

# **SURFACE USE AGREEMENT OVERVIEW**

The following section includes Surface Use Agreements (SUA) impacting portions of this property. The sections are as follows:

I. SURFACE USE AGREEMENT AND EASEMENT BETWEEN VAULT  
MIDSTREAM, LLC & PERMIAN PRODUCTION PARTNERS, LLC

TRACTS 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 37,  
38, 39, 40, 41

Pages 1 – 15

II. AMENDED AND RESTATED SURFACE USE AGREEMENT AND EASEMENT  
BETWEEN [BUYER] & PERMIAN PRODUCTION PARTNERS, LLC

TRACTS 1, 2, 3, 4

Pages 16 – 27

III. AMENDED AND RESTATED SURFACE USE AGREEMENT AND EASEMENT  
BETWEEN [BUYER] & VAULT OIL & GAS, LLC

TRACTS 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,  
23, 24, 37, 38, 39, 40, 41

Pages 28 – 39

IV. SURFACE USE AGREEMENT AND EASEMENT BETWEEN [BUYER] & GREEN  
MOUNTAIN EXPLORATION, LLC

TRACTS 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,  
23, 24, 37, 38, 39, 40, 41

Pages 40 – 51

V. SURFACE DAMAGE AND USE AGREEMENT BETWEEN CHEVRON U.S.A.  
INC., & SUNDOWN ENERGY, INC. ET AL

TRACTS 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29,  
30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41

Pages 52 – 71

# COVER SHEET

FOR THE  
SURFACE USE AGREEMENT AND EASEMENT  
BETWEEN  
VAULT MIDSTREAM, LLC & PERMIAN PRODUCTION PARTNERS, LLC

## NOTE TO BIDDERS:

IF YOU BUY ANY OF THE BELOW LISTED TRACTS YOU WILL ASSUME AND RATIFY THE SURFACE USE AGREEMENT AND EASEMENT AND TRACT ALLOCATION OF THE YEARLY USAGE FEE SHOWN BELOW. IF YOU BUY ANY OF THE TRACTS THAT HAVE \$0 TRACT ALLOCATION OF THE YEARLY USAGE FEE SECTION 2.(a)(1) AND 2.(b) WILL NOT APPLY TO YOUR SURFACE USE AGREEMENT AND EASEMENT.

TRACT 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 37, 38, 39, 40, 41



## SURFACE USE AGREEMENT AND EASEMENT

This **SURFACE USE AGREEMENT AND EASEMENT** (this “**Agreement**”) is made and entered into effective as of May 18, 2018, by and between **Vault Midstream, LLC**, a Delaware limited liability company (“**Vault**”), and **Permian Production Partners, LLC**, a Delaware limited liability company d/b/a **Two P Partners, LLC** (“**PPP**”). Vault and PPP are each a “**Party**” and collectively, are the “**Parties**.”

### RECITALS

A. Vault is the owner of certain fee interests in those lands described in Exhibit A hereto (the “**Property**”).

B. PPP is the owner of certain (i) leasehold interests and mineral estates underlying the Property, (ii) leasehold interests and mineral estates in other lands in the vicinity of, but not underlying, the Property ((i) and (ii) are collectively the “**Mineral Interests**”), (iii) the North Ward Estes CO2 Recovery Plant located on the Property (the “**Plant**”), (iv) interests in certain oil and gas, water production, salt water disposal and water injection and CO2 injection wells located on the Property (the “**Existing Wells**”), and (v) field-level gathering, disposal, water, electrical distribution and other infrastructure located on the Property as of the date hereof (the “**Existing Field Infrastructure**”).

C. The Parties desire that PPP have access to the Property, the Plant, the Existing Wells and the Existing Field Infrastructure (the “**Existing Infrastructure**”) pursuant to this Agreement for all uses necessary and prudent for the ownership and operation of the Mineral Interests as such ownership and operation of the Mineral Interests have been conducted during the period commencing one year prior to the date hereof and ending on the date on which PPP obtained ownership of such Mineral Interests (the “**Current Uses**”) and such additional uses permitted under this Agreement.

### TERMS

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the payments hereinafter provided, the Parties agree as follows.

1. **Grant of Use.** Vault grants PPP an easement for, and the right to use and occupy the Property and the Existing Infrastructure for the Current Uses and any new or future infrastructure constructed by PPP on the Property (“**Future Infrastructure**”) and used for the production (including enhanced recovery thereof), gathering, treatment, processing, storing, transportation, sale or disposal of (a) oil, gas, natural gas liquids, condensate, casinghead gas, carbon dioxide and other liquids or gaseous hydrocarbons (“**Hydrocarbons**”), and (b) fresh water production, including but not limited to the right to (i) construct, use, maintain, repair and replace new well sites, frac ponds, tank batteries, utilities and roads on the Property, (ii) use, maintain, repair and replace Existing Infrastructure and Future Infrastructure, (iii) use the Existing Infrastructure, and (iv) use fresh water from the Property and to drill water wells in connection therewith, in each case, as deemed desirable by PPP for its operations on the Property

and other operations in the vicinity of the Property in each case that are necessary for development of the Mineral Interests. For the avoidance of doubt, the future uses and Future Infrastructure rights granted to PPP herein shall not include the right to use or construct new salt water or produced water disposal facilities or wells.

**2. Compensation.**

(a) Usage Fee. PPP shall pay Vault an amount equal to the sum of the following (collectively, the "*Usage Fee*");

(1) a fee equal to Two Hundred Thousand and No/100 dollars \$200,000.00 per calendar year for the Current Uses on or before July 1st of each calendar year (the "*Existing Facilities Fee*"); and

(2) with respect to the construction of Future Infrastructure (excluding, for the avoidance of doubt, any Existing Infrastructure and any repair, modification, replacement or maintenance to any Existing Infrastructure), the fees set forth on Exhibit B hereto (the "*New Facilities Fee*").

(b) Potential Reduction in Usage Fee.

(1) In the event PPP plugs and abandons a well or terminates the use of Existing Field Infrastructure (the "*Abandoned Facilities*") and PPP reclaims and restores the land impacted by the Abandoned Facilities in accordance with Section 5 hereof, the Usage Fee shall be proportionately reduced by the number of Abandoned Facilities corresponding to each of the allocation categories in Section 2(b)(3) below divided by the total remaining number of surface uses in each allocation category set forth in Section 2(b)(3) below. For illustration purposes, if (i) PPP plugs and abandons one well, and reclaims and restores the land impacted by that plugged and abandoned well, and (ii) the total remaining well count is 550 wells, the Usage Fee allocated to Wells in Section 2(b)(3)(iv) below shall be reduced by 1/550.

(2) In the event Vault assigns a portion of the Property to another party, the Existing Facilities Fee shall be divided among the Properties on which Existing Field Infrastructure is installed proportionately by the amount of Existing Field Infrastructure in each of the allocation categories in Section 2(b)(3) below. In such an event, the applicable New Facilities Fee shall also be paid to the Property owner of the applicable portion of the Property on which the Future Infrastructure is installed.

(3) Allocation. The Usage Fee described in Section 2(a) is allocated among the following use categories:

- |       |                    |          |
|-------|--------------------|----------|
| (i)   | Roads:             | \$20,000 |
| (ii)  | Pipelines:         | \$40,000 |
| (iii) | Electrical System: | \$12,000 |



(iv)	Wells:	\$55,000
(v)	Facilities:	\$50,000
(vi)	Pits/Tanks:	\$11,000
(vii)	Disposal:	\$12,000
		<b>\$200,000 Yearly Total</b>

**3. Payment Terms.**

(a) No later than July 1<sup>st</sup> of each calendar year, PPP shall make payment of the Usage Fee due to Vault, and shall separate the Existing Facilities Fee from a description of the New Facilities Fee being paid, if applicable.

(b) If Vault disputes in good faith all or any portion of the payment delivered by PPP pursuant to this Agreement, Vault may deliver written notice of such dispute to PPP within thirty (30) days of receipt of such invoice, setting forth in reasonable detail the reasons for such dispute.

(c) If PPP fails to pay Vault any amount due to Vault hereunder when due, such amount shall bear interest at the Agreed Rate from the due date of such payment to the date such amount is paid by PPP.

**4. Term.** The term of this Agreement shall be for so long as Hydrocarbons are produced by PPP from the Mineral Interests, but only with respect to the portions of the Property necessary for PPP to own and operate its Mineral Interests. PPP shall provide Vault notice of any material change in its ownership or operation of its Mineral Interests that reduce PPP's need to utilize the Property. Upon such notice, the Parties shall reasonably cooperate to release from this Agreement those portions of the Property no longer necessary for PPP's ownership and operation of its Mineral Interests. PPP shall have the right, at its option, to terminate this Agreement in whole at any time by delivering written notice to Vault. In no event shall the duration of the rights granted by this Agreement exceed ninety-nine (99) years.

**5. Reclamation and Maintenance.** PPP shall restore, repair, and reclaim all surface damages, including well sites, buildings, structures, gathering lines, tank batteries and roads, caused by its operations, in accordance with all applicable Laws and to reasonably restore the condition of the property to its condition existing prior to the installation and operation of the Existing Infrastructure and Future Infrastructure. Any buildings or infrastructure abandoned by PPP after the cessation of its operations hereunder shall automatically become the property of Vault.

During the term of this Agreement, PPP shall keep all well sites, roads and pipelines free of trash and debris, and shall maintain the Existing Infrastructure and Future Infrastructure in a neat and orderly manner and in accordance with customary industry practices.

**6. Assignment.** Except as expressly provided for herein, PPP shall not directly or indirectly assign this Agreement without the prior written consent of Vault and *provided, further*, no assignment or other change by PPP in ownership shall be binding upon Vault unless and until PPP furnishes to Vault notice of such change in a properly recordable form. Any assignment

made by PPP not in accordance with this section shall be void. Vault may freely sell, assign or convey all or any portion of its interest in the Property in its sole discretion, provided that the assignee of the Property agrees in writing to be bound by the terms and conditions of this Agreement.

7. **Consent to Pledge.** Vault consents to the pledge of PPP's right, title and interest in, to and under this Agreement to its lenders and hedge counterparties and any agent on behalf of such lenders and hedge counterparties pursuant to the Credit Agreement and the other Loan Documents (as defined in the Credit Agreement) as security for PPP's obligations under or in connection with the Credit Agreement and its secured hedge contracts. In the event of any assignment of this Agreement pursuant to any valid foreclosure of such security interest: (a) the obligations of Vault under this Agreement shall not be modified on account thereof, and (b) Vault agrees to continue to perform its obligations under this Agreement subject to the assumption of obligations of PPP under this Agreement by the assignee of this Agreement to the extent such obligations arise from and after such assignment.

8. **Vault's Use of Property.** Vault may use the Property for any and all purposes which do not materially interfere with PPP's enjoyment of the rights hereby granted, including, without limitation, for purposes of the production, gathering, treatment, processing, storing, transportation, sale and disposal of fresh water, saltwater and Hydrocarbons not owned or leased by PPP.

9. **Default and Forfeiture.** The failure of PPP to make any of the payments herein provided for or to keep or perform any obligation on its part according to the terms and provisions of this Agreement shall, at the election of Vault, constitute an event of default. Upon such event of default, Vault shall give to PPP a written notice of Vault's intention to declare a forfeiture of this Agreement and to terminate the same on account thereof, specifying the particular default or defaults relied upon by Vault. PPP shall then have thirty (30) days after receipt of the notice of forfeiture to cure any default or to give notice of its intent to contest any notice of forfeiture. In the event PPP gives notice of contest and the parties are not able to resolve the dispute within thirty (30) days of Vault's receipt of PPP's notice of contest, then either party may commence appropriate action in a court of Law. If the determination of the court of Law includes a finding of default, PPP shall have the time specified in the court's final decision to cure the default, or if not so stated in a final decision, then within sixty (60) days of the date of the court's final decision. Upon failure to so cure the default, Vault may declare a forfeiture and termination of this Agreement.

10. **Notices.** All notices and communications required or permitted to be given hereunder, shall be sufficient in all respects if given in writing and delivered personally, or sent by bonded overnight courier, or mailed by U.S. Express Mail or by certified or registered United States Mail with all postage fully prepaid, or sent by electronic mail (provided any such electronic mail is confirmed either orally or by written confirmation).

If to PPP:

Permian Production Partners, LLC d/b/a Two P Partners, LLC  
607 19th Street  
Golden, Colorado 80401  
Attention: Jeff Becker  
Telephone: (303) 854-9085  
Email: jbecker@fcpetroleum.com

If to Vault:

Vault Midstream, LLC  
607 19th Street  
Golden, Colorado 80401  
Attention: Jeff Becker  
Telephone: (303) 854-9085  
Email: jbecker@fcpetroleum.com

Any notice given in accordance herewith shall be deemed to have been given when (a) delivered to the addressee in person or by courier, (b) transmitted by electronic mail during Business Hours, or if transmitted after Business Hours, on the next Business Day, in each case, provided the receipt of such transmission is confirmed by the recipient, or (c) upon actual receipt by the addressee after such notice has either been delivered to an overnight courier or deposited in the United States Mail if received during Business Hours, or if not received during Business Hours, then on the next Business Day, as the case may be. The Parties may change the addresses, and email addresses to which such communications are to be addressed by giving written notice to the other Parties in the manner provided in this Section 10.

**11. Entire Agreement and Amendment:** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. This Agreement may only be amended, modified, or supplemented by a written instrument signed by all the parties expressly stating that such instrument is intended to amend, modify, or supplement this Agreement.

**12. Binding Nature:** This Agreement shall be binding upon the parties hereto, their heirs, successors and assigns, and shall run with the lands described.

**13. Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be considered one and the same document.

**14. Enforceability:** If at any time subsequent to the date hereto any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or



unenforceability of such provision shall have no effect upon and shall not impair the enforceability of the other provisions of this Agreement.

**15. Indemnity, Releases and Insurance:**

(a) PPP SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS VAULT AND VAULT'S PARENTS, AFFILIATES, SUBSIDIARIES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS, ASSIGNS AND DEVISEES (THE "*INDEMNIFIED PARTIES*"), FROM AND AGAINST ANY AND ALL ACTIONS, LIABILITIES, CLAIMS, DAMAGES (INCLUDING CONSEQUENTIAL DAMAGES), PENALTIES, FORFEITURES, ADMINISTRATIVE AND JUDICIAL PROCEEDINGS, AND THE COSTS AND EXPENSES INCIDENT THERETO (INCLUDING COSTS OF DEFENSE AND SETTLEMENT AND REASONABLE EXPERT WITNESS' AND ATTORNEYS' FEES), FINES, CHARGES, ORDERS, REMEDIAL ACTIONS, REQUIREMENTS AND ENFORCEMENT ACTIONS OF ANY KIND, WHETHER FORESEEABLE OR UNFORESEEABLE, WHICH THE INDEMNIFIED PARTIES MAY HEREAFTER INCUR OR BE A PARTY TO, BE RESPONSIBLE FOR OR PAY OUT AS A RESULT OF DEATH OR BODILY INJURY TO ANY PERSON, DESTRUCTION OR DAMAGE TO ANY PROPERTY, CONTAMINATION OF OR ADVERSE EFFECTS ON THE ENVIRONMENT, ANY VIOLATION OF ENVIRONMENTAL LAWS, AND ALL OTHER MATTERS ARISING DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, OUT OF PPP'S OPERATIONS ON THE PROPERTY, EXISTING INFRASTRUCTURE OR FUTURE INFRASTRUCTURE OR ANY OPERATIONS THEREON UNDER THE DIRECTION OF OR AT THE REQUEST OF PPP.

