**OA Number:** \_\_\_\_\_\_\_\_\_\_\_

Revised August 2013

**OPERATING AGREEMENT**

**STATE OF LOUISIANA**

**PARISH OF EAST BATON ROUGE**

**KNOW ALL MEN BY THESE PRESENTS:**

This operating agreement, effective as of the date shown in Part **IV.A.**, is executed on the date or dates listed below, by and between the **STATE MINERAL AND ENERGY BOARD OF THE STATE OF LOUISIANA**, acting for and on behalf of the State of Louisiana pursuant to the authority granted to it by Sections 208 and 209 of Title 30 of the Revised Statutes of Louisiana, represented herein by Victor M. Vaughn, its duly authorized Executive Officer, and whose mailing address is Post Office Box 2827, Baton Rouge, Louisiana 70821-2827 (hereinafter simply referred to as “State” or “Board”), and **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, represented herein by \_\_\_\_\_\_\_\_\_\_\_\_\_, its duly authorized \_\_\_\_\_\_\_\_\_\_\_\_\_, through its duly authorized officer and whose mailing address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (hereinafter simply referred to as “\_\_\_\_\_\_\_\_\_\_\_\_” or “the **Operator**”);

**WITNESSETH: That,**

**[“*Whereas” introduction portion should explain the conditions and reasons for an Operating Agreement. The following is an example of the type of information that may be necessary.*]**

**WHEREAS,** State is the owner of the entirety of the mineral rights in, on, and under the tract of land or water bottoms located in \_\_\_\_\_\_\_\_\_\_\_\_Parish, Louisiana, more fully described in Exhibit “A” attached hereto as a part hereof (which tract is hereinafter simply referred to as “**Operating Tract**”);

**WHEREAS,** a portion of the Operating Tract was covered and affected by a certain Oil, Gas and Mineral Lease, being State Lease No. \_\_\_\_\_\_\_\_\_, executed by the State of Louisiana on \_\_\_\_\_\_, 201\_\_, in favor of parties named therein and referred to as Lessees, and recorded in Conveyance Book \_\_\_\_\_, Page \_\_\_\_, Entry No. \_\_\_\_\_\_\_\_\_\_, of the records of \_\_\_\_\_\_\_\_\_ Parish, Louisiana (hereinafter ”**Lease**”);

**WHEREAS,** \_\_\_\_\_\_\_\_\_ succeeded to an undivided right, title, and interest in and to the said Lease and the well thereon; and

**WHEREAS,** the Lease expired by its own terms and was released by the Lessee; and

**WHEREAS,** the Operator, plans to complete [recomplete or drill] the SL \_\_\_\_\_\_ Well No. \_\_\_ (Serial No. \_\_\_\_\_) (the “**State Lease Well**”) on \_\_\_\_\_\_\_\_, \_\_\_\_\_, in the \_\_\_\_\_\_\_\_\_\_\_\_\_and has requested that a \_\_\_\_\_\_\_\_\_\_\_ unit be formed covering the productive area around said well, which includes the Operating Tract; which voluntary unit has been docketed for final approval by Board;

**WHEREAS,** \_\_\_\_\_\_\_\_\_ intends, within the first year of the Operating Term (as defined in paragraph **IV.B.**), to spud an additional well to develop the undeveloped portion of the proposed unit containing the Operating Tract to test sands to a depth of \_\_\_\_\_\_\_\_’ TVD;

**WHEREAS,** in consideration for this agreement, \_\_\_\_\_\_\_\_\_ agrees to pay the State Production Interest (hereinafter the “**SPI**”) from the date of first production, \_\_\_\_\_\_\_\_, 201\_\_, at the rates agreed upon herein and that this date shall serve as the beginning date for the payout period; and,

**WHEREAS,** the parties have agreed, pursuant to the statutory authority of La. R.S. 30:209, to the mineral development of the Operating Tract to be accomplished through this operating agreement.

**NOW, THEREFORE,** in consideration of the premises, the covenants, and agreements herein contained and the benefits to accrue hereunder, all of which are recognized to be adequate for the purposes hereof, it is understood and agreed as follows:

**I. OPERATING AGREEMENT**

There is hereby created and established an operating agreement (hereinafter referred to as the “**Operating Agreement**” or “**Agreement**”), for the development of the Operating Tract for the production of oil, gas, condensate, and other liquid or gaseous hydrocarbons (hereinafter referred to as “**Produced Product**”). Accordingly, the State hereby grants to the Operator the exclusive right to conduct operations on the Operating Tract, including but not limited to: (1) the right to construct, maintain, and use pipelines thereon for or relating to operations hereunder; (2) the right to remove from the said Operating Tract any property placed thereon by or for the Operator in conjunction with operations; and, (3) to draw and remove casing from any well underlying said Operating Tract. The operations and related work will be conducted in a careful, diligent, and workmanlike manner and the Operator shall have the exclusive charge, control, supervision, and management of all such operations entitled under this agreement, including the drilling or re-completion, production, gathering, treating, processing, handling, storing, transporting, marketing, and sale of Produced Product from or attributable to the Operating Tract due to the operations.

**II. CONSIDERATION**

**A.** This agreement is given for and in consideration of the following:

1. **LIQUIDATED DAMAGE UP FRONT PAYMENT** - The Operator shall pay the State liquidated damages (hereinafter be referred to as “**Liquidated Damage Up Front Payment**”) in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_ dollars per acre ($\_\_\_\_/ac) times \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_\_\_) acres (declared to be lands and/or water bottom acreage claimed by the State for purposes of calculating this Liquidated Damage Up Front Payment) for a total of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and NO/100 dollars ($\_\_\_\_\_\_\_\_\_\_\_\_\_). Regardless of what is the actual total water bottom acreage attributable to the State, no refund of any portion of this Liquidated Damage Up Front Payment shall be sought by the Operator, its successors, or assigns, nor shall such partial or full refund be paid by the State. The Liquidated Damage Up Front Payment, as set forth hereinabove, shall be tendered by wire transfer only no earlier than \_\_\_\_\_\_\_\_\_\_\_, 201\_\_, and no later than \_\_\_\_\_\_\_\_\_\_\_, 201\_\_\_. Failure to tender this payment when due shall be deemed an active default and, without further notice to the Operator, shall forfeit any further rights of the Operator hereunder, and terminate this Operating Agreement.

2. **STATE PRODUCTION INTEREST** - The Operator agrees to pay the State Production Interest (“**SPI**”) from the date of first production, \_\_\_\_\_\_\_\_\_\_, 201\_\_, at the rates agreed upon herein, that this date shall serve as the beginning date for the Payout period (as “Payout” is hereinafter defined), and payment to the State of SPI equal to \_\_\_\_\_\_\_\_\_\_ percent (\_\_\_\_%) before Payout (“**BPO**”), increasing to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ percent (\_\_\_\_\_%) after Payout (“**APO**”), of the Fair Market Value, as that term is hereinafter defined, of the Produced Product. For purposes of this Agreement, **Produced Product** is defined in paragraph I and includes: 1. “**Produced Oil”** which is oil saved, sold, utilized, and/or marketed; and, 2. “**Produced Gas**” which includes: gas

sold, utilized, flared or vented, casing head, plant products such as gasoline, distillate or other liquid hydrocarbons and petroleum products, and residue gas, if gas is run through a gas plant, and stored.

In the event that a compulsory unit is established or a voluntary unit is agreed upon in which the Operating Tract, either in whole or in part, participates, the SPI shall be calculated on the decimal participation of the Operating Tract within the said unit.

For the purposes of this Agreement unless otherwise shown to the contrary to the satisfaction of the State by the Operator in the form of sales contracts or other such written agreements, the fair market value (“**Fair Market Value**”), of:

a) Produced Gas shall be:

i) the price per MCF for a given month based upon the average posted price at the Henry Hub, and

ii) the actual price received or its equivalent value of any plant products if gas is passed through a gas plant, and

iii) any economic benefit received by the Operator which may be monetarily valued on the production.

b) Produced Oil shall be:

i) if classified as Heavy Louisiana Sweet (HLS), the price per barrel based upon the average monthly posted price of Heavy Louisiana Sweet (HLS) Oil at the Empire Terminal in Plaquemines Parish, or

ii) if classified as Light Louisiana Sweet (LLS), the price per barrel based on the average monthly posted price of Light Louisiana Sweet (LLS) Oil Spot at the St. James Terminal, and

iii) any economic benefit received by the Operator which may be monetarily valued on production.

The sources of these prices are from Energy Intelligence & Intelligence Press, Inc. (gas) and Platts US Crude Wire (oil) and are available for viewing on the Strategic Online Natural Resources Information System (“SONRIS”). These prices shall be used to calculate Payout.

The Operator is allowed a deduction of a reasonable sum for transportation from the field boundary to the point of delivery by means of facilities belonging to a non-affiliated party, not in excess of actual cost. If such transportation is by means of facilities owned by one other than a non-affiliated party, the Operator may deduct the actual cost of such transportation, but only if such cost is no greater than the fair market value of the services performed. If actual cost is greater than fair market value, the fair market value shall determine the amount to be deducted. In the case of gas, the Operator may deduct costs incurred for compression of gas at a point in or adjacent to the field for insertion into a purchaser’s line or into a line owned by the Operator or a carrier for transportation to a point of delivery outside the field. No other deductions are allowed. Without limiting the foregoing sentences and without regard to classification as production costs, or otherwise, the following costs are not to be deducted from the value of production:

a) Costs incurred for gathering or transporting production in the field;

b) Costs incurred for handling, treating, separating, or in any way processing production to make it marketable by methods considered ordinary at the time such oil is run or the gas is sold;

c) Costs of desulfurization, fractionation of plant products;

d) Costs associated with an amine plant in the removal of H2S and/or CO2;

e) Costs associated with the fuel, and/or the royalty due on the fuel, used for transportation, handling, treating, separating, processing, desulfurization, fractionation of plant products, removal of H2S and/or CO2;

f) Cost of storage on the Operating Tract or in the field;

g) Marketing fees, Commodity Fees, Handling Fees, Gathering Fees, Treating Fees, Treating Facilities Electrical Costs, Treating Facilities Fuel Costs, Gathering Fuel Costs, Brokerage Fees, Commissions, Transaction Costs, Delivery Costs occurring within the field boundaries, incurred for oil and/or gas sales;

h) Any costs associated with Line Loss Costs and/or Percentages thereof, incurred for oil and/or gas sales;

i) SPI paid, and/or other royalty paid to any party(ies) entitled to a royalty on any well(s) from which Fair Market Value the SPI is paid; and,

j) Any Fee, Cost and/or Percentage not specifically listed within Part II.A.2 as deductible.

In all cases, the SPI shall be calculated and paid after deduction of all State of Louisiana severance or production taxes unless severance taxes are otherwise exempted.

On a monthly basis the Operator shall submit a report stating the volume of product produced, including the type of product (HLS, or LLS oil, and/or type of gas and/or plant products), (hereinafter the “**Monthly Gross Production**”) and the Fair Market Value received (and, separately for SPI purposes, any adjustments taken). Additionally, the Operator shall submit a State Royalty (“**SR**”) report containing both LeaseUnitWell (“**LUW**”) code and, a well serial number, with supporting documentation, to the Mineral Income Division of the Office of Mineral Resources (hereinafter “**Audit**”), and, if requested, to the Production Audit Division of the Office of Conservation. The Operator shall submit to Audit only its calculation of the monthly Gross Revenue (without adjustments) and the cumulative Gross Revenue (without adjustments) from all sources on or affecting this Operating Tract and this Operating Agreement, including anything of value received by the Operator by virtue of its having this Agreement. The Operator shall assume all responsibility for any errors in the reporting of volume.

Once the Payout amount has been attained and the SPI percentage has been increased to %, the Operator shall not reduce the SPI to less than % due to reporting errors or adjustments of any kind to the originally reported Gross Revenue on the part of the Operator. Failure to report production as herein specified shall be deemed “improper royalty reporting” under La. R.S. 30:136(A)(1)(b), which shall subject the Operator to the penalty specified therefor.

3. **PAYOUT** - The term “**Payout**” shall mean a cumulative total of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and no/100 dollars ($\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) gross revenue from all sources within the unit or any other unit underlying the Operating Tract and shall occur when said sum is cumulated from the Monthly Gross Production multiplied times the monthly respective Fair Market Value received for the product as hereinabove set forth (hereinafter referred to as “**Monthly Gross Revenue**”). Monthly Gross Revenue shall be calculated as follows:

**Monthly Gross Revenue** = (Monthly Gross Production of oil x monthly Fair Market Value of oil) and/or (Monthly Gross Production of gas x monthly Fair Market Value of gas) and/or any other thing of value received on a monthly basis (if any) by the Operator for having the Operating Agreement.

4. **RISK** - The State assumes a portion of the risk cost of development and production activity by receiving a reduced SPI BPO in return for a greater SPI APO.

**B.** Monies shall be paid in the following manner:

1. The Operator shall, prior to their first SPI payment, designate one payor (who shall be jointly and solidarily liable together with the Operator, his successors and assigns, for the correct and timely payment of the SPI) to tender all past, current, and future SPI payments on behalf of the Operator, partners, and/or assignees. A new payor may be designated at any time provided no more than one payor is designated at any given time. The payor shall be registered with the Louisiana Secretary of State’s Office and Office of Mineral Resources to conduct business with the Board and assigned a Payor Code by the Office of Mineral Resources. Failure to be registered may result in a penalty. The terms and conditions of this Agreement shall remain in full force and effect throughout the duration of this Agreement, unless otherwise agreed to by all parties, and shall be transferred (subject to Board approval) with full force and effect to any subsequent operator(s), assignee(s), and/or interested party(ies).

2. The first payment of the SPI shall be made within one hundred twenty (120) days following the later of either commencement of production from, or allocation of production to, the Operating Tract, except and unless production has begun prior to the effective date of this Operating Agreement and the value of said **prior production** (“**PP**”) at the Operating Agreement rate has been placed in an interest bearing account or otherwise withheld at interest by the Operator to be distributed when this Operating Agreement becomes effective. Upon such occurrence the total value of the **PP** placed in the interest bearing account or otherwise withheld at interest, together with the accrued interest, shall be deemed liquidated damages and shall be paid to the State as set forth in Part II.B.4., below. The Operator hereby agrees to pay the State the **PP** whether or not the Operator has received any payment from said prior production. Thereafter, the SPI on Monthly Gross Oil production shall be paid by the 25 of each month for production of the previous month; and the SPI on Monthly Gross Production of gas or other liquid or gaseous mineral not specifically mentioned shall be paid on or before the 25 day of the second month following that in which such gas or other liquid or gaseous mineral is produced or extracted or processed. Payment shall be sent to the Office of Mineral Resources timely as herein set forth. In the event any payment is not correctly or timely made, the remedies provided by La. R.S. 31:137 through 31:142 for failure to pay royalty, relative to notice, damages, interest, attorney fees, and dissolution of mineral leases, shall be deemed applicable to this Operating Agreement and the SPI due the State, except that interest shall be payable thereon until paid without any requirement for prior written notice by the State to the Operator.

3. Notwithstanding anything herein contained to the contrary, the State’s right to take its SPI In-Kind, at its option, is hereby reserved and may be exercised at any time and from time to time, while this Agreement is in effect by written notice from the State to the Operator stating same. However, should the State not exercise its option to take In-Kind at any time, the Operator shall calculate and pay the State its SPI in accordance with the provisions of this agreement as herein set forth. Nothing contained herein shall be interpreted as limiting the right of the State to take its SPI In-Kind at a later time or times.

4. The liquidated damages on prior production placed in an interest bearing account, or otherwise withheld by the Operator, shall be tendered to the State (at the Office of Mineral Resources) by certified or cashier’s check within ten (10) business days of receipt by the Operator of this Operating Agreement executed by the State. If the total amount of these funds exceeds fifty thousand dollars ($50,000.00), then the Operator shall tender said funds by wire transfer to the appropriate account specified by Audit. Failure to tender any payment when due shall be deemed an active default and, without further notice to the Operator, may, at the option of the State, terminate this Operating Agreement.

**III. GENERAL PROVISIONS**

**A.** Deemed in favor of the Board:

1. The Operator agrees to acknowledge and verify in any appropriate manner to any bankruptcy court or to any other authority, and hereby also acknowledges and verifies, that neither the State’s In-Kind portion, nor any amounts paid to the State as its SPI, are part of the debtor’s estate, and that the estate has no claim or interest therein. The Operator further acknowledges that all legal and equitable title to any In-Kind portion of the SPI is vested in the State and that the Operator relinquishes all dominion, control, and title to same. The Operator and State agree that so long as this agreement remains in effect that this Operating Agreement is an executory contract and unexpired Operating Agreement within the meaning of Section 365 of the United States Bankruptcy Code.

2. Upon request by the Board by Resolution, the Operator shall furnish a bond or other security which in all respects is acceptable to the Board with the Louisiana State Mineral and Energy Board through the Office of Mineral Resources as payee, in the full amount necessary to cover the Operator’s obligation to plug and abandon wells as set forth in Part VI.,below.

3. The Operator agrees that this Operating Agreement is subject to the provisions of La. R.S. 30:127(G), and that access by the public to public waterways through the State-owned acreage covered by this Operating Tract shall be maintained and preserved for the public by the Operator.

4. The Operator further agrees that, in addition to all other audit rights otherwise set forth in this agreement or required by law, the Board shall have the same audit rights which the United States of America would have under 30 U.S.C. §1713(a).

**B.** Obligations of the Operator:

1. All costs and expenses incurred in connection with operations on or associated with the Operating Tract shall be advanced and borne solely by the Operator. State shall be held free and harmless from liability or responsibility for any and all costs and expenses so incurred under the terms of this Operating Agreement. All wells, pipelines, tank batteries, and other facilities and equipment placed in or on the Operating Tract, or on lands pooled therewith, prior to and after the date hereof, and used in connection with operations hereunder, shall be owned and controlled by the Operator and the State shall have no interest (ownership, controlling or otherwise) therein whatsoever. However, nothing herein stated shall deprive the state of the right to file a lien for unpaid cost or damages nor any other agency from levying any other cost of damages or enforcing any other rights commensurate with authority granted by the State.

2. Prior to the effective date as set forth in Part IV.A. hereof, the Operator shall furnish or cause to be furnished to the State a certificate of insurance, with the State as a named insured, evidencing public liability insurance issued by an insurance company qualified to do business in the State of Louisiana and acceptable to the State, which insurance coverage shall afford protection against third persons sustaining injury or damage as a result of negligent operation or construction, maintenance and/or use of any facilities or structures of any kind in connection with operations, and shall have no less than the following limits of liability, to-wit:

**For each accident causing bodily injury, One Million Dollars ($1,000,000.00) for each accident and,**

**Any actual monetary damages determined to be attributable to any actions of the Operator, without limits.**

The policy shall remain in full force and effect so long as any well or other facility or structure constructed, maintained, and/or used in connection with operations is located and operated on the Operating Tract, or lands pooled therewith, and shall provide that the State shall be given at least thirty (30) days written notice prior to its cancellation. In the event notice of cancellation is given and another certificate of insurance evidencing the issuance of a policy meeting all terms and conditions hereof is not furnished by the Operator and received by State prior to the end of the thirty (30) day period, this Operating Agreement shall automatically be forfeited and the Operator shall immediately discontinue operations hereunder. However, the reinstatement of the insurance coverage provided herein and the furnishing of a certificate of such insurance coverage to the State within ninety (90) days of the end of the thirty (30) day period for re-establishing insurance coverage after written notice of cancellation is given shall entitle the Operator to immediate reinstatement of this Operating Agreement, provided that no more than ninety (90) days have elapsed without Acceptable Operations as defined in Part IV.C. on or attributable to the Operating Tract.

3. The Operator agrees that it will indemnify and hold State free and harmless of and from any and all claims of whatsoever kind or nature, including, but not limited to damages to persons or property, that may arise out of, or by reason of, the performance of all services and obligations under this Operating Agreement by the Operator, or any of the Operator’s employees, agents, contractors, subcontractors, or other representatives, due to their negligence, commission or omission, and of and from any and all costs and expenses relating to the defense of any such claims, including reasonable attorney’ fees incident thereto.

4. The Operator shall keep accurate records of all accounts hereunder showing the value of the Produced Product saved, marketed and sold, or used in operations on the Operating Tract, or lands pooled therewith, which records shall be available at all reasonable times for examination and inspection by the State. The State and any of its duly authorized representatives shall have access at all times to the Operating Tract, or lands pooled therewith, and to the Subject Well and to all records and reports relating thereto. To the extent that such information is received or acquired by the Operator from or in connection with operations hereunder subsequent to the date hereof, the Operator agrees, upon written request by the State, to furnish timely to the State the following information, to-wit:

(a) Copy of any application for any amended reworking permits;

(b) A daily recompletion report giving depth, with corresponding lithological information, unusual drilling difficulties or delays, if any, and any other pertinent information relative thereto;

(c) Samples of cuttings and cores to be shipped to the address designated in the request, with information marked thereon as to the depth from which the same was taken;

(d) A full and complete copy of the workover log within three (3) days after completion, re-completion or abandonment thereof;

(e) A composite electrical log of any Well after each completion or re-completion, and, if same are made, any radioactivity log, temperature survey, deviation or directional survey, caliper log, and any other pertinent data;

(f) Complete reports of analysis of all cores, when and if any analysis is made;

(g) Report of subsurface pressure observed in all producing and shut in wells;

(h) A copy of tank tables for each stock tank;

(i) A copy of each oil run ticket;

(j) Daily gauge reports showing opening and closing gauges of oil stocks to be furnished not more often than once a week;

(k) Monthly reports on the production and the volume and value of sales from each producing well being operated on the area described above;

(l) Analysis reports of all oil distillate and gas produced when an analysis of same is made;

(m) Copies of any and all reports made to any regulatory body or bodies; and

(n) Copies of any report which is made to any regulatory body showing the gauge taken on each well producing during the preceding month, which gauge shall show oil or distillate production, water production, choke size, tubing pressure, casing pressure, gas-oil ratio, or gravity of oil or distillate and date of such tests. However, if no such report is made, then a special report showing same shall be furnished.

**C.** General terms:

1. The Operator hereunder agrees and obligates itself not to acquire any seismic data covering all or a portion of the Operating Tract under any licensing or other type of agreement that prohibits the State from obtaining said seismic data under the terms of this Agreement without the express written consent of the State. State may, at its sole discretion, withhold such consent, even though withholding same may be regarded by the Operator or others as arbitrary and capricious. In the event the Operator acquires seismic data which it is not contractually prohibited from providing to the State, the Operator agrees, upon receipt of written request by State and upon entering into a confidentiality agreement with the State, to timely furnish to the State the following information related to the Operating Tract, to-wit:

(a) One hard copy to scale of all 2-D seismic time sections, to be selected by the State, and one (1) digital copy in an SEGY format of the final processed time or depth migrated 3-D seismic data set recorded full fold within the boundaries of the Operating Tract and all additional seismic information, which will include, but may not be limited to, all geographical, positioning, and base map data; or

(b) At the option of the State, access to the aforementioned seismic data, at the Operator’s office for the purpose of State’s review of and/or possible selection of same data; or

(c) If the aforementioned data is not available for review at the Operator’s or State’s office, at the option of the State, the State shall have access to the Operator’s seismic data files through the Operator’s third-party contractor. The Operator further agrees, upon written request from the State, to timely furnish to the State all other pertinent information relating to any well or wells drilled on lands pooled with the Operating Tract, which information shall not include any interpretive data generated by the Operator.

Compliance with Part III.C.1., above, is a material consideration of the State in entering into this Operating Agreement and a breach of the Operator’s obligations hereunder may be grounds for dissolution of this Operating Agreement at the sole option of the State.

2. If at the end of the Operating Term (hereinafter defined in Part IV.B) the Operating Tract is pooled or unitized, either by itself or with other land and/or water bottoms so as to form a pooled unit or units, Acceptable Operations, or production from such unit or units will maintain this Operating Agreement in full force and effect only as to the portions of the Operating Tract acreage included within such unit or units. If there is Operating Tract acreage outside of the pooled unit or units (hereinafter referred to as “**Outside Operating Tract Acreage**”) that is not otherwise being maintained by Acceptable Operations, said Outside Operating Agreement Acreage shall be released.

3. If at any time or times (during or after the Operating Term) there is on the Operating Tract, or attributable thereto, a well or wells capable of producing oil or gas (including casing head gas) in paying quantities, which fact has been duly verified and confirmed in accordance with the Board’s requirements for proof thereof, but oil or gas is not being used, produced, or marketed therefrom because of the lack of production or marketing facilities, and if this Operating Agreement is not then being otherwise maintained by separate Acceptable Operations, this Operating Agreement shall, nevertheless, remain in full force and effect for a period of ninety (90) days after cessation of such Acceptable Operations, or the shutting in of such well. If, on or before the expiration of the ninety (90) days, Acceptable Operations shall not have been commenced or resumed, the Operator, in order to maintain the Operating Agreement in force thereafter, shall pay one or more semi-annual payments (herein referred to as “**In-Lieu SPI**”) at the rate and in the manner provided herein below and thereby maintain the Operating Agreement in full force and effect during the period or periods covered by the payment or payments. The initial In-Lieu SPI payment, if made, shall be tendered on or before the expiration of the ninety (90) day period and shall maintain the Operating Agreement in full force and effect for a period of six (6) months commencing from the expiration of the ninety (90) day period (hereinafter referred to as the “**Initial Shut-in Period**”). Should production or marketing facilities not be secured within the Initial Shut-in Period, and Acceptable Operations not be established, or re-established, despite diligent effort by the Operator and recognition of such effort by the Board, the Board, at its discretion, may grant an additional shut-in period, or periods, as warranted under the same terms herein stated and for the same consideration as hereinbelow set forth. Failure to make or tender the In-Lieu SPI payment on or before date any shut-in payment is due (which is on or before the end of the ninety (90) day period after cessation of Acceptable Operations, or the shutting-in of the well, or on or before the last day of any six (6) month shut-in period, including the Initial Shut-in Period if any additional shut-in periods have been granted), shall terminate this Operating Agreement.

The initial In-Lieu SPI payment, and any subsequent In-Lieu SPI payment for additional shut-in periods which may be granted, shall be at the rate of Fifty ($50.00) Dollars per acre multiplied times the then existing number of acres covered by the Operating Agreement. If the shut-in well is located within a pooled unit, but not all of the Operating Tract Acreage is within that pooled unit the In-Lieu SPI Payment shall be at the rate of Fifty ($50.00) Dollars per acre, multiplied times the number of Operating Tract acres located within the pooled unit. Under no circumstance will such In-Lieu SPI payment be less than One Thousand ($1,000.00) Dollars, nor shall any In-Lieu SPI payment on a well located within a pooled unit maintain in force and affect this Operating Agreement as to Outside Operating Tract Acreage which may only be maintained under some other provision of this Agreement.

If on any In-Lieu SPI payment date, Acceptable Operations are being conducted on or from the Operating Tract, or on a unit well not located on the Operating Tract, as to which unit a portion of the Operating Tract is included, no In-Lieu SPI payment shall be due to maintain the Operating Tract or that portion of the Operating Tract within such unit.

If subsequent In-Lieu SPI payments are denied by the Board because the Operator has failed to demonstrate sufficiently to the Board and its staff that it is diligently, and in good faith, attempting to remedy the lack of facilities to produce the product, then on the day after the last day of the previously paid shut-in period this Operating Agreement shall terminate unless it can be maintained under other provisions of this Operating Agreement.

4. If at any time this Operating Agreement is being validly maintained under any of its provisions and the Operator is in the process of either:

a) “**Acceptable Operations**,” as defined in Part IV.C. of this Agreement, which includes producing in paying quantities, or downhole drilling, or downhole reworking operations; or,

b) Diligently, timely, and in good faith performing requisite tasks to commence operating agreement operations including, but not necessarily limited to, towing the required type of rig to a drill site, obtaining permitting from all necessary parties, or satisfying conditions and obligations under any validly enacted law, statute, or regulation of an agency of the federal government, the State of Louisiana, or any of the State’s political subdivisions having proper jurisdiction; or,

c) If the Operator is prevented from continuing activities under Part III.C.4.a.or Part III.C.4.b. by the occurrence of a Force Majeure event, as hereinbelow defined, and the Operator cannot maintain this Operating Agreement beyond the anniversary date under any other operative provisions of this Operating Agreement (such as payment of an In-Lieu SPI) then, and only then, shall the anniversary date be postponed on a day-for-day basis for so long as the effects of the Force Majeure prevail, providing that the Operator:

i) has given the Board, through the Office of Mineral Resources, reasonable, timely written notice of the Force Majeure event occurrence which shall contain the date and type of the occurrence of the Force Majeure event, its effects in preventing continuation of activities under Part III.C.4.a. or Part III.C.4.b., above, the steps being taken to mitigate and eliminate those effects and an estimated time for resuming of activities under Part III.C.4.a. or Part III.C.4.b., above. Notice given beyond three months shall be deemed unreasonable barring consequential extenuating circumstances; and,

ii) is diligently, reasonably, and in good faith attempting to mitigate and eliminate the effects of the fortuitous event and resume activities under Part III.C.4.a. or Part III.C.4.b., above; and,

iii) has exhausted Operating Agreement provisions other than Force Majeure which may serve to maintain the Operating Agreement in full force and effect.

The interpretation and operation of any term of this Force Majeure clause is at the sole, reasonable discretion of the Board and/or its duly authorized staff. The operation of Force Majeure alone shall not maintain this Operating Agreement in full force and effect for more than one year from date of the fortuitous event unless extended by the Board in its sole discretion.

5. Force Majeure, as herein utilized, shall be defined as a fortuitous event such as:

a) a major storm, major flood, or other, similar natural disaster; or,

b) a major accident such as a blowout, fire, or explosion beyond the Operator’s control and not ultimately found to be the fault of the Operator (that is, due to the Operator’s negligent or intentional commission or omission, or failure to take reasonable and timely, foreseeable preventative measures which would have mitigated or negated the effects of the fortuitous event); or,

c) the lack of availability of any required equipment — such as the specific type of rig necessary to accomplish the task or specific types of casing or drill stem pipe — after the Operator has diligently, timely, and in good faith attempted to secure same; or,

d) the unreasonable delay by the federal government or any of its agencies, or the State of Louisiana or any of its agencies or political subdivisions (including, but not limited to, various departments, boards, commissions, parish governments and municipalities, each having proper authority and jurisdiction) in granting necessary permits; or,

e) a valid order of any federal or State court of competent jurisdiction; or,

f) the act of a third party not under the control or at the instigation of the Operator in shutting down and unreasonably refusing to reopen any facility through which hydrocarbons from the Operating Agreement are necessarily passed as part of production (and providing there is no other reasonably economical method of carrying on production);

g) lack of availability of the necessary number or skilled set of personnel to accomplish Part III.C.4.a. or Part III.C.4.b. above.

**IV. TERM**

**A.** **Effective date**: This Operating Agreement is made effective as of date of approval by the Board.

**B**. Term of Operating Agreement: Subject expressly to the other provisions of this Operating Agreement, upon becoming operative and effective, shall continue in full force and effect for a period of one (1) year (herein simply referred to as the “**Operating Term**”), and for so long thereafter as:

1. There are any Acceptable Operations on or attributable to the Operating Tract without a lapse of more than ninety (90) days between cessation of Acceptable Operations, and the commencement of new Acceptable Operations. The Operator shall, within a reasonable period of time, notify the Board in writing of any discontinuance of such Acceptable Operations; or,

2. Correct and timely payment of the appropriate In-Lieu SPI, if available, under the terms of this Agreement, or,

3. Duly recognized Force Majeure occurrence.

C. For the purposes of this agreement “Acceptable Operations” shall mean production in paying quantities, actual drilling operations, or reworking operations as further defined below.

1. Wherever used in this agreement, **“actual drilling operations”** means actual drilling, “turning to the right” (commenced by ‘spudding in’ defined by La. R.S. 30:129) of a new well, or the good faith deepening, sidetracking, or the plugging back or attempted recompletion in a separate interval of an existing well (all such operations being commenced by actual downhole operations).

a) Actual drilling operations shall be deemed to terminate on the last day actual operations of any kind, such as drilling, testing, or installation of equipment, are conducted in good faith for the purpose of attempting to discover minerals or to complete a well as a producer.

b) This Agreement may be maintained in force by directional drilling operations (deviation from vertical), in which event actual drilling operations shall be considered to have commenced on the Operating Tract when the drill stem penetrates beneath the surface of the operating tract or unit boundary created for the purpose of developing the operating tract.

2. **“Reworking operations”** defined in La. R.S. 30:129 and further defined in this agreement as meaning the reconditioning, cleaning out, installation of equipment, or otherwise attempting, in good faith, to establish, increase, or restore production in an existing well by downhole operations.

a) **“Installation of equipment”** to complete a well as a producer, as that phrase is used herein, shall not include the installation, replacement, repair and/or service of flow lines or other surface facilities or service wells (i.e., salt water disposal wells) of any kind whatsoever needed to produce the well, but refers to that equipment necessary to maintain downhole production activity.

b) Reworking operations shall be deemed to terminate on the last day such downhole operations are conducted in good faith for the purpose of establishing, increasing, or restoring production.

3. **“Paying Quantities”** as used in this agreement means paying quantities as defined by Article 124 of the Louisiana Mineral Code, provided that in addition thereto, and notwithstanding the provisions of Article 125 of said Code, the SPI payable on such production must also be sufficient to constitute a serious or adequate consideration to the Operator to maintain this agreement in effect.

4. Once commenced, any such Acceptable Operations shall be deemed to continue so long as they are conducted in good faith without lapse of more than ninety (90) days.

5. In all cases the Acceptable Operations shall be in or from a new or existing well or wells on the Operating Tract or affecting the Operating Tract by unitization that includes all or a portion of the Operating Tract.

**V. MISCELLANEOUS PROVISIONS**

**A.** It is understood and agreed that (a) this Operating Agreement shall not create the relationship of a partnership between the parties hereto and that no act done by any party pursuant to the provisions hereof shall operate to create such relationship nor shall the provisions of this Operating Agreement be construed as creating such relationship; (b) All undertakings of the Operator under this Operating Agreement shall be those of an independent contractor; and (c) this Operating Agreement shall be so construed under all circumstances and conditions.

**B.** It is expressly provided herein that neither this Agreement, nor anything herein contained, nor any of the data, maps, or exhibits considered in connection herewith, whether attached hereto or not, nor any course of conduct followed by any party hereto pursuant to this Agreement, shall ever be considered to be or permitted to serve as a basis of estoppel against any party hereto in question of title where title to the Operating Tract is in dispute, anything herein contained to the contrary notwithstanding.

**C.** This Operating Agreement shall extend to and be binding upon the successors, assigns, and successive assigns of the parties hereto; however, it is understood and agreed that no future assignments of the rights granted hereunder shall be effective unless and until such assignment or assignments are first approved by the Board and same shall be subject to any conditions imposed by the Board in giving its approval.

**D.** Notices, reports, statements, and any and all written documents herein required to be given or furnished by any of the parties hereto shall be in writing and mailed or delivered to the following addresses of the parties hereto, to-wit:

If to the State:

Department of Natural Resources

Attn.: State Mineral and Energy Board

Post Office Box 2827

Baton Rouge, Louisiana 70821-2827

If to the Operator:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**VI. ON TERMINATION**

**A.** The Operator agrees that it shall execute and record, within ninety (90) days after the expiration or termination of this Operating Agreement covering all or any portion of the Operating Tract, an appropriate and legally sufficient release evidencing such expiration or termination, and shall also supply State with a copy or copies thereof with recordation information properly certified by the recorder of each Parish in which the Operating Tract is located. In the event the Operator fails to comply therewith, it shall be liable for reasonable attorney’s fees and court costs incurred in bringing suit for such cancellation and for all damages resulting therefrom. It is agreed, however, that liquidated damages to be paid by the Operator to State shall be One Hundred Dollars ($100.00) per day for each day of non-compliance after expiration of said ninety (90) day period, regardless of whether suit is filed for cancellation, and for such additional compensatory damages as State may prove.

**B.** Any well(s) located on this Operating Tract which are no longer necessary for operations on or production from or allocated to the Operating Tract, over which the Operator maintains the appropriate rights, shall be properly plugged and abandoned at the sole cost, risk, and expense of the Operator in compliance with any and all laws, rules, and regulations of any kind promulgated by the federal government or the State of Louisiana (in particular, the Office of Conservation). Non-use of said well(s) for a period in excess of ninety (90) days shall be deemed *prima facie* evidence that said well is no longer necessary for operations on or production from or allocated to the Operating Tract and same shall be so plugged and abandoned in accordance herewith. Properly plugging and abandoning shall necessarily include, but is not limited to, the removal of any and all surface facilities and constructions of any kind erected by the Operator, or for which the Operator has assumed the obligation and/or liability for removal thereof, or which were erected or constructed with the knowledge and permission of Operator (whether express or tacit) and located on the Operating Tract. Further, the Operator shall be obligated at its sole cost, risk, and expense to restore the Operating Tract to as near substantively equal condition as it was when the Operator began operations under this Operating Agreement. Nothing herein shall be deemed as a waiver of any State right to demand the remediation of any and all environmental damage, as that term is defined in La. R.S. 30:29, caused by the Operator or to act as a waiver of any regulatory remediation obligations of the Operator or of the State’s civil or administrative claims for site remediation. Anything set forth herein to the contrary notwithstanding regarding termination of this Operating Agreement, should termination of this Agreement otherwise occur under it’s terms, the obligation of the Operator to properly plug and abandon any well(s) and to restore the condition of the Operating Tract shall remain in full force and effect until said obligations are fulfilled by, or on behalf of, the Operator, even though all other rights, duties, and obligations of the Operator have terminated under the terms of this Operating Agreement. Should the Operator not fulfill its obligations to plug and abandon well(s) and restore the Operating Tract within one hundred eighty (180) days of the well(s) being deemed no longer necessary, the bond, or other acceptable security in-lieu thereof, shall be forfeited to the State. The Operator agrees herewith, without the necessity of further notice, putting in default or actions of any kind on the part of Board.

**C.** The Operator agrees that, in exercising the rights granted herein, it will comply with and be subject to all applicable environmental and other laws and regulations validly adopted or issued by the State of Louisiana, or its agencies, or by the United States, or its agencies. The Operator further agrees that it will comply with all minimum water quality standards validly adopted by said governmental authorities with respect to oil pollution and noxious chemicals and waste being introduced into affected water areas. Further, in conducting all activities under this Operating Agreement requiring dredging, filling, or local navigation in order to explore, develop, or exploit shallow-water areas, the Operator shall comply with the applicable requirements of the appropriate Louisiana State agency(ies) charged with the environmental management of said area. Finally, it is understood and agreed that on discontinuance of production or completion of any activities under this Operating Agreement, with the Operator having no further intention of utilizing the Operating Tract, or portion thereof, the Operator shall remove all structures which would impede commercial fishing and trawling, including, without limitation, all submerged materials, equipment, or debris placed on the Operating Tract by or for the account of the Operator; and affected water bottoms shall, to the extent reasonably possible, be returned or restored to a condition as nearly equivalent to that which existed before said activities were conducted and/or structures were constructed. The Operator further agrees that in exercising the rights granted it hereunder and in discharging the obligations undertaken in the Operating Agreement, involving issuance of advance certification, permits, or approvals, it will allow sufficient lead time in the planning of its activities to permit the affected regulatory agencies to make appropriate review of the proposed activities.

**D.** This Operating Agreement shall be interpreted and construed under the laws of the State of Louisiana. Should any provision, in whole or in part, of this Agreement be declared, found, or held invalid, illegal, or otherwise unenforceable, such declaration, finding or holding shall not invalidate or render unenforceable the remaining provisions, which shall be construed and enforcedas though the invalidated or unenforceable provision, or portion thereof, was not contained herein, provided that such remaining provisions fulfill the primary purpose of this Agreement.

This Agreement has been read and understood by each party. The parties to this Agreement have freely and voluntarily executed this Agreement for the consideration recited herein, that they have not relied on any representation or statement by any party other than those statements contained herein, but has relied solely and completely upon their own respective judgment and the advice of their own attorneys.

This Agreement is the result of arms-length negotiations between the parties and each has had the opportunity to review and revise it prior to execution. As a result, both parties agree that the rule of construing the terms and provisions of an instrument against the drafting party is not and shall not be applicable to this Agreement. This Agreement constitutes the entire agreement as between the parties and it shall not be modified or amended, nor shall any of its requirements be waived, except in a subsequent writing executed by all parties.

THUS DONE AND SIGNED on the date or dates herein below written, in the presence of the undersigned competent witnesses.

WITNESSES: **STATE OF LOUISIANA**

By:

Name:

Title: Assistant Secretary/Mineral Energy Board Secretary

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

WITNESSES: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

By:

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ACKNOWLEDGMENTS

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

WITNESS ACKNOWLEDGMENT

BEFORE ME, the undersigned authority, personally came and appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who by me being first duly sworn, deposed and said, that he/she is one of the witnesses to the execution of the foregoing instrument and that he/she saw sign said instrument as of the State Mineral and Energy Board, in the presence of appearer and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the other subscribing witness.

SWORN TO AND SUBSCRIBED before me on this the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2012.

(print name) State of Louisiana notary ID#

=============================

STATE OF LOUISIANA

PARISH/COUNTY OF EAST BATON ROUGE

PARTY ACKNOWLEDGMENT

BEFORE ME, the undersigned, on this \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2012 personally came and appeared \_\_\_\_\_\_\_\_\_\_\_\_\_, who, in the presence of me declared and acknowledged that he is the identical person who executed and attested the foregoing instrument in writing; that his signature thereto is a true and genuine signature; and that he executed and attested said instrument in his capacity as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of his own free will and accord as the free act and deed for and on behalf of The State of Louisiana, its predecessors-in-interest, successors-in-interest and affiliated companies, and for the purposes and considerations therein set forth and expressed.

My Commission expires:

Notary Public in East Baton Rouge Parish,

State of Louisiana

=============================

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PARISH/COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

WITNESS ACKNOWLEDGMENT

BEFORE ME, the undersigned authority, personally came and appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who by me being first duly sworn, deposed and said, that he/she is one of the witnesses to the execution of the foregoing instrument and that he/she saw \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ sign said instrument as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the State Mineral and Energy Board, in the presence of appearer and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the other subscribing witness.

SWORN TO AND SUBSCRIBED before me on this the \_\_\_\_\_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2010.

(print name) State of Louisiana notary ID#

Notary Public in East Baton Rouge Parish/County

State of Louisiana

=============================

STATE OF TEXAS

COUNTY OF HARRIS

PARTY ACKNOWLEDGMENT

BEFORE ME, the undersigned, on this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2012, personally came and appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_, who, in the presence of me declared and acknowledged that he is the identical person who executed and attested the foregoing instrument in writing; that his signature thereto is a true and genuine signature; and that he executed and attested said instrument in his capacity as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of his own free will and accord as the free act and deed for and on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_ for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, its predecessors-in-interest, successors-in-interest and affiliated companies, and for the purposes and considerations therein set forth and expressed.

My Commission expires:

Notary Public in Harris County,

State of Texas