, Lessor shall give reasonable notice to Lessee of its intended audit and such audit shall be conducted during normal business hours at the office of Lessee at the sole cost and expense of Lessor. However, if the amount of exceptions or deficiencies in royalty payments revealed by the audit equal or exceed 125% of the cost and expense of the audit, then the Lessee shall bear the cost and expense of the audit and all monies due (audit exceptions, costs, and expenses) shall be payable within 30 days of the final determination of the amounts due.

(j) Lessor hereby retains a security interest in (a) all of the oil and gas produced and saved from the leased premises or lands pooled therewith, under and pursuant to this Lease, and (b) all proceeds of sale of such oil and gas and all accounts arising therefrom (the "Collateral"), to secure Lessee's payment of royalties and compliance with the other terms and provisions of this Lease. In addition to any other remedies provided in this Lease, Lessor, as a secured party, may in event of Lessee's default in any obligation of Lessee under this Lease proceed under the Pennsylvania Uniform Commercial Code (the "Code") as to the Collateral, in any manner permitted by the Code. In the event of default by Lessee, Lessor shall have the right to take possession of the Collateral, and to receive the proceeds attributable thereto and to hold same as security for Lessee's obligations or to apply it on the amounts owing to Lessor hereunder. The Collateral includes oil, condensate, distillate, gas and natural gas liquids, including any hydrocarbon or non-hydrocarbon minerals or products that may be associated with oil or gas to be financed at the wellhead of the wells and accounts from the sale thereof. This Lease, or memorandum thereof, (which shall contain the provisions of this paragraph) when filed in the real property records where the leased premises are located, shall constitute a financing statement under the Code. Additionally, Lessee agrees to cooperate with any UCC-1 filing requested by the Lessor.

(k) If, by reason of assignments of undivided interests in Lessee's interest in this Lease, more than one

party becomes entitled to a portion of Lessee's share of gas produced from any well on the leased premises, and if any or all of such co-owners elect to take their share of gas in kind, resulting in split-stream deliveries of gas to different purchasers, Lessor shall be entitled, at Lessor's election, to require the operator of the leased premises to pay and account to Lessor for all royalties due on gas production from the well or wells from which split-stream deliveries are being made, so that Lessor shall not be required to receive royalties from more than one (1) purchaser or party on the same gas stream. If Lessor exercises such election, the operator of the leased premises (or of that portion of the leased premises upon which the split-stream production is located) shall pay to Lessor all royalties due on such gas production and shall provide production statements from all purchasers of such gas showing the amounts sold and the price paid therefor, with any applicable adjustments. Such election, if made, shall not relieve any party otherwise liable for payment of royalties from such liability, and all parties owning an undivided interest in all or any portion of the leased premises shall be and remain jointly and severally liable for the payment of all royalties due on production therefrom.

5. **Delay Rental.** The parties hereto agree that this is a Paid-Up Lease with no further Delay Rental and/or Delay in Marketing payments due to Lessor during the primary term hereof.

6. **Operations.** The term "operations" as used in this Lease shall mean only (a) the production of oil, gas or other liquid hydrocarbons in paying quantities subsequent to drilling or (b) the actual drilling, completing, reworking, recompleting, deepening, plugging back or repairing of a well in search for or in an endeavor to obtain production of oil or gas, conducted in good faith and with due diligence. In the event a well that had been placed into production, requires reworking, recompleting, deepening, plugging back or repairing and such operation is in search of or in an endeavor to obtain production of oil or gas, and is being conducted in good faith and with due diligence, the Primary Term, and any extensions thereof pursuant to Paragraph 2 herein shall be extended to allow completion of said operation, provided however, that in no event shall Lessee cease said operation for more than ninety (90) consecutive days. Cessation of said operational activity for more than ninety (90) consecutive days terminates the lease term.

7. **Shut-In and Minimum Royalties.**

(a) If there shall be a well on the leased premises capable of producing gas or gas and condensate in paying quantities, but from which neither gas nor condensate is sold or used off the leased premises for lack of a satisfactory market (which well is herein sometimes called a "shut-in" gas well), Lessee may pay or tender to Lessor, as shut-in gas well royalty, for each shut-in well, a yearly sum equal to twenty and No/100 Dollars (\$20.00), indexed to the Consumer Price Index (CPI) as published for January 01, 2010, and recalculated every five (5) years thereafter, multiplied by the number of acres subject to this Lease at the time such payment is made. The first such payment of shut-in gas well royalty is to be made on or before sixty (60) days after the day on which (a) such well was shut in, or (b) this Lease ceases to be in force by any other provision hereof, whichever is later. Succeeding payments may be made annually thereafter on or before the anniversary of the due date of such payment; and if such shut-in gas well royalty shall be paid or tendered as above provided, it shall be considered for purposes of this Lease that such well is producing gas in paying quantities for a period of one (1) year from the due date of such payment, and for like annual periods thereafter; provided, however, that the payment of shut-in gas well royalty shall not prevent the termination of this Lease as to portions of acreage covered hereby, in accordance with the provisions of paragraph 8 hereof. Notwithstanding the making of such shut-in gas well royalty payments, Lessee shall be and remain under the continuing obligation to (a) use all reasonable efforts to find a market for said gas and to commence or resume marketing same when a market is available, (b) reasonably develop the lands then subject to this Lease, and (c) drill all such wells on the lands then subject to this Lease as may be reasonably necessary to protect same from drainage by wells on adjoining or adjacent lands. All payments or tenders provided for in this paragraph shall be made to Lessor personally or to the depository bank provided for elsewhere in this Lease.

(b) After expiration of the primary term, the portion of the leased premises being held by the Lessee solely by the payment of shut-in royalty, shall be released after a period of thirty-six (36) consecutive months or a cumulative total of sixty (60) months, unless given written consent by the Lessor to continue to be shut-in.

8. **Well Pad and Production Units.**

(a) If the Lessee plans to drill two (2) or more horizontal wells from a single well pad or in a single production unit, then the Lessee may designate a "Multi-Well Production Unit" at the end of the primary term or any extensions of the primary term (as per paragraph 2(b)), the "Multi-Well Production Unit" shall reflect the actual acreage of the production units covered thereby, based on the formula set forth in paragraph 8(b) (iii) below. However, if the Lessee is drilling a well in the Multi-Well Production Unit at the end of the primary term (or extended term), the Lease shall not terminate for any acreage in the planned production/pooled unit for the Multi-Well Production Unit, until ninety (90) days after

the cessation of all drilling and completion operations. Alternatively, Lessee may delay further development of a Multi-Well Production Unit beyond the primary term (or extended term) by tendering to Lessor on or before the expiration of the primary term (or extended term), a minimum royalty payment equal to \$20.00 multiplied by the number of acres in the Multi-Well Production Unit not theretofore designated to horizontal wells under the formula set forth in paragraph 8(b) (iii) below. Like payments may be made each anniversary following the expiration of the primary term (or extended term) to extend full development of a Multi-Well Production Unit for a total of three (3) years beyond the expiration of the primary term (or extended term) at the rate of \$20.00 multiplied by the number of acres not then designated to horizontal wells on the date payment is due. A Multi-Well Production Unit may not exceed 1,280 acres, without written consent of Lessor.

(b) Except as provided in 8(a) above, the production of oil or gas under the terms of this Lease will maintain this Lease beyond its primary term including any extensions thereto only as to that portion of the leased premises actually included within a production unit or units created and designated around wells then producing in paying quantities or capable of producing in paying quantities. In the absence of well spacing units, a spacing order or other density requirements issued by the Bureau of Oil and Gas Management (or other government entity with jurisdiction) for a particular well; Lessee shall designate a "production unit" which for the purpose of this Lease, shall contain only the acreage overlaying that portion of the target formation or pool under a well that a prudent operator would deem capable of being most efficiently drained by that well while utilizing the best production technology in common use at the time of drilling. Notwithstanding any density rules applicable to any well, however, no production unit assigned to any well shall exceed the following sizes:

(i) If the well is classified as a vertical oil well, the maximum size of the production unit shall be 80 acres if the well is producing only from formations in or above the Onondaga Horizon, and 160 acres if the well is producing from formations below the Onondaga Horizon. The well shall be located in the center of the production unit to the extent practical.

(ii) If the well is classified as a vertical gas well, the maximum size of the production unit shall be 100 acres if the well is producing only from formations in or above the Onondaga Horizon, and 320 acres if the well is producing from formations below the Onondaga Horizon. The well shall be located in the center of the production unit to the extent practical.

(iii) If the well is classified as a horizontal well (horizontal component of the drainhole in the target formation greater than the vertical component in the target formation, whether oil or gas) then the maximum size of the production unit shall be determined by the following formula:  $100 \text{ acres} + .02755 \times A$ , where A = the length (number of feet) of the horizontal lateral component of the drainhole of the well. (i.e. -  $100 \text{ acres} + .02755 \times 3000' = 182.65 \text{ acres}$ ) The production unit shall to the extent practical parallel and be centered on the horizontal. It being the intent that the total acres comprising a Multi-Well Production unit shall be the sum total of all the acres attributable to all wellbores within said Multi-Well Production unit, based on the aforementioned acreage calculation for each wellbore.

If at the time Lessee must designate production units in accordance with this paragraph there is a well or wells on the leased premises producing or capable of producing from a field for which no spacing units have yet been adopted, then Lessee shall designate a production unit complying with the size requirements delineated in this paragraph, as applicable; and Lessee shall proceed with diligence to apply for spacing units for such field. When spacing units or a spacing order are adopted by the Bureau of Oil and Gas Management (or other government entity with jurisdiction), if Bureau requirements provide for units smaller or greater than the maximum production unit sizes provided for above, Lessee shall designate a production unit for such well complying with Bureau requirements. Lessee shall release the lands no longer included in the production unit for such well or wells; provided, however, that Lessee may maintain this Lease as to such excluded lands to the end of the five (5) year primary term, and thereafter by either, (a) paying in accordance with paragraph 2(b) for each acre the Lessee desires to retain, or (b) if Lessee commences operations for the drilling on such lands within ninety (90) days from the end of the primary term plus extensions, and continues such operations with no cessation of more than ninety (90) consecutive days until production is established, in which event Lessee shall designate production units and this Lease shall remain in force as to the units so designated as provided in this paragraph.

(c) Insofar as possible, taking into consideration the productive limits of the producing interval and the unit configuration for the leased premises, the lands included within the production unit for a well shall be in the form of a square or rectangle. Every effort shall be made in designating production units to avoid releasing small or irregularly shaped portions of the leased premises, or portions not contiguous with other released portions. Acreage assigned to wells producing from different zones may overlap, and shall overlap when necessary to comply with the requirements of this section. If a well is producing from more than one formation, its production unit's size and configuration shall conform to the Bureau of Oil and

Gas Management (or other government entity with jurisdiction) rules applicable to the well which provides the largest production unit (subject to the size limitations stated above). If all or a portion of the leased premises is included in a pooled unit, then for purposes of this paragraph all the lands within the pooled unit shall be considered a part of the leased premises, and the size and configuration of the production unit(s) must conform to the requirements of this paragraph for a production unit.

(d) As to any acreage which is not included within any production unit at the expiration of the primary term, including any extension in accordance with paragraph 2(b) or 8(a), Lessee may maintain this Lease as to such excluded acreage beyond the primary term only by conducting operations for the drilling thereon with no cessation of more than ninety (90) consecutive days; and at such time as such operations cease, Lessee shall designate any additional production units resulting from such operations, and this Lease shall automatically terminate and be of no further force or effect as to any acreage not within such designated units.

(e) In addition, at the end of the primary term, or, extension thereof, or (if at the end of the primary term Lessee is conducting operations for the drilling on the leased premises) upon cessation of such operations for more than ninety (90) consecutive days, whichever is later, this Lease shall terminate as to all depths and horizons under each production unit below two hundred feet (200') below the stratigraphic equivalent of the base (bottom) of the deepest formation from which production of oil or gas in paying quantities is being maintained (or, in the case of a shut-in gas well, can be maintained) in the well on such production unit. However, the Lessee at the time of such termination, shall have the first right of refusal to match any subsequent Lease offers for the depths and horizons released in accordance with this paragraph 8(e).

(f) As to acreage which is included within a production unit, this Lease may be held in force after the termination of the primary term, including any extension in accordance with paragraph 2(b) or 8(a) only by production from, or operations conducted (as provided in this Lease) on, such unit; and production from, or operations conducted on, one unit will not maintain this Lease in force as to any other acreage included within any other unit, but such production or operations will maintain this Lease only as to the acreage within the unit or units upon which such production or operations are being maintained or conducted.

(g) Upon termination of this Lease as to any portion of the leased premises, Lessee shall promptly deliver to Lessor a plat showing the designated production units around each well and a partial release containing a satisfactory description of the acreage and depths not retained, suitable for recording. In addition, Lessee shall peaceably surrender the released Premises to Lessor and remove any and all facilities, equipment and machinery from the site within ninety (90) days, weather permitting, at Lessee's expense. Further the affected grounds shall be reclaimed as in paragraph 20.

9. **Partial Releases.** Lessee shall have the right at any time and from time to time during the term of this Lease to release from the lands covered hereby any lands subject to this Lease and thereby be relieved of all obligations thereafter accruing as to the acreage so released, provided that (a) Lessee may not release any portion of this Lease included in a pooled unit as long as operations are being conducted on such unit, and (b) any such partial release must release all depths in and under the lands so released.

10. **Holding Over.** If Lessee continues in possession of the leased premises after termination or expiration of this Lease (whether such termination occurs by the lapse of production, default or otherwise), other than for the purpose of plugging abandoned wells, removing equipment, and restoring the leased premises as required by this Lease, Lessee shall be considered a tenant at will. The terms of this Lease shall continue to apply to Lessee's continued possession, provided that (a) Lessor shall have the right to evict and remove Lessee and Lessee's property from the leased premises at any time; and (b) Lessee shall be liable to Lessor for any and all damages suffered by Lessor as a result of Lessee's continued possession of the leased premises.

11. **Pooled Units.**

(a) Subject to any limitations provided below, Lessee is hereby granted the right, at its option, to pool or unitize any land covered by this Lease with any other contiguous or noncontiguous lands covered by this Lease, and/or with any other contiguous land; Lease; or Leases; as to any or all horizons or gas, oil, liquid hydrocarbons, or minerals dissolved or suspended therein; so as to establish pooled units.

(b) Lessee shall exercise said option as to each desired pooled unit by executing an instrument identifying such pooled unit and filing it for record in the public office in which this Lease is recorded, and furnishing a copy to Lessor. Each of said options may be exercised by Lessee at any time and from time to time while this Lease is in force, and

whether before or after production has been established either on the leased premises, or on the portion of the leased premises included in the pooled unit, or on other land unitized therewith. A pooled unit established hereunder shall be valid and effective for all purposes of this Lease even though there may be gas, oil, liquid hydrocarbons, or minerals dissolved or suspended therein; royalty, or leasehold interests in lands within the pooled unit which are not effectively pooled or unitized. Any operations conducted on any part of such unitized land shall be considered, for all purposes, except the payment of royalty, operations conducted upon that portion of the leased premises included in the pooled unit.-

(c) There shall be allocated to the land covered by this Lease within each such pooled unit (or to each separate tract within the pooled unit if this Lease covers separate tracts within the pooled unit) that proportion of the total production of pooled or unitized oil, gas or minerals dissolved or suspended therein from the pooled unit which the number of surface acres in such land (or in each such separate tract) covered by this Lease within the pooled unit bears to the total number of surface acres in the pooled unit, and the production so allocated shall be considered for all purposes, including payment or delivery of royalty under this Lease, to be the entire production of unitized oil, gas, liquid or gaseous hydrocarbons, their constituents and byproducts from the land to which allocated in the same manner as though produced therefrom under the terms of this Lease. The formation of any pooled unit hereunder which includes land not covered by this Lease shall not have the effect of exchanging or transferring any interest under this Lease (including, without limitation, any shut-in royalty which may become payable under this Lease) between parties owning interests in land covered by this Lease and parties owning interests in land not covered by this Lease. Neither shall it impair the right of Lessee to release as provided in paragraph 9 hereof, except that Lessee may not so release as to lands within a pooled unit while there are operations thereon for pooled or unitized oil, gas, liquid or gaseous hydrocarbons or their byproducts or constituents. At any time while this Lease is in force Lessee may dissolve any pooled unit established hereunder by filing for record in the public office where this Lease is recorded a declaration to that effect with a copy to Lessor, if at that time there is no well located on the pooled unit which is producing or capable of producing oil or gas in paying quantities.

(d) If this Lease now or hereafter covers separate tracts, no pooling or unitization of royalty interests as between any such separate tracts is intended or shall be implied or result merely from the inclusion of such separate tracts within this Lease but Lessee shall nevertheless have the right to pool or unitize as provided in this paragraph 11 with consequent allocation of production as herein provided. As used in this paragraph 11, the words "separate tract" mean any tract with royalty ownership differing, now or hereafter, either as to parties or amounts, from that as to any other part of the leased premises.

(e) Pooled units created hereunder shall not exceed the size limitations set forth in paragraph 8(b) for production units.

(f) If a well is producing from formations only in or above the Onondaga Horizon, Lessee shall have no right to pool the leased premises with other lands for the production of oil or gas unless either (a) at least ten (10) acres of the leased property, or (b) if the leased property, or the portion of the leased property not previously pooled or unitized is less than ten (10) acres, all of the leased acreage is included within the pooled unit thereby created. If a well is producing from below the Onondaga Horizon, all the leased acreage shall be included within the pooled unit thereby created. This sub-paragraph shall be inapplicable, if state spacing laws are enacted which conflict with this requirement or if in conflict with other rule, law or regulatory agency having jurisdiction.

(g) If there are royalty interests in oil and gas in the leased premises now owned by parties other than Lessor, Lessor makes no warranty or representation that this Lease grants Lessee the power or authority to pool such royalty interests, but in the event of pooling hereunder Lessor's royalty on production from the pooled unit shall be calculated and paid as if Lessee had the power, and had exercised the power, to pool such royalty interests, whether or not Lessee in fact has such authority.

(h) In the event a portion or portions of the land herein leased is pooled or unitized with other land so as to form a pooled unit or units, operations on, completion of a well upon, or production from such pooled unit will not maintain this Lease in force as to the land not included in such pooled unit or units. This Lease may be maintained in force as to any land covered hereby and not included in such pooled unit or units in any manner provided for herein.

12. **Assignment.** The rights and estate of any party hereto may be assigned from time to time in whole or in part and as to any horizon subject to the written consent of the Lessor. Lessor's consent shall not be unreasonably withheld. Provided, however, that consent from the Lessor shall not be required in the event of an assignment by Lessee: to an affiliate, subsidiary, or internal partners, joint venture partners or in consequence of a merger or amalgamation. All of the covenants, obligations, and considerations of this Lease shall extend to and be binding upon the parties hereto, their heirs, successors, assigns, and successive assigns. No assignment by Lessee (or any assignee of Lessee) of all or any portion of or interest in this



Lease shall relieve Lessee (or any assignee of Lessee) of any liability for breach of any covenant, warranty or other obligation of Lessee hereunder, whether theretofore or thereafter accrued. Each assignee of all or any portion of the rights of Lessee hereunder agrees to be bound by the provisions of this Lease to the same extent as if such assignee were an original party to this Lease. Notwithstanding any assignment by Lessee of a segregated portion of this Lease, default by Lessee or any assignee or subassignee of Lessee in any covenant or condition in this Lease shall constitute default as to the entire Lease. Lessee shall prior to the assignment of this Lease or any part thereof notify Lessor of such assignment and furnish Lessor a true copy of any assignment. All notices to Lessee hereunder may be given to the Lessee named herein, despite the assignment of part or all of this Lease. No change or division in the ownership of the leased premises, royalties, or other moneys, or any part thereof, howsoever affected, shall increase the obligations or diminish the rights of Lessee, including, but not limited to, the location and drilling of wells and the measurement of production. Notwithstanding any other actual or constructive knowledge or notice thereof to Lessee, its successors or assigns, no change or division in the ownership of the leased premises or of the royalties or other moneys, or the right to receive the same, howsoever effected, shall be binding upon the then record owner of this Lease until thirty (30) days after there has been furnished to such record owner at his or its principal place of business by Lessor or Lessor's heirs, successors, or assigns, notice of such change or division, supported by either originals or copies of the instruments which have been properly filed for record and which evidence such change or division, and of such court records and proceedings, transcripts, or other documents as shall be necessary in the opinion of such record owner to establish the validity of such change or division. If any such change in ownership occurs by reason of the death of the Lessor, Lessee may nevertheless pay or tender such royalties or other moneys, or part thereof, to Lessor.

