

\_\_\_\_\_ Shale Project  
\_\_\_\_\_ County, Michigan

This Agreement ("Agreement") is entered by and between \_\_\_\_\_, of \_\_\_\_\_ ("Operator") and \_\_\_\_\_ of \_\_\_\_\_ ("Royalty Holder").

### Article 1: Introduction; Definitions

1.1 This Agreement is based upon the following matters:

- 1.1.1 Operator has heretofore acquired various oil and gas leases covering lands located in \_\_\_\_\_ County, Michigan, and Operator has been engaged in the drilling and completion of wells on such leases for production from the \_\_\_\_\_ Shale formation.
- 1.1.2 Operator desires to acquire additional leases in such area for exploration and production from the \_\_\_\_\_ Shale formation, such additional leases to be acquired by Operator or the Acquisition Parties.
- 1.1.3 Royalty Holder desires (i) to acquire an overriding royalty interest, or carried working interest, as the case may be, in future leases acquired by Operator, whether acquired in its own name or in the name of an Acquisition Party on behalf of Operator, by providing the Lease Bank Funds to Operator under this Agreement, and (ii) to have an option to acquire up to an undivided twenty-five percent (i.e., 25%) of the leasehold interest in and to such future leases, and (iii) to participate in the of the initial test well on each of such future leases, and (iv) to have the opportunity to participate in other subsequent wells drilled on the future leases, all in the manner and as further provided in this agreement.

1.2 For purposes of this Agreement, the following terms shall have the following meanings:

- 1.2.1 **"Prospect area"** shall mean and refer to the following lands located in the State of Michigan:  
\_\_\_\_\_.
- 1.2.2 **"Lease"** in the singular, and **"Leases"** in the plural shall mean and refer to oil and gas leases covering lands in the prospect area which are acquired by Operator or an Acquisition Party from and after the date of this Agreement by use of the Lease Bank Funds. "Lease" and "Leases" do not include any leases covering lands in the prospect area acquired by the parties prior to this Agreement.
- 1.2.3 **"Lease Bank Funds"** shall mean and refer to the funds provided by Royalty Holder, pursuant to Article 2 below, to cover the Land Costs incurred by Operator in the acquisition of the Leases in an aggregate maximum amount outstanding at any one time not to exceed One Million Dollars (\$1,000,000).
- 1.2.4 **"Lease Tract"** shall mean and refer to a single Lease and the leasehold premises covered by such Lease, or, in the event multiple Leases cover common leased premises, then such term shall refer to the multiple Leases and the common leased premises covered by such Leases.
- 1.2.5 **"Land Costs"** for each and every Lease, shall mean (i) all actual costs paid by Operator as the purchase price for the particular lease (e.g. the bonus payment to the landowners if Operator is the original lessee of the Lease) plus (ii) an additional sum, being \$\_\_\_\_\_ per acre for each Net Mineral Acre covered by a particular Lease. The \$\_\_\_\_\_ per acre is a sum, agreed to by the parties, as a reasonable estimate of both direct and indirect costs incurred by Operator in the acquisition of Leases (the direct and indirect costs would include, but not necessarily be limited to, bank fees, landman fees, employee landmen fees, legal fees, and miscellaneous expense such as travel costs, meals, copy costs, recording fees, etc.). It is understood that the determination of the net mineral acres covered by a Lease will not be made by survey on the ground, but rather on other available information, such as, by way of example, (i) the acreage calls contained in the description of the leasehold premises of the Leases, (ii) the landman reports covering the Leases, (iii) the acreage calls for which the lease bonuses were paid to the lessors, (iv) generally available land plats, and/or (v) tax records from the local taxing authorities.
- 1.2.6 **"Drilling operations"** shall mean and refer to (i) drilling of a well on any of the Leases to the Test Depth, (ii) conducting such tests to the point of setting casing as the Operator shall deem appropriate, and (iii) the plugging and abandoning of the well if no completion attempt is made.
- 1.2.7 **"Drilling Costs"** shall mean and refer to the costs and expenses of conducting the drilling operations for a particular well, as such costs and expenses are determined under the Operating Agreement.
- 1.2.8 **"Completion operations"** shall mean and refer to (i) completing and testing a well, and (ii) conducting the initial frack on the well, with a fracking procedure designed and approved by the Operator, and (iii) if any such

completion attempt is successful, of equipping such well for production through the tanks, in the event of an oil well, and production into the pipeline, in the event of a gas well, or, if any such completion attempt is unsuccessful, the plugging and abandoning of the well and costs of restoring the surface.

- 1.2.9 **"Completion Costs"** shall mean and refer to the costs and expense of conducting the completion operations for a particular well, as such costs and expense are determined under the Operating Agreement.
- 1.2.10 **"Carried Working Interest"** shall mean and refer to an undivided leasehold interest in a Lease Tract which shall be free of Drilling Costs and Completion Costs for all wells drilled and completed on such Lease Tract for production from the \_\_\_\_\_ Shale formation.
- 1.2.11 **"Proration Unit"** shall mean and refer to the lands allocated to a well by Operator for a regular location under the laws of the State of Michigan. For vertical wells drilled to test the \_\_\_\_\_ Shale Formation not less than 40 acres of land shall be allocated to such wells. The location and boundaries of the proration units are in the sole and absolute discretion of Operator. Operator may delegate such discretion to the Operator. The Proration Unit for a particular well may comprise all or part of a pooled unit created under the pooling authority of the applicable leases, which pools and combines the particular leases and lands for production from the particular well.
- 1.2.12 **"Operating Agreement"** shall mean and refer to that certain Operating Agreement, covering the Leases, which shall be executed by Operator, Royalty Holder, and Operator, on or about the date of this Agreement.
- 1.2.13 **"Operator"** shall mean and refer to the Operator and any successor operator under the Operating Agreement.
- 1.2.14 **"Test Wells"** shall mean and refer to the initial well or wells drilled on a Lease Tract.
- 1.2.15 **"Test Depth,"** unless the parties should agree in writing otherwise, shall mean and refer to the depth of a particular well which the Operator shall determine, based upon the facts and circumstances of such well, to be sufficient to test the \_\_\_\_\_ Shale Formation.
- 1.2.16 **"Development Well"** in the singular and "Development Wells" in the plural shall mean and refer to any wells drilled on any Lease Tract subsequent to the Test Well drilled on the particular Lease Tract.
- 1.2.17 **"Acquisition Parties"** shall mean those Persons that are taking leases on behalf of Operator and subject to the Master Land Services Agreement.
- 1.2.18 **"Person(s)"** shall mean an individual, corporation, partnership, limited liability company, joint venture, trust or unincorporated organization, joint stock company or other similar organization, government or any political subdivision thereof, a court, or any other legal entity, whether acting in an individual, fiduciary or other capacity.
- 1.2.19 **"Net Mineral Acre"** shall mean the sum of (x) the gross acreage covered by a Lease multiplied by (y) the percentage of the mineral interests in the gross acreage owned by the lessor(s) under such Lease.
- 1.2.20 **"Master Land Services Agreement"** means that certain AAPL Master Land Services Agreement entered into by Operator, Royalty Holder and certain other Persons who acquire Leases.

## Article 2: Lease Bank Funds

- 2.1 Subject to the terms of this Agreement, Royalty Holder agrees to make available to Operator, on a revolving basis, funds of up to a maximum sum of One Million Dollars (\$1,000,000), to cover the Land Costs for the Leases ("Lease Bank Funds").
- 2.2 Any Lease Bank Funds which Royalty Holder elects to advance to Operator shall be advanced to a separate account established for the deposit and handling of the Lease Bank Funds at \_\_\_\_\_ Bank, whose principal office is \_\_\_\_\_. Operator shall have the right in its discretion to transfer the account to another banking institution; provided Operator (i) continues to maintain such account as a separate account and (ii) provides Royalty Holder prompt notice of any such change. Such account shall be referred to herein as the Lease Bank Account.
- 2.3 From time to time hereafter Operator may make a draw request of Lease Bank Funds advanced by Royalty Holder into the Lease Bank Account. Operator may request that Royalty Holder advance Lease Bank Funds from time to time by submitting a written draw request to Royalty Holder. Any such draw request shall be accompanied with (i) a Lease report and copy of the executable applicable lease, which form of the Lease reports attached hereto as Exhibit C, (ii) a summary of the amount of Land Costs paid or payable to the lessor or assignor under the applicable Lease, (iii) a summary of the Net Mineral Acres covered by the Lease and (iv) a copy of any title opinions or reports covering such Leases. Within forty-eight hours of each draw request, subject to Royalty Holder's election to advance the requested Lease Bank Funds, Royalty Holder shall transfer the amount of the draw request by wire transfer into the Lease Bank Account. During such forty-eight-hour period, Royalty Holder may (i) refuse to pay the Land Costs applicable to the submitted Leases and notify Operator of deficiencies in the Lease or Leases that were presented to Royalty Holder; or (ii) refuse to reimburse the Land Costs and by written instrument relinquish all rights to the Lease. In the event that Land Costs are not paid because Royalty Holder has asserted deficiencies in the Lease or Leases, Operator may elect to submit such Lease or Leases to Royalty Holder after satisfaction of the Lease deficiencies specified by Royalty Holder. Failure of Royalty Holder to respond during any such forty-eight-hour period, shall be deemed a rejection by Royalty Holder to provide the applicable Lease Bank Funds. At no time will advanced Lease Bank Funds exceed \$1,000,000.
- 2.4 All Lease Bank Funds shall be utilized by Operator to pay Land Costs for the Leases. Subject to Royalty Holder's election to fund the applicable Land Costs and upon the acquisition of a particular Lease, Operator (i) may pay direct from the Land Bank Account any or all of the Land Costs for the particular Lease directly to the third parties in connection with such Lease, and (ii) shall transfer to itself from the Land Bank Account any of the Land Costs for the

particular Lease which remain, after taking into account the direct payments to any third parties from the Land Bank Account for any such Lease.

- 2.5 It is the intention of Operator to attempt to sell to third parties an undivided interest in the Leases as to each Lease Tract. With a sale of an undivided interest in a Lease Tract to a third party, it is the intention of Operator to secure from the third party a commitment to participate in the drilling of the Test Well on the particular Lease Tract. At such time that Operator has secured the sale proceeds from all third parties to whom it is selling an interest in a Lease Tract, but in no event later than thirty (30) days before the commencement of actual drilling of the Test Well on the particular Lease Tract, Operator shall transfer into the Lease Bank Account such sales proceeds which shall constitute repaid Land Costs for the particular Lease or Leases which comprise the particular Lease Tract.
- 2.6 For each Lease, Operator shall maintain a record of all Land Costs paid from, or transferred out of, the Lease Bank Account, and the Land Costs transferred back into the Lease Bank Account. No later than the last day of each month Operator shall deliver, with regard to the immediately preceding month, to Royalty Holder a copy of (i) the bank statement for the Lease Bank Account from the banking institution in which such account is established, and (ii) Operator's records of Land Costs transferred into, and out of, such account.
- 2.7 The Lease Bank Fund shall continue for a period of eighteen months from the date of this Agreement, and shall continue month to month thereafter until terminated by either party hereto. Termination shall be the first day of the month following thirty days following the delivery of written notice electing termination by one party to the other party. Upon the termination of the Lease Bank Fund, all funds then remaining in the Lease Bank Account shall be transferred by Operator to Royalty Holder. Thereafter, from time to time, when Operator would otherwise have transferred back into the Lease Fund Account the Land Costs for a particular Lease Tract, pursuant to Section 2.5 above, Operator shall transfer such Land Costs to Royalty Holder.
- 2.8 In the event that Lease Bank Funds advanced by Royalty Holder have not been repaid by Operator, on or before the termination date described in Section 2.7 hereof, Royalty Holder's sole remedy shall be to take title to the Leases held by Operator or any Acquisition Party for which there have not been a full repayment of the Land Costs, unless Operator shall have purchased such leases from the lease bank neither Operator nor any Acquisition party shall have any further rights or claims to any interests in such Leases after the termination date. Operator shall, and shall, if necessary, cause any Acquisition Party to, execute any documents necessary to ensure any record title not in Royalty Holder's name to be assigned to Royalty Holder, should Operator not purchase said leases.
- 2.9 Until the termination of the Lease Bank Fund, so long as there are funds available in the Lease Bank Fund to cover the Land Costs for a particular Lease, then Operator shall acquire such Lease utilizing the funds from the Lease Bank Fund. If from time to time Operator has the opportunity to acquire oil and gas leases in the prospect area, and there are no funds in the Lease Bank Fund at the time of the particular lease acquisition, or if from time to time Royalty Holder has rejected the purchase of particular leases with Lease Bank Funds, Operator may acquire such leases with its own funds, or funds from other sources, and such oil and gas leases, so acquired, shall not be Leases under this Agreement. In a lease is so acquired which is not covered by this Agreement, then any further leases acquired by Operator on the leased premises of such lease shall not covered by this Agreement, and the funds for such leases shall not be from the Lease Bank Funds. In the event any such leases that do not constitute Leases under this Agreement are adjacent to any Lease Tract, such leases shall be operated in strict accordance with the rules and regulations of the state of Michigan, without exception to spacing or density rules.

### **Article 3: Overriding Royalty Interest/Carried Working Interest**

- 3.1 It is the intention of the parties that the minimum net revenue threshold to the leasehold interest owners of each and every Lease, after taking into account the overriding royalty interest to Royalty Holder, shall not be less than \_\_\_% of the oil, gas and minerals produced under and by virtue of each Lease. In consideration of Royalty Holder providing the Lease Bank Funds, Royalty Holder shall be entitled to an overriding royalty interest in each Lease equal to \_\_\_ percent (\_\_\_ %) of \_\_\_ fraction of the oil, gas and minerals produced under and by virtue of the particular Lease. If the royalty reserved by the landowner in a particular Lease is 1/5th or greater (i.e. 20% or greater), then the overriding royalty to which Royalty Holder will be entitled in the Lease shall be two percent (2%) of 8/8ths. In such case, Royalty Holder will also be entitled to a Carried Working Interest in the particular Lease equal to an undivided two percent (2%) of 8/8ths of the leasehold interest in and to the Lease, proportionately reduced to bear all royalty burdens of record. Notwithstanding the foregoing, in the event Operator desires to acquire a lease with lease burdens greater than 20% using Lease Bank Funds, Operator and Royalty Holder shall endeavor to negotiate a separate arrangement between the parties. If Operator and Royalty Holder are unable to negotiate a separate arrangement, and, provided Royalty Holder has been offered the opportunity of receiving, as Carried Working Interest, two times the excess of (i) the 3% overriding royalty interest provided in this Agreement, over (ii) the \_\_\_ % net revenue threshold to the working interest owners, Operator may purchase the proposed lease with its own funds, or other funds, and such lease will not be a Lease covered by this Agreement. The overriding royalty interest to which Royalty Holder is entitled in a Lease shall be assigned to Royalty Holder by Operator, using the form of assignment attached hereto as Exhibit A, which assignment shall be delivered to Royalty Holder within thirty days of the recording of the particular Lease in the county records of the applicable county. The Carried Working Interest to which Royalty Holder is entitled in a Lease shall be assigned to Royalty Holder by

Operator, using the form of assignment attached hereto as Exhibit B, which assignment shall be delivered to Royalty Holder within thirty days of the recording of the particular Lease in the county records of the applicable county.

#### **Article 4: Leasehold Acquisition; Test Wells**

- 4.1 Until terminated pursuant to the terms herein, Royalty Holder shall have an option, on a Lease Tract by Lease Tract basis, to acquire an undivided share of the leasehold interest in and to each Lease Tract on the following terms:
  - 4.1.1 The undivided share shall be an amount selected by Royalty Holder; provided, however, without the express consent of Operator, such undivided share shall not be greater than an undivided twenty-five percent (i.e., 25%) of the leasehold interest in and to the particular Lease Tract. The purchase price for the undivided share of the Lease Tract which Royalty Holder shall elect to purchase shall be a sum of money determined as follows: the undivided share of the leasehold interest being acquired by Royalty Holder, times the Land Costs for the Leases covering the particular Lease Tract. By way of example, if Royalty Holder acquires an undivided 25% of the leasehold interest in a Lease Tract, and the Land Costs for the Lease Tract is \$100,000, then Royalty Holder's purchase price would be 25% times \$100,000, or \$25,000.00.
  - 4.1.2 The leasehold interest in the Lease Tract acquired by Royalty Holder shall bear its proportionate part of the royalty reserved by the landowners, and shall bear its proportionate part of any overriding royalty interest or other burdens to which the Leases were subject when acquired by Operator. No overriding royalty interests shall be reserved by Operator from and out of the interest in the Leases acquired by Royalty Holder.
  - 4.1.3 Operator shall acquire the Leases upon its belief, based upon landman reports, and other title information, that the Leases shall collectively cover all of the mineral estate in and to the leasehold premises of the Leases, and that a reasonably prudent operator would conduct drilling operations on the Leases. Notwithstanding such information and belief, Operator makes no representations or warranty, express or implied, of title to the Leases. Prior to the commencement of drilling operations for the Test Well on a Lease Tract, Operator shall acquire an opinion of title from an attorney licensed to practice law, which opinion of title shall cover lands which comprise at the minimum the proration unit for the particular well. A copy of such title opinion shall be delivered to Royalty Holder at its request. In the event of any losses of title, such losses shall be joint losses, in the manner set forth in the Operating Agreement.
- 4.2 For each Lease Tract in which Royalty Holder agrees to acquire an undivided leasehold interest, Royalty Holder shall participate in the drilling operations of the Test Well drilled on such Lease Tract by paying, as its share of the Drilling Costs for such well, the following, all subject to the proper submission of an AEF pursuant to the Operating Agreement:
  - 4.2.1 Royalty Holder's share of the Drilling Costs for each Test Well shall be determined by multiplying the Drilling Costs for the particular well, times the undivided leasehold interest acquired by Royalty Holder in the particular Lease (or Leases, as the case may be) times \_\_\_.
  - 4.2.2 Royalty Holder's share of the Completion Costs shall be determined by multiplying the Completion Costs times the undivided leasehold interest acquired by Royalty Holder in the particular Lease Tract, all subject to the proper submission of an AFE pursuant to the Operating Agreement.
- 4.3 From time to time Operator shall notify Royalty Holder in writing of the particular Lease Tract as to which Royalty Holder may exercise its option to acquire an undivided share of the leasehold interest, together with copies of the Leases covering the particular Lease Tract, information of the net revenue threshold to the working interest as to such Leases, and the Land Costs for the Leases. Further, Operator shall also notify Royalty Holder of the Test Well to be drilled on such Lease Tract. Such proposal shall contain a plat showing the well location, proposed depth, the estimated commencement date, information regarding the market for all products to be sold from the related area and such other information as Operator may deem pertinent or appropriate to advise Royalty Holder of such proposed Test Well. Operator shall also provide to Royalty Holder an AFE, which shall set forth the then estimated Drilling Costs and the then-estimated Completion Costs for the proposed well. Operator shall also inform Royalty Holder of the date upon which Royalty Holder shall pay and deliver to Operator, in the event that Royalty Holder elects to purchase an undivided interest in the Lease Tract and participate in the Test Well, Royalty Holder's purchase price for its interest in the Lease Tract, and its share of the estimated Drilling Costs of the Test Well. Such date of payment shall not be earlier than (i) fifteen days after such notice from Operator, or (ii) the thirtieth day prior to the estimated date for spudding the Test Well. Such date so designated by Operator shall be referred to herein as the "Payment Date." Each such notice from Operator shall be referred to herein as an "Offer."
  - 4.3.1 After delivery of an Offer to Royalty Holder, Operator shall promptly respond to any information requested by Royalty Holder relating to the particular Lease Tract and proposed Test Well. Royalty Holder shall have the opportunity of reviewing the files and records of Operator relating to the Lease Tract.
  - 4.3.2 elect to acquire an interest in the particular Lease Tract, and to participate in the proposed Test Well for the particular Lease Tract, covered by an Offer, then:
    - 4.3.2.1 On or before the earlier of (i) thirty (30) days from its receipt of the Offer, or (ii) the Payment Date, Royalty Holder shall notify Operator in writing of its election to purchase an interest in the particular Lease Tract, which shall be deemed to include its commitment to participate, to the extent of the undivided leasehold interest Royalty Holder elects to purchase, in the proposed Test Well for such Lease Tract, and

4.3.2.2 On or before the Payment Date, Royalty Holder shall deliver to Operator (i) the purchase price for the interest in the Lease Tract being acquired by Royalty Holder, and (ii) Royalty Holder's share of the estimated Drilling Costs for the proposed Test Well for such Lease Tract. Drilling Costs shall be requested as provided heretofore.

Royalty Holder's failure, for any reason, to timely deliver such notice and funds shall be deemed an election by Royalty Holder not to purchase any interest in the Lease Tract covered by the particular Offer, and not to participate in the Test Well for such Lease Tract.

- 4.4 Operator shall have sole discretion on when to present an Offer to Royalty Holder. The parties acknowledge that the exercise of such discretion requires Operator to take into account various and numerous matters, such as, by way of example, the terms of the Leases relating to exploration and development, the exploration and drilling requirements under all other oil and gas leases owned by Operator in the prospect area, the quality and competitiveness of any offset production to the Leases and all other oil and gas leases owned by Operator in the prospect area, the availability of equipment and services, title conditions, price and marketing conditions, pipeline and infrastructure conditions, and numerous other matters, some of which may not be within the control of Operator or the Operator.
- 4.5 In the event Operator is unable to or does not propose a Test Well for a period of six consecutive months, for whatever reason, Royalty Holder shall have the right to propose the drilling of a Test Well, on an unpromoted basis, in order to preserve the value of any undrilled leases.

#### **Article 5: Development Wells**

- 5.1 It is the intention of the parties at this time that from time to time Development Wells shall be drilled on the Lease Tracts after the drilling of the Test Well on the particular Lease Tracts.
- 5.2 Unlike the Test Wells, for each Development Well in which Royalty Holder elects to participate, Royalty Holder's share of Drilling Costs shall be in proportion to the undivided leasehold interest of Royalty Holder, and shall be determined under the Operating Agreement.
- 5.3 The Operator shall notify Royalty Holder in writing of the proposal to drill a Development Well in the manner required under the Operating Agreement, and Royalty Holder shall have the election to consent to participate in the particular Development Well in the manner required by the Operating Agreement; provided, however, as a condition to any consent to participate, Royalty Holder shall deliver to the Operator its share of the estimated Drilling Costs of the particular well on the later to occur of the following: (i) the thirtieth day prior to the estimated spud date for the particular well, or (ii) the fifteenth day following Operator's request for funds. If Royalty Holder fails to timely deliver its written notice of its election to participate in a particular proposed Development Well, as required under the Operating Agreement, or if Royalty Holder fails to timely advance its share of the estimated Drilling Costs, for a particular proposed Development Well, then it shall be deemed that Royalty Holder elected not to participate in the particular proposed well.
- 5.4 If Royalty Holder elects not to participate in a particular proposed Development Well, then Royalty Holder shall be deemed to have forfeited its interest in and to the Lease Tract on which such well was to be drilled, save and except to the extent of the Proration Unit for the Test Well on such Lease Tract, and save and except for each Development Well on such Lease Tract as to which Royalty Holder had theretofore, under the terms of this Agreement, timely elected to participate. In the event of such forfeiture Royalty Holder shall not be entitled to a refund for its Land Costs associated with the forfeited leasehold interest.

#### **Article 6: Operating Agreement Delivery of Title**

- 6.1 All operations conducted on each of the wells hereafter drilled on the Leases shall be subject to and governed by the terms and provisions of an Operating Agreement to be executed by Operator, Royalty Holder and the Operator on or about the time of the execution of this Agreement. In the event of any conflict between the terms and provisions of any such Operating Agreement and of this Agreement, the terms and provisions of this Agreement shall be controlling.
- 6.2 It is understood and agreed that the Operator shall receive all proceeds for oil and gas produced, and shall apply such proceeds to operating expenses under the Operating Agreement, and shall pay and deliver to Royalty Holder its share of such proceeds exceeding the operating expenses. In the event the expenses should exceed the production proceeds, Operator and Royalty Holder shall each promptly pay its share of such excess expenses upon receipt of invoice or in the manner provided in the Operating Agreement.
- 6.3 It is understood that the Operator under the Operating Agreement shall conduct all operations in a good and workmanlike manner, but it shall have no liability to Royalty Holder or Operator for losses sustained or liabilities incurred except such as may result from its gross negligence or willful misconduct.
- 6.4 All assignments from Operator to Royalty Holder covering the undivided interest acquired hereunder in the Leases shall be expressly subject to the terms and conditions of the Operating Agreement and this Agreement.
- 6.5 Upon the successful completion of a particular well, and conditioned upon the timely payment by Royalty Holder of its share of the costs and expense for the drilling operations and completion operations of the particular well, Operator shall execute and deliver to Royalty Holder an assignment whereby Operator assigns and conveys to Royalty Holder the undivided leasehold interest in the particular Lease or Leases acquired by Royalty Holder hereunder, insofar and only insofar as the Lease or Leases cover the Proration Unit of the particular well, together with a like interest in and to the

well and the personal property and equipment located on and used in connection with such well. Personal property and equipment shall be "AS IS" "WITH ALL FAULTS" AND SHALL BE WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, AS TO QUALITY OR CONDITION.

#### **Article 7: Restrictions/Limitations**

- 7.1 During the term of the Lease Bank Fund, Royalty Holder and Operator agree not to compete with each other in acquiring oil and gas within the prospect area. During such period of time Royalty Holder and Operator agree not to acquire from any other party any oil and gas leases, mineral interests, overriding royalty interests, or other interest in the mineral estate in and to any lands lying within the prospect area, except as expressly provided herein, without the express written consent of the other party.

#### **Article 8: Disclosures**

- 8.1 OPERATOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF ANY DATA, INFORMATION, OR MATERIALS (WRITTEN OR ORAL) HERETOFORE FURNISHED OR REPRESENTATIONS HEREIN CONTAINED IN CONNECTION WITH THE LEASES, AS TO THE TITLE TO THE LEASES OR AS TO THE QUALITY AND QUANTITY OF HYDROCARBON RESERVES ATTRIBUTABLE TO THE LEASES OR THE ABILITY OF THE LEASES TO PRODUCE HYDROCARBONS, EXCEPT THAT OPERATOR DOES REPRESENT THAT THE MATERIALS IT HAS AND WILL DELIVER ARE AND SHALL BE TRUE COPIES OF MATERIALS OUT OF ITS FILES OR MATERIALS DELIVERED TO IT BY THIRD PARTIES, AND OPERATOR HAS AND SHALL HAVE NO ACTUAL KNOWLEDGE OF FACTS DIFFERENT FROM THE MATERIALS DELIVERED. ANY AND ALL SUCH DATA, INFORMATION, AND OTHER MATERIAL FURNISHED BY OPERATOR IS PROVIDED AS A CONVENIENCE, AND RELIANCE ON OR USE OF THE SAME SHALL BE AT THE USER'S SOLE RISK.
- 8.2 EXCEPT AS MAY BE EXPRESSLY SET FORTH HEREIN OTHERWISE, OPERATOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, NATURE, AND/OR CHARACTER, EITHER STATUTORY, EXPRESS, OR IMPLIED, WITH RESPECT TO THE LEASES, AND ALL OTHER PROPERTY RIGHTS AND INTERESTS TO BE ACQUIRED UNDER THIS AGREEMENT. OPERATOR HAS NOT MADE, AND OPERATOR HEREBY EXPRESSLY DISCLAIMS AND NEGATES, AND THE ROYALTY HOLDER HEREBY EXPRESSLY WAIVES, ANY REPRESENTATION OR WARRANTY, EXPRESS, IMPLIED, AT COMMON LAW, BY STATUTE, OR OTHERWISE RELATING TO (A) THE CONDITION OF ANY WELLS WHICH MAY BE DRILLED ON THE PROSPECT LANDS, (B) THE QUALITY OF HYDROCARBON PRODUCTION FROM ANY WELLS WHICH MAY BE DRILLED ON THE PROSPECT LANDS, (C) THE QUALITY OR CONDITION OF ANY EQUIPMENT OR PERSONAL PROPERTY WHICH MAY BE PLACED ON OR IN THE WELLS DRILLED ON THE PROSPECT LANDS, OR PLACED IN SERVICE OF SUCH WELLS, (D) THE ENVIRONMENTAL CONDITION NOW OR HEREAFTER OF ANY OF THE LEASES, PROSPECT LANDS, AND WELLS WHICH MAY BE DRILLED ON THE LEASES AND PROSPECT LANDS. EXCEPT AS EXPRESSLY SET FORTH HEREIN, IT IS THE EXPRESS INTENTION THAT ALL INTEREST TO BE CONVEYED UNDER THIS AGREEMENT SHALL BE CONVEYED IN ITS THEN CONDITION AND STATE OF REPAIR, "AS IS" AND "WHERE IS" AND "WITH ALL FAULTS." OPERATOR AND ROYALTY HOLDER AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE EFFECTIVE, THE DISCLAIMERS OF CERTAIN WARRANTIES CONTAINED HEREIN ARE "CONSPICUOUS" DISCLAIMERS FOR THE PURPOSES OF ANY APPLICABLE LAW, RULE, OR ORDER.
- 8.3 With the understanding that Operator is relying on the representations, warranties, and covenants made by the Royalty Holder herein, Royalty Holder hereby represents, warrants, and covenants to Operator that:
- 8.3.1 The purchase of the interests contemplated under this Agreement involves certain risks and has taken full cognizance of and understands all of the risks related to the purchase of the interests, and Royalty Holder, either alone, or together with its professional advisors, has such knowledge and experience in investing in oil and gas exploration and development projects that Royalty Holder alone, or together with Royalty Holder's professional advisors, are capable of evaluating the merits and risks of purchasing the interests.
- 8.3.2 Royalty Holder understands the following: (i) the risks involved in the properties and project covered by this Agreement, including the speculative nature of such matters, (ii) the financial hazards involved in conduct of exploration and development operations in search of oil or gas contemplated by this Agreement, (iii) the lack of liquidity of the interests, and (iv) the liens and other rights of the Operator in the event of non-payment by Royalty Holder of its share of operating expenses, and (v) title failures shall be joint losses the same as in the manner set forth in the Operating Agreement, and (vi) Operator and the Operator shall have no liability in connection with title losses, and Operator shall have no liability with operations conducted on the Leases, save and except in the event of gross negligence or willful misconduct.

#### **Article 9: Alternative Dispute Resolution ("ADR")**

- 9.1 **Agreement to Use Procedure.** The parties have entered into this Agreement in good faith and in the belief that it is mutually advantageous to them. It is with that same spirit of cooperation that they pledge to attempt to resolve any dispute amicably without the necessity of litigation. Accordingly, they agree if any dispute arises between them relating to

this Agreement (the "Dispute"), they will first utilize the procedures specified in this Section (the "Procedure") prior to any Additional Proceedings.

- 9.2 **Initiation of Procedure.** The party seeking to initiate the Procedure (the "Initiating Party") shall give written notice to the other parties, describing in general terms the nature of the Dispute, the Initiating Party's claim for relief and identifying one or more individuals with authority to settle the Dispute on such Party's behalf. The Party(s) receiving such notice (the "Responding Party," whether one or more) shall have five (5) business days within which to designate by written notice to the Initiating Party, one or more individuals with authority to settle the Dispute on such Party's behalf. The individuals so designated shall be known as the "Authorized Individuals." The Initiating Party and the Responding Party shall collectively be referred as the "Disputing Parties" or individually "Disputing Party."
- 9.3 **Direct Negotiations.** The Authorized Individuals shall be entitled to make such investigation of the Dispute as they deem appropriate, but agree to promptly, and in no event later than thirty (30) days from the date of the Initiating Party's written notice, meet to discuss resolution of the Dispute. The Authorized Individuals shall meet at such times and places and with such frequency as they may agree. If the Dispute has not been resolved within thirty (30) days from the date of their initial meeting, the Disputing Parties shall cease direct negotiations and shall submit the Dispute to mediation in accordance with the following procedure.
- 9.4 **Selection of Mediator.** The Authorized Individuals shall have five (5) business days from the date they cease direct negotiations to submit to each other a written list of acceptable qualified attorney-mediators not affiliated with any of the Parties. Within five (5) days from the date of receipt of such list, the Authorized Individuals shall rank the mediators in numerical order of preference and exchange such rankings. If one or more names are on both lists, the highest ranking person shall be designated as the mediator. If no mediator has been selected under this procedure, the Disputing Parties agree jointly to request a State District Judge of their choosing (or if they cannot agree, the ADR clerk of the county) to supply within ten (10) business days a list of potential qualified attorney-mediators. Within five (5) business days of receipt of the list, the Authorized Individuals shall again rank the proposed mediators in numerical order of preference and shall simultaneously exchange such list and shall select as the mediator the individual receiving the highest combined ranking. If such mediator is not available to serve, they shall proceed to contact the mediator who was next highest in ranking until they are able to select a mediator.
- 9.5 **Time and Place of Mediation.** In consultation with the mediator selected, the Authorized Individuals shall promptly designate a mutually convenient time and place for the mediation, and unless circumstances require otherwise, such time to be not later than forty-five (45) days after selection of the mediator.
- 9.6 **Exchange of Information.** In the event any Disputing Party to this Agreement has substantial need for information in the possession of another Disputing Party to this Agreement in order to prepare for the mediation, all Disputing Parties shall attempt in good faith to agree to procedures for the expeditious exchange of such information, with the help of the mediator if required.
- 9.7 **Summary of Views.** At least seven (7) days prior to the first scheduled session of the mediation, each Disputing Party shall deliver to the mediator and to the other Disputing Parties a concise written summary of its views on the matter in Dispute, and such other matters required by the mediator. The mediator may also request that a confidential issue paper be submitted by each Disputing Party to him.
- 9.8 **Parties to be Represented.** In the mediation, each Disputing Party shall be represented by an Authorized Individual and may be represented by counsel. In addition, each Disputing Party may, with permission of the mediator, bring such additional Persons as needed to respond to questions, contribute information, and participate in the negotiations.
- 9.9 **Conduct of Mediation.** The mediator shall determine the format for the meetings, designed to assure that both the mediator and the Authorized Individuals have an opportunity to hear an oral presentation of each Disputing Party's views on the matter in dispute, and that the authorized parties attempt to negotiate a resolution of the matter in dispute, with or without the assistance of counsel or others, but with the assistance of the mediator. To this end, the mediator is authorized to conduct both joint meetings and separate private caucuses with the Disputing Parties. The mediation session shall be private. The mediator will keep confidential all information learned in private caucus with any Disputing Party unless specifically authorized by such Disputing Party to make disclosure of the information to the other Disputing Party. The Disputing Parties commit to participate in the proceedings in good faith with the intention of resolving the Dispute if at all possible.
- 9.10 **Termination of Procedure.** The Disputing Parties agree to participate in the mediation procedure to its conclusion. The mediation shall be terminated (i) by the execution of a settlement agreement by the Disputing Parties, (ii) by a declaration of the mediator that the mediation is terminated, or (iii) by a written declaration of a Disputing Party to the effect that the mediation process is terminated at the conclusion of one full day's mediation session. Even if the mediation is terminated without a resolution of the Dispute, the Disputing Parties agree not to terminate negotiations and not to commence any Additional Proceedings prior to the expiration of five (5) days following the mediation. Notwithstanding the foregoing, any Disputing Party may commence Additional Proceedings within such five (5) day period if the Dispute could be barred by an applicable statute of limitations.

## Article 10: Miscellaneous

- 10.1 **No Partnership.** It is not the purpose or intention of this Agreement to create any partnership, mining partnership, or association, and neither this Agreement nor the operations hereunder shall be construed or considered as creating any such legal relationship.
- 10.2 **Manner of Notice.** All notices or demands under this Agreement shall be in writing and shall be deemed given and received according to the following criteria:
- 10.2.1 **Personal Delivery.** In the case of personal delivery, notice shall be deemed to have been given and received on the day of the actual receipt by the receiving party.
- 10.2.2 **Overnight Courier.** In the case of a nationally recognized overnight courier service, notice shall be deemed to have been given and received on the second business day following its deposit with such courier service. No signature affirming receipt by the receiving party is required. The internal records of the courier service are to be accepted as sufficient evidence of receipt.
- 10.2.3 **Postal Service.** In the case of the U.S. Postal Service, notice shall be deemed to have been given and received on the third business day after the deposit of a postage pre-paid, certified, return receipt requested envelope containing the notice, addressed to the receiving party with the U.S. Postal Service.
- 10.2.4 **Facsimile Transmission.** In the case of facsimile transmission, notice shall be deemed to have been given and received on the day of such transmission. Such facsimile transmission, to be considered effective, shall be corroborated by a copy of the facsimile confirmation showing the telephone number from which transmitted, the telephone number to which transmitted, and the date and the time of such transmission. The copy of such printout and the notice shall be mailed the day of transmission by regular U.S. Postal Service to the receiving party.
- 10.2.5 **Addresses for Notice.** All notices shall be given to the respective parties at the following addresses, until further written notice:  
If to Operator:  
If to Royalty Holder:
- 10.3 **Time is of the Essence.** Time is of the essence with regard to the performance of the obligations of the parties under this Agreement. If the date for any such performance falls on a Saturday, Sunday, or banking holiday, the date of performance shall be extended to the next regular business weekday.
- 10.4 **Assignment.** During the period of time in which Royalty Holder is providing the Lease Bank Funds, Royalty Holder may not assign any of its rights or obligations under this Agreement without the prior written consent of Operator, which consent may not be unreasonably withheld, and Operator may not assign any of its rights or obligations under this Agreement without the prior written consent of Royalty Holder, which consent may not be unreasonably withheld. Any such assignment or conveyance, if any, will not relieve the assigning party of its obligations hereunder. Any attempted assignment in violation of the foregoing shall be null and void.
- 10.5 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto successors and permitted assigns.
- 10.6 **Governing Law.** This Agreement has been executed in the County of \_\_\_\_\_, State of Michigan, and shall be governed by the laws of the State of Michigan. The parties agree that venue is proper in the County of \_\_\_\_\_, Michigan.
- 10.7 **Gender and Number.** Any term of gender used in this Agreement shall include all genders and legal entities, and the plural shall include the singular, and the singular shall include the plural, all as the context may require.
- 10.8 **Severability.** The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision set forth in this Agreement.
- 10.9 **Section Headings.** The section headings contained in this Agreement are for the purpose of identification only and shall not be considered in construing this Agreement.
- 10.10 **Attorneys' Fees and Costs.** In the event of any litigation between the parties (or arbitration if the parties agree to arbitrate any dispute) concerning this Agreement and the enforcement of this Agreement, the prevailing party shall be entitled to receive payment of all its reasonable costs and expenses relative to such action, including, but not limited to, court costs and reasonable attorney's fees incurred by the prevailing party at trial and upon appeal. For the purpose of this section, the term "prevailing party" shall include a party which withdraws or dismisses a claim in return for payment allegedly due, performance of a covenant allegedly owed, or other consideration substantially satisfying the claim withdrawn or dismissed.
- 10.11 **Brokerage.** Operator and Royalty Holder each acknowledge, represent, and warrant to the other that such party has not engaged or utilized the services of any broker in connection with this transaction who shall be entitled to any commissions as a result of this Agreement or the transaction contemplated herein. Each agrees to indemnify and hold the other harmless from any claim of a commission in connection with this Agreement, and each will pay the reasonable costs and expenses of defending against the claims, including reasonable attorneys' fees, incurred because of allegations by any broker with whom the indemnifying party has dealt.

- 10.12 **Entire Agreement; Modification of Agreement.** This Agreement supersedes any and all prior understandings and agreements between the parties. This Agreement may only be modified by an agreement in writing and signed by the parties.
- 10.13 **General Cooperation.** Notwithstanding any other provision of this Agreement to the contrary, the parties agree in good faith to execute such further or additional documents and to take such other actions as may be reasonably necessary or appropriate to fully carry out the intent and purpose of the parties as set forth in this Agreement.
- 10.14 **Negotiated Agreement.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue that it may have been prepared by counsel for one of the parties, it being recognized that both parties have contributed substantially and materially to the terms and preparation of this Agreement.
- 10.15 **Counterparts.** This Agreement may be executed in counterparts, which, taken together, shall constitute the agreement of the parties hereto.
- 10.16 **Survival of Provisions.** The covenants and obligations contained herein shall survive and be enforceable after all closings which occur under this agreement, and shall not be merged into any of the assignments or other documents which may be executed pursuant to the terms of this Agreement.
- 10.17 **No Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any breach or any other covenant, duty, agreement, or condition.

EXECUTED on \_\_\_\_\_, 20\_\_.

Operator:

Royalty Holder:

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

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

**Exhibit List:**

- Exhibit A: Lease
- Exhibit B: Assignment of Working Interest
- Exhibit C: Lease Reports