

PAID UP OIL AND GAS LEASE

This OIL AND GAS LEASE (this “**Lease**”) is entered into and effective on _____ (the “**Effective Date**”), by and between the Board of Regents of the University of Texas System [Fund Name], acting through its designated agent, University Lands (“**Lessor**”) and [Company] (“**Lessee**”), whose address is [Address], [City], [State] [Zip].

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and based on the terms below, the parties agree as follows:

1. DEFINITIONS:

- (a) The term “**Affiliate**” includes, but is not limited to, the parent company or a subsidiary of Lessee, a corporation or other entity that has common ownership with Lessee, a partner of or joint venturer with Lessee, a corporation or other entity in which Lessee owns an interest or any individual, corporation or other entity that owns an interest in Lessee.
- (b) The term “**Gas**” means all natural gas produced from the Premises (including casinghead gas) and all of its constituent elements, including but not limited to flared or vented Gas.
- (c) The term “**Market Value**” means, for Oil, Gas, condensate, distillate, or other hydrocarbons of similar characteristics and type, the greatest of (i) the highest posted price, plus any premium, offered or paid in the general area, (ii) the prevailing market price in the general area, (iii) the proceeds of the sale thereof, or (iv) the highest value reasonably available to Lessee. The proceeds of sale includes the total value accruing to the producer from the sale or use of the production, including proceeds and any other thing of value received by Lessee or the operator.
- (d) The term “**Oil**” means any hydrocarbons, regardless of gravity, produced from the Premises capable of being produced in liquid form at the well by ordinary production methods, including condensate, distillate, and other liquid hydrocarbons recovered from Oil or Gas processed through a separator or other equipment on the Premises.
- (e) The terms “**operations**” and “**drilling operations**” means operations for any of the following: drilling, testing, completing, reworking, recompleting, deepening, side-tracking, plugging back or repairing of a well in search for or in an endeavor to obtain production of Leased Substances. Activities undertaken in preparation of the above-listed operations, such as surveying, building roads and location preparation, do not constitute operations or drilling operations under the Lease.
- (f) The term “**Production**” or “**Producing**” means production in paying quantities.
- (g) A well is Producing in “**Paying Quantities**” if the revenue received by Lessor for production from each well on the Premises during any 6-month period results in net income to the Lessee after deduction of all costs necessary to operate each well.
- (h) “**Producing Interval**” means the geologic interval in which a well is actually perforated and producing as identified by reference to Lessee's well logs.
- (i) “**Productive Acreage**” means the minimum acreage required for a well for production purposes pursuant to the applicable rules and regulations of the Railroad Commission (including any exceptions for optional smaller units that are granted on a *pro forma* basis) and as agreed upon and approved by Lessor.

- (j) **“Unproductive Depths”** means all depths below the deepest Producing Interval on the Premises.
- (k) **“Railroad Commission”** means the Railroad Commission of Texas (or any successor agency having jurisdiction in Oil and Gas matters).
- (l) The term **“Rate and Damage Schedule”** means the rate and damage schedule published by the University of Texas System in effect at the time of a particular action, payment, or notice.

2. **TERM:** Subject to the terms and conditions set out in this Lease, Lessor demises, grants, and leases to Lessee the Oil and Gas in and under the land described below (the **“Premises”**) for a period of three (3) years commencing on the effective date (the **“Primary Term”**), as extended as provided herein, and as long thereafter as Oil or Gas is Producing in Paying Quantities from the Premises or lands pooled therewith. This Lease is made for the sole purposes of prospecting and drilling for and producing Oil and Gas that may be found and produced from, the Premises, to-wit:

Part/Section	Block	Grantee	Acres	County
«Part» / «Sec»	«Bl»	State of Texas	«Acres»	«Counties»

3. **RESERVATION:** Lessee's right to prospect for Oil and Gas from the Premises is non-exclusive. The Board of Regents of the University of Texas System (the **“Board of Regents”**) expressly retains and reserves the concurrent right to grant third parties seismic, geophysical, and geological permits and to enter into other agreements with third parties to allow geophysical, geological, or seismic surveys on, over, under, through, and across the Premises during the term of this Lease, as long as such surveys do not unreasonably interfere with Lessee’s drilling or Production activities on the Premises.

4. **ROYALTY:** Lessee will pay or cause to be paid to Lessor a royalty (**“Royalty”**) of 25% of the proceeds received by Lessee for all Oil and Gas, or 25% of the Oil or Gas received in kind by Lessor pursuant to Article 4.(g), on all Oil and Gas produced from the Premises.

- (a) Lessee will run all Gas produced from the Premises or lands pooled therewith through a conventional oil and gas separator or other equipment at least as efficient before the Gas is sold or used unless (i) the liquid hydrocarbon content of the Gas is so small that doing so would be unprofitable or (ii) the pressure of the Gas is such that doing so would reduce the pressure to the point that Lessee would be unable to sell or deliver the separated Gas against existing gathering system or pipeline pressures.
- (b) Prior to notice by Lessor to Lessee, Lessee shall pay monetary Royalty based on the proceeds received by Lessee for the Oil and Gas produced from the Premises at the point of sale and delivery from Lessee to an unaffiliated third party. Notwithstanding anything herein to the contrary, if Lessor at any time determines that the basis for payment of Royalty is not reflective of the Market Value of the product, Lessor may specify that the Royalty be based on the Market Value of the Oil and Gas produced. Sales of Oil and Gas to an Affiliate of Lessee will create a rebuttable presumption that the basis for payment is not reflective of Market Value.

- (c) KEEP WHOLE: If Oil or Gas production from the Premises is processed in a plant for the extraction of gasoline, liquid hydrocarbons or other products, the value of the gross production for purposes of determining Royalty due will never be less than if such Gas had not been processed.
- (d) RECYCLED GAS: Upon receipt of Lessor's written consent, Lessee may inject Gas into any Oil- or Gas-producing formation in the Premises after the liquid hydrocarbons contained in the Gas have been removed, and no Royalty is payable on the injected Gas until it is produced and sold or used off the Premises.
- (e) CONSERVATION: Lessee will use best efforts to prevent the underground or above ground waste of Oil or Gas and to avoid the physical waste, flaring, or venting of Gas produced from the Premises. Lessor must meter wasted, flared or vented Gas to the largest extent practicable and pay Lessor royalty on such Gas.
- (f) NO DEDUCTIONS: Lessor's Royalty will never bear or be charged with, either directly or indirectly, any cost of producing, gathering, storing, separating, treating, dehydrating, compressing, transporting, and otherwise making the Oil and Gas ready for sale or use, whether borne by Lessee or its Affiliate or by third-party purchasers and whether stated as a deduction from the price or an adjustment to the price based on location or condition; provided, however, with respect to Gas processed for the extraction of gasoline, liquid hydrocarbons, or other products in a plant not owned by Lessee, no Royalty will be due on Gas volumes used or flared in the plant to the extent such volumes are reasonable and allocable to the Lease. For purposes of determining the Royalty due, the gross production will be valued at the point of sale and delivery from Lessee to an unaffiliated third party. Lessor and Lessee agree that the foregoing provision is to be given full effect and is not to be construed as "surplusage" under *Heritage Resources, Inc. v. Nationsbank*, 939 S.W.2d 118 (Tex. 1996). Field deductions for lost product are explicitly prohibited, and all such costs will be borne by the Lessee. Lessee must exercise due diligence and make reasonable efforts to market all production from the Premises to obtain the best prices reasonably available for the Oil and Gas.
- (g) ROYALTY IN KIND: Upon sixty (60) days' notice, Lessor may elect to receive all Royalties in kind, and Lessor will take its Royalty in kind at the appropriate place delivered into tanks or other receptacles provided by Lessor at Lessor's sole risk and expense. Lessee will provide to Lessor or Lessor's agent all relevant information necessary for Lessor to market the Royalty production Lessor elects to take in kind.
- (h) ROYALTY ON CONTRACT SETTLEMENTS: Lessee will pay Royalty at the applicable Royalty rate 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 Premises.
- (i) TAXES: Lessee acknowledges that Lessor is an agency of the State of Texas and that Lessor's Royalty is not subject to severance, regulatory tax and fee assessment, or ad valorem taxes, and as such, Royalties due that are attributable to portions of the Premises located in the State of Texas will not be reduced by any such fees or taxes.

5. MINIMUM ROYALTY: One year after the expiration of the Primary Term and each year thereafter during the term of this Lease, Lessee shall pay to Lessor an amount equal to the positive difference, if any, between an amount equal to \$30.00 multiplied by the total number

of acres in the Premises (the "Minimum Royalty") and Royalty from this Lease actually paid and received in the previous lease year. Such amount shall be due and payable within sixty (60) days after each anniversary date of this Lease. No Minimum Royalty is due if Royalty from this Lease actually paid and received during the previous lease year was greater than the Minimum Royalty.

6. PAYMENTS, SUBMISSIONS, AND NOTICES TO LESSOR:

- (a) MONETARY ROYALTY PAYMENTS: All monetary Royalty payments must be made to the Board of Regents of the University of Texas System and must specify any other information as requested by Lessor, such as a specific beneficiary institution or internal fund name. Royalty on Oil is due and payable on or before the 5th day of the second month succeeding the month of production. Royalty on Gas is due and payable on or before the 15th day of the second month succeeding the month of production.
- (b) MANNER AND TIMELINESS OF PAYMENTS: Payments not submitted electronically will be considered timely if delivered to Lessor on or before the applicable due date or deposited in a postage paid, properly addressed envelope 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. Electronic payments will be considered timely if successfully transmitted to the proper account with the Comptroller of the State of Texas ("**Comptroller**") on or before the due date.
- (c) PENALTIES AND INTEREST: Lessee will pay penalties and interest on late Royalty payments, Minimum Royalty payments, and other sums due, and for failure to provide documents (whether physical documents or information in electronic form) as specified by Lessor. The right to collect penalties and interest is in addition to, and does not limit or restrict, the rights of Lessor or the Board of Regents to pursue other remedies at law or in equity, including without limitation, termination of this Lease.
- (d) PAYMENTS, NOTICES, AND CORRESPONDENCE TO LESSOR: Lessee will remit all non-electronic payments and all documentation and information due under this Lease to the following address:

Board of Regents of the University of Texas System
University Lands (Trust Minerals)
P.O. Box 551
Midland, Texas 79702-0551

or such other address specified by Lessor in writing. Electronic payments will be delivered by electronic funds transfer to the proper account with the Comptroller.

- (e) NOTICES AND CORRESPONDENCE TO LESSEE: Lessor will send notices and correspondence to Lessee to the address specified in and provided in writing by Lessee to Lessor. Lessee must notify Lessor of all address changes in writing and must specifically reference this Lease.
- (f) NOTICE EFFECTIVE: Notices will be deemed effective upon proof of receipt if sent certified mail return receipt requested or three days after depositing with the United States Postal Service, if proof by the sender is provided. Notices by electronic mail are acceptable but will only be effective upon email acknowledgment from the appropriate notice recipient. Automated "read receipts" are not acceptable acknowledgments of receipt.

7. **CONTINUATION OF TERM:** If at the expiration of the Primary Term Oil or Gas in paying quantities is not being produced from the Premises, this Lease shall terminate; provided, however, the term of this Lease may be extended as provided in this Article. For purposes of this Lease, if production from the Premises is not marketed during any six (6) consecutive months, and no operations under this Article 7 are continued, production from the Premises will be deemed to have ceased.

(a) **CESSATION OF PRODUCTION:** If, after the later of (i) the expiration of the Primary Term or (ii) the designation of the portions of this Lease that Lessee is entitled to retain pursuant to Article 8, production in Paying Quantities from any portion of the Premises that Lessee is entitled to retain pursuant to Article 8, or from land pooled therewith, ceases for any reason, and this Lease is not otherwise being maintained in force and effect with respect to such portion of the Premises, this Lease will continue in force and effect as to such portion of the Premises if the commencement of Operations on an existing wellbore located on such portion of the Premises, or lands pooled therewith, or for a new well located on such portion of the Premises, or lands pooled therewith, occurs within ninety (90) days after cessation of such production. This Lease will continue in force and effect as to that portion of the Premises if such operations are diligently prosecuted in good faith and in a workmanlike manner without interruptions totaling more than ninety (90) days cumulatively, and, if such operations result in the production in Paying Quantities, for as long as Production in Paying quantities is maintained as to that portion of the Premises. If operations fail to result in production in Paying Quantities from such portion of the Premises or lands pooled therewith, Lessee will have ninety (90) days after the termination of such actual operations within which to commence Operations for a new well on such portion of the Premises or lands pooled therewith or further reworking operations on an existing well on such portion of the Premises or lands pooled therewith in order to perpetuate this Lease as to that portion of the Premises.

(b) **SHUT-IN ROYALTIES:** If at the expiration of the Primary Term or at any time thereafter there is located on the Premises a well or wells capable of producing Oil or Gas in paying quantities, and Oil or Gas is not produced for lack of suitable production facilities or a suitable market for the Gas, and such conditions are outside the reasonable control of Lessee, and this Lease is not being otherwise maintained, then the Lease will not terminate but will be extended for a period of one year if Lessee timely submits a written request to pay a shut-in Royalty, receives written approval from Lessor to do so, and pays a shut-in Royalty of thirty dollars (\$30.00) per net mineral acre that Lessee is entitled to retain pursuant to Article 8. Lessee may extend the Lease for a maximum of two (2) additional, successive periods of one-year each by the payment of a shut-in Royalty each year on or before the expiration of the extended term as long as the conditions that allow such extension continue. If at any time during which any well (or wells) is shut-in, Oil and Gas is produced, sold and delivered in Paying Quantities from a well off the Premises but that is situated within such distance that Lessor reasonably determines that drainage from the Premises may be occurring, Lessee will lose its right to further extend the Lease by payment of shut-in Royalties.

(c) **EXTENSIONS:** If at the expiration of the Primary Term or any extension term provided for in this Article 7(c) Oil or Gas is not being produced in paying quantities from the

Premises, but drilling operations are being conducted on the Premises in good faith and in a good and workmanlike manner, Lessee may, on or before the expiration of the Lease, request a 30-day extension of this Lease in writing, accompanied by a payment in the amount of thirty dollars (\$30.00) per net mineral acres. However, this Lease may not be extended under this section for a cumulative period of more than 360 days.

8. DRILLING AND DEVELOPMENT:

- (a) FULL DEVELOPMENT: After a well capable of producing Oil or Gas has been completed on the Premises, Lessee will exercise the diligence of a reasonably prudent operator in drilling such additional well or wells as may be reasonably necessary to fully develop the Premises. No payments or fees set forth in the terms of this Lease will relieve Lessee from the obligation to fully develop the Premises. Additionally, Lessee must, upon reasonable request from a lessee of adjoining lands, pool with the lessee of the adjoining lands to achieve secondary or advanced recovery of Oil, Gas, and other hydrocarbons that might be produced through the use of enhanced methods covering a greater area than the Premises.
- (b) CONTINUOUS DRILLING OBLIGATION: In addition to any other well or wells commenced on or before the expiration of the Primary Term, Lessee must spud in a new well within one-hundred twenty (120) days after the expiration of the Primary Term unless, on or before such date, productive wells have been drilled on the Premises to the maximum density permitted by regulations or orders of the Railroad Commission and the density is approved by Lessor. The new well must be drilled to completion in good faith and in a good and workmanlike manner. After the completion of such well, either as a dry hole or a producing well, Lessee will diligently conduct continuous drilling operations on the Premises with no cessation of more than one-hundred twenty (120) days until the spudding in of the next well. Each subsequent well must also be drilled to completion in good faith and in a good and workmanlike manner. This drilling obligation shall continue until all the Premises are included in Productive Acreage.
- (c) PRODUCTIVE ACREAGE/DEPTHS RETAINED:
 - (i) If Lessee fails to meet the obligations in Article 8(b), this Lease will terminate as to all acreage in the Premises except Productive Acreage and as to all Unproductive Depths underlying the Productive Acreage. The effective date of the termination will be the date that Lessee failed to spud in a well as required under Article 8(b). If on that date, Lessee is diligently drilling or completing a well on the Premises or is diligently working to establish the Productive Acreage for any completed well on the Premises, then any Productive Acreage ultimately established by these wells will remain included in this Lease under this Article 8(c)(i). For clarification, the effective date of any partial lease termination will still be the date that Lessee failed to spud in a well as required under Article 8(b).
 - (ii) If Lessee drills wells on the Premises to the maximum density permitted by the rules and regulations of the Railroad Commission, and such density is approved by Lessor, then two (2) years after the expiration of the Primary Term, this Lease will terminate as to all Unproductive Depths. However, if Lessee is diligently conducting drilling operations on the Premises on that date, Lessee may delay the partial termination of this Lease under this Article 8(c)(ii) for up to four (4) years after the expiration of the Primary Term of this Lease by continuing to develop Unproductive

Depths in the manner stated in Article 8(b).

- (d) **RELEASE:** The acreage retained under Article 8(c) as to each producing well will be, as nearly as practical, in the form of a square or rectangle, with the well in the center thereof, or such other shape as the Lessor may approve. Lessee will execute and record a release containing a satisfactory description of the acreage and depths not retained hereunder and promptly submit a legible copy of the properly recorded release to Lessor.
- (e) **Horizontal Severance; Other Depths Owners:** Notwithstanding anything herein to the contrary, Lessee acknowledges that if at any time during the existence of this Lease such Lease covers less than all depths (whether by the operation of a horizontal Pugh clause or otherwise), such depths not covered hereby ("Other Depths") may be presently subject and/or may in the future be subject to one or more agreements with other parties ("Other Depths Owners"). It is an express condition of this Lease that Lessee agrees to not interfere with the rights of any present and/or future Other Depths Owner to explore and develop the Other Depths. In connection therewith, Lessee's rights hereunder shall be subject to the following terms:
- (f) **Waiver:** Lessee hereby waives and releases Lessor and all present and/or future Other Depths Owners, their officers, directors, shareholders, employees, agents and assigns, subsidiaries and affiliates from and against any and all claims, actions, causes of action, liability, losses, demands, damages, costs, attorneys' fees, expenses or controversies of any kind or character, including, without limitation, trespass, well damage and drainage claims, arising out of, based on or in any way connected to the exploration of and production from the Other Depths by any such present and/or future Other Depths Owner; and
- (g) **Spacing Exceptions:** To the extent that an exception to any spacing exceptions, including, without limitation, the minimum distance required between wells or offsetting lease/unit/property lines, is required under any applicable regulatory or administrative rule or regulation for any well drilled to the Other Depths, or lands pooled therewith, Lessee agrees to provide the Other Depths Owner with a written waiver of its right to contest the granting of such exception within five (5) days of the Other Depths Owner's written request for such waiver.