(b) PPP WAIVES (ON BEHALF OF ITSELF AND ANY PARTY WITH A RIGHT OF SUBROGATION) ANY AND ALL RIGHTS OF RECOVERY, CLAIM, ACTION OR CAUSE OF ACTION AGAINST VAULT AND VAULT'S PARENTS, AFFILIATES, SUBSIDIARIES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS, ASSIGNS AND DEVISEES (EACH, A "*VAULT RELEASE PARTY*") FOR ANY LOSS OR DAMAGE THAT MAY OCCUR TO THE PROPERTY AND TO ALL PROPERTY OF PPP LOCATED ON THE PROPERTY, WHETHER REAL, PERSONAL OR FIXTURE, REGARDLESS OF CAUSE OR ORIGIN, INCLUDING THE NEGLIGENCE OR OTHER MISCONDUCT OF ANY VAULT RELEASE PARTY.

(c) PPP shall maintain (or cause to be maintained) certain minimum insurance requirements regarding its operations on the Property, as listed on Exhibit C, which is attached hereto and made a part hereof for all purposes. PPP shall cause Vault to be named as an additional insured party on such insurance policies, ensure all rights of subrogation against Vault are waived under such insurance policies, and provide copies of such insurance policies to Vault. For the avoidance of doubt, PPP's liabilities under

this Agreement shall not be limited to the insurance coverage amounts specified on Exhibit C.

(d) PPP shall not use or occupy the Property in any way that would (i) make void or voidable any insurance then in force with respect thereto, (ii) make it impossible to obtain the insurance required to be furnished by PPP hereunder, (iii) constitute a public or private nuisance, or (iv) violate any applicable Law, ordinance, rule or regulation of any Governmental Authority.

**16. Governing Law: THIS AGREEMENT AND THE LEGAL RELATIONS AMONG THE PARTIES SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICTS OF LAW RULE OR PRINCIPLE THAT MIGHT REFER CONSTRUCTION OF SUCH PROVISIONS TO THE LAWS OF ANOTHER JURISDICTION AND EXCLUDING THE TOAIA TO THE MAXIMUM EXTENT THE TOAIA MAY BE EXCLUDED. ALL OF THE PARTIES HERETO CONSENT TO THE EXERCISE OF JURISDICTION IN PERSONAM BY THE UNITED STATES FEDERAL DISTRICT COURTS OR STATE COURTS LOCATED IN DALLAS COUNTY, IN THE STATE OF TEXAS FOR ANY ACTION ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY. ALL ACTIONS OR PROCEEDINGS WITH RESPECT TO, ARISING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, OUT OF, RELATED TO, OR FROM THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY SHALL BE EXCLUSIVELY LITIGATED IN THE UNITED STATES FEDERAL DISTRICT COURTS OR STATE COURTS HAVING SITES IN DALLAS, TEXAS (AND ALL APPELLATE COURTS HAVING JURISDICTION THEREOVER). EACH PARTY HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

**17. Defined Terms:** As used in this Agreement, the following terms and any form or tense of such terms shall have the respective meanings set forth below:

***“Affiliate”*** means, with respect to any Person, a Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with, such Person. Notwithstanding the foregoing, no PPP Party shall be considered an Affiliate of any Vault Party for purposes of this Agreement.

***“Agreed Rate”*** means 15% (or, if such rate is contrary to any applicable usury Law, the maximum rate permitted by such applicable Law).

***“Business Day”*** means a day (other than a Saturday or Sunday) on which commercial banks in Golden, Colorado, are generally open for business.

***“Business Hours”*** means 9:00 a.m. to 5:00 p.m. MT of a Business Day.

**“Control”** (including the correlative terms **“Controlled by”** and **“Controlling”**) means the possession, directly or indirectly, of the power to direct, or to cause the direction of, the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

**“Credit Agreement”** means that certain Credit Agreement (as amended, supplemented, restated, and otherwise modified from time to time), dated as of May 18, 2018, among PPP, PPP Intermediate, LLC, the lenders party hereto from time to time, and Jefferies Finance LLC, as administrative agent and collateral agent.

**“Governmental Authority”** means any federal, state, local, municipal, tribal or other government; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power; and any court or governmental tribunal, including any tribal authority having or asserting jurisdiction.

**“Law”** means any constitution, decree, resolution, law, statute, act, ordinance, rule, directive, order, treaty, code or regulation and any injunction or final non-appealable judgment or any interpretation of the foregoing, as enacted, issued or promulgated by any Governmental Authority.

**“PPP Parties”** means PPP and all Persons Controlled by PPP.

**“Vault Parties”** means Vault and its Affiliates, other than a PPP Party.

**“Person”** means any individual, corporation, company, partnership, limited partnership, limited liability company, trust, estate, Governmental Authority or any other entity.

**18. Memorandum:** It is understood and agreed that a Memorandum of this Agreement may be filed of record for the purpose of providing notice of the existence of this Agreement in lieu of recording the executed original.

*[Signature pages follow]*

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective as of the day and year first above written.

**PERMIAN PRODUCTION PARTNERS, LLC  
DOING BUSINESS IN THE STATE OF TEXAS AS  
TWO P PARTNERS, LLC**

By:   
Name: Adam Hatton  
Title: President and Chief Executive Officer

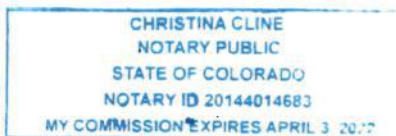
**VAULT MIDSTREAM, LLC**

By:   
Name: Adam Hatton  
Title: President and Chief Executive Officer

**Acknowledgments**

STATE OF COLORADO                    )  
  ) SS  
COUNTY OF JEFFERSON                )

This instrument was acknowledged before me this 18 day of May, 2018, by Adam Hatton, as President and Chief Executive Officer of Permian Production Partners, LLC, a Delaware limited liability company doing business as Two P Partners, LLC, on behalf of the company.

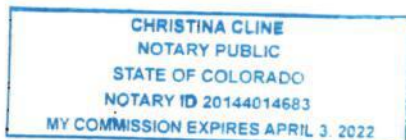


Christina Cline  
Notary Public

My Commission Expires: April 3, 2022

STATE OF COLORADO                    )  
  ) SS  
COUNTY OF JEFFERSON                )

This instrument was acknowledged before me this 18 day of May, 2018, by Adam Hatton, as President and Chief Executive Officer of Vault Midstream, LLC, a Delaware limited liability company, on behalf of the company.



Christina Cline  
Notary Public

My Commission Expires: April 3, 2022

## **Exhibit A**

Attached to that certain Surface Use Agreement and Easement between Vault Midstream LLC and  
Permian Production Partners, LLC

## **Legal Description**

**Sections 73, 74 and 78-82, Block N, G&MMB&A Survey, Sections 1-10, Block O, G&MMB&A  
Survey, and Section 20 , Block F, G&MMB&A Survey, all in Ward County, Texas.**



## **Exhibit B**

### **New Facilities Fees**

<b>Description</b>	<b>Damage Payment</b>
New Drill Locations	\$1,500/ac
Additional wellbore on same pad	\$5,000/well
Re-Entry of well	\$2,500/well
Satellite Location *	\$7,500/well
New Roads Built (Up to 30' in total width)	\$20/rod
New Roads Built (Over 30.01' in total width)	\$40/rod
Caliche/dirt (mined on Property)	\$5/yard
Caliche/dirt (mined off Property)	\$2/yard
Spill/Leaks on Property	\$500/acre (Minimum of \$500 per instance)
flow lines (6" in diameter or less)	\$30/rod
flow lines (6.1" to 12" in diameter)	\$50/rod
flow lines (12.1" to 16" in diameter)	\$80/rod
flow lines (16.01" in diameter or larger)	\$160/rod
Electric Transmission Lines less than 30,000 volts	\$40/rod
Electric Transmission Lines 30,001 to 69,000 volts	\$10/rod
Electric Transmission Lines 69,001 to 138,000 volts	\$15/rod
Electric Transmission Lines 138,0001 to 300,000 volts	\$30/rod
Electric Transmission Lines over 300,001 volts	\$60/rod
Rig Storage 1 to 30 days	\$250/day
Rig Storage 31 to 60 days	\$300/day
Rig Storage 61 to 90 days	\$350/day
Rig Storage over 91 days	\$400/day
Fresh Water Frac Pit	\$0.20/sq ft
Fresh Water	\$0.15/bbl or market rate, whichever is greater
Additional Land Damage fee **	\$1,500/ac

**\*Satellite Location**

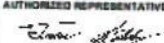
A Satellite Location shall be defined as any well/location that is built remotely from the gathering/production equipment that the well is tied to via pipelines, flow lines, or tiebacks.

**\*\*Additional Land Damage fee**

The Additional Land Damage fee shall be due for surface uses that are not specifically identified above, subject to the terms and conditions of the agreement to which this is attached

# EXHIBIT C

## Minimum Insurance Requirements

<b>ACORD</b>		<b>FOUR-2</b>		<b>OP ID: ALS</b>		
<b>CERTIFICATE OF LIABILITY INSURANCE</b>				DATE (MM/DD/YYYY) 07/26/2017		
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.						
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsements.						
PRODUCER Thomas J. Slav & Company, Inc. 1700 Broadway, Suite 1000 Denver, CO 80250 Trevor Gilstrap		CONTACT Trevor Gilstrap PHONE (A/C, H/L, Ext.) 303-831-7100 FAX (A/C, H/L) 303-831-7377 E-MAIL ADDRESS				
INSURED Four Corners Petroleum II, LLC Attn: Craig Spradbury 607 15th St. Golden, CO 80401		INSURER(S) AFFORDING COVERAGE		NAIC #		
		INSURER A: Lloyds of London				
		INSURER B: Liberty Mutual				
		INSURER C:				
		INSURER D:				
		INSURER E:				
		INSURER F:				
<b>COVERAGES</b>		<b>CERTIFICATE NUMBER:</b>		<b>REVISION NUMBER:</b>		
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
LINE	TYPE OF INSURANCE	INS. MOD.	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	X X	17CGLH11300	07/01/2017	07/01/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (a occurrence) \$ 100,000 MED EXP (any one person) \$ N/A PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/CP AGG \$ 2,000,000 Emp Ben. \$ 1,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X X	A86-Z81-466524-017	07/01/2017	07/01/2018	COMBINED SINGLE LIMIT (a accident) \$ 1,000,000 BODILY INJURY (p/w accident) \$ BODILY INJURY (p/w accident) \$ PROPERTY DAMAGE (p/w accident) \$ \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIA <input checked="" type="checkbox"/> EXCESS LIA <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS 25,000	X X	16XS1H10804	07/01/2017	07/01/2018	EACH OCCURRENCE \$ 20,000,000 AGGREGATE \$ 20,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (mandatory in HI) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	WC2-Z91-466524-027	07/01/2017	07/01/2018	PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - SA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Control of Well		61263EG0340817	07/01/2017	07/01/2018	COWL \$ 5,000,000
A	Oil Lease Property		61263EG0340817	07/01/2017	07/01/2018	OLP \$ 250,000,400
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)						
<b>CERTIFICATE HOLDER</b>		<b>PROOF CO</b>		<b>CANCELLATION</b>		
Proof of Coverage				SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.		
				AUTHORIZED REPRESENTATIVE 		

ACORD 25 (2016/03)

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[Exhibit C]

# COVER SHEET

FOR THE  
AMENDED AND RESTATED SURFACE USE AGREEMENT AND EASEMENT  
BETWEEN

[BUYER] & PERMIAN PRODUCTION PARTNERS, LLC

## NOTE TO BIDDERS:

YOU MUST EXECUTE THIS FORM SURFACE USE AGREEMENT AND EASEMENT AT  
CLOSING IF YOU BUY ANY OF THE FOLLOWING TRACTS:

TRACT 1, 2, 3, 4,

**AMENDED AND RESTATED  
SURFACE USE AGREEMENT AND EASEMENT**

This AMENDED AND RESTATED SURFACE USE AGREEMENT AND EASEMENT (this “*Agreement*”) is made and entered into effective as of [INSERT CLOSING DATE] (the “*Amendment Effective Date*”), by and between [BUYER], (“*Surface Owner*”), and Permian Production Partners, LLC, a Delaware limited liability company d/b/a Two P Partners, LLC (“*PPP*”). Surface Owner and PPP are each a “*Party*” and collectively, are the “*Parties*.”

**RECITALS**

A. Surface Owner is the owner of certain fee surface interests in those lands described in Exhibit A hereto (the “*Property*”).

B. Surface Owner and PPP are subject to that certain Surface Use Agreement and Easement between Vault Midstream, LLC and Permian Production Partners, LLC with an effective date of May 18, 2018 (the “*Original Agreement*”). The Original Agreement, as amended and restated by this Agreement, is referred to herein as the “*Agreement*”.

C. The Parties desire to amend and restate the Original Agreement as provided herein.

D. PPP is the owner of certain (i) leasehold interests and mineral estates underlying the Property, (ii) leasehold interests and mineral estates in other lands in the vicinity of, but not underlying, the Property ((i) and (ii) are collectively the “*Mineral Interests*”), (iii) the North Ward Estes CO2 Recovery Plant located on the Property (the “*Plant*”), (iv) interests in certain oil and gas, water production, salt water disposal and water injection and CO2 injection wells located on the Property (the “*Existing Wells*”), and (v) field-level gathering, disposal, water, electrical distribution and other infrastructure located on the Property as of the date hereof (the “*Existing Field Infrastructure*”).

E. The Parties desire that PPP have access to the Property, the Plant, the Existing Wells and the Existing Field Infrastructure (the “*Existing Infrastructure*”) pursuant to this Agreement for all uses necessary and prudent for the ownership and operation of the Mineral Interests as such ownership and operation of the Mineral Interests have been conducted during the period commencing one year prior to the date hereof and ending on the date on which PPP obtained ownership of such Mineral Interests (the “*Current Uses*”) and such additional uses permitted under this Agreement.

**TERMS**

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the payments hereinafter provided, the Parties agree as follows.

1. **Grant of Use.** Surface Owner grants PPP an easement for, and the right to use and occupy the Property and the Existing Infrastructure for the Current Uses and any new or future infrastructure constructed by PPP on the Property (“***Future Infrastructure***”) and used for the production (including enhanced recovery thereof), gathering, treatment, processing, storing, transportation, sale or disposal of (a) oil, gas, natural gas liquids, condensate, casinghead gas, carbon dioxide and other liquids or gaseous hydrocarbons (“***Hydrocarbons***”), and (b) fresh water production, including but not limited to the right to (i) construct, use, maintain, repair and replace new well sites, frac ponds, tank batteries, utilities and roads on the Property, (ii) use, maintain, repair and replace Existing Infrastructure and Future Infrastructure, (iii) use the Existing Infrastructure, and (iv) use fresh water from the Property and to drill water wells in connection therewith, in each case, as deemed desirable by PPP for its operations on the Property and other operations in the vicinity of the Property in each case that are necessary for development of the Mineral Interests.

2. **Compensation.** With respect to the construction of Future Infrastructure, PPP shall pay to Surface Owner the fees set forth on Exhibit B hereto (the “***New Facilities Fee***”). For the avoidance of doubt, no fee shall be due on any Existing Infrastructure and any repair, modification, replacement or maintenance to any Existing Infrastructure.

3. **Payment Terms.**

(a) No later than July 1<sup>st</sup> of each calendar year, PPP shall make payment of the New Facilities Fee due to Surface Owner for Future Infrastructure installed during the previous year, if applicable.

(b) If Surface Owner disputes in good faith all or any portion of the payment delivered by PPP pursuant to this Agreement, Surface Owner may deliver written notice of such dispute to PPP within thirty (30) days of receipt of such invoice, setting forth in reasonable detail the reasons for such dispute.

(c) If PPP fails to pay Surface Owner any amount due to Surface Owner hereunder when due, such amount shall bear interest at the Agreed Rate from the due date of such payment to the date such amount is paid by PPP.

4. **Term.** The term of this Agreement shall be for so long as Hydrocarbons are produced by PPP from the Mineral Interests. PPP may, at any time and from time to time, at its sole discretion, release all or any portions of the Property from this Agreement that are no longer necessary for PPP’s ownership and operation of its Mineral Interests, and shall thereupon be relieved of all obligation thereafter arising with respect to the portions of Property so released. PPP shall have the right, at its option, to terminate this Agreement in whole at any time by delivering written notice to Surface Owner. In no event shall the duration of the rights granted by this Agreement exceed ninety-nine (99) years.

5. **Reclamation and Maintenance.** PPP shall restore, repair, and reclaim all surface damages, including well sites, buildings, structures, gathering lines, tank batteries and roads, caused by its operations, in accordance with all applicable Laws.

During the term of this Agreement, PPP shall keep all well sites, roads and pipelines free of trash and debris, and shall maintain the Existing Infrastructure and Future Infrastructure in a neat and orderly manner and in accordance with customary industry practices.

**6. Assignment.** The interest of either Surface Owner or PPP hereunder may be assigned, devised or otherwise transferred in whole or in part, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Surface Owner's ownership shall have the effect of reducing the rights or enlarging the obligations of PPP hereunder, and no change in ownership shall be binding on PPP until 60 days after PPP has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of PPP.

**7. Consent to Pledge.** Surface Owner consents to the pledge of PPP's right, title and interest in, to and under this Agreement to its lenders and hedge counterparties and any agent on behalf of such lenders and hedge counterparties pursuant to the Credit Agreement and the other Loan Documents (as defined in the Credit Agreement) as security for PPP's obligations under or in connection with the Credit Agreement and its secured hedge contracts. In the event of any assignment of this Agreement pursuant to any valid foreclosure of such security interest: (a) the obligations of Surface Owner under this Agreement shall not be modified on account thereof, and (b) Surface Owner agrees to continue to perform its obligations under this Agreement subject to the assumption of obligations of PPP under this Agreement by the assignee of this Agreement to the extent such obligations arise from and after such assignment.

**8. Surface Owner's Use of Property.** Surface Owner may use the Property for any and all purposes which do not materially interfere with PPP's enjoyment of the rights hereby granted.

**9. Default and Forfeiture.** The failure of PPP to make any of the payments herein provided for or to keep or perform any obligation on its part according to the terms and provisions of this Agreement shall, at the election of Surface Owner, constitute an event of default. Upon such event of default, Surface Owner shall give to PPP a written notice specifying the particular default or defaults relied upon by Surface Owner. PPP shall then have thirty (30) days after receipt of the notice of forfeiture to cure any default or to give notice of its intent to contest any notice of forfeiture. In the event PPP gives notice of contest and the parties are not able to resolve the dispute within thirty (30) days of Surface Owner's receipt of PPP's notice of contest, then either party may commence appropriate action in a court of Law.

**10. Notices.** All notices and communications required or permitted to be given hereunder, shall be sufficient in all respects if given in writing and delivered personally, or sent by bonded overnight courier, or mailed by U.S. Express Mail or by certified or registered United States Mail with all postage fully prepaid, or sent by electronic mail (provided any such electronic mail is confirmed either orally or by written confirmation).



If to PPP:

Permian Production Partners, LLC d/b/a Two P Partners, LLC  
607 19th Street  
Golden, Colorado 80401  
Attention: Jeff Becker  
Telephone: (303) 854-9085  
Email: jbecker@fcpetroleum.com

If to Surface Owner:

[INSERT BUYER'S NAME]  
[INSERT ADDRESS]  
Telephone: [INSERT NUMBER]  
Email: [INSERT EMAIL]

Any notice given in accordance herewith shall be deemed to have been given when (a) delivered to the addressee in person or by courier, (b) transmitted by electronic mail during Business Hours, or if transmitted after Business Hours, on the next Business Day, in each case, provided the receipt of such transmission is confirmed by the recipient, or (c) upon actual receipt by the addressee after such notice has either been delivered to an overnight courier or deposited in the United States Mail if received during Business Hours, or if not received during Business Hours, then on the next Business Day, as the case may be. The Parties may change the addresses, and email addresses to which such communications are to be addressed by giving written notice to the other Parties in the manner provided in this Section 10.

**11. Entire Agreement and Amendment:** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. This Agreement may only be amended, modified, or supplemented by a written instrument signed by all the parties expressly stating that such instrument is intended to amend, modify, or supplement this Agreement.

**12. Binding Nature:** This Agreement shall be binding upon the Parties hereto, their heirs, successors and assigns, and shall run with the lands described.

**13. Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be considered one and the same document.

**14. Enforceability:** If at any time subsequent to the date hereto any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon and shall not impair the enforceability of the other provisions of this Agreement.

**15. Insurance:**

(a) PPP shall maintain (or cause to be maintained) certain minimum insurance requirements regarding its operations on the Property, as listed on Exhibit C, which is attached hereto and made a part hereof for all purposes. PPP shall cause Surface Owner to be named as an additional insured party on such insurance policies, ensure all rights of subrogation against Surface Owner are waived under such insurance policies, and provide copies of such insurance policies to Surface Owner, upon Surface Owner's written request. For the avoidance of doubt, PPP's liabilities under this Agreement shall be limited to the insurance coverage amounts specified on Exhibit C.

(b) PPP shall not use or occupy the Property in any way that would (i) make void or voidable any insurance then in force with respect thereto, (ii) make it impossible to obtain the insurance required to be furnished by PPP hereunder, (iii) constitute a public or private nuisance, or (iv) violate any applicable Law, ordinance, rule or regulation of any Governmental Authority.

**16. Governing Law: THIS AGREEMENT AND THE LEGAL RELATIONS AMONG THE PARTIES SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICTS OF LAW RULE OR PRINCIPLE THAT MIGHT REFER CONSTRUCTION OF SUCH PROVISIONS TO THE LAWS OF ANOTHER JURISDICTION AND EXCLUDING THE TOAIA TO THE MAXIMUM EXTENT THE TOAIA MAY BE EXCLUDED. ALL OF THE PARTIES HERETO CONSENT TO THE EXERCISE OF JURISDICTION IN PERSONAM BY THE UNITED STATES FEDERAL DISTRICT COURTS OR STATE COURTS LOCATED IN DALLAS COUNTY, IN THE STATE OF TEXAS FOR ANY ACTION ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY. ALL ACTIONS OR PROCEEDINGS WITH RESPECT TO, ARISING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, OUT OF, RELATED TO, OR FROM THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY SHALL BE EXCLUSIVELY LITIGATED IN THE UNITED STATES FEDERAL DISTRICT COURTS OR STATE COURTS HAVING SITES IN DALLAS, TEXAS (AND ALL APPELLATE COURTS HAVING JURISDICTION THEREOVER). EACH PARTY HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

**17. Defined Terms:** As used in this Agreement, the following terms and any form or tense of such terms shall have the respective meanings set forth below:

*"Affiliate"* means, with respect to any Person, a Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with, such Person. Notwithstanding the foregoing, no PPP Party shall be considered an Affiliate of any Surface Owner Party for purposes of this Agreement.

“**Agreed Rate**” means 15% (or, if such rate is contrary to any applicable usury Law, the maximum rate permitted by such applicable Law).

“**Business Day**” means a day (other than a Saturday or Sunday) on which commercial banks in Golden, Colorado, are generally open for business.

“**Business Hours**” means 9:00 a.m. to 5:00 p.m. MT of a Business Day.

“**Control**” (including the correlative terms “**Controlled by**” and “**Controlling**”) means the possession, directly or indirectly, of the power to direct, or to cause the direction of, the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“**Credit Agreement**” means that certain Credit Agreement (as amended, supplemented, restated, and otherwise modified from time to time), dated as of May 18, 2018, among PPP, PPP Intermediate, LLC, the lenders party hereto from time to time, and Jefferies Finance LLC, as administrative agent and collateral agent.

“**Governmental Authority**” means any federal, state, local, municipal, tribal or other government; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power; and any court or governmental tribunal, including any tribal authority having or asserting jurisdiction.

“**Law**” means any constitution, decree, resolution, law, statute, act, ordinance, rule, directive, order, treaty, code or regulation and any injunction or final non-appealable judgment or any interpretation of the foregoing, as enacted, issued or promulgated by any Governmental Authority.

“**Person**” means any individual, corporation, company, partnership, limited partnership, limited liability company, trust, estate, Governmental Authority or any other entity.

**18. Memorandum:** It is understood and agreed that a Memorandum of this Agreement may be filed of record for the purpose of providing notice of the existence of this Agreement in lieu of recording the executed original.

*[Signature pages follow]*

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first above written.

**PERMIAN PRODUCTION PARTNERS, LLC  
D/B/A TWO P PARTNERS, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[INSERT BUYER'S NAME]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Acknowledgments

STATE OF COLORADO )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, as \_\_\_\_\_ of Permian Production Partners, LLC, a Delaware limited liability company doing business as Two P Partners, LLC, on behalf of the company.

---

Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by **[INSERT BUYER'S NAME]**.

---

Notary Public

My Commission Expires: \_\_\_\_\_

### **Exhibit A**

Attached to that certain Amended and Restated Surface Use Agreement and Easement between [INSERT BUYER'S NAME] and Permian Production Partners, LLC

### **Legal Description**

**Section 40, Block F, G&MMB&A Survey, Ward County, Texas.**

**[INSERT LEGAL DESCRIPTION OF LAND SOLD]**



## **Exhibit B**

Attached to that certain Amended and Restated Surface Use Agreement and Easement between **[INSERT BUYER'S NAME]** and Permian Production Partners, LLC

### **New Facilities Fees**

<b>Description</b>	<b>Damage Payment</b>
New Drill Locations	\$1,500/ac
Additional wellbore on same pad	\$5,000/well
Re-Entry of well	\$2,500/well
Satellite Location*	\$7,500/well
New Roads Built (Up to 30' in total width)	\$20/rod
New Roads Built (Over 30.01' in total width)	\$40/rod
Caliche/dirt (mined on Property)	\$5/yard
Caliche/dirt (mined off Property)	\$2/yard
Spill/Leaks on Property	\$500/acre (Minimum of \$500 per instance)
flow lines (6" in diameter or less)	\$30/rod
flow lines (6.1" to 12" in diameter)	\$50/rod
flow lines (12.1" to 16" in diameter)	\$80/rod
flow lines (16.01" in diameter or larger)	\$160/rod
Electric Transmission Lines less than 30,000 volts	\$40/rod
Electric Transmission Lines 30,001 to 69,000 volts	\$10/rod
Electric Transmission Lines 69,001 to 138,000 volts	\$15/rod
Electric Transmission Lines 138,0001 to 300,000 volts	\$30/rod
Electric Transmission Lines over 300,001 volts	\$60/rod
Rig Storage 1 to 30 days	\$250/day
Rig Storage 31 to 60 days	\$300/day
Rig Storage 61 to 90 days	\$350/day
Rig Storage over 91 days	\$400/day
Fresh Water Frac Pit	\$0.20/sq ft
Fresh Water	\$0.15/bbl or market rate, whichever is greater
Additional Land Damage fee**	\$1,500/ac

**\*Satellite Location**

A Satellite Location shall be defined as any well/location that is built remotely from the gathering/production equipment that the well is tied to via pipelines, flow lines, or tiebacks.

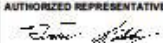
**\*\*Additional Land Damage fee**

The Additional Land Damage fee shall be due for surface uses that are not specifically identified above, subject to the terms and conditions of the agreement to which this is attached

## EXHIBIT C

Attached to that certain Amended and Restated Surface Use Agreement and Easement between **INSERT BUYER'S NAME** and Permian Production Partners, LLC

### Minimum Insurance Requirements

ACORD		FOUR-2		OP ID: ALS				
CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY) 07/26/2017				
<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</b>								
<b>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</b>								
<b>PRODUCER</b> Thomas J. Slek & Company, Inc. 1700 Broadway, Suite 1000 Denver, CO 80290 Trevor Gilstrap		<b>CONTACT</b> NAME: Trevor Gilstrap PHONE (A/C, No, Ext): 303-831-7100 FAX (A/C, No): 303-831-7377 E-MAIL ADDRESS:						
<b>INSURED</b> Four Corners Petroleum II, LLC Attn: Craig Spreadbury 607 19th St. Golden, CO 80401		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Lloyds of London INSURER B: Liberty Mutual INSURER C: INSURER D: INSURER E: INSURER F:		<b>NAIC #</b>				
<b>COVERAGES</b>		<b>CERTIFICATE NUMBER:</b>		<b>REVISION NUMBER:</b>				
<b>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</b>								
<b>INSR</b>	<b>LT</b>	<b>TYPE OF INSURANCE</b>	<b>ADOL</b>	<b>SUBR</b>	<b>POLICY NUMBER</b>	<b>POLICY EFF</b>	<b>POLICY EXP</b>	<b>LIMITS</b>
A	X	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	17CGLH11300	07/01/2017	07/01/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ N/A PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000 Emp Ben. \$ 1,000,000 COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
B	X	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	AS6-Z91-466524-017	07/01/2017	07/01/2018	BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
A	X	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED: <input checked="" type="checkbox"/> RETENTION \$ 25,000	X	X	16XS1H10804	07/01/2017	07/01/2018	EACH OCCURRENCE \$ 20,000,000 AGGREGATE \$ 20,000,000 \$
B	X	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC2-Z91-466524-027	07/01/2017	07/01/2018	PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	X	Control of Well			B1263EG0340817	07/01/2017	07/01/2018	COWL \$ 5,000,000
A	X	Oil Lease Property			B1263EG0340817	07/01/2017	07/01/2018	OLP \$ 260,009,460
<b>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)</b>								
<b>CERTIFICATE HOLDER</b>			<b>CANCELLATION</b>					
Proof of Coverage			PROOF CO					
			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.					
			AUTHORIZED REPRESENTATIVE 					

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[Exhibit C]

# COVER SHEET

FOR THE  
AMENDED AND RESTATED SURFACE USE AGREEMENT AND EASEMENT  
BETWEEN  
[BUYER] & VAULT OIL & GAS, LLC

## NOTE TO BIDDERS:

YOU MUST EXECUTE THIS FORM SURFACE USE AGREEMENT AND EASEMENT AT  
CLOSING IF YOU BUY ANY OF THE FOLLOWING TRACTS:

TRACT 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 37, 38, 39, 40, 41.

## AMENDED AND RESTATED SURFACE USE AGREEMENT AND EASEMENT

This AMENDED AND RESTATED SURFACE USE AGREEMENT AND EASEMENT (this “*Agreement*”) is made and entered into effective as of [INSERT CLOSING DATE] (the “*Amendment Effective Date*”), by and between [BUYER], (“*Surface Owner*”), and Vault Oil & Gas, LLC, a Delaware limited liability company (“*VOG*”). Surface Owner and VOG are each a “*Party*” and collectively, are the “*Parties*.”

### RECITALS

A. Surface Owner is the owner of certain fee surface interests in those lands described in Exhibit A hereto (the “*Property*”).

B. Surface Owner and VOG are subject to that certain Surface Use Agreement and Easement between Green Mountain Exploration, LLC and Vault Oil & Gas, LLC with an effective date of March 1, 2019 (the “*Original Agreement*”). The Original Agreement, as amended and restated by this Agreement, is referred to herein as the “*Agreement*”.

C. The Parties desire to amend and restate the Original Agreement as provided herein.

D. VOG is the owner of certain (i) leasehold interests and mineral estates underlying the Property, (ii) leasehold interests and mineral estates in other lands in the vicinity of, but not underlying, the Property ((i) and (ii) are collectively the “*Mineral Interests*”), (iii) interests in certain oil and gas wells located on the Property (the “*Existing Wells*”), and (iv) field-level gathering, flow lines, electrical distribution and other infrastructure located on the Property as of the date hereof (the “*Existing Field Infrastructure*”).

E. The Parties desire that VOG have access to the Property, the Existing Wells and the Existing Field Infrastructure (the “*Existing Infrastructure*”) pursuant to this Agreement for all uses necessary and prudent for the ownership and operation of the Mineral Interests as such ownership and operation of the Mineral Interests have been conducted during the period commencing one year prior to the date hereof and ending on the date on which VOG obtained ownership of such Mineral Interests (the “*Current Uses*”) and such additional uses permitted under this Agreement.

### TERMS

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the payments hereinafter provided, the Parties agree as follows.

1. **Grant of Use.** Surface Owner grants VOG an easement for, and the right to use and occupy the Property and the Existing Infrastructure for the Current Uses and any new or future infrastructure constructed by VOG on the Property (“*Future Infrastructure*”) and used for the production (including enhanced recovery thereof), gathering, treatment, processing, storing,



transportation, sale or disposal of (a) oil, gas, natural gas liquids, condensate, casinghead gas, carbon dioxide and other liquids or gaseous hydrocarbons (“**Hydrocarbons**”), and (b) fresh water production, including but not limited to the right to (i) construct, use, maintain, repair and replace new well sites, frac ponds, tank batteries, utilities and roads on the Property, (ii) use, maintain, repair and replace Existing Infrastructure and Future Infrastructure, (iii) use the Existing Infrastructure, and (iv) use fresh water from the Property and to drill water wells in connection therewith, in each case, as deemed desirable by VOG for its operations on the Property and other operations in the vicinity of the Property in each case that are necessary for development of the Mineral Interests.

**2. Compensation.** With respect to the construction of Future Infrastructure, VOG shall pay to Surface Owner the fees set forth on Exhibit B hereto (the “**New Facilities Fee**”). For the avoidance of doubt, no fee shall be due on any Existing Infrastructure and any repair, modification, replacement or maintenance to any Existing Infrastructure.

**3. Payment Terms.**

(a) No later than July 1<sup>st</sup> of each calendar year, VOG shall make payment of the New Facilities Fee due to Surface Owner for Future Infrastructure installed during the previous year, if applicable.

(b) If Surface Owner disputes in good faith all or any portion of the payment delivered by VOG pursuant to this Agreement, Surface Owner may deliver written notice of such dispute to VOG within thirty (30) days of receipt of such invoice, setting forth in reasonable detail the reasons for such dispute.

(c) If VOG fails to pay Surface Owner any amount due to Surface Owner hereunder when due, such amount shall bear interest at the Agreed Rate from the due date of such payment to the date such amount is paid by VOG.

**4. Term.** The term of this Agreement shall be for so long as Hydrocarbons are produced by VOG from the Mineral Interests. VOG may, at any time and from time to time, at its sole discretion, release all or any portions of the Property from this Agreement that are no longer necessary for VOG’s ownership and operation of its Mineral Interests, and shall thereupon be relieved of all obligation thereafter arising with respect to the portions of Property so released. VOG shall have the right, at its option, to terminate this Agreement in whole at any time by delivering written notice to Surface Owner. In no event shall the duration of the rights granted by this Agreement exceed ninety-nine (99) years.

**5. Reclamation and Maintenance.** VOG shall restore, repair, and reclaim all surface damages, including well sites, buildings, structures, gathering lines, tank batteries and roads, caused by its operations, in accordance with all applicable Laws.

During the term of this Agreement, VOG shall keep all well sites, roads and pipelines free of trash and debris, and shall maintain the Existing Infrastructure and Future Infrastructure in a neat and orderly manner and in accordance with customary industry practices.

6. **Assignment.** The interest of either Surface Owner or VOG hereunder may be assigned, devised or otherwise transferred in whole or in part, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Surface Owner's ownership shall have the effect of reducing the rights or enlarging the obligations of VOG hereunder, and no change in ownership shall be binding on VOG until 60 days after VOG has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of VOG.

7. **Consent to Pledge.** Surface Owner consents to the pledge of VOG's right, title and interest in, to and under this Agreement to its lenders and hedge counterparties and any agent on behalf of such lenders and hedge counterparties pursuant to a credit agreement and other loan documents as security for VOG's obligations under or in connection with such credit agreement and its secured hedge contracts. In the event of any assignment of this Agreement pursuant to any valid foreclosure of such security interest: (a) the obligations of Surface Owner under this Agreement shall not be modified on account thereof, and (b) Surface Owner agrees to continue to perform its obligations under this Agreement subject to the assumption of obligations of VOG under this Agreement by the assignee of this Agreement to the extent such obligations arise from and after such assignment.

8. **Surface Owner's Use of Property.** Surface Owner may use the Property for any and all purposes which do not materially interfere with VOG's enjoyment of the rights hereby granted.

9. **Default and Forfeiture.** The failure of VOG to make any of the payments herein provided for or to keep or perform any obligation on its part according to the terms and provisions of this Agreement shall, at the election of Surface Owner, constitute an event of default. Upon such event of default, Surface Owner shall give to VOG a written notice specifying the particular default or defaults relied upon by Surface Owner. VOG shall then have thirty (30) days after receipt of the notice of forfeiture to cure any default or to give notice of its intent to contest any notice of forfeiture. In the event VOG gives notice of contest and the parties are not able to resolve the dispute within thirty (30) days of Surface Owner's receipt of VOG's notice of contest, then either party may commence appropriate action in a court of Law.

10. **Notices.** All notices and communications required or permitted to be given hereunder, shall be sufficient in all respects if given in writing and delivered personally, or sent by bonded overnight courier, or mailed by U.S. Express Mail or by certified or registered United States Mail with all postage fully prepaid, or sent by electronic mail (provided any such electronic mail is confirmed either orally or by written confirmation).



If to VOG:

Vault Oil & Gas, LLC  
607 19th Street  
Golden, Colorado 80401  
Attention: Jeff Becker  
Telephone: (303) 854-9085  
Email: jbecker@fcpetroleum.com

If to Surface Owner:

[INSERT BUYER'S NAME]  
[INSERT ADDRESS]  
Telephone: [INSERT NUMBER]  
Email: [INSERT EMAIL]

Any notice given in accordance herewith shall be deemed to have been given when (a) delivered to the addressee in person or by courier, (b) transmitted by electronic mail during Business Hours, or if transmitted after Business Hours, on the next Business Day, in each case, provided the receipt of such transmission is confirmed by the recipient, or (c) upon actual receipt by the addressee after such notice has either been delivered to an overnight courier or deposited in the United States Mail if received during Business Hours, or if not received during Business Hours, then on the next Business Day, as the case may be. The Parties may change the addresses, and email addresses to which such communications are to be addressed by giving written notice to the other Parties in the manner provided in this Section 10.

**11. Entire Agreement and Amendment:** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. This Agreement may only be amended, modified, or supplemented by a written instrument signed by all the parties expressly stating that such instrument is intended to amend, modify, or supplement this Agreement.

**12. Binding Nature:** This Agreement shall be binding upon the Parties hereto, their heirs, successors and assigns, and shall run with the lands described.

**13. Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be considered one and the same document.

**14. Enforceability:** If at any time subsequent to the date hereto any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon and shall not impair the enforceability of the other provisions of this Agreement.

**15. Insurance:**

(a) VOG shall maintain (or cause to be maintained) certain minimum insurance requirements regarding its operations on the Property, as listed on Exhibit C, which is attached hereto and made a part hereof for all purposes. VOG shall cause Surface Owner to be named as an additional insured party on such insurance policies, ensure all rights of subrogation against Surface Owner are waived under such insurance policies, and provide copies of such insurance policies to Surface Owner, upon Surface Owner's written request. For the avoidance of doubt, VOG's liabilities under this Agreement shall be limited to the insurance coverage amounts specified on Exhibit C.

(b) VOG shall not use or occupy the Property in any way that would (i) make void or voidable any insurance then in force with respect thereto, (ii) make it impossible to obtain the insurance required to be furnished by VOG hereunder, (iii) constitute a public or private nuisance, or (iv) violate any applicable Law, ordinance, rule or regulation of any Governmental Authority.

**16. Governing Law: THIS AGREEMENT AND THE LEGAL RELATIONS AMONG THE PARTIES SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICTS OF LAW RULE OR PRINCIPLE THAT MIGHT REFER CONSTRUCTION OF SUCH PROVISIONS TO THE LAWS OF ANOTHER JURISDICTION AND EXCLUDING THE TOAIA TO THE MAXIMUM EXTENT THE TOAIA MAY BE EXCLUDED. ALL OF THE PARTIES HERETO CONSENT TO THE EXERCISE OF JURISDICTION IN PERSONAM BY THE UNITED STATES FEDERAL DISTRICT COURTS OR STATE COURTS LOCATED IN DALLAS COUNTY, IN THE STATE OF TEXAS FOR ANY ACTION ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY. ALL ACTIONS OR PROCEEDINGS WITH RESPECT TO, ARISING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, OUT OF, RELATED TO, OR FROM THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY SHALL BE EXCLUSIVELY LITIGATED IN THE UNITED STATES FEDERAL DISTRICT COURTS OR STATE COURTS HAVING SITES IN DALLAS, TEXAS (AND ALL APPELLATE COURTS HAVING JURISDICTION THEREOVER). EACH PARTY HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

**17. Defined Terms:** As used in this Agreement, the following terms and any form or tense of such terms shall have the respective meanings set forth below:

*"Affiliate"* means, with respect to any Person, a Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with, such Person. Notwithstanding the foregoing, no VOG Party shall be considered an Affiliate of any Surface Owner Party for purposes of this Agreement.

“**Agreed Rate**” means 15% (or, if such rate is contrary to any applicable usury Law, the maximum rate permitted by such applicable Law).

“**Business Day**” means a day (other than a Saturday or Sunday) on which commercial banks in Golden, Colorado, are generally open for business.

“**Business Hours**” means 9:00 a.m. to 5:00 p.m. MT of a Business Day.

“**Control**” (including the correlative terms “**Controlled by**” and “**Controlling**”) means the possession, directly or indirectly, of the power to direct, or to cause the direction of, the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“**Governmental Authority**” means any federal, state, local, municipal, tribal or other government; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power; and any court or governmental tribunal, including any tribal authority having or asserting jurisdiction.

“**Law**” means any constitution, decree, resolution, law, statute, act, ordinance, rule, directive, order, treaty, code or regulation and any injunction or final non-appealable judgment or any interpretation of the foregoing, as enacted, issued or promulgated by any Governmental Authority.

“**Person**” means any individual, corporation, company, partnership, limited partnership, limited liability company, trust, estate, Governmental Authority or any other entity.

**18. Memorandum:** It is understood and agreed that a Memorandum of this Agreement may be filed of record for the purpose of providing notice of the existence of this Agreement in lieu of recording the executed original.

*[Signature pages follow]*

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first above written.

**VAULT OIL & GAS, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[INSERT BUYER'S NAME]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Acknowledgments

STATE OF COLORADO )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, as \_\_\_\_\_ of Vault Oil & Gas, LLC, a Delaware limited liability company, on behalf of the company.

Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by **[INSERT BUYER'S NAME]**.

Notary Public

My Commission Expires: \_\_\_\_\_

### **Exhibit A**

Attached to that certain Amended and Restated Surface Use Agreement and Easement between **[INSERT BUYER'S NAME]** and Vault Oil & Gas, LLC

### **Legal Description**

**Sections 73, 74 and 78-82, Block N, G&MMB&A Survey, Sections 1-10, Block O, G&MMB&A Survey, and Section 20 and 40, Block F, G&MMB&A Survey, all in Ward County, Texas.**

**[INSERT LEGAL DESCRIPTION OF LAND SOLD]**



## **Exhibit B**

Attached to that certain Amended and Restated Surface Use Agreement and Easement between **[INSERT BUYER'S NAME]** and Vault Oil & Gas, LLC

### **New Facilities Fees**

<b>Description</b>	<b>Damage Payment</b>
New Drill Locations	\$1,500/ac
Additional wellbore on same pad	\$5,000/well
Re-Entry of well	\$2,500/well
Satellite Location*	\$7,500/well
New Roads Built (Up to 30' in total width)	\$20/rod
New Roads Built (Over 30.01' in total width)	\$40/rod
Caliche/dirt (mined on Property)	\$5/yard
Caliche/dirt (mined off Property)	\$2/yard
Spill/Leaks on Property	\$500/acre (Minimum of \$500 per instance)
flow lines (6" in diameter or less)	\$30/rod
flow lines (6.1" to 12" in diameter)	\$50/rod
flow lines (12.1" to 16" in diameter)	\$80/rod
flow lines (16.01" in diameter or larger)	\$160/rod
Electric Transmission Lines less than 30,000 volts	\$40/rod
Electric Transmission Lines 30,001 to 69,000 volts	\$10/rod
Electric Transmission Lines 69,001 to 138,000 volts	\$15/rod
Electric Transmission Lines 138,0001 to 300,000 volts	\$30/rod
Electric Transmission Lines over 300,001 volts	\$60/rod
Rig Storage 1 to 30 days	\$250/day
Rig Storage 31 to 60 days	\$300/day
Rig Storage 61 to 90 days	\$350/day
Rig Storage over 91 days	\$400/day
Fresh Water Frac Pit	\$0.20/sq ft
Fresh Water	\$0.15/bbl or market rate, whichever is greater
Additional Land Damage fee**	\$1,500/ac

**\*Satellite Location**

A Satellite Location shall be defined as any well/location that is built remotely from the gathering/production equipment that the well is tied to via pipelines, flow lines, or tiebacks.

**\*\*Additional Land Damage fee**

The Additional Land Damage fee shall be due for surface uses that are not specifically identified above, subject to the terms and conditions of the agreement to which this is attached

## EXHIBIT C

Attached to that certain Amended and Restated Surface Use Agreement and Easement between [INSERT BUYER'S NAME] and Vault Oil & Gas, LLC

### Minimum Insurance Requirements

		FOURC-2	OP ID: ALS																																																								
<b>CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 07/26/2017																																																									
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>																																																											
<b>PRODUCER</b> Thomas J. Slek & Company, Inc. 1700 Broadway, Suite 1000 Denver, CO 80250 Trevor Gilstrap		<b>CONTACT</b> NAME: Trevor Gilstrap PHONE (A/C, No, Ext): 303-831-7100 FAX (A/C, No): 303-831-7377 E-MAIL ADDRESS:																																																									
<b>INSURED</b> Four Corners Petroleum II, LLC Attn: Craig Spreadbury 607 19th St. Golden, CO 80401		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Lloyds of London INSURER B: Liberty Mutual INSURER C: INSURER D: INSURER E: INSURER F:																																																									
<b>COVERAGES</b>		<b>CERTIFICATE NUMBER:</b>																																																									
<p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>INSR LTR</th> <th>TYPE OF INSURANCE</th> <th>ADOL INSD</th> <th>SUBR INSD</th> <th>POLICY NUMBER</th> <th>POLICY EFF (MM/DD/YYYY)</th> <th>POLICY EXP (MM/DD/YYYY)</th> <th>LIMITS</th> </tr> </thead> <tbody> <tr> <td>A</td> <td> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY  <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR                        GEN'L AGGREGATE LIMIT APPLIES PER:  <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC  <input type="checkbox"/> OTHER                 </td> <td>X</td> <td>X</td> <td>17CGLH11300</td> <td>07/01/2017</td> <td>07/01/2018</td> <td>                     EACH OCCURRENCE \$ 1,000,000                      DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000                      MED EXP (Any one person) \$ N/A                      PERSONAL &amp; ADV INJURY \$ 1,000,000                      GENERAL AGGREGATE \$ 2,000,000                      PRODUCTS - COMPOP AGG \$ 2,000,000                      Emp Ben. \$ 1,000,000                 </td> </tr> <tr> <td>B</td> <td> <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY  <input checked="" type="checkbox"/> ANY AUTO  <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS  <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY                 </td> <td>X</td> <td>X</td> <td>AS6-Z91-466524-017</td> <td>07/01/2017</td> <td>07/01/2018</td> <td>                     COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000                      BODILY INJURY (Per person) \$                      BODILY INJURY (Per accident) \$                      PROPERTY DAMAGE (Per accident) \$                      \$                 </td> </tr> <tr> <td>A</td> <td> <input checked="" type="checkbox"/> UMBRELLA LIAB  <input type="checkbox"/> EXCESS LIAB  <input checked="" type="checkbox"/> RETENTION \$ 25,000                 </td> <td>X</td> <td>X</td> <td>16XS1H10804</td> <td>07/01/2017</td> <td>07/01/2018</td> <td>                     EACH OCCURRENCE \$ 20,000,000                      AGGREGATE \$ 20,000,000                      \$                 </td> </tr> <tr> <td>B</td> <td> <input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                      ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? 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ACORD 25 (2016/03)

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[Exhibit C]

# COVER SHEET

FOR THE  
SURFACE USE AGREEMENT AND EASEMENT  
BETWEEN

[BUYER] & GREEN MOUNTAIN EXPLORATION, LLC

## NOTE TO BIDDERS:

YOU MUST EXECUTE THIS FORM SURFACE USE AGREEMENT AND EASEMENT AT  
CLOSING IF YOU BUY ANY OF THE FOLLOWING TRACTS:

TRACT 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 37, 38, 39, 40, 41.

## SURFACE USE AGREEMENT AND EASEMENT

This **SURFACE USE AGREEMENT AND EASEMENT** (this “*Agreement*”) is made and entered into effective as of [INSERT CLOSING DATE], by and between [BUYER], (“*Surface Owner*”), and Green Mountain Exploration, LLC, a Delaware limited liability company (“*GME*”). Surface Owner and GME are each a “*Party*” and collectively, are the “*Parties*.”

### RECITALS

A. Surface Owner is the owner of certain fee surface interests in those lands described in Exhibit A hereto (the “*Property*”).

B. GME is the owner of certain (i) leasehold interests and mineral estates underlying the Property, (ii) leasehold interests and mineral estates in other lands in the vicinity of, but not underlying, the Property ((i) and (ii) are collectively the “*Mineral Interests*”), and (iii) field-level gathering, flow lines, electrical distribution and other infrastructure located on the Property as of the date hereof (the “*Existing Field Infrastructure*”).

C. The Parties desire that GME have access to the Property and the Existing Field Infrastructure (the “*Existing Infrastructure*”) pursuant to this Agreement for all uses necessary and prudent for the ownership and operation of the Mineral Interests as such ownership and operation of the Mineral Interests have been conducted during the period commencing one year prior to the date hereof and ending on the date on which GME obtained ownership of such Mineral Interests (the “*Current Uses*”) and such additional uses permitted under this Agreement.

### TERMS

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the payments hereinafter provided, the Parties agree as follows.

**1. Grant of Use.** Surface Owner grants GME an easement for, and the right to use and occupy the Property and the Existing Infrastructure for the Current Uses and any new or future infrastructure constructed by GME on the Property (“*Future Infrastructure*”) and used for the production (including enhanced recovery thereof), gathering, treatment, processing, storing, transportation, sale or disposal of (a) oil, gas, natural gas liquids, condensate, casinghead gas, carbon dioxide and other liquids or gaseous hydrocarbons (“*Hydrocarbons*”), and (b) fresh water production, including but not limited to the right to (i) construct, use, maintain, repair and replace new well sites, frac ponds, tank batteries, utilities and roads on the Property, (ii) use, maintain, repair and replace Existing Infrastructure and Future Infrastructure, (iii) use the Existing Infrastructure, and (iv) use fresh water from the Property and to drill water wells in connection therewith, in each case, as deemed desirable by GME for its operations on the Property and other operations in the vicinity of the Property in each case that are necessary for development of the Mineral Interests.



2. **Compensation.** With respect to the construction of Future Infrastructure, GME shall pay to Surface Owner the fees set forth on Exhibit B hereto (the “***New Facilities Fee***”). For the avoidance of doubt, no fee shall be due on any Existing Infrastructure and any repair, modification, replacement or maintenance to any Existing Infrastructure.

3. **Payment Terms.**

(a) No later than July 1<sup>st</sup> of each calendar year, GME shall make payment of the New Facilities Fee due to Surface Owner for Future Infrastructure installed during the previous year, if applicable.

(b) If Surface Owner disputes in good faith all or any portion of the payment delivered by GME pursuant to this Agreement, Surface Owner may deliver written notice of such dispute to GME within thirty (30) days of receipt of such invoice, setting forth in reasonable detail the reasons for such dispute.

(c) If GME fails to pay Surface Owner any amount due to Surface Owner hereunder when due, such amount shall bear interest at the Agreed Rate from the due date of such payment to the date such amount is paid by GME.

4. **Term.** The term of this Agreement shall be for so long as Hydrocarbons are produced by GME from the Mineral Interests. GME may, at any time and from time to time, at its sole discretion, release all or any portions of the Property from this Agreement that are no longer necessary for GME’s ownership and operation of its Mineral Interests, and shall thereupon be relieved of all obligation thereafter arising with respect to the portions of Property so released. GME shall have the right, at its option, to terminate this Agreement in whole at any time by delivering written notice to Surface Owner. In no event shall the duration of the rights granted by this Agreement exceed ninety-nine (99) years.

5. **Reclamation and Maintenance.** GME shall restore, repair, and reclaim all surface damages, including well sites, buildings, structures, gathering lines, tank batteries and roads, caused by its operations, in accordance with all applicable Laws.

During the term of this Agreement, GME shall keep all well sites, roads and pipelines free of trash and debris, and shall maintain the Existing Infrastructure and Future Infrastructure in a neat and orderly manner and in accordance with customary industry practices.

6. **Assignment.** The interest of either Surface Owner or GME hereunder may be assigned, devised or otherwise transferred in whole or in part, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Surface Owner’s ownership shall have the effect of reducing the rights or enlarging the obligations of GME hereunder, and no change in ownership shall be binding on GME until 60 days after GME has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of GME.

7. **Surface Owner's Use of Property.** Surface Owner may use the Property for any and all purposes which do not materially interfere with GME's enjoyment of the rights hereby granted.

8. **Default and Forfeiture.** The failure of GME to make any of the payments herein provided for or to keep or perform any obligation on its part according to the terms and provisions of this Agreement shall, at the election of Surface Owner, constitute an event of default. Upon such event of default, Surface Owner shall give to GME a written notice specifying the particular default or defaults relied upon by Surface Owner. GME shall then have thirty (30) days after receipt of the notice of forfeiture to cure any default or to give notice of its intent to contest any notice of forfeiture. In the event GME gives notice of contest and the parties are not able to resolve the dispute within thirty (30) days of Surface Owner's receipt of GME's notice of contest, then either party may commence appropriate action in a court of Law.

9. **Notices.** All notices and communications required or permitted to be given hereunder, shall be sufficient in all respects if given in writing and delivered personally, or sent by bonded overnight courier, or mailed by U.S. Express Mail or by certified or registered United States Mail with all postage fully prepaid, or sent by electronic mail (provided any such electronic mail is confirmed either orally or by written confirmation).

If to GME:

Green Mountain Exploration, LLC  
607 19th Street  
Golden, Colorado 80401  
Attention: Jeff Becker  
Telephone: (303) 854-9085  
Email: jbecker@fcpetroleum.com

If to Surface Owner:

[INSERT BUYER'S NAME]  
[INSERT ADDRESS]  
Telephone: [INSERT NUMBER]  
Email: [INSERT EMAIL]

Any notice given in accordance herewith shall be deemed to have been given when (a) delivered to the addressee in person or by courier, (b) transmitted by electronic mail during Business Hours, or if transmitted after Business Hours, on the next Business Day, in each case, provided the receipt of such transmission is confirmed by the recipient, or (c) upon actual receipt by the addressee after such notice has either been delivered to an overnight courier or deposited in the United States Mail if received during Business Hours, or if not received during Business Hours, then on the next Business Day, as the case may be. The Parties may change the addresses, and email addresses to which such communications are to be addressed by giving written notice to the other Parties in the manner provided in this Section 10.



**10. Entire Agreement and Amendment:** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. This Agreement may only be amended, modified, or supplemented by a written instrument signed by all the parties expressly stating that such instrument is intended to amend, modify, or supplement this Agreement.

**11. Binding Nature:** This Agreement shall be binding upon the Parties hereto, their heirs, successors and assigns, and shall run with the lands described.

**12. Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be considered one and the same document.

**13. Enforceability:** If at any time subsequent to the date hereto any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon and shall not impair the enforceability of the other provisions of this Agreement.

**14. Insurance:**

(a) GME shall maintain (or cause to be maintained) certain minimum insurance requirements regarding its operations on the Property, as listed on Exhibit C, which is attached hereto and made a part hereof for all purposes. GME shall cause Surface Owner to be named as an additional insured party on such insurance policies, ensure all rights of subrogation against Surface Owner are waived under such insurance policies, and provide copies of such insurance policies to Surface Owner, upon Surface Owner's written request. For the avoidance of doubt, GME's liabilities under this Agreement shall be limited to the insurance coverage amounts specified on Exhibit C.

(b) GME shall not use or occupy the Property in any way that would (i) make void or voidable any insurance then in force with respect thereto, (ii) make it impossible to obtain the insurance required to be furnished by GME hereunder, (iii) constitute a public or private nuisance, or (iv) violate any applicable Law, ordinance, rule or regulation of any Governmental Authority.

**15. Governing Law: THIS AGREEMENT AND THE LEGAL RELATIONS AMONG THE PARTIES SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICTS OF LAW RULE OR PRINCIPLE THAT MIGHT REFER CONSTRUCTION OF SUCH PROVISIONS TO THE LAWS OF ANOTHER JURISDICTION AND EXCLUDING THE TOAIA TO THE MAXIMUM EXTENT THE TOAIA MAY BE EXCLUDED. ALL OF THE PARTIES HERETO CONSENT TO THE EXERCISE OF JURISDICTION IN PERSONAM BY THE UNITED STATES FEDERAL DISTRICT COURTS OR STATE COURTS LOCATED IN DALLAS COUNTY, IN THE**

STATE OF TEXAS FOR ANY ACTION ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY. ALL ACTIONS OR PROCEEDINGS WITH RESPECT TO, ARISING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, OUT OF, RELATED TO, OR FROM THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY SHALL BE EXCLUSIVELY LITIGATED IN THE UNITED STATES FEDERAL DISTRICT COURTS OR STATE COURTS HAVING SITES IN DALLAS, TEXAS (AND ALL APPELLATE COURTS HAVING JURISDICTION THEREOVER). EACH PARTY HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

16. **Defined Terms:** As used in this Agreement, the following terms and any form or tense of such terms shall have the respective meanings set forth below:

“***Affiliate***” means, with respect to any Person, a Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with, such Person. Notwithstanding the foregoing, no GME Party shall be considered an Affiliate of any Surface Owner Party for purposes of this Agreement.

“***Agreed Rate***” means 15% (or, if such rate is contrary to any applicable usury Law, the maximum rate permitted by such applicable Law).

“***Business Day***” means a day (other than a Saturday or Sunday) on which commercial banks in Golden, Colorado, are generally open for business.

“***Business Hours***” means 9:00 a.m. to 5:00 p.m. MT of a Business Day.

“***Control***” (including the correlative terms “***Controlled by***” and “***Controlling***”) means the possession, directly or indirectly, of the power to direct, or to cause the direction of, the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“***Governmental Authority***” means any federal, state, local, municipal, tribal or other government; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power; and any court or governmental tribunal, including any tribal authority having or asserting jurisdiction.

“***Law***” means any constitution, decree, resolution, law, statute, act, ordinance, rule, directive, order, treaty, code or regulation and any injunction or final non-appealable judgment or any interpretation of the foregoing, as enacted, issued or promulgated by any Governmental Authority.

“***Person***” means any individual, corporation, company, partnership, limited partnership, limited liability company, trust, estate, Governmental Authority or any other entity.

17. **Memorandum:** It is understood and agreed that a Memorandum of this Agreement may be filed of record for the purpose of providing notice of the existence of this Agreement in lieu of recording the executed original.

*[Signature pages follow]*

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first above written.

**GREEN MOUNTAIN EXPLORATION, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[INSERT BUYER'S NAME]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Acknowledgments

STATE OF COLORADO )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, as \_\_\_\_\_ of Green Mountain Exploration, LLC, a Delaware limited liability company, on behalf of the company.

Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by **[INSERT BUYER'S NAME]**.

Notary Public

My Commission Expires: \_\_\_\_\_

### **Exhibit A**

Attached to that certain Surface Use Agreement and Easement between [INSERT BUYER'S NAME] and Green Mountain Exploration, LLC

### **Legal Description**

**Sections 73, 74 and 78-82, Block N, G&MMB&A Survey, Sections 1-10, Block O, G&MMB&A Survey, and Section 20 and 40, Block F, G&MMB&A Survey, all in Ward County, Texas.**

**[INSERT LEGAL DESCRIPTION OF LAND SOLD]**



## **Exhibit B**

Attached to that certain Surface Use Agreement and Easement between **INSERT BUYER'S NAME** and Green Mountain Exploration, LLC

### **New Facilities Fees**

<b>Description</b>	<b>Damage Payment</b>
New Drill Locations	\$1,500/ac
Additional wellbore on same pad	\$5,000/well
Re-Entry of well	\$2,500/well
Satellite Location*	\$7,500/well
New Roads Built (Up to 30' in total width)	\$20/rod
New Roads Built (Over 30.01' in total width)	\$40/rod
Caliche/dirt (mined on Property)	\$5/yard
Caliche/dirt (mined off Property)	\$2/yard
Spill/Leaks on Property	\$500/acre (Minimum of \$500 per instance)
flow lines (6" in diameter or less)	\$30/rod
flow lines (6.1" to 12" in diameter)	\$50/rod
flow lines (12.1" to 16" in diameter)	\$80/rod
flow lines (16.01" in diameter or larger)	\$160/rod
Electric Transmission Lines less than 30,000 volts	\$40/rod
Electric Transmission Lines 30,001 to 69,000 volts	\$10/rod
Electric Transmission Lines 69,001 to 138,000 volts	\$15/rod
Electric Transmission Lines 138,0001 to 300,000 volts	\$30/rod
Electric Transmission Lines over 300,001 volts	\$60/rod
Rig Storage 1 to 30 days	\$250/day
Rig Storage 31 to 60 days	\$300/day
Rig Storage 61 to 90 days	\$350/day
Rig Storage over 91 days	\$400/day
Fresh Water Frac Pit	\$0.20/sq ft
Fresh Water	\$0.15/bbl or market rate, whichever is greater
Additional Land Damage fee**	\$1,500/ac

**\*Satellite Location**

A Satellite Location shall be defined as any well/location that is built remotely from the gathering/production equipment that the well is tied to via pipelines, flow lines, or tiebacks.

**\*\*Additional Land Damage fee**

The Additional Land Damage fee shall be due for surface uses that are not specifically identified above, subject to the terms and conditions of the agreement to which this is attached



# COVER SHEET

FOR THE  
SURFACE DAMAGE AND USE AGREEMENT  
BETWEEN  
CHEVRON U.S.A. INC., & SUNDOWN ENERGY, INC. ET AL

## NOTE TO BIDDERS:

IF YOU BUY ANY OF THE BELOW LISTED TRACTS YOU WILL BE A SUCCESSOR IN INTEREST TO CHEVRON U.S.A. INC. PER THE SURFACE DAMAGE & USE AGREEMENT

TRACT 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35,  
36, 37, 38, 39, 40, 41.



## SURFACE DAMAGE AND USE AGREEMENT

STATE OF TEXAS                   §

COUNTY OF WARD               §

WHEREAS, **CHEVRON U.S.A. INC.**, a Pennsylvania corporation, P.O. Box 1150, Midland, Texas 79702, hereinafter referred to as "**Grantor**" is the owner of the surface estate of Sections 73-82, Block N, G&MMB&A Survey and Sections 1-10, Block O, G&MMB&A Survey, all in Ward County Texas, said lands being hereinafter referred to as "the Lands" or "the Land" or "Grantor's Land"; and

WHEREAS, **SUNDOWN ENERGY, INC. (49.4950%)**, a Texas corporation, 8150 N. Central Expressway, Suite 400, Dallas, Texas 75206, **SASI MINERALS COMPANY (6.3131%)**, a Delaware corporation, 3738 Oak Lawn Ave., Suite 300, Dallas, Texas 75219, **ST. MARY LAND & EXPLORATION COMPANY (21.3838%)**, a Delaware corporation, 1776 Lincoln St., Suite 1100, Denver, Colorado 80203, **TRANSMOUNTAIN EXPLORATION LLC (1.4243%)**, a Wyoming limited liability company, 8201 Southpark Lane, Suite 100, Littleton, Colorado 80120, and **WESTPORT OIL AND GAS COMPANY, INC. (21.3838%)**, a Delaware corporation, 410 17<sup>th</sup> Street, Suite 2300, Denver, Colorado 80202 (collectively referred to as "Grantee"), are the owners, in the undivided percentages set forth opposite their respective names, of that certain Oil and Gas Lease dated January 11, 1995, by and between The Hutchings Joint Stock Association Number Two et al., as Lessor, and Penwell Energy, Inc., as Lessee, Recorded in Volume 629, Page 463 of the Official Public Records of Ward County, Texas, (the "Lease"), such lease covering the Lands described above and other lands; and

WHEREAS, by separate instrument of even date herewith, styled Assignment, Grantee, as Assignor, has assigned the Lease to Grantor, as Assignee, insofar and only insofar as the Lease covers from the surface of the earth down to, but not below the base of the Queen formation (the "Shallow Rights"); and

WHEREAS Grantor now operates, and will after the Effective Date operate, numerous wells on the Lands described above and other lands producing oil and gas from the Shallow Rights (the "Shallow Wells"); and

WHEREAS, by separate instrument of even date herewith, styled Bill of Sale, Chevron U.S.A. Inc. as Grantor, is conveying unto Grantee certain existing wells which produce from or are utilized in connection with production from formations below the Shallow Rights, together with facilities and equipment associated therewith (the "Existing Wells") (said Existing Wells, together with any other wells and associated facilities and equipment now or hereafter owned or operated by Grantee and utilized in connection with production from formations below the Shallow Rights, being hereinafter collectively referred to as the "Deep Wells"); and

WHEREAS, Grantee desires to use the Lands in conjunction with the operation and production from the Deep Wells and future wells and other operations by Grantee; and

WHEREAS, as Lessee under the Lease, Grantee has the right to use so much of the surface of the Land as is reasonably necessary to produce oil and gas under the Lease; and



WHEREAS, without limiting Grantee's rights of use of the Land, Grantor and Grantee desire to address certain matters incident to the conduct of Grantee's operations on Grantor's Lands and the maintenance of facilities located thereon, and

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein after contained, the parties have agreed as follows:

1. **Right of Use.** Grantor hereby acknowledges Grantee's right to use and does hereby expressly grant to Grantee the right to use the Lands for all purposes incident or necessary to the ownership and operation of Grantee's rights under the Lease, the operation and production of the Deep Wells, and the marketing and transportation of any and all substances produced from the Deep Wells.

2. **Existing Surface Uses.** Grantee's rights of surface use expressly extend to and include without limitation the right to use all pads, roads, electrical rights of way, pipeline rights of way, and other surface easements and improvements, existing on the Effective Date (hereinafter defined), on which the Deep Wells are located, which are used to obtain access to the Deep Wells or on which any of the pipelines, flowlines or other equipment Grantor is conveying to Grantee under the Bill of Sale are situated, whether the Deep Wells are located on the Lands, or on other lands, covered by the Lease. No surface damages of any kind shall be payable to Grantor for the use of these existing pads, roads, or rights of way (collectively, "Existing Surface Uses").

3. **Subsequent Activities.** Grantee hereby covenants and agrees to pay certain damages done to the surface of the Lands in the course of Grantee's operations after the Effective Date, excluding the Existing Surface Uses, in accordance with the amounts listed on the damage schedule as set out in Exhibit "A", attached hereto and made a part hereof.

4. **Manner of Operation.** During and with respect only to Grantee's operations on the Lands following the Effective Date,

A. **Removal of Trash.** Grantee shall remove all trash of any kind from said Lands directly resulting from Grantee's operations on a day to day basis. Grantee shall keep all roads and locations clean of all trash at all times. In addition to the foregoing, after depletion of production, Grantee shall remove all trash, debris and rubbish which Grantee has placed or left on the Lands. Notwithstanding the above, Grantee may, upon prior written approval from Grantor, dispose of trash, debris and rubbish at a burial site approved by Grantor. Any litter or trash directly resulting from Grantee's operations found along roads used by Grantee shall immediately be removed by Grantee. In the event Grantee fails to keep all roads and locations clean of trash directly resulting from Grantee's operations to the reasonable satisfaction of Grantor, then after ten (10) days written notice to Grantee, Grantor may have roads and locations cleaned on its own or have the work done, and Grantee shall pay for said work. Payment made for said work shall be based on Grantor's costs to do such work or the amount paid to a third party(ies) to do such work, or both, whichever is applicable.

B. **Restoration of Surface.** Within a reasonable time not to exceed three (3) months after cessation of its drilling and producing operations, Grantee shall level all dumps, remove all liquids from any slush pits, fill all pits, remove all debris leaving no hazards to livestock, and to the extent reasonably practical restore the surface of the Land to substantially



the same condition as it was before commencement of such operations.

C. Surface Oil. Grantee shall immediately clean up and properly dispose of any oil, hydrocarbons or produced water that leaked or spilled on the surface of the Land related to the Deep Wells. Grantee shall immediately repair the causes of such leaks or spills. Grantee shall pay for any surface damage to the Land, grass and livestock caused by such oil, hydrocarbons or produced water found on the surface of the Land, related to operations and/or production from the Deep Wells.

D. Pit Liners. Grantee's pit liners shall conform to Texas Railroad Commission Regulations, and Grantee shall remove such pit liners immediately upon cessation of drilling operations.

E. Flags. Grantee agrees to take down all ribbons and/or flagging used by Grantee in connection with surveying or other operations and to remove same from Grantor's Lands.

5. Roads.

A. It is understood and agreed that no other operators shall be entitled to use any roads or roads constructed by Grantee hereunder, without the express written permission of Grantor. When maintenance is necessary on any road legally being used by more than one operator or company for oil field operations, Grantee shall pay only its proportionate part of the maintenance cost on the portion of the road used by Grantee, except as to operations by the operators of the Shallow Wells. The costs of operations of roads or surface facilities used by both Shallow Well Operations and Deep Well Operations is covered by Section 21 hereof.

B. It is understood and agreed that Grantor reserves the exclusive right to grant easements on any such roads, including Grantee's lease roads, to additional persons, firms, partnerships or corporations, however; any other grantees shall be required by Grantor to agree to share the cost of maintaining the particular road used in accordance with Section 21 hereof.

C. Grantee agrees and covenants to keep all gates locked and closed and to use such roads as may be reasonably designated by Grantor in connection with the operations and at all other times agrees to confine Grantee's operations and vehicle traffic to the proposed roads, except where Grantor may direct Grantee to travel so as to cross through fences rather than cut said fences. Grantee also agrees to provide Grantor with a set of keys to locks placed on all gates.

D. No vehicle shall be permitted to drive anywhere on said Lands except on existing roads and those new roads constructed under this agreement except to transport seismic equipment, or for temporary use during the construction of pipelines or other facilities. All vehicles used on said roads shall be operated in a safe and prudent manner. Grantee agrees to make and erect signs pertaining to road use as may be reasonably requested by Grantor along said roads.

E. Grantee covenants and agrees that it will top any roads constructed by Grantee after the Effective Date with caliche. Once Grantee has caliched a road pursuant hereto and has paid the amount for road easements, based on the amounts agreed to in Exhibit "A", Grantor shall not deny Grantee the use of such road. Grantee shall construct all roads constructed after the Effective Date so as to include a compact caliche base of sufficient



thickness to bolster the natural soil such that it shall have the bearing capacity for heavy vehicles, in both wet and dry weather and such that the roadbed shall be reasonably smooth, free of ruts, chuckholes, rocks, slides, washboards, dust pockets, soft spots or other driving hazards or nuisances. Grantee shall maintain each road existing on the Effective Date in the same manner as Grantor had previously maintained such road. Grantee shall construct and maintain said roads at its sole cost and expense, free from any cost or expense to Grantor, except as provided in Section 21 hereof.

F. In the event Grantee fails to maintain said roads to the standards set forth above, then after 60 days written notice from Grantor to Grantee identifying specific deficiencies and if such specific deficiencies still remain uncorrected, Grantor may repair such specific deficiencies or have the repair done, and Grantee agrees to pay to Grantor the amount of Grantor's costs for doing such repair work or the amount Grantor paid to a third party to do such repair work, or both, whichever is applicable, subject to Section 21 hereof.

6. **Pads.** Grantee covenants and agrees that after the Effective Date it will construct any and all new location pads in such a manner that the pads shall have a compact caliche base of sufficient thickness to bolster the natural soil such that it shall have the bearing capacity for heavy vehicles in both wet and dry weather, and is large enough for all equipment and vehicles to work on said caliche pad so long as it uses same.

7. **Fences and Cattleguards.** Grantee covenants and agrees that it will not cut or open any fence at any time for any purpose, except with written permission of Grantor. Said permission shall not be unreasonably withheld or delayed. All fences that are cut after the Effective Date by Grantee with advance written permission of Grantor will have "H" braces installed that will meet with reasonable specifications of Grantor. After completing a pipeline, the "H" braces will be removed and the fence rebuilt to as near its original condition as reasonably practical and/or gates will be installed. Grantee shall do the necessary labor to cut or open same for use by Grantee with Grantee furnishing cost of necessary materials, such as cattleguards or gates. However, if Grantor performs or furnishes any labor regarding the installation of said openings, cattleguards and/or gates, Grantee shall pay to Grantor the amount of Grantor's costs for doing such work or the amount Grantor paid to a third party to do such work, or both, whichever is applicable. For any new roads or pipelines constructed by Grantee after the Effective Date, Grantee agrees:

- (1) to construct said openings, gates, or cattleguards wide enough for heavy equipment to pass through.
- (2) to construct all new gates with steel and keep such gates painted and maintained so they will open and shut properly.
- (3) to place cattleguards a minimum of eighteen feet (18') in length and a minimum of eight feet (8') in width at any and all fence crossings and to keep all cattleguards cleaned out.
- (4) If requested by Grantor, Grantee covenants and agrees to place gates at all fences gapped or used by it, its contractors or employees, at its own expense.
- (5) to erect and maintain fences around all pits dug on said Lands in connection with any drilling, completing, reworking, or plugging operations so as to reasonably



prevent injury to livestock, and additionally to erect and maintain fences so as to reasonably prevent injuries to livestock around all activities in connection with its operations. In the event Grantee fails to comply with the terms of this paragraph, Grantor may, upon ten (10) days written notice to Grantee with the deficiency remaining uncorrected, have the repair or work done and Grantee shall pay to Grantor the amount of Grantor's costs for doing such work or the amount Grantor paid to a third party to do such work, or both, whichever is applicable.

8. **Prohibition of Hunting and Firearms on Premises.** No hunting will be allowed on the subject Lands or roads. Grantee agrees that none of its employees will carry on said Lands any firearm of any description or any other device for hunting, trapping, or capturing any wildlife or domestic life of any type. Grantee agrees to use its best effort to cause its contractors, subcontractor or anyone employed in any manner to observe this policy also.

9. **Water.** Grantor covenants and agrees that, if water is available above Grantor's or Grantor's Surface Lessee's needs, it may be used by Grantee or its contractors. Water may be purchased from Grantor by Grantee or its contractors from wells or tanks designated by Grantor, said wells or tanks in each instance shall be the nearest wells or tanks with the available water. Grantor agrees to sell such water, if available above its or its lessee's needs, at the rate of ten cents (10¢) per barrel or the current market rate whichever is the greater. Grantee or Grantee's contractors shall produce and lift such water at their own expense. Grantee agrees that Grantee's contractors shall pay such amounts to Grantor, if any water is used by Grantee's contractors, and in case of any failure of any such contractor to pay such amounts to Grantor within thirty (30) days of the end of the month in which same is used, Grantee shall pay Grantor such amounts immediately upon Grantee's receipt of written notice from Grantor of the default of Grantee's contractor. Grantee further covenants and agrees not to drill any water wells without written consent of Grantor on any of the Land. All water purchased shall be measured through an accurate water meter installed and maintained at Grantee's expense.

10. **Payments to Surface Lessee.** Grantee shall not make any monetary payment to Grantor's Surface Lessee for damages to Grantor's surface estate without the express written consent of Grantor. It is understood and agreed that Grantee shall pay Grantor's Surface Lessee for any damages to the Surface Lessee's personal property; however, such payment shall be communicated to and approved by Grantor.

11. **Damages.** The consideration set out herein does not cover any matter which may result in damages to the personal property or to the person of Grantor's agents or employees or any other persons that may result as a negligent act and/or omission of Grantee, its agents and employees, its contractors, or sub-contractors in connection with Grantee's operations. Grantee shall be liable for any damages caused by any negligent act and/or omission of Grantee or its contractors to any property of Grantor, to the person of Grantor's agents or employees or any other persons.

12. **Pipelines.** This section shall apply to pipelines constructed by Grantee after the Effective Date only.

A. Pipelines shall include those lines necessary to transport oil, gas, fresh water and salt water. Pipeline rights-of-way shall not exceed twenty feet (20') in width at any point of the right-of-way, with an additional ten foot (10') wide temporary work easement. If sand or top soil is used to pad the pipe at the time the pipe is buried, Grantee may, when reasonably practical,



obtain such sand or top soil from Grantor from any of the Land or any other lands owned by Grantor where Grantee lays a pipeline at a cost of \$2.00 per cubic yard. Grantee shall remove no top soil or pad dirt from the rights-of-way herein granted. Grantee shall lay no above ground pipelines, except flowlines across drill site pads, without written consent of Grantor. To the extent reasonably feasible, Grantee shall bury all pipelines. Grantee shall bury all low pressure pipelines a minimum of eighteen inches (18") subsurface. Grantee shall bury all high pressure pipelines (such as gas lines) a minimum of thirty-two inches (32") subsurface. Notwithstanding the above, where pipelines cross rock, Grantee need only bury such pipelines a minimum of eighteen inches (18") subsurface with a pad on top. Grantee may lay temporary lines on the surface. After construction, the privilege to use, maintain, repair and operate said pipelines shall be for the purpose of the transmission of oil, gas, other liquid hydrocarbons, water, salt water, carbon dioxide and other secondary recovery materials. Each right-of-way given shall be for one (1) pipeline only with exception that Grantee may place flowlines and salt water lines in the same ditch, and Grantee shall only pay Grantor one per rod charge, as provided in Exhibit "A", for each such ditch. Once the pipelines are laid, any change in its location or pipe size will constitute a new easement agreement at the original stated price per rod. Grantee shall reseed all Land disturbed by the construction of pipelines at its sole cost with a mutually acceptable native grass seed.

B. After the depletion of the oil, gas, or hydrocarbons on the lease or cessation of the use of the pipelines that pertained to these rights-of-way, Grantee shall, within ninety (90) days from said depletion or cessation date, commence the deactivation of such pipelines and flowlines in accordance with the rules and regulations of the Texas Railroad Commission. To the extent permitted by such rules and regulations, the pipelines and flow lines will be abandoned in place. Grantee shall not place any pipelines and/or facilities on any Land unless actively used for lease operations. In the event of the failure to commence deactivation of said pipelines and other facilities within said ninety (90) days or to complete such deactivation within said ninety (90) days, any such facilities and pipelines remaining on the surface shall be and become the property of Grantor, but Grantee shall be liable for the cost of deactivation. Grantee may operate, maintain, repair, replace or remove any of the pipelines installed pursuant to this agreement without incurring any further charges. Grantee shall not be obligated to remove or pay for the removal of buried pipelines with exception of all pipelines or parts of pipelines laid on the surface. Grantee shall keep all rights-of-way clean of any trash at all times and such trash shall be removed from Grantor's Land or disposed of by its recommendations. Grantee shall keep all rights-of-way well marked with signs that include Grantee's emergency telephone number.

13. **Power Lines.** The same provisions above applicable to Pipeline rights-of-way shall equally apply to Power line rights-of-way for power facilities constructed after the Effective Date, with exception of the damage payments applicable to each, as provided in Exhibit "A".

14. **Diversions.** Grantee shall install diversions along all rights-of-way so as to cause rainwater to cross over and not run down the right-of-way thereby causing erosion.

15. **Environmental Protection.** Grantee covenants that (a) no substances deemed hazardous under any Hazardous Material Law including, but without limitation to: (i) the Resource Conservation and Recovery Act 1976 ("RCRA"), 42 U.S.C. §§6901 et seq., (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§9601, 9657, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), (iii) the Hazardous Materials Transportation Act, 49 U.S.C. 6901, et seq., (iv) the



Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., the Clean Air Act, 42 U.S.C. §741 et seq., (v) the Clean Water Act, 33 U.S.C. §7401, (vi) the Toxic Substances Control Act, 15 U.S.C. §§2601-2629, (vii) the Safe Drinking Water Act, 42 U.S.C. §300f-300j, and (viii) all similar federal, state, and local environmental statutes, ordinances, and the regulations, orders, and decrees now or hereafter promulgated thereunder, except for crude oil, condensate and natural gas liquids (collectively, the "Hazardous Material Law" and hazardous substances, are herein called "Hazardous Materials"), and placed by or at the direction of Grantee upon the Lands shall be left on the Lands upon abandonment of operations; (b) no activity shall be undertaken by Grantee on the Lands which would cause (i) the Lands to become a hazardous waste treatment, storage, or disposal facility within the meaning of RCRA or any Hazardous Material Law, (ii) a release or threatened release of Hazardous Material from the Lands within the meaning of CERCLA or SARA or any Hazardous Material Law, or (iii) the discharge of Hazardous Material into any watercourse, body of surface or subsurface water, or wetland, or the discharge into the atmosphere of any Hazardous Material which would require a permit under any Hazardous Material law; (c) no activity shall be undertaken by Grantee with respect to the Land which would cause a violation or support a claim under RCRA, CERCLA, SARA, or any Hazardous Material Law; and (d) no underground storage tanks or underground deposits shall be located by Grantee on the Lands.

Grantee shall immediately advise Grantor in writing of (a) any governmental or regulatory actions instituted or threatened under any Hazardous Material Law affecting the Lands as received by Grantee, (b) all claims made or threatened by any third party against Grantee or the Lands relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from any Hazardous Material, (c) the discovery of any occurrence or conditions to the extent caused by Grantee on any real property adjoining or in the vicinity of the Lands that could cause the Lands to be classified in a manner which may support a claim under any Hazardous Material Law, and (d) the discovery of any occurrence or condition on the Lands or any real property adjoining or in the vicinity of the lands to the extent caused by Grantee which could subject the Lands to any restrictions on ownership, occupancy, transferability, or use under any Hazardous Material Law. At its sole cost and expense, Grantee shall promptly cure and remedy every violation of a Hazardous Material Law relative to the Lands caused by Grantee.

**16. Plugging and Abandonment of Wells.** When any of Grantee's wells located on Lands is permanently abandoned by Grantee, Grantee agrees to plug such well(s) in accordance with the laws of the State of Texas, the rules of the Railroad Commission of Texas, and any other agency having jurisdiction in connection with the plugging and abandonment of such well(s) and the protection of potable waters. Grantee agrees to submit to Grantor, as soon as possible, but not less than twenty-four (24) hours in advance of the plugging operations, a notice of intent to plug and abandon, which will include the abandonment programs.

**17. Insurance.** Without in any way limiting Grantee's liability hereunder, Grantee shall carry and maintain insurance coverage for its operations hereunder and, upon request, make certificates of such insurance available to Grantor for inspection. Such insurance shall include:

- (a) Worker's Compensation and Employer's Liability Insurance
- (b) Comprehensive General Liability Insurance, and
- (c) Comprehensive Automobile Liability Insurance

Each insurance policy specified above shall provide an adequate limit that reasonably covers the risk insured, but in no event shall it be less than one million dollars for each occurrence



under each policy. The insurance specified in subparagraph (a) above shall contain a waiver of subrogation against Grantor and its tenants. The insurance specified in subparagraphs (b) and (c), above shall name Grantor and Grantor's tenants as additional insureds with respect to operations performed by Grantee under this agreement.

18. **Notices.** All notices, requests and other communication required by this agreement shall be in writing addressed to the respective parties as set forth below, unless expressly provided otherwise herein and shall be deemed to have been properly given if deposited in the United States mail, or if sent by facsimile and followed by U.S. Mail.

Grantee:

Sundown Energy, Inc.  
ATTN:  
Suite 400  
8150 N. Central Expy.  
Dallas, TX 75206

SASI Minerals Company  
ATTN:  
3738 Oak Lawn Ave.  
Suite 300  
Dallas, TX 75219

St. Mary Land & Exploration Company  
ATTN:  
1776 Lincoln St.  
Suite 1100  
Denver, CO 80203

Westport Oil and Gas Co., Inc.  
ATTN:  
410 17<sup>th</sup> Street  
Suite 2300  
Denver, CO 80202

Grantor:

Chevron U.S.A. Production Company  
Attn: Land Manager  
P. O. Box 1150  
Midland, Texas 79705

19. **Drugs, Alcohol and Firearms.** In connection with this agreement, Grantor and Grantee agree to comply with the following policy ("Policy") regarding illegal drugs, alcohol and firearms (the term "COMPANY" as used below shall mean both Grantor and Grantee):

- a. The use, possession, distribution, purchase or sale of any illegal drugs or other controlled substances by any person while on COMPANY premises, engaged in COMPANY business or while operating COMPANY equipment is prohibited.
- b. The use of any illegal drug or other controlled substances or alcohol which causes or contributes to unacceptable job performance or unusual job behavior is prohibited.
- c. The use, possession, transportation or sale of explosives, unauthorized flammable materials, firearms, or other weapons by COMPANY's contractors or its subcontractors or their employees while on COMPANY premises, engaged in



COMPANY business or while operating COMPANY equipment is prohibited.

- d. The unauthorized use, possession, transportation or sale of alcoholic beverages by COMPANY's contractors, its subcontractors or their employees while on COMPANY premises or while operating COMPANY equipment is prohibited.

Grantor's and Grantee's employees and the employees of Grantor's and Grantee's contractors and their subcontractors shall abide by the above Policy. Any person violating this Policy shall be removed from Grantor premises and may be denied future access to Grantor's premises. In appropriate cases, local law enforcement agencies may be advised of violations of this Policy.

20. Grantee shall at all times use reasonable care in all of its operations herein to prevent injury or damage to the water wells, pumps, tanks, pipelines, cattle, livestock, fences, buildings or other improvements belonging to Grantor or Grantor's tenants. Grantee shall be responsible for all such injury or damages that has reasonably been determined by Grantor to have been caused by Grantee, its contractors or their employees, and Grantee agrees to pay promptly for the actual damages.

21. **Sharing of Costs.** It is recognized that Grantor, and its successors and assigns, will operate the Shallow Wells located on the lands covered by the Lease and Grantees and their successors and assignees will operate the Deep Wells located on the lands covered by the Lease. In many instances the roads and surfaces will be used for operation of both the Shallow and Deep Wells. Any road or portion of a road which is used exclusively to provide access to a Deep Well shall be maintained at the sole cost of Grantees, their successors and assigns. Any road or portion of a road which is used exclusively to provide access to a Shallow Well shall be maintained at the sole cost of Grantor, its successors and assigns. The cost to maintain any road which is used to provide access to both a Shallow Well(s) and Deep Well(s) shall be shared, based upon the number of wells in each category serviced by the road. By way of example, if a section of road services two Shallow Wells and one Deep Well, Grantor, or its successors and assigns, as operator of the Shallow Wells will pay two-thirds of the cost of maintenance of such section of road and Grantees, their successors and assigns, as operators of the Deep Wells will pay one-third of such costs. In a similar manner, all costs for which Grantee is obligated under this agreement which relate to costs associated with both Shallow Wells and Deep Wells will be apportioned between the owners of the respective rights in an equitable manner. Nothing contained herein will obligate the owner of the Shallow Rights to pay for costs of operations related to the Deep Rights; and nothing contained herein will obligate the owner of the Deep Rights to pay any costs of operations related to the Shallow Rights. The allocation and sharing of costs provided for in this Section 21 shall, as between Grantor and Grantees and their respective successors and assigns in ownership of the Lease, be applicable to all lands covered by the Lease.

22. **Legal Fees and Expenses.** In the event of the breach by either party of any provision of this agreement, the prevailing party shall recover from the other party all expenses, including attorney's or legal fees, incurred by the prevailing party in protecting and enforcing its legal rights hereunder.

23. **Assignment.** It is understood and agreed that Grantee may sell, assign, transfer or convey at any time, all or an undivided part of its rights hereunder as incident to a sale or assignment of property owned or operated by Grantee covering any of Grantor's land, but this instrument will always be a part of the sale or disposal of Grantee's interest in all oil and gas on



Grantor's land, it being expressly agreed and understood that all covenants and agreements herein made and contained shall be deemed to touch and affect the Land and shall run with the Lease and the Land so as to be binding upon any future owners or assignees of all or any part thereof. Grantor shall give notice of the terms of this Agreement to any and all persons acquiring an interest in the Land from Grantor.

24. **Term.** This agreement shall terminate automatically upon expiration of the lease or leases under which Grantee is conducting its oil and gas operations on the Deep Wells.

25. **Binding on Successors and Assigns.** This agreement shall inure to the benefit of and be binding upon the successors and assigns of Grantor and Grantee.

26. **Several Liability.** The rights and obligations of Grantee hereunder are owned and severally performable by the parties comprising Grantee in the undivided percentages set forth immediately following their respective names in the caption to this Agreement. Any provisions of this Agreement to the contrary notwithstanding, any representations, warranties, covenants, and other obligations of Grantee herein are several and not joint and are limited to the respective interests of Grantee hereunder, as set forth above.

27. **No Third-Party Beneficiaries.** Except as specifically provided otherwise herein, this Agreement is not intended to create, nor shall it be construed to create, any rights in any third party under doctrines concerning third party beneficiaries, including, but not limited to, any owners other than Grantor of rights in the Lands or any owners of rights in lands covered by the Lease other than Grantor.

28. **Recording Memorandum.** Contemporaneously herewith, the parties are executing, delivering, and filing of public record in Ward County, Texas, a memorandum in form and substance like that attached hereto as **Exhibit "B"** for purposes of conferring record notice of the terms hereof.

29. This Agreement is executed and delivered pursuant and subject to that certain Compromise and Settlement Agreement and Release in full of all Claims (the "Settlement Agreement") between Grantor, Penwell Energy, Inc., and Grantee, the terms of which are incorporated herein by reference for all purposes. In the event of any conflict between the Settlement Agreement and this Agreement, the Settlement Agreement shall in all respects govern and control.

30. For the convenience of the parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. For further convenience, the various partially executed signature pages may be consolidated and attached to the body of this Agreement.



In witness whereof, we have hereunto set our hands on this the 26th day of June, 2000, but effective as of 12:01 a.m. on August 4, 2000 (the "Effective Date").

AGREED AND ACCEPTED BY:

GRANTOR:

CHEVRON U.S.A. INC.

By: M.H. Form

M. H. Forman, Attorney-in-Fact

GRANTEE:

SUNDOWN ENERGY, INC.

By: Gregg Allen  
Gregg Allen, Vice President

SASI MINERALS COMPANY

By: William Casey McManemin


William Casey McManemin, President  
~~Attorney-in-Fact~~

ST. MARY LAND &  
EXPLORATION COMPANY

By: Ronald D. Boone

Ronald D. Boone, Executive Vice President

TRANSMOUNTAIN EXPLORATION, LLC

By: 

Ronald D. Boone, Agent and Attorney-in-Fact

WESTPORT OIL AND GAS CO., INC.

By:   
Lynn Belcher, Vice President

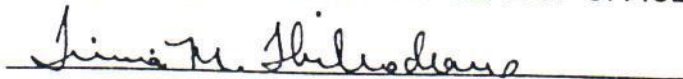
ACKNOWLEDGEMENTS

STATE OF TEXAS            ))

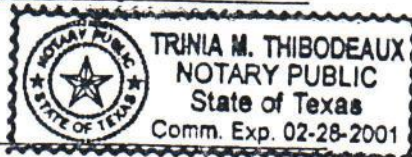
COUNTY OF HARRIS       ))

BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 26th day of June, 2000 personally appeared William Casey McManemin, the identical person who executed this instrument on behalf of **SASI MINERALS COMPANY** in his capacity as its ~~President~~ and **ATTORNEY-IN-FACT** executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such Corporation, for used, purposes and consideration therein expressed and set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE that day and year last above written.



Notary Public in and for the  
State of Texas  
My Commission Expires:



STATE OF TEXAS )(

COUNTY OF HARRIS )(

BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 26th day of June, 2000 personally appeared Ronald D. Boone, the identical person who executed this instrument on behalf of **ST. MARY LAND & EXPLORATION COMPANY** in his capacity as its Executive Vice President and executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such Corporation, for used, purposes and consideration therein expressed and set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE that day and year last above written.

*Trinia M. Thibodeaux*

Notary Public in and for the  
State of Texas  
My Commission Expires:



STATE OF TEXAS )(

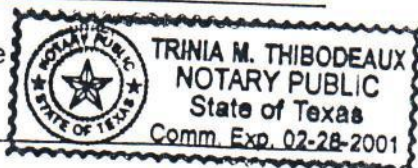
COUNTY OF HARRIS )(

BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 26th day of June, 2000 personally appeared Ronald D. Boone, the identical person who executed this instrument on behalf of **TRANSMOUNTAIN EXPLORATION, LLC** in his capacity as its Agent and Attorney-in-Fact and executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such limited liability company, for used, purposes and consideration therein expressed and set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE that day and year last above written.

*Trinia M. Thibodeaux*

Notary Public in and for the  
State of Texas  
My Commission Expires:





STATE OF TEXAS )(

COUNTY OF HARRIS )(

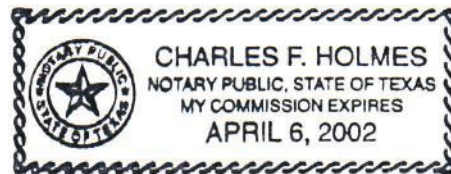
BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 26th day of June, 2000 personally appeared Lynn Belcher, the identical person who executed this instrument on behalf of **WESTPORT OIL AND GAS COMPANY, INC.** in his capacity as its Vice President and executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such Corporation, for used, purposes and consideration therein expressed and set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE that day and year last above written.



Notary Public in and for the  
State of Texas

My Commission Expires: \_\_\_\_\_



STATE OF TEXAS )(

COUNTY OF HARRSI )(

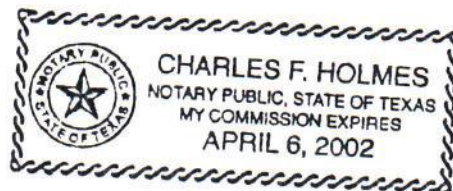
BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 26th day of June, 2000 personally appeared Gregg Allen, the identical person who executed this instrument on behalf of **SUNDOWN ENERGY, INC.** in his capacity as its Vice President and executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such Corporation, for used, purposes and consideration therein expressed and set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE that day and year last above written.



Notary Public in and for the  
State of Texas

My Commission Expires: \_\_\_\_\_



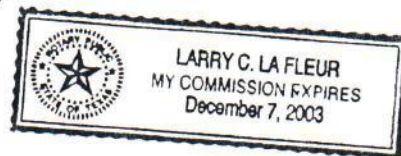
STATE OF TEXAS )(

COUNTY OF HARRIS )(

BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 26th day of June, 2000 personally appeared M. H. Forman, the identical person who executed this instrument on behalf of **CHEVRON U.S.A. INC.** in his capacity as its Attorney-in-Fact and executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such Corporation, for used, purposes and consideration therein expressed and set forth.

*Larry C. LaFleur*

Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_



## EXHIBIT "A"

Attached hereto and made a part of the Surface Damage and Use Agreement by and between Chevron U.S.A. Inc. and Sundown Energy, Inc. et al.

### A. Well Locations

- |    |  |            |
|----|--|------------|
| 1. | 15,000 - 150,000 sq. feet (per location)                           | \$2,500.00 |
| 2. | In excess of 150,000 sq. feet (per location)                       | \$3,500.00 |
| 3. | Less than 15,000 sq. feet (per location)                           | \$1,500.00 |
| 4. | Notify Chevron representative to coordinate the location of roads. |            |
| 5. | Remit damage payment to Chevron on or before the spud date.        |            |

### B. Pipe Line Easements

Consideration and Damages/Rods	\$500.00 minimum
--------------------------------	------------------

- |    |  |             |
|----|--|-------------|
| 1. | Lines under 12".                       | \$15.00/rod |
| 2. | Lines 12" and under 24".               | \$21.00/rod |
| 3. | Lines 24" and over.                    | Negotiated  |
| 4. | Temporary oil and gas lines off lease. | \$2.50/rod  |

### C. Power/Telephone Line Easements

Consideration and Damages/Rods	\$500.00 minimum
--------------------------------	------------------

- |    |                          |            |
|----|--------------------------|------------|
| 1. | Per hole.                | \$50.00    |
| 2. | Buried telephone cable.  | \$5.25/rod |
| 3. | Removal of buried cable. | \$2.00/rod |

### D. Road Easements

- |    |   |            |
|----|---|------------|
| 1. | New road construction or use of existing roads.<br>Provide Chevron with legal survey. | \$4.50/rod |
|----|---|------------|

### E. Caliche

- |    |              |  |
|----|--------------|--|
| 1. | Market Value |  |
|----|--------------|--|

### F. Water

- |    |                                |  |
|----|--------------------------------|--|
| 1. | Use of water wells (existing). | 10 cents per barrel or the market rate, whichever is the greater with a minimum payment of \$2,500.00. |
|----|--------------------------------|--|

2. Use of water wells (new) Negotiated

G. **Storage - Rig**

- |    |                    |            |
|----|--------------------|------------|
| 1. | 1 to 30 days       | \$2,500.00 |
| 2. | 31 days to 60 days | \$1,500.00 |
| 3. | 61 days or more    | Negotiated |

H. **Surface Damage-Spills and Leaks**

1. **\$500/acre**      The rate shall be proportionately reduced if less than a full acre is damaged. For example, a spill covering 1-1/2 acres would require payment of \$750.00.

I. **Geophysical Operations**

- |    |  |                 |
|----|--|-----------------|
| 1. | Seismic weight-dropping, vibrators, dinoseis operations.   | \$1,200.00/mile |
| 2. | Shooting crews per mile.   | \$1,200.00/mile |
| 3. | 3-D Seismic.   | Negotiated      |
| 4. | Gravity meter and magnetometer survey operations per crew per day.                               | \$200.00        |
| 5. | Single shot (reflection or refraction shooting) per shot hole.                                   | \$150.00        |
| 6. | Velocity survey (when off pad).  | Negotiated      |
| 7. | Notify Chevron Representative and grazing lessee before work begins and after work is completed. |                 |

No rates may be changed without written consent of all parties hereto.

A Chevron Representative may be contacted at (915) 558-1901.

Make checks payable to Chevron U.S.A. Inc.

Send payments to: **Chevron U.S.A. Production Company**  
**P.O. 1150**  
**Midland, Texas 79702**  
**Attention: Land Manager**



## EXHIBIT "B"

Attached hereto and made a part of the Surface Damage and Use Agreement by and between Chevron U.S.A. Inc. and Sundown Energy, Inc. et al.

### MEMORANDUM ON THE EXECUTION OF SURFACE DAMAGE AND USE AGREEMENT

CHEVRON U.S.A. INC., P.O. Box 1150, Midland, Texas 79702, as Grantor, acknowledges that it executed and delivered a Surface Damage and Use Agreement with an effective date of August 4, 2000, to **SUNDOWN ENERGY, INC. (49.4950%)**, a Texas corporation, 8150 N. Central Expressway, Suite 400, Dallas, Texas 75206, **SASI MINERALS COMPANY (6.3131%)**, a Delaware corporation, 3738 Oak Lawn Ave., Suite 300, Dallas, Texas 75219, **ST. MARY LAND & EXPLORATION COMPANY (21.3838%)**, a Delaware corporation, 1776 Lincoln St., Suite 1100, Denver, Colorado 80203, **TRANSMOUNTAIN EXPLORATION LLC (1.4243%)**, a Wyoming limited liability company, 8201 Southpark Lane, Suite 100, Littleton, Colorado 80120, and **WESTPORT OIL AND GAS COMPANY, INC. (21.3838%)**, a Delaware corporation, 410 17<sup>th</sup> Street, Suite 2300, Denver, Colorado 80202 (collectively referred to as "Grantee"), covering the surface estate of Sections 73-82, Block N, G&MMB&A Survey and Sections 1-10, Block O, G&MMB&A Survey, all in Ward County, Texas.

This Memorandum on the Execution of Surface Damage and Use Agreement is executed and filed for the sole purpose of establishing record notice of the existence of the unrecorded Surface Damage and Use Agreement referenced above, and this Memorandum on the Execution of Surface Damage and Use Agreement is not intended to alter or amend in any manner the rights and duties of the parties to such Surface Damage and Use Agreement.

CHEVRON U.S.A. INC.

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

Name: M. H. Forman

Title: Attorney-in-Fact

STATE OF TEXAS )(

COUNTY OF HARRIS )(

BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 26th day of June, 2000 personally appeared M. H. Forman, the identical person who executed this instrument on behalf of **CHEVRON U.S.A. INC.** in his capacity as its Attorney-in-Fact and executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such Corporation, for used, purposes and consideration therein expressed and set forth.

Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

