

## NON-SURFACE OCCUPANCY

### OIL AND GAS LEASE

THIS AGREEMENT, made and entered into by and between the COUNTY OF TOMPKINS hereinafter referred to as "LESSOR", a municipal corporation organized and existing under the laws of the State of New York and \_\_\_\_\_, hereinafter called "LESSEE".

WHEREAS, the LESSOR is assumed to be the owner of the oil and gas underlying the following described Premises:

All that certain tract of land in the Town of \_\_\_\_\_, \_\_\_\_\_ County, New York, Shown on the map attached hereto designated Exhibit "A"; containing in total \_\_\_\_\_ acres, more or less.

NOW, THEREFORE, in consideration of the \_\_\_\_\_ cash in hand, which represents \_\_\_\_\_ dollars (\_\_\_\_\_) per acre, per year, for the first year of the Primary Term, paid by the LESSEE to the LESSOR, the receipt and sufficiency of which is hereby acknowledged, and of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. RIGHTS GRANTED. The LESSOR does hereby grant and let exclusively unto the LESSEE the Premises for the purpose of producing and removing oil and/or gas and all the constituents thereof, by pumping through wells or other means, the surface locations of which are on lands pooled in accordance with Paragraph 4 hereof. It is understood that the LESSOR grants only those rights owned by it and by execution of this Agreement makes no warranty or guarantee to LESSEE with respect to ownership of any rights under the Premises described in Exhibit(s) "A". No underground storage rights are granted to the LESSEE under any terms of this Lease.

2. NON-DRILLING. This Lease shall be considered and construed as a non-drilling Lease, which is to say that the same is given for the purpose of unit production as outlined herein, and LESSEE shall not drill any wells or set any surface equipment on the Premises; nor shall LESSEE enter upon, or use the surface of the Premises for any purpose whatsoever. Further, the LESSEE shall not cause the installation of any pipe conduit or other appurtenance within the confines of the Premises.

3. LESSEE shall comply with current and future provisions of 6 NYCRR Parts 550-559 pursuant to NYS Environmental Conservation Law §§23-0301 and §§23-0501 and other applicable N.Y.S. Laws, Rules and Regulations.

4. LESSEE shall not store on site gas or oil after extraction nor create sub-surface gas storage, LESSEE shall be responsible for removal of extracted oil or gas from the premises in a timely manner.

5. LESSEE shall prepare an Environmental Assessment Form for the LESSOR showing any significant factors and issues including unique natural areas, wetlands or sensitive vegetation. The form shall further disclose any water tables and their depth and location. (See attached Impact Areas of Concern to be addressed in EAF.) LESSOR reserves the right to terminate this lease should it view (based thereon) there to be an environmental risk or danger.

6. The Lease shall not allow shot-hole seismic surveying on the premises.

7. There shall be no construction of surface structures, including gas pipelines, roads or utilities on the leased premises and all subsurface mineral rights herein to be obtained from neighboring leased premises and not within 660 feet of these premises.

8. The LESSEE shall reimburse reasonable costs incurred by the LESSOR for its hiring of a private entity to monitor the compliance with the provisions of this lease. LESSEE shall also pay on execution hereof the LESSOR for technical advise hired by LESSOR in review of the environmental consequences of this lease. The amount of these costs may not exceed \$\_\_\_\_\_.

9. The LESSEE shall pay for any and all damages to roads and bridges directly related to LESSEE's use of heavy equipment thereon, including unusual wear and tear, which sums, as determined by the County's monitor, shall be paid to the municipality owning and maintaining said road.

10. LESSEE shall issue a performance bond in a form approved by LESSOR in the amount of [ ] payable to LESSOR to cover contracted decommissioning and rehabilitation costs to assure LESSOR satisfactory completion of LESSEE's responsibilities under this lease in the event of termination, abandonment, etc. LESSEE shall further indemnify LESSOR against claims from adjacent Landowner resulting from drilling operations under this lease to the downstream or aquifer owners rights, holding the LESSOR harmless and carry sufficient insurance approved by LESSOR to insure LESSOR of its freedom from such liability for damages, and also naming adjacent owners as named insureds.

11. DELAY RENTALS. In consideration of the cash in had paid, LESSOR agrees that LESSEE shall not be obligated, except as otherwise provided herein, to commence or continue any operations during the Primary Term. If, however, operations for drilling are not commenced on or before one year after the effective date of this lease, this lease shall then terminated as to both parties, unless on or before that date LESSEE shall pay to LESSOR the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per acre of the Property for the second and third years of the Primary Term, hereinafter referred to as the "Annual Delay Rental", which shall permit the operator to defer commencement of drilling operations for successive periods of twelve (12) months each during the life of the Primary Term. The payment of Annual Delay Rental shall be mailed or delivered to LESSOR on or before one year after the effective date of this lease, hereinafter referred to as the "Annual Delay Rental payment date."

12. POOLING. LESSEE at its option, and upon complete disclosure to LESSOR of the joint agreement and plan, and upon approval thereof by LESSOR, may at any time or times pool and consolidate this Lease, in whole or in part, or as to any stratum or strata, with land or leases adjacent to or in the immediate vicinity of this Lease, so as to constitute a unit or units not substantially exceeding 640 acres with respect to any zone or stratum predominately gas-bearing or oil-bearing, by delivering to LESSOR an instrument so declaring. LESSEE under the provisions hereof may unitize acreage or any portion thereof covered by this Lease as above provided as to gas and as to oil in any one or more strata. Units formed as to different strata need not conform in size or boundaries. The creation of units in on or more instances shall not exhaust the rights of the LESSEE hereunder to unitize this Lease or portions thereof into other units. LESSEE shall execute and deliver to LESSOR and file of record an instrument describing and designating the unit. Operations for drilling on or productions of gas and/or oil from any part of a unit embracing all or part of the Premises, regardless of whether such operations for drilling were commenced or such production was secured before or after the execution of the instrument designating the unit, shall be considered as operations for drilling on or production of gas and/or oil from the Premises irrespective of whether the well or wells be located on the Premises, and the entire acreage constituting such unit or units, as to gas and/or oil as herein provided, shall be treated for all purposes, except the payment of rentals and the payment of royalties on production from the unit, as if the same were included in this Lease. For the purpose of computing all royalties payable hereunder on gas and/or oil produced and saved from the unit, there shall be allocated to the Premises and included in said unit a fractional portion of the gas and/or oil produced and saved from the unit, such fraction to have as its numerator the number of surface acres included in the unit. Royalties hereunder shall be computed on the portion of such production, so allocated to the Premises and included in the unit, just as though such production were from the Premises. The production from a gas and/or oil well shall be considered as production from the Lease or gas and/or oil unit from which it is produced. The creation of a unit or units shall not have the effect of changing the ownership of the Premises or the amount of rental which may become payable under this Lease. A unit may be dissolved by LESSEE at any time when there is no unit well thereon producing or capable of producing gas and/or oil in paying quantities.

13. ROYALTY PAYMENTS: In consideration of the rights granted the LESSEE covenants and agrees:

(a) To pay to the LESSOR, as royalty, a sum equal to the value, at the field price per barrel, of one-eighth (1/8) part of all oil, distillate, condensate, natural gasoline or other liquid hydrocarbons, hereinafter referred to as "Oil", produced from the Premises and delivered into the pipeline or storage tanks to which the well is connected, without deduction for exploration, production, operation or other costs of LESSEE; the field price being that which prevails in that area on the day the Oil is delivered into the pipeline or storage tanks. Payments or royal for oil marketed during any calendar month are to be made on or about the 30<sup>th</sup> day of the following month.

(b) To pay to the LESSOR, as royalty, a sum equal to one eight (1/8) of the contract price of all natural gas, casinghead gas or other gaseous substance, hereinafter referred to as "Gas", produced from the Premises, measured at the wellhead on the date delivered to the purchaser of

the Gas and sold or used off the Property or used in the manufacturing of gasoline or other products therefrom, without deduction for exploration, production, operation or other costs of LESSEE. Payments or royalty for gas marketed during any calendar month are to be made on or about the 30<sup>th</sup> day of the following month.

14. In the event that this lease enters the secondary term described in Paragraph 8 below, where the royalties payable under subparagraphs (a) and (b) above do not in any year equal or exceed the sum of [ ] per acre of the Property per year, LESSEE shall pay to the LESSOR with respect to such year an amount equal to such sum. If such payment or tender is made, it will be considered that gas is being produced with the meaning of this Lease.

15. **PAYMENTS.** All payments to be made shall be made by check payable to the order of the **County of Tompkins** and mailed to:

David Squires, Finance Director  
Tompkins County Finance Office  
125 East Court Street  
Ithaca, NY 14850

Irrespective of any provisions of this Lease indicating to the contrary, this Lease shall not be terminated or forfeited for LESSEE'S failure to make timely or sufficient payment of royalty or rental until LESSEE shall have received written notice of such failure and shall have failed for a period of fourteen (14) days after receipt of such notice to make the proper payment.

16. **DURATION; SURRENDER.** This Lease shall be in force for the Primary Term of [ ] years from the date this Lease is approved by the State of New York, and for an additional term, referred to as the Secondary Term, for as long thereafter as oil, gas or other liquid or gaseous hydrocarbons are produced in paying quantities or additional operations are had, provided, however that this Lease shall remain in full force and effect as to all acreage so long as any portion of the leased acreage is included in producing well unit. For the terms of this Lease to become effective and to remain in force as set forth above, in whole or in part, the following condition must apply:

(a) LESSEE must hold and maintain valid oil and gas leases contiguous to that tract of land shown on the map attached and designated Exhibit(s) "A".

In the absence of production from the Premises, should LESSEE allow to terminate, in whole or in part, any oil and gas lease contiguous to that tract of land shown in Exhibit(s) "A", it shall follow that all rights granted by the agreement shall revert to the LESSOR for such acreage as defined in Exhibit(s) "A", which adjoins the aforementioned terminated leases.

In the event of a partial surrender of the land described in Exhibit(s) "A" occurring as a result of the conditions described in the preceding paragraph, the right to determine the areal extent of the surrendered land shall remain the sole domain of the LESSOR. In any case, the determination of the land to be surrendered shall not be defined in such a way as to interfere with any legitimate drilling blocks that may be formed by the LESSEE on any remaining valid drilling

leases contiguous to the Premises defined in this Lease and dependent upon the same for formation of said drilling block.

LESSEE may, at any time, execute and deliver to LESSOR a release or releases covering any portion or portions of the above-described Premises and thereby surrender this Lease as to such portion or portions and be relieved of all obligations as to the acreage surrendered, and thereafter the rentals payable hereunder shall be reduced in the proportion that the acreage covered hereby is reduced by said release or releases.

IF THIS LEASE BECOMES FORFEITED, TERMINATED OR EXPIRES, THE LESSEE, OR IF THE LEASE HAS BEEN ASSIGNED, THE ASSIGNEE IS REQUIRED TO PROVIDE A DOCUMENT CANCELING THE LEASE AS OF RECORD, AT NO COST TO THE CURRENT LANDOWNER. IF THE LESSEE OR ASSIGNEE FAILS TO CANCEL THE LEASE, THE CURRENT LANDOWNER MAY COMPEL A CANCELLATION PURSUANT TO SECTION 15-304 OF THE GENERAL OBLIGATIONS LAW.

17. DELAYS BEYOND LESSEE'S CONTROL. If any operation permitted or required hereunder, or the performance by LESSEE of any covenants, agreements or requirement hereof is delayed or interrupted directly or indirectly by any past or future acts, orders, regulations or requirements of the Government of the United States or of any other state or other governmental body, or any agency, officer, representative or authority of any of them, or because of delay or inability to get materials, labor, equipment or supplies, or on account of other similar or dissimilar cause beyond the control of LESSEE, the period of such delay or interruption shall not be counted against the LESSEE, and the Primary Term set forth above, so long as the cause or causes for such delays or interruptions continue and for a period of 90 (ninety) day thereafter; and such extended term shall constitute and shall be considered for the purpose of this Lease as a part of the Primary term hereof. The LESSEE shall not be liable to LESSOR in damages for failure to perform any operation permitted or required hereunder or to comply with any covenant, agreement or requirement hereof during the period of any such delay or interruption. LESSEE agrees, in the event that it intends to invoke the terms of this paragraph and suspended the terms of this lease as provided for in this section, subject to the conditions set forth above, to notify LESSOR in writing of such intention and demonstrate sufficient good cause.

18. ASSIGNMENT. The rights of either party under this Lease may be assigned in whole or in part. No assignment by the LESSOR or change or division of ownership of the Premises, rentals or royalties, however accomplished, shall operate to enlarge the obligations or liabilities or diminish the rights, powers or privileges of the LESSEE. No such assignment or change or division in ownership shall be binding upon LESSEE for any purpose until LESSEE shall be furnished with a certified copy of the recorded instrument or other legally authenticated written evidence of such assignment or change.

Should LESSEE assign this Lease in whole or in part LESSOR shall look solely to the assignee for the performance of its terms as to the part so assigned. If all or any part of this Lease is assigned, no leasehold owner shall be liable for any act or omission of any other leasehold owner. Any such assignment must be in writing, approved by LESSOR and be subject to all conditions contained in this Lease.

19. BREACH OF IMPLIED COVENANTS. This Lease shall not be terminated, forfeited or canceled for failure to perform in whole or in part any implied covenants, conditions or stipulations hereunder until it shall have been ascertained that such failure exists and LESSEE has had a reasonable time thereafter within which to comply with any such covenants, conditions or stipulations.

20. The LESSEE shall at all times hereinafter indemnify and save harmless Tompkins County and all agents and employees of the County of Tompkins against and from any and all detriment, damage, loss, claims, demands, suits, cost of workers' compensation and expenses which are sustained or suffered either directly or indirectly by reason of the use of said Premises by the LESSEE. LESSEE shall post an Indemnity Bond in the sum of one million dollars (\$1,000,000) with LESSEE additional insured in a form satisfactory to LESSEE.

21. Exhibit A is attached hereto and incorporated herein.

All the terms and conditions of this Lease shall be binding on and insure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties.

IN WITNESS WHEREOF, the parties to this Lease have executed this instrument on the respective dates hereinafter set forth.

**COUNTY OF TOMPKINS**

**(COMPANY)**

by: \_\_\_\_\_

by: \_\_\_\_\_

Date:

Date: