TEXAS OIL AND GAS LEASING A PRIMER

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BIOGRAPHICAL INFORMATION

Stephen Boykin is an attorney in private practice in Franklin, Texas. He represents banks and private lenders, title companies, buyers, sellers, borrowers, developers and owners in all phases of commercial, residential and farm and ranch real estate transactions. He is the owner of Guaranty Title Company of Robertson County, Inc. Stephen A. Boykin received a B.B.A. from Texas A&M University in 1993. He received a J.D. from South Texas College of Law in 1996. He is a member of the State Bar of Texas, as well as the Real Estate, Probate, and Trust Law Section and the Oil, Gas and Energy Resources Law Section.

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TEXAS OIL AND GAS LEASING A PRIMER

I. INTRODUCTION

A. Scope

This paper was originally presented at the State Bar of Texas Advanced Real Estate Law Conference in 2006. It has been modified *very* slightly for presentation at this event. A few newer example leases are included for the benefit of the reader and because the author lost some of the old ones.

This paper is written and presented to assist real estate attorneys in representing landowners in oil and gas leasing transactions, especially in rural or undeveloped areas. The intent is to provide a broad overview of issues involved in modern leasing. The paper assumes that the reader has some knowledge of the oil and gas industry and is dealing with property not already in a producing unit. Those without basic knowledge of oil and gas law are advised to study more comprehensive background material such as *Oil and Gas in a Nutshell* by John S. Low (published by West). Time, space, and this author's writing ability does not allow a thorough examination of the development and current state of oil and gas law. Accordingly, the paper is not heavily annotated.

This paper is written for real estate lawyers representing landowners. Those with several years of experience representing oil and gas producers in drafting leases will likely find the content trite and shallow. Much more in-depth treatment of the subject matter is regularly presented in the State Bar's Oil, Gas and Energy Resources Law Section Report.

In writing this paper, the author attempted to present well-settled legal principals. To the greatest extent possible, no speculative theories are espoused or defended.

B. Disclaimer

The leases attached as exhibits represent a cross-section of instruments the author reviewed on behalf of clients in early 2006. They are not presented as being favorable to the lessor; but merely reflect the type of document likely to cross the practitioner's desk. None of the leases represent this author's original work and credit is given to the drafters of such (whoever he, she or they may be).

The author shamelessly plagiarized most of the addendum provisions in this paper from other attorneys' work. Each has been modified so many times that the original text and name of its drafter are now unknown. The provisions are presented as examples or a rough guide to the reader and should be modified to fit the user's situation. There are likely other better provisions to accomplish the same general goals of the presented addendum provisions. To the extent the reader is aware of such, he is encouraged to fax or e-mail them promptly to the author for review and adoption in his own practice. Just as there is no such thing as a "standard Producers 88", there is no group of lease addenda that will fit every situation. There are enumerable other provisions that have been and should be used to address the concerns of the attorney and his / her client.

II. THE BASIC LEASE

A. Preamble / Parties

The basic oil gas and mineral lease begins with a header stating that it is a Producer's 88 of some permutation. This can be misleading to landowners. Leasing agents have been known to tell landowners that it is unnecessary to have a lease reviewed by an attorney because it is a standard Producers 88 and the same instrument all his / her neighbors signed. While the format seems to follow a relatively standard convention, the reader is advised that THERE IS NO STANDARD OIL AND GAS LEASE. It is imperative that the practitioner read every part of every paragraph of the lease in advising his / her client.

The lease will begin by stating an effective date and naming the parties. The date is important because it determines the dates of other crucial events in the life of the lease. Most importantly, it determines the date that the lease will terminate if it is not held in force by production or otherwise.

The names of the parties can be important. This represents one opportunity for an attorney to avoid malpractice. When more than one lessor is named, the attorney should consider the possibility for conflict. If a husband and wife are named, is the property community property or the separate property of one of them? If two or more lessors are named, are their interests identical? Would one lessor benefit from a larger bonus at the expense of a greater royalty to the detriment of the other(s)? If the lessor is an entity and one or more partners, directors and / or officers, it is imperative that the practitioner identify his / her client(s) and get conflict waivers where applicable.

The attorney is also advised to research the lessee. In this author's area, it is common for the operator or final owner of the lease to take the lease in its own name. Elsewhere, the ultimate lessee will act through a leasing agent. It is also common to find independent lessee's taking a lease with the goal of selling the leases at a profit. When dealing with an unknown lessee, the attorney is advised to investigate his / her reputation with other practitioners in the area. It is not unheard of for a lessee to take a lease with the intent of selling it and then dishonor the bonus money draft when he / she is unable to sell the lease. This author finds that his clients dislike paying attorneys fees for time spent negotiating leases when the same fails to result in the client receiving money.

B. The Granting Clause

1. Estate Created

After naming the parties and establishing the effective date, the lease generally proceeds to the granting clause. The usual convention is to recite that the lessor grants the lease for "$10.00 and other valuable consideration". This does not usually present any problems; however, the author had occasion to witness a potential disaster. The client came to the author's office with an unexecuted (thankfully) lease and a check for ten dollars. The lessee had instructed the lessor to sign the lease, return it to him, and that the lessee would pay the additional bonus money (totaling over twenty thousand dollars) when he sold the lease. Consider the result if the lessee successfully assigned the lease for money and failed to pay the additional bonus money. The lessor would have to honor the lease in the hands of a bona fide purchaser for value and attempt to recover the bonus money from the original lessee, provided he could be found. Accordingly, the practitioner is advised to present the executed lease to the lessee upon receipt of the bonus money. The bonus money is traditionally paid in the form of a bank draft; however, the author finds that some lessees can be convinced to pay by cashier's check, thereby greatly reducing the number of times each succeeding week the lessor calls his / her attorney asking when the draft will be paid.

The general language of the granting clause states that the lessor "grants, lets and leases" the property exclusively to the lessee and follows with a myriad of purposes for which the property is leased. The language "grants, lets and leases" should be used in favor of other language such as "grants, sells and conveys" to clarify the intent that the estate created is in fee simple determinable rather than fee simple absolute.

2. Purposes

The granting clause usually sets forth the purpose for which the lessee can use the property. Each lease has a different string of purposes. The standard "exploring for, developing, producing and marketing" may be greatly expanded to such activities as laying pipelines, constructing refining facilities, and drilling injection or salt-water disposal wells. It is imperative that the practitioner carefully consider what is involved in each recited purpose and eliminate by striking or addendum those purposes which the client finds undesirable. Obviously, a client who owns the surface of the property will be more sensitive to issues involving seismic operations, pipelines, and refining operations than will a lessor who does not own the surface. Pipelines, especially larger distribution lines, should be handled in a separate agreement, and reference to them should be eliminated from the granting clause by striking or use of an addendum.

3. Substances Covered

The granting clause also sets forth what substances are covered. In addition to oil and gas, it likely sets forth a list of other substances like sulphur, helium, and nitrogen. The lease may also state that it is for "oil, gas an other minerals" leading to a debate regarding the identity of "other minerals" under *Moser v. United States Steel Corp.*, 676 S.W. 2d 99 (Tex. 1984) and its progeny. To avoid leasing some substance that turns out later to have value separate and apart from oil and gas, the author recommends limiting the lease to oil, gas and other hydrocarbons produced in conjunction with oil and gas through the well bore of an oil and gas well. To the extent the practitioner is willing to expand the scope of covered substances, he / she is nevertheless advised to make clear that coal and lignite are not covered. These substances currently have value separate and apart from oil and gas and can be recovered from the property at the same time that oil and gas are being produced.

4. Property Covered

The property covered by the lease is generally described next. As most oil and gas is produced from rural or less developed property, the description will likely include a section, range and township, or a metes and bounds description which, because of its length, will be attached as an exhibit. Care should be taken to be certain the property is described as accurately as possible. Additionally, spending time ascertaining the interest owned by the client at this point will significantly lessen the number of problems once production is had and royalties are paid. First, consider the legal description. Does it describe all the client’s land in the area? If not, adjacent and adjoining strips and gores may be covered by the lease even though no bonus is paid for them. Is the description so old or questionable as to cast doubt on the number of acres involved? If so, having a new survey performed could prove useful. Suppose the client reveals that she believes her property is actually 372 acres rather than the 350 acres described in the deed to her grandfather in 1908. If a survey proves she is correct, the bonus will be paid based on the actual acreage. In this case, there was an additional 22 acres. If the bonus is $425.00 per acre, the increase to the client would be $9,350.00. Provided a new survey could be performed for less than $9,350.00, the client will benefit as a result. Most leases state that the bonus, shut-in royalties, and delay rentals are to be paid on the acreage stated, regardless of whether the total acreage is later determined to be more or less. Accordingly, surveying the property prior to executing the lease may be beneficial, especially if the lease cannot be amended to provide for additional bonus moneys to be paid if the property is later determined to be larger than it was thought to be at the time the lease was executed.

At this time, the practitioner should consider the interest owned by the client. The bonus is typically paid as a certain amount per net mineral acre. In other words, if the client owns one-half of the oil, gas and other minerals under one hundred acres, he or she owns fifty net mineral acres. If the bonus is $300.00 per net mineral acre, the actual payment would be $15,000.00. Of course, the situation can be much more complicated. Suppose the client's property consists of three separate tracts with different fractional mineral or royalty interests reserved at separate dates. The practitioner should inquire as to how the lessee has calculated the number of net mineral acres owned by the client. If possible, the attorney should review the lessee's run sheet, prepare a title run, or purchase a title report, especially if the acreage is quite large. Taking the time to do so may increase the amount of bonus money paid and lessen the incidents of surprises when reviewing division orders when production begins. Discussing these matters with the clients up front usually saves time. Most have a keen sense of exactly what they own and will readily explain how they received it. If the client is uncertain of the interest owned, it is even more imperative to be certain the lessee's calculations are correct. Of course, these points are moot if the lessor owns 100% of the minerals and the bonus calculation reflects such.

5. <u>The Mother Hubbard Clause</u>

Following the property description, the lease will typically contain a Mother Hubbard clause. It states that if the lessor owns any property contiguous with or adjacent to the leased property, the contiguous or adjacent property is also leased. Its purpose is to bring small strips and gores into the lease under the theory that the lessor and lessee meant to include them and would have done so if they knew of the existence of the additional property. Though this clause could work inequity in any number of occasions, it is well settled that the Mother Hubbard clause cannot be used to make the lease effective as to large adjacent tracts. *Smith v. Allison*, 301 S.W. 2d 608 (Tex. 1956). If the practitioner is aware that the client owns property nearby that he / she does not intend to include in the lease, an addendum can be used to specifically except such property from the lease. Once again, it is important to communicate with the client about such matters.

C. The Habendum Clause

1. <u>Term</u>

The Habendum Clause is the portion of the lease that makes the instrument a conveyance in fee simple determinable. It states that the lessor has granted the oil and gas to the lessee FOR A NUMBER OF YEARS AND AS LONG THEREAFTER AS (SOME CONDITION EXISTS). The usual language is "for three (3) years and as long thereafter as oil and gas are produced from the property or property pooled therewith". It is this clause, then, that breaks a lease into a primary and secondary term. The primary term is the period, three years in this example, when no action is required on the part of the lessee. The secondary term is the period during which the lease will expire unless some condition, production in paying quantities in this example, exists. The Habendum Clause will usually go on to incorporate some savings clauses that act as substitutes for the existence of the condition. For example, the lease may state that even if there is no production in paying quantities, it will nevertheless be held in force if the lessee pays shut-in royalties.

Most modern Texas leases are "unless" leases. They expire after the primary term *unless* something happens. "Or" leases, also commonly referred to as "drill or pay" leases, are uncommon in Texas today and not treated herein.

Delay rentals have historically been used to allow the lessee to extend the primary term of a lease and gain additional time to achieve production. The author has seen a noticeable shift away from the mention of delay rentals in the lease. Most modern leases seem to be simple three of five year paid up leases with no provision for the payment of delay rentals. Nevertheless, the practitioner is advised to use caution in determining what conditions can extend the primary term or substitute for production in paying quantities in the secondary term.

To recap, the Habendum Clause essentially states that the lessor grants the oil and gas to the lessee for a term of years and as long thereafter as the lessee produces the minerals in paying quantities. Any departure from language that accomplishes this goal should be analyzed carefully to consider its effect.

2. <u>Savings Clauses</u>

Savings clauses in the lease can appear anywhere; however, several are generally grouped together in the Habendum Clause. If the lease is for a term of years (the primary term) and as long thereafter as there is production (the secondary term), the savings clauses identify conditions or activities that act as a substitute for production and hold the lease in force during the secondary term. The most common savings clauses found at this part of the lease are the Shut-in Royalty Clause, the Operations Clause, and the Dry Hole Clause.

a. Shut-in Royalty Clause

The Shut-in Royalty clause may appear in the Habendum Clause, but more commonly appears in the section of the lease involving royalties. It is treated here because it effects the term of the lease, specifically the secondary term. The Shut-in Royalty clause essentially states that if the lessor drills a well during the primary term which is capable of producing covered minerals in paying quantities, and the well is shut-in (usually for lack of a market, for maintenance, or because no pipeline has yet been constructed to transport the gas), the lease will not expire and will be held in force so long as the lessee makes some nominal payment. In reviewing this clause, the practitioner should look for language that identifies what circumstances will allow the lessee to pay shut-in royalties, how long the payment of shut-in royalties can hold the lease in force, and what diligence is required on behalf of the lessee to produce and market the product. Generally, an addendum can be used to limit the term during which the lessee can hold the lease by paying shut-in royalties. The commonly-used addendum limits the term during which shut-in royalties can be paid by the lessee to two years at any one time and three years in the aggregate. Most leases contemplate the payment of $1.00 per acre per year as shut-in royalties. Most lessees will agree to increase this amount to $25.00, $50.00 or even $100.00 per acre annually as the amount so paid represents a small fraction of the value of the product.

b. Operations Clause

The Operations Clause is a savings clause that generally appears within the Habendum Clause. It states that if, at the end of the primary term, there is no actual production, but the lessee is conducting *operations* (as that term is defined in the lease), the lease will not expire as long as operations continue. The purpose of the clause is to allow the lessee to complete a well begun in the primary term thereby extending the lease into the secondary term. Caution should be exercised in reviewing the definition of "operations". The definition may be given in this paragraph or elsewhere in the lease. Some leases provide that preliminary site preparation by the lessee constitutes operations. Clearly, such a definition could be abused by the lessee to carry the lease into the secondary term when no meaningful activity is contemplated in the immediate future. A narrower definition of operations would be more beneficial to the lessor. The practitioner is advised to work toward a definition that provides operations have begun only after a drilling rig is located on the property or property pooled with the property and is actually spudded in.

c. Dry-hole Clause

Occasionally, a lessee might drill a well which fails to produce oil or gas in paying quantities, but which produces information sufficient to lead the lessee to believe a producing well could be produced by modifying the drill site or completion method. This is the purpose of the Dry-hole clause. It prevents termination of the lease when the lessee has drilled a dry hole and allows some length of time (usually ninety (90) days) for the lessee to begin drilling another well on the property or property pooled with it. Care should be taken to insure the time period between the completion of the dry hole and commencement of operations for the next well is not too lengthy.

In summary, Habendum Clause states that the lease lasts for (1) the primary term, plus (2) as long thereafter as production continues in paying quantities, provided that (3) it will not expire for lack of production if some savings clause applies. The savings clauses may be set out in the habendum clause or elsewhere in the lease. Some savings clauses such as the Force-Majeure Clause typically appear toward the end of the lease and are considered later in this writing.

D. The Royalty Clause

Royalties are the ultimate goal of most lessors. While it is preferable to maximize the bonus money the lessor receives, the greatest amount of money is usually received via royalties. Royalties are essentially the mineral interest owner's share of production free of the cost of production. Historically, lessors were offered a 1/8 royalty. Today, 3/16 or 1/5 royalties are common with some lessors negotiating royalties of 25% or more. The practitioner should inquire as to the standard royalty being paid in his / her area and identify conditions which might substantiate a royalty above the average being paid.

Royalty negotiation and calculation can become quite technical. A detailed discussion of the background and theories involved is beyond the scope of this paper. For a more in-depth analysis, the reader should consult articles such as *Gas Royalty Calculation 2005 - An Update*, by Michael P. Peterson,which appears in the March 2006 edition of the State Bar of Texas Oil, Gas and Energy Law Section Report. This heavily-annotated report presents an excellent background into royalty calculation and reviews numerous modern cases on the subject.

1. <u>Oil Royalties</u>

In beginning this section of the paper, the author must admit that virtually all of the oil and gas transactions he has reviewed since 2003 involved leases to produce gas in the Bosier Sand formation. The author originally began this section by stating that royalties on oil were typically payable in kind at the wellhead because that is where oil is stored and sold. A review of recent leases, a cross-section of which are included as exhibits to this paper, reveals that such is no longer the case. Once again, it is imperative to read the entire text of the lease.

Like gas, the royalty on oil may be calculated at the wellhead, or when sold off site. The royalty may be paid on the "market value" or the "amount realized". The lessee will typically deduct from the royalty the lessor's share of taxes and costs of treating the oil and making it marketable.

To the extent the royalty is calculated based on "market value", it is important that the term is defined in the lease or an addendum. It is common to define market value as the average of the two or three highest prices paid in the same field within the previous year or two. The practitioner should be aware that "market value" may be less than the amount realized from the sale of oil or gas when the lessee successfully obtains a price higher than market value. *Yzaguirre v. KCS Resources,Inc.*, 53 S.W. 2d 368 (Tex. 2001).

To the extent the royalty is calculated based on the "amount realized", it is important that the amount is actually realized in an arms-length transaction between non-affiliated entities. If not set out in the royalty clause, this requirement should be treated in an addendum to prevent a situation whereby the lessee sells the product to an affiliated entity for a price less than what the lessee could have obtained in an arms-length transaction.

2. Gas Royalties

Like oil royalties, gas royalties may be calculated at the well or at the point of sale. They may be based on the amount realized or the fair market value. Only by carefully reading the lease will the practitioner be able to determine how the royalty will be calculated, inform the lessor, and negotiate a more advantage method of calculation.

The most common method of calculating royalties on gas is the fair market value at the well. Gas, by its nature, cannot be economically stored at the well, so it must be transported, usually by means of a pipeline, and treated to render it marketable. Because of the cost associated with such transportation and treatment, the fair market value price at the wellhead will necessarily be less than the price of the gas ultimately sold after transportation and processing. Without explicitly stating so in the lease, a royalty calculated based on the market price at the well makes the lessor's royalty subject to deductions for the lessor's pro-rata share of the costs associated with processing and transportation. *See Piney Woods Country Life School v. Shell Oil Co.*, 726 F.2d 225 (5th Cir. 1984), cert denied, 471 U.S. 1005, 105 S. Ct. 1868 (1985). Not even a clear statement that the lessor's royalty will be calculated free and clear of such cost will prevent the lessor's royalty from paying its pro-rata share thereof if the royalty is based on the market price at the well. *Heritage Resources, Inc. v. NationsBank, Co., Trustee* 939 S. W. 2d 118 (Tex. 1996).

