

# MASTER SERVICE AGREEMENT

MSA V.7-21-17 T1

**THIS MASTER SERVICE AGREEMENT** (this "Agreement") is made and entered into \_\_\_\_\_, 201\_\_\_\_, by and between the parties designated as "Operator" and "Contractor" immediately below, who may be referred to as a "Party" and together as the "Parties."

Operator: RANGE RESOURCES – APPALACHIA, LLC

Address: 3000 TOWN CENTER BLVD.

CANONSBURG, PA 15317

Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

**WHEREAS**, Operator is engaged in the business of exploration, development, and operation of oil and gas wells and in the production of oil and gas, and in the course of such operations regularly and customarily enters into agreements with independent contractors for Services (as defined in Section 1.6 of this Agreement); and

**WHEREAS**, Operator desires to establish and maintain an agreement with Contractor to set forth the terms and conditions that cover all Services performed or provided by Contractor to Operator; and

**WHEREAS**, Contractor desires to perform or provide such Services to or for Operator from time to time on the terms and conditions set forth in this Agreement.

**NOW THEREFORE, IN CONSIDERATION** of the mutual promises, conditions, and agreements below, the sufficiency of which is acknowledged, and the specifications and special provisions set forth in any exhibits attached to this Agreement, the Parties mutually agree as follows:

## 1.0 DEFINITIONS

The following terms have the meanings set forth below:

1.1 "Affiliate" means a company, partnership, or other legal entity that controls, is controlled by, or is under common control with another company, partnership, or other legal entity. Control means the ownership, directly or indirectly, of fifty (50) percent or more of the voting rights in a company, partnership, or other legal entity.

1.2 "Contractor Group" means Contractor, its parent, subsidiary, and affiliated entities, and its and their joint owners, joint venturers, co-owners, co-lessees, lessors, and its and their contractors and subcontractors of every tier, and the officers, directors, employees, representatives, spouses, relatives, dependents, estates, heirs, agents, and invitees of all of the foregoing.

1.3 "Force Majeure Event" means acts of God, extreme and unusual weather, war, insurrection, revolution or civil strife, piracy, civil war or hostile action, strikes, differences with workers, acts of public enemies, acute and unusual labor, material or equipment shortages, or any other causes (except financial) beyond the control of either Party.

1.4 "SDS" means Safety Data Sheets for hazardous products.

1.5 "Operator Group" means Operator, its parent, subsidiary, and affiliated entities, and its and their joint owners, joint venturers, co-owners, co-lessees, lessors, and any person or owner for whom Operator is performing operations or services, and its and their contractors and subcontractors of every tier (but specifically excluding all members of Contractor Group), and the officers, directors, employees, representatives, spouses, relatives, dependents, estates, heirs, agents, and invitees of all of the foregoing.

1.6 "Services" means the work, services, materials, goods, supplies, and/or equipment performed or provided by an independent contractor pursuant to this Agreement.

1.7 "Work order" means a verbal, written, or email work order issued in compliance with this Agreement specifying Services to be performed or provided pursuant to this Agreement.

1.8 "Work Product" means all copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, or works of authorship developed or created by Contractor Group during the course of performing or providing Services for Operator.

## **2.0 AGREEMENT AND TERM**

The terms of this Agreement shall establish the rights, duties, and responsibilities of the Parties with respect to all Services performed or provided by Contractor to Operator. This Agreement, together with any work orders, contains the entire agreement of the Parties with respect to all Services to be performed or provided by Contractor to Operator and supersedes any and all prior agreements, written or oral, between the Parties with respect to such Services, including the pre-printed terms and conditions on any purchase orders, invoices, e-mails, confirmations, or other documents. This Agreement shall remain in force and effect until cancelled by either Party by giving the other Party thirty (30) days of notice in writing at the respective address of either Party, provided that any Services being performed or provided pursuant to a work order in effect at the time of termination shall continue under the terms of this Agreement until completed or terminated in accordance with Section 14 of this Agreement, in the sole discretion of Operator. This Agreement shall control and govern all Services performed or provided by Contractor for Operator under any work orders. Work orders shall be given by Operator verbally, in writing, or by electronic mail and shall specify the Services to be performed or provided. The fees or charges to be paid by Operator to Contractor shall be set forth in the work order or in a mutually agreed schedule of fees and charges accepted by Operator prior to the performance or provision of the Services. In the event of a conflict, this Agreement controls over the terms and conditions of any work order, and this Agreement and any work order control over the terms and conditions in any purchase orders, field or delivery tickets, invoices, statements, or any other type of agreement or document used by Contractor in the normal course of business, whether oral or written, signed or unsigned. No amendment or modification of this Agreement will be valid unless it is in writing, expressly refers to this Agreement, and is signed by a duly authorized officer of each Party. A Party's failure to enforce any of its rights or remedies under this Agreement or any work order with respect to any specific act or failure to act will not constitute a waiver of that Party's rights to enforce such rights and remedies with respect to any other or subsequent act or failure to act.

Neither execution of this Agreement nor anything contained in this Agreement shall obligate Operator to seek Services from Contractor or obligate Contractor to perform or provide Services.

