

Oil and Gas Mining Lease

THIS AGREEMENT MADE THIS _____ day of _____, _____, by and between **NORTHWEST FARM CREDIT SERVICES, FLCA**, c/o AgriBank, FCB, 30 East Seventh Street, Suite 1600, St. Paul, Minnesota 55101, incorporated under the laws of the United States, hereinafter called Lessor, and

hereinafter called Lessee,

WITNESSETH:

In consideration of the premises, Lessor and Lessee covenant and mutually agree as follows:

1. **Consideration and Grant** – The Lessor, for and in consideration of **TEN AND NO/100 DOLLARS (\$10.00)** cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of Lessee to be paid, kept and performed, has leased and let, and by these presents does lease and let unto Lessee, with the exclusive right and privilege to prospect (including geophysical exploration) and drill for, mine and extract all of the Oil and/or Gas in, on, or under the land described below, together with the right to pipe, store, and remove Oil and Gas and to occupy and use so much of the surface of the land described below, as may reasonably be necessary to carry on the work of prospecting for, extracting, piping, storing, and removing such Oil and/or Gas, all of the Lessor's right, title and interest in that certain tract of land together with any reversionary rights therein, situated in the County of _____, State of _____ described as follows ("leased premises"):

Township _____ North, Range _____ East, of the Montana Principal Meridian
Section :

and comprising _____ acres, more or less.

2. Title

(a) **Subsurface Rights Only** – Lessor intends to lease and let all of its right, title and interest in the leased premises. However, Lessor rarely, if ever, owns any of the surface estate. In addition, Lessor may have released its right of entry and its interest in the mineral estate down to a depth of 500 feet. Therefore, NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY HEREIN CONTAINED, this lease and all rights granted to Lessee are expressly limited to those depths lying 500 feet below the surface of the leased premises. Lessee shall not have the right to enter upon or use any portion of the leased premises lying above said depth, unless, Lessee determines that Lessor's title is not so restrictive or Lessee obtains the right to enter from other interest owners.

(b) **No Warranty of Title** – This lease is made without warranty of title express, implied or statutory. This lease is subject to all easements, rights-of-way, oil and gas leases covering rights or formations not covered in this lease, and other mineral leases recorded prior to the recording of this lease. Lessor will not furnish an abstract or any other evidence of title or defend title to the leased premises nor will it protect against claims for the payment of taxes, privilege taxes or tax proceedings. All monies paid pursuant to this lease are non-refundable.

3. **Definitions** – It is mutually agreed that the following terms as used in this agreement, whether capitalized or not, shall be defined as follows:

(a) **Oil** – Shall mean liquid hydrocarbon compounds and their related Non-Hydrocarbon Constituent Parts.

(b) **Gas** – Shall mean gaseous hydrocarbon compounds and their contained dissolved liquid hydrocarbon compounds and their related Non-Hydrocarbon Constituent Parts.

(c) **Non-Hydrocarbon Constituent Parts** – Shall mean non-hydrocarbon compounds included as a part of either liquid or gaseous hydrocarbon production which is economically marketable and is separated for its own value. These include, but are not limited to, helium, carbon dioxide, nitrogen, sulfur dioxide, and sulfur compounds. All other minerals and mineral deposits of any kind, character, type and nature whatsoever, which are not associated with liquid or gaseous hydrocarbon production, are expressly excepted and reserved to Lessor.

(d) **Market Pipeline**– Shall mean either (i) any pipeline subject to federal jurisdiction or (ii) any pipeline of twenty-four (24) inches or more in diameter.

(e) **Unit** – Shall mean a bounded area formed for the purpose of producing Oil and Gas, which may be described by, but not limited to, the following terms: spacing unit, drilling unit, production unit, secondary recovery unit or federal unit. This area may contain one or more leases which have been merged together, either voluntarily or by the result of action by any duly authorized authority having jurisdiction, to function as if a single entity. The size and shape of the unit is to be determined by special field rules granted by the governmental regulatory body having jurisdiction or, in the absence of special field rules, by the general statewide rules and regulations and rules of practice and procedure which relate to oil and gas.

(f) **Drilling Operations** – Shall mean the drilling, fracturing, fracing, hydrofracing, testing and completion of a well on the leased premises, or lands pooled therewith, with the intent of discovering commercial quantities of Oil and Gas, with the well projected to such depth to intersect a target formation which is believed to have a potential for the economic recovery of Oil and/or Gas. Drilling Operations are interpreted to be from the time surface well site preparation begins to the final completion or abandonment of the well.

(g) **Reworking Operations** – Shall mean the reworking, recompleting, deepening, plugging back or repairing of a well on the leased premises, or lands pooled therewith, with the intent of obtaining commercial quantities of Oil or Gas.

(h) **Operations** – Shall mean Drilling Operations and/or Reworking Operations.

- (i) **Diligently Prosecuted** – Operations shall be considered diligently prosecuted if conducted in good faith with due diligence and no cessation of Operations greater than 60 days. In no event shall Operations under this lease be deemed to have occurred, unless the Lessee has obtained a valid drilling permit for the leased premises and/or lands pooled or unitized therewith.

4. Term, Extensions thereof:

It is agreed that this lease shall remain in full force for a primary term of 3 years from this date, and so long thereafter as any leased substance is produced in paying quantities from the leased premises or lands pooled or unitized therewith or for so long as Lessee is conducting Diligently Prosecuted Operations on the leased premises, or lands pooled or unitized therewith.

- (a) **No Delay Rentals** – This is a three (3) year "Paid-up" lease and no rentals are due during the primary term.
- (b) **Shut-In Gas Royalty** – Notwithstanding anything herein to the contrary, if, at the expiration of the primary term, all wells on the leased premises or in a Unit that includes all or a part of the leased premises, capable of producing Gas in paying quantities, are shut-in for lack of a market or of a pipeline, or production therefrom is ceased due to adverse economic conditions, and this lease is not otherwise kept in force pursuant to the terms hereof, the Lessee may maintain this lease for a period of one year by tendering to Lessor a shut-in royalty for such annual period equal to two dollars (\$2.00) per net acre then covered by this lease or a total of Three Hundred Dollars (\$300.00), whichever is greater. The shut-in royalty shall be paid or tendered to the Lessor at the beginning of each annual period in which all wells are so shut-in. For the purpose of this clause the "annual period" will begin on the month and day of the lease date. Whereas delay rental payments are required to be received in advance of the lease anniversary date, the receipt of shut-in payments under this clause shall be received within 30 days following the lease anniversary date. Upon payment of the shut-in royalty as provided herein, this lease will continue in force as if production were being obtained from the leased premises. After the end of the primary term, this lease may not be maintained in force solely by reason of the shut-in royalty payments, as provided heretofore, for any one shut-in period of more than thirty-six (36) consecutive months, or for more than sixty (60) cumulative months. The basis of the time limit provisions of this clause will be the production records of the state regulatory authority. The consecutive and cumulative month limits will include every month after the expiration of the primary term for which a well is reported to be shut-in with no production. It is understood that this clause shall also apply to any well where the Gas-Oil ratio is such that the Lessee is not permitted to operate such well without the use or sale of Gas. Every payment due as a shut-in royalty should be identified as such on the payment receipt.
- (c) **Dry Hole / Interruption of Production** – If at any time during the extended term of this lease, Lessee shall drill a dry hole or holes on the leased premises, or lands pooled or unitized therewith, or if, after production is obtained, production should cease, Lessee shall have sixty (60) days to commence Operations to re-establish production, either by drilling a new well or by reworking a previously drilled well, and there shall not be any lapses in said Operations of longer than sixty (60) days. Lessee shall furnish Lessor with sufficient information to document the Operations being performed. If production is established as a result of such Operations, this lease will remain in effect as long as any leased substance is produced hereunder.

5. Royalty The royalty share shall be _____ percent _____

Lessor expressly reserves the right, at its option, to take its royalty share of production in kind, as set out below, and Lessee agrees:

- (a) **Oil** – To deliver or cause to be delivered to Lessor at the well or to the credit of Lessor into the pipeline to which the well may be connected, Lessor's royalty share of the Oil produced from the leased premises, provided, however, that in the event of storage of Oil by Lessee, such storage shall be at the expense of the Lessee without charge to Lessor. In the alternative, at Lessor's option, to pay Lessor royalty for Oil produced from the leased premises based on a royalty share of the price prevailing in the market place for Oil of like kind and quality at the time, but such share shall never be less than the total proceeds received by Lessee in connection with the sale of the Oil produced and sold.
- (b) **Gas** – To deliver or cause to be delivered to the credit of Lessor into the pipeline to which the well may be connected and into which Lessee is delivering its share of production, Lessor's royalty share of the Gas produced from the leased premises, or at Lessor's option as hereinafter provided, to pay Lessor royalty for Gas as follows:
- (1) On Gas produced from the leased premises and sold by Lessee or used off the leased premises and to which subparagraph (2) does not apply, the royalty share of the market value of Gas of like kind and quality at the time at the point the Gas enters a Market Pipeline.
- (2) On Gas produced from the leased premises that is processed in a processing plant, the higher of the royalty percentage of the market value of the Gas at the inlet to the processing plant, or the royalty percentage of the market value of all processed liquids saved from the Gas at the plant plus the royalty percentage of the market value of all residue gas at the point the Gas enters a Market Pipeline.
- (c) **Value** – For purposes of payment of royalties, except as expressly provided herein, Lessor's royalty will never bear, either directly or indirectly, any part of the costs or expenses of production, separation, gathering, dehydration, compression, transportation, trucking, processing, treatment, storage, or marketing, which limitation shall specifically include all such costs incurred prior to the point the Oil or Gas enters a Market Pipeline, or any part of the costs of construction, operation, or depreciation of any pipelines, roads, tanks, plants, or other facilities or equipment used in the handling of Oil or Gas.
- (d) **Reports** – At Lessor's request, Lessee shall provide Lessor copies of any agreements relating to the sale, processing, or transportation of Oil or Gas produced from the leased premises together with copies of all checks or other evidence of payment under such agreements and other information as may be reasonably requested by Lessor to confirm the calculation of the price paid for Lessor's royalty. If requested by Lessor, Lessee shall provide Lessor quarterly reports showing the monthly volume of Oil and Gas produced from the leased premises, the amount sold, the delivery points for each sale, the identity of each purchaser, the price received, and other information as may be necessary to verify the royalty paid. The information provided shall include an itemization of any deductions or charges from or to the proceeds from the sale of such production.
- (e) **Minimum Royalty** – Where Gas only is found and Lessor elects to be paid the above stated royalty, the annual cumulative royalty paid to Lessor shall never be less than one dollar (\$1.00) per net acre than covered by this lease or one hundred dollars (\$100.00), whichever is greater. The balance of minimum royalty due shall be paid within sixty (60) days following the lease anniversary date.
- (f) **Lessor's Royalty Option** – Lessor shall have the right on one hundred twenty (120) days' notice in writing to Lessee at any time and from time to time, as often as Lessor may desire, to change the method of payment of any or all of its royalty from payment in kind to payment in money or vice versa. Until Lessor elects otherwise, the entire royalty hereunder shall be payable in money.

If Lessor should exercise this option and take its royalty share in kind, Lessor shall be obligated to pay the following:

- (1) **Oil** – To pay Lessor's proportionate share of any transportation and storage costs only if said Oil is transported by Lessee and stored off the leased premises.

(2) **Gas** – To pay Lessor's proportionate share of compression and transportation. Also to pay the proportionate share of extraction costs, if said Gas is taken to a plant off the leased premises.

(g) **Timely Payment of Royalty** – Royalties due Lessor will be paid by the 25th of each month following the month in which the Oil, Gas or other hydrocarbons are produced. Royalty payments must begin within ninety (90) days after the date of first runs. All payments not received within ten (10) days of their due date will draw fifteen percent (15%) annual interest, compounded monthly.

6. **Lesser Interest Clause** – If Lessor owns a less interest in the leased premises than the entire and undivided fee simple estate therein, then the royalties and payments herein provided shall be paid to Lessor only in the proportion which its interest bears to the whole and undivided fee. However, such payments shall be increased after any reversion occurs to cover the interest so acquired following at least 30 days written notice from Lessor of such a reversion.

7. **Product Use for Operation** – Lessee shall have the right to the reasonable use, free of cost, of Gas and Oil produced from the leased premises for its Operations on the leased premises and royalty on Gas and Oil shall be computed after deducting the amount so used and after deducting any amounts which may be unavoidably lost in Operations on the leased premises.

8. **Lines Below Four Feet** – When requested by Lessor, Lessee shall bury its pipelines four (4) feet below the surface.

9. **Wells Near Structures** – No well shall be drilled nearer than 200 feet to any structure now on the leased premises, without the written consent of the Lessor.

10. **Damages** – Lessee agrees to protect Lessor from any claim for damages against Lessor resulting from Operations of Lessee hereunder and Lessee agrees to pay for all damages, including growing crops, on the leased premises caused by its operation hereunder. The amount of compensation for damages is negotiable between Lessee and the owner of the surface land.

11. **Right to Remove Equipment** – Lessee shall have the right at any time during, or within three (3) months after the expiration of this lease to remove all property and fixtures placed by Lessee on the leased premises, including the right to draw and remove all casings, providing all obligations and payments of Lessee have been fulfilled and made to Lessor at the time such equipment is removed.

12. **Surrender and Relinquishment** – The Lessee may at any time, by paying Lessor all amounts then due as provided herein, surrender and cancel this lease insofar as the same covers all or any portion of the leased premises and be relieved from further obligations or liability hereunder with respect to the lands so surrendered; provided, that no partial surrender or cancellation of this lease may comprise tracts of less than approximately forty (40) acres or governmental lot corresponding to a quarter-quarter section. Upon termination of this lease, in whole or part, Lessee agrees to file for record in the County concerned a duly executed and acknowledged release of all or such parts of the leased premises surrendered and deliver a copy of said recorded release to Lessor.

13. **Assignments** – The rights of Lessor may be assigned or transferred in whole or in part, and the provisions and obligations hereof shall extend to Lessor's successors or assigns, but no change or division in ownership of the land, mineral rights or royalties, however accomplished, shall operate to enlarge the obligations or diminish the rights of the Lessee; and no such change in ownership shall be binding on Lessee nor impair the effectiveness of any payments made hereunder until Lessee has been furnished with the original or a certified copy of the instrument evidencing any such transfer, sale, or other change in ownership, at least thirty (30) days before payment is due.

Lessee may assign this lease in whole or in part and shall require any of its assigns to assume all obligations and payments under this lease in writing to be provided to Lessor within ninety (90) days of the assignment. Lessee will not make a divided assignment for tracts comprising less than forty (40) acres or governmental lot corresponding to a quarter-quarter section without Lessor's prior approval. Divided assignments will be treated as separate leases and each Lessee will be responsible for maintaining his or her lease in regard to the lands retained by him or her.

14. **Redemption and Taxes** – Unless required by law, Lessee shall not deduct any taxes from royalties due Lessor, but shall provide Lessor, at least annually, with production information necessary for Lessor to determine and pay its tax liability.

In the event of default of payment by Lessor after reasonable notice of tax liability to Lessor by Lessee, Lessor hereby agrees that the Lessee shall have the right to pay for Lessor any taxes or other liens on the leased premises and be subrogated to the rights of the Lessor, and Lessor hereby agrees that any such payments made by the Lessee for the Lessor may be deducted from any amounts of money which may become due the Lessor under the terms of this lease. If such action is taken by the Lessee, notice of such action shall be given to the Lessor.

15. **Compliance with Laws** – In all Operations under this lease or on the leased premises, Lessee shall promptly comply with any and all laws, ordinances, rules, regulations, requirements and orders whatsoever, present or future, of the national, state, county or municipal government, and all express and implied obligations of this lease shall be subject to all valid federal and state laws, executive orders, rules and regulations and this lease shall not be terminated, in whole or in part, nor Lessee be held liable in damages for failure to comply with such obligations, if compliance is prevented by any such law, order, rule or regulation. If from any such cause Lessee is prevented from conducting Operations on, or producing Oil or Gas from the leased premises, the time which Lessee is so prevented shall not be counted against Lessee, and this lease shall be extended for a period of time equal to that during which Lessee is so prevented from conducting Operations on, or producing Oil or Gas from such leased premises, notwithstanding any other provision hereof.

16. **Pooling** – Lessee, at its option, is hereby given the right and power to pool or combine the acreage covered by this lease or any portion thereof with any other contiguous land, lease or leases when in Lessee's judgment it is necessary or advisable to do so in order to properly develop and operate said premises in compliance with any lawful spacing rules by any duly authorized authority. Lessee shall execute in writing an instrument identifying and describing the pooled acreage and shall provide Lessor a copy of such instrument within thirty (30) days of its execution. In lieu of the royalties elsewhere herein specified, Lessor shall receive on production from a Unit so pooled only such portion of the royalty stipulated herein as the amount of Lessor's acreage placed in the Unit or its royalty interest therein on an acreage basis bears to the total acreage so pooled in the particular Unit involved. Such pooling shall be into a Unit or Units not exceeding in area the acreage prescribed or required in any federal or state law, order, rule or regulation for the drilling or operation of one well, or for obtaining the maximum allowable production from one well, or 40 acres each for the production of Oil, or 640 acres each for the production of Gas, whichever is the larger. However, any Unit formed under this paragraph shall not exceed 640 acres (one section equivalent) for a vertical well or 1280 acres (two sections equivalent) for a horizontal well, and if Unit boundaries are not otherwise established, Lessee shall within thirty (30) days after well completion, determine said boundaries. Also, Lessee's power to pool, as outlined in this paragraph, is revoked (30) days prior to the expiration of the primary term of this lease. Any pooling accomplished during the final (30) days of the primary term of this lease will be done only with Lessor's written consent.

17. **Pugh Clause:**

(a) **Horizontal Pugh Clause.** If at the expiration of the primary term only a portion of the leased premises has been included in a Unit, and the portion of the leased premises lying outside said Unit is not maintained beyond the primary term per provisions found in Paragraph 4, then this lease shall terminate at the end of the primary term as to those lands lying outside said Unit.