To the extent that it is desirable to have the lessor's royalty calculated free of the costs of processing and transporting the gas, the practitioner should specify that the royalty is to be calculated on the gross sales proceeds at the point of sale without deduction for gathering, treating, processing, transporting or delivering the gas. An even more utopian situation would result if the royalty was the greater of the market value at the well or the gross proceeds at the point of sale without deducting costs of processing and transporting. As such a calculation represents an extreme departure from the ordinary, it will not likely be accepted by the lessee unless the lessor makes significant concessions on other terms of the lease or is negotiating from a very strong position.

3. Shut-In Royalties

The Shut-in Royalty provision in the lease usually appears in the Royalty Clause. As discussed above, the Shut-In Royalty clause is a savings clause that acts to hold the lease in force in the absence of production in paying quantities.

4. Mineral Theft Provision

Some lease forms end the Royalty Clause with a statement to the effect that the lessee will have free use of the oil or gas produced from the property to use for its operations. It often states that no royalty will be paid on the minerals so used. The author refers to such provisions (somewhat tongue-in-cheek) as mineral theft provisions. No limit is generally placed on this right in the lease such that the value of the minerals so used might be significant. It is recommended that this provision be struck in its entirety, or that some limit be placed on the amount of production that can be extracted and used without compensation to the lessor.

E. The Pooling Clause

1. Purpose

The pooling clause allows the lessee to combine one lessor's acreage or interest with other acreage in order to form a pool. The terms "pool", "unit", and "proration unit" are often used interchangeable. The reasons and purposes of pooling including Railroad Commission spacing rules, field rules, etc. are beyond the scope of this paper. Suffice to say that the vast majority of oil and gas production in Texas is accomplished by way of pooling two or more tracts of land.

The effect of pooling is such that production on any of the acreage pooled will hold the leases on all pooled interests. Accordingly, if Lessor A's interest in a 100 acre tract is pooled with the interest of Lessor B's 400 acre tract and Lessor C's 204 acre tract, and the lessee completes a well on Lessor C's 204 acres, production from that well will hold the lease on Lessor B's and A's interest as well. All three Lessors will share in the production in the proportion that their interest bears to the total acreage pooled. In this simplified example, Lessor A's share would be 100/704. Assuming the well produced one million dollars worth of gas in a month, and that Lessor A owned all of the minerals on his / her 100 acre tract and had leased the gas for a royalty of one-fifth, the royalty for that month would be calculated at \$1,000,000.00 X 100/704 X 1/5 = \$28,409.09. This simplistic example excludes factors such taxes and expenses chargeable to Lessor's share, but should adequately demonstrate the effect of pooling.

Pooling allows the lessor to participate in the royalties by virtue of the fact the lessor is in privity of contract with the lessee. The well need not be drilled on the lessor's land in order for the lessor to receive a share of the royalty.

Caution must be exercised in reviewing the pooling provisions in a lease. Standard pooling provisions state that if any of the lessor's interest is included in a pool from which there is production in paying quantities, then the lease remains in force as to the lessor's entire interest. Without some modification to the pooling provision, the lessee could include a portion of one acre of the lessor's interest in the pool and hold the lease in force as to hundreds of acres on which the lessor received no royalty. To address this problem, the practitioner should be certain to insist upon a Pugh Clause as an addendum to the lease.

2. The Pugh Clause

The Pugh Clause is used to prevent the lessee from using pooling to hold all of the lessor's interest by production when only a portion of the lessor's interest is included in a pooled unit. The Pugh Clause most commonly appears as an addendum to the lease and is not commonly contained in the Pooling Clause. The basic text of the Pugh Clause is as follows:

> *Notwithstanding any provision hereof to the contrary, if a part of the Leased Premises is included within a pool or proration units, drilling operations or production from the unitized premises shall maintain this lease only as to that portion of the leased premises within such pool or proration unit regardless of whether such unit is located totally within the acreage covered by this lease or not. As to that portion of the Leased Premises not included in a proration unit or pool, after expiration of the primary term this lease may be maintained only by production or by operation of other provisions herein which pertain to reworking operations, drilling operations or additional drilling operations. After the expiration of the primary term, Lessee agrees to release in recordable form all acreage not held by production in paying quantities.*

The Pugh Clause has been used so extensively and for so long that most lessees will have no objection to accepting it as an addendum to the lease. Due to the inequitable situations that can result from failure to use a Pugh Clause, it is in the author that it should appear as an addendum in each and every lease that has a pooling provision.

3. Acreage Provisions

It is common for modern leases to allow the lessee to pool up to 80 or more acres for oil wells and up to 640 acres for gas wells, plus a tolerance of up to ten percent. Accordingly, under the common lease form, a gas unit could be up to 704 acres. The practitioner should take note of the effect that increasing the unit has on the lessor's royalty. As explained above, the lessor shares in the production to the proportion that his / her interest bears to the total acreage in the unit. The larger the unit, the smaller the lessor's proportionate share thereof. The practitioner may find it advantageous to negotiate for a smaller maximum unit size in order to increase the lessor's interest in the unit. Conversely, negotiating such a concession might cause the lessee to include another lessor's interest in the pool in order to maximize the number of acres held by production.

In sum, the Pooling Clause allows the lessee to combine the acreage of several tracts and hold all the acreage in the pool under the leases by production on any of the property in the pool. A more detailed discussion of pooling is beyond the scope of this paper; however, pooling addenda are discussed below.

F. Clauses Defining Operations

As discussed above, modern leases are for a term of years (the primary term) and as long thereafter as production continues in paying quantities (the secondary term). Even if the lessee has not completed a well in the primary term, the lease can be held in effect after the expiration of the primary term by "operations". This is a type of savings clause discussed at length above. Following the pooling provision of many leases, the lessee often inserts a provision that defines "operations". To the extent that the lease defines operations as drilling, reworking, completing or repairing the well in a diligent attempt to obtain production, this definition is probably reasonable to the lessor. Conversely, to the degree that the definition includes planning, preparing, or conducting seismic testing, it is probably too broad. Any portion of the definition that contains a unreasonable activity should be struck or a mutually acceptable addendum defining operations should be negotiated.

G. Ancillary Rights Clauses

Toward the end of the lease, it is not uncommon to find provisions granting the lessor ancillary rights. These may be somewhat harmless such as the right to remove equipment after the lease terminates. On the other hand, this clause may be used to grant the lessee the right to drill saltwater disposal wells, construct treating or refining facilities, or build pipelines. As discussed above, a mineral owner who also owns the surface will be especially sensitive to the sort of rights granted in such a provision. It is common for such a clause to set forth the minimum distance that operations must be conducted from improvements. It is recommended that even non-surface owners consider this limitation. If the non-surface mineral owner sold the property to the current surface owner and made any representation regarding future surface use, he or she may have some liability to the surface owner who relied upon such a representation. It may be advisable for the non-surface mineral owner to negotiate a larger buffer for the protection of the surface owner if the two ever had a buyer - seller relationship.

H. The Warranty Clause

Most leases contain a clause whereby the lessor warrants title to the mineral estate and further grants the lessee the right to discharge any mortgage or lien and be subrogated to the rights of the lien holder. The real estate practitioner will likely be quite familiar with warranties of title. It is recommended that the sentence warranting title be struck completely on the theory that the lessee has or will research the title and should bear the responsibility for determining the validity of the title to the mineral estate. If the warranty provision cannot be deleted, it should be limited to those matters by through or under lessor, thus creating a special rather than general warranty.

The portion of the Warranty Clause allowing for the discharge of liens and subrogation to the right of the lienholder is probably necessary to protect the lessee's interest. Care should be taken in reviewing the language to be certain it is not overly broad as to what actions the lessee may take.

The final part of the Warranty Clause is usually a "Cut-down Clause". It provides that if the lessor owns less than one hundred percent of the minerals under the property, his / her royalties and shut-in royalties will reduced to correspond with the percentage of the mineral estate owned. This provision is probably not objectionable in most circumstances. If the lessor is concerned about the percentage owned, he / she might attempt to negotiate a stipulation provision as an addendum. Understandable, lessees are usually more than reluctant to do so.

I. More Savings Clauses

1. <u>No Termination Clause</u>

There is a strong trend in modern leases to include a provision limiting the lessor's remedies in cases where the lessee breaches the lease. They seem to follow the following form: First, the lessor must notify the lessee of the alleged breach. The lessee then has a time period (usually sixty to ninety days) to remedy or *begin to remedy* the lease before the lessor files a lawsuit. Finally, even if the lessor is successful in his lawsuit, the lease cannot be terminated. Instead, the lessor's remedy is limited to collecting damages. While the purpose of this clause is clear, the common language offends the sensibilities of even the least litigious attorney. It is recommended that this provision be heavily amended to reduce the time between notification and commencing litigation. The lessee should be allowed to remedy the breach, but not to simply begin to remedy it. Finally, some attempt should be made to strike the limitation on remedies. The author has been successful in negotiating a change to the clause whereby the lease would not be terminated in whole or in part unless so ordered by a Court of competent jurisdiction, thus amending the complete prohibition against termination.

2. <u>Force-Majeure Clause</u>

The force-majeure clause is the final savings clause typically found in an oil and gas lease. Its purpose is to prevent termination of the lease due to lack of production in paying quantities, when the cessation in production is beyond the control of the lessee. The clause typically sets out a litany of events deemed to be acts of God and, therefore, beyond the lessee's control. Care should be taken to exclude from the list any condition that is not truly beyond the lessee's control. For example, floods and wars are probably beyond the lessee's control, whereas, inability to obtain equipment at the lessee's desired cost is not.

J. Choice of Law Clauses

Most modern leases state that they will be interpreted and governed under the laws of the State of Texas. There appears to be no overwhelming reason to object to such a provision. They often go further in attempting to establish venue in whatever county the lessee is situated. Obviously, it is often advantageous to have venue in the county in which the lessor lives or where the property is located. Most lessees will agree to venue in the county in which the property is located; and the lease should be amended to reflect such if it is advantageous to do so.

III. ADDENDA

A. Disclaimer

The terms of the main lease can be amended through attached addendum provisions. Occasionally, the author reviews a lease addendum that was obviously drafted by an attorney who believed in the "more is better" approach. Rather than taking such an approach, the author recommends using only provisions that the reader understands and that are targeted to address specific provisions in the lease or matters of concern to the client.

The addendum provisions set out below represent a collection of items addressing some more commonly encountered situations. They are not by any means exhaustive. The author does not represent that the addendum provisions are the best or only ones available. The reader should consider when an addendum should be used and craft the addendum to address his / her specific situation.

B. The Pugh Clause

As discussed in Paragraph II (E) (1) above, the Pugh Clause is used to counter the undesired effect of the standard Pooling Clause. The usual language of the Pooling Clause would allow the lessee to hold all of the lessor's interest under the lease by including any portion of the lessor's interest in a pooled unit. The goal of the Pugh Clause is to limit the interest held by production to only that interest actually included the pool. It is the author's position that a Pugh Clause should be used in every lease that has a standard pooling clause. One example of a Pugh Clause is as follows:

> *Notwithstanding any provision hereof to the contrary, if a part of the Leased Premises is included within a pool or proration units, drilling operations or production from the unitized premises shall maintain this lease only as to that portion of the leased premises within such pool or proration unit regardless of whether such unit is located totally within the acreage covered by this lease or not. As to that portion of the Leased Premises not included in a proration unit or pool, after expiration of the primary term this lease may be maintained only by production or by operation of other provisions herein which pertain to reworking operations, drilling operations or additional drilling operations. After the expiration of the primary term, Lessee agrees to release in recordable form all acreage not held by production in paying quantities.*

The Pugh Clause is included first in this list of addendum provisions solely because of the author's perception of its importance in current oil and gas leases.

C. Vertical Release Addendum

The Vertical Release Clause, sometimes referred to as a Vertical Pugh Clause, is used when the lessor believes that, at some time in the future, some party will desire to drill one or more wells to depths other than those contemplated by the current lessee. An example of a vertical release provision follows:

> *Notwithstanding anything contained herein to the contrary, upon two (2) years after the expiration of the primary term or any continuous drilling operations as provided for in this lease, whichever is the later, this lease shall terminate as to all depths below one hundred feet (100') below the stratigraphic equivalent of the deepest depth from which oil and / or gas is produced on the leased premises or on lands pooled therewith. Then and in that event, Lessor and / or Lessor's assigns shall have the right to drill through all shallower depths to reach the deeper depths hereby released.*

Variations of this clause can be used to limit the lease to only certain strata or to release both shallower and deeper strata at the end of some time period.

D. Surface Use Addendum

Surface use clauses represent some of the more frequently used and misused addendum provisions. They are of the most use to the surface owner, but can be used by the non-surface mineral owner when there is some reason to limit surface operations.

In drafting, the practitioner is cautioned to be aware of outstanding interests. If the surface owner proposes an addendum stating that his / her lease does not grant the right to make use of the surface, it is still possible for the lessee or another lessee to make use of the surface through the rights granted in a lease from another lessor.

The practitioner should also inquire as to the location of the improvements on the property. There is less advantage in negotiating a provision prohibiting operations on the property when the surface owner's home is located fifty feet from the boundry of the adjoining property, on which the operations will take place.

Below are a few simple examples of surface use clauses:

1. *Lessee covenants and agrees not to conduct any operations on the Property described in this lease or on any property adjoining this Property within eight hundred feet (800') of any of any residence or barn on the Property described in this Lease.*
2. *Notwithstanding anything to the contrary herein, Lessee agrees and obligates itself to conduct its operations upon the leased premises as a reasonable and prudent operator and in such a way as to cause a*

minimum of damage to the land and improvements thereon, including fences; and that should it become necessary to make any opening in the fences, Lessee will properly brace the fence on each side of the opening to prevent slackening of the wires and shall place substantial pipe gates and cattle guards in such openings, and at all times thereafter they shall be securely closed and locked. Said gates and cattle guards shall be installed before drilling operations commence and said gates and cattle guards shall forever remain on said property unless otherwise directed by Lessors. Lessee agrees that within ninety (90) days after any operation hereunder, Lessee shall repair the damaged land to the fullest practical extent, including the filling and leveling of all holes, pits, ruts, roads of excavations in the areas no longer to be used by Lessee; and upon termination hereof, to fully repair all damaged land not already repaired to the end that the land will be rendered to as substantially the same condition as it was prior to commencement of such operations. Lessee shall pay for all injury or damage done or caused by Lessee in its operations hereunder to any buildings, fences, roads, roadway easements, culverts, trees, turf lands, growing crops or other improvements on said land or to livestock on said land which is not replaced or repaired by Lessee according to the terms of this Lease.

3. *Lessee shall level all pits or other excavations dug by Lessee in its operations hereunder promptly after the termination of Lessee's use thereof. Lessee shall restore to Lessor's satisfaction all fences, terraces, access roads, drill sites and all other sites on which operations were conducted to as near the original conditions (prior to operations) of same as possible within ninety (90) days after the termination of operations on the particular area requiring restoration. Lessee agrees to construct and maintain fences capable of turning back cattle and/or other livestock of ordinary demeanor from all drilling sites and pits and other excavations until such pits and other excavations are leveled. Lessee shall not permit well or operations in connection therewith to flow on or over or stand on Lessor's land, but Lessee shall take all action necessary to confine all such substances to pits adjoining the wells. Lessee also agrees to promptly remove from the premises all drilling mud, oils and/or other debris of every kind and character.*

Obviously, Surface Use Clauses can be drafted to address any concerns of the surface owner. Lessors are reluctant to accept complete surface use prohibitions, especially on large tracts. In such instances, the practitioner should consider negotiating reasonable drill site designations or specific areas within the property on which the lessee will not conduct operations.

E. Royalty Addendum

The main body of every lease form will contain a Royalty Clause. The practitioner may be able to negotiate an alternative method of calculating the lessor's royalty. Lessees generally object to any substantive amendment in the manner of calculation, but more often agree to definitional changes. Below are some examples of addendums concerning royalty calculation:

1. *It is understood that in the event Lessee should for any reason enter into a gas sales contract covering the sale of gas (including casinghead gas and/or other gaseous substances) produced from or attributable to the leased premises to a purchaser which is owned or controlled by Lessee, or which is a subsidiary or affiliate of Lessee, or of which Lessee is a subsidiary or affiliate, then and in that event, the royalties on such gas payable by Lessee as provided elsewhere in this lease shall be calculated and paid on the basis of the market value thereof. The term "market value" as used in the lease and in this paragraph shall mean the average of the two (2) highest prices being paid for gas (on an MCF basis) located in the field in which the leased premises is located under existing contracts of like duration having been entered into within one (1) year of the purchase of gas and/or casinghead gas from a well drilled on the leased premises or on lands pooled therewith.*
2. *Regardless of language in the lease to the contrary, Lessee shall pay Lessor, as the royalty on natural gas of any kind and nature the greater of (1) one-fifth (1/5) of the "market value" of the gas at the well or (2)one-fifth (1/5) of the amount realized by lessee on the sale of the gas calculated at the point of delivery without deducting Lessor's share of processing or transportation. Lessor's royalty shall be calculated free and clear of all costs, expenses and deductions for exploration, drilling, development, production, treatment, transportation and marketing including but not limited to costs*

of dehydration, storage, compression, separation by mechanical means, and stabilization of hydrocarbons at the well; but said royalty shall bear its proportionate share of severance and other taxes based upon the production.

Caution should be exercised in amending the royalty provision of any lease. Again, the author does not warrant that either of the above-clauses would be beneficial to the practitioner or his / her client in any particular situation. The clauses presented are simply adaptations of clauses the author has reviewed in other leases.

F. Disclosure Addendum

Disclosure clauses can be useful in a number of situations. When the practitioner believes a controversy might arise regarding ownership of the minerals, he / she might desire a copy of the lessee's title work or title opinion to assist in determining the ownership of the minerals or prepare for potential litigation. When the practitioner believes, because of reputation or otherwise, there may be reasons to question the amount of royalty payments, he or she may desire to review a copy of the lessee's production reports.

Lessor or his representative shall, at their own risk and expenses and by written request have the right to inspect or examine any driller's log, test, core, electrical log or record made during the drilling operations. Lessee agrees to furnish Lessor with one (1) free copy of each electrical log, MUD log, daily report, core record, test, or completion record made. Lessor further reserves the right to examine any metering device used for calculating production from the leased premises, provided, however, no examination shall be allowed unless there is a company representative present during any examination. Lessor may audit any production records of Lessee related to any well producing on the leased premises or lands pooled therewith. Any audit of Lessee's records shall be conducted in Lessee's principal place of business during normal business hours.

The addendum above is probably overbroad. The practitioner is advised to ask for disclosure of only relevant information for which he / she anticipates some reasonable use.

G. Shut-In Addendum

The practitioner may determine that the lessee's right to hold the lease in force by paying shut-in royalties should be limited. This is especially so in the case of leases where the production of natural gas is anticipated. The following is a commonly used provision for such a purpose:

Lessee's right to maintain this Lease in full force after the primary term by shut-in-gas well payments under Paragraph 3 shall not continue for any one shut-in period of more than two (2) years immediately following the primary term, or in recurring periods after the primary term not to exceed three (3) years in aggregate; provided, however, this right to maintain this Lease for one (1) shut-in period of two (2) years or in recurring periods not to exceed three (3) years in the aggregate shall be a recurring right during each and every ten (10) year period that this Lease remains in effect. Whenever a gas well is shut-in by virtue of the provisions of this paragraph, Lessee agrees to pay Lessor for such shut-in well a sum of Twenty-Five ($25.00) Dollars per acre per year for such shut-in well.

H. Pooling Addendum

In some situations, it may desirable to be certain the lessee will include all or a certain percentage of the lessor's interest in a pool. Care should be taken when considering such a provision. While it would be advantageous for all the lessor's interest to be included in a unit with substantial production, it would be unfortunate if all the interest was included in a unit with poor production thereby preventing any portion of the interest from being included in a different unit with superior production at a later time. For this reason, it is beneficial to consider a clause providing for not less than half or one third of the interest to be included in a pool. By doing so, the practitioner addresses the concern that only a small portion will be unitized, but leaves open the possibility that that the lessor's interest will be included in more than one unit.

Notwithstanding anything contained herein to the contrary, it is expressly agreed and understood that in the event that Lessee elects to pool or unitize any of the Leased Premises, then not less than one-half (1/2) of Leased Premises will be included in such pool or unit.

I. Extension Addendum

It is common for the lessee to desire the right to extend the primary term of the lease. This is especially so if the primary term is less than three years. In this event, the lessee is usually willing to pay some premium for the option to extend the primary term of the lease. Following is an example of an extension clause commonly used as an addendum by lessees:

> *If, at the expiration of the primary term of this lease, this lease is not being maintained in effect in any manner provided for herein, Lessee is hereby given the option to extend the primary term of this lease for an additional one (1) year from the expiration of the original term. This option may be exercised by Lessee at any time during the last year of the original primary term by paying a one- time sum of Fifteen Thousand Dollars ($15,000.00) to Lessor or to Lessor's credit in any depository named in this lease and set out below and payment or tender to any participant of his portion of the payment hereunder shall this lease as to such participant. Should this option be exercised as herein provided, it shall be considered as though this lease originally provided for a primary term of three (3) years for the acreage so extended, though to the extent all provisions hereof should be harmonized.*

There is no limit on the way the lease can be amended or modified through the use of addendum provisions. Some provisions modify the preprinted lease terms. Others add issues not considered in the body of the lease. The practitioner should use caution in drafting addendum provisions crafted to suit his / her particular purpose rather than copying a laundry list of mostly inapplicable addendum provisions.

IV. CONCLUSION

This paper presented the basic provisions found in modern lease forms and some common addendums used to modify the lease form or address additional matters. The basic oil and gas lease is a conveyance in fee simple determinable for a term of years and as long thereafter as production continues in paying quantities. The terms of the lease can be modified or supplemented through the use of carefully drafted addendum provisions addressing specific concerns of the lessor or his / her attorney.

R-Producers 88 (7/69-04) Paid Up
Pooling Provision.

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OIL, GAS, AND MINERAL LEASE

THIS LEASE is made and entered into to be effective December 20, 2005, deemed the Effective Date, between
e, referred to as Lessor, whose address is 7856, and,
, referred to as Lessee, whose address is 7 77002.

1. Lessor, in consideration of Ten Dollars and other valuable consideration ($10.00 & OVC), the receipt and sufficiency of which is acknowledged, and for the royalties reserved in this Lease, GRANTS, LEASES, and LETS the lands described below, exclusively to Lessee, for the purpose of exploring, drilling, producing and owning, oil, gas, and all other minerals produced with them, and conducting all activities necessary or reasonably incident to the exploration for, operations in search of, and production of oil, gas, and other minerals. The lands subject to this Lease (referred to as the "land" or the "leased premises") are located in ROBERTSON County, Texas, and are described as follows:

3.270 acres of land, more or less, situated in the Frances Slaughter Survey, A-335, Robertson County, Texas and being the same land described in that certain General Warranty Deed dated September 13, 2000, from
Z and recorded in Volume
Page 101 of the Official Public Records of Robertson County, Texas.

SEE ADDENDUM ATTACHED HERETO FOR ADDITIONAL PROVISIONS.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

This Lease also covers and includes, in addition to the described leased premises, land, if any, contiguous or adjacent to or adjoining the leased premises and: (a) owned or claimed by Lessor by limitation, prescription, possession, reversion, or unrecorded instrument; or, (b) which Lessor has a preferential right or option to acquire. Lessor agrees to execute any supplemental instrument requested by Lessee for a more complete or accurate description of the leased premises. For the purpose of determining the amount of any bonus or other payments provided for in this Lease, the land shall be deemed to contain 3.270 acres, whether actually contain more or less. A recital of acreage in any tract shall be deemed to be the true acreage in a described tract. Lessor accepts the bonus as lump sum consideration for this Lease and all rights and options it provides.

2. This is a Paid-Up Lease. No payments are due under this Lease during the primary term, except for the payment of royalties. Unless sooner terminated or longer kept in force under any other of its provisions, this Lease shall remain in force for a term of 3 YEARS from the Effective Date stated above, (the "primary term"), and as long thereafter as operations, as defined in this Lease, are conducted on the land with no cessation for more than ninety (90) consecutive days, or this Lease is maintained by any of its other provisions. If, at the end of the primary term Lessee has drilled and abandoned a well on the leased premises, or lands pooled with it, this Lease shall not terminate at the end of the primary term, if Lessee, within 180 days of the end of the primary term, commences additional operations on the Leased premises, or lands pooled with it, which operations shall be deemed operations during the primary term of this Lease and serve to maintain it in full force and effect.

3. Lessor reserves as royalty, and Lessee agrees to pay Lessor as royalty on oil, other liquid hydrocarbons, and non-gaseous minerals produced and saved from the leased premises (the "oil"), 1/5 part of the net amount received by Lessee for the sale of the oil at the time it is run from the storage tanks, or into the pipeline to which the well or wells on the leased premises are connected. In either case, Lessor's interest shall bear the stated part of all taxes, and costs of treating the oil to render it marketable. Lessee shall pay Lessor as royalty on gas and casinghead gas produced from the leased premises 1/5 of the net amount received by Lessee for the gas if sold at the wellhead, at a location on the leased premises, or on lands with which the leased premises are pooled, with Lessor's share of those proceeds to bear its proportionate share of all taxes and costs incurred by Lessee in delivering, processing, compressing, or otherwise making the gas merchantable or enhancing its marketability. On all other gas and casinghead gas, Lessee shall pay Lessor as royalty 1/5 of the net amount received by Lessee for the gas so sold, less its proportionate share of all taxes, costs of transportation, compression, processing, treating, and all other costs of marketing. For all gas sold, Lessor shall bear its proportionate share of all adjustments for heating content, shrinkage, and deductions for impurities. If, at the expiration of the primary term or at any later time or times, there is a well or wells on the land or on lands with which the land or any portion of it are pooled, or unitized, capable of producing oil or gas, and all the wells are shut-in, this Lease shall, nevertheless, continue in force as though operations were being conducted on the land for so long as the wells are shut-in, and Lessee pays the shut-in royalty provided below, and this Lease may be continued in force as if no shut-in had occurred. Lessee agrees to use reasonable diligence to produce, utilize, or market the oil and gas capable of being produced from the wells, but in the exercise of diligence, Lessee shall not be obligated to install or furnish facilities other than well facilities and ordinary lease facilities of flow lines, separator, and lease tank, shall not be required to settle labor trouble, or to market oil or gas on terms unacceptable to Lessee. If, at any time after the expiration of the primary term of this Lease, all the wells, oil or gas, on the leased premises, or lands pooled with it, are shut in and this Lease is not otherwise maintained in effect, Lessee may pay or tender, by its check or draft, as shut in royalty, an amount equal to One Dollar ($1.00) for each acre of land then covered by this Lease (the "shut-in royalty") on or before the end of each 12 month period during which all wells on the leased premises, or lands pooled with it, are shut in and oil or gas is not being produced, sold, or used, and this Lease is not otherwise being maintained. Each payment or tender shall be made to the parties, who at the time of payment, would be entitled to receive the royalties which would be paid under this Lease if the wells were producing, and may be paid directly to each party entitled to a payment, or deposited in (payable directly to Lessor) , or its successors, which shall continue as the depository bank for the parties, regardless of changes in the ownership of shut-in royalty. If at any time Lessee pays or tenders shut-in royalty, two or more parties are, or claim to be, entitled to receive payments, Lessee may, at its election, in lieu of any other method of payment, pay or tender the shut-in royalty, in the manner specified above, either jointly to the parties, or separately to each in accordance with their respective ownership. Any payment may be made by Lessee's check or draft, deposited in the mail or delivered to the party entitled to receive payment or to the depository bank provided for above, on or before the last date for payment. Lessee's failure to pay, or tender, or to properly pay or tender any sum due as shut in royalty shall render Lessee liable for the amount due, but shall not operate to terminate this Lease. Nothing shall impair Lessee's right to deliver a release as provided in paragraph 5. below. In the event of an assignment of this Lease, in whole or in part, liability for payments shall rest exclusively on the then owner or owners of this Lease, severally, as to the acreage owned by each, and the original Lessee, or an assignee will have no obligation for royalties payable on production after an assignment to a subsequent or successor lessee or assignee.

4. At its option, Lessee is granted the right and authority to pool, unitize, or combine the land covered by this Lease or any portion of it as to oil and/or gas, with any other land covered by this Lease, and/or with any other land, lease, or leases in the immediate vicinity of the leased premises, when in Lessee's judgment it is necessary or advisable to do so in order to explore, develop, and operate the leased premises in compliance with the spacing rules of the Railroad Commission of Texas, or other lawful authority, or when to do so would, in the judgment of Lessee, promote the conservation of oil and/or gas in and under and that may be produced from the leased premises. Units pooled for oil shall not substantially exceed 320 acres each in area, and units pooled for gas shall not substantially exceed 640 acres each in area, plus, in both instances, a tolerance of ten percent (10%); provided, should a governmental authority having jurisdiction prescribe, allow, or permit the creation of units larger than those specified, for the drilling or operation of a well at a regular location, drilled either vertically or horizontally, to comply with existing or subsequently established field rules, or for obtaining a greater allowable from any well to be drilled, drilling, or already drilled, units created may conform substantially in size with those permitted, allowed, or prescribed by applicable governmental regulations, now in existence, or later enacted.

Lessee may pool or combine acreage covered by this Lease or any portion of it as to oil and/or gas in any one or more stratum or strata. The units formed by pooling as to any stratum or strata need not conform in size or area with the unit or units into which the Lease is pooled or combined as to any other stratum or strata, and oil units need not conform to the area within gas units. Pooling in one or more instances shall not exhaust the rights of the Lessee to pool this Lease or portions of it into other units. On execution by Lessee of an instrument describing and designating the pooled acreage as a pooled unit, the unit shall be effective as to all parties, their heirs, successors, and assigns, irrespective of whether or not the unit is likewise effective as to all other owners of surface, mineral, royalty, or other rights in land included in the unit. Within a reasonable time following the execution of the instrument designating the pooled unit, Lessee shall file it for record in the appropriate records of the county in which the leased premises are located. Any unit formed may be revised, re-formed, increased, or decreased in size, or changed in configuration, at the election of Lessee, at any time either before or after commencement of operations or production from the unit well. Lessee may, at any time, at its election, vacate, dissolve, or terminate any unit formed, by written instrument filed for record in the county where the land is located, which instrument shall specify the date of termination of the unit.

Lessee may exercise its right to pool at any time and from time to time, while this Lease is in force and effect, whether before or after commencing operations, completing an oil or gas well, or establishing production on the leased premises, or on any land pooled or unitized with the leased premises. Any operations for drilling on or production of oil or gas from a pooled unit which includes all or a part of the leased premises, regardless of whether the operations for drilling were commenced, or the production was secured, before or after the execution of this Lease or the instrument designating the pooled unit, shall be considered operations for drilling on or production of oil and/or gas from land covered by this Lease, whether or not the well or wells is located on the leased premises. In that event, operations for drilling shall be deemed to have been commenced on the leased premises within the meaning of this Lease; and, the entire acreage constituting the unit or units, as to oil and/or gas, shall be treated for all purposes, except the payment of royalties on production from the pooled unit, as if it were included in this Lease.

For the purpose of computing the royalties to which owners of royalties and payments out of production shall be entitled on production of oil and/or gas from a pooled unit, there shall be allocated to the land covered by this Lease and included in a unit (or to each separate tract within the unit if this Lease covers separate tracts within the unit) a pro rata portion of the oil and/or gas, produced from the pooled unit after deducting that used for operations on the Lease or pooled unit. The allocation shall be on an acreage basis; i.e., there shall be allocated to the acreage covered by this Lease and included in the pooled unit (or to each separate tract within the unit if this Lease covers separate tracts within the unit) that pro rata portion of the oil and/or gas, produced from the pooled unit which the number of surface acres covered by this Lease (or in each separate tract) and included in the pooled unit bears to the total number of surface acres included in the pooled unit. Royalties shall be computed on the portion of the production, whether it be oil or gas, allocated to the land covered by this Lease and included in the unit just as though the production were from the land. The production from an oil well will be considered as production from the Lease or oil pooled unit from which it is producing and not as production from a gas pooled unit; and, production from a gas well will be considered as production from the Lease or gas pooled unit from which it is producing and not from an oil pooled unit.

The formation of any unit shall not have the effect of changing the ownership of any shut-in royalty which may become payable under this Lease. If this Lease now or later covers separate tracts, no pooling or unitization of royalty interest as between any separate tracts is intended or shall be implied or result merely from the inclusion of the separate tracts within this Lease, but Lessee shall nevertheless have the right to pool, as provided above, with the consequent allocation of production as provided above. As used in this paragraph, the words "separate tract" mean any tract with royalty ownership differing, now or later, either as to parties or amounts, from that as to any other part of the leased premises.

5. Lessee may, at any time and from time to time, execute and deliver to Lessor, or file for record, a release or releases of this Lease as to all or any part of the land or of any mineral, depth, or horizon under the land, and immediately be relieved of all obligations, as to the released acreage or interest.

6. Whenever used in this Lease the word "operations" shall mean operations for any of the following: surface location preparation or maintenance; drilling; testing; completing; reworking; recompleting; deepening; plugging back or repairing of a well in search of or in an endeavor to obtain production of oil, gas, or other minerals; or production of oil, gas, or other mineral, whether or not in paying quantities.

7. ~~Lessee shall have the use, free from royalty, of water, other than from Lessor's water wells, and of oil and gas produced from the land in all operations under the terms of this Lease. Lessee shall have the right, at any time, to remove all machinery and fixtures placed on the land, including the rights to draw and remove casing. No well shall be drilled nearer than 200 feet to the house or barn now on the land, without the consent of Lessor. Lessee shall pay for damages caused by its operations to growing crops and timber on the land.~~

8. The rights and estate of any party to this Lease may be assigned from time to time, in whole or in part, and as to any mineral, depths, or horizon. All of the covenants, obligations, and considerations of this Lease shall extend to and be binding on the parties to this Lease, their heirs, successors, assigns, and successive assigns. No change or division in the ownership of the land, royalties, or other moneys, or any part of them, however affected, shall increase the obligations or diminish the rights of Lessee, including, but not limited to, the location and drilling of wells and the measurements of production. Notwithstanding any other actual or constructive knowledge or notice to Lessee, its successors or assigns, no change or division in the ownership or the land, the royalties, other moneys, or the right to receive the same, however effected, shall be binding on the then record owner of this Lease until sixty (60) days after there has been furnished to the record owner at its principal place of business, by Lessor or Lessor's heirs, successors, or assigns, notice of the change or division of ownership, supported by either originals or certified copies of the instruments which have been properly filed for record which evidence the change or division of ownership, and of any applicable court records and proceedings, transcripts, or other documents necessary, in the opinion of the record owner, to establish the validity of the change or division of ownership. If any change in ownership occurs by reason of the death of an owner, Lessee may, nevertheless pay or tender the royalties, other moneys, or any part of them, to the credit of the decedent in the depository bank provided above.

9. In the event Lessor considers Lessee has not complied with all its obligations under this Lease, either express or implied, Lessor shall notify Lessee in writing, setting out specifically how Lessee is claimed to have breached this Lease. Lessee shall then have sixty (60) days after receipt of the notice within which to meet ~~or commence to meet~~ all or any part of the claimed breaches alleged by Lessor. The service of the notice shall be a mandatory precedent to Lessor bringing any action, for any cause, and no action shall be brought until sixty (60) days after service of Lessor's notice on Lessee. Neither the service of the notice or 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 its obligations under the terms of this Lease. If this Lease is cancelled or terminated for any cause, it shall nevertheless remain in force and effect as to: (1) sufficient acreage around each well on which there are operations to constitute a drilling or maximum allowable or proration unit under applicable governmental regulations, the acreage to be designated by Lessee as nearly as practicable in the form of a square centered at the well, or in the shape as then existing spacing rules require; and, (2) any part of the land included in a pooled unit on which there are operations. Lessee shall also continue to have all easements on all the land reasonably necessary to operations on the acreage retained.

10. ~~Lessor hereby warrants and agrees to defend title to the leased premises against the claims of all persons whomsoever claiming all or any part of it.~~ Lessor's rights and interests in the land shall be charged primarily with any mortgages, taxes, or other liens, or interest and other charges on the land, but Lessor agrees that Lessee shall have the right at any time to pay or reduce them for Lessor, either before or after maturity, and be subrogated to the rights of the holder of the lien and to deduct amounts so paid from royalties or other moneys payable or which may become payable to Lessor and/or Lessor's assigns. If this Lease covers less interest in the oil, gas, or other minerals in all or any part of the land than the entire and undivided fee simple estate (whether Lessor's interest is specified or not), or no interest, then the royalties, and other moneys accruing from any part of the land in which this Lease covers less than the full interest, shall be paid only in the proportion which the Lessor's interest, if any, covered by this Lease, bears to the whole and undivided fee simple estate in the land. All royalty interest covered by this Lease (whether or not owned by Lessor) shall be paid out of the royalty provided for in this Lease. This Lease shall be binding on each party who executes it without regard to whether it is executed by all those that may be named as Lessor.

11. If, while this Lease is in force, at, or after the expiration of the primary term, it is not being continued in force by reason of the shut-in well provisions of paragraph 3., and Lessee is not conducting operations on the land by reason of (1) any law, order, rule, or regulation, (whether or not subsequently determined to be invalid) or, (2) any other cause, or force majeure, whether similar or dissimilar, (except financial) beyond the reasonxble control of Lessee, the primary term shall be extended until the first anniversary date occurring ninety (90) or more days following the removal of the delaying cause, and this Lease may then be extended by operations as if the delay had not occurred.

This Lease is executed as of the date of the acknowledgment of the undersigned's signature, but shall be deemed effective for all purposes as of the Effective Date stated above.

Lessor

Lessor

STATE OF TEXAS
COUNTY OF ROBERTSON

This instrument was acknowledged before me on the 15 day of February, 2006, by

STEPHEN A BOYKIN
MY COMMISSION EXPIRES
December 2, 2009

Notary Public, State of TEXAS

OIL, GAS & MINERAL LEASE

PROD 88 (REV 8/93)
PAID UP

THIS LEASE AGREEMENT is made effective the 10th day of May, 2006, between

as Lessor (whether one or more), whose address is

and Oil Company, Agent, as Lessee,

whose address is 3102

All printed portions of this lease were prepared by Lessee, but all other provisions (including the completion of blank spaces) were prepared jointly by Lessor and Lessee.

1. **Description.** Lessor, in consideration of Ten and other valuable consideration Dollars ($ 10.00 & OVC), in hand paid, of the royalties herein provided and the covenants herein contained, hereby grants, leases and lets exclusively to Lessee, for the purpose of exploring for, developing, producing and marketing oil and gas, along with all hydrocarbon and nonhydrocarbon substances produced in association therewith including helium, carbon dioxide and other commercial gases as well as hydrocarbon gases (referred to herein as "covered minerals"), the following described land (the "leased premises") in Leon County, Texas, to-wit:

NOTICE OF CONFIDENTIALALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR A DESCRIPTION OF THE LAND COVERED BY THIS OIL, GAS & MINERAL LEASE

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF FOR ADDITIONAL TERMS AND PROVISIONS OF THIS OIL, GAS & MINERAL LEASE

This lease also covers accretions and any small strips or parcels of land now or hereafter owned or claimed by Lessor which are contiguous or adjacent to the leased premises whether or not such parcels are known to exist by Lessor or Lessee, and for the aforementioned consideration, Lessor agrees to execute at Lessee's request any additional or supplemental instruments for a more complete or accurate description of the land so covered. For the purpose of determining the amount of any rentals and shut-in royalties hereunder, said land shall be deemed to be comprised of 25 acres, whether it actually comprises more or less.

2. **Term of Lease.** This lease shall be in force for a primary term of 3 Years from the effective date hereof, and for as long thereafter as a covered mineral is produced in paying quantities from the leased premises or this lease is otherwise maintained in effect pursuant to the provisions hereof.

3. **Royalty.** Royalties on covered minerals produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) For oil and other liquid hydrocarbons separated at Lessee's field separator facilities, the royalty shall be 1/5 of such production, to be delivered at Lessee's option to Lessor at the wellhead or to Lessor's credit at the oil purchaser's transportation facilities, provided that Lessee shall have the continuing right to purchase such production at the wellhead posted price then prevailing in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) for production of similar grade and gravity less a proportionate part of ad valorem taxes and production, severance, or other excise taxes, (b) for gas (including casinghead gas) and all other covered minerals, the royalty shall be 1/5 of the net proceeds realized by Lessee from the sale thereof, less a proportionate part of ad valorem taxes and production, severance, or other excise taxes, provided that Lessee shall have the continuing right to purchase such production at the prevailing wellhead market price paid for production of similar quality in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) less a proportionate part of ad valorem taxes and production, severance, or other excise taxes and (c) if during or after the primary term one or more wells on the leased premises or lands pooled therewith are capable of producing oil or gas or other substances covered hereby in paying quantities, but such well or wells are either shut-in or production therefrom is not being sold by Lessee for a period of 90 consecutive days, then Lessee may pay shut-in royalty of one dollar per acre of land then covered by this lease, such payment to be made to Lessor on or before the end of said 90-day period and thereafter on or before each anniversary of the end of said 90-day period while the well or wells are shut-in and it shall be considered that such well is producing in paying quantities for all purposes hereof during any period for which such shut-in royalty is tendered; provided that if this lease is otherwise being maintained by the payment of rentals or by operations, or if a well or wells on the leased premises is producing in paying quantities, no shut-in royalty shall be due until the end of the 90-day period next following the end of the rental period or the cessation of such operations or production, as the case may be. Lessee shall have free use of oil, gas, water, and other substances produced from said land, except water from Lessor's wells or ponds, for all operations hereunder, and Lessor's royalty shall be computed after deducting any so used.

4. **Operations.** If, after expiration of the primary term, Lessee drills a dry hole on the leased premises or if all production of covered minerals should permanently cease from any cause either voluntary or involuntary (and if this lease is not otherwise being maintained), this lease shall remain in effect if Lessee commences drilling, reworking or other operations on the leased premises within 90 days thereafter. If, at or after expiration of the primary term, this lease is not otherwise being maintained but Lessee is then engaged in drilling, reworking or other operations calculated to obtain or restore production from the leased premises, this lease shall remain in effect so long as such operations are conducted with no cessation of more than 90 consecutive days and, if such operations result in the production of a covered mineral, as long thereafter as there is production from the leased premises. After production has been established on the leased premises, Lessee shall drill such additional wells as a reasonably prudent operator would drill under the same or similar circumstances to (a) develop the leased premises as to formations then capable of producing in paying quantities on the leased premises or (b) protect the leased premises from uncompensated drainage by a well producing a covered mineral in paying quantities located within 330 feet of and draining the leased premises. There shall be no covenant to drill exploratory wells or any additional wells except as expressly provided herein.

5. **Pooling.** Lessee shall have the continuing and recurring right, but not the obligation, to pool all or any part of the leased premises or interest therein with any other lands, leases or interests, as to any or all depths or zones, and as to any or all covered minerals, either before or after the commencement of production, whenever Lessee deems it necessary or proper to do so in order to prudently explore, develop or operate the leased premises, whether or not similar pooling authority exists with respect to such other lands, leases or interests. A unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed 80 acres plus a maximum acreage tolerance of 10%, and for an oil well which is a horizontal completion or a gas well shall not exceed 640 acres plus if a maximum acreage tolerance of 10%; provided that larger units may be formed for an oil well or a gas well, whether or not horizontally completed, in order to conform to any well spacing or density pattern permitted by any governmental authority having jurisdiction over such matters. The terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or by regulations of the governmental authority which has jurisdiction over such matters. The term "horizontal completion" shall mean an oil well or a gas well in which the horizontal component of the gross completion interval exceeds 100 feet in length. Lessee may pool or combine land covered by this lease or any portions thereof, as above provided as to oil in any one or more strata and as to gas in any one or more strata. Units formed by pooling as to any stratum or strata need not conform in size or area with units formed as to any other stratum or strata, and oil units need not conform as to area with gas units. To exercise its pooling rights hereunder, Lessee shall file of record a written declaration describing the unit, and the effective date of pooling shall be the date of filing unless provided otherwise in such declaration. Lessee wholly at its option may exercise its authority to pool either before or after commencing operations for or completing an oil or gas well on lands lying within a unit and any unit may include, but is not required to include, lands or leases upon which a well producing or capable of producing oil or gas in paying quantities has theretofore been completed, or upon which operations have theretofore been commenced. Production, drilling or reworking operations anywhere on a unit which includes all or any part of the leased premises, regardless of whether such production was secured or such drilling or reworking operations were commenced before or after the execution of this lease or the instrument designating the pooled unit, shall be treated for all purposes (except the payment of royalties on production from the pooled unit) as if they were production, drilling or reworking operations on the leased premises and references herein to production from or operations on the leased premises shall be deemed to include production from or operations on any portion of such pooled unit; provided that if after creation of a pooled unit a well is drilled on land within the unit area (other than the leased premises) which well is not classified as the type of well for which the unit was created (oil, gas or other minerals as the case may be), such well shall be considered a dry hole for purposes of applying the additional drilling and reworking provisions hereof. If a gas well on a gas unit, which includes all or a portion of the leased premises, is reclassified as an oil well, with respect to all lands which are included within the unit (other than the lands on which the well is located), the date of such reclassification shall be considered as the date of cessation of production for purposes of applying the provisions of this lease covering additional drilling and reworking. The production on which Lessor's royalty is calculated shall be that proportion of the total unit production which the net acreage covered by this lease and included in the unit bears to the total gross acreage in the unit, but only to the extent that such proportion of unit production is sold by Lessee. Pooling in one or more instances

shall not exhaust Lessee's pooling rights hereunder, and Lessee shall, without the joinder of Lessor, have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by such governmental authority, or court order, or when to do so would, in the judgment of Lessee, promote the conservation of covered minerals in and under and that may be produced from the leased premises. In making such a revision, Lessee shall file of record a written declaration describing the revised unit and the effective date of revision shall be the date of filing unless provided otherwise in such declaration. To the extent any portion of the leased premises is included in or excluded from the unit by virtue of such revision, the proportion of unit production on which royalties are payable hereunder shall thereafter be adjusted accordingly, and such adjustment shall be made effective as of the effective date of the revision. Lessee may at any time dissolve any unit formed hereunder by filing a written declaration describing the unit, and the effective date of dissolution shall be the date of filing unless provided otherwise in such declaration. 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 with consequent allocation of production as herein provided. As used herein 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. Pooling hereunder shall not constitute a cross-conveyance of interests.

6. **Ancillary Rights.** In exploring for, developing, producing and marketing oil, gas and other substances covered hereby on the leased premises, in primary or enhanced recovery, Lessor hereby grants and conveys to Lessee the right of ingress and egress along with the right to conduct such operations on the leased premises as may be reasonably necessary for such purposes, including but not limited to geophysical operations, the drilling of wells, and the construction and use of roads, canals, pipelines, tanks, water wells, disposal wells, injection wells, pits, electric and telephone lines, power stations, and other facilities deemed necessary by Lessee to discover, produce, store, treat and transport production. In exploring, developing, producing or marketing from the leased premises, the ancillary rights granted herein shall apply (a) to the entire leased premises described in Paragraph 1 above, notwithstanding any partial release or other partial termination of this lease; and (b) to any other lands in which Lessor now or hereafter has authority to grant such rights in the vicinity of the leased premises. No surface location for a well shall be located less than 200 feet from any house or barn now on the leased premises or other lands used by Lessee hereunder without Lessor's consent, and Lessee shall pay for actual damage caused by its operations to buildings and other improvements now on the leased premises, or such other lands, and to commercial timber and growing crops thereon. Lessee shall have the right at any time to remove its fixtures, equipment and materials, including well casing, from the leased premises or such other lands during the term of this lease or within 180 days following the expiration thereof.

7. **Ownership Changes.** The interest of either Lessor or Lessee hereunder may be assigned, devised or otherwise transferred in whole or in part, by area or by depth or zone, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Lessor's ownership shall have the effect of reducing the rights or enlarging the obligations of Lessee hereunder, and no change in ownership shall be binding on Lessee until 60 days after Lessee has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of Lessee. In the event of the death of any person entitled to shut-in royalties hereunder, Lessee may pay or tender such shut-in royalties to the credit of decedent or decedent's estate. If at any time two or more persons are entitled shut-in royalties hereunder, Lessee may pay or tender such shut-in royalties to such persons, either jointly or separately, in proportion to the interest which each owns. If Lessee transfers its interest hereunder in whole or in part, Lessee shall be relieved of all obligations thereafter arising with respect to the transferred interest, and failure of the transferee to satisfy such obligations with respect to the transferred interest shall not affect the rights of Lessee with respect to any interest not so transferred. If Lessee transfers a full or undivided interest in all or any portion of the area covered by this lease, the obligation to pay or tender shut-in royalties hereunder shall be divided between Lessee and the transferee in proportion to the net acreage interest in this lease then held by each.

8. **Warranty of Title.** Lessor hereby warrants and agrees to defend title to the interest conveyed to Lessee hereunder. Lessee, at its option, may pay or discharge any tax, mortgage or lien existing against the leased premises and, in the event that it does so, Lessee shall be subrogated to the rights of the party to whom payment is made and, in addition to its other rights, may reimburse itself out of any royalties or shut-in royalties otherwise payable to Lessor hereunder. If Lessor owns less than the full mineral estate in all or any part of the leased premises, payment of royalties and shut-in royalties hereunder shall be reduced proportionately to the amount that Lessor's interest in the leased premises bears to the entire mineral estate in the leased premises.

9. **Release of Lease.** Lessee may, at any time and from time to time, deliver to Lessor or file of record a written release of this Lease as to a full or undivided interest in all or any portion of the leased premises or any depths or zones thereunder, and shall thereafter be relieved of all obligations thereafter arising with respect to the interest so released. If Lessee releases all or an undivided interest in less than all of the area covered hereby, Lessee's obligation to pay or tender shut-in royalties shall be proportionately reduced in accordance with the net acreage interest retained hereunder.

10. **Regulation and Delay.** Lessee's obligations under the lease, whether express or implied, shall be subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction including restrictions on the drilling and production of wells. Notwithstanding the provisions of paragraph 2 above, when drilling, reworking, production or other operations are prevented or delayed by such laws, rules, regulations or orders, or by inability to obtain necessary permits, equipment, services, material, water, electricity, fuel, access or easements, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, or by inability to obtain a satisfactory market for production or failure of purchasers or carriers to take or transport such production, or by any other cause not reasonably within Lessee's control (commonly referred to as "force majeure"), this lease shall not terminate because of such prevention or delay and, at Lessee's option, the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable for breach of any express or implied covenants of this lease when drilling, production or other operations are so prevented, delayed or interrupted.

11. **Breach or Default.** An alleged breach or default by Lessee of any obligation hereunder or the failure of lessee to satisfy any condition or limitation contained herein shall not work a forfeiture or termination of this lease nor cause a termination or reversion of the estate created hereby nor be grounds for cancellation hereof in whole or in part, and no litigation shall be initiated by Lessor with respect to any alleged breach or default by Lessee hereunder, for a period of at least ninety (90) days after Lessor has given Lessee written notice fully describing the breach or default, and then only if Lessee fails to remedy or commence to remedy the breach or default within such period. In the event the matter is litigated and there is a final judicial determination that a breach or default has occurred, this lease shall not be forfeited or canceled in whole or in part unless Lessee is given a reasonable time after said judicial determination to remedy the breach or default and Lessee fails to do so. Nothing in this instrument or in the relationship created hereby shall be construed to establish a fiduciary relationship, a relationship of trust or confidence or a principle - agent relationship between Lessor and Lessee for any purpose.

IN WITNESS WHEREOF, this lease is executed effective the date first written above, and upon execution shall be binding upon the signatory whether or not the lease has been executed by all parties named herein as Lessor.

LESSOR:

____

STATE OF TEXAS____________________)
) ss.
COUNTY OF ________________________)

This instrument was acknowledged before me this ______ day of May , 2006 , by Boykin ________________.

My Commission Expires: _______________ Notary Public __________________________________.

TX Prod. 88 Paid-Up -- TX0503PCBM

PAID-UP OIL, GAS & MINERAL LEASE

Notice of Confidentiality Rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: Your social security number or your driver's license number.

THIS LEASE AGREEMENT is made effective the 20 th day of April, 2006, (the "effective date"), between , a married man, dealing herein with his separate property, and , married man, dealing herein with his separate property, as Lessor (whether one or more), whose address is , and , as Lessee, whose address is .

1. Description. Lessor, in consideration of Ten Dollars And No Cents and other valuable consideration ($10.00 and OVC), in hand paid, of the royalties herein provided and the covenants herein contained, hereby grants, leases and lets exclusively to Lessee, for the purpose of exploring for, geophysically or by other means, developing, producing and marketing oil and gas of any nature or kind, including but not limited to coalbed methane gas, along with all hydrocarbon and nonhydrocarbon substances, whether liquid or gaseous, produced in association therewith including sulphur, helium, nitrogen, carbon dioxide and other commercial gases as well as hydrocarbon gases (collectively referred to herein as "covered minerals"), and marketing or rendering more marketable or more valuable covered minerals, including without limitation laying pipelines for gathering and/or transportation and construction of treating, separating, dehydration, processing or other facilities and grants the right to inject water or other produced liquids into non-freshwater bearing formations underlying the leased premises, the following described land (the "leased premises") in LEON County, Texas, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR PROPERTY DESCRIPTION.

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF FOR ADDITIONAL PROVISIONS.

This lease also covers accretions and any small strips or parcels of land now or hereafter acquired or claimed by Lessor which are contiguous or adjacent to the leased premises whether or not such parcels are known to exist by Lessor or Lessee, and for the aforementioned consideration, Lessor agrees to execute at Lessee's request any additional or supplemental instruments for a more complete or accurate description of the land so covered. For the purpose of determining the amount of any shut-in or minimum royalties hereunder, said land shall be deemed to be comprised of 221.0400 acres, whether it actually comprises more or less.

2. Term of Lease. This lease shall be in force for a primary term of three years from the effective date of this lease, and for as long thereafter as either: (a) any covered minerals are being produced from the leased premises or lands pooled, unitized or otherwise combined therewith; or (b) Operations, as hereinafter defined, are being conducted upon the leased premises or lands pooled, unitized or otherwise combined therewith with no cessation of more than ninety (90) consecutive days; or (c) this lease is otherwise maintained in effect pursuant to the provisions hereof. This lease is a "paid-up" lease requiring no rentals be paid to Lessor. Further, no shut-in payments or minimum royalty payments are required during the primary term.

3. Royalty Payment. Royalties on covered minerals produced and saved from the leased premises and used off the leased premises or lands pooled therewith or sold (whether to an affiliated or non-affiliated purchaser), shall be paid by Lessee to Lessor as follows: (a) For oil and other liquid hydrocarbons, the royalty shall be 1/5 of the market value at the mouth of the well of such production. (b) For natural gas of any nature or kind (including coalbed methane and casinghead gas) and all other covered minerals (including liquid hydrocarbons suspended in gas that are not separated at the primary separation facilities), the royalty shall be 1/5 of the market value at the mouth of the well of such production. (c) In calculating royalties on all production hereunder, Lessee may deduct Lessor's proportionate part of any taxes such as ad valorem, production, severance and excise taxes or other similar taxes as may be imposed on production currently or at any point in the future. A proportionate share of costs incurred by Lessee in gathering, treating, dehydrating, compressing, processing, transporting or delivering such production, and any other costs of marketing or rendering marketable or more valuable the covered minerals, whether on the leased premises or off the leased premises may also be deducted in calculating royalties payable hereunder. (d) If, at the expiration of the primary term or at any time or times thereafter, there is any well on the leased premises or on lands pooled therewith, capable of producing covered minerals, and all such wells are shut-in, this lease shall, nevertheless, continue in force as though Operations were being conducted on said land for so long as said wells are shut-in, and thereafter this lease may be continued in force as if no shut-in had occurred. Lessee covenants and agrees to use reasonable diligence to produce, utilize, or market the minerals capable of being produced from said wells, but in the exercise of such diligence, Lessee shall not be obligated to install or furnish facilities other than well facilities and ordinary lease facilities, flowlines, separator, and lease tank, and shall not be required to market such covered minerals upon terms unacceptable to Lessee. If at any time or times after the expiration of the primary term, all wells located upon the leased premises or lands pooled therewith (whether classified as oil wells or gas wells) are shut-in for a period of ninety (90) consecutive days, and during such time there are no other Operations being conducted on the leased premises or lands pooled therewith, then within thirty (30) days after the expiration of said ninety day period, Lessee covenants to pay or tender, by check or draft of Lessee, as royalty, a sum equal to one dollar ($1.00) for each acre of land then covered by this lease, and it shall be considered that covered minerals are being produced from the leased premises. Lessee shall make like payments or tenders at or before the end of each anniversary of the expiration of said ninety day period if upon such anniversary this lease is being continued in force solely by reason of the provisions of this shut-in provision. Each such payment or tender shall be made to the parties who at the time of the payment would be entitled to receive the royalties which would be paid under this lease if the wells were producing, and may be deposited in PAY DIRECT TO LESSOR at ADDRESS ABOVE or its successors, which shall continue as the depository, regardless of changes in the ownership of shut-in royalty, in the manner above specified, either jointly to such parties or separately to each in accordance with their respective ownerships thereof, as Lessee may elect. Any payment hereunder may be made by check or draft of Lessee deposited in the mail or delivered to the party entitled to receive payment or to a depository bank provided for above on or before the last date for payment. Lessee's failure to pay and/or properly pay shut-in royalty shall render Lessee liable for the amount due, but shall not operate to terminate this lease. Nothing herein shall impair Lessee's right to release any portion of the leased premises as provided in paragraph 11 hereof. In the event of assignment of this lease in whole or in part, liability for payment hereunder shall rest exclusively on the then owners of this lease, severally as to acreage owned by each. Lessee shall have free use of oil, gas, water and other substances produced from said land, except water from Lessor's wells or ponds, for all Operations hereunder, and Lessor's royalty shall be computed after deducting any produced oil or gas so used.