## **3.0 LABOR, EQUIPMENT, MATERIALS, GOODS, SUPPLIES, AND SERVICES**

3.1 When notified by Operator by work order of the Services desired, and Contractor accepts such work order, Contractor shall commence furnishing the Services at the agreed upon time and continue such operations diligently and without delay in strict conformity with the specifications and requirements contained in this Agreement and in such work orders. However, Contractor shall not undertake Services in an amount reasonably expected to exceed \$25,000 without a written or electronic work order issued by Operator that specifies the Services to be performed or provided and the rates to be charged for the Services. The rates may be established by a rate schedule or pricing matrix mutually agreed to in advance by and between Contractor and Operator.

3.2 Contractor shall not employ in any Services for Operator any employee whose employment violates any labor, employment, or other applicable laws. Contractor shall not employ in any Services for Operator, any employee who is a minor.

3.3 All Services performed or provided by Contractor shall be done with due diligence, in a good and workmanlike manner, using skilled, competent, and experienced workers and supervisors, and in accordance with good oilfield practices. All materials, equipment, supplies, or manufactured goods furnished by Contractor shall be selected and used with good oilfield practice for their respective purposes and shall be free from defects. Any portion of the Services found defective or unsuitable shall be removed, replaced, or corrected by Contractor without additional cost or risk to Operator. To the extent that Operator furnishes materials or equipment for Contractor's use, Contractor shall inspect all such materials and equipment and shall notify Operator of any apparent defects before using such materials and equipment. Should Contractor use such materials and equipment without notifying Operator of any apparent defect, then Contractor shall be deemed to have assumed all risk and liability for any loss or injury arising out of or related in any way to any failure or defect in such materials and equipment.

3.4 Contractor shall maintain its equipment in good operating condition at all times and, to the extent within Contractor's control, shall use all reasonable means to control and prevent fires and blowouts, protect Operator's wells, and protect Operator's personnel, property, and equipment.

3.5 Due to the highly skilled and technical nature of crane operations, Operator lacks personnel to operate crane rentals. Accordingly, Contractor shall provide all personnel necessary for crane Services to Operator. The costs of such personnel shall be included in the price of crane rental charged to Operator. All rental crane Services will be performed by personnel provided by Contractor and all such operations shall be under the exclusive control of Contractor at all times.

## **4.0 PAYMENT**

4.1 Operator shall pay Contractor for Services performed or provided by Contractor at the rate stipulated in the work orders, subject to the Services being accepted by Operator as fully complying with all the terms, conditions, specifications, and requirements of this Agreement and the work orders. Operator will pay Contractor for accepted Services within 30 business days after the presentation of invoice(s), together with other appropriate documentation. Operator may dispute any amount by notifying Contractor

of such dispute prior to payment. Operator may withhold or pay any disputed amount, however no payment of any sums, disputed or undisputed, shall operate as a waiver of any of Operator's rights, including the right to later contest such payment and seek reimbursement for any such payment.

4.2 Unless payment is due on a fixed price basis, Operator shall have the right to audit Contractor's books and records reasonably relating to invoices issued pursuant to this Agreement. Contractor shall maintain such books and records for two (2) years from the date Services were performed or provided and to make such books and records available to Operator or an accounting firm designated by Operator at any time or times upon reasonable notice within such two-year period.

## **5.0 REPORTS TO BE FURNISHED BY CONTRACTOR**

5.1 Contractor shall verify and check the quantity, description, and condition of Services performed or provided, and all delivery tickets shall be properly certified as to receipt by Contractor's representative. Contractor must obtain approval of delivery tickets by Operator's representative for materials, goods, supplies, and equipment for which Contractor is to be reimbursed by Operator.

5.2 Contractor shall orally report to Operator, as soon as practicable, followed by an appropriate written report, all accidents or occurrences resulting in death or injuries to Contractor's employees or third parties, or loss of or damage to property of Operator or third parties, arising out of or during the course of Services performed or provided by Contractor pursuant to this Agreement. Contractor shall furnish Operator with a copy of all non-privileged reports made by Contractor to Contractor's insurer or governmental authorities of such accidents and occurrences.

## **6.0 INDEPENDENT CONTRACTOR RELATIONSHIP**

With respect to all Services performed or provided by Contractor, this Agreement establishes solely an independent contractor relationship between Contractor and Operator. Contractor has the sole authority and right to direct and control all the details of the Services. Operator shall have the right to order the start and stop of the Services, and inspect, accept, or reject the Services. Operator shall have no right or authority to supervise or direct the details of the work being performed by the employees, agents, or representatives of Contractor, but such employees, agents, or representatives at all times shall be under the direct and sole supervision and control of Contractor. Any directions given by Operator or its employees shall be given only to the superintendent or other person in charge of Contractor's crew. However, if any employee of Operator should give any order or instructions to the employees of Contractor (which employee of Operator shall not in any event be authorized to do) and such order is not countermanded by Contractor's superintendent or other person in charge of Contractor's employees or crew, then such orders or instructions shall be deemed to be the orders or instructions of Contractor. The Parties intend that no relationship as master and servant or principal and agent shall exist between Operator and the employees, agents, or representatives of Contractor, and that all Services performed for or provided to Operator under this Agreement shall be performed at the sole risk of Contractor.