13. **Proportionate Reduction.** This Lease is made without warranty of title, express, implied or statutory. Lessor's rights and interests hereunder shall be charged primarily with any mortgages, taxes or other liens, or interest and other charges on the leased premises, but Lessor agrees that Lessee may pay and discharge any past due taxes, mortgages, judgments, or other liens and encumbrances on or against any land or interest included in the Leasehold if such obligations jeopardize its ability to perform under the Lease; and Lessee shall be entitled to recover from the debtor, with reasonable legal interest and costs, by deduction from any future payments to Lessor or by any other lawful means. In the event Lessor herein does not have title to the lands hereinbefore described but claims a retained interest in the oil and gas situate therein, any moneys due and owing as a result of this Lease shall be paid into escrow with a mutually agreeable escrow agent pending a determination of entitlement. In the event Lessor has title to the lands but not clear title to the oil and gas situate thereon, Lessee shall pay any moneys due and owing as a result of this Lease directly to Lessor provided Lessor agrees to defend, indemnify and hold harmless Lessee from and against any and all claims, demands and causes of action or damage arising therefrom. Lessor agrees and acknowledges that an unsubordinated pre-existing mortgage on the leased premises that covers Lessor's oil and gas rights constitutes a title defect, and if the well or well bore is on or directly under the leased premises, the defect must be cured by Lessor obtaining a subordination of that mortgage before Lessor is entitled to be paid Royalties under this Lease. Providing, however, that all royalties attributed to the net oil and gas acreage of this Lease shall be deposited in an interest bearing escrow account that may be used to pay or discharge past due obligations only in accordance with this paragraph. All royalties and interest in the escrow account when the satisfaction of or subordination of that mortgage occurs, shall be paid to the Lessor within thirty (30) days of Lessee's receipt of written confirmation of such satisfaction or subordination.

14. **Tax Assessment.**

(a) If the leased premises experiences any increase in the amount of the real property taxes assessed and/or other municipal assessments as a result of Lessee's activities on the leased premises, or any property taxes are levied against Lessor or any property of Lessor (including the leased premises) due to the loss of Lessor's Clean and Green deferred status under Act 319 resulting substantially from Lessee's activities hereunder, then in either case, Lessee shall annually pay or reimburse Lessor an amount equal to the new or increased property taxes no later than thirty (30) days prior to the date each year on which the applicable real estate taxes are due to be paid. Furthermore, Lessee shall pay any and all rollback tax including interest and costs related thereto that results from violation of the enrollment criteria of Act 319 of the Clean and Green Tax Preferential Assessment Program.

(b) If any penalty, refund of payments, rollback or re-capture of tax abatements created or imposed under any governmental program, such as, but not limited to CREP or CRP that is levied on Lessor as a result of Lessee's operations on leased premises, Lessee will reimburse Lessor within thirty (30) days of written request

(c) In the event there is a change in federal, state or local tax code that provides for implementation or increase in severance or production tax attributed to or resulting from, the assessment of oil and gas due to oil and/or gas production from the leased premises, Lessee shall abide by such tax laws and pay accordingly. Should the tax be assessed on oil and/or gas prior to production, Lessor and Lessee shall be proportionately (according to royalty allocation) responsible for

paying the tax and Lessee is authorized to deduct Lessor's share of such taxes from Lessor's royalty payments and remit same to the taxing authority in accordance with paragraph 13.

15. **Force Majeure.** Should Lessee be prevented from complying with any express or implied covenant of this Lease (except payment of money), from conducting drilling or reworking operations thereon or from producing oil or gas therefrom by reason of inability to obtain or to use equipment or material, or by operation of force majeure, any Federal or state law or any order, rule or regulation of governmental authority ("force majeure event"), then while so prevented, Lessee's obligation to comply with such covenant shall be suspended, and Lessee shall not be liable in damages for failure to comply therewith; and this Lease shall be extended while and so long as Lessee is prevented by any such force majeure event from conducting drilling or reworking operations on or from producing oil or gas from the leased premises.

16. **Indemnity.** Lessee agrees to defend, indemnify and hold harmless Lessor and Lessor's heirs, successors, representatives, agents and assigns ("Indemnitees"), from and against any and all claims, demands and causes of action for injury (including death) or damage to persons or property arising out of, incidental to or resulting from the operations of or for Lessee or Lessee's servants, agents, employees, guests, licenses, invitees or independent contractors, and from and against all costs and expenses incurred by Indemnitees by reason of any such claim or claims, including attorneys' fees; and each assignee of this Lease, or an interest therein, agrees to indemnify and hold harmless Indemnitees in the same manner provided above. Such indemnity shall apply to any claim arising out of operations conducted under or pursuant to this Lease, howsoever caused. LESSEE'S OBLIGATION TO DEFEND AND INDEMNIFY INDEMNITEES SHALL APPLY WHETHER OR NOT INDEMNITEES MAY BE GUILTY OF ANY NEGLIGENT ACT OR OMISSION WHICH RESULTED IN OR CONTRIBUTED TO THE COST, EXPENSE OR LIABILITY AGAINST WHICH LESSEE IS OBLIGATED TO INDEMNIFY INDEMNITEES HEREUNDER, AND WHETHER OR NOT INDEMNITEES MAY BE SUBJECT TO SUCH LIABILITY BY STATUTE OR BY APPLICATION OF PRINCIPLES OF STRICT LIABILITY. The provisions of this paragraph shall survive the termination of this Lease.