4. Minimum Royalty During Dewatering of Coalbed Methane Wells. If at any time or times after the expiration of the primary term, there is a coalbed methane well or wells on the leased premises or lands pooled therewith in which dewatering operations have commenced and during such time there are no other Operations being conducted on the leased premises or lands pooled therewith, this lease shall, nevertheless, continue in force as though Operations were being conducted on said land for so long as said wells are being dewatered. For purposes of this lease, the term "dewatering" shall mean pumping or flowing of water and/or associated hydrocarbons from a wellbore completed in a coal formation or seam. If at any time or times after the expiration of the primary term, all wells located upon the leased premises or lands pooled therewith are being dewatered for a period of ninety (90) consecutive days, and during such time there are no other Operations being conducted on the leased premises or lands pooled therewith, Lessee covenants to pay or tender to Lessor at the address set forth above, by check or draft of Lessee, as minimum royalty, a sum equal to one dollar ($1.00) for each acre of land then covered by this lease, and it shall be considered that gas is being produced from the land covered by this lease. Such payment or tender shall be made on or before the anniversary date of this lease next ensuing after the expiration of ninety (90) days from the date dewatering operations are commenced and thereafter on or before the anniversary date of this lease during the period dewatering operations are being conducted. Lessee's failure to properly pay minimum royalty shall render Lessee liable for the amount due, but shall not operate to terminate this lease.

5. Operations. Whenever used in this lease, the word "Operations" (unless specified to the contrary) shall mean operations for and any of the following: dirt work, building of roads and locations, drilling, testing, completing, reworking, recompleting, deepening, plugging back, abandoning, repairing or dewatering of a well in search of or in an endeavor to obtain, increase or restore and/or market or render marketable or more valuable production of oil, gas, sulphur or other covered minerals, and/or production, actual or constructive, of oil, gas, sulphur or other covered minerals.

6. Pooling. Lessee shall have the continuing and recurring right, but not the obligation, to pool, unitize or otherwise combine all or any part of the leased premises or interest therein with any other lands, leases or interests, as to any or all depths or zones, and as to any or all covered minerals, either before or after the commencement of production, whenever Lessee deems it necessary or proper to do so in order to prudently explore, develop or operate the leased premises, whether or not similar pooling authority exists with respect to such other lands, leases or interests. A unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed eighty (80) acres plus a maximum acreage tolerance of ten percent (10%), and for an oil well which is a horizontal completion or a gas well shall not exceed six hundred forty (640) acres plus a maximum acreage tolerance of ten percent (10%); provided that larger units may be formed for an oil well or a gas well, whether or not horizontally completed, in order to conform to any well spacing or density pattern permitted by any governmental authority having jurisdiction over such matters. The terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or by regulations of the governmental authority which has jurisdiction over such matters. The term "horizontal completion" shall mean an oil well or a gas well in which the horizontal component of the gross completion interval exceeds one hundred (100) feet in length. Lessee may pool, unitize or combine land covered by this lease or any portions thereof, as above provided as to oil in any one or more strata and as to gas in any one or more strata. Units formed by pooling as to any stratum or strata need not conform in size or area with units formed as to any other stratum or strata, and oil units need not conform as to area with gas units. To exercise its pooling rights hereunder, Lessee shall file of record a written declaration describing the unit, and the effective date of pooling shall be the date of filing unless provided otherwise in such declaration. Lessee wholly at its option may exercise its authority to pool, unitize or combine either before or after commencing Operations for or completing an oil or gas well on lands lying within a unit and any unit may include, but is not required to include, lands or leases upon which a well producing or capable of producing oil or gas in paying quantities has theretofore been completed, or upon which Operations have theretofore been commenced. Operations anywhere on a unit which includes all or any part of the leased premises, regardless of whether such Operations were commenced before or after the execution of this lease or the instrument designating the pooled unit, shall be treated for all purposes (except the payment of royalties on production from the pooled unit) as if they were Operations on the leased premises and references in this lease to production from or Operations on the leased premises shall be deemed to include production from or Operations on any portion of such pooled unit; provided that if after creation of a pooled unit a well is drilled on land within the unit area (other than the leased premises) which well is not classified as the type of well for which the unit was created (oil, gas or other minerals as the case may be), such well shall be considered a dry hole for purposes of applying the additional drilling and reworking provisions hereof. If a gas well on a gas unit, which includes all or a portion of the leased premises, is reclassified as an oil well, with respect to all lands which are included with the unit (other than the lands on which the well is located), the date of such reclassification shall be considered as the date of cessation of production for purposes of applying the provisions of this lease covering additional drilling and reworking. The production on which Lessor's royalty is calculated shall be that proportion of the total unit production which the net acreage covered by this lease and included in the unit bears to the total gross acreage in the unit, but only to the extent that such proportion of unit production is sold or used off the leased premises or lands pooled or unitized therewith by Lessee. Pooling in one or more instances shall not exhaust Lessee's pooling rights hereunder, and Lessee shall, without the joinder of Lessor, have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by such governmental authority, or court order, or when to do so would, in the judgment of Lessee, promote the conservation of covered minerals in and under and that may be produced from the leased premises. In making such a revision, Lessee shall file of record a written declaration describing the revised unit and the effective date of revision shall be the date of filing unless provided otherwise in such declaration. To the extent any portion of the leased premises is included in or excluded from the unit by virtue of such revision, the proportion of unit production on which royalties are payable hereunder shall thereafter be adjusted accordingly, and such adjustment shall be made effective as of the effective date of the

revision. Lessee may at any time dissolve any unit formed hereunder by filing a written declaration describing the unit, and the effective date of dissolution shall be the date of filing unless provided otherwise in such declaration. 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 with consequent allocation of production as herein provided. As used herein 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. Pooling hereunder shall not constitute a cross-conveyance of interests.

7. **Ancillary Rights.** In exploring for, developing, producing and marketing covered minerals, in primary or enhanced recovery, Lessor hereby grants and conveys to Lessee the free right of ingress and egress along with the right to conduct Operations on the leased premises as may be reasonably necessary for such purposes, including but not limited to geophysical operations and any other Operations on the leased premises, lands pooled or unitized therewith or lands adjacent thereto, and the construction and use of roads, canals, pipelines, tanks, water wells, disposal wells, injection wells, pits, electric and telephone lines, power stations, and other facilities deemed necessary by Lessee to discover, produce, store, treat and transport production in connection with said wells. In connection with Lessee's Operations, Lessee's ancillary rights granted herein shall apply to both surface and subsurface of: (a) the entire leased premises described in Paragraph 1 above, notwithstanding any partial release or other partial termination of this lease; (b) all lands pooled or unitized with the leased premises; and (c) any other lands contiguous or adjacent to the leased premises described in Paragraph 1 above, notwithstanding any partial release or other partial termination of this lease, in which Lessor now or hereafter has authority to grant such rights. Such ancillary rights include, but are not limited to, the right to use the subsurface of the leased premises in connection with a well to be drilled under but bottomed off the leased premises. No surface location for a well shall be located less than two hundred (200) feet from any house or barn now on the leased premises or other lands used by Lessee hereunder without Lessor's consent. In addition to the ancillary rights described above, Lessee shall have the right at any time to remove its fixtures, equipment and materials, including well casing, from the leased premises or such other lands during the term of this lease or within one (1) year following the expiration thereof.

8. **Ownership Changes.** The interest of either Lessor or Lessee hereunder may be assigned, devised or otherwise transferred in whole or in part, by area or by depth or zone, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Lessor's ownership shall have the effect of reducing the rights or enlarging the obligations of Lessee hereunder, and no change in ownership shall be binding on Lessee until sixty (60) days after Lessee has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of Lessee. In the event of the death of any person entitled to shut-in royalties or minimum royalties hereunder, Lessee may pay or tender such shut-in royalties or minimum royalties to the credit of decedent or decedent's estate. If at any time two or more persons are entitled to shut-in royalties or minimum royalties hereunder, Lessee may pay or tender such shut-in royalties or minimum royalties to such persons, either jointly or separately, in proportion to the interest which each owns. If Lessee transfers its interest hereunder in whole or in part, Lessee shall be relieved of all obligations thereafter arising with respect to the transferred interest, and failure of the transferee to satisfy such obligations with respect to the transferred interest shall not affect the rights of Lessee with respect to any interest not so transferred. If Lessee transfers a full or undivided interest in all or any portion of the area covered by this lease, the obligation to pay or tender shut-in royalties or minimum royalties hereunder shall be divided between Lessee and the transferee in proportion to the net acreage interest in this lease then held by each.

9. **Warranty of Title.** Lessor hereby warrants and agrees to defend title to the interest conveyed to Lessee hereunder. Lessee, at its option, may pay or discharge any tax, mortgage or lien existing, levied or assessed against the leased premises and, in the event that it does so, Lessee shall be subrogated to the rights of the party to whom payment is made and, in addition to its other rights, may reimburse itself out of any royalties, shut-in royalties or minimum royalties otherwise payable to Lessor hereunder. In the event Lessee is made aware of any claim inconsistent with Lessor's title, Lessee may suspend the payment of royalties, shut-in royalties or minimum royalties hereunder, without interest, until Lessee has been furnished satisfactory evidence that such claim has been resolved.

10. **Payment Reductions.** If Lessor owns less than the full mineral estate in all or any part of the leased premises, payment of royalties, shut-in royalties and minimum royalties hereunder shall be reduced proportionately to the amount that Lessor's interest in the leased premises bears to the entire mineral estate in the leased premises. To the extent any royalty or other payment attributable to the mineral interest covered by this lease is payable to someone other than Lessor, such royalty or other payment shall be deducted from the corresponding amount otherwise payable to Lessor hereunder.

11. **Release of Lease.** Lessee may, at any time and from time to time, deliver to Lessor or file of record a written release of this lease as to a full or undivided interest in all or any portion of the leased premises or any depths or zones thereunder, and shall thereafter be relieved of all obligations thereafter arising with respect to the interest so released. If Lessee releases all or an undivided interest in less than all of the area covered hereby, Lessee's obligation to pay or tender shut-in royalties or minimum royalties shall be proportionately reduced in accordance with the net acreage interest retained hereunder.

12. **Regulation and Delay.** Lessee's obligations under the lease, shall be subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction including restrictions on the drilling and production of wells. Notwithstanding the provisions of paragraph 2 above, when Operations are prevented or delayed by such laws, rules, regulations or orders, or by inability to obtain necessary permits, equipment, services, material, water, electricity, fuel, access or easements, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, or by inability to obtain a satisfactory market for production or failure of purchasers or carriers to take or transport such production, or by any other cause not reasonably within Lessee's control (commonly referred to as "force majeure"), this lease shall not terminate because of such prevention or delay and, at Lessee's option, the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable for breach of any terms of this lease when Operations are so prevented, delayed or interrupted.

13. **Breach or Default.** An alleged breach or default by Lessee of any obligation hereunder or the failure of Lessee to satisfy any condition or limitation contained herein shall not work a forfeiture or termination of this lease nor cause a termination or reversion of the estate created hereby nor be grounds for cancellation hereof in whole or in part, and no litigation shall be initiated by Lessor with respect to any alleged breach or default by Lessee hereunder, for a period of at least ninety (90) days after Lessor has given Lessee written notice fully describing the breach or default, and if Lessee does not dispute the breach, then only if Lessee fails to remedy or commence to remedy the breach or default within such period. In the event Lessee disputes that a breach has occurred and the matter is litigated and there is a final judicial determination that a breach or default has occurred, this lease shall not be forfeited or canceled in whole or in part unless Lessee is given a reasonable time after said judicial determination to remedy the breach or default and Lessee fails to do so. If this lease is cancelled for any cause, it shall nevertheless remain in force and effect as to (1) sufficient acreage around each well as to which there are Operations to constitute a drilling or maximum allowable unit under applicable governmental regulations (but in no event less than forty (40) acres), such acreage to be designated by Lessee as nearly as practicable in the form of a square centered at the well, or in such shape as then existing spacing rules require; and (2) any part of said land included in a pooled unit on which there are Operations. Lessee shall also have such easements on said land as are necessary to conduct Operations on the acreage so retained. Nothing in this instrument or in the relationship created hereby shall be construed to establish a fiduciary relationship, a relationship of trust or confidence or a principal-agent relationship between Lessor and Lessee for any purpose. Lessee's standard of conduct shall be that of a reasonable prudent operator.

14. **Existing Wellbores.** At no additional cost to Lessee, Lessor grants Lessee access to and the right to use, at Lessee's sole election, any existing well(s) and/or wellbore(s) on the leased premises. Lessee's election to reenter and use an existing well and/or wellbore shall be considered the same as the drilling of a new well on the leased premises. This provision shall not apply to existing water wells on the leased premises.

15. **Miscellaneous.**

(a) Entire Agreement. This lease represents the entire agreement between Lessor and Lessee with respect to the leased premises and supersedes and replaces all prior agreements, both oral and written, between the parties with respect to the leased premises. This lease is not intended to give rise to any implied obligations not otherwise expressly contained in this lease and any implied covenants not consistent with the express provisions of this lease are hereby negated and renounced.. This lease may only be amended by a subsequent written instrument.

(b) Captions. The captions used in the lease are solely for the convenience of the parties hereto and shall have no significance, separate and apart, from the terms and provisions of the lease.

(c) Severability. If any term or other provision of this lease is invalid, illegal or incapable of being enforced under any rule of law, all other conditions and provisions of this lease shall nevertheless remain in full force and effect.

(d) Choice of Law. THIS LEASE SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (EXCLUSIVE OF ANY PRINCIPLES OF CONFLICTS OF LAWS WHICH WOULD DIRECT APPLICATION OF THE SUBSTANTIVE LAWS OF ANOTHER JURISDICTION).

IN WITNESS WHEREOF, this lease is executed effective the date first written above, and upon execution shall be binding upon the signatory and the signatory's heirs, devisees, executors, administrators, successors and assigns, whether or not the lease has been executed by all parties named herein as Lessor.

LESSOR: **LESSOR:**

______________________________ ______________________________

STATE OF TEXAS)
COUNTY OF LEON).

This instrument was acknowledged before me this ____ day of___________, 2006 , by

My Commission Expires: _____ ______________________, Notary Public

Attached hereto and made a part hereof that certain Oil and Gas Lease dated April 20, 2006 by and between ɴ, et. al., as Lessor, and ı n as Lessee.

Exhibit B

AGREEMENTS AND PROVISIONS
The following agreements and provisions shall supersede the provisions in the printed form text of this lease to the contrary, and shall inure to the benefit of, and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

OIL & GAS ONLY/EXCLUDED MINERALS
Notwithstanding anything herein to the contrary, this lease covers only oil and gas of whatsoever nature or kind, including coalbed methane gas and other liquid and gaseous hydrocarbons, and sulphur, as well as such other minerals or substances as may be produced incidental to and as a part of or mixed with oil, gas and other liquid or gaseous hydrocarbons, but this lease does not cover gravel, uranium, fissionable materials, coal, lignite or any hard minerals or substances of any type which shall be produced from the leased premises separate and apart from, or independently of, oil, gas, sulphur, coalbed methane gas or other liquid and gaseous hydrocarbons.

OPTION TO EXTEND
Lessor hereby grants Lessee the option to extend the primary term of this lease for an additional TWO (2) years from the expiration of the original primary term hereof as to all or any portion of the leased premises then held hereunder which would expire unless so extended. This option may be exercised by Lessee, or its successors and assigns, at any time before the expiration of the primary term hereof by paying to Lessor or to Lessor's credit at the depository bank which may be named herein, the sum of THREE HUNDRED AND NO/100 dollars ($300.00) per net mineral acre for each acre so extended, which payment shall cover the TWO (2) years of the extended term and Lessor acknowledges that there will be no rental payments due for or during the extended term. Payment may be made by check or draft mailed or delivered to Lessor or to said depository bank which may be named herein. Should this option be exercised as herein provided, it is agreed that Lessee may execute and file of record an instrument evidencing the exercise of this option.

PUGH (HORIZONTAL)
Two (2) years following the expiration of the primary term of this lease or the expiration of any extension or renewal of the primary term, whichever occurs last, in the event a portion or portions of the leased premises is pooled with other land so as to form a pooled unit or units, Operations on such unit or units will not maintain this lease in force as to the land not included in such unit or units. This lease may be maintained in force as to any land covered hereby and not included in such unit or units in any manner provided for herein.

SURFACE USE, SURFACE DAMAGES & SURFACE RESTORATION
Lessee agrees to use reasonable care in its operations on the leased premises, and within a reasonable period of time after completion of any drilling operations on the leased premises, Lessee shall proceed with reasonable diligence to endeavor to restore the surface of the leased premises to as near its original condition as reasonably practicable in the sole judgment of Lessee, and shall pay Lessor in full for all actual permanent damages caused by Lessee's operations to crops, livestock, land or improvements situated on the leased premises. Upon written request by Lessor and prior to installation by Lessee, Lessee shall bury pipelines below ordinary plow depth.

LESSOR INITIALS

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OIL, GAS & MINERAL LEASE

PROD 88 (REV 8/93)
PAID UP

THIS LEASE AGREEMENT is made effective the 14th day of February, 2008 ,between

Accepted for Filing in:
Robertson County
On: Mar 07,2008 at 12:10P
By: Stephanie Sanders

as Lessor (whether one or more), whose address is P.O. Box 481, Franklin, Texas 77856

and ompany, Agent, as Lessee,

whose address is 30 et, S. All printed portions of this lease were prepared by Lessee, b ,including the completion of blank spaces) were prepared jointly by Lessor and Lessee.

1. Description. Lessor, in consideration of Ten and other valuable consideration Dollars ($ 10.00 & OVC), in hand paid, of the royalties herein provided and the covenants herein contained, hereby grants, leases and lets exclusively to Lessee, for the purpose of exploring for, developing, producing and marketing oil and gas, along with all hydrocarbon and nonhydrocarbon substances produced in association therewith including helium, carbon dioxide and other commercial gases as well as hydrocarbon gases (referred to herein as "covered minerals"), the following described land (the "leased premises") in Robertson County, Texas, to-wit:

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR A DESCRIPTION OF LANDS HEREIN LEASED:

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF FOR ADDITIONAL PROVISIONS:

This lease also covers accretions and any small strips or parcels of land now or hereafter owned or claimed by Lessor which are contiguous or adjacent to the leased premises whether or not such parcels are known to exist by Lessor or Lessee. Lessor agrees to execute at Lessee's request any additional or supplemental instruments for a more complete or accurate description of the land so covered. For the purpose of determining the amount of any rentals and shut-in royalties hereunder, said land shall be deemed to be comprised of .065 acres, whether it actually comprises more or less.

2. Term of Lease. This lease shall be in force for a primary term of 3 Years from the effective date hereof, and for as long thereafter as a covered mineral is produced in paying quantities from the leased premises or this lease is otherwise maintained in effect pursuant to the provisions hereof.