## **7.0 INSURANCE**

7.1 Without affecting the indemnity obligations or liabilities of Contractor, Operator, or their respective insurer(s), at any and all times during the term of this Agreement, each Party shall maintain, with an insurance company or companies authorized or eligible to do business in the state where the Services are to be performed, insurance coverage of the kind and in the minimum amounts as follows:

(a) Workers' Compensation Insurance and Employers' Liability Insurance complying with applicable state laws with minimum limits of \$1,000,000 each Bodily Injury by Accident, \$1,000,000 policy limit for Bodily Injury by Disease, and \$1,000,000 each employee Bodily Injury by Disease, covering all of the respective Party's employees working under this Agreement. If Services are performed on or adjacent to navigable waterways, then Contractor Group shall comply with the Federal Longshore and Harbor Workers Compensation Act and Jones Act, as applicable.

(b) Commercial General Liability Insurance with minimum Bodily Injury and Property Damage limits of \$1,000,000 for each accident or occurrence and \$2,000,000 in the aggregate for Bodily Injury and Property Damage, specifically including Contractual Liability, Sudden and Accidental Pollution (or a separate Contractor's pollution policy), Completed Operations, Product Liability, Independent Contractors, and Actions Over. Such insurance shall include an endorsement providing that the insurance afforded under Contractor's policy is primary insurance as respects the Operator's, and that any other insurance maintained by Operator is excess and non-contributing with the insurance required under this Agreement. Additionally, such insurance shall include employee dishonesty liability coverage.

(c) Automobile Liability Insurance covering all owned, non-owned, and hired autos with minimum Bodily Injury and Property Damage limits of \$1,000,000 combined single limit per accident.

(d) All Risk Property Insurance covering the replacement value of that Party's business property, hand tools, and mobile equipment on site.

(e) Excess/Umbrella Liability Insurance over that required in Section 7.1 (a), (b), and (c) with minimum limits of \$5,000,000 and with coverage at least as broad as underlying, specifically including Contractual Liability.

(f) Aviation Liability Insurance to cover aircraft, if any, owned, chartered, or hired by that Party and used for or in connection with the performance of this Agreement, with a minimum combined Bodily Injury and Property Damage limit of not less than \$10,000,000 per accident or occurrence.

(g) Professional Liability Insurance with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

7.2 During the term of this Agreement, Contractor shall obtain from its insurers a waiver of subrogation in favor of Operator Group in all of Contractor's insurance policies required by Section 7.1, including all insurance carried by Contractor protecting against loss or damage to its property and equipment employed in the performance of this Agreement, whether the same be set forth in this Article or not. All such insurance shall be carried in a company or companies with a minimum AM Best rating of A-/VII and shall be maintained in full force and effect during the term of this Agreement, and shall not be cancelled, altered, or amended in a manner that could adversely affect the interest of Operator without thirty (30) days prior written notice having first been furnished to Operator.

7.3 In all of Contractor's liability insurance policies required by this Agreement, Operator Group shall be named an additional insured, either by name or by a blanket/automatic additional insured endorsement providing such coverage where required by contract, using ISO form CG 2010 (1185) or the equivalent, covering both on-going and completed operations (with exception of Workers' Compensation coverage, on which Operator Group shall be named Alternate Employer), **with such additional insured coverage providing coverage for the negligence of the additional insured and not being restricted to (i) "ongoing operations," (ii) coverage for vicarious liability, or (iii) circumstances in which the named insured is partially negligent, with all such insurance being primary to any valid and collectible policies of insurance providing coverage to any member of Operator Group.** The "Other Insurance" provision shall not apply to any member of Operator Group by virtue of having been named an additional insured or loss payee under any policy of insurance. Contractor shall have its insurance carrier furnish Operator a certificate or certificates evidencing coverage in accordance with the above requirements. Contractor shall make the required policies available for inspection upon Operator's request. These requirements shall be conditions precedent to the payment of any sums that may be due Contractor.

7.4 For any nonmaritime services to be performed in or offshore Louisiana for which the Louisiana Oilfield Anti-Indemnity Act (LA RS 9:2780, et seq.) would apply, the Parties agree that:

(a) Before beginning the Services, Contractor shall, as a separate line item, have its brokers or underwriters invoice Operator for all premiums incurred in obtaining any additional insured coverage, waiver of subrogation, and primary and non-contributory endorsements as required in this Article 7. Such invoices shall be paid once for all premiums for all material parts of the cost of insurance provided to Operator by Contractor and prorated to the policy period. The Parties intend that Contractor shall not pay for any material part of such insurance coverage afforded to Operator.

(b) If Contractor does not notify Operator of any additional premium charged for such coverage before beginning the Services, then it will be conclusively presumed that there are no such charges and that Contractor is not bearing any material cost for such coverage. Failure of Contractor or its insurance broker to invoice Operator for all such premiums shall, at Operator's discretion, (i) constitute a breach of this Agreement and/or (ii) entitle Operator to retroactively pay the applicable premium.

(c) Contractor warrants and represents that it has communicated with its insurer(s) regarding this obligation. If Operator so requests, Contractor shall obtain from its insurer(s) and/or brokers documentation evidencing that the insurers consent to the waiver of the provisions of the Louisiana Oilfield Anti-Indemnity Act.

(d) Each time Contractor's insurance portfolio required by this Article 7 renews or changes, Contractor shall notify Operator as soon as practicable, but in no event later than 20 days in advance of the due date for any premium costs for the required coverages.