17. **Communications and Access to Information.**

(a) **Coordination with Lessor.** Before commencing surface disturbing operations on the Leased Premises, Lessee and Lessor shall mutually agree in writing on the location of all wells, roads, pipelines, gates, tank batteries and other equipment so as to minimize disruption of Lessor's use of the leased premises. Lessor's consent shall not be unreasonably withheld. Without a separate written agreement, no, pump stations, compressors, dryers or separators shall be located on the leased premises unless they are for the sole purpose of treating gas from the leased premises or lands pooled or unitized therewith, and those shall not be located nearer than, and no well shall be drilled nearer than, five hundred feet (500') from any house or three hundred feet (300') from any barn now on the leased premises without Lessor's written consent. Lessee shall provide Lessor up to date name, address, and telephone number of the responsible officer or employee who can be contacted by Lessor at all times for the purpose of reporting any damages or breaches of this agreement.

(b) **Notice to Drill.** Lessee agrees to provide a five (5) day written notice to Lessor of Lessee's entry upon the leased premises to drill.

(c) **Filings Reports and Contracts.** Upon Lessor's written request, Lessee shall furnish Lessor, copies of all title opinions covering the leased premises and promptly upon receipt by Lessee, notify Lessor of any judicial proceeding brought to the attention of Lessee affecting its possession under the Lease or the interest of Lessor in the leased premises as well as copies of all filings, statements, and reports made by Lessee with the Pennsylvania Bureau of Oil and Gas Management or other government agency pertinent to drilling, completing and equipping wells. Upon Lessor's written request, Lessee shall provide to the Lessor in the routine course of Lessee's daily business, full information as to the production, use, transfer, disposal and sales from wells on the leased premises or lands pooled or unitized therewith. Such production information shall be strictly confidential and Lessor agrees not provide any such information to any party without written consent of Lessee. Lessor shall have the right to inspect, audit (paragraph 4(i)) and copy all records of Lessee pertaining to the production and sale of oil and gas from the leased premises and the calculation and payment of Lessor's royalty hereunder. A single written request for the information referred to in this paragraph will cause the information to be supplied on continuing basis until such time as Lessee receives a written request from the Lessor to stop providing such information.

(d) **Delivery Methods.** Notices, consents, or other documents required or permitted by this Lease must be given by personal delivery, telecopier, delivered by Federal Express or other reputable overnight courier, or sent by registered or certified mail, return receipt requested, and postage prepaid.

18. **Reasonable Development.** If oil or gas is discovered on the leased premises, Lessee shall develop the leased

premises as a reasonable and prudent operator and exercise due diligence in drilling such additional well or wells as may be necessary to fully develop the leased premises. Lessee shall protect the oil and gas in and under the leased premises from drainage by wells on adjoining or adjacent tracts or leases, including those held by the Lessee or any Affiliate of Lessee (paragraph 4 c). If oil or gas should be produced in paying quantities from a well draining any acreage of the leased premises that is not pooled or unitized with that well, Lessee shall within one hundred twenty (120) days after the earlier to occur of notice from the Lessor of such producing well or Lessee's knowledge of such well having been drilled, begin in good faith and pursue diligently operations leading to the drilling of a well/offset well and such well shall be drilled to such depth as may be necessary to prevent drainage of the leased premises, and Lessee shall use all means necessary in a good faith effort to make such well produce oil or gas in paying quantities. Any well with a borehole passing within three hundred (300) feet of the leased premises shall be presumed to be draining the leased premises. Lessee may rebut this presumption only with evidence acceptable to Lessor. The requirements of this paragraph shall be subject to the rules and regulations of the Pennsylvania Bureau of Oil and Gas Management or other regulatory agency having jurisdiction over the spacing and permitting of wells, and such agencies' determination as to well spacing and drainage shall be final and conclusive. Payment of the bonus, deferred drilling fees, royalties paid or to be paid, shut-in royalty, minimum royalty, or other amounts due hereunder shall not relieve Lessee from its obligations under this paragraph 18. If Lessee makes a claim or files for such drainage or damage, Lessee will notify Lessor and will represent Lessor in such claim or cause of action without cost to Lessor unless Lessor notifies Lessee in writing to the contrary. If Lessee recovers damages as a result of such claim, either by settlement or judgment, Lessor shall be entitled to share in such recovery pro rata in accordance with Lessor's interest in production from the leased premises whether or not Lessor is a party to such settlement or judgment.

19. **Ratification.** Neither the acceptance of royalties, shut-in royalties or other payments by Lessor (regardless of any notation thereon or instrument accompanying same), nor Lessor's execution of any division order or transfer order or similar instrument, shall ever constitute or be deemed to effect (a) a ratification, renewal or amendment of this Lease or of any pooled unit designation filed by Lessee purporting to exercise the pooling rights granted to Lessee in this Lease, or (b) a waiver of the rights granted to Lessor, or the obligations imposed upon Lessee, express or implied, by the terms of this Lease, or remedies for Lessee's breach thereof, or (c) an estoppel against Lessor preventing Lessor from enforcing Lessor's rights or Lessee's obligations hereunder, express or implied, or from seeking damages for Lessee's breach thereof. Lessor's agreement to accept royalties from any purchaser shall not affect Lessee's obligation to pay royalties pursuant to this Lease. No instrument executed by Lessor shall be effective to constitute a ratification, renewal, extension or amendment of this Lease unless the instrument is clearly titled to indicate its purpose and intent. Furthermore, the failure of either party to enforce or exercise any provision of this Lease shall not constitute or be considered a ratification of change or waiver of the provision in the future unless the same is expressed in writing and signed by the respective parties.

20. **Surface Provisions.**

(a) **Care in Operations.**

(i) Lessee shall be responsible for all acts whether they be reasonably foreseen or unforeseen. All operations conducted by Lessee, its agents, contractors, or assigns relative to this Lease shall comply with federal, state and local law, statute, regulation and/or order. Lessee's failure to comply with any federal, state, local law or any regulation or order of any enforcement agency having jurisdiction over Lessee's operation shall be a default of this Lease.

(ii) Lessee shall at all times use the highest degree of care and all reasonable safeguards to prevent its operations from (a) causing or contributing to soil erosion, or to the injury of terraces, grades, or other soil-conserving structures on the leased premises; (b) polluting or contaminating any environmental medium including the surface or subterranean soils and/or waters and ambient atmosphere in, on, under or about the leased premises and surrounding properties; (c) decreasing the fertility of the soil; (d) damaging crops, native or cultivated grasses, fruit or nut trees, timber, or pastures, consistent with the purpose of the Lease; (e) harming or in anyway injuring the animals, poultry, fish or livestock owned by the Lessor or by his tenants and kept or pastured on the leased premises; including the erection and maintenance of fences, gates, and cattle guards where necessary for such purposes; or (f) damaging buildings, roads, structures, ensilage pits, improvements, farm implements, or fences. Lessee shall dispose of salt water and waste oil in accordance with the rules and regulations of the Pennsylvania Department of Environmental Protection, Bureau of Oil and Gas Management or other governmental authority. Lessee shall clean up, remove, remedy, and repair any soil or ground water contamination and damage caused by its presence or release of any contaminant in, on, under or about the leased premises, whether or not caused by the negligence of Lessee, its agents, employees, licensees or independent contractors. Lessee shall pay to the person beneficially interested in the harmed object all damages caused by its operations.

(iii) Lessee shall not use land application for the disposal of any drill cuttings or residual waste.

(iv) Lessee shall not use, dispose or release on the leased premises or permit to exist or be used, disposed of or released on the leased premises as a result of its operations, any substances (other than those Lessee has been licensed or permitted to use on the leased premises) which is defined as a "hazardous material", "toxic substance", or "solid waste" in applicable federal, state or local laws, statutes or ordinances.

(v) Prior to any surface excavation, Lessee shall set topsoil aside for the express purpose of recovering any areas to be graded at conclusion of activities requiring excavation. Within ninety (90) days of the conclusion of such activities, weather permitting, Lessee shall grade all areas as nearly as practicable to the original contours following applicable state regulations and spread set aside topsoil evenly to its original depth. Lessee shall purchase and plant graded areas with the desired seeds meeting Department of Environmental Protection (DEP) and Department of Conservation and Natural Resources (DCNR) regulations.

(vi) Lessee shall notify Lessor prior to the removal of any standing timber in a sufficiently timely manner so as to allow Lessor to obtain an appraisal of such timber by a qualified forester. Lessor shall have the option to take payment from Lessee for said timber prior to its removal or to take possession of said timber after its removal by Lessee. If Lessor opts to take possession, Lessee shall cut and set aside logs so as to be accessible, exercising due care in cutting and handling said timber so as to preserve its market value. Lessee shall remove any uprooted stumps from the leased premises at Lessor's request.

(vii) Lessee shall plan surface operations in a manner that will reduce or minimize the intrusion to crop fields. In the event that such intrusion can not be avoided, Lessee shall compensate Lessor for the damage at current market value for the projected yield at full maturity.

(viii) Should any "pollutant", "hazardous material", "toxic substance", or "contaminated waste" be accidentally released on the leased premises requiring the notification of the DEP or other governmental entity, Lessee shall notify Lessor immediately after notifying the governmental body using the same means communication.

(b) **Surface Damages.** Lessee agrees to pay Lessor or any tenants of Lessor, if and as applicable, reasonable compensation for all use of or damage to the surface estate (or any incident of the surface estate) owned by them, which use is made or which damages are incurred in the exercise of the rights granted to Lessee by this Lease. Lessee's obligation to compensate Lessor for such use or damage shall exist whether or not such use or damage is due to the negligence of Lessee, its agents, employees, invitees or independent contractors. Furthermore, Lessee shall pay Lessor damages for lands that are restricted as to their use by setback restrictions around wells, pipelines, tanks, structures, and facilities whether required by the Lessee, the Bureau of Oil or Gas Management, or other governmental body. Damages, if they occur, shall be paid when they occur or when they are discovered.

(c) **Fences and Gates.** At Lessor's request, Lessee will install and diligently maintain fences, gates and locks or cattle guards above pipelines and on all access roads, Christmas trees, pumping units, tanks, sump holes, pits, machinery, other excavations, or other areas of operations so as to maintain the integrity of preexisting fences and to the extent required to safeguard livestock and prevent access by any unauthorized persons. Lessor shall be given a key to these gates and allowed free use thereof. Gates or cattle guards will become Lessor's property on termination of this Lease. Lessee will keep all gates locked when not in use.

(d) **Roads.** Lessee agrees to locate (paragraph 17(a)) and grade not more than one (1) road to each location and to confine travel to such road. Lessee agrees to improve, construct and maintain all roads used by it in good repair utilizing shale, gravel, or crushed stone and sluice pipes where necessary to provide a smooth rut free all weather surface suitable for use by automobiles, and when such roads are no longer being used, if Lessee has laid stone or any other topping, Lessee agrees upon Lessor's request, to remove such topping and restore the surface as nearly as possible to its former condition. Lessee shall not use shale, gravel or crushed stone from the leased premises without the written consent of the Lessor. During the construction phase the graded width shall not exceed forty (40) feet and width shall revert to not more than thirty (30) foot travel corridor once construction is complete. Lessee shall control dust from traffic to the extent practical, utilizing water when necessary. Lessee shall prevent its employees, agents and contractors from operating vehicles in a negligent manner or at speeds in excess of 25 miles per hour while on the leased premises.

(e) **Pipelines and Utilities.** Upon payment of reasonable damages therefor, Lessee shall have the right

to construct pipelines and shall bury any and all necessary phone, electric, and data collection lines on the leased premises in connection with the production from the leased premises, but such right may not be assigned to a utility company, pipeline company or anyone else who owns no interest in the leased premises or not otherwise contracted or affiliated with Lessee for the purpose of carrying out the rights and obligations under this lease. The right to use said pipelines terminates when production from the leased premises permanently ceases and all wells associated therewith plugged and abandoned. Lessee agrees all pipelines, wires, and cables shall be buried to a depth not less than that required to allow unrestricted access to and crossing of the same by equipment typically utilized in local agricultural and timbering activities, including but not limited to tractors, plows, combines, log skidders, harvesters, forwarders, loaded trucks and loaded trailers. Lessee shall "double ditch" all underground lines so that all topsoil will be replaced on the surface. The width of the graded underground line corridor shall not exceed thirty (30) feet.

(f) **Firewalling and Maintenance of Production Equipment.** Dikes, firewalls or other methods of secondary containment must be constructed and maintained at all times around all tanks, separators and other receptacles so as to contain a volume of liquid equal to at least 1.25 times the total volume of such tanks, separators and other receptacles located within the boundaries of the firewall. Lessee shall keep all tanks and other equipment at each well location painted, and shall keep the well site and all roads leading thereto free of all noxious weeds and debris.

(g) **Pits.** Lessee shall have no right to dig any pits on the leased premises except with Lessor's written consent; provided, however, that Lessee may dig and use pits for drilling operations if (a) such pits conform to DEP requirements, (b) the pit is planned to be deep enough to allow at least thirty-six (36) inches of backfill over the liner after grading to the surrounding pre-drill contours, and (c) promptly after completion of operations paragraph 6(b) pits are drained, prepared for burial, backfilled, graded and planted within ninety (90) days (weather permitting), in accordance with paragraph 20(a) (v). Lessee shall immediately notify Lessor and the DEP if any pit lining is torn, punctured, or otherwise breached, allowing any fluid contained in a pit or designated to be contained in a pit to seep, leak or overflow through or around the liner.

(h) **Water.**

(i) Lessee shall not have any right to use water from Lessor's springs, ponds, wells, creeks, streams or facilities for any operations hereunder without Lessor's written consent. Any water well drilled by Lessee upon the leased premises with Lessor's written consent shall be left intact and become the property of Lessor upon the termination of this Lease as to that portion of the leased premises upon which such water well is located. Lessee may not use any fresh water from the leased premises for any waterflood, pressure maintenance or other secondary recovery operations.

(ii) Lessee shall maintain the quality and quantity of Lessor's domestic water supply by testing the supply prior to and at the completion of operations and as deemed necessary by Lessor due to changes in flow or quality, including but not limited to, color, smell or taste. Should the water supply be polluted or reduced, Lessee shall take any and all steps to restore water quality and quantity to its pre-existing condition. During the period of remediation, Lessee shall supply Lessor with an adequate supply of potable water consistent with Lessor's use of the damaged water supply prior to Lessee's operation. Any pollution or reduction of any water supply will be presumed to be the result of Lessee's operation unless Lessee can affirmatively otherwise prove.

(i) **Hunting and Fishing.** Lessee agrees that its employees, agents and independent contractors shall have no right to and are prohibited from firing any firearms, hunting and fishing on the leased premises. Any person found to have violated this provision may be denied further access to the leased premises for any purpose. Furthermore, Lessor retains the right for Lessor its successors, assigns and invitees to fish and hunt anywhere on the leased premises and this Lease grants written permission to hunt within safety zones in accordance with Pennsylvania Game Commission laws and regulations.

## 21. **Insurance.**

(a) A company licensed by the Pennsylvania Department of Insurance to do business in the state shall underwrite all policies required by this paragraph 21. Provided however, such insurance requirements may be met by a combination of self-insurance, primary and excess insurance policies.

(b) Lessee shall assure that Lessee and any person acting on Lessee's behalf under this Lease carry the following insurance with one or more insurance carriers at any and all times such party or person is on or about the leased premises or acting pursuant to this Lease, in such amounts as from time to time reasonably required by Lessor, indexed for inflation as per paragraph 22(c):

- (i) Workers Compensation and Employer's Liability Insurance;
- (ii) Commercial General Liability and Umbrella Liability Insurance;  
(\$5,000,000.00 Minimum coverage)
- (iii) Business auto and Umbrella Liability Insurance;  
(\$5,000,000.00 Minimum coverage).

The Lessee shall cause Certificates of Insurance evidencing the above coverage to be provided promptly upon request to Lessor, or to such other representative of Lessor as Lessor may from time to time designate. The insurance policies required under 21(b) (ii) and (b) (iii) above, shall cover the Lessor as additional insureds with regard to the leased premises; and shall reflect that the insurer has waived any right of subrogation against the Lessor. Lessee may satisfy its obligation to maintain insurance as specified in this section by means of self insurance, provided that Lessee notifies Lessor of its intent to self-insure and meets the financial requirements set forth in paragraph 22(a) as they pertain to net worth, audits and public company annual reports, auditor opinions, and debt rating. Failure to comply with this clause (paragraph 21) shall be basis of default and all operation on the leased premises shall cease immediately.

## 22. **Bonding.**

(a) If this Lease is assigned, sold, or transferred in any other way, Lessee shall continue to be liable for well plugging; removal of all equipment, structures and other facilities; and rehabilitation of the affected leased premises unless prior to such assignment, sale or other transfer, the assignee, buyer or transferee provides "Affected Lessor", (defined for this paragraph (22) as Lessor whose leased premises have, heretofore, suffered surface use by Lessee, its contractors, agents or assigns), bonds meeting the requirements of paragraph 22 (b & c). Additionally, Lessee shall annually have an audit performed by a Certified Public Accountant to verify Lessee's net worth if Lessee is not a publically traded company and provide Affected Lessor a copy of the results of that audit. Should the net worth of Lessee fall below one hundred million dollars (\$100,000,000.00), as documented and certified by the audit of Lessee's books, or if a publically traded company, Lessee's audit and financial statements, or if auditor expresses a going concern opinion, or if Lessee is publicly traded and Lessee's senior secured debt rating falls below investment grade as rated by Finch Ratings, S&P, or Moody's, Lessee must provide Affected Lessor bonds meeting the requirements of the following in paragraph 22 (b) and (c).

(b) Prior to entering the leased premises, Lessee agrees to give the Lessor a surety bond or performance bond from an issuer with a Best Rating not less than AA in the principal amount of Twenty-Five Thousand Dollars (\$25,000.00) with a judgment clause in a form acceptable to Lessor conditioned on the faithful performance of the covenants of this Lease. The bond shall be further conditioned that in the event Lessee shall fail to remove its equipment and machinery and properly abandon any well(s) upon partial or total termination of all or any portion of this Lease, then within six (6) months from such termination, Lessor can execute upon the bond to pay for cost of removal of the equipment and machinery and proper abandonment of the well or wells. In addition, the bond shall be conditioned in favor of the Lessor for all damages that may arise as a result of fires, accidents, or any other causes brought about by Lessee or Lessee's agents occupying the leased premises and in the use of all lands of the leased premises

(c) Prior to drilling any well on the leased premises, Lessee shall provide the Lessor with a surety or collateral well plugging bond, in form acceptable to both parties (i.e. surety bond, irrevocable letter of credit or bank certificate of deposit) in an amount equal to or exceeding the reasonable expected estimated total cost of plugging and abandonment of the well one year after its predicted completion as a producer or shut-in well, said bond to remain in effect until the plugging and abandonment of the well has been completed in compliance with applicable state law, and the well site has been restored and revegetated to the satisfaction of the Lessor. The minimum well plugging bond coverage per well acceptable will be determined by the Lessee's estimated total cost to plug each said well based upon its known depth. This estimated total cost must include, at a minimum, expected labor rates, equipment rental/contracting rates, and a listing of all materials and their affiliated costs per unit required to plug each well. Should the Lessor not approve in writing the Lessee's estimates or should the Lessee not provide an estimated well plugging total cost per well, the following set bond rates shall apply:

<u>Well Depth</u>	<u>Minimum Bond Amount</u>
Less than 2500'	\$5,000
2500' to 5000'	\$10,000
5000' to 8500'	\$20,000
8500' and deeper	\$40,000

Within six (6) months of the five (5) year anniversary date of this Lease and each subsequent fifth (5<sup>th</sup>) anniversary, Lessor may request in writing and Lessee shall agree to institute new bond and insurance amounts based on the original bond and insurance amounts set forth in paragraphs 21(b) and 22(b) and (c) indexed to the Producers Price Index for All Commodities, issued for the anniversary month by the U.S. Department of Labor, Bureau of Labor Statistics. Should such index be discontinued and /or replaced, a conversion to a substitute or replacement index shall be accomplished using normally accepted conversion factors. Such adjusted amounts shall be rounded off to the nearest Thousand Dollar (\$1,000) amount. Failure of Lessor to request an adjustment for any five (5) year period shall not preclude a full adjustment at a subsequent five (5) year anniversary if requested.

23. **Future Mortgages.** Lessor may at any time mortgage all or any part of the leased premises as Lessor deems necessary and appropriate, provided that mortgage is subordinated to this Lease.

24. **Condemnation.** Any and all payments made by a Condemnor on account of a taking by eminent domain shall be the property of Lessor.

25. **Arbitration.**

(a) Any controversy or claim arising out of or relating to this Lease, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules including the Optional Rules for Emergency Measures of Protection, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

(b) Arbitration shall take place within One hundred (100) miles of the leased premises and this agreement shall be governed by and interpreted in accordance with the laws of the State of Pennsylvania. The parties acknowledge that this agreement evidences a transaction involving interstate commerce. The United States Arbitration Act shall govern the interpretation, enforcement, and proceedings pursuant to the arbitration clause in this agreement.

(c) Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this agreement seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal (or Pending the arbitral tribunal's determination of the merits of the controversy).

26. **Payments.** All royalties not paid in kind at the election of Lessor, and any and all sums due hereunder from Lessee to Lessor shall be paid at the option of Lessor, by check tendered directly from Lessee to Lessor or by depositing the same to the credit of Lessor in \_\_\_\_\_ Bank, \_\_\_\_\_, Pennsylvania (which bank and its successors are Lessor's agent and shall continue as depository for all sums payable hereunder, regardless of changes in ownership of said land or the rentals, either by dissolution, by conveyance or by the death or incapacity of Lessor, its successors or assigns). If any named depository bank (or any successor bank) is named to receive payment, and if such bank should fail, liquidate, or be succeeded by another bank, or for any reason fail or refuse to accept any payment or rental, Lessee shall not be held in default for failure to make such payment or tender of rental until thirty (30) days after Lessor shall deliver to Lessee a proper recordable instrument, naming another bank as agent or another person or entity to receive such payment or tender. No depository bank shall have authority to accept payments not timely made or payments not in the correct amounts as required by this Lease, and said bank's acceptance of payments not timely made or not in the correct amount shall not constitute a waiver by Lessor of any rights or remedies of Lessor under this Lease. A payment submitted electronically shall be considered timely paid if such payment is successfully transmitted to the Lessor's account on or before the due date. A payment not submitted electronically shall be considered timely paid if delivered to the Lessor on or before the applicable due date or if deposited in a postpaid, properly addressed wrapper with a post office or official depository under the care and custody of, and postmarked by, the United States Postal Service before the applicable due date.

27. **Default.**

(a) In addition to any incidents of default described throughout this agreement, the occurrence of any of the following constitutes a default hereunder:

(i) if any creditor of Lessee, its agents, and/or assigns shall take any action to execute on, garnish, or attach the assets of Lessee, or

(ii) if a request or a petition for liquidation, reorganization, adjustment of debts, arrangement, or similar relief under the bankruptcy, insolvency, or similar laws of the United States or any state or territory thereof or any foreign jurisdiction shall be filed by or against Lessee or any formal or informal proceeding for the reorganization, dissolution or liquidation of settlement of claims against, or winding up of affairs of the Lessee; or the garnishment, attachment, or taking by governmental authority of any collateral or other property of Lessee.

(b) Upon the occurrence of any event of default, as defined in paragraph 21(b) or 27(a) (i) and (ii) the Lease shall be terminated immediately and the Lessee shall become a tenant at will to operate in accordance with paragraph (10). If evicted, Lessee agrees to surrender possession of the leased premises, or of the portion of leased premises included in such termination. Lessee agrees to execute and deliver to Lessor appropriate instruments sufficient to clear the title of the leased premises, or any portion, from this Lease and all liens and encumbrances created suffered by Lessee. If Lessee fails to deliver such instruments to Lessor within sixty (60) days after termination, Lessor may institute proceedings necessary to clear title, and in that event, in addition to all other relief that may be granted to Lessor, Lessor shall be entitled to recover against Lessee, all attorney fees, investigation charges, court costs and other sums that Lessor has expended in clearing its title.

(c) Upon default by Lessee, Lessor shall be entitled to exercise any and all remedies available at law, in equity or otherwise, each such remedy being considered cumulative. No single exercise of any remedy set forth herein shall be deemed an election to forego any other remedy and any failure to pursue a remedy shall not prevent, restrict or otherwise modify its exercise subsequently.

28. **Notice of Breach.** In the event Lessor considers that Lessee has not complied with all its obligations hereunder, both express and implied, excepting the non-payment of royalty as addressed in paragraph 4 (g), Lessor shall notify Lessee in writing, setting out specifically in what respects Lessee has breached this contract. Lessee shall then have thirty (30) days after receipt of said notice within which to meet or commence to meet all or any part of the breaches alleged by Lessor. The service of said notice shall be precedent to the bringing of any action by Lessor on said Lease for any cause, and no such action shall be brought until the lapse of thirty (30) days after service of such notice on Lessee. Neither the service of said notice nor the doing of any acts by Lessee aimed to meet all or any of the alleged breaches shall be deemed an admission or presumption that Lessee has failed to perform all its obligations hereunder.

29. **Place of Performance.** All obligations of Lessee other than arbitration and the payment of money shall be performable in the county or counties in which the leased premises are situated. All obligations of Lessee for the payment of money shall be performable in the county of residence of each Lessor. Venue for any action to enforce Lessee's obligations hereunder shall lie in the county in which the leased premises are situated.

30. **Authorship.** For the purpose of construction, interpretation, arbitration or adjudication, it shall be deemed that Lessee and Lessor contributed equally to the drafting of this instrument.

31. **Severability.** If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals.

LESSOR:

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

Phone No. \_\_\_\_\_

LESSEE:

WITNESS:

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



Title \_\_\_\_\_

Lessor:

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS.  
COUNTY OF )

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 2009, before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_ known to me (or satisfactorily proven) to be the person (s) whose name (s) is (are) subscribed to the within instrument, and acknowledged that (he) (she) (they) executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_(SEAL)  
Notary Public

My Commission Expires:

Corporate Lessor:

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS.  
COUNTY OF )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2009 before me, a Notary Public, the undersigned officer, personally appeared, \_\_\_\_\_ who acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_ and that as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of said corporation by himself as \_\_\_\_\_.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_(SEAL)  
Notary Public

My Commission Expires:

Lessee:

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS.  
COUNTY OF )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2009 before me, a Notary Public, the undersigned officer, personally appeared, \_\_\_\_\_ who acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_ and that as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of said corporation by himself as \_\_\_\_\_.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_(SEAL)  
Notary Public

My Commission Expires: