

# FARMOUT AGREEMENT

\_\_\_\_\_ AREA, \_\_\_\_\_

THIS AGREEMENT made as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AMONG:

FARMOR, a body corporate, having an office at the City of \_\_\_\_\_,  
in the Province of Alberta (hereinafter called "Farmor")

OF THE FIRST PART

-and-

FARMEE, bodies corporate, having an office at the City of \_\_\_\_\_, in  
the Province of Alberta (hereinafter called "Farmee")

OF THE SECOND PART

WHEREAS Farmor is the holder of the petroleum and natural gas Title Documents described in Schedule "A"; and

WHEREAS Farmee desires to earn an interest in the Title Documents and the Lands covered thereby.

NOW THEREFORE THIS AGREEMENT WITNESSES in consideration of the covenants herein contained, the parties hereto agree as follows:

## ARTICLE 1 - INTERPRETATION

1.01 Except as otherwise specifically provided in this Section 1.01 and subject to Section 1.04, in this Agreement (including the preamble), the definitions in Clause 101 of the Operating Procedure shall apply. In addition, in this Agreement:

- (a) "Capped Test Wells" means those Test Wells (if any) which, as at the relevant time the term is used, are capped in accordance with subclause  hereof;
- (b) "Contract Depth" means, in respect of the Test Well, a true vertical depth of  metres of  metres into the  Formation, whichever is the lessor, and a final total length of  metres;

OR

- (b) "Contract Depth" means a depth sufficient to test to the satisfaction of Farmor's geologists all zones comprised in the Title Document down to and including the  Formation, or a depth of  metres below the surface of the ground, whichever is the lesser;
- (c) "Drilling Program" means the drilling, logging and testing, and completion, capping, equipping or abandoning of the Test Well(s) on the Lands in accordance with Clause  hereof;
- (d) "Effective Date" means ;
- (e) "Farmout Lands" means that portion of the Lands as more particularly set out under the heading "Farmout Lands" in Schedule "A";

- (e) "Force Majeure" has the same meaning as in Clause 1001 of the Operating Procedure;
  - (f) "Test Well" means ;
  - (g) "Lands" shall mean the Lands set forth and described in Schedule "A", and includes the right to recover petroleum substances within the Farmout Lands;
  - (h) "Operating Procedure" means the 1990 CAPL Operating Procedure attached as Schedule "B" to this Agreement, which governs joint operations of the Farmout Lands and includes the 1988 PASC Accounting Procedure and the 1993 CAPL Assignment Procedure, all as amended therein;
  - (i) "Parties" means  and , and "Party" means one of them;
  - (j) "Petroleum Substances" means crude oil, natural gas (including natural gas liquids and condensate associated therewith) and related hydrocarbons and all other substances (including sulphur and its compounds) produced in association with crude oil, natural gas and related hydrocarbons, to the extent that rights thereto are granted by the Title Document;
  - (k) "Title Document" means the document or documents of title more particularly described in Schedule "A", together with any title documents selected therefrom, and includes any document of title at any time issued in substitution for, or amendment of any of them, but only insofar as such document or documents comprise the Lands:
    - (i) "Farmout Title Documents" means that portion of the Title Document as more particularly set out under the heading "Farmout Title Documents" in Schedule "A"; and
    - (l) "Well" shall mean any well or wells drilled by Farmee on the Lands pursuant to this Agreement, and includes the substitute well or wells, if any.
- 1.02 Wherever the singular, masculine or neuter is used in this Agreement, the same shall be construed as meaning plural, or body politic or corporate and vice versa as the context requires.
- 1.03 The heading of the paragraphs in this Agreement are inserted for convenience only and shall not affect the construction thereof.
- 1.04 For purposes of the incorporation of the definition of "equipping" contained in Clause 101 of the Operating Procedure in this Agreement, the term "production facility", where used in the definition of "equipping" in Clause 101 of the Operating Procedure, shall be deemed to mean a facility serving or intended to serve more than one well (including, without restricting the generality of the foregoing, any battery, separator, compressor station, gas processing plant, gathering system, pipeline, production storage facility or warehouse).
- 1.05 Where a term is defined herein, a derivative of that term shall have a corresponding meaning unless the context otherwise requires.

## ARTICLE 2 – TEST WELL

- 2.01 a. Farmor shall on or before  commence the drilling of the Test Well at a location of its choice on the Farmout Lands, at its sole cost, risk and expense. Farmee shall thereafter diligently and continuously drill the Test Well to Contract Depth, log and test same to the reasonable satisfaction of the Farmor, and complete, equip or abandon the Test Well in accordance with the provisions of this Agreement.

- b. If in drilling and completing a well hereunder, including a well pursuant to this Clause, Farmee encounters severe operating difficulties or impenetrable formations or any similar cause but not including lack of finances, Farmee shall abandon it in accordance with the provisions of this Agreement and within thirty (30) days of the time of such abandonment shall/may commence and thereafter diligently and continuously carry on the drilling and completion of a substitute well, at a location of its choice on the same spacing unit, and in such event, all the provisions of this Agreement shall apply to the substitute well with the same force and effect as to the abandoned well.

#### **ARTICLE 3 - TITLE**

- 3.01 Farmor does not warrant title to the Title Document or the Lands, but Farmor covenants that it has complied with the terms of the Title Document to the extent necessary to keep them in force and that, excepting the applicable lessor royalty and any other encumbrances set forth and described in Schedule "A", Farmor has not encumbered the Title Document or the Lands or made any agreement whereby any person, firm or corporation has acquired an interest therein.

#### **ARTICLE 4 - ENCUMBRANCES**

- 4.01 If the interest of any Party in the Lands is now or hereafter becomes encumbered by any royalty, excess royalty, overriding royalty, production payment, carried interest or other charge of a similar nature (herein called "encumbrances"), other than royalty payable under the Title Document to the grantors thereof, such encumbrances shall be charged to and paid entirely by the Party whose interest is or becomes encumbered. Such Party shall ensure that any such encumbrances shall either be terminated upon that Party ceasing to have an interest in the Lands so encumbered or shall be assumed by the transferee to which such Party transfers its interest, provided, however, that in no event shall a Party acquiring an interest in the Lands by virtue of the operation of any provision of the body of this agreement or of the Operating Procedure (except for Clause 2401 B of the Operating Procedure, where applicable) ever be required to assume any part of such encumbrances and the Party which has so encumbered its interest shall at all times indemnify and hold the other Party harmless in respect thereof.

#### **ARTICLE 5 - RENTALS**

- 5.01 Farmee shall reimburse Farmor, on a per diem basis, for all rentals and penalties payable under the Title Document, and any cost required to continue the Title Document beyond its primary term, commencing on the Effective Date of this Agreement and ending on the date Farmee has earned an interest in the Lands pursuant to this Agreement or its right to earn an interest has terminated. Upon Farmee having earned its interest in the Lands, the rental shall be paid in accordance with the provisions of the Operating Procedure.

#### **ARTICLE 6 - DEFAULT**

- 6.01 If Farmee fails to perform, in any material respect, any obligation required to be performed by Farmee before Farmee earns its interest hereunder, Farmor may give Farmee written notice to remedy the default, and if Farmee does not commence to remedy the default within thirty (30) days after receiving the notice and thereafter proceed diligently and continuously to remedy the default, Farmor may, by notice to Farmee, terminate this Agreement.
- 6.02 The rights and remedies of a Party as a consequence of a breach of the provisions of this Agreement by the other Party (whether such rights and remedies arise under the terms of this Agreement, or at common law, by equity, under statute or otherwise) shall be in addition to and not in substitution for any other right or remedy and the exercise of any such right or remedy shall not deprive such Party, either wholly or partially, from any other right or remedy, including damages and indemnity.

## ARTICLE 7 – INTEREST EARNED

- 7.01 (a) Subject to Farmor's right of conversion as set out herein, upon the performance by Farmee of its obligations pursuant to this Agreement Farmee shall earn an interest in the Farmout Lands to the base of the deepest formation penetrated as set forth in subclauses (i) and (ii) hereunder:
- (i) an undivided one hundred (100%) percent of the Farmor's interest in the zone or zones capable of production in paying quantities from the earning well spacing unit (hereinafter called the "producing zones"), subject to the reservation by Farmor of a gross overriding royalty and right of conversion; and
  - (ii) an undivided fifty (50%) percent of Farmor's interest in the balance of the Farmout Lands.

Should equipping of the earning well be delayed due to a lack of market for natural gas or other economic conditions beyond the reasonable control of Farmee, the Farmee may then give to the Farmor written notice of such delay (hereinafter called "the delay notice"), and if the earning well has been logged and drillstem tested to the reasonable satisfaction of the Farmor, and if the Farmor has received all information due under this Agreement, and if the Farmee is not in default under this Agreement, Farmee shall earn the interest described in subclause (i) and (ii) herein effective as of the date of the delay notice.

- (b) Farmor shall hold in trust for Farmee, subject to the terms of this Agreement, the interest earned by Farmee in the title documents and farmout lands, unless an assignment of the same is requested in writing by Farmee and consent of the grantor, if required, has been obtained. Farmor does not hereby assume any obligation to obtain such consent and Farmor shall be liable to Farmee, either in contract or negligence, only for its gross negligence or willful misconduct in holding the said interest for Farmee;

Farmor covenants and agrees that it shall execute and deliver such assignments, transfers, or other conveyances as may be required to vest in Farmee its interest earned in the title documents and the Farmout Lands;

Any such assignment of the interest earned by Farmee in the Title Document and Farmout Lands, and all operations with respect to and in any way concerning the assignment, shall be subject to the terms and conditions of this Agreement.

## ARTICLE 8 – ASSIGNMENT

- 8.01 Farmee shall not, during the period it has the right to earn an interest in the Lands and Title Document, transfer, sell, assign or otherwise dispose of any of its rights, obligations or interests under this Agreement without the prior written consent of Farmor.

**THIS IS A 10-PAGE DOCUMENT, including schedules.**