

**UNIT OPERATING AGREEMENT**

**FOR THE**

**EAST HOBBS (SAN ANDRES) UNIT**

**LEA COUNTY, NEW MEXICO**

**EXHIBIT C**

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# UNIT OPERATING AGREEMENT

## FOR THE

### EAST HOBBS (SAN ANDRES) UNIT

#### LEA COUNTY, NEW MEXICO

THIS AGREEMENT ("this agreement" or "this Operating Agreement"), entered into as of the first day of January 2002, by the parties who have signed the original of this instrument, a counterpart thereof or other instrument agreeing to be bound by the provisions hereof;

#### WITNESSETH:

WHEREAS, the parties hereto as Working Interest Owners have executed, as of the date hereof, an agreement entitled, "Unit Agreement for the Development and Operation of the East Hobbs (San Andres) Unit, Lea County, New Mexico" (the "Unit Agreement"), which among other things, provides for a separate agreement to be entered into by Working Interest Owners to provide for the development and operation of the Unit Area as therein defined;

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, it is agreed as follows:

### ARTICLE 1 CONFIRMATION OF UNIT AGREEMENT AND DEFINITIONS

1.1 Confirmation of Unit Agreement. The Unit Agreement is hereby confirmed and by reference made a part of this agreement. If there is any conflict between the Unit Agreement and this agreement, the Unit Agreement shall govern.

1.2 Definitions. The definitions contained in the Unit Agreement are adopted for all purposes of this agreement. The words, terms and phrases used in this Agreement are written to convey the most common industry meaning or understanding, but shall also be construed to mean the plural if written in the singular and vice versa. In addition, the following terms, when used herein, shall have the following meanings:

1.2.1 Person is defined as any individual, corporation, partnership, common law or statutory trust, association of any kind, the State of New Mexico or any subdivision or agency thereof acting in a proprietary capacity, guardian, executor, administrator, fiduciary of any kind, or any entity capable of holding an interest in the Unit Area.

1.2.2 Oil and Gas Rights are the rights to explore, develop and operate lands within the Unit Area for the production of Unitized Substances, or to share in the production so obtained or the proceeds thereof.

1.2.3 Unit Equipment is all personal property, lease and well equipment, plants, and other facilities and equipment taken over or otherwise acquired for the joint account for use in Unit Operations.

1.2.4 Unit Expense is all cost, expense, or indebtedness incurred by Working Interest Owners or Unit Operator pursuant to this Agreement and the Unit Agreement for or on account of Unit Operations.

1.2.5 Unit Operations are all operations conducted pursuant to this Agreement and the Unit Agreement.

1.2.6 Unit Operator is the party designated by Working Interest Owners under this Agreement to conduct Unit Operations.

## **ARTICLE 2 EXHIBITS**

2.1 Exhibits. The following exhibits are incorporated herein by reference:

2.1.1 Exhibits "A", "B" and "C" of the Unit Agreement.

2.1.2 Exhibit D attached hereto is a schedule showing the percentage of total Unit Participation attributable to each Working Interest Owner in each Tract. Exhibit "D", or revisions thereof, shall not be conclusive as to the information therein, except it may be used as showing the Unit Participation of the Working Interest Owners for purposes of this agreement until shown to be in error or as revised as herein authorized.

2.1.3 Exhibit "E", attached hereto, is the Accounting Procedure applicable to Unit Operations. If there is any conflict between this agreement and Exhibit "E", this agreement shall govern.

2.1.4 Exhibit "F", attached hereto, contains insurance provisions applicable to Unit Operations.

2.1.5 Exhibit "G", attached hereto, contains an inventory of wells, equipment and other personal property to be utilized in Unit Operations and a pricing of such material.

2.2 Revision of Exhibits. Whenever Exhibits "A", "B" and "C" are revised, Exhibit "D" shall be revised accordingly and be effective as of the same date. Unit Operator shall also revise the Exhibit "D" from time to time, as required, to conform to changes in ownership of which Unit Operator has been notified as provided in the Unit Agreement.

2.3 Reference to Exhibits. Whenever reference is made herein to an exhibit, it is to the exhibit as originally attached, or if revised, to the last revision.

## **ARTICLE 3 SUPERVISION OF OPERATIONS BY WORKING INTEREST OWNERS**

3.1 Overall Supervision. Working Interest Owners shall exercise overall supervision and control of all matters pertaining to Unit Operations conducted pursuant to this agreement and the Unit Agreement. In the exercise of such authority, each Working Interest Owner shall act solely in its own behalf in the capacity of an individual owner and not on behalf of the owners as an entirety.

3.2 Specific Authorities and Duties. The matters with respect to which the Working Interest Owners shall decide and take action shall include, but not be limited to, the following:

3.2.1 Method of Operation. The method of operation, including any type of pressure maintenance, enhanced recovery or other recovery program to be employed.

3.2.2 Drilling and Recompletion of Wells. The drilling, deepening or plugging back of any well whether for production of Unitized Substances, for use as an injection well, or for other purposes.

3.2.3 Well Recompletion and Change of Status. The recompletion, abandonment or change of status of any well, or the use of any well for injection or other purposes.

3.2.4 Unit Operator's Tools and Equipment. The use by Unit Operator of its own tools and equipment in the drilling of a well or in any other operation in which drilling equipment is required.

3.2.5 Expenditures. The making of any single expenditure in excess of Twenty- Five Thousand Dollars (\$25,000.00); provided that, approval by Working Interest Owners of the drilling, reworking, deepening or plugging back of any well shall include approval of all necessary expenditures required therefore, and for completing, testing and equipping the same including necessary flow lines, separators and lease tankage.

3.2.6 Disposition of Unit Equipment. The selling or otherwise disposing of any major item of surplus Unit Equipment, if the current list price of new equipment similar thereto is in excess of Ten Thousand Dollars (\$10,000.00).

3.2.7 Appearance Before a Court or Regulatory Agency. The designating of a representative to appear before any court or regulatory agency in matters pertaining to Unit Operations; and shall be made in accordance with Article 4, Paragraph 4.3.2; provided that, such designation shall not prevent any Working Interest Owner from appearing in person or from designating another representative in its own behalf, at its expense.

3.2.8 Audits. The auditing of the accounts of Unit Operator pertaining to Unit Operations hereunder, provided that the audits shall:

(a) Not be conducted more than once each year, except upon the resignation or removal of Unit Operator;

(b) Be made upon the approval of sixty percent (60%) or more of the Unit Participation interests of the Working Interest Owners, after excluding the Unit Participation interest of the Unit Operator, voting in the affirmative, at the expense of all Working Interest Owners, other than the Working Interest Owner designated as Unit Operator; and

(c) Be made upon not less than thirty (30) days written notice to Unit Operator and in accordance with guidelines established by the Council of Petroleum Accountants Societies.

3.2.9 Inventories. Taking of periodic inventories under the terms of Exhibit "E".

3.2.10 Technical Services. The authorizing of charges to the joint account for services by consultants or Unit Operator's technical personnel not covered by the charges provided by Exhibit "E".

3.2.11 Assignments to Committees. The appointment of committees to study any problems in connection with Unit Operations.

3.2.12 Removal of Unit Operator. The removal of Unit Operator and the selection of a successor as provided in the Unit Agreement.

3.2.13 Changes and Amendments. The changing of the Unit Area or the amending of this agreement or the Unit Agreement as provided by the Unit Agreement.

3.2.14 Investment Adjustment. The adjustment and readjustment of investments.

3.2.15 Termination of Unit Agreement. The termination of the Unit Agreement as provided therein.

#### **ARTICLE 4 MANNER OF EXERCISING SUPERVISION**

4.1 Designation of Representatives. Each Working Interest Owner shall in writing inform Unit Operator of the names and addresses of the representative and alternate who are authorized to represent and bind such Working Interest Owner with respect to Unit Operations. The representative or alternate may be changed from time to time by written notice to Unit Operator.

4.2 Meetings. All meetings of Working Interest Owners shall be called by Unit Operator upon its own motion or at the request of one (1) or more of the Working Interest Owners having a total Unit Participation of not less than ten percent (10%). No meeting shall be called less than fourteen (14) days advance written notice. The Owner requesting the meeting shall prepare an agenda outlining the topics to be discussed at the proposed meeting and attach it to the notice requesting the meeting. Working Interest Owners who attend the meeting shall not be prevented from adding to or amending items on the agenda or from acting upon the amended items or other added items presented at the meeting. The representative of the Unit Operator shall be chairman of each meeting. The Unit Operator will prepare and furnish minutes of all meetings to the Working Interest Owners.

4.3 Voting Procedure. Working Interest Owners shall decide all matters coming before them as follows:

4.3.1 Voting Interest. Each Working Interest Owner shall have a voting interest equal to its Unit Participation.

4.3.2 Vote Required - Generally. Unless otherwise provided herein or in the Unit Agreement, all matters shall be decided by an affirmative vote of two-thirds or more voting interest; provided that, should any one Working Interest Owner have more than two-thirds of the voting interest, its vote must be supported by the vote of one (1) or more Working Interest Owners; provided, further however, that the negative vote of any one Working Interest Owner having more than one-third (1/3) but less than one-half (1/2) of such voting interest shall not defeat a motion or measure, unless such owner is joined by the negative vote of one or more other Working Interest Owners.

4.3.3 Vote at Meeting by Non-Attending Working Interest Owner. Any Working Interest Owner who is not represented at a meeting may vote by letter, fax or telegram addressed to the representative of the Unit Operator, if its vote is received prior to the vote on the item. Such vote will not be counted with respect to any item on the agenda which is amended at the meeting.

4.3.4 Poll Votes. Working Interest Owners may vote by letter, fax or telegram on any matter submitted in writing to all Working Interest Owners. If a meeting is not requested, as provided in Section 4.2, within fourteen (14) days after a written proposal is sent to Working Interest Owners, the vote taken by letter or telegram shall control. Failure to vote within the time prescribed by the Unit Operator, which shall be no less than fourteen (14) days after receipt of such matter, shall be deemed to be a positive vote with respect to the proposal. Unit Operator shall give prompt notice of the results of such voting to each Working Interest Owner.

4.3.5 Binding Effect of Vote. All Working Interest Owners shall be bound for their proportionate share of all costs and expenses of Unit Operations approved by the Working Interest Owners by the vote required herein.

## ARTICLE 5

### INDIVIDUAL RIGHTS OF WORKING INTEREST OWNERS

5.1 Reservation of Rights. Working Interest Owners severally reserve to themselves all their rights, except as otherwise provided in this agreement and the Unit Agreement.

5.2 Specific Rights. Each Working Interest Owner shall have, among others, the following specific rights:

5.2.1 Access to Unit Area. Access to the Unit Area at all reasonable times at Working Interest Owner's sole risk and expense to inspect Unit Operations, all wells, and the records and data pertaining thereto.

5.2.2 Reports. The right to receive from Unit Operator, upon written request, copies of all reports to any governmental agency, reports of crude oil runs and stocks, inventory reports and all other information pertaining to Unit Operations. The cost of gathering and furnishing information not ordinarily furnished by Unit Operator to all Working Interest Owners shall be charged to the Working Interest Owner who requests the information.

5.3 Taking Unitized Substances in Kind. The Unitized Substances allocated to each Tract shall be taken in kind by the respective parties entitled thereto by virtue of the ownership of Oil and Gas Rights therein or by purchase from such owners. Such parties shall have the right at their sole cost and expense, to construct, maintain and operate within the Unit Area all necessary facilities for that purpose, provided that they are so constructed, maintained and operated as not to interfere with Unit Operations. Any extra expenditures incurred by Unit Operator by reason of the delivery in kind of any portion of the Unitized Substances shall be borne by the receiving party. If a Royalty Owner has the right to take in kind a share of Unitized Substances and fails to do so, the Working Interest Owner whose working interest is subject to such Royalty Interest shall be entitled to take in kind such share of Unitized Substances.

5.4 Failure to Take in Kind. If any party fails to take in kind or separately dispose of such party's share of Unitized Substances, Unit Operator shall have the right, but not the obligation, for the time being and subject to revocation at will by the party owning the share and giving Unit Operator thirty (30) days written notice thereof, to purchase such share for its own account or to sell to others, at the same market value realized by Unit Operator. However, should Unit Operator's purchaser of Unitized Substances be an affiliate, such party's share of Unitized Substances shall be purchased by Unit Operator or sold, unless otherwise agreed in writing, at an equivalent price to the best price obtainable in the area for such production from an independent purchaser. The intent of the parties is to keep the production and the sale of Unitized Substances balanced at all times. Contracts of sale by Unit Operator of any other party's share of Unitized Substances shall be only for such reasonable periods of time as are consistent with the minimum needs of the industry under the circumstances, but in no event shall any such contract be for a period in excess of one (1) year. The proceeds of the Unitized Substances so disposed of by Unit Operator shall be paid in accordance with the Unit Agreement and applicable laws and regulations.

5.5 No Sharing of Market. Nothing herein shall be construed to provide directly or indirectly for any cooperative refining, joining sale or marketing of Unit Production.

## ARTICLE 6 UNIT OPERATOR

6.1 Initial Unit Operator. EnerQuest Resources, LLC is hereby designated Unit Operator.

## ARTICLE 7 AUTHORITIES AND DUTIES OF UNIT OPERATOR

7.1 Exclusive Right to Operate Unit. Subject to the provisions of this agreement and to instructions from Working Interest Owners, Unit Operator shall have the exclusive right and be obligated to conduct Unit Operations. Notwithstanding anything contained herein or in the Unit Agreement to the contrary, Unit Operator shall not be deemed to be a fiduciary on behalf of Working Interest Owners or have the duties and responsibilities associated with a fiduciary or agency relationship. In its performance of services hereunder for Working Interest Owners, the Unit Operator shall act in a good and workmanlike manner as would a prudent operator under the same or similar circumstances. The conduct of Unit Operator shall comply with Article 7.2 below but as noted above shall not give rise to any fiduciary relationship or duties.

7.2 Workmanlike Conduct. Unit Operator shall conduct Unit Operations in a good and workmanlike manner as would a prudent operator under the same or similar circumstances. Unit Operator shall freely consult with Working Interest Owners and keep them informed of all matters which Unit Operator, in the exercise of its best judgment, considers important. Unit Operator shall not be liable to Working Interest Owners for damages caused by its operations unless such damages result from its gross negligence or willful misconduct. **EXCEPT FOR UNIT OPERATOR'S INTEREST IN THE UNIT AREA (IF ANY), WORKING INTEREST OWNERS SHALL INDEMNIFY UNIT OPERATOR FOR, FROM, AND AGAINST ANY AND ALL CLAIMS, DAMAGES AND LIABILITY OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS FEES), RESULTING FROM, ARISING OUT OF, OR INCIDENTAL TO UNIT OPERATOR'S PERFORMANCE OF DUTIES ON THE UNIT AREA EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTABLE TO UNIT OPERATOR'S NEGLIGENCE. THE ONLY LIABILITIES TO WHICH THIS INDEMNITY OBLIGATION DOES NOT APPLY ARE THOSE RESULTING FROM UNIT OPERATOR'S GROSS NEGLIGENCE OR INTENTIONAL TORTS FOR WHICH UNIT OPERATOR SHALL BE SOLELY RESPONSIBLE.**

7.3 Liens and Encumbrances. Unit Operator shall keep the lands and leases in the Unit Area free from all liens and encumbrances occasioned by Unit Operations except the lien of Unit Operator granted hereunder.

7.4 Employees. The number of employees used by Unit Operator in conducting Unit Operations, their selection, hours of labor and compensation shall be determined in a reasonable manner by Unit Operator. Such employees shall be the employees of Unit Operator.

7.5 Records. Unit Operator shall keep correct books, accounts and records of Unit Operation.

7.6 Reports to Working Interest Owners. Unit Operator shall furnish to Working Interest Owners periodic reports on Unit Operation.

7.7 Reports to Governmental Authorities. Unit Operator shall make all reports to governmental authorities that it has the duty to make as Unit Operator.

7.8 Engineering and Geological Information. Unit Operator shall furnish to a Working Interest Owner, upon written request, a copy of all logs and other engineering and geological data pertaining to wells drilled for Unit Operations.

7.9 Expenditures. Unit Operator is authorized to make single expenditures not in excess of Twenty-Five Thousand Dollars (\$25,000.00) without prior approval of Working Interest Owners. If an emergency occurs, Unit Operator may immediately make or incur such expenditures as in its reasonable opinion are required to deal with the emergency. Unit Operator shall report to Working Interest Owners, as promptly as possible, the nature of the emergency and the action taken. Upon request, Unit Operator shall furnish Working Interest Owners, for information purposes, copies of its Authorities for Expenditures for any single project costing in excess of Twenty-Five Thousand Dollars (\$25,000.00), and for lesser amounts when prepared for Unit Operator's own use.

7.10 Wells Drilled by Unit Operator. All wells drilled by Unit Operator shall be at the usual rates prevailing in the area. Unit Operator may employ its own tools and equipment, but the charge therefore shall not exceed the prevailing rate in the area, and the work shall be performed by Unit Operator under the same terms and conditions as are usual in the area in contracts of independent contractors doing work of a similar nature.

## **ARTICLE 8 TAXES**

8.1 Severance, Gross Products and Ad Valorem Taxes. Beginning with the first calendar year after the effective date hereof, Unit Operator shall render and pay on behalf of the Working Interest Owners severance and gross products taxes assessed on oil and gas produced and ad valorem tax on all property subject to this agreement, before they become delinquent. Prior to the rendition date, each Working Interest Owner shall furnish the Unit Operator information as to burdens (to include, but not be limited to, royalties, overriding royalties and production payments) and taxable and non-taxable interests on leases and oil and gas interests contributed by such Working Interest Owner. If the assessed tax of any leasehold estate or produced Substances is reduced by reason of its being subject to outstanding excess royalties, overriding royalties, reimbursements, or production payments, the reduction in taxes shall inure to the benefit of the owner or owners of such leasehold or Unitized Substances, and Unit Operator shall adjust the charge to such owner or owners so as to reflect the benefit of such reduction. Unit Operator shall charge the Working Interest Owners for their proportionate share of severance and gross products tax at the date the tax is assessed based on the value each Working Interest Owner receives for their sales of the unitized substances. Unit Operator shall charge the Working Interest Owners for their proportionate share of all other tax payments in the manner provided in Exhibit "E" and other parties for their share in the manner provided in the Unit Agreement.

If Unit Operator considers any tax assessment improper, Unit Operator may, after notice to Working Interest Owners, protest within the time and manner prescribed by law, and prosecute the protest to a final determination, unless all parties agree to abandon the protest prior to final determination. All direct expenses incurred by Unit Operator in protesting an assessment will constitute a direct charge to the joint account. During the pendency of administrative or judicial proceedings, Unit Operator may elect to pay, under protest, all such taxes and any interest and penalty. When any such protested assessment shall have been finally determined, Unit Operator shall pay the tax for the joint account and other parties, together with any interest and penalty accrued, and the total cost shall then be assessed against the parties, and be paid by them as provided in Exhibit "E" and the Unit Agreement, respectively.

8.2 Notices. Each Working Interest Owner shall promptly furnish the Unit Operator with copies of notices, assessments, levies or tax statements received by it pertaining to the taxes to be paid by the Unit Operator. Each month, the Working Interest Owners shall furnish the Unit Operator with

the gross value of any production taken in kind or other information necessary in order for the Unit Operator to compute the severance and gross products tax on the unitized substances.

8.3 Other Taxes. Each Working Interest Owner shall pay or cause to be paid all gathering or other taxes or excises due the State of New Mexico, the Federal Government, or otherwise, together with all licenses and excises, which are now imposed or may be imposed upon or with respect to the production or handling of its share of unitized substances.

## **ARTICLE 9 INSURANCE**

9.1 Insurance. Unit Operator, with respect to Unit Operations, shall do the following:

9.1.1 Comply with the Workmen's Compensation Law of the State of New Mexico.

9.1.2 Carry Employer's Liability and other insurance as required by the laws of the State of New Mexico.

9.1.3 Carry other insurance as set forth in Exhibit "F".

## **ARTICLE 10 ADJUSTMENT OF INVESTMENTS**

10.1 Personal Property Taken Over. Upon the Effective Date hereof, Working Interest Owners shall deliver to Unit Operator the following:

10.1.1 Wells. All wells completed or to be completed in the Unitized Formation, as shown in the initial Plan of Operation and Development and all service wells to be utilized for Unit Operations, including water supply and disposal wells, completed within or outside the Unitized Formation.

10.1.2 Well and Lease Equipment. The casing and tubing in each such well, the wellhead connection thereon and all other lease and operating equipment that is used in the operation of such wells, which the Working Interest Owners determine is necessary or desirable for conducting the Unit Operations.

10.1.3 Records. A complete copy of all production and well records that pertain to such wells. In the event a Working Interest Owner fails to provide Unit Operator with said records within sixty (60) days of the Effective Date, then the Unit Operator is hereby authorized to suspend in-kind delivery or payment of proceeds of production to said Working Interest Owner, of its share of Unit Production, until said records are provided to the Unit Operator.

10.2 Inventory and Evaluation of Personal Property. The Working Interest Owners shall at Unit Expense inventory and evaluate, as determined by Working Interest owners, the personal property taken over. Such inventory shall include and be limited to those items of equipment considered controllable under Exhibit "G" except, upon determination of Working Interest Owners, items considered non-controllable may be included in the inventory but shall be excluded from evaluation and investment adjustment. Casing shall be included in the inventory for record purposes, but shall be excluded from pricing and investment adjustment.

10.3 Investment Adjustment. Upon approval by Working Interest Owners of the inventory and evaluation, each Working Interest Owner shall be credited with the value of its interest in all personal property taken over under Section 10.1.2 and evaluated under Section 10.2, and shall be charged with an amount equal to that obtained by multiplying the total value of all personal property taken over under Section 10.1.2 and evaluated under Section 10.2 by the Working Interest Owner's Unit Participation. If the charge against any Working Interest Owner is greater than the amount credited to such Working Interest Owner, the resulting net charge shall be an item of Unit Expense chargeable against such Working Interest Owner. If the credit to any Working Interest Owner is greater than the amount charged against such Working Interest Owner, the resulting net credit shall be paid to such Working Interest Owner by Unit Operator out of funds received by it in settlement of the net charges described above.

10.4 General Facilities. The acquisition of warehouses, warehouse stocks, lease houses, camps, facility systems and office buildings necessary for Unit Operations shall be by negotiation by the owners thereof and Unit Operator, subject to the approval of Working Interest Owners.

10.5 Ownership of Personal Property and Facilities. Each Working Interest Owner, individually, shall by virtue hereof own an undivided interest equal to its Unit Participation, in all personal property and facilities taken over or otherwise acquired by Unit Operator pursuant to this agreement.

10.6 Adjustment for Non-Usable Wells. All wells delivered to the Unit Operator shall be (a) in usable physical condition, (b) completed in some portion of the Unitized Formation, and (c) physically separated from formations not a part of the Unitized Formation as of the Effective Date. If within three (3) months from the date of takeover, Unit Operator reports to Working Interest Owners, the wells that were not in suitable condition to serve Unit Operator on the date of takeover and the Working Interest Owners approve, Unit Operator shall properly place such well in suitable condition to serve Unit Operator, or drill a substitute well if such well cannot be placed in suitable condition to serve Unit Operator, at the sole cost of the Working Interest Owner who delivered such well and casing to Unit Operator. It is the intent of this Section 10.6 that the cost of normal conversion of wells and casing therein from operating practices utilized immediately prior to the date of takeover to operating practices contemplated hereunder shall be a Unit Expense.

10.7 Surface Leases. Upon the effective date hereof Working Interest Owners shall deliver to Unit Operator assignment(s) of all surface lease agreements pertaining to the Unit Area, but only to the limited extent they relate to production from the Unitized Formation or Unit Operations. Unit Operator shall become responsible for all future rentals on behalf of Working Interest Owners. All said surface unit rental costs shall be apportioned to each Working Interest as set forth in Exhibit "D".

## **ARTICLE 11 UNIT EXPENSE**

11.1 Basis of Charges to Working Interest Owners. Unit Operator initially shall pay and discharge all Unit Expense. Each Working Interest Owner shall reimburse Unit Operator for its share of Unit Expense. Each Working Interest Owner's share of Unit Expense shall be the same as its Unit Participation.

11.2 Advance Billing. Unit Operator shall have the right to require Working Interest Owners to advance their respective shares of estimated Unit Expense by submitting to Working Interest Owners, on or before the 15th day of any month, an itemized estimate thereof for the succeeding month, with a request for payment in advance. Within thirty (30) days thereafter, each Working Interest Owner shall pay to Unit Operator its share of such estimate. Adjustments between estimated and actual Unit Expense shall be made by Unit Operator at the close of each calendar month and the accounts of Working Interest Owners shall be adjusted accordingly.

11.3 Commingling of Funds. No funds received by Unit Operator under this agreement need be segregated or maintained by it as a separate fund but may be commingled with its own funds.

11.4 Lien and Security Interests. Each Working Interest Owner grants to the other Working Interest Owners and to Unit Operator a lien upon any interest it now owns or hereafter acquires in Oil and Gas Rights and Working Interests in the Unit Area, and a security interest and/or purchase money security interest in all of its interest in all personal property and equipment used or obtained for use in connection therewith, all fixtures now or hereafter located thereon, all Unitized Substances extracted therefrom and all accounts arising from the sale at the wellhead of Unitized Substances produced therefrom, to secure performance of all its obligations under this Agreement including but not limited to payment of Unit Expense, interest, attorney fees, court costs, cost of collection, the proper disbursement of all monies paid hereunder, the assignment or relinquishment of interest in Oil and Gas Rights as required hereunder, and the proper performance of operations hereunder. Such lien and security interest granted by each Working Interest Owner hereto shall cover and include all of such Working Interest Owner's leasehold interest, Working Interests, operating rights, and Royalty Interests and overriding royalty interests in the Unit Area now owned or hereafter acquired and in lands pooled or unitized therewith or otherwise becoming subject to this Agreement, the Unitized Substances when extracted therefrom and fixtures and equipment now or hereafter situated thereon or used or obtained for use in connection therewith (including, without limitation, all wells, tools, and tubular goods), and accounts

(including, without limitation, accounts arising from gas imbalances or from the sale of Unitized Substances at the wellhead), contract rights, inventory and general intangibles relating thereto or arising therefrom, and all proceeds and products of the foregoing.

Each Working Interest Owner hereby grants, sells, assigns, sets over and mortgages into Unit Operator and the other Working Interest Owners during the term of this Agreement, all of such Working Interest Owner's rights and interests pursuant to the provisions of Sections 48-9-1, et seq., N.M.S.A. 1978 Comp. (the "New Mexico Act"), hereby vesting in Unit Operator and the other Working Interest Owners all of such Working Interest Owner's rights as an interest owner to the continuing security interest in and lien upon the production of the Unitized Substances. Any other Working Interest Owner or Unit Operator may, at its option, file the verified notice of lien in order to perfect such lien, but shall not be obligated to make such filing and shall not be held liable to such Working Interest Owner for any act or omission pursuant to the New Mexico Act.

To perfect the lien and security agreement provided herein, each Party hereto shall execute and acknowledge this Agreement, and this Agreement is to be filed for record in the real property records. Unit Operator is authorized to file this Agreement as a lien or mortgage in the applicable records and as a financing statement with the proper officer under the Uniform Commercial Code or other applicable laws in the state in which the Unit Area is situated and such other states as Unit Operator shall deem appropriate to perfect the security interest granted hereunder. Any Working Interest Owner may file this Agreement or such other documents as it deems necessary as a lien or mortgage in the applicable records and/or a financing statement with the proper officer under the Uniform Commercial Code.

All Working Interest Owners acquiring an interest in Oil and Gas Rights and Working Interest covered by this Agreement whether by assignment, merger, mortgage, operation of law, or otherwise, shall be deemed to have taken subject to the lien and security interest granted by this Section 11.4 as to all obligations attributable to such interest hereunder.

To the extent that Unit Operator or the Working Interest Owners have a security interest under the Uniform Commercial Code or other applicable laws of the state in which the Unit Area is situated, they shall be entitled to exercise the rights and remedies of a secured party under the Uniform Commercial Code or such other laws. The bringing of a suit and the obtaining of judgment by the Unit Operator or a Working Interest Owner for the secured indebtedness shall not be deemed an election of remedies or otherwise affect the lien rights or security interest as security for the payment thereof. In addition, upon default by any Working Interest Owner in the payment of its share of expenses, interest, or fees, or upon the improper use of funds by the Unit Operator, the other Working Interest Owners shall have the right, without prejudice to other rights or remedies, to collect from the purchaser the proceeds from the sale of such defaulting Working Interest Owner's share of Unitized Substances until the amount owed by such Working Interest Owner, plus interest as provided in Exhibit "E", has been received, and shall have the right to offset the amount owed against the proceeds from the sale of such defaulting Working Interest Owner's share of Unitized Substances. All purchasers of production may rely on a notification of default from the non-defaulting Working Interest Owner(s) stating the amount due as a result of the default, and all Working Interest Owners waive any recourse available against purchasers for releasing production proceeds as provided in this Section 11.4.

If any Working Interest Owner does not perform all of its obligations hereunder, and the failure to perform subjects such Working Interest Owner to foreclosure or execution proceedings pursuant to the provisions of this Agreement, to the extent allowed by governing law, the defaulting Working Interest Owner waives any available right of redemption from and after the date of judgment, and any required valuation or appraisal of the mortgaged or secured property prior to sale, any available rights to stay execution or to require a marshalling of assets and any required bond in the event a receiver is appointed. Pursuant to Section 39-5-19 of New Mexico Statutes, 1978 Annotated, the redemption period after foreclosure sale for any mortgaged or secured property situated in or otherwise subject to the jurisdiction of the State of New Mexico shall be limited to one (1) month. In addition, to the extent permitted by applicable law, each Working Interest Owner hereby grants to the Unit Operator and the other Working Interest Owners a power of sale as to any property that is subject to the lien and security rights granted hereunder, such power to be exercised in the manner provided by applicable law or otherwise in a commercially reasonable manner and upon reasonable notice.

To the extent permitted by applicable law, each Working Interest Owner agrees that the Unit Operator and the other Working Interest Owners shall be entitled to utilize the provisions of oil and gas lien law or other lien law of the state in which the Unit Area is situated to enforce the obligations of each Working Interest Owner hereunder. Without limiting the generality of the foregoing, to the extent

permitted by applicable law, non-operators agree that Unit Operator may invoke or utilize the mechanics' or materialmen's lien law of the state in which the Unit Area is situated in order to secure the payment to Unit Operator of any sum due hereunder for services performed or materials supplied by Unit Operator.

11.5 Default. If any Working Interest Owner does not pay its share of Unit Expense when due, Unit Operator may give such Working Interest Owner notice that unless payment is made within fifteen (15) days, such Working Interest Owner shall be in default. Any Working Interest Owner in default shall not be entitled to vote on any matter until such time as said Working Interest Owner's payments are current. The voting interest of each Working Interest Owner entitled to vote on any issue shall be in the proportion its Unit Participation bears to the Unit Participation of all non-defaulting Working Interest Owners at the time. A Working Interest Owner in default will remain subject to the rights and obligations of this Agreement.

11.6 Unpaid Unit Expenses. If any Working Interest Owner, other than Unit Operator, fails to pay its share of Unit Expense within sixty (60) days after rendition of a statement therefor by Unit Operator, each Working Interest Owner agrees, upon request by Unit Operator, to pay its proportionate part of the unpaid share of Unit Expense of the defaulting Working Interest Owner. Working Interest Owners that pay the share of Unit Expense of a defaulting Working Interest Owner shall be reimbursed by Unit Operator for the amount so paid, plus any interest collected thereon, upon receipt by Unit Operator of any past due amount collected from the defaulting Working Interest Owner. Any Working Interest Owner so paying a defaulting Working Interest Owner's share of Unit Expense shall, to obtain reimbursement thereof, be subrogated to the lien and other rights herein granted Unit Operator.

11.7 Carved-Out Interests. Any overriding royalty, production payment, net proceeds interest, carried interest or any other interest carved out of a Working Interest and created after the Effective Date of this agreement shall be subject to this agreement. If a Working Interest Owner does not pay its share of Unit Expense and the proceeds from the sale of Unitized Substances under Article 11.5 are insufficient for that purpose, the security rights provided for therein may be applied against the carved-out interests with which such Working Interest is burdened. In such event, the owner of such carved-out interest shall be subrogated to said rights.

11.8 Pre-Unitization Expense. Prior to the Effective Date, Unit Operator and other Working Interest Owners have incurred certain costs and expenses for and on behalf of the Working Interest Owners in anticipation of the Unit Agreement and this agreement becoming effective, including but not limited to title review, document preparation, mailings and attorneys' fees related to presentation of the unitization proposal to the Division. Such costs approved by the Working Interest Owners shall herein be referred to as "Pre-Unitization Expenses". As soon as practicable after the Effective Date of this agreement, Pre-Unitization Expenses shall be reallocated and billed among all Working Interest Owners in accordance with the Unit Participation interest of each such owner. Credit shall be given for payments made by Working Interest Owners prior to the Effective Date for costs included in the Pre-Unitization Expenses. If the charge against any Working Interest Owner is greater than the amount credited to such Working Interest Owner, the resulting net charge shall be an item of Unit Expense chargeable against such Working Interest Owner. If the credit to any Working Interest Owner is greater than the amount charged against such Working Interest Owner, the resulting net credit shall be paid to such Working Interest Owner by Unit Operator out of funds received by it in settlement of the net charge described above.

## **ARTICLE 12 NON-UNITIZED FORMATIONS**

12.1 Right to Operate. Any Working Interest Owner that now has or hereafter acquires the right to drill for and produce oil, gas or other minerals from a formation underlying the Unit Area, other than the Unitized Formation, shall have the right to do so notwithstanding this agreement or the Unit Agreement. In exercising the right, however, the Working Interest Owner shall exercise reasonable precaution to prevent unreasonable interference with Unit Operations. No Working Interest Owner shall produce Unitized Substances through any well drilled or operated by it. If any Working Interest Owner drills any well into or through the Unitized Formation, the Unitized Formation shall be protected in a manner satisfactory to Working Interest Owners so that the production of Unitized Substances will not adversely be affected.

12.2 Dual Completions. There shall be no dual completions of wells within the Unit Area as to the Unitized Formation and another formation.

**ARTICLE 13  
TITLES**

13.1 Warranty and Indemnity. Each Working Interest Owner represents and warrants that it is the owner of the respective Working Interests set forth opposite its name in Exhibit "D", and hereby agrees to indemnify and hold harmless the other Working Interest Owners from any loss due to failure in whole or in part of its title to any such interest, except failure of title arising out of Unit Operations; provided that, such indemnity shall be limited to an amount equal to the net value that has been received from the sale or receipt of Unitized Substances attributed to the interest as to which title failed. Each failure of title will be deemed to be effective, insofar as this agreement is concerned, as of the first day of the calendar month in which such failure is finally determined, and there shall be no retroactive adjustment of Unit Expense or retroactive allocation of Unitized Substances or the proceeds therefrom, as a result of title failure.

13.2 Failure Because of Unit Operations. The failure of title to any Working Interest in any Tract by reason of Unit Operations, including non-production from such Tract, shall not change the Unit Participation of the Working Interest Owner whose title failed in relation to the Unit Participation of the other Working Interest Owners at the time of the title failure.

13.3 Waiver of Rights to Partition. Each Lessee and Working Interest Owner hereto agrees that, during the existence of this agreement, it will not resort to any action to partition the interval of the formation unitized hereunder or the Unit Equipment, and to that extent waives the benefits of all laws authorizing such partition.

**ARTICLE 14  
UNLEASED INTERESTS**

14.1 Treated as Leased. If a Working Interest Owner owns in fee all or a part of the Oil and Gas Rights in any Tract within the Unit Area which is not subject to any oil and gas lease or other contract in the nature thereof, such Working Interest Owner shall be deemed to own a Working Interest in such Tract to the extent of seven-eighths (7/8ths) of its interest therein and a Royalty Interest with respect to the remaining one-eighth (1/8th) interest therein.

**ARTICLE 15  
LIABILITIES, CLAIMS, SUITS, AND FORCE MAJEURE**

15.1 Individual Liability. The duties, obligations and liabilities of Working Interest Owners shall be several and not joint or collective; and nothing herein contained shall ever be construed as creating a partnership, joint venture, association or trust of any kind among the Working Interest Owners.

15.2 Settlements. Unit Operator may settle any single damage claim or suit involving Unit Operations but not involving an expenditure in excess of Ten Thousand Dollars (\$10,000.00), provided the payment is in complete settlement of such claim or suit. If the amount required for settlement exceeds the above specified amount, Working Interest Owners shall assume and take over the further handling of the claim or suit unless such authority is expressly delegated to Unit Operator.

All costs and expense of handling, settling or otherwise discharging such claim or suit shall be an item of Unit Expense. If a claim is made against any Working Interest Owner or if any Working Interest Owner is sued on account of any matter arising from Unit Operations and over which such Working Interest Owner individually has no control because of the rights given Working Interest Owners and Unit Operator by this agreement and the Unit Agreement, the Working Interest Owner shall immediately notify the Unit Operator, and the claim or suit shall be treated as any other claim or suit involving Unit Operations.

15.3 Notices of Damages, Claims and Suits by Unit Operator to Lessees. Unit Operator shall report to Lessees as soon as practicable after each occurrence, damages or losses to Unit Equipment, and accidents, occurrences, claims or suits involving third party bodily injury or property damage which are not covered by insurance carried for the benefit of Lessees.

15.4 Force Majeure. Any obligation imposed by this agreement on each party, except for the payment of money, shall be suspended while compliance therewith is prevented, in whole or in part, by

a strike, fire, war, civil disturbance, act of God; by Federal, State or municipal laws; by any rule, regulation or order of a governmental agency; by inability to secure materials, services or equipment, or by any other cause beyond the reasonable control of such party. No party shall be required against its will to adjust or settle any labor dispute. Neither this agreement nor any lease or other instrument subject hereto shall be terminated by reason of the suspension of Unit Operations due to any of the causes set forth in this Article.

## **ARTICLE 16 INTERNAL REVENUE PROVISION**

16.1 Internal Revenue Provision. Each Working Interest Owner hereby elects that it and the operations covered by this agreement are excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or such portion thereof as the Secretary of the Treasury of the United States or his delegate shall permit by election to be excluded therefrom. Unit Operator is hereby authorized and directed to execute on behalf of each Working Interest Owner such additional or further evidence of the election as may be required by regulations issued under said Subchapter K. Should the regulations require each party to execute such further evidence, each Working Interest Owner agrees to execute or join in the execution thereof. The election hereby made and the other provisions of this paragraph shall apply in like manner to applicable state laws, regulations and rulings now in effect or hereafter enacted that have an effect similar to the Federal provisions referred to herein.

## **ARTICLE 17 NOTICES**

17.1 Notices. All notices required hereunder shall be in writing and shall be deemed to have been properly served when received by mail, overnight delivery, facsimile transmission (fax), electronic mail (e-mail) or telegram to the address of the representative of each Working Interest Owner as furnished to Unit Operator in accordance with Article 4.

17.2 Notice of Transfer of Title. No change of title shall be binding on the Unit Operator until the first day of the calendar month next succeeding the date of receipt by Unit Operator of evidence, satisfactory to it, of such change of ownership. Each such transfer, assignment or conveyance, whether so stating or not, shall operate to impose upon the party or parties acquiring such interest the obligation of the predecessor in interest with respect to the interest so transferred and shall likewise operate to give and grant to the party or parties acquiring such interest all benefits attributable hereunder to such interest.

## **ARTICLE 18 WITHDRAWAL OF WORKING INTEREST OWNERS**

18.1 Withdrawal. A Working Interest Owner may withdraw from this agreement by transferring, without warranty of title either express or implied, to the Working Interest Owners who do not desire to withdraw, all its Oil and Gas Rights, exclusive of Royalty Interests, together with its interest in all Unit Equipment and in all wells used in Unit Operations, provided that such transfer shall not relieve such Working Interest Owner from any obligation or liability incurred prior to the first day of the month following receipt by Unit Operator of such transfer. The delivery of the transfer shall be made to Unit Operator for the transferees. The transferred interest shall be owned by the transferees in proportion to their respective Unit Participation. The transferees, in proportion to the respective interests so acquired, shall pay the transferor for its interest in Unit Equipment, the salvage value thereof less its share of the estimated cost of salvaging same and of plugging and abandoning all wells then being used or held for Unit Operations, as determined by Working Interest Owners. In the event such withdrawing owner's interest in the aforesaid salvage value is less than such owner's share of such estimated costs, the withdrawing owner, as a condition precedent to withdrawal, shall pay the Unit Operator, for the benefit of Working Interest Owners succeeding to its interest, a sum equal to the deficiency. Within sixty (60) days after receiving delivery of the transfer, Unit Operator shall render a final statement to the withdrawing owner for its share of Unit Expense, including any deficiency in salvage value, as determined by Working Interest Owners, incurred as of the first day of the month following the date of receipt of the transfer. Provided all Unit Expense, excluding any deficiency hereunder, due from the withdrawing owner has been paid in full within thirty (30) days after the rendering of such final statement by the Unit Operator, the transfer shall be effective the first day of the month following its receipt by Unit Operator and, as of such effective date, withdrawing owner shall be

relieved from all further obligations and subsequently accrued liabilities hereunder and under the Unit Agreement, and the rights of the withdrawing Working Interest Owner hereunder and under the Unit Agreement shall cease insofar as they existed by virtue of the interest transferred.

18.2 Limitation on Withdrawal. Notwithstanding anything set forth in Article 18.1, Working Interest Owners may refuse to permit the withdrawal of a Working Interest Owner if its Working Interest is burdened by any Royalties, overriding royalties, production payments, net proceeds interest, carried interest, or any other interest created out of the Working Interest in excess of a one-eighth (1/8th) lessor's Royalty, unless the other Working Interest Owners are willing to accept the assignment and agree to accept the Working Interest, subject to such burdens.

## **ARTICLE 19 ABANDONMENT OF WELLS**

19.1 Rights of Former Owners. If Working Interest Owners decide to abandon permanently any well within the Unit Area prior to termination of the Unit Agreement, the Unit Operator shall give written notice thereof to the Working Interest Owners of the Tract on which the well is located, and they shall have the option for a period of thirty (30) days after the sending of such notice to notify Unit Operator in writing of their election to take over and own the well. Within ten (10) days after Working Interest Owners of the Tract have notified Unit Operator of their election take over the well, they shall pay Unit Operator, for credit to the joint account, the amount estimated by Working Interest Owners to be the net salvage value of the equipment in and on the well. The Working Interest Owners of the Tract, by taking over the well, agree to seal off effectively and protect the Unitized Formation, and upon abandonment to plug the well in compliance with applicable laws and regulations.

19.2 Plugging. If the Working Interest Owners of a Tract do not elect to take over a well located thereon which is proposed for abandonment, Unit Operator shall plug and abandon the well in compliance with applicable laws and regulations.

## **ARTICLE 20 EFFECTIVE DATE AND TERM**

20.1 Effective Date. This agreement shall become effective on the date and at the time that the Unit Agreement becomes effective.

20.2 Term. This agreement shall continue in effect so long as the Unit Agreement remains in effect, and thereafter until (a) all unit wells have been abandoned and plugged or turned over to Working Interest Owners in accordance with Article 21, (b) all Unit Equipment and real property acquired for the joint account have been disposed of by Unit Operator in accordance with instructions of Working Interest Owners, and (c) there has been a final accounting.

## **ARTICLE 21 ABANDONMENT OF OPERATIONS**

21.1 Termination. Upon termination of the Unit Agreement, the following will occur:

21.1.1 Oil and Gas Rights. Oil and Gas Rights in and to each separate Tract shall no longer be affected by this agreement, and thereafter the parties shall be governed by the terms and provisions of the leases, contracts and other instruments affecting the separate Tracts.

21.1.2 Right to Operate. Working Interest Owners of any Tract that desire to take over and to continue to operate wells located thereon may do so by paying Unit Operator, for credit to the joint account, the net salvage value of the equipment in and on the wells taken over, as estimated by Working Interest Owners, and by agreeing to properly plug each well at such time as it is abandoned.

21.1.3 Salvaging Wells. Unit Operator shall salvage as much of the casing and equipment in or on wells not taken over by Working Interest Owners of separate Tracts as can economically and reasonably be salvaged, and shall cause the wells to be properly plugged and abandoned and cause the surface of the Unit Area to be restored in compliance with applicable laws, rules, regulations, orders, and contractual obligations.

21.1.4 Cost of Salvaging. The cost of salvaging, liquidation or other distribution of assets and properties used in Unit Operations shall constitute a Unit Expense to be borne by the Working

Interest Owners in proportion to their respective Unit Participation. The cost of abandonment of Unit Operations and surface restoration of the Unit Area shall be Unit Expense except on wells taken over by a Working Interest Owner.

21.1.5 Distribution of Assets. Working Interest Owners shall share in the distribution of Unit Equipment, or the proceeds thereof, in proportion to their respective Unit Participations.

## **ARTICLE 22 SIGNING, RATIFICATION, OR APPROVAL**

22.1 Original, Counterparts, or Ratifications. This agreement may be signed, ratified or approved by signing the original of this instrument, a counterpart or other instrument adopting the provisions hereof, all with the same effect as if all persons had signed the same instrument. Persons signing, ratifying or otherwise approving this agreement thereby agree to all of the provisions hereof.

22.2 Prior Agreements. It is recognized there are certain existing agreements by and between several of the Lessee or Working Interest Owners hereto, covering a portion of the Oil and Gas Rights subject to this Operating Agreement. In case of any inconsistency or conflict between this Operating Agreement and those certain existing agreements, this Operating Agreement shall govern.

## **ARTICLE 23 SUCCESSORS AND ASSIGNS**

23.1 Successors and Assigns. The provisions hereof shall be covenants running with the lands, leases and interests covered hereby and shall be binding upon and inure to the benefit of the respective heirs, devisees, legal representatives, successors and assigns of the parties hereto.

## **ARTICLE 24 OTHER PROVISIONS**

24.1 Environmental Warranty and Representation. Each Working Interest Owner that operates a property to be contributed to the Unit, represents and warrants that it has conducted the following environmental review of the contributed property:

- (a) A review of applicable lease and well file information and of any other sources of information that would be relevant to evaluating the environmental status of the contributed property.
- (b) A visual inspection of the contributed property to identify any obvious past or present land uses that dictate further investigation.

Prior to the Effective Date, each Working Interest Owner that operates a property to be contributed to the Unit shall report the results of such review and inspection, in writing, to all other Working Interest Owners, including the Unit Operator.

24.2 Removal of Surplus Equipment. The applicable Working Interest Owner shall be responsible and liable for the removal of (a) any surplus equipment or facilities deemed unnecessary for the operation of the Unit by the Unit Operator, and (2) junk and/or debris from their contributed property, including, but not limited to, chemical drums, paint cans, grease buckets, rags, tires, belts, sucker rods, tubing, paraffin, and oil filters. Should any tank batteries or facilities be deemed surplus equipment due to consolidation or otherwise, in addition to removal of the same, the applicable Working Interest Owner shall be required to conduct environmental remediation to the level required by the agency regulating such remediation, if any, or as required by the applicable oil and gas leases. Within 180 days of the Effective Date, should any well be deemed surplus or unnecessary for the operation of the Unit, all costs associated with said well shall remain the responsibility of the well's operator and the applicable Working Interest Owner, said costs shall include, but not limited to, (i) the cost of well plugging and abandonment, and (ii) all costs of environmental remediation of the area around said well which is associated with the operation, plugging and abandonment of said well to the level required by the agency regulating such remediation, if any, or as required by the applicable oil and gas leases. Any surplus equipment, facilities, junk and/or debris that is not removed by the applicable Working Interest Owners within 180 days from the Effective Date will then be removed by the Unit Operator, but associated expenses will be charged directly back to said Working Interest Owner.

24.3 Environmental Indemnification. Notwithstanding any others provisions set forth herein, the Working Interest Owners of lands contributed to the Unit shall retain all environmental liability of any nature, whatsoever, caused by or resulting from its operations, or the operations of others, prior to the Effective Date hereof, and shall indemnify and hold harmless all other Working Interest Owners in the Unit against all claims, demands, damages, losses, liabilities, penalties, fines, liens, judgements, costs or expenses, including attorney's fees, whatsoever, foreseen or unforeseen, that may arise on account of or in any way be connected with the physical condition of the lands prior to inclusion of said equipment, facilities and/or lands into this Unit. This includes, but is not limited to, environmental liability claims brought under any state, federal, or local law, order or regulation, whether known or unknown at this time.

24.4 Governing Law. This Agreement and all matters pertaining hereto, including, but not limited to matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the law of the State of Texas (excluding any conflict of laws provision that would require the application of the laws of any other jurisdiction). In the event of any litigation or other proceeding in connection with this Agreement, the venue for any such proceeding shall be in a court of competent jurisdiction located in Midland County, Texas.

**IN WITNESS WHEREOF**, the parties hereto have caused this Operating Agreement to be executed and have set opposite their respective names the date of execution.

UNIT OPERATOR

**ENERQUEST RESOURCES, LLC**

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