



STATE OF COLORADO
STATE BOARD OF LAND COMMISSIONERS

Subsurface Easement Agreement No. [REDACTED]

THIS SUBSURFACE EASEMENT AGREEMENT ("Agreement") is entered into at Denver, Colorado, on [REDACTED] ("Effective Date"), by and between the State of Colorado, acting by and through its State Board of Land Commissioners ("State Land Board"), whose address is 1127 Sherman Street, Suite 300, Denver, CO 80203, and [REDACTED] ("Operator"), having an address [REDACTED].

1. DESCRIPTION OF THE SUBJECT LANDS

The State Land Board, in consideration of and expressly subject to the terms and conditions herein, grants unto the Operator, a nonexclusive subsurface easement, under and through certain surface lands situated in the County of [REDACTED], State of Colorado, more particularly described in Exhibit A attached hereto and made apart hereof ("Subject Lands").

2. CONDITION OF SUBJECT LANDS

Operator represents that Operator has had an opportunity to inspect the Subject Lands prior to entering into this Agreement, and Operator accepts the Subject Lands in their present condition and acknowledges that the Subject Lands are in all respects suitable for the purposes permitted. The State Land Board disclaims any and all obligation to provide access to the Subject Lands (except as expressly set forth in this Agreement), or to fence, make any repairs to or construct any improvements upon the Subject Lands; and the State Land Board does not warrant that the Subject Lands are suitable for the permitted purposes. THE STATE LAND BOARD EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SUBJECT LANDS, EXPRESS OR IMPLIED. Operator acknowledges that the rights granted in this Agreement may not be sufficient for Operator's intended use(s) and purpose(s) (including the use set forth in Section 3), and Operator (i) agrees that it is solely liable for obtaining any necessary authorizations, permits, rights, and interests to facilitate such uses, to the extent required beyond this Agreement, and (ii) assumes any and all liability arising from the use of the Subject Lands, including without limitation (A) as set forth in Section 7 and (B) to the extent that the grant of rights set forth in this Agreement are not be sufficient for Operator's intended use(s) and purpose(s).

3. USE OF THE SUBJECT LANDS

The use of the Subject Lands shall be limited to constructing, operating, and maintaining the wellbores ("Wellbores") associated with the well(s) described in Exhibit B attached hereto and incorporated herein the ("Well(s)"), which Well(s) shall in no event be completed or produce from the Subject Lands under this Agreement. No other use of the Subject Lands by Operator shall be permitted. The sole and singular user of the Subject Lands shall be the Operator named herein and its authorized agents and subcontractors. Operator shall be solely responsible for all of its subcontracting and agency arrangements and performance by such parties in compliance with the provisions of this Agreement. If Operator uses or attempts to use the Subject Lands for any other purpose whatsoever, then this Agreement shall terminate immediately and be of no further effect. This subsurface easement is not exclusive. It is subject to any and all uses, easements, subsurface easements and rights-of-way granted previously.

This Agreement is solely for use of the Subject Lands and does not include any right or interest in the surface located above or adjacent to the Subject Lands. All surface access or use above or adjacent to

the Subject Lands must be at the consent of the State Land Board, to the extent owned by the State Land Board. This Agreement does not, and in no event shall this Agreement be interpreted to, include or convey any right, title, interest in and to the mineral estate (including without limitation oil, gas, and hydrocarbon resources), and Operator shall be solely liable for any and all damage or trespass to minerals occurring in connection with its use under this Agreement.

Any pore space owned by the State Land Board that is above, under or adjacent to the Subject Lands is not included in this Agreement and the Wellbores shall not enter into or cross into pore space outside of the Subject Lands.

4. TERM

- a. This Agreement is effective from the Effective Date. The term shall be thirty (30) years, until [REDACTED], subject to the covenants and agreements herein ("Term"). The subsurface easement granted herein shall continue until termination or expiration of the Agreement, whichever occurs first.
- b. Operator shall have the option, subject to the terms of this Section 3.b., to renew this Agreement for one additional Extended Term (the "Right to Renew") by (i) delivering ninety (90) day advance notice to the State Land Board that Operator has exercised its right to renew this Agreement (the "Notice of Exercise"); (ii) furnishing the Renewal Fee to the State Land Board in immediately-available funds (and as instructed in writing by the State Land Board) within thirty (30) days of delivery of the Notice of Exercise to the State Land Board; and (iii) promptly executing any and all riders and amendments the State Land Board reasonably determines necessary to conform this Agreement with any and all policies, procedures, and similar easements in place with the State Land Board. Operator may only exercise the Right to Renew (i) during the final year of the Term, and (ii) provided Operator is in compliance with all terms and conditions of this Agreement.

As used in this Section 3.b.:

"Extended Term" means, as of the date the Notice of Exercise is received, a period of time equal to the standard term of years for which the State Land Board grants (i) a subsurface easement, or (ii) if the State Land Board no longer grants subsurface easements as a regular practice, a right of way that the State Land Board determines, in its sole discretion, is most similar in type to a subsurface easement.

"Renewal Fee" means, as of the date the Notice of Exercise is received, consideration equal to the standard consideration that would be due for the Subject Lands and Operator's use under (i) the State Land Board's current form of subsurface easement, or (ii) if the State Land Board no longer grants subsurface easements as a regular practice, the amount that would be due under the State Land Board's form of right of way that the State Land Board determines, in its sole discretion, is most similar in type to a subsurface easement, as such price may be reasonably adjusted by the State Land Board under the circumstances. Notwithstanding the preceding sentence, if, as of the date the Notice of Exercise is received, the State Land Board has received an offer to occupy, Agreement, purchase, restrict, or in any way use or encumber the Subject Lands (a "Competing Offer") and Operator's Right to Renew would interfere with the State Land Board's ability to accept (or would otherwise encumber or restrict the use contemplated by) such Competing Offer, the "Renewal Fee" shall be increased to the extent necessary to compensate the Land Board for the revenue the Land Board Reasonably expects to lose (if any) from the Operator's exercise of the Right to Renew in light of the Competing Offer.

At any time during the final year of the Term, Operator may request a schedule from the State Land Board detailing the current Extended Term and Renewal Fee applicable to Operator's

Right to Renew; provided, however, that any statements from the State Land Board regarding the current Extended Term and Renewal Fee do not bind the State Land Board in the absence of receipt of a duly-provided Notice of Exercise.

- c. If all Well(s) are plugged and abandoned in compliance with this Agreement and applicable laws and regulations, this Agreement shall automatically and without notice terminate, except with respect to any surviving obligations of Operator.
- d. The Operator may remove any or all Well(s) or Wellbores during the Term. Upon removal of all Well(s) and completion of any remediation required by this Agreement and applicable laws and regulations, this Agreement shall terminate except with respect to any surviving obligations of Operator, except that temporary removal or temporary shut-in of said Well(s) during maintenance or approved reconstruction shall not terminate this Agreement.
- e. Upon expiration or termination of this Agreement, the Operator shall peaceably and quietly leave, and surrender possession of the Subject Lands to the State Land Board in accordance with and subject to the terms of this Agreement, and such Subject Lands shall be in good operating condition.

5. CONSIDERATION

a. Term

The consideration amount for the Subject Lands during the Term shall be the sum of \$ [REDACTED]. Such consideration is calculated based on the use of the Subject Lands, consistent with this Agreement, and the number of Wellbores to be used in the Subject Lands per **Exhibit B**, at a rate of seven thousand five hundred dollars (\$7,500.00) per Wellbore.

Operator shall pay to the State Land Board the consideration amount due prior to the Effective Date at the office of the State Land Board specified in the first paragraph of this Agreement. No portion of any prepaid amount is refundable.

b. Holdover

If Operator remains in possession of the Subject Lands after the termination or expiration of this Agreement, Operator shall be liable to the State Land Board for additional consideration in the amount of five-hundred dollars (\$500) per day, per Well during such holdover possession. At the State Land Board's option, the Operator shall be construed to be in possession of the Subject Lands and to be occupying the same until the Well(s) have been properly plugged and abandoned per the current Colorado Energy and Carbon Management Commission's ("ECMC") rules and regulations. Continued occupancy and use of the Well(s) and/or Wellbores shall not establish a new or extended term or other right, no matter how long maintained and regardless of the State Land Board's knowledge thereof.

6. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act, C.R.S. § 24-10-101 et seq., and the risk management statutes, C.R.S. § 24-30-1501 et seq., as amended. No term or condition of this Agreement will be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Governmental Immunity Act as applicable now or hereafter amended.

7. INDEMNIFICATION

Operator assumes all liability arising from the use, occupation or control of the Subject Lands by Operator under this Agreement. This assumption includes, but is not limited to, liability for all personal injuries (including death) and environmental and property damage and destruction. Operator agrees

to defend, indemnify and hold harmless the State Land Board from, for and against any and all liabilities, losses, damages, liens, expenses, claims, demands, debts, obligations, fines, penalties, suits or actions, judgments, and costs of any kind whatsoever arising from the use, occupation or control of the Subject Lands, caused by any act, omission or neglect of Operator, or Operator's employees, agents, guests, invitees, contractors or assigns. Operator further agrees to indemnify the State Land Board for any costs, including costs of suit and fees for consultants, experts, and attorneys, incurred by the State Land Board in terminating or canceling, enforcing obligations or defending itself against any matter arising under this Agreement caused or permitted by Operator or Operator's employees, agents, guests, invitees, contractors or assigns. This provision shall survive termination, cancellation or relinquishment of this Agreement and any cause of action by the State Land Board to enforce it shall not be deemed to accrue until the State Land Board's actual discovery of said liability, claim, loss, damage, or exposure. This indemnity is in addition to any other indemnity provided for in this Agreement. Operator will not be responsible for any liability caused by persons granted other uses of the Subject Lands by the State Land Board.

8. INSURANCE

Operator, at its sole cost and expense, shall during the entire term of this Agreement procure, pay for and keep in full force and effect an occurrence based general liability insurance policy from an insurance carrier licensed to do business in Colorado, in an amount not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. Operator, at its sole cost and expense, shall during the entire term of this Agreement procure, pay for and keep in full force and effect a property insurance policy from an insurance carrier licensed to do business in Colorado covering all insurable improvements owned by the State Land Board located on the Subject Lands in an amount not less than necessary to cover the replacement cost. All policies shall name the State Land Board as an additional insured, shall provide that the coverage is primary and noncontributory over any other insurance coverage available to the State Land Board, its agents and employees and shall include a clause waiving all rights of recovery, under subrogation or otherwise against the State Land Board, its agents and employees. Failure to buy and maintain the required insurance is a default of this Agreement. Before starting work under this Agreement, Operator shall, at the State Land Board's request, furnish a certificate of liability insurance, referencing the Agreement number and reflecting the above requirements. The State Land Board may alter any requirements of this section to meet the requirements of the Colorado Governmental Immunity Act or any requirements determined by the Colorado Office of Risk Management.

9. SURVEY

- a. Operator has provided to the State Land Board a deviated drilling plan and wellbore diagram attached hereto as Exhibit C.
- b. If the Subject Lands and/or the Wellbores are to be enlarged, replaced, relocated, added to or revised, including pursuant to any ECMC order, the Operator shall notify the State Land Board of the proposed change and furnish surveys, plats, and description of the change to the State Land Board. The State Land Board shall review any such notice, and may condition or withhold approval to such revision if it reasonably determines such changes would cause or result in a material increase or change in the scope of rights granted by this Agreement; including, without limitation, a material revision to the Subject Lands under this Agreement, or increase in the number of Wellbores.
- c. Promptly upon completion of Operator's construction pursuant to Section 10, Operator shall provide the State Land Board with a complete set of "as-built" plans and specifications for all Wellbores including their location and depth within the Subject Lands as a supplement to Exhibit C.

10. CONSTRUCTION OF WELLBORES

- a. The Wellbores existing on the Subject Lands as of the Effective Date of this Agreement have been authorized by the State Land Board.
- b. The Wellbores to be constructed on the Subject Lands shall be used exclusively to drill, complete, produce, operate, test, repair, maintain, redrill, deepen, plug back, recomplete, rework, inject gas or other substances and conduct such other operations on the Well(s) as may be prudent or necessary, provided that such Well(s) shall not produce from or be completed in the Subject Lands absent an agreed oil and gas lease with the State Land Board.
- c. If the Operator desires to sidetrack a Well or drill outside of the deviated drilling plan provided in Section 9.a., Operator shall provide an updated deviated drilling plan and wellbore diagram on a new Exhibit C, and get prior, approval from the State Land Board pursuant to Section 9.b., which approval shall not be unreasonably conditioned or withheld.
- d. If the Wellbores are constructed outside of the defined boundary of the Subject Lands without prior consent, the State Land Board, at its discretion, may require Operator, a developer (if any), or their successors or assignees to relocate the Wellbores to within the defined boundaries of the Subject Lands at no cost to the State Land Board.
- e. If Operator fails to construct the Wellbores within five (5) years from the Effective Date, this Agreement shall be subject to termination at the option of the State Land Board by delivering notice to Operator. If the State Land Board agrees to extend such construction period, the State Land Board may fix additional consideration at the time of completion of construction of said Wellbores.

11. TREATMENT OF WELL(S) AND SURRENDER OF SUBJECT LANDS UPON TERMINATION OF AGREEMENT

- a. Upon expiration or termination of this Agreement, and provided Operator is not then in breach of or in default under this Agreement, all Well(s), at the State Land Board's written consent, shall either be:
 - i. Plugged and abandoned; or
 - ii. Sold by Operator to a new operator approved by the State Land Board and a new Agreement shall be entered into between the new operator and the State Land Board; or of the Subject Lands; or

Retained by Operator so long as a new Agreement is entered into between the Operator and the State Land Board.
- b. Notwithstanding any provisions to the contrary, the Operator shall have no right to remove, alter or demolish all or part of the Operator's Well(s) at any time the Operator is in default or breach of any term, provision or covenant of this Agreement without express consent of the State Land Board.

12. NO PARTNERSHIP

Nothing in this Agreement shall cause the State Land Board in any way to be construed as a partner, a joint venturer or associated in any way with the Operator in the operation of the Subject Lands, or subject the State Land Board to any obligation, loss, charge or expense connected with or arising from the operation or use of the Subject Lands or any part thereof.

13. MAINTENANCE AND REPAIR

The State Land Board shall have no duty of maintenance or repair with respect to the Subject Lands or Well(s) constructed thereon. The Operator shall keep and maintain the Subject Lands and Well(s) thereon in constant good order and repair in the same condition as when initially constructed, ordinary wear and tear excepted. All repairs made by the Operator shall be at least equal in quality to the

original Well(s). During the Term, the Operator shall provide continued maintenance of the area disturbed by the Well(s) and Wellbores, to maintain the integrity of the installation.

14. DAMAGE OR DESTRUCTION

In case of damage to or destruction of the Subject Lands or any part thereof, by any cause whatever, the Operator shall give or cause to be given to the State Land Board prompt notice of such occurrence within three (3) days and shall promptly proceed with due diligence to repair, restore, replace or rebuild so as to make the Subject Lands and Well(s) at least equal in quality to the original Well(s) or restore the same to such modified plans as shall be previously approved by the State Land Board.

15. TAXES, UTILITIES AND OTHER EXPENSES

It is understood and agreed that this Agreement shall be a net Agreement with respect to the State Land Board, and that all taxes, assessments, insurance, utilities, water, sewer, wastewater, sanitation and other operating costs including those which could otherwise result in a lien being placed against the Subject Lands and/or the Well(s) as well as the cost of all repairs, remodeling, renovations, alterations, and Well(s), and all other direct costs, charges and expenses of any kind whatsoever respecting the Subject Lands and the Well(s) shall be borne by the Operator and not by the State Land Board so that the consideration to the State Land Board shall not be reduced, offset or diminished directly or indirectly by any cost or charge, nor subject to suspension or termination for any cause. If Operator is a tax exempt entity, it shall be Operator's responsibility to obtain and maintain such tax exemption, to provide proof of such exemption and to receive the benefits of such exemption.

16. RESERVATIONS TO THE STATE LAND BOARD

This Agreement is subject to any and all presently existing leases, easements, subsurface easements, rights-of-way and other interests, whether or not visible on the ground; and, in addition to its reversion upon termination of this Agreement, the State Land Board hereby reserves:

- a. The right at any and all times during the Term to sell, exchange, or otherwise dispose of: all or any portion of the Subject Lands, the surface above the Subject Lands, lands adjacent to the Subject Lands or any property adjacent to the surface above the Subject Lands.
- b. All rights to all minerals, ores, and metals of any kind and character, and all coal, asphaltum, oil, gas, sand, gravel, clay, quarry products or other like substances in or under such land, and all geothermal resources and the right of ingress and egress for the purpose of mining, together with enough of the surface of the same as may be necessary for the proper and convenient working of such minerals and substance. Operator shall not enter into any agreement to restrict mineral development in any way, including but not limited to, agreements to purchase, to buy out or to buy-down with the mineral Operator, its successors or assigns, without the approval of the State Land Board.
- c. The right to Agreement all or any portion of the Subject Lands or the surface or pore space above, below, or adjacent to the Subject Lands to other persons for the purposes of grazing and agricultural uses, developing renewable energy, exploring for and removing timber, minerals, ores, metals, coal, asphaltum, oil, gas, sand, gravel, clay, quarry products, peat, geothermal resources, and all other naturally occurring resources, together with reasonable and adequate rights of entry and surface rights necessary or convenient to exercise such reserved rights.
- d. Title to all water rights associated or appurtenant to the Subject Lands. In addition:
 - i. No water, ditch, reservoir, well, spring, seepage or other right, permit, or use of any kind, ("water right") may be initiated, established, appropriated or adjudicated (for use on or off the Subject Lands) by the Operator for which the point of diversion, withdrawal, use or storage is on the Subject Lands, without the prior approval of the

State Land Board. All applications and documents pertaining to any such water right must be made in the name of the State Land Board, and the State Land Board reserves the right to make or convert any related applications or documents in or to its own name. Any such water right, approved or unapproved is the sole and absolute property of the State Land Board without cost to the State Land Board.

- ii. Improvements made or constructed by the Operator in connection with such water right, apart from any such water right, are subject to Section 10 ("Construction of Wellbores"). The water right itself, however, will belong to the State Land Board without cost.
- iii. Operator must request and receive prior approval by the State Land Board for any proposal by the Operator to apply and/or use on the Subject Lands an existing water right which is not diverted, withdrawn or stored on the Subject Lands, and which is not the property of the State Land Board. Such approval must be in accordance with applicable policies, directives and schedules, as adopted by the State Land Board from time to time, and incorporated in this Agreement by reference. Once an application of such water right is approved the State Land Board has the option to:
 - 1. require that the water right, or any portion thereof, be sold to the State Land Board or its subsequent Operator at its fair market value to be determined by the State Land Board; or
 - 2. permit the water right to be removed from the Subject Lands, but only under a reclamation/restoration plan approved by the State Land Board and completed by the Operator. If the reclamation/restoration is not completed by the Operator within the time set forth in the approved plan, the water right will remain attached to and available for use on the Subject Lands until the reclamation/restoration is completed without cost to the State Land Board.
- iv. If any water right (and/or related improvements) owned by the State Land Board is leased to the Operator by this Agreement, it will be described in Section 1 ("Description of the Subject Lands") and in that event will be considered part of the Subject Lands. In using such water right, the Operator must comply with all terms and conditions of any relevant decree issued by the water court or permit issued by the Division of Water Resources, and put the maximum amount of water stated in the decree or permit to beneficial use, keep records of all such use, and submit an annual report that documents such use to the State Land Board and Division of Water Resources.
- e. The right to access, inspect and monitor the Subject Lands at all reasonable times, utilizing all reasonable means and methods. The use of Unmanned Aerial Systems (UAS) to monitor or inspect will be in accordance with applicable Federal Aviation Administration (FAA) rules and regulations. Operator will cooperate and not interfere with all reasonable means and methods of access, inspection and monitoring including taking actions necessary to comply with FAA rules and regulations.
- f. The right at any time to grant any right of way or subsurface easement upon, over or across all or any portion of the Subject Lands or any surface or pore space above, below or adjacent to the Subject Lands so long as the exercise of such rights does not unreasonably interfere with Operator's authorized use of the Subject Lands.
- g. All rights, privileges and uses of every kind or nature not specifically granted to Operator by this Agreement so long as the exercise of such rights does not unreasonably interfere with Operator's authorized use of the Subject Lands.
- h. Under no circumstances may any person injure, destroy, disturb, mar, appropriate, collect, remove, alter, or excavate any historical, prehistorical or archaeological site or resource

(collectively, “cultural resources”) on state lands. Discovery or indication of cultural resources shall be immediately brought to the attention of the State Land Board and the State Archaeologist. Operator shall comply with the requirements of C.R.S. § 24-80-401 through 411, as same may be amended from time to time.

Prior to any surface disturbance or before submitting an Application for a Permit to Drill or a spacing application, Operator shall consult with the Office of Archaeology and Historical Preservation (“OAHP”) to determine whether any cultural resources exist on the Subject Lands. Operator shall provide the State Land Board with a complete copy of any survey, review, or resource database search results provided by OAHP that identify cultural resources on the Subject Lands. If OAHP identifies any cultural resources on the Subject Lands, Operator shall obtain the State Land Board’s approval prior to taking any further action to construct Wellbores. The State Land Board, in its sole and absolute discretion, may impose additional requirements, conditions, restrictions, or stipulations under this Agreement to protect or preserve any cultural resources identified by OAHP. Operator acknowledges that the State Land Board is under no obligation to refund any consideration or fee paid under this Agreement. Operator agrees to permit and not interfere with the new or additional uses that meet the requirements of this Section 16.

17. OPERATIONS INFORMATION

a. Well Logs, Geologic Information

Operator shall keep a correct log of each of the Well(s) drilled hereunder, showing by name or description the stratigraphic zones passed through, the producing stratigraphic zones, the depth at which each stratigraphic zone was reached, the number of feet of each size casing set in each well, where set, the total depth of each well drilled, and the location of any buried pipe. Operator, within six (6) months after the completion of any well drilled hereunder, shall file with the State Land Board a complete and correct log of such well together with a copy of the electric log and the radioactivity log of the well when such logs are run; and also a copy of all drill stem test results, core records and analyses, record of perforations and initial production tests, if any. If any of the geologic information required by this Section 17.a is contained in reports filed with the ECMC, the requirements of this Section 17.a may be satisfied by such filing provided that all such information is immediately available to the State Land Board. In the event that any documents provided pursuant to this Section 17.a are responsive to a public records request made pursuant to the Colorado Open Records Act, §24-72-200.0, C.R.S., et seq. (“CORA”), the State Land Board shall provide Operator notice of such request. The State Land Board shall deny the right of public inspection with respect to documents provided by Operator pursuant to this Section 17.a if the Land Board determines that such documents constitute trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data within the meaning of §24-72-204(3)(a)(IV).

b. As Drilled Deviated Drilling and Wellbore Diagram

Operator shall provide an As Drilled Deviated drilling survey along with a wellbore diagram to the State Land Board within 90 days of the release of the drilling rig. Operator will also provide an updated multi-well plan that lists the API number and names of the Well(s).

18. STATE LAND BOARD POLICIES, DIRECTIVES AND SCHEDULES

a. Operator must comply with all of the State Land Board’s applicable policies, directives and schedules. Such policies, directives and schedules are available online through the State Land Board’s website and also available at any of the State Land Board’s offices. Operator shall stay fully informed of all applicable policies, directives and schedules and the lack of actual notice

or knowledge of applicable policies, directives and schedules will not provide a defense for any failure to comply with this Agreement.

- b. Operator acknowledges that the State Land Board meets publicly on a monthly basis and at such public meetings may amend or change existing policies, directives and schedules and/or adopt new policies, directives and schedules. Any amendments to existing policies, directives and schedules and any new policies, directives and schedules, will be effective immediately upon adoption by the State Land Board.

19. ASSIGNMENTS AND SUBLEASING

This Agreement shall be binding on the parties hereto, their heirs, representatives, successors, and permitted assigns.

- a. This Agreement shall not be assigned, transferred or sold, voluntarily or by operation of law, without the prior consent of the State Land Board, which consent shall not be unreasonably withheld. The State Land Board shall require a payment of a processing fee of \$100.00, in form and manner satisfactory to the State Land Board, to cover review and processing expenses. The State Land Board may, in its reasonable discretion, impose conditions on its approval of any assignment.
- b. Subleasing, encumbering, pledging or otherwise transferring this Agreement is expressly prohibited except as expressly provided in this Agreement.

20. PROTECTION, CONSERVATION AND COOPERATION

Operator shall not permit, commit, or allow, and shall protect the Subject Lands against, any loss, damage, dangerous condition, injury, or waste, except as caused by persons granted other uses of the Subject Lands by the State Land Board. Operator may use the Subject Lands only for the purposes granted and in accordance with good resource conservation practices.

21. DEFAULTS AND REMEDIES

a. Defaults

In addition to any defaults specified in other sections of this Agreement, Operator's failure to comply with or to perform any of its obligations under this Agreement in whole or in part or in a timely or satisfactory manner constitutes a default. In the event of a default, the State Land Board shall notify Operator of the default consistent with the requirements of Section 25.k. If Operator has not cured the default within sixty (60) days of receipt of the notice, or if a cure cannot be completed within sixty (60) days, if the Operator has not begun to cure within sixty (60) days and pursued the cure with diligence as approved by the State Land Board, the State Land Board shall have the right to declare this Agreement forfeited, and to enter onto the Subject Lands either with or without process of law, and to expel, remove and put out Operator or any person occupying the Subject Land, using such force as may be necessary to do so. In such an event the State Land Board shall be entitled to the remedies set forth in Section 21.b.

For purposes of determining a default under the terms of this Agreement, in addition to violations of the covenants contained herein, the State Land Board may rely on any violation of an ECMC Rule, Regulation, or Order or any stipulated resolution of a claimed violation of an ECMC Rule, Regulation or Order including, without limitation, any restrictions, obligations or best management practices imposed in any permit issued by the ECMC to the extent the State Land Board determines that such violation (i) impacts public health, safety, welfare or the environment, (ii) results in waste of the Oil and Gas resources, (iii) contravenes the Constitutional or statutory obligations of the State Land Board, or (iv) demonstrates an intentional disregard for the regulatory process.

b. Remedies

In any event of default and in addition to any or all other rights or remedies of the State Land Board hereunder or by the law provided, the State Land Board may exercise the following remedies at its sole option:

1. **Termination.** Terminate the Operator's right to possession of the Subject Lands by any lawful means, in which case this Agreement shall terminate and the Operator shall immediately surrender possession of the Subject Lands to the State Land Board according to the terms of Section 4.e.
2. **Restitution.** Any amount necessary to compensate the State Land Board for the Operator's failure to perform its obligations under this Agreement or which would be likely to result therefrom, including, but not limited to, the cost of recovering possession of the Subject Lands, expenses of re-letting, including necessary repair, renovation and alteration of the Subject Lands, reasonable attorneys' fees, and any other reasonable costs.

- i. **Consideration Due During Unlawful Detainer.** In any successful action for unlawful detainer commenced by the State Land Board against the Operator by reason of any default hereunder, Operator shall be liable to the State Land Board for Holdover as set forth in Section 5.b for the period of the unlawful detainer in addition to any other charges or payments, prorated on a per diem basis, to be made by the Operator under this Agreement for such period.
- ii. **Interest and Processing Fees; Penalties.** Interest and processing fees in the amount of one point five percent (1.5%) per month or portion thereof shall be imposed on any delinquent, improper, or partial payments or any other fees and penalties due under this Agreement from the date the payment becomes due. In addition, the State Land Board may charge penalties as provided in the State Land Board's published fee schedules, as they may be amended from time to time. Said interest, processing fees, and penalties (if any) shall accrue from the dates such amounts accrued to the State Land Board until paid by the Operator.
- iii. **Cumulative Rights.** The rights and remedies reserved to the State Land Board, including those not specifically described, shall be cumulative, and the State Land Board may pursue any or all of such rights and remedies, at the same time or separately.

22. HAZARDOUS MATERIALS

If any Hazardous Material used on or at the Subject Lands for Operator's operations and activities by Operator or Operator's agents, employees, subcontractors, assignees, or successors, results in damage, destruction or contamination of the Subject Lands ("Contamination"), Operator shall indemnify, defend and hold the State Land Board harmless from, for, and against any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Subject Land, damages for the loss or restriction on use of the Subject Land, damages arising from any adverse impact on future leasing of the Subject Land, and any sum paid in settlement of claims, attorney fees, consultant fees and expert fees) which arise during or after the Term as a result of such Contamination. This indemnification of the State Land Board by Operator includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Subject Land. If the presence of any Hazardous Material on the Subject Lands caused or permitted by Operator results in any Contamination of the Subject Land, Operator shall promptly take all actions

at Operator's sole expense as are necessary to return the Subject Lands to the condition existing prior to the introduction of any Hazardous Material to the Subject Land; provided that the State Land Board's approval of such actions shall first be obtained. The term "Hazardous Material" means any hazardous or toxic substance, material or waste, which is now regulated or which may become regulated during the Term by any local governmental authority, the State of Colorado, including the ECMC, or the United States Government.

This provision shall survive termination, cancellation or relinquishment of this Agreement and any cause of action by the State Land Board to enforce it shall not be deemed to accrue until the State Land Board's actual discovery of said liability, claim, loss, damage, or exposure.

The Operator shall immediately notify the State Land Board of all spills, releases, inspections, correspondence, orders, citations, notices, fines, response and/or cleanup actions, and violation of laws, regulation or ordinance which affect the Subject Lands.

23. CONDEMNATION

- a. In the event the State Land Board receives notification of any condemnation proceedings affecting the Subject Lands, the State Land Board will provide notice of the proceeding to Operator within ten (10) business days.
- b. If all of the Subject Lands are taken by any public authority under the power of eminent domain, this Agreement shall terminate as of the date possession was taken by said public authority pursuant to such condemnation. If part of the Subject Lands is taken and, in the opinion of either the State Land Board or the Operator, it is not economically feasible to continue this Agreement, either party may terminate this Agreement.
- c. All damages awarded for the taking or damaging of all or any part of the Subject Lands, or State Land Board owned improvements thereon, shall belong to and become the property of the State Land Board, and the Operator hereby disclaims and assigns to the State Land Board any and all claims to such award. The State Land Board shall not claim any interest in any of the Well(s) or Wellbores. Operator may pursue a separate award from the condemnation authority for its relocation expenses and for the loss of or damage to its Well(s) or Wellbores.
- d. If the temporary use (defined as less than one year) of the whole or any part of the Subject Lands shall be taken at any time during the Term, the Operator shall give prompt notice thereof to the State Land Board; however, the Term, rentals and other obligations of the Operator under this Agreement shall not be reduced or affected in any way. The Operator shall be entitled to compensation as determined by applicable law for any such temporary taking of the Subject Lands.

24. LIENS AND CLAIMS

a. Mechanics' Liens

- i. The Operator shall not suffer or permit to be enforced against the Subject Lands, or any part thereof, or any Well(s) associated therewith, any mechanics', material men's, contractors', or subcontractors' liens arising from, or any claim for damage growing out of the work of any construction, repair, restoration, replacement or improvement, or any other claim or demand howsoever the same may arise, and the Operator shall pay or cause to be paid all of said liens, claims, or demands before any action is brought to enforce the same against the Subject Lands or Well(s).
- ii. The Operator agrees to defend, indemnify and hold the State Land Board and the Subject Lands free and harmless from, for, and against all liability for any and all such liens, claims, demands, and actions (each a "Lien" and collectively, the "Liens") together with reasonable attorney's fees and all costs and expenses in connection herewith.

b. Rights to Contest

Notwithstanding the foregoing, if the Operator shall in good faith contest the validity of any such Lien, then the Operator shall at its sole expense defend itself and the State Land Board against the same and shall pay and satisfy any adverse expense or cost or adverse judgment that may be rendered thereon before the enforcement thereof against the State Land Board or the Subject Lands, upon the condition that if the State Land Board shall require, the Operator shall furnish a surety bond satisfactory in form and amount to the State Land Board. Said bond shall not be less than one hundred twenty percent (120%) of such contested Lien indemnifying the State Land Board against liability for the same, and holding the Subject Lands free from the effect of such lien.

c. Posted Notice

The Operator shall, upon execution of this Agreement at its cost, prepare a Notice, pursuant to CRS §38-22-105, and cause the same to be posted for the purpose of protecting the State Land Board against any Liens or encumbrances upon the Subject Lands by reason of work, labor, services or materials contracted for or supplied to the Operator.

25. MISCELLANEOUS

a. False Statements

Any false certification or false statement by the Operator in the subsurface easement application, or in any other document or report required to be submitted under this Agreement, shall at the discretion of the State Land Board, result in termination of this Agreement and an action for damages.

b. Order of Precedence

In the event of inconsistency or conflict between this Agreement and documents incorporated herein by reference, this Agreement shall control.

c. Compliance with Laws

The Operator shall comply with all applicable federal, state and local ordinances, regulations and laws regarding the Subject Lands and activities conducted thereon or by virtue thereof. Furthermore the Operator shall not use or permit the Subject Lands to be used in violation of any such rule, regulation or law or for any purpose tending to damage or harm the Subject Lands, the Wellbores thereon or the improvements adjacent thereto, or the image or attractiveness thereof, or for any improper, offensive or immoral use or purpose, or in any manner which shall constitute waste, nuisance or public annoyance.

d. Authority

- i. Operator. If the Operator is an entity other than an individual, Operator acknowledges and represents that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and that this Agreement is binding upon said entity in accordance with its terms. In addition, each individual executing this Agreement on behalf of said entity represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said entity and that this Agreement is binding upon said entity in accordance with its terms. The Operator shall deliver a certified copy of the appropriate document evidencing authorization for such execution.
- ii. State Land Board. This Agreement is entered into pursuant to the authority granted to the State Land Board by Colorado law. The State Land Board acknowledges and

represents that it is duly organized and validly existing and has the right, power and authority to enter into this Agreement.

e. Captions

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

f. Counterparts

This Agreement may be executed in any number of multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

g. Signatures

Signatures required in this Agreement shall be either original “wet” handwritten signatures or digital signatures in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules. If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

h. Entire Understanding

This Agreement represents the complete integration of all understandings between the parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

i. Modification

- i. **By the Parties.** Except as specifically provided in this Agreement, modifications of this Agreement shall not be effective unless agreed to in writing by the parties in an amendment to this Agreement.
- ii. **By Operation of Law.** This Agreement is subject to such modifications as may be required by changes in federal or Colorado state law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Agreement on the effective date of such change, as if fully set forth herein.

j. Certain Rules of Construction

Time is of the essence in the performance of this Agreement. Unless the context clearly implies otherwise, each and every act to be performed or obligation to be fulfilled by the Operator under this Agreement shall be performed or fulfilled at the Operator's sole cost and expense. Unless expressly stated otherwise, whenever the State Land Board's decision, approval, consent, or authorization is required under this Agreement, the State Land Board's decision, approval, consent, or authorization shall be made or granted in the Land Board's sole discretion.

k. Governing Law and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and venue for all disputes relating to or in any way arising out of the Agreement shall be in the appropriate state court in the City and County of Denver.

l. Notices, Requests and Approvals

Every notice, demand, request, designation, consent, approval or other document or instrument required or permitted to be served under or in connection with this Agreement shall be in writing, shall be deemed to have been duly served on the day of receipt or rejection and shall be sent by registered or certified United States mail, postage prepaid, return receipt requested, or by a nationally recognized overnight courier service which provides written evidence of delivery, as addressed to the parties hereto. The parties may change the place for serving of such papers on it, or provide for the delivery of not more than two (2) additional copies, by giving the other party at least thirty (30) days prior written notice to such effect. Notices shall be sent to:

Operator: [REDACTED]

State Land Board:
Colorado State Board of Land Commissioners
c/o Agreement No. [REDACTED]
1127 Sherman Street Suite 300
Denver, CO 80203

m. Severability

Provided this Agreement can be executed and performance of the obligations of the parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

n. Survival of Certain Agreement Terms

Notwithstanding anything herein to the contrary, provisions of this Agreement requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State Land Board if Operator fails to perform or comply as required.

o. Third Party Beneficiaries

Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

p. Waiver

Waiver by the State Land Board of any breach under a term, provision, or requirement of this Agreement, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver by the State Land Board of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

26. CORA DISCLOSURE

To the extent not prohibited by federal law, this Agreement and the performance measures if any, are subject to public release through CORA, §24-72-200.0, C.R.S., et seq.

27. FORCE MAJEURE

If performance of this Agreement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of "Force Majeure" (defined below), the affected party, upon giving notice to and receiving approval from the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference, except for the

payment of consideration. In no event shall the duration of such excused performance exceed a period of time greater than two (2) years. The affected party shall use reasonable efforts and due diligence to avoid or remove such causes of nonperformance, and shall continue performance hereunder whenever such causes are removed. "Force Majeure" means flood, drought, earthquake, storm, fire, tornado, lightning, windstorm, unusually inclement weather or other natural catastrophe; acts of God, casualty or accident; war, sabotage, vandalism, civil strife or other violence; strikes or labor disputes; or any other act or condition beyond the reasonable control or foreseeability of the parties hereto. Neither party shall be liable to the other for damages for any failure to delay in performance under this Agreement.

[Signature Page Follows]

SAMPLE

IN WITNESS WHEREOF, the State Land Board and the Operator, by their signatures below, agree to the terms of this Agreement:

[REDACTED]

By:

Signature

Date

Printed Name

Title

STATE OF COLORADO BY THE
STATE BOARD OF LAND COMMISSIONERS

By: [REDACTED]

Date: [REDACTED]

SAMPLE

EXHIBIT A
THE SUBJECT LANDS

(COPY AND PASTE LEGAL DESCRIPTION)

SAMPLE

EXHIBIT B
THE WELL(S)

SAMPLE

EXHIBIT C
WELLBORE DIAGRAM AND DEVIATED DRILLING PLAN

SAMPLE