3. Royalty. Royalties on covered minerals produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) For oil and other liquid hydrocarbons separated at Lessee's field separator facilities, the royalty shall be 1/5th of such production, to be delivered at Lessee's option to Lessor at the wellhead or to Lessor's credit at the oil purchaser's transportation facilities, provided that Lessee shall have the continuing right to purchase such production at the wellhead posted price then prevailing in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) for production of similar grade and gravity less a proportionate part of ad valorem taxes and production, severance, or other excise taxes, (b) for gas (including casinghead gas) and all other covered minerals, the royalty shall be 1/5th of the net proceeds realized by Lessee from the sale thereof, less a proportionate part of ad valorem taxes and production, severance, or other excise taxes, provided that Lessee shall have the continuing right to purchase such production at the prevailing wellhead market price paid for production of similar quality in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) less a proportionate part of ad valorem taxes and production, severance, or other excise taxes and (c) if during or after the primary term one or more wells on the leased premises or lands pooled therewith are capable of producing oil or gas or other substances covered hereby in paying quantities, but such well or wells are either shut-in or production therefrom is not being sold by Lessee for a period of 90 consecutive days, then Lessee may pay shut-in royalty of one dollar per acre of land then covered by this lease, such payment to be made to Lessor on or before the end of said 90-day period and thereafter on or before each anniversary of the end of said 90-day period while the well or wells are shut-in and it shall be considered that such well is producing in paying quantities for all purposes hereof during any period for which such shut-in royalty is tendered; provided that if this lease is otherwise being maintained by the payment of rentals or by operations, or if a well or wells on the leased premises is producing in paying quantities, no shut-in royalty shall be due until the end of the 90-day period next following the end of the rental period or the cessation of such operations or production, as the case may be. Lessee shall have free use of oil, gas, water, and other substances produced from said land, except water from Lessor's wells or ponds, for all operations hereunder, and Lessor's royalty shall be computed after deducting any so used.

4. Operations. If, after expiration of the primary term, Lessee drills a dry hole on the leased premises or if all production of covered minerals should permanently cease from any cause either voluntary or involuntary (and if this lease is not otherwise being maintained), this lease shall remain in effect if Lessee commences drilling, reworking or other operations on the leased premises within 90 days thereafter. If, at or after expiration of the primary term, this lease is not otherwise being maintained but Lessee is then engaged in drilling, reworking or other operations calculated to obtain or restore production from the leased premises, this lease shall remain in effect so long as such operations are conducted with no cessation of more than 90 consecutive days and, if such operations result in the production of a covered mineral, as long thereafter as there is production from the leased premises. After production has been established on the leased premises, Lessee shall drill such additional wells as a reasonably prudent operator would drill under the same or similar circumstances to (a) develop the leased premises as to formations then capable of producing in paying quantities on the leased premises or (b) protect the leased premises from uncompensated drainage by a well producing a covered mineral in paying quantities located within 330 feet of and draining the leased premises. There shall be no covenant to drill exploratory wells or any additional wells except as expressly provided herein.

5. Pooling. Lessee shall have the continuing and recurring right, but not the obligation, to pool all or any part of the leased premises or interest therein with any other lands, leases or interests, as to any or all depths or zones, and as to any or all covered minerals, either before or after the commencement of production, whenever Lessee deems it necessary or proper to do so in order to prudently explore, develop or operate the leased premises, whether or not similar pooling authority exists with respect to such other lands, leases or interests. A unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed 80 acres plus a maximum acreage tolerance of 10%, and for an oil well which is a horizontal completion or a gas well shall not exceed 640 acres plus if a maximum acreage tolerance of 10%; provided that larger units may be formed for an oil well or a gas well, whether or not horizontally completed, in order to conform to any well spacing or density pattern permitted by any governmental authority having jurisdiction over such matters. The terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or by regulations of the governmental authority which has jurisdiction over such matters. The term "horizontal completion" shall mean an oil well or a gas well in which the horizontal component of the gross completion interval exceeds 100 feet in length. Lessee may pool or combine land covered by this lease or any portions thereof, as above provided as to oil in any one or more strata and as to gas in any one or more strata. Units formed by pooling as to any stratum or strata need not conform in size or area with units formed as to any other stratum or strata, and oil units need not conform as to area with gas units. To exercise its pooling rights hereunder, Lessee shall file of record a written declaration describing the unit, and the effective date of pooling shall be the date of filing unless provided otherwise in such declaration. Lessee wholly at its option may exercise its authority to pool either before or after commencing operations for or completing an oil or gas well on lands lying within a unit and any unit may include, but is not required to include, lands or leases upon which a well producing or capable of producing oil or gas in paying quantities has theretofore been completed, or upon which operations have theretofore been commenced. Production, drilling or reworking operations anywhere on a unit which includes all or any part of the leased premises, regardless of whether such production was secured or such drilling or reworking operations were commenced before or after the execution of this lease or the instrument designating the pooled unit, shall be treated for all purposes (except the payment of royalties on production from the pooled unit) as if they were production, drilling or reworking operations on the leased premises and references herein to production from or operations on the leased premises shall be deemed to include production from or operations on any portion of such pooled unit; provided that if after creation of a pooled unit a well is drilled on land within the unit area (other than the leased premises) which well is not classified as the type of well for which the unit was created (oil, gas or other minerals as the case may be), such well shall be considered a dry hole for purposes of applying the additional drilling and reworking provisions hereof. If a gas well on a gas unit, which includes all or a portion of the leased premises, is reclassified as an oil well, with respect to all lands which are included within the unit (other than the lands on which the well is located), the date of such reclassification shall be considered as the date of cessation of production for purposes of applying the provisions of this lease covering additional drilling and reworking. The production on which Lessor's royalty is calculated shall be that proportion of the total unit production which the net acreage covered by this lease and included in the unit bears to the total gross acreage in the unit, but only to the extent that such proportion of unit production is sold by Lessee. Pooling in one or more instances

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shall not exhaust Lessee's pooling rights hereunder, and Lessee shall, without the joinder of Lessor, have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by such governmental authority, or court order, or when to do so would, in the judgment of Lessee, promote the conservation of covered minerals in and under and that may be produced from the leased premises. In making such a revision, Lessee shall file of record a written declaration describing the revised unit and the effective date of revision shall be the date of filing unless provided otherwise in such declaration. To the extent any portion of the leased premises is included in or excluded from the unit by virtue of such revision, the proportion of unit production on which royalties are payable hereunder shall thereafter be adjusted accordingly, and such adjustment shall be made effective as of the effective date of the revision. Lessee may at any time dissolve any unit formed hereunder by filing a written declaration describing the unit, and the effective date of dissolution shall be the date of filing unless provided otherwise in such declaration. 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 unitizo as provided in this paragraph with consequent allocation of production as herein provided. As used herein 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. Pooling hereunder shall not constitute a cross-conveyance of interests.

6. Ancillary Rights. In exploring for, developing, producing and marketing oil, gas and other substances covered hereby on the leased premises, in primary or enhanced recovery, Lessor hereby grants and conveys to Lessee the right of ingress and egress along with the right to conduct such operations on the leased premises as may be reasonably necessary for such purposes, including but not limited to geophysical operations, the drilling of wells, and the construction and use of roads, canals, pipelines, tanks, water wells, disposal wells, injection wells, pits, electric and telephone lines, power stations, and other facilities deemed necessary by Lessee to discover, produce, store, treat and transport production. In exploring, developing, producing or marketing from the leased premises, the ancillary rights granted herein shall apply (a) to the entire leased premises described in Paragraph 1 above, notwithstanding any partial release or other partial termination of this lease; and (b) to any other lands in which Lessor now or hereafter has authority to grant such rights in the vicinity of the leased premises. No surface location for a well shall be located less than 200 feet from any house or barn now on the leased premises or other lands used by Lessee hereunder without Lessor's consent, and Lessee shall pay for actual damage caused by its operations to buildings and other improvements now on the leased premises, or such other lands, and to commercial timber and growing crops thereon. Lessee shall have the right at any time to remove its fixtures, equipment and materials, including well casing, from the leased premises or such other lands during the term of this lease or within 180 days following the expiration thereof.

7. Ownership Changes. The interest of either Lessor or Lessee hereunder may be assigned, devised or otherwise transferred in whole or in part, by area or by depth or zone, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Lessor's ownership shall have the effect of reducing the rights or enlarging the obligations of Lessee hereunder, and no change in ownership shall be binding on Lessee until 60 days after Lessee has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of Lessee. In the event of the death of any person entitled to shut-in royalties hereunder, Lessee may pay or tender such shut-in royalties to the credit of decedent or decedent's estate. If at any time two or more persons are entitled shut-in royalties hereunder, Lessee may pay or tender such shut-in royalties to such persons, either jointly or separately, in proportion to the interest which each owns. If Lessee transfers its interest hereunder in whole or in part, Lessee shall be relieved of all obligations thereafter arising with respect to the transferred interest, and failure of the transferee to satisfy such obligations with respect to the transferred interest shall not affect the rights of Lessee with respect to any interest not so transferred. If Lessee transfers a full or undivided interest in all or any portion of the area covered by this lease, the obligation to pay or tender shut-in royalties hereunder shall be divided between Lessee and the transferee in proportion to the net acreage interest in this lease then held by each.

8. Warranty of Title. .Lessee, at its option, may pay or discharge any tax, mortgage or lien existing against the leased premises and, in the event that it does so, Lessee shall be subrogated to the rights of the party to whom payment is made and, in addition to its other rights, may reimburse itself out of any royalties or shut-in royalties otherwise payable to Lessor hereunder. If Lessor owns less than the full mineral estate in all or any part of the leased premises, payment of royalties and shut-in royalties hereunder shall be reduced proportionately to the amount that Lessor's interest in the leased premises bears to the entire mineral estate in the leased premises. In the event Lessco is made aware of any claim inconsistent with Lessor's title, Lessee may suspend the payment of royalties and shut-in royalties hereunder, without interest, until Lessee has been furnished satisfactory evidence thet such claim has been resolved. In the event the leased lands are encumbered by a mortgage, then prior to the payment of any royalties due hereunder, Lessor agrees to obtain a subordination of mortgage, at Lessor's expense, in a form acceptable to Lessee.

9. Release of Lease. Lessee may, at any time and from time to time, deliver to Lessor or file of record a written release of this Lease as to a full or undivided interest in all or any portion of the leased premises or any depths or zones thereunder, and shall thereafter be relieved of all obligations thereafter arising with respect to the interest so released. If Lessee releases all or an undivided interest in less than all of the area covered hereby, Lessee's obligation to pay or tender shut-in royalties shall be proportionately reduced in accordance with the net acreage interest retained hereunder.

10. Regulation and Delay. Lessee's obligations under the lease, whether express or implied, shall be subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction including restrictions on the drilling and production of wells. Notwithstanding the provisions of paragraph 2 above, when drilling, reworking, production or other operations are prevented or delayed by such laws, rules, regulations or orders, or by inability to obtain necessary permits or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, or by any other cause not reasonably within Lessee's control (commonly referred to as "force majeure"), this lease shall not terminate because of such prevention or delay and, at Lessee's option, the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable for breach of any express or implied covenants of this lease when drilling, production or other operations are so prevented, delayed or interrupted.

11. Breach or Default. An alleged breach or default by Lessee of any obligation hereunder or the failure of lessee to satisfy any condition or limitation contained herein shall not work a forfeiture or termination of this lease nor cause a termination or reversion of the estate created hereby nor be grounds for cancellation hereof in whole or in part, and no litigation shall be initiated by Lessor with respect to any alleged breach or default by Lessee hereunder, for a period of at least thirty (30) days after Lessor has given Lessee written notice fully describing the breach or default, and then only if Lessee fails to remedy or commence to remedy the breach or default within such period. Nothing in this instrument or in the relationship created hereby shall be construed to establish a fiduciary relationship, a relationship of trust or confidence or a principle - agent relationship between Lessor and Lessee for any purpose.

IN WITNESS WHEREOF, this lease is executed effective the date first written above, and upon execution shall be binding upon the signatory whether or not the lease has been executed by all p[illegible] named herein as Lessor.

LESSOR:

STATE OF TEXAS }

COUNTY OF ROBERTSON }

This instrument was acknowledged before me on the 19 day of FeB, 2008, by

MARILYNNE B. KNIGHTON
MY COMMISSION EXPIRES
September 10, 2011

Marilynne B. Knighton
Notary Public, State of Texas

Exhibit "A"

Attached to and made a part of that certain Oil and Gas Lease dated February 14, 2008, by and between Stephen A. Boykin as Lessor, and Fortson Oil Company, as Lessee, covering .065 acres of land, more or less, out of the Francis Slaughter Survey, Abstract No. 335, Robertson County, Texas.

0.065 acres of land, more or less, out of the Francis Slaughter Survey, Abstract No. 335, Robertson County, and being Lot Number Five (5) in Block Number Eighty-Eight (87) in the City of Franklin, in Robertson County, Texas, according to the map of said City recorded in Volume 5, Page 253 of the Deed Records of Robertson County, Texas and being the same property conveyed to Stephen Boykin by Linda S. Johnson and husband, Milford R. Johnson by Deed dated September 15, 2003 and duly recorded in Volume 844, Page 483 of the Public Records of Robertson County, Texas.

SIGNED FOR IDENTIFICATION

ykin

Doc ... 31 ...

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Exhibit ... 1026

Attached to and made a part of that certain Oil and Gas Lease dated February 14, 2008, by and between Stephen A. Boykin as Lessor, and Fortson Oil Company, as Lessee, covering .065 acres of land, more or less, out of the Francis Slaughter Survey, Abstract No. 335, Robertson County, Texas.

The following agreements and provisions shall supersede and govern the provisions in the printed form text of this lease to the contrary, and shall insure to the benefit of, and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

12. This lease shall be limited to oil, gas and other associated bydrocarbons and sulphur produced through the well bore with oil and gas. All references in this lease to "other minerals" are hereby deleted.

13. Notwithstanding any provision herein to the contrary, upon the later to occur of (i) the expiration of the primary term of this Lease (or the expiration of any extension or renewal thereof), or (ii) upon the expiration of ninety (90) days following the completion of the last well drilled on the leased premises or acreage pooled therewith (whether completed as a well capable of production in paying quantities or as a dry hole), operations for which were commenced during the primary term, this Lease shall terminate as to any lands not included in a pooled unit, proration unit for a lease well or other unit from which any well located thereon is producing or may be capable of producing in paying quantities, or upon whicb drilling, reworking or other operations calculated to restore production are being pursued as herein provided. After the expiration of the primary term of this Lease, if production on any pooled, proration or other unit permanently ceases from any cause either voluntary or involuntary (and if this Lease is not otherwise being maintained), this Lease shall terminate as to the lands included in such unit unless Lessee within ninety (90) days thereafter commences reworking operations or the actual drilling of a new well thereon. In such event, this Lease will continue in effect as to such unit so long as such drilling or reworking is prosecuted with no cessation of such operations for more than ninety (90) consecutive days until production is restored.

14. Notwithstanding anything in this lease to the contrary, one (1) year upon the expiration of the primary term, this lease shall terminate as to all of the leased premises save and except the depths from the surface down to one hundred feet (100') below the stratigraphic equivalent of the deepest depth drilled in a well drilled on the leased premises or lands pooled therewith.

15. In the event the Lease terminates as to any acreage or depths as contemplated in Paragraphs 13 and 14 above, then Lessee shall within thirty (30) days after the partial termination of this lease for any reason as provided above, file of record in the Office of the Robertson County Clerk, an instrument releasing this lease insofar as said lease has terminated.

16. Lessee agrees that it (and any of its affiliated entities) will not conduct any drilling, exploration, production, seismic or any other type of operations, or place any structures, pipeline or equipment of any nature, on the surface of the leased premises. It is further agreed and understood that Lessee shall have the right to drill and operate directional wells through and under said land, provided such bottom hole location is under the leased premises or lands pooled therewith. To this end, Lessor hereby grants to Lessee a subsurface easement for all purposes associated with such directional wells but only to the extent that such wells develop the leased premises or lands pooled therewith.

17. For purposes of this lease, the following terms shall be defined as follows:

(a) "commencement of drilling" of a well - the drilling of a well shall be deemed to have commenced on the date of actual entry of the drillbit of a drilling rig, capable of achieving the total depth permitted and approve by the Railroad Commission of Texas, into the soil of the leased premises or lands pooled therewith.

(b) "completion date" of a well - the completion date of non-producing wells shall be the date of final plugging and abandonment, and the completion date of producing wells shall be the date the well is physically completed and capable of production, including the completion of the potential test and all other tests required by the Railroad Commission of Texas or its successor regulatory agency; provided, the completion date shall never be more than ninety (90) days following release of the drilling rig in the case of a dry hole, or release of the completion rig, in the case of a completed well.

(c) "Operations for reworking", "reworking operations", "commencement of reworking operations", "commence reworking operations" and "actual reworking operations" shall have the same meaning being the actual re-entry into an existing wellbore with a drilling or workover rig capable of re-entering and reworking such well and the timely prosecution of such actual reworking operations with reasonable diligence toward the reestablishment of production of commercial oil or gas from a previously producing zone or zones.

(d) "Production in paying or commercial quantities" shall mean revenue from the sale of production from a well sufficient to return a profit, after deduction of royalties, overriding royalties and production taxes, over and above all direct operating costs, but not including capital costs or district office overbead not directly attributable to the Leased Premises, for any consecutive twelve (12) month period.

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18. Notwithstanding anything in Paragraph 3 of the printed form to contrary, the royalties to be paid by Lessee are:

(a) On all oil and on all liquid hydrocarbons extracted from gas under the provisions of Subparagraph (b) below, **one-fifth (1/5)** of that produced and saved from the said lands, the same to be delivered to lessor into the storage tanks or into the pipeline to which the wells may be connected, or, at Lessor's option, such oil and liquid hydrocarbons shall be sold with Lessor's oil and liquid hydrocarbons at the same price received by Lessee (but in no event for less than the market value thereof), or, at Lessor's option, such products shall be delivered to Lessor at the wells into tanks or other receptacles to be furnished by Lessor. Lessor's options hereunder may be exercised from time to time, and the exercises or failure to exercise an option at any time shall not constitute a waiver of Lessor s right to exercise further options.

(b) On all gas produced from said lands, including casinghead gas and residue gas at the tailgate of any plant through which gas produced from said lands may be processed, **one-fifth (1/5)** of the market value of the gas at the place of use or sale by Lessee. Market value shall not be less than the full amount received by Lessee, either directly or indirectly (excluding from any subsidiaries not at arm's length) for such products.

(c) On condensate and all other products separated, extracted or manufactured from gas produced from said land by any extraction, absorption, pressuring or other plant belonging wholly or in part to Lessee or any subsidiary company, **one-fifth (1/5)** of the market value at the plant of all such condensate and other products so separated, extracted or manufactured. Market value shall not be less than the full amount received by Lessee, either directly or indirectly (excluding from any subsidiaries not at arm's length) for such products.

(d) On condensate and all other products separated, extracted or manufactured from gas produced from said lands by an extraction, absorption, pressuring or other plant belonging to a third party or parties, **one-fifth (1/5)** of the amount received by Lessee from the sale of condensate and other products separated, extracted or manufactured by said plant and credited to Lessee under the terms of Lessee's contract with such plant.

(e) For the purpose of computing Lessor's royalty on gas, "market value" is defined as being the highest price reasonably obtainable for the quantity and quality of gas available for sale, through good faith negotiations for gas produced from the said lands (including residue gas as above defined) at the place where such gas is available for sale on the date of such contract.

(f) Lessee shall pay to lessor 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 leased premises.

(g) Shut-in royalty payable hereunder shall be computed on the basis of $25.00 per acre. Lessee may perpetuate this lease by paying shut-in royalties for no more than two (2) consecutive years or three (3) years of cumulative time.

(h) After payment of first runs under this Lease (not to exceed one hundred twenty (120) days after first production), all royalties that may become due hereunder shall be paid to Lessor promptly after sale of such production and in any event on or before the last day of the second month following the month in which said oil or gas is produced, and shall be accompanied by a voucher showing the volume and disposition of all oil and gas produced and the proceeds of sale of the oil and gas, accounting separately for oil, together with an accounting of all gas, condensate, and each plant product which is produced and sold. Lessee shall deduct or cause to be deducted from royalties paid to Lessor, and shall use its best efforts to accurately determine and pay, or cause to be determined and paid, production and severance taxes, excise taxes known as windfall profits taxes, and any other taxes chargeable to said royalties which Lessee, or any party purchasing oil or gas produced from the lease, is required to pay on account of or attributable to said royalties, and shall currently provide Lessor, or cause Lessor to be provided, with accurate statements of any and all such taxes chargeable to current royalty payments; provided, however, Lessee shall incur no liability for an improper or erroneous payment of such taxes, except as a result of willful misconduct or gross negligence of Lessee.

(i) Lessor shall have the right at all reasonable times after ten (10) days written notice to Lessee, at the offices of Lessee, to personally or by representative inspect the books, accounts, contracts, records and data of Lessee pertaining to the development, production, saving, transportation, processing, treating, sale and marketing of oil and/or gas hereunder.

(j) Lessee shall have free use of oil and/or gas from its well located on said lands for all production operations hereunder, and the royalties on oil and/or gas shall be computed after deducting any so used, provided that Lessee shall not use any oil and/or gas from any well located on said lands for the drilling of an additional well(s) on said lands.

19. If Lessor brings suit to compel performance of, or to recover for breach of any covenant or condition herein contained, or for declaratory relief, and prevails therein, Lessee agrees to pay to Lessor reasonable attorney's fees in addition to the amount of judgment and costs. Any actions concerning this lease shall be brought in Robertson County,

Texas. Lessor shall have the right to use the name and address of the last valid Lessee under this lease for notice and citation purposes for any claim or cause of action.

20. All notices or any other communication between Lessor and Lessee required or authorized under the terms of this lease shall be made to the parties at the addresses shown in the first paragraph hereof. All such notices shall be considered delivered when delivered in person or properly deposited in the U. S. Mail for delivery to the above addresses. The parties hereto may designate an address other than that shown above as the address of record, by written notice of such address change to the other party. No such change of address of record shall be binding on the other party hereto until thirty (30) days after such notice has been delivered to the other party hereto. During the thirty (30) days following notice of an address change, notices and other communications may be properly delivered to either the old or new address.

21. Events of force majeure shall exclude any occurrence or cause reasonably within the control of Lessee. Moreover, Lessee shall take all reasonable actions to remove or end any cause of force majeure as soon as reasonably possible. In no event shall this lease be perpetuated by an event of force majeure for a period of more than one (1) consecutive year or three (3) years of cumulative time.

22. The failure of Lessor to insist, in one or more instances, upon strict compliance by Lessor with any of the provisions of this lease or to take advantage of any right hereunder, shall not be constructed as a waiver of any such provision, nor the relinquishment of any such rights, but the same shall continue and remain in full force and effect.

23. It is agreed that neither this lease nor any terms or provisions hereof shall be altered, amended, extended or ratified by any division order or transfer order executed by Lessor, but that any division orders or transfer orders shall be solely for the purpose of confirming the extent of Lessor's interest in production of oil and gas from said lands. Any amendment, alteration, extension or ratification of this lease or of any term or provision of this lease shall be made by an instrument in writing clearly denominated as to its purpose and effect, describing the specific terms or provisions of the lease affected and the proposed change or modification thereof, and executed by the party against whom it is to be enforced. Any such amendment, alteration, extension or ratification not so drafted and executed shall be of no force or effect.

24. LESSEE SHALL INDEMNIFY, DEFEND AND SAVE LESSOR HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION, OF ANY NATURE, INCLUDING ATTORNEYS' FEES AND COSTS, FOR ANY INJURY TO OR THE DEATH OF PERSONS, AND/OR LOSS OF OR DAMAGE TO PROPERTY, RESULTING FROM OR ACCRUING IN CONNECTION WITH OR IN ANY MANNER ARISING OUT OF THE EXPLORATION, DEVELOPMENT, OR OPERATION OF THE LEASE PREMISES AND THE MARKETING OF PRODUCTION, REGARDLESS OF WHETHER COMMITTED OR CONTRIBUTED TO BY LESSEE, ITS AGENTS, CONTRACTORS, LICENSEES, OR INVITEES.

25. Lessee agrees to pay Lessor for any damages caused by Lessee's operations resulting to the surface of said lands, including damage to roadways, fences, permanent or temporary structures of any kind or character, water wells, water pipes and other components of Lessor's water system, sewer pipes, lift stations, waste water treatment plants and other components of Lessor's sewer system.

26. Lessee covenants that it will strictly comply with all applicable laws, regulations and ordinances in conducting all operations under this lease. Lessee covenants that in the conduct of its operations hereunder, it will comply at all times with Chapter 4, Section 8 of the Franklin City Code, as the same may be from time to time amended, and with any and all other ordinances regulating the conduct of Lessee's operations hereunder. Lessee specifically covenants to comply with Chapter 4, Section 8 (as amended) in its operations in Lessor's extraterritorial jurisdiction.

27. Lessee shall not revise any pooled unit formed hereunder without the consent of Lessor, which consent shall not be unreasonably withheld.

SIGNED FOR IDENTIFICATION:

Producers 88 (7-69) Paid Up
With 640 Acres Pooling Provision

Vol Pg

OIL, GAS AND MINERAL LEASE

Accepted for Filing in:
Robertson County
On: Jul 10,2008 at 11:29A

THIS AGREEMENT made this 7th day of July, 2008, , but effective July 25, 2008, between 2007 ... hip L.P. by ... Lessor, (whether one or more), whose address is P.O. Box 78, Franklin, ... (USA) Inc., 14001 N. Dallas P... Suite 1000, Dallas, Texas 75240, Lessee, WITNESSETH:

1. Lessor, in consideration of Ten and no/100 ($10.00) Dollars, receipt of which is hereby acknowledged, and of the covenants and agreements of lessee hereinafter contained, does hereby grant, lease and let unto lessee the land covered hereby for the purposes and with the exclusive right of exploring, drilling, mining and operating for, producing and owning oil, gas and all other minerals (whether or not similar to those mentioned), together with the right to make surveys on said land, lay pipe lines, establish and utilize facilities for surface or subsurface disposal of salt water, construct roads and bridges, dig canals, build tanks, power stations, telephone lines, employee houses and other structures on said land, necessary or useful in lessee's operations in exploring, drilling for, producing, treating, storing and transporting minerals produced from the land covered hereby or any other land adjacent thereto. The land covered hereby, herein called "said land", is located in the County of Robertson, State of Texas, and is described as follows:

320.0 acres, more or less, being all of the Jesse Bailey Survey, A-69, Robertson County, Texas, being the same land described in a Patent from the State of Texas to the Heirs of Jesse Bailey, Deceased, dated April 26, 1871 and recorded in Vol. 21, Page 201 of the Official Records of Robertson County, Texas.

Notice of Confidentiality Rights: If you are a natural person, you may remove or strike any .of the following information from this instrument before it is filed for record in the public records: your social security number or your driver's license number.

FOR ADDITIONAL PROVISIONS TO THIS LEASE, PLEASE SEE EXHIBIT "A" ATTACHED TO AND MADE A PART OF FOR ALL PURPOSES.

This lease cover and includes, in addition to that above described, all land, if any, contiguous or adjacent to or adjoining the land above described and (a) owned or claimed by lessor by limitation, prescription, possession, reversion or unrecorded instrument or (b) as to which lessor has a preference right of acquisition. Lessor agrees to execute any supplemental instrument requested by lessee for a more complete or accurate description of said land. For the purpose of determining the amount of any bonus or other payment hereunder, said land shall be deemed to contain **320.0** acres, whether actually containing more or less, and the above recital of acreage in any tract shall be deemed to be true acreage thereof. Lessor accepts the bonus as lump sum consideration for this lease and all rights and options hereunder.

2. Unless sooner terminated or longer kept in force under other provisions hereof, this lease shall remain in force for a term of three (3) years from July 25, 2008, hereinafter called "primary term", and as long thereafter as operations, as hereinafter defined, are conducted upon said land with no cessation for more than ninety (90) consecutive days.

3. As royalty, lessee covenants and agrees: (a) To deliver to the credit of lessor, in the pipe line to which lessee may connect its wells, the equal one-eighth part of all oil produced and saved by lessee from said land, or from time to time, at the option of lessee, top pay lessor the average market price of such one-eighth part of such oil at the wells as of the day it is run to the pipe line of storage tanks, lessor's interest, in either case, to bear one-eighth of the cost of treating oil to render it marketable pipe line oil: (b) to pay lessor on gas and casinghead gas produced from said land (1) when sold by lessee, one-eighth of the amount realized by lessee, computed at the mouth of the well, or (2) when gas used by lessee off said land or in the manufacture of gasoline or other products, the market value, at the mouth of the well, of one-eighth of such gas and casinghead gas; ©) To pay lessor on all other minerals mined and marketed or utilized by lessee from said land, one-tenth either in kind or value at the well or mine at lessee's election, except that on sulphur mined and marketed the royalty shall be one dollar ($1.00) per long ton. If, at the expiration of the primary term or at any time or times thereafter, there is any well on said land or on lands with which said land or any portion thereof has been pooled, capable of producing oil or gas, and all such wells are shut-in, this lease shall, nevertheless, continue in force as though operations were being conducted on said land for so long as said wells are shut-ins, and thereafter this lease may be continued in force as if no shut-in had occurred. Lessee covenants and agrees to use reasonable diligence to produce, utilize, or market the minerals capable of being produced from said wells, but in the exercise of such diligence, lessee shall not be obligated to install or furnish facilities other than well facilities and ordinary lease facilities of flow lines, separator, and lease tank, and shall not be required to settle labor trouble or to market gas upon terms unacceptable to lessee. If, at any time or times after the expiration of the of the primary tem, all such wells are shut-in for a period of ninety consecutive days, and during such time there are no operations on said land, then at or before the expiration of said ninety day period, lessee shall pay or tender, by check or draft of lessee, as royalty, a sum equal to one dollar ($1.00) for each acre of land covered hereby. Lessee shall make like payments or tenders at or before the end of each anniversary of the expiration of said ninety day period if upon such anniversary this lease is being continued in force solely by reason of the provisions of this paragraph. Each such payment or tender shall be made to the parties who at the time of payment would be entitled to receive the royalties which would by paid under this lease if the wells were producing, and may be deposited in the Pay Direct to Lessor at Above Address which shall continue as the depositories, regardless of changes in the ownership of shut-in royalty. If at any time that lessee pays or tenders shut-in royalty, two or more parties are, or claim to be, entitled to receive same, lessee may, in lieu of any other method of payment herein provided, pay or tender such shut-in royalty, in the manner above specified, either jointly to such parties or separately to each in accordance with their respective ownerships thereof, as lessee may elect. Any payment hereunder may be made by check of draft of lessee deposited in the mail or delivered to the party entitled to receive payment or to a depository bank provided for above on or before the last date for payment. Nothing herein shall impair lessee's right to release as provided in paragraph 5 hereof. In the event of assignment of this lease in whele or part, liability for payment hereunder shall rest exclusively on the then owner or owners of this lease, severally as to acreage owned by each.

4. Lessee is hereby granted the right, at its option, to pool or unitize any land covered by this lease with any other land covered by this lease, and/or with any other 'land, lease, or leases, as to any or all minerals or borizons, so as to establish units containing not more than 80 surface acres, plus 10% acreage tolerance; provided, however, units may be established as to anyone or more horizons, or existing units may be enlarged as to anyone or more horizons, so as to contain not more that 640 surface acres plus 10% acreage tolerance, if limited to one or more of the following: (1) gas, other than casinghead gas, (2) liquid hydrocarbons (condensate) which are not liquids in the subsurface reservoir, (3) minerals produced from wells classified as gas wells by the conservation agency having jurisdiction. If larger units than any of those herein permitted, either at the time established, or after 'enlargement, are required under any government rule or order, for the drilling or operation of a well at a regular location, or for obtaining maximum allowable from any well to be drilled, drilling, or already drilled, any such unit may be established or enlarged to conform to the size required by such governmental order or rule. Lessee shall exercise said option as to each desired unit by executing an instrument identifying such unit and filing it for record in the public office in which this lease is recorded. 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 said land, or on the portion of said land included in the unit, or on other land unitized therewith. A unit established hereunder shall be valid and effective for all purposes of this lease even though there may be mineral, royalty, or leasehold interests in lands within the 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 said land under this lease. There shall be allocated to the land covered by this lease within each such unit (or to each separate tract within the unit if this lease covers separate tracts within the unit) that proportion of the total production of unitized minerals from the unit, after deducting any used in lease or unit operations, which the number of surface acres in such land (or in each such separate tract) covered by this lease within the unit bears to the total number of surface acres in the unit, and the production so allocated shall be considered for all purposes, including payment or delivery of royalty, overriding royalty and any other payment out of production, to be the entire production of unitized minerals from the land to which allocated in the same manner as though produced therefrom under the terms of this lease. The owner of the reversionary estate of any royalty or mineral estate agrees that the accrual of royalties pursuant to this paragraph or shut-in royalties from a well on the unit shall satisfy any limitation of term requiring production of oil, or gas. The formation of any 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 5 hereof, except that lessee may not so release as to lands within a unit while there are operations thereon for unitized minerals unless all leases are released as to lands within the unit. At any time while this lease is in force lessee may dissolve any unit established hereunder by filing for record in the public office where this lease is recorded a declaration to that effect, if at that time no operations are being conducted thereon for unitized minerals. Subject to the provisions of paragraph 4, a unit once established hereunder shall remain in force so long. a any lease subject thereto shall remain in force. 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 4 with consequent allocation of production as herein provided. As used in this paragraph 4, 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.

5. Lessee may at any time and from time to time execute and deliver to lessor or file for record a release of this lease as to any part or all of said land or of any mineral or horizon thereunder, and thereby by relieved of all obligations, as to the released acreage or interest.

6. Whenever used in this lease the word "operations" shall mean operations for and any of the following: drilling, testing, completing, reworking, recompleting, deepening, plugging back or repairing of a well in search for or in an endeavor to obtain production of oil, gas, sulphur or other minerals, excavating a mine, production of oil, gas, sulphur or other minerals, whether or not in paying quantities.

7. Lessee shall have the use, free from royalty, of water, other that from lessor's water wells, and of oil and gas produced from said land in all operations hereunder. Lessee shall have the right at any time to remove all machinery and fixtures placed on said land, including the right to draw and remove casing. No well shall be drilled nearer than 200 feet to the house or barn now on said land without the consent of the lessor. Lessee shall pay for damages caused by its operations to growing crops and timber on said land.

8. The rights and estate of any party hereto may be assigned from time to time in whole or in part and as to any mineral or horizon. 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 change or division in the ownership of said land, royalties, or other moneys, or any part thereof, howsoever effected, shall increase the obligations or diminish the rights of lessee, including, but not limited to, the location and drilling if wells and the measurement of production. Notwithstanding any other actual or constructive knowledge or notice thereof of or to lessee, its successors or assigns, no change or division in the ownership of said land 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 duly certified 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 death of the owner, lessee may, nevertheless pay or tender such royalties, or other moneys, or part thereof, to the credit of the decedent in a depository bank provided for above.

9 . In the event lessor considers thet lessee has not complied with all its obligations hereunder, both express and implied, lessor shall notify lessee in writing, setting out specifically in what respects lessee has breached this contact. Lessee shall then have sixty (60) 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 sixty (60) 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. If this lease is cancelled for any cause, it shall nevertheless remain in force and effect as to (1) sufficient acreage around each well as to which there are operations to constitute a drilling or maximum allowable unit under applicable governmental regulations, (but in no event less that forty acres), such acreage to be designated by lessee as nearly as practicable in the form of a square centered at the well, or in such shape as then existing rules require; and (2) any part of said land included in a pooled unit on which there are operations. Lessee shall also have such easements on said land as are necessary to operations on the acreage so retained.

10. Lessor hereby warrants and agrees to defend title to said land against the claims of all persons whomsoever. Lessor's rights and interest hereunder shall be charged primarily with any mortgages, taxes or other liens, or interest and other charges on said land, but lessor agrees that lessee shall have the right at any time to pay or reduce same for lessor, either before of after maturity, and be subrogated to the rights of the holder thereof and to deduct amounts so paid from royalties or other payments payable or which may become payable to lessor and/or assigns under this lease. If this lease covers a less interest in the oil, gas, sulphur, or other minerals in all or any part of said land than the entire and undivided fee simple estate (whether lessor's interest id herein specified or not), or no interest therein, then the royalties and other moneys accruing from any part as to which the lease covers less than such full interests, shall be paid only in the proportion which the interest therein, if any, covered by this lease, bears to the whole and undivided fee simple estate therein. All royalty interest covered by this lease (whether or not owned by lessor) shall be paid out of royalty herein provided. This lease shall be binding upon each party who executed it without regard to whether it is executed by all those named herein as lessor.

11. If, while this lease is in force, at, or after the expiration of the primary term hereof, it is not being continued in force by reason of the shut-in well provisions of paragraph 3 hereof, and lessee is not conducting operations on said land by reason of (1) any law, order, rule or regulation, (whether or not subsequently determined to be invalid) or (2) any other cause, whether similar or dissimilar, (except financial) beyond the reasonable control of lessee, the primary term hereof shall be extended until the first anniversary date hereof occurring ninety (90) or more days following the removal of such delaying cause, and this lease may be extended by operations as if such delay had not occurred.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF SMITH

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 7th DAY OF JULY, 2008, B[illegible]DA [illegible] PARTNERS[illegible]

Notary Public, State of Texas

Pam Holley
My Commission Expires
05/11/2010

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EXHIBIT "A"

Attached hereto and made a part hereof that certain Oil, Gas and Mineral Lease dated July 7, 2008 by and between **2007 McBeth Limited Partnership, LP, Glynda McBeth, General Partner**, as Lessor, and **EnCana Oil & Gas (USA) Inc.**, as Lessee.

The provisions of the hereinafter paragraphs shall supersede and govern the provisions of the printed form text of this lease and shall inure to the benefit of, and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

ROYALTY
It is agreed and understood that whenever the designation "one-eighth" (1/8) appears in paragraph 3 hereof, the same shall be deleted and the designation "twenty percent" (20%) shall be substituted therefor.

HORIZONTAL/VERTICAL PUGH
Not withstanding anything herein to the contrary, at the end of the primary term of this lease, it is understood and agreed that after the completion of a well capable of producing in paying quantities upon the herein described lands, or on lands pooled therewith, Lessee shall designate an area around each well which shall be referred to as unitized acreage. All such unitized acreage shall be held by actual production or shut-in royalty payments as herein provided. All acreage covered by this lease and not included as unitized acreage shall be held only by the remaining provisions of this lease and not production or shut-in payments. Unitized acreage shall be defined as follows:

As to any well classified as an 'Oil Well':

(1) 40 acres above 8,000 feet;
(2) 80 acres below 8,001 feet

As to any well classified as a 'Gas Well':

I. 160 acres plus 10% tolerance in surface area from the surface of the earth to and including 7,500 feet below the surface of the earth, and;

ii. 320 acres plus 10% tolerance in surface area for all depths below 7,501 feet from the surface to and including 10,000 feet, and;

iii. 640 acres plus 10% tolerance in surface area for all depths below 10,001 feet.

This lease shall terminate as to all depths one hundred feet (100') below the stratigraphic equivalent of the greatest depth drilled and logged by any well drilled on the leased premises or on acreage pooled therewith on the latest of the following dates: (1) the expiration of the primary term; (2) the expiration of ninety (90) days following the completion or abandonment of any well drilled on the leased premises, or acreage pooled therewith, the drilling of which was in progress on or before the end of the primary term, and in such event, Lessee shall promptly record an appropriate act of partial release and upon such termination, Lessor, its Lessee or assigns shall have the right of use of the leased premises for the purpose of investigation, exploration and production of minerals from the horizons to which this lease has terminated."

SHUT-IN ROYALTY
Any provision contained herein to the contrary notwithstanding, the right to maintain this lease in force and effect by the payment of shut-in royalties as set out in Paragraph 3 supra, is a recurring right which may be exercised by Lessee from time to time but shall not exceed two (2) cumulative years.

SHUT-IN ROYALTY PAYMENT
For purposes of paying shut-in royalties, royalties shall be calculated at $5.00 per acre per year.

ROYALTY PAYMENT PROVISION
Royalties payable to Lessor for oil or gas produced and sold from the premises in the manner herein above provided for are due and payable to Lessor within a period of one hundred and twenty (120) days for the first payment and ninety (90) days thereafter following each month's production of oil or gas produced and sold from the premises. Thereafter, such payments shall be delinquent and will bear interest at the rate of twelve percent (12%) per annum until paid.

INDEMNIFY
Lessor agrees to indemnify and save Lessor harmless from all claims of air, water or surface premises and for the remediation thereof when such pollution or other environmental damage was caused by the operations under this lease by Lessee or its agents, employees and contractors. Lessee agrees to notify Lessor in writing of the existence of any such damage within ten days after it first becomes evident.

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OPERATIONS
All operations under this lease shall be at Lessee's sole cost, risk and expense. This lease shall not create a partnership, join venture or association of any kind between Lessor and Lessee, and Lessor shall not be jointly liable with Lessee for any expenses, claims or causes of action arising from Lessee's operations.

WARRANTY
No warranty of title provisions, except by through and under Lessor only and no return of bonus.

ROYALTY CHARGES
Lessor's royalty herein is free of all charges and costs whatsoever including but not limited to production, compression, cleaning, dehydration, detoxification, in-field transportation, accounting and marketing; prior to the transfer of title, except that Lessor's royalty will be responsible for its pro rata share of all taxes imposed on severance or production by any municipal, state or federal agency. "It is specifically agreed by the parties hereto that if Lessee is able to find a market for the gas produced from the leased premises or pooled acreage that yields a price for such gas which, after deducting transportation costs, exceeds the price that would be received from markets available within the field from which the gas is produced, then, in such case, Lessor shall bear its proportionate share of transportation costs associated with transporting such gas to markets located outside of the field."

OIL & GAS ONLY /EXCLUDED MINERALS
This Lease covers only oil, gas and all other hydrocarbons; therefore the right to any and all other minerals is hereby expressly excluded from this lease, except those associated substances as are saved or refined as products of, or in connection with, the commercial production of oil, gas and all other hydrocarbons from the leased premises.

SIGNED FOR IDENTIFICATION

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EXHIBIT "A"

Attached to and made a part of that certain Oil and Gas lease dated July 13, 2005, by and between … as Lessor, and …, as Lessee and covering 337.517 acres of land in the Jeremiah Tinnan Survey (A-45) and the George Hebgen Survey (A-189), in Robertson County, Texas.

The following agreements and provisions shall supersede and govern the provision in the printed form text of this lease to the contrary, and shall inure to the benefit of, and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns. Further, this lease has been mutually drafted by Lessor and Lessee.

15. Notwithstanding anything to the contrary contained herein, this lease covers only oil and gas, including other liquid and gaseous hydrocarbons, as well as such other minerals or substances as may be produced incidental to and as a part of or mixed with oil, gas and other liquid or gaseous hydrocarbons, but this lease does not cover gravel, uranium, fissionable materials, coal, lignite or any hard minerals or substances of any type which shall be produced from the leased premises separate and apart from, or independently of, oil, gas or other liquid and gaseous hydrocarbons.

16. Notwithstanding anything to the contrary, if, at the end of the primary term of this lease, a portion of the land covered by this lease shall not be included in any unit or pool, and provided there is no production of or reworking or drilling operations for or in respect to a non-unitized mineral on any part of the land covered by this lease, then this lease shall automatically terminate as to such part of the leased land located outside of any unit or pool, but said lease shall remain in force, in accordance with all of its terms and provisions, in the event there is either production of a non-unitized mineral on the land covered by said lease or drilling or reworking operations result in production of a non-unitized mineral in paying quantities from the leased premises.

17. Notwithstanding anything contained herein to the contrary, at the expiration of the primary term or any continuous drilling operations as provided in Paragraph 5, herein, whichever is the later, this lease shall terminate as to all depths below one hundred feet (100') below the stratigraphic equivalent of the deepest depth then producing logged and found to be capable of producing minerals in paying quantities on the leased premises or on the lands pooled therewith. Then and in that event, Lessor and Lessor's assigns shall have the right to drill through all shallower depths to reach such deeper depth.

18. Lessee shall adequately protect the oil and gas under the above described land from drainage from adjacent land or leases. The Lessee shall drill as many wells as the facts justify, necessary for the effective protection against drainage from such adjacent land or leases as would any reasonable and prudent operator. Neither the bonus, annual rentals, nor royalties paid or to be paid hereunder shall relieve Lessee from the obligations herein expressed.

19. Lessee or the purchaser of oil and/or gas or other products produced from the leased premises will pay to Lessor the royalties provided for herein within the time provided in §91.402 of the Natural Resources Code of the State of Texas and upon failure to pay within the stated time to pay interest thereon as provided in §91.403 of the Natural Resources Code of the State of Texas. Furthermore, Lessee agrees not to withhold any royalty due Lessor under this lease because of title problems which may exist under acreage in which Lessor does not own an interest.

20. Lessee agrees that all royalties accruing under this lease shall be without deduction for the cost of processing, gathering, storing, separating, treating, dehydrating, transporting and marketing prior to the transfer of title to the oil and/or gas produced hereunder. All past due royalties shall be subject to a Late Charge based on the amount due and calculated at the maximum rate allowed by law commencing on the day after the last day on which such monthly royalty payment could have been timely made and for every calendar month and/or fraction thereof from the due date until paid, plus attorney's fees, court costs, and other costs in connection with the collection of the unpaid amounts. Any Late Charge that may become applicable shall be due and payable on the last day of each month when this provision becomes applicable. The above described Late Charge is understood and agreed to be liquidated damages for breach of a covenant of this agreement and not compensation for the use or forbearance or detention of money.

21. The royalty on gas and casinghead gas that is to be paid to the Lessor shall be a price that is not less than

the gross price received by Lessee or its affiliates in an arms length transaction with a non-affiliated "third party" purchaser. As used herein, the term "third party" shall mean a person, firm, corporation or other entity not a subsidiary or affiliate of Lessee, with whom the Lessee deals at arms length. All royalties to be paid to Lessor on gas and casinghead gas shall be a gross price and shall be determined and paid without deducting any development, production, dehydration, compression, processing, transportation, treating or any other deductions or offsets of any kind that may be incurred in making the gas and / or casinghead gas available for market except taxes applicable to Lessors' share of the gas produced.

22. It is understood that in the event Lessee should for any reason enter into a gas sales contract covering the sale of gas (including casinghead gas and/or other gaseous substances) produced from or attributable to the leased premises to a purchaser which is owned or controlled by Lessee, or which is a subsidiary or affiliate of Lessee, or of which Lessee is a subsidiary or affiliate, then and in that event, the royalties on such gas payable by Lessee as provided elsewhere in this lease shall be calculated and paid on the basis of the market value thereof The term "market value" as used in this paragraph shall mean the average of the two (2) highest prices being paid for gas (on an MCF basis) located in the field in which the leased premises is located under existing contracts of like duration having been entered into within one (1) year of the purchase of gas and/or casinghead gas from a well drilled on the leased premises or on lands pooled therewith. Further, Lessor is responsible for proof of higher contracts for like quality of gas existing in the same field in which the leased premises is located.

23. Lessee agrees to indemnify, protect and hold Lessor (and surface owner if different from Lessor) harmless of and from any and all claims, demands, costs (including but not limited to attorney's fees), expenses, damages, losses, and causes of action or suits for damages arising out of injury to persons(including death) and injury or damage to or loss of any property or improvements, including environmental claims, caused by Lessee, his agents, employees, servants, contractors, or any person acting under its direction or contract. Further neither Lessor (nor surface owner if other than Lessor) shall ever be liable for any claims, demands, costs, expenses, damages, losses and causes of action or suits for damages because of injury to persons or property, including environmental claims, arising out of acts or omissions of Lessee, its agents, employees, servants, contractors, or any person acting under its direction and control on said lands.

24. If so requested in writing by Lessor, Lessee shall deliver to Lessor copies of any title opinions which cover all or any portion of the leased premises which may be prepared in connection with Lessee's operations hereunder. Further, Lessee shall provide Lessor with a copy of each well location and plat for wells permitted on the leased premises or acreage pooled therewith when same is filed.

25. Lessee shall be solely responsible for full compliance with all rules and regulations of the Railroad Commission of Texas, or any governmental agency, in all of its operations on the leased premises and especially including the properly plugging of any well that is to be abandoned on the leased premises [except water well(s), the plugging of which shall be the responsibility of Lessor if Lessor has assumed ownership of said water well(s)] and does hereby indemnify and agree to hold Lessor harmless against any such rules or regulations.

26. All division orders tendered to Lessor under the terms of this lease shall strictly comply with terms of this lease and the Lessor shall not be required to sign division orders not so complying.

27. Lessee agrees to furnish Lessor, within sixty (60) days after the termination of this lease, a duly executed and acknowledged instrument releasing or evidencing the termination of this lease as to all of the leased premises.

28. Lessee shall give notice to Lessor of any assignment of this lease, within sixty (60) days, to include the name, address, and telephone number of the assignee. No assignment shall operate to relieve Lessee of any obligation or implied covenants hereunder. Notwithstanding anything contained herein to the contrary, upon furnishing Lessor with notice of any assignment of this lease as provided in this paragraph, Lessee shall be relieved of the responsibility of notifying Lessor regarding any subsequent assignments made by Lessee's assignee(s) and Lessee shall not be liable for any liquidated damages associated with said assignee's failure to comply with this provision.

29. This lease shall not be kept in force by the payment of shut-in gas royalties as provided in paragraph three

(3) of this lease for a period in excess of two (2) years in the aggregate. Under paragraph three (3) Lessee agrees to pay Lessor a minimum shut-in royalty of $25.00 per net mineral acre per year as shut-in royalty. Lessee's failure to properly pay shut-in royalty under paragraph three (3) of this lease may be grounds to terminate said lease. However, in that event, Lessee is hereby granted a reasonable amount of time to rectify said failure, not to exceed ninety (90) days after having been notified in writing by Lessor of said failure.

30. Should Lessee elect to pool or unitize any land covered by this Lease pursuant to Paragraph 6 or other portions of this Lease, then and in that event, Lessee shall pay Lessor royalties as if the portion of such land so pooled or unitized had been in the pool from the first date of production of the first well completed in such unit, regardless of when the land is pooled or unitized. Lessee shall pay Lessor any and all royalties due Lessor for prior production within One-Hundred Twenty (120) days from the date the land is included in the pool or unit. Notwithstanding anything contained herein to the contrary, it is expressly agreed and understood that in the event that Lessee elects to pool or unitized and unitizes any of the Leased premises, then not less than one-third (1/3) of the leased premises will be included in such pool or unit.

31. Surface Usage:

a. In no event shall Lessee conduct any operations within 400 feet of any house, barn, mobile home, well or other structure located on the leased premises at the time Lessee begins drilling any well located on the leased premises.

b. All slush pits or evacuations of any nature made by Lessee on the leased premises shall be fenced by Lessee at its cost and expense with temporary fencing to protect livestock from such pits or excavations during drilling operations.

c. Lessee agrees to vacuum all pits and fill said pits with subsoil and then cover same with top soil within ninety (90) days after cessation of use of such pits. Lessee further agrees to remove all equipment, refuse, garbage, and contaminants from the surface therefrom and restore the surface of said land as nearly as possible to the level and condition existing before drilling and exploration was begun. During the drilling of any well, or while conducting any operations on said land, the premises will be dept by Lessee free of all rubbish, cans, bottles, paper cups or garbage.

d. Lessee agrees that after drilling operations are concluded on a producing well all drilling equipment will be removed within sixty (60) days after the termination of drilling. The well site shall be fenced in a permanent nature, and shall be maintained, at Lessee's expense, in a neat, lean and appealing manner, Not less than semi-annually each year, Lessee shall remove all grasses or other noxious growth upon the wellsite. Lessee further agrees to paint all personal property left upon the wellsite (tanks, separators, flowlines, wellhead, etc..) in accordance with the color scheme of the Lessee, or acquired in a painted state, or if no such color exists, then in any reasonable color chosen by Lessor.

e. When Lessee abandons well, Lessee, at Lessee's expense, will remove within six (6) months all production equipment, and the land around said well or wells shall be returned as nearly as practicable to its natural environmental state. Lessor reserves the right to keep any rock surface established by Lessee on the leased premises upon abandonment by Lessee.

f. Lessee shall not provide for any salt water disposal well on, in or under the property covered by this lease without Lessor's written consent. Lessee agrees to use all reasonable efforts to prevent underground water on such premises from becoming contaminated in any manner as a result of Lessee's operations, and Lessee shall pay any and all damages suffered by Lessor resulting from the breach of this provision.

g. Lessee agrees at all times to use reasonable care in all of Lessee's operations on the premises to prevent injury or damage to cattle, livestock, buildings or other property situated on the surface of said land, and all water wells and tanks located thereon. In addition to any initial surface damage payments described herein, Lessee agrees to pay for any and all damages caused by Lessee, or its business invitees, to the surface of said land and to cattle, crops (including hay crops), buildings, livestock, fences, tanks, water, water wells, and without limitations, any and all other property situated on the surface of the leased premises. Lessee agrees to pay for said damages within ninety (90) days after the loss is incurred by Lessor. Otherwise interest shall accrue at a rate at the prime rate of interest plus two percent (2%) (not to exceed legal Texas interest rate) from their due date until paid.

h. Lessee agrees that Lessee will not cut or go over any fence or fences on the leased premises without first notifying Lessor. Lessee agrees prior to cutting any fence to brace the existing fence adequately on both sides of the proposed cut so that when the fence is cut there will be no slackening of the wire. If the cut is an outside fence, Lessee agrees to promptly after making such cut to install and maintain a substantial cattleguard (a minimum of sixteen (16) feet in width) and after cessation of drilling operations install and maintain a metal gate (traffic preventor) which shall be kept locked at all times other than actual passage through such gate. If the cut in an inside fence, Lessee agrees promptly after making such cut to install a cattleguard. During the terms of this lease such gates and cattleguards shall be maintained by Lessee. Upon termination of this lease such gates and cattleguards shall become the property of Lessor if the surface owner so request, in which case the fences shall be restored to their original condition. Lessee agrees to promptly close all gates which Lessee, its agents, servants and/or employees may use in Lessee's operations on the leased premises.

i. All roads used by Lessee shall be maintained by Lessee in good condition and repair so as to allow the reasonable passage of any and all passenger vehicles without damage to the underlying surface. . In particular, such roads shall be built up and shall be covered with crushed white rock or better material. At each site, a turn around, parking and storage area shall be constructed of similar material by Lessee, at its expense. To every reasonable extent, motor vehicles of lessee shall not be parked or turned around except in said areas.

j. No hunting, fishing or other use of the property covered by this lease by Lessee, its officers, directors, agents, representatives, employees, successors or assigns is or shall be authorized by Lessee without the prior written consent of Lessor. Lessor shall have the right to permanently bar any person violating these rules from further access to the leased premises.

k. Notwithstanding the general terms of grant contained in the lease, it is not intended to and does not include the right and privilege of Lessee to erect and maintain refining facilities, or any other extraction or treating facilities not directly related to the production, treatment and recovery of oil, gas and related hydrocarbons covered by this lease; and all such facilities shall only those reasonably necessary for production, treatment, and recovery of such substances covered by this lease.

l. Lessee shall not construct on the leased premises any permanent or temporary buildings for housing employees, nor shall Lessee construct any buildings for any purpose other than the temporary buildings for drilling operations.

32. For each surface acre used by Lessee as an operational site for the drilling of a well, (including , but not limited to, location of tank batteries, compressor stations, slush pits, etc.) Lessee agrees to pay to the surface owners the sums of $1,000 per acre or proportionate part thereof, actually used. Lessee shall additionally pay the surface owner an additional one time damage payment of $1,500.00 per well site in advance of commencement of operations on each well site. For each surface acre used by Lessee for permanent roads constructed by Lessee in its operations hereunder, Lessee agrees to pay the surface owner the sume of $1,000.00 per acre or proportionate part thereof actually used for such roads. These payments shall be made before any drilling rig is moved upon the leased premises.

33. Construction of Pipelines: Lessee's right to lay pipelines or install other appurtenances shall be limited to such lines and other appurtenances as are necessary to transport oil and gas from wells located on or pooled with Lessor's property. All pipelines are to buried at least three (3) feet measured from the surface of the ground to the top of the pipe. Said easement is to terminate and revert to the Lessor when use thereof for the purpose aforesaid is not made by Lessee for a period of twelve (12) consecutive months or when all wells served thereby are finally plugged and abandoned by the Lessee.

34. Definition of Drilling: "Drilled", "drilling", or "operations" is defined in this lease as a drilling rig "spudded in" and "turning to the right" on a drill site set forth in Lessee's application to the Railroad Commission of Texas for permit (but Lessee shall have no obligation to drill to such depth) and shall thereafter continue such drilling operations in a good faith effort as a reasonable, prudent operation to obtain a well capable of producing in paying quantities.

35. This Lease is delivered by Lessor and accepted by Lessee without warranty of title, express or implied.

36. Unless otherwise expressly provided, every obligation of each party to this lease shall be fully performed in Robertson County, Texas. Venue for the, filing of any cause of action for the enforcement of this contract shall be in Robertson County, Texas.

SIGNED FOR IDENTIFICATION: