**Attachment 1 – Form of Designation of Production Acreage**

**DESIGNATION OF PRODUCTION ACREAGE [\_\_\_\_\_\_\_\_]**

STATE OF TEXAS §

 §

COUNTY OF [\_\_\_\_\_\_\_\_\_\_] §

This Designation of Production Acreage #\_\_\_\_\_\_\_\_ (this “***Designation***”) is effective as of [\_\_\_\_\_\_\_\_\_\_ [1]], 202[\_\_] (the “***Effective Date***”) by and between the State of Texas, acting by and through University Lands or its authorized designees (collectively, “***University Lands***”) and [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] (“***Developer***”). University Lands and Developer are sometimes referred to herein individually as a “***Party***” and collectively as the “***Parties***”. This Designation is delivered pursuant to that certain Oil and Gas Contract for Development and Production #[\_\_\_\_\_\_\_\_] dated [\_\_\_\_\_], by and between the Parties (the “***Development Agreement***”).

1. **DESIGNATION**.

## For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and subject to the terms and conditions set forth herein, University Lands does hereby, for the duration of the Term, GRANT, CONVEY, SETOVER, TRANSFER, ASSIGN, and DELIVER to Developer the following:

### All rights to produce and take Produced Substances from the Well INSOFAR AND ONLY INSOFAR as to the Designated Interval and

### All rights in and to the Production Acreage TO THE EXTENT AND ONLY TO THE EXTENT as such rights are necessary for Developer to access, Operate, maintain, and/or repair the Well, or to produce and take Produced Substances from the Well, each of which consistent with this Designation.

## The Parties hereby acknowledge and agree that, except as expressly described in Articles 1.a.i and 1.a.ii, this Designation does not convey (and University Lands expressly reserves) any other rights or interests in and to the Production Acreage, including (but not limited to) the right to drill any additional wells on the Production Acreage. For purposes of this Designation, the Production Acreage is the designated area of land around a Well capable of producing in Paying Quantities determined pursuant to the Development Agreement, and limited in depth from one hundred feet (100’) above the shallowest commercially producing perforation at which such Well is completed to one hundred feet (100’) below the deepest commercially producing perforation at which such Well is then completed, as demonstrated by documentation provided by Developer at the time the Production Acreage is determined. Developer acknowledges and agrees that the Production Acreage may overlap with the subject lands in other Designations of Production Acreage delivered to Developer pursuant to the Development Agreement when necessary to comply with the requirements of the Development Agreement.

## Notwithstanding anything herein to the contrary, University Lands owns and retains the ownership to all minerals (including but not limited to critical materials and critical minerals as defined by the Energy Act of 2020 as may be further supplemented or amended) suspended in Water produced from the Subject Lands. University Lands reserves to itself and its Representatives the right to extract any such minerals from the Water produced from the Subject Lands. Developer shall use reasonably efforts to accommodate University Lands or its Representatives in such extraction, including allowing the installation, tie-in, and maintenance of pipelines, along with necessary block valves, appurtenances and meters on such pipelines and allowing the temporary diversion or re-routing of Water through extraction equipment and facilities.

# **TERM; CESSATION OF PRODUCTION IN PAYING QUANTITIES**; **RELEASE OF DESIGNATION.**

## This Designation shall be effective as of the Effective Date and shall last for so long thereafter as (i) Developer produces Produced Substances from the Well in Paying Quantities consistent with this Designation or (ii) this Designation is otherwise maintained in effect by Articles 2.b. or 3.h. below (the “***Term***”).

## This Designation may be held in force after the cessation of production in Paying Quantities from the Well only by Reworking Operations conducted on the Well, with no cessation of such Reworking Operations of more than sixty (60) consecutive days. Developer must commence Reworking Operations on the Well within sixty (60) days from the date the Well ceases producing Produced Substances in Paying Quantities. Developer acknowledges and agrees that it does not own and has no rights to use any wellbores existing prior to the execution of this Designation, and Developer shall not conduct re-entry or other operations on any wellbore existing prior to the execution of this Designation without University Lands’ prior written consent, which may be granted or withheld in University Lands’ sole discretion.

## Within thirty (30) days after the expiration or termination of this Designation, Developer will record in the appropriate county of record a Notice of Termination and Release of Designation of Production Acreage document “***Release of Designation***” (which shall be pre-approved by University Lands) and provide a copy of the recorded Release of Designation to University Lands; *provided, however*, that University Lands shall have the unilateral right to execute and record a Release of Designation if Developer fails to record same within such thirty (30) day period.

1. **ROYALTY**.Developer will pay or cause to be paid to University Lands a monetary royalty payment of 25% of the Gross Value of Gross Production of all Produced Substances from the Well. Monetary royalties are the default form of royalty payment due under this Designation. University Lands has the right, at University Lands’ sole election, to take its royalty share in kind pursuant to Article 3.c below. Royalties are due to University Lands free of any and all deductions, and University Lands’ royalty, whether based on gross proceeds or otherwise, will never bear or be charged with any Costs and Expenses, either directly or indirectly, and whether such charges are characterized as production or post-production charges. Notwithstanding anything herein to the contrary, if a contract for the sale or disposition of Produced Substances by Developer or its Affiliate, as applicable, includes, directly or indirectly, reductions or charges for any Costs and Expenses, then such deductions will be added back to the gross proceeds for such sale or disposition so that University Lands’ royalty shall never be charged, directly or indirectly, with any such Costs and Expenses, regardless of whether arising before or after the point of sale or disposition of such Produced Substances. University Lands and Developer agree that the foregoing provisions are to be is given full effect, and are not to be construed as “surplusage,” despite the holdings in the cases styled *Heritage Resources, Inc. v. NationsBank*, 939 S.W.2d 118 (Tex. 1996) and *Judice v. Mewbourne Oil Co.*, 939 S.W.2d 133 (Tex. 1996) which will have no application to the terms and provisions of this Designation. For the further avoidance of doubt, University Lands and Developer agree that the royalty payments due to University Lands under this Designation will bear neither production costs nor post-production costs under any circumstances and regardless of whether the royalty is delivered as a monetary payment or delivered in-kind to University Lands.
	1. KEEP WHOLE. If gas produced from the Production Acreage is processed for liquefiable Hydrocarbons prior to sale, royalty payments will be calculated using the higher of the value of (i) the Gross Value of the Gross Production as though the gas had not been processed, or (ii) the dollar amount equal to the total of the consideration received by Developer or its Affiliate for the sale of such liquefiable Hydrocarbons to an unaffiliated third party plus the total consideration received by Developer or its Affiliate for the sale of all residue gas to an unaffiliated third party, with any and all Costs and Expenses deducted from or otherwise applied, directly or indirectly, to the sales prices for both liquefiable Hydrocarbons and residue gas added back to such sale prices.
	2. INJECTIONS; RECYCLED GAS. Developer may not inject any substance into the subsurface of the Production Acreage without University Lands’ prior written consent, including injections related to gas lift operations or recycled gas. If Developer is granted permission to inject gas, whether or not native gas, into a subsurface formation, no royalty will be due on the injected gas until it is produced and sold.
	3. ROYALTY IN KIND. University Lands may elect to take all or any part of its royalty in kind at any time by giving Developer sixty (60) days written notice of such election. University Lands has the right to specify the point of delivery for Produced Substances, which, at University Lands’ sole discretion, may be at the wellhead of the Well, at the separator, into a pipeline connected at the Well, or at the location Developer sells its production, or University Lands and Developer may specify another mutually agreeable location. Developer will bear to the point of delivery all Costs and Expenses related to the Produced Substances delivered to University Lands. University Lands’ election to take its royalty in kind will not modify or limit Developer’s duty to pay monetary royalties as provided herein or to market any Produced Substances not taken in kind. If University Lands elects to take its royalty in kind, University Lands and Developer agree to negotiate in good faith for additional agreements necessary and useful including, but not limited to, a gas balancing agreement.
	4. ROYALTY ON CONTRACT SETTLEMENTS. Developer will pay University Lands a percentage equal to the royalty rate set forth in this Article 3 of all monetary settlements received by Developer relating to the marketing, pricing, or taking of Produced Substances.
	5. COMMINGLING. Developer must obtain prior written permission from University Lands before (i) commingling Hydrocarbons from the Production Acreage with production from any other tract, unit or any lease into (x) a common manifold or separator, (y) common storage, or (z) a common gathering system or pipeline or (ii) utilizing an off-Subject Land gas supply to inject gas for lift purposes into any formation capable of producing Hydrocarbons from the Production Acreage. University Lands may require gas, casinghead gas, distillate, condensate, and by-products thereof to be allocated on a component basis as well as on an MMBtu basis. These requirements are in addition to, and apart from, the requirements of any other state and/or federal entity.
	6. METERING. Developer agrees that any Hydrocarbons in liquid or gaseous form produced from the Production Acreage will be measured separately before the liquid or gas Hydrocarbons leave the Production Acreage. Developer will comply with all applicable American Gas Association Standards, as well as the American Petroleum Institute (“***API***”) Manual of Petroleum Measurement Standards for any measurement device or tank that covers the standards, practices, guidelines, recommendations, and procedures which include, but are not limited to, the design, installation, calibration, testing, and handling of samples and operation of a metering system used for the measurement of Hydrocarbons in liquid or gaseous form at any meter location on the Production Acreage, at a point of custody transfer, for the purpose of tract allocation in the event of surface commingling, or for the reporting and allocation of fuel, flared gas volumes, vented volumes, or any other uses on the Production Acreage.

## MINIMUM ROYALTY. If royalties received by University Lands from the Well during any annual period, as described below (other than if the Well is shut-in under Article 3.h for the entirety of such annual period), are less than, on average, $100.00 per net mineral acre then covered by this Designation (the “***Minimum Royalty***”), then before the end of sixty (60) days following the end of the applicable annual period, in order to maintain this Designation, Developer shall pay to University Lands an amount equal to the difference between the Minimum Royalty and the royalties received by University Lands during the applicable annual period. For the purposes set forth in this Article, the first annual period commences from the Effective Date. Each successive annual period shall commence on the anniversary of the commencement of the first annual period. Commencing at the beginning of the tenth annual period (and at the beginning of each successive ten-year period thereafter), the Minimum Royalty shall increase by twenty percent (20%) from the previous amount. The payment provided for in this paragraph does not relieve Developer of the requirement of production in Paying Quantities to maintain this Designation. It is further provided that nothing contained in this paragraph, including without limitation the payment of Minimum Royalties, shall be construed to: (i) prevent or delay the termination of this Designation under the provisions of Article 12 or due to lack of production in Paying Quantities or (ii) lessen in any manner Developer’s continuing obligations under Article 9 of this Designation.

## SHUT-IN ROYALTIES. If the Well (i) is classified as a gas well by the Railroad Commission, and (ii) at the time of the proposed shut-in, has a gas to oil ratio of at least 100,000 cubic feet of gas to one barrel of oil, but the Well is not produced for lack of a suitable market, Developer may maintain this Designation in full force and effect by paying to University Lands a payment in the amount set forth in the Rules for shut-in royalties at the time such payment is made, with the first such payment to be made within thirty (30) days after the date the Well is shut in or the date this Designation ceases to be in force by any other provision, whichever is later. Subsequent shut-in royalty payments must be made annually no later than the anniversary date of the first payment. Payment of a shut-in royalty after the expiration or other termination of this Designation will not revive or extend this Designation. The failure to timely pay shut-in royalties will result in the termination of this Designation, but provided that shut-in royalty payments are timely made to University Lands, this Designation will be deemed to be producing in Paying Quantities. However, this Designation may not be maintained solely by the payment of shut-in royalties for more than two (2) years in the aggregate.

# **POOLING; ALLOCATION**. Without University Lands’ prior written consent, which may be granted or withheld in University Lands’ sole and absolute discretion, Developer is expressly prohibited from pooling or unitizing any part of the Production Acreage with any other lands for the exploration, development and production of any Produced Substance.

# **PAYMENTS, CORRESPONDENCE, AND NOTICES TO UNIVERSITY LANDS.**

## ROYALTY PAYMENTS AND RECORDS. Developer must comply with the reporting requirements of Texas Education Code §§ 66.77 and 66.80 regarding royalty payments and records (including marketing contracts).

## MONETARY PAYMENT TERMS. Monetary payments must be paid to University Lands in accordance with the Rules in effect at the time payments are due. As of the Effective Date, the Rules specify that: (i) payments must be made to the Board of Regents of the University of Texas System; (ii) royalties due on oil are due on or before the 5th day of the second month following production (e.g., royalties on oil produced in January must be paid on or before March 5th) and (iii) royalties on gas are due on or before the 15th day of the second month following production (e.g., royalties due on gas produced in January must be paid on or before March 15th). All payments must be directed to the following address, or to any other address specified by University Lands in writing:

UT System Board of Regents c/o University Lands

Attention: Accounting Manager

P.O. Box 553

Midland, Texas 79702-0553

Payments submitted electronically must be delivered by electronic funds transfer to the proper account with the Comptroller of the State of Texas, pursuant to written instructions and designation of the University Lands.

## FAILURE TO MAKE TIMELY PAYMENTS; PENALTIES AND INTEREST. Developer’s Failure to make timely and proper payments of royalties shall result in default of this Designation after receipt of the notice detailed in Article 12.b below or forfeiture of this Designation under Article 12.c. Late payments are subject to penalties and interest as provided by the Rules in effect on the date such payments are due. University Lands’ rights to collect penalties and interest are in addition to its rights to pursue other remedies at law or in equity.

## NOTICES AND CORRESPONDENCE TO DEVELOPER. Notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, e-mail transmission (if contact information is provided for the specific mode of delivery), or first-class mail, postage prepaid, sent to the designated representatives below:

## **Developer**:

## [\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

## **University Lands**:

## Attn: Senior Vice President, Land

## 704 West Dengar Avenue

## Midland, Texas 79702-0553

## [\_\_\_\_\_\_\_\_]@utsystem.edu

## or such other U.S. mail or electronic mail address provided in writing. All changes of address must specifically reference this Designation and the University Lands Designation Number. Notice shall be deemed to have been received by the party to who it is properly addressed upon delivery or if such date of delivery in not a Business Day, of the next following Business Day.

# **DATA REQUIREMENTS**.

## DIRECTIVES AND REGULATORY INFORMATION. Developer will provide records, information, applicable contracts, and all other materials to University Lands as provided in the Regulatory Reporting Procedures, the Rules, and other Directives, in each case as applicable. Production and Completion Records (as defined in the Procedures, Rules, and other Directives) must be submitted to University Lands. Specific requested information is detailed in the Data Templates which can be found on the University Lands website. Pursuant to Subchapter 3.3 of the Rules, failure to provide the requisite records, information, forms, reports, and/or logs will result in the penalties provided for in the Rules and such penalties will be invoiced to Developer. Developer will also provide to University Lands via electronic mail to ogregulatory@utsystem.edu copies of all correspondence and other information from the Railroad Commission as required by the Rules.

## OTHER DATA OBLIGATIONS. Upon written notice from University Lands, Developer will promptly and timely provide University Lands any data and information related to all of Developer’s operations and activities under this Designation, without limitation. University Lands’ notice may be sent via electronic mail and will include a description of:(i) the data required; (ii) the format, form, and method for delivery of the data to University Lands; and (iii) the date by which Developer must comply with University Lands’ data request.

## RIGHT TO AUDIT. University Lands and its Representatives have the right to examine, make copies of, and extract any information from Developer’s books, records, accounts, and agreements related to the Production Acreage, and all operations or production on or from the Production Acreage.

## ROYALTY PAYMENT REPORT. Not more than once every twelve (12) months, upon University Lands’ written request, Developer will promptly provide to University Lands a report detailing the amounts, dates, and calculations of all royalties paid under this Designation. University Lands may elect to have such report and its source information audited to determine the accuracy of the report. If University Lands identifies an error in royalties paid, University Lands will notify Developer in writing of the error, and Developer will have a period of fifteen (15) calendar days from receipt of the notice to (i) remit all previously unpaid royalties to University Lands, plus interest as specified in the Rules, and (ii) reimburse University Lands for all costs and expenses associated with the audit.

## MATERIALITY. Developer’s failure to comply with its obligations to provide data and information as required herein may result in monetary or other penalties, including default of this Designation after receipt of the notice detailed in Article 12.a below or forfeiture of this Designation under Article 12.c.

# **STANDARD OF CARE.**

## DIRECTIVES. Developer will conduct all Operations (and all related and/or ancillary activities) on the Production Acreage in compliance with the Directives. Developer agrees that the provisions of the Directives that reference “lease(s)” or are applicable to “lease(s),” apply directly to this Designation and to Developer, including but not limited to data reporting requirements, requirements related to penalties and interest, forfeiture, or shut-in royalties as they relate to “lease(s).”

## STANDARD OF CARE. Developer owes to University Lands the duties of a reasonably prudent operator in the: (i) development, operation, production, and marketing of Produced Substances; (ii) reduction of underground or above ground waste of Produced Substances, including all reasonable attempts to avoid and reduce physical waste, flaring, venting of gas, or emissions produced from the Production Acreage; (iii) plugging and abandoning the Well; and (iv) restoration of the Production Acreage to the condition it was in before any operations or activities were commenced under this Designation. Production of any one Produced Substance will not relieve Developer of its obligation to develop and produce any other Produced Substance covered by this Designation that can be produced from the Well, consistent with this Designation.

## TEXAS RAILROAD COMMISSION.

### Without the written consent of University Lands (which may be withheld in its sole discretion), Developer shall not grant itself or any other Person a Texas Railroad Commission “Rule 37” waiver and/or exception, or any other waiver or exception related to lease-line and/or between-well spacing requirements.

### If Developer seeks to establish new field rules or amend or consolidate existing field rules, Developer shall notify University Lands of such request and obtain the approval of University Lands (which such approval may be withheld in its sole discretion) prior to filing any application with the Railroad Commission of Texas. Developer shall also provide to University Lands all exhibits relative to such application and subsequent hearings. If Developer fails to notify University Lands of any such request or application described above, or timely provide any related exhibits or materials, then such new, amended, or consolidated field rules shall not apply to the Subject Lands, unless and until such approval is given or the new field rules or amendments are ratified by University Lands for the purposes of this Agreement.

# **SURFACE USE PROVISIONS; CULTURAL RESOURCES; ENVIRONMENTAL OBLIGATIONS; USE OF WATER, CALICHE, SAND, AND GRAVEL.**

## DIRECTIVES; RATE AND DAMAGE SCHEDULE; GROUNDWATER MANAGEMENT PLAN. Developer must comply at all times with all Directives related to surface operations on the Production Acreage, including but not limited to, the Field Manual and the provisions therein regarding surface maintenance, roads, cattle guards, gates, and locks. All operations and/or activities (including, but not limited to, Operations) on the Production Acreage are subject to the compliance and enforcement provisions of the Directives, including the penalties provided therein for failure to comply with any and all provisions of the Directives or this Designation. All operations conducted on the surface of the Production Acreage will be subject to payments and rates as listed in the Rate and Damage Schedule in effect at the time such operations are conducted.

## ROAD MAINTENANCE. Developer shall perform routine road maintenance on all roads that are utilized by Developer or any of its Representatives to service production facilities whether the road is on the Production Acreage or is used to access the Production Acreage. Specifically, after significant precipitation, Developer must perform road maintenance to ensure that the roads are safe and accessible for travel. Furthermore, Developer must promptly repair all broken cattle guards, gates, and fences that have been damaged, including damages caused by Developer’s Representatives. Developer must respond within twenty-four (24) hours upon request of University Lands or University Lands’ surface landman to make said repairs*; provided; however;* that Developer’s obligation to make repairs is not contingent on any such request. Developer is responsible for the supervision of drilling rig movements in and out of the boundaries of the Production Acreage and any other land belonging to University Lands to minimize any damage caused to roads, cattle guards, and gates. If damage occurs to roads, cattle guards, or gates as a result of Developer’s operations and/or activities (including, but not limited to, Operations) on the surface of the Production Acreage or any other land owned by University Lands, Developer must repair such damage promptly. Compliance with these requirements is necessary to ensure the safety of personnel working on the lands owned by University Lands and to maintain the resources and to minimize any negative impact on the environment and the community.

## INSPECTION. University Lands shall have the right to inspect the Production Acreage, including (without limitation) Well and related facilities located thereon. Upon inspection of the Production Acreage by University Lands and notification of any violation of the Designation terms or any applicable law, rule, or regulation is found, Developer shall submit a corrective action work plan for approval. The corrective action work plan shall be submitted within thirty (30) days of the notification, unless otherwise approved by University Lands. The corrective action work plan shall include any documentation describing the observations made during the inspection event and provide detailed descriptions of the corrective actions to be taken, the time frame for completion, and any other information that University Lands deems necessary. Developer shall diligently and expeditiously complete the corrective actions identified in the approved corrective action work plan. Developer shall be responsible for all costs (and shall solely bear all risks) associated with implementing the corrective action work plan, including but not limited to, the costs of consultants, contractors, and materials. The corrective action work plan shall be subject to the approval of University Lands, which approval shall not be unreasonably withheld. If University Lands does not approve the corrective action work plan within thirty (30) days of its submission, University Lands shall provide a written explanation of the reasons for the disapproval. Developer shall not be relieved of any obligations or liabilities under this Designation or any applicable law, rule, or regulation (including the Directives and the Field Manual) as a result of the submission and approval of a corrective action work plan, and the approval of a corrective action work plan shall not constitute a waiver of any rights or remedies available to University Lands under this Designation or any applicable law, rule, or regulation (including the Directives and the Field Manual).

## SURFACE ACCESS OF DEVELOPER. Except as otherwise expressly provided in this Designation and the Directives, Developer may use only so much of the surface as reasonably necessary to exercise the rights provided by this Designation. Developer may lay and maintain gathering lines, erect and maintain telephone and utility lines, and install other appurtenances and equipment necessary for the operation of the Well on the Production Acreage, to the extent and only to the extent designated or approved by University Lands as set forth in the Field Manual. The use of the surface is not exclusive, and Developer acknowledges that there are numerous existing uses of the surface estate including but not limited to pipeline easements, wind leases, solar leases, road or utility easements, grazing leases, and other uses or leases, easements, permits and encumbrances. Developer shall not be entitled to any monies from operations on the Subject Lands related to the current or futures uses of the surface estate.

## SURFACE ACCESS OF UNIVERSITY LANDS. University Lands and its Representatives will have the full right of ingress and egress and right of way over the Production Acreage for any and all purposes which University Lands may consider necessary or advisable at all times.

## SURFACE DAMAGES. Developer must repair, restore, and pay for all damages resulting from Developer’s, its Representatives’, assigns’, and successors’ activities under this Designation, including without limitation damages to real and personal property, Water wells, improvements, livestock, and crops on the Production Acreage or adjacent lands owned or controlled by University Lands, regardless of the cause of such damage, pursuant to the then-current Rate and Damage Schedule. Developer acknowledges that the cost of such repairs or damages contemplated by this Article or any other provision of this Designation requiring restoration or repair may exceed the fair market value of the property damaged, and the cost of such damages and repairs will not be limited by fair market value. By entering into this Designation, Developer agrees to promptly complete all required or requested repairs and restorations, and no release, forfeiture, or termination of this Designation will relieve Developer from its obligations under this Designation or pursuant to applicable law, including the obligation to plug Well and clean and restore the Production Acreage.

## MAINTENANCE OF THE WELL SITE AND IDENTIFICATION MARKERS.

### Developer will build and maintain necessary and appropriate fences capable of turning livestock around its facilities on the Production Acreage and will take all necessary precautions to protect livestock against loss, damage, or injury.

### Developer will erect and maintain all signage, tags, plates, and other identification markers on the Production Acreage in accordance with the Directives and Railroad Commission requirements.

### Any lines, including but not limited to, electric, Water, and oil and gas transportation lines, located on the Production Acreage must be buried to a sufficient depth to allow the use of deep plowing equipment for agricultural purposes. As such, Developer must cover the top of all lines by at least thirty-six inches (36”) of soil. Any rock brought to the surface in connection with laying lines will be placed back in the ditch below deep plowing depth. Large amounts of rock that could interfere with the cultivation of the soil will be promptly removed from the Production Acreage by Developer. Developer will record in the county records where the Production Acreage are located a survey of all “as-built” electric, communications, Water, and oil and gas lines located on the Production Acreage and will provide a recorded copy of each document to University Lands within thirty (30) days of recording.

### Developer agrees to maintain seals on all meters and tank batteries, require oil transport vehicles to maintain trip tickets, and exercise the highest degree of care and all reasonable safeguards, as a reasonably prudent operator, to prevent the theft or loss of Produced Substances.

### Unless otherwise agreed by University Lands, within ninety (90) days from Completion of the Well (i) all pits will be emptied and filled in, (ii) all surface areas, including roads, will be filled and leveled, (iii) all caliche not needed for a base for a tank battery, pumping unit, roadway, or other equipment, will be removed and placed back in the pit from which it was initially excavated (if on the Production Acreage), unless specified otherwise by University Lands, (iv) all restored areas will be reseeded under the direction of University Lands, and (v) the surface of the applicable Production Acreage will be restored by Developer to the condition it was in before any operations were commenced.

### Upon the expiration or termination of the Term, Developer will, unless otherwise instructed in writing by University Lands, (i) remove all equipment, including pipelines and utilities, (ii) drain, fill, and level all pits, and (iii) restore the surface of the Production Acreage to the condition it was in before any operations were commenced. Failure by Developer to fulfill these obligations within one hundred-twenty (120) days after expiration or termination of the Term will result in monetary or other penalties as allowed under the Directives. Upon expiration or termination of the Term, Developer shall be required to plug and abandon the Well, remove any appurtenant equipment and restore the surface for the Well location within ninety (90) days from the expiration or termination of the Term. If Developer fails to fulfill these obligations, Developer shall pay to University Lands as liquidated damages five thousand dollars ($5,000) per month as well as any other amounts provided for under the Directives. Developer acknowledges that, as of the Effective Date, the harm caused by its failure to fulfill these obligations is incapable or difficult of estimation and the amount of liquidated damages called for herein is a reasonable forecast of just compensation.

## CULTURAL RESOURCES. Developer will comply with the Antiquities Code (Texas Natural Resources Code, Chapter 191 or its successor statute) and applicable rules promulgated thereunder by the Texas Historical Commission or its successor. Developer will undertake its activities on the Production Acreage in a manner consistent with public policy relating to the location and preservation of archeological sites and other cultural resources in, on, or under public lands, including the Production Acreage. Developer will not remove and must use the highest degree of care and all reasonable safeguards to prevent the taking, alteration, damage, destruction, salvage, or excavation of cultural resources and/or landmarks on the Production Acreage. Upon discovery of an archeological site, Developer will immediately give written notice of such discovery to University Lands and to the Texas Antiquities Committee, as set out in the Texas Historical Commission’s rules. Neither Developer nor its Representatives will have any right, title, or interest in or to any archaeological articles, objects, or artifacts, or other cultural resources located or discovered on the Production Acreage.

## POLLUTION MANAGEMENT AND REDUCTION; HAZARDOUS MATERIALS; ENVIRONMENTAL REMEDIATION.

### Developer will use the highest degree of care and all necessary safeguards to prevent contamination or pollution of any environmental medium, including soil, surface Water, groundwater, sediments, and surface or subsurface strata, ambient air, or any other environmental medium in, on, or under the Production Acreage by any waste, pollutant, or contaminant. If contamination or pollution occurs, Developer will notify University Lands immediately and provide all internal and external reports Developer prepares related to such contamination and pollution. Developer will not bring or permit to remain on the Production Acreage any explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation (collectively, “***Hazardous Materials***”), except products commonly used in connection with oil and gas exploration and development operations and stored in a lawful manner and in lawful quantities. To the satisfaction of University Lands, 8.iDeveloper will clean up, remove, remedy, and repair any soil or groundwater contamination and damage caused by the presence or release of any Hazardous Materials in, on, under, or about the Production Acreage resulting from Developer’s operations on the Production Acreage. Burial of Hazardous Materials is explicitly prohibited. Developer’s obligations in this Article 10.i. will survive the expiration or termination of this Designation. Developer will install rig and other oilfield lighting in a manner that minimizes light pollution as much as reasonably possible and will use best industry practices to capture and minimize air pollution and emissions. Unless otherwise approved by University Lands, Developer will comply with all environmental laws, rules, and regulations, regardless of any legal challenges, until the appropriate legal authority amends or changes the regulation or a court of competent jurisdiction has issued a final decision on the matter in question.

### Developer shall proactively monitor its operations on the Production Acreage to ensure compliance with all applicable environmental laws, regulations, and standards. If Developer's operations cause any pollution or contamination of the Production Acreage, Developer shall immediately take all necessary actions to mitigate, remediate, and restore the affected area to its pre-contamination state and will provide University Lands with copies of all regulatory submittals, responses and deliverables to each regulatory entity which is charged with regulatory oversite and closure of the pollution or contamination. If University Lands becomes aware of any pollution or contamination caused by Developer’s operations on the Production Acreage, University Lands may require Developer to submit a corrective action work plan for approval. The corrective action work plan shall include a detailed description of the corrective actions to be taken, the time frame for completion, and any other information that University Lands deems necessary. Developer shall diligently and expeditiously complete the corrective actions identified in the approved corrective action work plan. Developer shall be responsible for all costs associated with implementing the remediation plan, including but not limited to, the costs of consultants, contractors, and materials. Developer shall perform the remediation work in accordance with all applicable environmental laws, regulations, and standards as required by University Lands, and shall provide University Lands with written updates on the progress of the remediation work on a regular basis. Developer shall not be relieved of any obligations or liabilities under this Designation or any applicable law, rule, or regulation (including the Directives and the Field Manual) as a result of the submission and approval of a remediation plan or corrective action work plan, and the approval of a remediation plan or corrective action work plan by University Lands shall not constitute a waiver of any rights or remedies available to University Lands under this Designation or any applicable law, rule, or regulation (including the Directives and the Field Manual).

## SURFACE WATER. University Lands’ express written consent is required prior to Developer using any surface Water found on the Production Acreage or any property owned or controlled by University Lands or any Water from Water wells or stock tanks controlled by University Lands or its surface tenants. In the event Water for Operations (including but not limited to recycled, fresh, or blended) is imported by Developer or its Representatives from fee lands outside of University Lands’ boundaries, Developer shall be responsible for payment of a tariff the greater of (i) ten ($.10) cents per barrel and (ii) the amount set forth in the Rate and Damage Schedule (as may be updated from time to time). Further, if produced Water is transported by Developer or its Representatives off the Subject Lands for disposal on fee lands, Developer shall be responsible for payment of a tariff the greater of (a) ten ($.10) cents per barrel and (b) the amount set forth in the Rate and Damage Schedule (as may be updated from time to time). Operator shall meter all Water imported and exported pursuant to this Designation and report monthly to University Lands or upon written request.

## SUBSURFACE WATER, CALICHE, GRAVEL, AND SAND.

### Developer must promptly provide to University Lands a written estimate of Developer’s subsurface Water, caliche, gravel, and sand needs in connection with Operations or other activities on the Production Acreage. Developer may use such products from the Production Acreage or other lands owned by University Lands, in each case, upon receipt of University Lands’ prior written approval, and if such products are available from PUF lands. Developer will pay the prices for all such substances as listed in the Rate and Damage Schedule in effect at the time the substances are used or produced. Developer may not acquire or use Water, caliche, gravel, or sand from non-PUF lands in connection with Operations or other activities on the Production Acreage without the prior written consent of University Lands, which may be granted or withheld in University Lands’ sole and absolute discretion.

### Provided that Developer obtains University Lands’ prior written approval, Developer may use subsurface Water found and produced or impounded by Developer on the Production Acreage for Drilling, Completion, and construction operations only in connection with primary Hydrocarbon production (and not secondary or enhanced Hydrocarbon production) from the Production Acreage.

# **RELEASE AND INDEMNITY.**

## Developer assumes all risks and liabilities of any kind resulting in any manner, directly or indirectly, from Developer’s Operations and other activities on the Production Acreage and agrees to keep the Production Acreage duly and fully protected from any violations thereto, and against liens of every character arising from its Operations and other activities and hereby agrees to INDEMNIFY, DEFEND, HOLD HARMLESS, RELEASE AND DISCHARGE University Lands, the State of Texas, University Lands, the Board of Regents, the University of Texas System, the officers and board members of University Lands, and each of their respective Representatives, regents, heirs, devisees, successors and assigns (the “***University Lands Indemnified Parties***”) from and against any and all claims, liabilities, losses, damages, actions and causes of action of every nature (including personal injury and wrongful death), costs and expenses, or other harm for which recovery of damages is sought, under any theory including tort, contract or strict liability, including attorneys’ fees and other legal expenses, in each case which arise out of, are incidental to, result from or are in any way related to (i) environmental hazards on the Production Acreage, (ii) Developer’s failure to comply with any and all environmental laws, (iii) the Operations or any other activities of, or on behalf of, Developer on the Production Acreage, including any use of the surface, (iv) Developer’s breach of any of the terms or provisions of this Designation, (v) any breach of Developer’s representations and warranties in Article 16 and/or (vi) any other act or omission of Developer, its Representatives, guests or invitees.

## Each assignee of this Designation, or an interest therein, agrees to be liable for, exonerate, indemnify, defend, hold harmless and release the University Lands Indemnified Parties in the same manner as provided above.

## University Lands makes no representations or warranties whatsoever, and disclaims all liability and responsibility for any representation, warranty, statement, or information made or communicated (orally or in writing) to Developer (including any opinion, information, or advice that may have been provided to Developer by any respective Affiliate or Representative of University Lands and/or by any investment bank or investment banking firm, and/or any petroleum engineer or engineering firm). without limiting the generality of the foregoing, University Lands expressly disclaims and negates any representation or warranty, express, implied, at common law, by statute, or otherwise, relating to (a) the title to any of the Production Acreage, (b) the condition of the Production Acreage (including any implied or express warranty of merchantability, fitness for a particular purpose, or conformity to models or samples of materials), it being distinctly understood that the Production Acreage are “as is,” “where is,” and “with all faults as to all matters,” (c) any infringement by University Lands of any patent or proprietary right of any third party, (d) any information, data, or other materials (written or oral) furnished to Developer by or on behalf of University Lands (including without limitation, in respect of the data, the existence or extent of Hydrocarbons or the mineral reserves, the recoverability of such reserves, any product pricing assumptions, and the ability to sell Hydrocarbon production), and (e) the environmental condition and other condition of the Production Acreage and any potential liability arising from or related to the Production Acreage.

## Developer acknowledges and affirms that it has made its own independent investigation, analysis, and evaluation of the Production Acreage (including Developer’s own estimate and appraisal of the extent and value of the Hydrocarbon reserves attributable to the Production Acreage and an independent assessment and appraisal of the environmental risks associated with the Production Acreage). Developer acknowledges that in entering into this Designation, it has relied and will rely on the aforementioned investigation. Developer hereby irrevocably covenants to refrain from, directly or indirectly, asserting any claim, or commencing, instituting, or causing to be commenced, any proceeding of any kind against University Lands or any of the University Lands Indemnified Parties, alleging facts contrary to the foregoing acknowledgment and affirmation.

## Developer acknowledges and accepts that: (a) the Production Acreage have been used in connection with the exploration for, and the development, production, treatment, and transportation of, Hydrocarbons; (b) spills of wastes, Hydrocarbons, produced water, Hazardous Materials, and other materials and substances may have occurred in the past or in connection with the Production Acreage; (c) there is a possibility that there are currently unknown, abandoned wells, plugged wells, pipelines, and other equipment on or underneath the Production Acreage; (d) the Production Acreage may contain asbestos and other man-made fibers (“***MMMF***”), Hazardous Materials, and/or naturally occurring radioactive material (“***NORM***”); (e) NORM may affix or attach itself to the inside of wells, materials, and equipment as scale or in other forms; (f) wells, materials, and equipment located on the Production Acreage may contain NORM; (g) NORM-containing material may have been buried or otherwise disposed of on the Production Acreage; and (i) special procedures may be required for remediating, removing, transporting, and disposing of MMMF, NORM, Hazardous Materials, and other materials from the Production Acreage.

## Developer’s indemnity obligations and liabilities assumed under this Designation by Developer (including without limitation those set forth in this Article 9) will be without limits and will be effective and enforceable against Developer and in favor of the University Lands Indemnified Parties regardless of (i) the cause or causes thereof, (ii) any theory of strict liability or (iii) any sole, joint or concurrent negligent act or omission of the University Lands Indemnified Parties, whether said act or omission is the proximate cause of injury or not (except if caused by the willful misconduct of the University Lands Indemnified Parties).

# **INSURANCE.**

## In accordance with the Directives, Developer will ensure that Developer and any person acting on Developer’s behalf under this Designation will carry the required insurance with one or more insurance carriers licensed by the Texas Department of Insurance in the amounts required by the Directives or otherwise required by law.

## By January 1 of each calendar year, Developer will deliver to University Lands Certificates of Insurance evidencing Developer’s insurance coverage. For those policies of (i) Commercial General Liability and Umbrella Liability Insurance and (ii) Business Auto and Umbrella Liability Insurance, such polices must include endorsements to: (v) name the University Lands Indemnified Parties as additional insureds; (x) be primary in relation to any policies carried by the University Lands Indemnified Parties; (y) reflect that University Lands will receive twenty (20) days prior written notice of cancellation or material change to Developer’s insurance coverage; and (z) reflect that the insurer has waived any right of subrogation against the University Lands Indemnified Parties.

# **LIEN.** By acceptance of this Designation, Developer grants to the Board of Regents an express contractual lien on and security interest in all Produced Substances in and extracted from the area covered by this Designation, all proceeds which may accrue to Developer from the sale of the Produced Substances, whether the proceeds are held by Developer or another person, and all fixtures on and improvements to the Production Acreage used in connection with the production or processing of the Produced Substances to secure the payment of royalties and other amounts due or to become due under this Designation or the TEC and to secure payment of damages or loss that University Lands may suffer by reason of Developer’s breach of a covenant or condition of this Designation, whether express or implied.

# **BREACH; DEFAULT; FORFEITURE.**

## University Lands’ acceptance of any payments under this Designation will never constitute or be deemed to be: (i) a ratification, renewal, or amendment of this Designation; (ii) a waiver of the rights granted to University Lands, or the obligations imposed upon Developer; or (iii) an estoppel against University Lands preventing the enforcement of University Lands’ rights or Developer’s obligations hereunder or from seeking damages for Developer’s breach of this Designation. University Lands’ agreement to accept royalty payments directly from any purchaser will not affect Developer’s obligations to pay royalties to University Lands under this Designation. No instrument executed by University Lands will be effective to constitute a ratification, revivor, renewal, extension, or amendment of this Designation unless the instrument is clearly titled to indicate its purpose and intent.

## If Developer violates, fails to perform, or breaches any term or covenant in this Designation, University Lands will notify Developer in writing of the violation, failure, or breach. Developer will have thirty (30) calendar days from receipt of University Lands’ written notice, in which to remedy the violation, failure, or breach. If Developer disputes any claim by University Lands of a breach or default, Developer will notify University Lands of its dispute as soon as possible, but not later than fifteen (15) calendar days after receipt of University Lands’ notice. The receipt by University Lands of such notice from Developer will be a condition precedent to University Lands’ right to bring an action for any cause, and in the absence of such notice, no such action will be brought by University Lands until the expiration of the thirty (30) day notice period to Developer. University Lands may remedy any type of breach or default or, at University Lands’ election, terminate this Designation pursuant to Article 12.c below (by filing an instrument evidencing such termination in the county or counties in which the Production Acreage are located), if Developer fails to remedy such breach or default within the thirty (30) day period. In addition to any other remedies available to University Lands, University Lands may elect to remedy any breach or default with contemporaneous written notice to Developer if immediate action by University Lands would mitigate or prevent further, avoidable damages or if Developer’s breach or default involves any environmental or regulatory issues. Under those circumstances, Developer must pay all damages, costs, and expenses incurred by University Lands, including, but not limited to attorney’s fees, within ten (10) calendar days of University Lands’ presentation to Developer of receipts related to such actions. If University Lands remedies a claimed breach or default to mitigate damages or to remedy environmental or regulatory issues, Developer must pay all costs presented by University Lands, and Developer’s payment will only be refunded if Developer prevails in its dispute of the underlying claim. If University Lands pursues litigation and prevails in its claim of breach or default, Developer must pay all costs and expenses incurred by University Lands in enforcing the terms of this Designation, including attorney’s fees and interest on all money expended by University Lands to remedy such breach or default (if applicable) at the highest rate allowed by the Directives.

## Under the Directives, this Designation is also subject to forfeiture for Developer’s failure to comply with the terms of this Designation. Once all or any portion of the Production Acreage has been forfeited by Developer, it will immediately be available for offer in public lease sales or other contracts for development. Developer acknowledges and agrees that each of its obligations and requirements under this Designation is material and failure to satisfy one or more obligation or requirement hereunder may result in default of this Designation after receipt of the notice detailed in Article 12.b above or forfeiture of this Designation under this Article 12.c.

## Nothing herein will be construed as waiving or preventing the automatic termination of this Designation by operation of law or by reason of any special limitation or condition arising under this Designation, and University Lands may exercise all remedies available to University Lands to enforce or terminate this Designation, collect monetary payments due, or take any other action related to the Designation.

# **ASSIGNMENTS; RELEASE.**

## Developer shall not assign or transfer this Designation, any right, interest, or obligation hereunder, nor its interest in the wellbore of the Well, in whole or in part (including in all cases via operation of a change of control or merger, regardless of whether such change of control or merger is deemed an assignment or transfer under applicable law) without prior written consent of University Lands. Consent under this Article 13 may be withheld, granted, or conditioned as University Lands deems appropriate within its sole discretion for any reason or no reason at all, and may include the requirement of payment of additional consideration. Subject to the foregoing, Developer must promptly provide recorded copies of assignments (or other transfer documents) to University Lands within thirty (30) days of the assignment or transfer from Developer to another party. Any attempt to assign or transfer this Designation or any right, interest, or obligation hereunder, in whole or in part, without the prior written consent of University Lands will not be effective and will nullify this Designation. Failure to provide a recorded copy of an assignment (or other transfer documents) subject hereto to University Lands will result in monetary penalties and will also result in default of this Designation after receipt of the notice detailed in Article 12.b above or forfeiture of this Designation under Article 12.c. Further, the relinquishment of rights acquired under this Designation is governed by the Directives.

## The assignment or relinquishment of the Production Acreage, or any part of the Production Acreage, will not relieve the Developer of any obligations accrued under this Designation prior to such assignment or relinquishment, including plugging and abandonment liabilities, or impair any liens provided by law or this Designation. University Lands may at its option require any assignee of Developer to demonstrate financial wherewithal to comply with such assignee’s obligations under this Designation and may require a bond or other security from such assignee. All assignments must reference this Designation by file number.

# **VENUE**. The venue for any suit arising out of a provision of this Designation, whether express or implied, regarding interpretation of this Designation, or relating in any way to this Designation or to applicable case law, statutes, or administrative rules, will be selected by University Lands in its sole discretion in a court of competent jurisdiction located in either Harris County, Texas, Travis County, Texas, or the county in which the Production Acreage are located, and University Lands and Developer expressly submit to the jurisdiction of such court and the State of Texas. Developer waives any right to any transfer of venue or plea to the jurisdiction that might exist in the absence of this provision. University Lands and Developer agree that Texas law exclusively, and without regard to choice of law rules, governs this Designation. Developer expressly waives, and University Lands has the election in its sole and absolute discretion to waive, trial by jury in any litigation arising out of, connected with, or relating to this Designation.

# **MISCELLANEOUS.**

## SUCCESSORS AND ASSIGNS. The covenants, conditions, liabilities, and obligations contained in this Designation will be binding upon the heirs, executors, administrators, successors, or assigns of Developer.

## CONFLICTS AND THE DEVELOPMENT AGREEMENT. If a conflict arises between the terms of this Designation and the terms of the Directives, the provisions of the Directives will control and prevail; *provided, however*, that the terms of this Designation may supplement the Directives. This Designation is executed and delivered pursuant to the terms and conditions of the Development Agreement. To the extent a conflict arises between the terms of this Designation and the terms of the Development Agreement, the terms of this Designation shall control and prevail; *provided, however,* that in no event shall this Designation release Developer from its obligations under Article 3 (Development Requirements) of the Development Agreement or any other of its duties and obligations as provided thereunder. Capitalized terms which are used but not otherwise defined herein shall have the meaning prescribed to such terms in the Development Agreement.

## SEVERABILITY. If any clause or provision of this Designation is invalid or unenforceable at any time under then-current laws, the remainder of this Designation will not be affected, and this Designation will be modified so that there will be added as a part of this Designation a legal, valid, and enforceable clause or provision as similar in terms as possible to the invalid or unenforceable clause or provision.

## CAPTIONS. The captions of the Articles of this Designation are for reference purposes only and will not affect the meaning or interpretation of this Designation.

## TIME OF ESSENCE. Time is of the essence in this Designation.

## TITLE. As provided in Article 9.c, this Designation is provided without any covenant of title or warranty of title of any kind whatsoever, express, implied or statutory. Developer will have no recourse against the University Lands in the event of any failure of title, nor will any of the consideration paid for this Designation, or any royalties or any other payments made hereunder, be refunded to Developer.

## RECORDATION OF DESIGNATION. University Lands and Developer have not executed a Memorandum of Designation. Developer is hereby required to promptly record this Designation in the records of the county or counties in which the Production Acreage are situated, to give record notice of this Designation and to serve as a financing statement under the Texas Uniform Commercial Code.

## ENTIRE AGREEMENT. This Designation and the Development Agreement constitute the sole agreement of the Parties with respect to the subject matter and supersedes any prior written or oral agreements or communications between the Parties. This Designation may only be amended in a writing signed by both Parties.

## SURVIVAL. The terms and conditions of this Designation which by their nature extend beyond termination or expiration of this Designation will survive the termination or expiration of this Designation and all provisions containing waivers, disclaimers, representations, warranties, releases, defense obligations and indemnities, all provisions relating to limitations of liabilities, dispute resolution, governing law, and notice and communication requirements. These surviving provisions are essential for the continued interpretation and enforcement of the Parties’ rights and obligations under this Designation.

# **REPRESENTATIONS AND WARRATNIES OF DEVELOPER**. As of the Effective Date, Developer hereby represents and warrants to University Lands the following:

## Organization and Good Standing. Developer is duly organized, validly existing, and in good standing under the laws of the state of its formation and in every state in which it is qualified to do business, including the State of Texas.

## AUTHORITY; NO CONFLICT.

### This Designation constitutes the legal, valid, and binding obligation of Developer, enforceable against Developer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy or other similar laws affecting the rights and remedies of creditors generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). Developer has the absolute and unrestricted right, power, authority, and capacity to execute and deliver this Designation and to perform its obligations under this Designation.

### The execution and delivery of this Designation by Developer shall not contravene, conflict with, or result in a violation of (i) any provision of the Organizational Documents of Developer, or (ii) any resolution adopted by the board of directors, board of managers, stockholders, or members of Developer.

### Developer is not and shall not be required to give any notice to or obtain any consent from any person in connection with the execution and delivery of this Designation or the execution of any Designation of Production Acreage.

### The individual executing this Designation on behalf of Developer represents that they have full power and authority to enter into this Designation on behalf of Developer.

## Certain Proceedings. There is no pending proceeding that has been commenced against Developer that challenges, or may have the effect of preventing, delaying, making illegal, or otherwise interfering with, its obligations under this Designation. To Developer’s knowledge, no such proceeding has been threatened.

## Knowledgeable Investor. Developer is an experienced and knowledgeable investor in the oil and gas business. Before entering into this Designation, Developer was advised by its own legal, tax, and other professional counsel concerning this Designation and the Production Acreage (and the value thereof), and it has relied solely thereon.

## DUE DILIGENCE

. Developer has performed such review and due diligence with respect to the Production Acreage, which includes reviewing well data and other files in performing necessary evaluations, assessments, and other tasks involved in evaluating the Production Acreage as it deems necessary to enable it to make an informed decision to enter into this Designation.

## BASIS OF DEVELOPER’S DECISION

. By reason of Developer’s knowledge and experience in the evaluation, acquisition, and operation of oil and gas properties, Developer has evaluated the merits and the risks of entering into this Designation and has formed an opinion based solely on Developer’s knowledge and experience, Developer’s due diligence, and not on any representations or warranties by University Lands. Developer has not relied and shall not rely on any statements, comments, projections or other materials made or given by University Lands or its Representatives in making its decision to enter into this Designation.

## Financial Ability. Developer has access to sufficient funds to enable it to perform all of its duties and obligations as required under this Designation.

## Bankruptcy. There are no bankruptcy, reorganization, receivership, or arrangement proceedings pending or being contemplated by Developer or, to Developer’s knowledge, threatened against Developer. Developer is solvent.

# **DEFINITIONS**.

## **“*Affiliate*”** means a person or entity that directly or indirectly controls, is controlled by, or is under common ownership or control with Developer, specifically including but not limited to parents and subsidiaries (i) that directly or indirectly own or control at least a ten percent (10%) interest in Developer, or (ii) in which Developer directly or indirectly owns at least a ten percent interest.

## “***Board for Lease***” refers to the Board for Lease of University Lands.

## “***Board of Regents***” means the Board of Regents of the University of Texas System.

## “***Costs and Expenses***” means all costs, whether related to the costs of production or incurred post-production, associated with the Produced Substances, including but not limited to (i) producing, manufacturing, gathering, storing, separating, treating, dehydrating, conditioning, compressing, processing, marketing, fractionating or transporting the Produced Substances (including deductions for lost product or line losses), and (ii) any and all costs (including depreciation) associated with any plant or other facility or equipment for processing or treating Produced Substances, in each case of (i) and (ii), whether directly or indirectly borne by Developer or by third- party purchasers and whether stated as a deduction from the price paid for such Produced Substances (or for products derived from such Produced Substances) or an adjustment to such price based on location or condition.

## “***Designated Interval***” means the depths determined pursuant to Article 7 of the Development Agreement and specifically identified on Exhibit A attached hereto.

## “***Developer***” is defined in the introductory paragraph of this Designation.

## **“*Director*”** refers to the Chief Executive Officer of University Lands or other person identified by the Board of Regents as primarily responsible for the management of University Lands.

## “***Directives***” means, collectively, (i) applicable federal, state, county, and city laws; (ii) all rules and regulations and orders of any local, state, or federal regulatory authority having jurisdiction, including the regulations and orders of the Texas Railroad Commission or its successor agency; (iii) the TEC; (iv) the Texas Natural Resources Code, including the provisions of and rules relating to the Antiquities Code, Texas Natural Resources Code, Chapter 191; (v) the Rules; (vi) the Field Manual; (vii) the Rate and Damage Schedule; (viii) the Regulatory Reporting Procedures; (ix) the Groundwater Management Plan; (x) the Surface Commingling Requirements, (xi) the Soil Remediation Guide; and (xii) the Seed Mixtures Specifications, (xiii) the University Lands Produced Water Frac Pit Design Construction, Operation and Closure specifications document in each case of (i) through (xiii), as may be amended, revised or modified from time to time.

## “***Effective Date***” is defined in the introductory paragraph of this Designation.

## “***Field Manual***” refers to the University Lands Surface Field Manual of Required Operating Procedures for Oil & Gas Leases, as amended from time to time, a copy of which may be found at http://universitylands.utsystem.edu/Content/Documents/Operations/FieldManual.pdf.

## “***Gross Production***” means all Produced Substances brought from underground up to and through the wellhead of the Well, and includes, but is not limited to, (i) all Hydrocarbons produced in liquid form as oil or condensate at the wellhead of the Well and also all condensate, distillate, and any other liquid Hydrocarbons recovered from Oil, condensate or gas run through a separator or other equipment; (ii) all Hydrocarbons and gaseous substances not in liquid form produced from the Well; and, (iii) natural gas or liquid Hydrocarbons, carbon dioxide, carbon black, sulfur, or any other products produced or manufactured from any gas or liquid. The Gross Production volumes of oil, condensate, and gas includes all sales, custody transfer dispositions and/or stored volumes and all non-sales disposition volumes, including but not limited to, use on the Production Acreage, fuel, vent, flare, spills, uncontrolled releases, theft, and any other loss. Gross Production volumes of gaseous Hydrocarbons must be adjusted and reported in MMBtus.

## “***Gross Value***” means the highest of (i) the prevailing market price for substances similar in type and characteristics to the Produced Substances in the general area, (ii) the gross proceeds of Developer’s or its Affiliate’s sale to an unaffiliated third party of the applicable Produced Substances, as may be adjusted under Article 3 of this Designation (iii) the highest price paid to Developer or an Affiliate of Developer for substances similar in type and characteristics to the Produced Substances in the general area, (iv) for crude oil, the posted market price for crude oil at the nearest crude market hub, without any other deductions whatsoever (including without limitation deductions for severance taxes), or (v) for gas, unless Developer obtains the prior written consent of University Lands, the greater of (a) the posted market price for gas at the nearest gas market hub, adjusted for MMBtu content and without any other deductions (including without limitation deductions for severance taxes), and (b) $1.50 MMBtu.

## “***Groundwater Management Plan***” refers to the University Lands Groundwater Management Plan, as amended from time to time, a copy of which may be found at https://universitylands.utsystem.edu/Content/Documents/Operations/Groundwater\_Management\_Plan.pdf.

## “***Hydrocarbons***” means oil, gas, casinghead gas, distillate, condensate, and by-products thereof, and other products separated or extracted from gas.

## “***Operations***” means (i) the production of oil, gas, or other Hydrocarbons in Paying Quantities from the Well and (ii) Reworking Operations.

## “***Organizational Documents***” – (a) the articles or certificate of incorporation and the bylaws of a corporation; (b) the articles of organization or certificate of formation and the limited liability company agreement of a limited liability company; (c) the certificate of limited partnership and limited partnership agreement of a limited partnership; and (d) any amendment to any of the foregoing.

## “***Paying Quantities***” means that the Well will be considered to be producing in “Paying Quantities” only if during the preceding six (6) month period, the income from the Well exceeds the operating and marketing costs specifically attributable to the Well.

## “***Produced Substances***” means Hydrocarbons produced, whether intentionally or unintentionally, from the Production Acreage.

## “***Production Acreage***” means the lands determined pursuant to Article 7 of the Development Agreement as specifically described on Exhibit A attached hereto, limited to the Designated Interval.

## “***Production Sharing Agreement***” means the University Lands Production Sharing Agreement, published by University Lands, as amended from time to time.

## “***Railroad Commission***” means the Railroad Commission of Texas (or any successor agency).

“***Rate and Damage Schedule***” means the University Lands Rate and Damage Schedule, published by University Lands, as amended from time to time, a copy of which may be found at https://universitylands.utsystem.edu/Content/Documents/Operations/Rate\_Damage\_Schedule.pdf.

## “***Regulatory Reporting Procedures***” means the University Lands Oil & Gas Leases Required Reporting & Compliance Procedures prepared and published by University Lands, as amended from time to time, a copy of which may be found at https://universitylands.utsystem.edu/Content/Documents/Operations/ULRequiredReportingComplianceProc.pdf.

## “***Representatives***” means representatives, owners, members, designees, directors, officers, employees, consultants, contractors, subcontractors, financial advisors, counsel, accountants, and other agents, as applicable.

## “***Reworking Operations***” means actual work on the Well that is related to the cause of cessation of production and is made in an attempt to recomplete or repair the Well and to return it to producing Produced Substances in Paying Quantities, performed with reasonable diligence in a good and workmanlike manner. Reworking Operations does not include normal maintenance of an oil or gas well, swabbing of an oil or gas well or applying soap sticks or other chemical treatment to increase or restore production.

## “***Rules***” means the rules promulgated by the Board for Lease of University Lands, as amended from time to time, a copy of which may be found at http://universitylands.utsystem.edu/Content/Documents/BFL/bfl\_rules.pdf.

## “***Seed Mixture Specifications***” means the University Lands Seed Mixture Specifications guidance, prepared and published by University Lands, as amended from time to time, a copy of which may be found at https://universitylands.utsystem.edu/Content/Documents/Operations/SeedMixturesByCounties.pdf.

## “***Soil Remediation Guidance***” means the University Lands Soil Remediation Guidance, prepared and published by University Lands, as amended from time to time, a copy of which may be found at https://universitylands.utsystem.edu/Content/Documents/Operations/Soil\_Remediation\_Guidance.pdf.

## “***Surface Commingling Requirements***” means the University Lands Surface Commingling Requirements, prepared and published by University Lands, as amended from time to time, a copy of which may be found at http://universitylands.utsystem.edu/Content/Documents/Contracts/SurfaceCommingleRequirements.pdf.

## “***TEC***” means Subchapter D, Chapter 66, Texas Education Code. Each reference to the TEC will refer to such subchapter, as amended from time to time, or any successor statutory provisions.

## “***University Lands***” is defined in the introductory paragraph of this Agreement.

## “***Water***” means all water in liquid state, of all kinds and characters including but not limited to fresh, recycled, and produced water.

## “***Well***” shall mean that certain oil and gas well as specifically described on Exhibit A attached hereto.

[Signature Pages to Follow]

IN WITNESS WHEREOF, each Party indicates acceptance of the terms of this Agreement by the signature below of an authorized representative.

|  |  |
| --- | --- |
| **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****DEVELOPER** | THE STATE OF TEXAS § §COUNTY OF HARRIS §This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2024, by \_\_\_\_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_\_\_**,** a\_\_\_\_\_\_, on behalf of said company. |
| By: |  |
| Name: |  |
| Title: |  |
| Date: |  |
|  |  |
|  | Notary Public  |

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| --- | --- |
| **UNIVERSITY LANDS** | THE STATE OF TEXAS § §COUNTY OF HARRIS §This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_\_\_\_, 2024, by William R. “Billy” Murphy, Jr. as Chief Executive Officer of **UNIVERSITY LANDS,** on behalf of said company. |
| By: |  |
| Name: | William R. “Billy” Murphy, Jr. |
| Title: | Chief Executive Officer |
| Date: |  |
|  |  |
|  | Notary Public  |

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| **STATE OF TEXAS** | **BOARD FOR LEASE OF UNIVERSITY LANDS** |
| By: |  | By:  |  |
|  | DAWN BUCKINGHAM, M.D.Commissioner of the General Land Office of the State of Texas |  | DAWN BUCKINGHAM, M.D.Chairwoman, Board for Lease of University Lands |
|  |  |  |  |
| Date: |  | Date: |  |

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**Exhibit A**

**Production Acreage**

[To Come]