## **8.0 INDEMNITY; WAIVER OF CONSEQUENTIAL DAMAGES**

8.1 Contractor and Operator commit to use their best efforts to avoid or prevent any accidents or situation that could result in property damage or bodily injury. If such an accident or situation does occur, then all liabilities for bodily injuries or illness and property damage arising out of the performance of this Agreement shall be allocated between Operator and Contractor as set forth below to avoid protracted litigation along with the associated legal expenses and so that each Party may arrange insurance as necessary to protect itself against exposure to loss. The following sets out the agreements between Operator and Contractor as to the allocation of their respective responsibilities and liabilities.

**8.2 CONTRACTOR SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS EACH MEMBER OF OPERATOR GROUP FROM AND AGAINST ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, AND WITHOUT REGARD TO FAULT (WHETHER ACTIVE OR PASSIVE), OR THE CAUSE OR CAUSES THEREOF, OF ANY PERSON (INCLUDING, BUT NOT LIMITED TO, THE PARTIAL, CONCURRENT, OR SOLE NEGLIGENCE OF ANY MEMBER OF OPERATOR GROUP), OR ANY THEORY OF STRICT LIABILITY OR DEFECT OF PREMISES, OR THE UNSEAWORTHINESS OF ANY VESSEL (WHETHER OR NOT PREEXISTING THE DATE OF THIS AGREEMENT), ARISING OUT OF ANY ACTUAL OR ALLEGED BODILY OR PERSONAL INJURY, ILLNESS, DEATH, OR DAMAGE TO PROPERTY OF ANY MEMBER OF CONTRACTOR GROUP, BUT EXCLUDING CLAIMS FOR OPERATOR'S BREACH OF THIS AGREEMENT.**

**EXCEPT AS PROVIDED OTHERWISE IN 8.3 REGARDING ANY ACTUAL OR ALLEGED BODILY OR PERSONAL INJURY, ILLNESS, DEATH, OR DAMAGE TO PROPERTY OF ANY MEMBER OF OPERATOR GROUP, CONTRACTOR SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS EACH MEMBER OF OPERATOR GROUP FROM AND AGAINST ALL**

CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, ARISING OUT OF THE PARTIAL, CONCURRENT, OR SOLE NEGLIGENCE OF ANY MEMBER OF CONTRACTOR GROUP.

8.3 OPERATOR SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS EACH MEMBER OF CONTRACTOR GROUP FROM AND AGAINST ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, AND WITHOUT REGARD TO FAULT (WHETHER ACTIVE OR PASSIVE), OR THE CAUSE OR CAUSES THEREOF, OF ANY PERSON (INCLUDING, BUT NOT LIMITED TO, THE PARTIAL, CONCURRENT, OR SOLE NEGLIGENCE OF ANY MEMBER OF CONTRACTOR GROUP), OR ANY THEORY OF STRICT LIABILITY OR DEFECT OF PREMISES, OR THE UNSEAWORTHINESS OF ANY VESSEL (WHETHER OR NOT PREEXISTING THE DATE OF THIS AGREEMENT), ARISING OUT OF ANY ACTUAL OR ALLEGED BODILY OR PERSONAL INJURY, ILLNESS, DEATH, OR DAMAGE TO PROPERTY OF ANY MEMBER OF OPERATOR GROUP, BUT EXCLUDING CLAIMS FOR CONTRACTOR'S BREACH OF THIS AGREEMENT OR PROVISION OF DEFECTIVE OR DAMAGED SERVICES UNDER THIS AGREEMENT .

EXCEPT AS OTHERWISE PROVIDED IN 8.2 REGARDING ANY ACTUAL OR ALLEGED BODILY OR PERSONAL INJURY, ILLNESS, DEATH, OR DAMAGE TO PROPERTY OF ANY MEMBER OF CONTRACTOR GROUP, OPERATOR SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS EACH MEMBER OF CONTRACTOR GROUP FROM AND AGAINST ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, ARISING OUT OF THE PARTIAL, CONCURRENT, OR SOLE NEGLIGENCE OF ANY MEMBER OF OPERATOR GROUP.

8.4 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 8, WITH RESPECT TO SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT, CONTRACTOR SHALL RELEASE, DEFEND, PROTECT, HOLD HARMLESS, AND INDEMNIFY OPERATOR GROUP FROM AND AGAINST ANY AND ALL LIABILITIES ARISING OUT OF OR RELATED TO ANY POLLUTION, SPILLS, OR RELEASES OF ANY HAZARDOUS MATERIAL OR SUBSTANCE REGULATED BY ANY LAW OR REGULATION CAUSED BY ANY MEMBER OF CONTRACTOR GROUP, INCLUDING ANY PENALTIES, FINES, COSTS, REMEDIATION EXPENSES, OR ANY OTHER LIABILITIES RELATED TO OR ARISING FROM ANY SUCH SPILL OR RELEASE. CONTRACTOR SHALL REIMBURSE OPERATOR GROUP FOR ANY COSTS AND EXPENSES INCURRED BY OPERATOR GROUP REMEDIATING OR CLEANING UP ANY POLLUTION, SPILLS, RELEASES, LEAKS, SOIL OR WATER CONTAMINATION, OR OTHER LEAKS OR SPILLS FROM MATERIALS UNDER THE CUSTODY OR CONTROL OF ANY MEMBER OF CONTRACTOR GROUP AND ANY EQUIPMENT USED BY ANY MEMBER OF CONTRACTOR GROUP IN THE PERFORMANCE OR PROVISION OF THE SERVICES.

8.5 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 8, WITH RESPECT TO OPERATOR'S OPERATIONS CONDUCTED IN CONNECTION WITH THIS AGREEMENT, OPERATOR SHALL RELEASE, DEFEND, PROTECT, HOLD HARMLESS, AND INDEMNIFY CONTRACTOR GROUP FROM AND AGAINST ANY AND ALL LIABILITIES ARISING OUT OF OR RELATED TO ANY POLLUTION, SPILLS, OR RELEASES OF ANY HAZARDOUS MATERIAL OR SUBSTANCE REGULATED BY ANY LAW OR REGULATION CAUSED BY ANY MEMBER OF OPERATOR GROUP, INCLUDING ANY PENALTIES, FINES, COSTS, REMEDIATION EXPENSES, OR ANY OTHER LIABILITIES RELATED TO OR ARISING FROM ANY SUCH SPILL OR RELEASE. OPERATOR SHALL REIMBURSE CONTRACTOR GROUP FOR ANY COSTS AND EXPENSES INCURRED BY CONTRACTOR GROUP REMEDIATING OR CLEANING UP ANY POLLUTION, SPILLS, RELEASES, LEAKS, SOIL OR WATER CONTAMINATION, OR OTHER LEAKS OR SPILLS CAUSED BY OPERATOR FOR OPERATIONS CONDUCTED IN CONNECTION WITH THIS AGREEMENT.

8.6 Each Party shall support its respective indemnity obligations set forth in this Article 8 with the liability insurance coverage to be furnished pursuant to Article 7 of this Agreement. To the maximum extent permitted by applicable law, (a) such insurance shall support, but not limit, each Party's indemnity obligations and (b) a Party's failure to provide the required insurance shall not in any way excuse the obligations of that Party under this Article 8. This Agreement shall also constitute conclusive proof that Contractor recovered the cost of insuring its indemnity obligations through the contract price negotiated for all Services provided under this Agreement.

8.7 For operations performed in Texas or governed by Texas law and to comply with *Texas Civil Practice & Remedies Code* Ch. 127 *et al.* regarding Indemnity Provisions in Certain Mineral Agreements, if applicable, indemnity obligations set forth in this Agreement are a "mutual indemnity obligation" as that term is defined in *Texas Civil Practice & Remedies Code* Ch. 127 *et al.*

8.8 If any provision of Articles 7 and 8 is invalid or unenforceable, then the invalid or unenforceable provision shall be excluded to the extent of such invalidity or unenforceability. The remainder of Articles 7 and 8 shall remain in full force and effect and, to the extent permitted and possible, the invalid or unenforceable provision shall be deemed replaced by a provision that is valid and enforceable and comes closest to expressing the Parties' intent to allocate risks and liabilities and to provide for insurance and indemnification of the Parties as set forth in Articles 7 and 8.

8.9 Each Party shall, as soon as practicable, provide written notice to the other Party of any claim, demand, or suit for which defense or indemnity is sought under this Agreement. The indemnifying Party shall have the right to select defense counsel, subject to the indemnified Party's consent, which shall not be unreasonably withheld. The indemnifying Party has the right to settle any claim, demand, or suit as long as (a) the settlement amount is paid in full by the indemnifying Party without reservation and (b) the indemnified Party consents in writing, which consent shall not be unreasonably withheld.

8.10 The Parties' obligations under this Article 8 shall survive any cancellation or termination of this Agreement with respect to any Services performed or provided prior to termination.

8.11 CONTRACTOR AND OPERATOR EACH WAIVE ANY AND ALL CLAIMS AGAINST THE OTHER FOR CONSEQUENTIAL DAMAGES OF ANY KIND OR CHARACTER, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST

**BUSINESS OPPORTUNITIES, DAMAGES FROM THE LOSS OF USE OF EQUIPMENT, AND LOSS OF PRODUCT. THIS LIMITATION AND INDEMNITY SHALL APPLY EVEN IF THE PARTIES HAVE BEEN MADE AWARE OF THE POSSIBILITY OF SUCH LOSS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THIS WAIVER SHALL NOT APPLY TO OR LIMIT THE PARTIES' RESPECTIVE OBLIGATIONS UNDER SECTIONS 8.4 AND 8.5 HEREIN.**

**8.12 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY EXCEPT AS SET FORTH IN SECTION 10.1, A PARTY'S INDEMNITY OBLIGATIONS UNDER THIS ARTICLE SHALL NOT INCLUDE ANY OBLIGATION TO PAY FOR PUNITIVE OR EXEMPLARY DAMAGES AWARDED AGAINST THE OTHER PARTY.**

## **9.0 TAXES AND CLAIMS**

9.1 Contractor shall pay all taxes, licenses, and fees levied or assessed on Contractor in connection with or incident to the performance of this Agreement by any governmental agency and unemployment compensation insurance, old age benefits, social security, or any other taxes upon the wages of Contractor, its agents, employees, and representatives. Contractor shall require the same agreements and be liable for any breach of such agreements by any of its subcontractors.

9.2 Contractor shall reimburse Operator on demand for all such taxes or governmental charges, state and federal, which Operator may be required or deem it necessary to pay on account of employees of any member of Contractor Group. Contractor shall furnish Operator with the information required to enable it to make the necessary reports and to pay such taxes or charges. At its election, Operator is authorized to deduct all sums so paid for such taxes and governmental charges from such amounts as may be or become due to Contractor.

9.3 Contractor shall pay all claims for labor, materials, services, manufactured goods, equipment, and supplies furnished by Contractor, and shall allow no lien or charge to be fixed upon the lease, the well, the equipment, the land upon which the well is located, or other property of Operator and its affiliates, or the party for whom Operator is performing services. Contractor shall release, indemnify, protect, defend, and hold Operator harmless from and against all such claims, charges, and liens. If Contractor fails or refuses to pay claims or indebtedness incurred by Contractor in connection with the Services as performed or provided, then Operator shall have the right to pay any such claims or indebtedness out of any money due or to become due to Contractor hereunder. By paying such claims or indebtedness, Operator does not waive any of its rights under this Agreement, including but not limited to seeking reimbursement from Contractor. Notwithstanding the foregoing, Operator will not pay any such claim or indebtedness that is being actively contested by Contractor and Contractor has taken all actions necessary (including posting a bond when appropriate) to protect the property interest of Operator and any other person affected by such claim or indebtedness.

9.4 Before Operator makes any payments Contractor, Operator may require Contractor to furnish proof that no unsatisfied claims exist for labor, materials, equipment, and supplies or for injuries to persons or property.

## **10.0 LAWS, RULES, AND REGULATIONS**

10.1 Operator and Contractor shall comply with all laws, rules, and regulations that are now or may become applicable to the Services covered by this Agreement or the performance or provision of such Services. If either Party is required to pay any fine or penalty resulting from the other Party's failure to comply with such laws, rules, or regulations, then the Party failing to comply shall immediately reimburse the other Party for any such payment.

10.2 In the event that one or more provisions contained in this Agreement is held, for any reason, to be invalid, void, illegal, contrary to law, and/or unenforceable in any respect, then this Agreement shall be deemed to be amended to partially or completely modify such provision or portion thereof to the minimum extent necessary to make it enforceable. If necessary, this Agreement shall be deemed to be amended to delete the unenforceable provision or portion, in which event such invalidity, voidness, illegality, or unenforceability shall not affect the remaining provisions, and this Agreement shall remain unaffected and shall be construed as if such invalid, void, illegal, or unenforceable provision was never part of this Agreement.

10.3 This Agreement shall be governed, construed, and interpreted in accordance with the laws of the state where this agreement is being performed, without regard to the conflicts of laws provisions of that state.

10.4 Upon request by Operator, Contractor shall provide sufficient documentation to Operator to demonstrate compliance with all laws, rules, or regulations that are now or may become applicable to the Services covered by this Agreement or the performance or provision of Services, including, but not limited to, documentation demonstrating compliance with all applicable environmental, health, and safety laws, rules and regulations. Additionally, upon request by Operator, Contractor shall make reasonable accommodations for Operator or its qualified designee to conduct a field audit of Contractor and the Services.

## **11.0 FORCE MAJEURE**

Except for the duty to make payments when due and the indemnification provisions of this Agreement, neither Operator nor Contractor shall be responsible to the other for any delay, damage, or failure caused or occasioned by a Force Majeure Event. Delays due to a Force Majeure Event shall not be deemed to be a breach of or failure to perform under this Agreement. A Party claiming the existence of a Force Majeure Event shall promptly notify the other Party of the Force Majeure Event and shall diligently attempt to correct the Force Majeure Event. Neither Operator nor Contractor shall be required to resolve any labor disputes except in accordance with applicable law.

## **12.0 PATENTS, COPYRIGHTS, AND INTELLECTUAL PROPERTY**

All Work Product shall belong exclusively to Operator and shall be considered a work made for hire for Operator within the meaning of Title 17 of the United States Code. To the extent the Work Product may not be considered work made for hire for Operator, Contractor shall assign, hereby assigns at the time of creation of the Work Product, and shall cause all applicable members of Contractor Group to assign, without any requirement of further consideration, any right, title, or interest any member of Contractor Group may have in such Work Product. Upon request of Operator, Contractor Group shall take such further actions, including execution and delivery of declarations, instruments of conveyance, and the like for any applications or registrations Operator may, at its expense, apply for and as may be appropriate to give full and proper effect to such assignments. Contractor covenants, represents, and warrants that Contractor has the right, patent, license, or authority to use and apply any patented, patentable, otherwise protected, or unpatented, device, process, formula, information, knowledge, trade secret, apparatus, or method furnished with the Services.

(a) All intellectual property of Operator existing prior to the date of this Agreement remains the sole property of Operator and Contractor acquires no rights in such intellectual property. All iterative improvements to (i) Operator's prior intellectual property or (ii) Operator's intellectual property developed during the course of this Agreement remains the sole property of Operator, regardless of which Party conceived or disclosed the improvement. Contractor shall obtain permission to use any and all intellectual property that may be required for Contractor Group to perform or provide the Services. This permission will include all necessary licenses and other governmental approvals for which Contractor is responsible.

(b) **CONTRACTOR SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS OPERATOR GROUP FROM AND AGAINST ANY AND ALL FINES, PENALTIES, LOSSES, LIABILITIES, DAMAGES, CLAIMS, AND COSTS (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS) ARISING OUT OF OR INCURRED AS A RESULT, DIRECTLY AND INDIRECTLY, OF ANY ALLEGED OR ACTUAL INFRINGEMENT OR VIOLATION OF ANY RIGHT OR ALLEGED RIGHT RELATING TO INTELLECTUAL PROPERTY, INCLUDING WITHOUT LIMITATION, PATENT, COPYRIGHT, OR TRADE SECRET.**

## **13.0 ASSIGNMENTS**

Contractor shall not assign nor delegate this Agreement or any of the Services requested by Operator and shall not assign any sum that may be due to Contractor under this Agreement, without prior written consent of Operator. However, Contractor may assign this Agreement to an Affiliate as defined in Section 1.1 with prior written consent of Operator, which shall not be withheld unreasonably.

## **14.0 TERMINATION OF SERVICES**

14.1 Operator may, at any time, in its sole discretion, terminate Services covered by any work order, in which event Contractor shall be paid at the applicable rates stipulated in Contractor's Rate Schedule or Bid for services satisfactorily rendered up to the date of termination. In no event shall Contractor be entitled to be paid for Services unperformed by reason of such termination, nor shall Contractor be entitled to any other compensation or damages for loss of anticipated profits or otherwise. On notice of such termination, Contractor shall promptly remove its personnel, machinery, and equipment from Operator's property and shall further cooperate with Operator or its designee to ensure an orderly and expeditious transition and completion of the Services.

14.2 The foregoing paragraph shall in no way limit Operator's right to terminate Contractor without additional compensation in the event of Contractor's breach of this Agreement.

14.3 No termination of this Agreement, howsoever arising, shall waive, release, or limit any duty or liability of either Party arising directly or indirectly under this Agreement on or prior to the effective date of termination.

## **15.0 GIFTS AND GRATUITIES**

It is a conflict with Operator's interest for its employees or any member of their immediate family to accept gifts, payments, extravagant entertainment, services, or loans in any form from anyone soliciting business or who may already have established business relations, with Operator. Gifts of nominal value (less than \$250) and entertainment, meals, and social invitations that are customary and proper under the circumstances and do not place the recipient under obligation are acceptable. Contractor shall notify an officer of Operator if any employee of Operator should solicit a gift or gratuity from Contractor. Contractor's failure to comply with Operator's policies regarding gifts and gratuities may, at Operator's option, result in the termination of this Agreement and preclude any future dealings between the Parties.

## **16.0 CONFIDENTIALITY**

All information obtained by Contractor Group in performing or providing Services, including without limitation, information concerning seismic operations, well depths, formations penetrated, coring, testing, surveying and completions, frac programs, including injection volumes, pressures, additives, maps, reports, production rates, contract terms, and pricing of hydrocarbons, shall be held strictly confidential, and shall not, without Operator's prior written permission, be divulged by Contractor Group to any person or entity.

To the extent that Operator obtains any Contractor confidential information, Operator shall treat such confidential information in the same manner that Operator expects Contractor to treat Operator's confidential information.

## **17.0 ILLEGAL DRUGS, ALCOHOL, AND FIREARMS**

17.1 The use, transportation, and possession of firearms, drugs, and/or controlled substances, drug paraphernalia and alcoholic beverages on helicopters, boats, offshore platforms, drilling locations, or Operator's premises is prohibited. Illegal drugs include marijuana, amphetamines, barbiturates, opiates, cocaine, codeine, morphine, hallucinogenic substance (LSD), and any similar drugs and/or chemical synthetics. Additionally, Contractor's employees shall not be assigned or allowed to perform or provide any of the Services under this Agreement while impaired by drug or alcohol use or consumption. Contractor shall have and enforce a drug and alcohol testing policy and remove from Operator's premises any employee who fails a drug test administered under Contractor's drug and alcohol policy. Operator has the right to request a drug or alcohol test of any Contractor employee who Operator believes to be in violation of this provision of this Agreement and Contractor shall either subject such employee to a drug or alcohol test in accordance with Contractor's drug and alcohol testing policy or remove the employee from Operator's premises.

17.2 Operator reserves the right to carry out reasonable searches of individuals, their personal effects, and vehicles when entering on and leaving Operator's premises. The searches will be initiated by Operator without prior announcement. Individuals found in violation of Section 17.1 will be removed from Operator's premises immediately. Submission to a search is strictly voluntary; however, refusal may be cause for not allowing that individual on the well-site or Operator's other premises. It is Contractor's responsibility to notify its employees of the prohibitions of Section 17.1 and its enforcement.

## **18.0 EXTENSION**

As a part of the consideration for this Contract, the provisions of Article 7 (Insurance), Article 8 (Indemnity; Waiver of Consequential Damages), Article 12 (Patents, Copyrights, and Intellectual Property), and Article 16 (Confidentiality) shall extend to and be enforceable by and for the benefit of any member of Operator Group or Contractor Group beyond the termination of this Agreement.

## **19.0 CONTRACTOR SAFETY REQUIREMENTS**

19.1 Contractor's safety policies, procedures, and codes of practice shall be in compliance with all applicable federal and state occupational health and safety laws, rules, and regulations.

19.2 Contractor shall provide or require each of the employees on Operator's premises to wear basic personal protective equipment consisting of an ANSI approved hard-hat and durable steel-toed work shoes or boots. Hard-hats and proper footwear must be worn at all times while on the location. Safety glasses, hearing protection, dust masks, or respirators shall be worn where hazards to the eyes, ears, or respiratory tract exist. Contractor shall provide training on the proper use and limitations of respiratory equipment to any worker using such equipment.

(a) Contractor shall provide fall protection where any employee is exposed to a hazard of falling six (6) feet or more or when working over dangerous equipment.

(b) Contractor shall conduct "toolbox" safety talks no less than weekly.

(c) Contractor must immediately notify Operator of any accidents resulting in any bodily injury or property damage or spills of any hazardous substance and submit an incident report within 48 hours of the accident or spill.

(d) The U.S. Occupational Safety & Health Administration Hazard Communication Standard requires contractors to provide SDS sheets for all hazardous products to be used on Operator's premises. Contractor shall comply with the Hazard Communication Standard by making SDS sheets available for all employees at all times while on Operator's premises. Contractor shall provide its employees training on the hazards of any products requiring an SDS.

(e) Contractor must provide fully charged fire extinguishers in all site office and storage trailers as well as for all flame soldering, cutting, or welding operations and other operations where hot work is performed.

(f) Where requested by Operator, and before commencing Services, Contractor shall provide a written safe work procedure or permit for any portion of the Services that may pose unique or specific hazards to its employees performing or exposed to the Services or work area.

19.3 Contractor must have and enforce a policy of progressive warnings for non-compliance. Employees should receive a verbal, then written warning, and, thirdly, suspension or removal from the location by Contractor.

19.4 A supervisory level employee of Contractor must inspect of Contractor's operations, equipment, and work areas not less than weekly. Contractor will make documentation of inspections available to Operator upon request.



## **20.0 EXHIBITS**

The following Exhibits may be attached and made a part of this Agreement for all purposes:

Exhibit A – Contractor's Rate Schedule or Work Order

To the extent of any conflict between Exhibit A and this Agreement, the terms of this Agreement control. Any other document attached to or purporting to be an Exhibit to this Agreement shall be of no force and effect unless it bears the signature of an officer of each of the Parties.

## **21.0 SERVICES IN LOUISIANA**

If this Agreement is deemed to be governed by the laws of the State of Louisiana, then the following provisions apply:

21.1. Notwithstanding anything in this Agreement to the contrary, in all cases when Contractor's employees (defined to include Contractor's direct, borrowed, special, or statutory employees, as well as those of Contractor Group, where applicable) are covered by the Louisiana Workers' Compensation Act (La.R.S. 23:1021 et seq.), the Parties recognize, acknowledge, and agree that all Services being performed or provided by Contractor Group employees pursuant to this Agreement are an integral part of and are essential to the ability of Operator to generate its goods, products, and services for purposes of La.R.S. 23:1061(A)(1). Furthermore, Operator and Contractor agree that Operator is the principal or statutory employer of Contractor's employees as well as those of Contractor Group for purposes of La.R.S. 23:1061(A)(3). Irrespective of Operator's status as the statutory employer or special employer (as defined in La.R.S.23:1031(C)) of employees of Contractor Group, Contractor shall remain primarily responsible for the payment of Louisiana Workers' Compensation benefits to those employees, and shall not be entitled to seek contribution for any such payments from Operator.

## **22.0 SERVICES FOR AFFILIATES OF OPERATOR**

If any Affiliate of Operator (whether corporation, partnership, or limited liability company) requests Contractor to perform or provide Services, then, unless there is a separate written agreement between such Affiliate and Contractor, the terms and conditions of this Agreement shall control all such Services, including all protections afforded Operator Group. In addition, where Contractor agrees to perform or provide Services for an Affiliate of Operator, this Agreement shall govern those transactions as if this Agreement had been entered into between the Affiliate and Contractor, in which event, all provisions of this Agreement shall be applicable to such Services except that 1) the Affiliate shall be substituted throughout this Agreement and any attachments and exhibits as "Operator"; and 2) Operator shall be included in the definition of "Operator Group".

## **23.0 NO RELIANCE ON REPRESENTATIONS OR NON-DISCLOSURES**

Contractor represents that in entering into this Agreement or any work order (a) it is not relying on any inducement, representation, statement, promise, or agreement of Operator (or anyone acting on Operator's behalf) that is not expressly set forth in this Agreement or the work order, and (b) any failure by Operator (or anyone acting on its behalf) to disclose any information about Operator, this Agreement, a work order, or the Services is of no consequence. Contractor, in entering into this Agreement and any work order, has relied solely on its own investigation or inspection of this Agreement's or the work order's subject matter, the Services, the information, representations, terms, and conditions set forth in this Agreement or the work order, any work site, and the advice of its own officers, employees, advisors, and/or attorneys.

## **24.0 ATTORNEYS' FEES AND EXPENSES**

In the event of any legal proceedings between or among the Parties, the prevailing Party shall be entitled to recover all of its reasonable attorneys' fees, court costs, and related expenses from the other Party, except as provided otherwise in the indemnity provisions of this Agreement.

## **25.0 NOTICES**

All required communications between the Parties shall be in writing, addressed to the Parties' respective addresses at the beginning or on the signature page of this Agreement, and considered delivered: (i) within five days after deposit with the United States Postal Service, sent certified mail, return receipt requested, properly addressed, and postage paid, (ii) within two days after deposit with a nationally recognized parcel delivery service, and (iii) within one day after confirmation of receipt of transmission by email or fax transmission. A Party may change its notices address by providing written notice of the change to the other Party in the manner set forth in this Section.