9. POOLING: Lessee is hereby granted the right to pool or unitize the Premises or any part thereof, with any other land, lease, leases, mineral estates or parts thereof for the production of oil and gas, or either of them, from vertically or horizontally drilled wells, when in Lessee's judgment it is necessary or advisable to do so in order to properly develop and operate the Premises or to promote the conservation of oil and gas under and that may be produced therefrom; provided however that the unitization or pooling must be done in good faith for the express purpose of exploring, developing, and producing oil and gas, or either of them, to the fullest extent possible from the Premises, and with the express written concurrence of Lessor. Pooling may include all oil and gas or may be limited to either and may extend to all such production or may be limited to one or more zones or formations. Units pooled hereunder shall not exceed 160 acres for a gas well and 40 acres for an oil well, or such greater acreage included in the proration or spacing unit permitted or prescribed by an applicable rule, regulation, or order of a governmental agency for a single producing well and as approved by Lessor. A unit may be formed or reformed to embrace the acreage permitted

or prescribed by any such rule, regulation, or order. Lessee shall file written unit designations in the county in which the Premises are located, and shall forward to Lessor a copy of the unit designation, as so filed and recorded, together with a plat thereof, including the legal description of the unit and of the portion of the Premises included therein. Units may be designated either before or after the completion of any well or wells. Notwithstanding anything to the contrary herein contained, in the event a portion or portions of the Premises is pooled or unitized with other lands so as to form a pooled unit or units, operations on, completion of a well upon, or production from such unit or units will not maintain this lease in force as to the land not included in such unit or units. In the event of pooling, Lessor shall receive on production from a unit so pooled only such portion of the royalty stipulated herein as the amount of Lessor's acreage placed in the unit or its royalty interest therein on an acreage basis bears to the total acreage so pooled in the particular unit involved.

10. DRAINAGE PROTECTION: Lessee must adequately protect the Premises from drainage from adjacent lands or leases. If Oil or Gas is produced in Paying Quantities from a well draining the Premises, Lessee shall, within sixty (60) days after notice from the Lessor of such producing well, begin in good faith and diligently pursue operations to drill an offset well to be drilled to the depth necessary to prevent drainage of the Premises. Lessee must use all means necessary in a good faith effort to make such offset well produce Oil or Gas in paying quantities. Any well located within one thousand (1,000) feet of the Premises is presumed to be draining the Premises. Lessee may rebut this presumption only with evidence acceptable to Lessor, in Lessor's sole discretion. Payment of the bonus, the delay rental payment, deferred drilling fees, royalties paid or to be paid, shut-in Royalty, or other amounts due hereunder will not relieve Lessee from its obligations under this Section.

11. TITLE: LESSOR DOES NOT, EXPRESSLY OR IMPLIEDLY, WARRANT TITLE TO THE PREMISES, OR ANY PART THEREOF. If Lessor owns an interest in the Leased Substances in and under any portion of the Premises less than the entire mineral estate, then the royalties and shut-in Royalty to accrue or to be paid to Lessor hereunder as to the Premises will be reduced to the proportion thereof which the mineral fee estate of Lessor in the Premises bears to the entire mineral fee estate of the Premises.

12. ENVIRONMENTAL: Lessee agrees that Lessee and its agents, employees, representatives, contractors and approved assigns will conduct their operations in a professional, safe and workmanlike manner, and will not violate any applicable law (including common law), statute, ordinance, rule, regulation, order or determination of any governmental authority in connection with its activities and operations on the Premises, including without limitation, all applicable laws pertaining to health safety or the environment (including ambient air, surface water, ground water, land surface, or subsurface strata), or the remediation or restoration of environmental quality, (hereinafter sometimes collectively called the "Applicable Environmental Laws"), including without limitation, the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), the Resource Conservation and Recovery Act ("RCRA"), the Oil Pollution Act ("OPA"), the Emergency Planning and Community Right to Know Act, the Clean Air Act, the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Hazardous Materials Transportation Act, the Safe Drinking Water

Act, the Texas Water Code and the Texas Solid Waste Disposal Act and environmental protection provisions of the Texas Natural Resources Code. Lessee shall take all steps necessary to prevent the contamination of the Premises by oil, hazardous substances or solid wastes, and oil, hazardous substances and solid wastes shall not be disposed of or otherwise released on the Premises. If any oil, hazardous substances or solid wastes are released on the Premises, Lessee shall promptly remove and properly dispose of the released substances and remediate the affected area in compliance with Applicable Environmental Laws, and upon expiration or other termination of this Lease Lessee shall restore the land to its condition prior to the commencement of operations thereon in compliance with Applicable Environmental Laws. The term "release" shall have the meaning specified in CERCLA, the terms "solid wastes" and "disposal" (or "disposed") shall have the meaning specified in RCRA, the term "oil" shall for purposes of this Article 11 have the meaning specified in OPA, and the term "hazardous substances" shall include any substance listed, classified or regulated as hazardous under Applicable Environmental Laws including any substance regulated as hazardous under CERCLA or under the rules of the Railroad Commission; provided, however, to the extent that the laws of the State of Texas establish a meaning for "hazardous substance", "release", "solid wastes" or "disposal" which is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply.

13. INDEMNITY: Lessee agrees to protect, defend, indemnify and hold harmless Lessor, its successors, assigns and related or affiliated entities, and their respective officers, directors, employees, agents and representatives, from and against any and all claims, demands, actions, liabilities, losses, damages, fines, penalties, forfeitures, remedial actions, remediation costs, and other costs and expenses (including costs of defense, settlement and reasonable expert witnesses and attorneys' fees), whether foreseeable or unforeseeable, arising out of or relating to any of the following: (i) any operations or activities heretofore or hereafter conducted related to this Lease; (ii) the violation or alleged violation of any Applicable Environmental Laws by Lessee or any invitee of Lessee; (iii) the release or presence of any hazardous substances on, in, under or migrating from the Premises; and (iv) breach by Lessee of any of the terms of this Lease. **IT IS AGREED AND UNDERSTOOD BY LESSOR AND LESSEE THAT THIS INDEMNITY CLAUSE APPLIES REGARDLESS OF THE NEGLIGENCE, OTHER FAULT OR STRICT LIABILITY OF ANY PARTY INDEMNIFIED HEREUNDER. THIS SECTION SHALL SURVIVE TERMINATION OF THIS LEASE IN PERPETUITY.**

14. COMPLIANCE WITH LAWS: Lessee shall at all times comply with all applicable laws, regulations, ordinances, orders, permits, licenses, and any other directives of each and every governmental agency with jurisdiction over the Premises or Lessee's activities thereon. Lessee shall also comply with all applicable restrictive covenants pertaining to the Premises.

15. MEMORANDUM OF LEASE: On or after the effective date of this Lease, Lessor must provide to Lessee a memorandum of this Lease, properly executed and acknowledged. Lessee will properly execute and acknowledge such memorandum and record the same in the real property records of the county (or counties) in which the Premises are located and provide a copy of such recorded memorandum, or a file-stamped copy of the same, to Lessor as soon as reasonably practical.

16. INSURANCE: Lessee must ensure that Lessee and any person acting on Lessee's behalf under this Lease carry the following insurance with one or more insurance carriers licensed by the Texas Department of Insurance at any and all times such party or person is on or about the Premises or acting pursuant to this Lease, in such amounts as from time to time reasonably required by Lessor:

- (i) Worker's Compensation and Employer's Liability Insurance;
- (ii) Commercial General Liability and Umbrella Liability Insurance; and
- (iii) Business Auto and Umbrella Liability Insurance.

Lessee must provide Certificates of Insurance evidencing the above coverage promptly upon request by Lessor, or to such other representative of Lessor as Lessor may from time to time designate. The insurance policies required under (ii) and (iii) above, must name the State of Texas and The University of Texas System as additional insureds with regard to the Premises; reflect that The University of Texas System will receive thirty (30) days prior written notice of cancellation or material change in coverage; and reflect that the insurer has waived any right of subrogation against the State of Texas or The University of Texas System.

17. LIEN: By acceptance of this Lease, Lessee grants to Lessor an express contractual lien on and security interest in all Leased Substances in and extracted from the Premises or lands pooled therewith, all proceeds which may accrue to Lessee from the sale of such Leased Substances, whether the proceeds are held by Lessee or another person, and all equipment and fixtures on and improvements to the Premises or lands pooled therewith used in connection with the production or processing of the Leased Substances to secure the payment of the royalties and other amounts due or to become due under this Lease and to secure payment of damages or loss that Lessor may suffer by reason of Lessee's breach of a covenant or condition of this Lease, whether express or implied.

18. MISCELLANEOUS:

- (a) Time is of the essence with regard to performance of this Lease.
- (b) If Lessor prevails in any litigation relating to this Lease, Lessor will be entitled to reasonable attorneys' fees and prejudgment interest, as provided herein or determined by law.
- (c) DIVISION AND TRANSFER ORDERS: Division and transfer orders signed by the Lessor or Lessee shall not be construed to amend this Lease or modify in any manner Lessee's obligation to pay the royalties and other amounts due hereunder. If there are conflicting provisions in this Lease and any division or transfer order, the provisions of this Lease shall control.
- (d) SUCCESSORS AND ASSIGNS: This Lease shall be binding upon and inure to the benefit of Lessor and Lessee and their respective heirs, devisees, legal representatives, the successors and assigns of Lessor, and the permitted successors and assigns of Lessee, and shall constitute a covenant running with the lands, leases, and interests covered hereby.
- (e) INTERPRETATION: The terms and provisions of this Lease represent the results of negotiation between Lessor and Lessee, neither of which has acted under duress or compulsion, whether legal, economic, or otherwise. The terms and provisions of this Lease

shall be interpreted and construed in accordance with their usual and customary meanings, and Lessor and Lessee hereby expressly waive and disclaim, in connection with the interpretation and construction of this Lease, any rule of law, principle of interpretation, or procedure requiring otherwise, including, without limitation, any rule of law, or principle of interpretation, to the effect that ambiguous or conflicting terms or provisions contained in this Lease shall be interpreted or construed against the party whose attorneys prepared this Lease or any earlier draft hereof.

- (f) GOVERNING LAW; VENUE: This Lease shall be governed by, and construed under, the laws of the State of Texas. The venue for any dispute arising from the terms of the Lease will be Midland County, Texas.
- (g) ENTIRE AGREEMENT: This Lease represents and contains the entire agreement and understanding between and among Lessor and Lessee relating to the subject matter of this Lease. This Lease shall not be altered or varied except by a writing duly signed by both Lessor and Lessee.
- (h) SEVERABILITY: If any clause or provision of this Lease is illegal, invalid or unenforceable at any time under then current laws, the remainder of this Lease shall not be affected thereby, and this Lease shall be modified so that in place of each such illegal, invalid or unenforceable clause or provision there will be added as a part of this Lease a legal, valid and enforceable clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible.
- (i) CAPTIONS: Captions used herein are for convenience only and shall not be used to interpret or explain any provision of this Lease.
- (j) AUTHORITY TO EXECUTE: The individuals executing this Lease each represent that they have full power and authority to enter into this Lease and that upon their execution hereof, this Lease shall become a valid obligation of the party on whose behalf such individual executed this Lease.
- (k) FRANCHISE TAXES: By signing this Lease, each corporate lessee certifies that it is not currently delinquent in the payment of any franchise taxes due under Chapter 171, Texas Tax Code, or that each such corporate lessee is exempt from the payment of such taxes, or that each such corporate lessee is an out-of-state corporation that is not subject to the franchise tax of the State of Texas, whichever is applicable.

IN WITNESS WHEREOF, this Lease has been executed by Lessor and Lessee to be effective for all purposes as of the Effective Date.

LESSOR:

Richard Brantley
Executive Director, University Lands,
On Behalf of the Board of Regents of the
University of Texas System

Date: _____

LESSEE:

Name: _____

Title: _____

Date: _____