

**STATE MINERAL AND ENERGY BOARD**

**EXCLUSIVE GEOPHYSICAL AGREEMENT TYPE II**

**STATE OF LOUISIANA**  
**PARISH OF \_\_\_\_\_**

**WHEREAS**, under the provisions of Subpart A of Chapter 2 and Chapter 3, Title 30 of the Louisiana Revised Statutes of 1950, as amended, and other applicable law, the State Mineral and Energy Board of the State of Louisiana (Board), acting as the duly authorized agent of the State of Louisiana (herein State or Grantor), has determined that it will enter into Exclusive Geophysical Agreements (EGA) on a public bid basis in order to have 3D or other more advanced forms of geological or geophysical surveys and operations (advanced seismic) conducted on lands and water bottoms owned by the State; obtain for itself, where applicable, as confidential material, the data resulting from said advanced seismic surveys; and administer, based on such data, the mineral leasing of State lands and water bottoms; and

**WHEREAS**, under the provisions of La. R.S. 30:212, the Board has the exclusive authority to grant exclusive and non-exclusive permits to conduct geophysical and geological surveys of any kind on state-owned lands and water bottoms.

**WHEREAS**, under the provisions of La. R.S. 30:214 and 36:609, any person conducting geophysical exploration in any lake, river, stream bed or other bottoms, the title to which is in the public, shall comply with the rules and regulations for the protection of oysters, fish and wildlife promulgated by the Louisiana Department of Wildlife and Fisheries.

**WHEREAS**, pursuant to and in compliance with all applicable laws, the Board has advertised for bids for an Exclusive Geophysical Agreement Type II covering the property more particularly set forth hereinbelow; and

**WHEREAS**, in response to the required advertisements, bids were received and duly opened in the City of Baton Rouge, Parish of East Baton Rouge, State of Louisiana on the \_\_\_\_ day of \_\_\_\_\_, 20XX at a meeting of the Board; and

**WHEREAS**, by Resolution duly adopted that day, the Board accepted the bid of \_\_\_\_\_ (Grantee), whose mailing address is \_\_\_\_\_ (Address), as the most advantageous to the State:

**NOW THEREFORE** be it known and remembered that the Board, acting for and on behalf of the State, as Grantor, does hereby grant, convey and assign unto Grantee, subject to the specified duties and obligations and for the definite term set forth hereinbelow, the exclusive right to enter upon and conduct 3D and other more advanced forms of geophysical or geological surveys and operations on the State-owned lands and water bottoms including, without limitation, non-severed lands, accreted lands, dried-lake lands and vacant lands (Property), consisting of approximately \_\_\_\_ acres situated within the Parish(es) of \_\_\_\_\_, State of Louisiana, more particularly detailed on the plat on file with the Office of Mineral Resources (OMR) and as more fully described as follows:

**PROPERTY DESCRIPTION**

**ARTICLE 1. SEISMIC FEE**

Grantee has paid, via certified funds, to the order of OMR, acting on behalf of Grantor, a Seismic Fee in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars (\$ \_\_\_\_\_ per acre) for an Exclusive Geophysical Agreement Type II as authorized by La. R.S. 30:216, which agreement grants unto Grantee the exclusive right to conduct geophysical or geological surveys of any kind for the term and upon the area specified in this Agreement. This Seismic Fee, the additional obligations to conduct 3D or other more advanced forms of geological or geophysical surveys/operations and present for review to OMR all final, processed and migrated 3D or other seismic data obtained from the Property, along with the additional benefits and advantages that shall accrue to Grantor pursuant to the terms and conditions hereinafter set forth, are accepted and acknowledged by the parties to be full and adequate consideration for the rights granted hereby.

**ARTICLE 2. ADDITIONAL CONSIDERATION**

**IF APPLICABLE**, Grantee will provide to OMR, within ninety (90) days of receipt from the Processor, a copy of all final, processed and migrated 3D or other seismic data obtained from the Property. The data provided shall be the actual data acquired over all state-owned lands and water bottoms and shall include a one-half (1/2) mile buffer zone surrounding said lands and water bottoms.

**IF APPLICABLE**, if Grantee reprocesses this seismic data within five (5) years of the date of the end of this Agreement, Grantee shall provide a copy of the final reprocessed seismic data to OMR within ninety (90) days of receipt from the Processor covering the same area as covered by the original data delivered.

Grantee is responsible for keeping OMR informed, in a timely manner, of all phases of ongoing operations, including commencement and completion of data acquisition, processing, reprocessing and other schedules of activities affecting the final processed seismic data. Failure by Grantee to provide OMR with information and documentation as required hereby and in the manner set forth herein shall place Grantee in default of the terms of this Agreement. Notwithstanding any such failure, Grantee remains obligated to fully perform in accordance with the terms of this Agreement.

**ARTICLE 3. EFFECTIVE DATE AND TERM**

**Effective Date:** This Agreement shall be effective commencing \_\_\_\_\_, 20XX.

**Initial Term:** This Agreement shall be for a term of eighteen (18) months from the Effective Date or until 12:00 p.m. on \_\_\_\_\_ DATE.

**Option Term:** This Agreement shall automatically terminate at the end of the Initial Term unless Grantee, on or before the expiration of that period, pays to OMR, acting on behalf of Grantor, the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars (Additional Fee), which sum shall not be less than one-half (1/2) of the Seismic Fee. Payment of this Additional Fee shall extend the term of this Agreement for six (6) months or until 12:00 p.m. on \_\_\_\_\_ DATE. Payment of this Additional Fee shall be made in the same manner as the Seismic Fee via certified funds to the order of OMR.

**ARTICLE 4. GRANTEE OBLIGATIONS**

Grantee is obligated to conduct 3D seismic or other more advanced forms of geological or geophysical surveys to obtain full fold seismic coverage over the entirety of the Property, and do so within the Initial Term or Option Term, if activated.

Grantee shall present for review to OMR all final, processed and migrated 3D or other seismic data obtained from the Property within ninety (90) days of receipt from the Processor.

**NOTE:** Except for this Agreement, associated documents and the accompanying plat, all information, maps, plats and other data provided by Grantee to OMR pursuant to the terms of this Agreement shall be confidential in accordance with La. R.S. 44:18 and maintained as such by OMR as an exception to the laws identifying and requiring the production of public records, and shall not be released by OMR to any other person, agency or entity absent a valid court order from a court of competent jurisdiction or written permission from the owner of the data.

**ARTICLE 5. RULES GOVERNING AND RESERVATIONS**

Grantee's exercise of rights granted hereunder shall be subject to and governed by the rules and regulations promulgated by the Louisiana Department of Wildlife and Fisheries under the authority of La. R.S. 30:214 and 36:609 for the protection of oysters, fish and wildlife insofar as the geological or geophysical surveying activity granted hereby occurs in any water bottom the title to which is in the public trust. Noteworthy are the requirements that Grantee secure a permit from and satisfy the insurance, bonding, fee and other obligations mandated by LAC 76:1:301.

Grantee's exercise of rights granted hereunder shall be subject to and not interfere in any way with any public works or public improvement projects by the State of Louisiana, its departments, agencies, boards and commissions, whether solely or in conjunction with other state, local or federal government agencies.

**IF APPLICABLE**, the State does hereby reserve, and this EGA shall be subject to the imprescriptible right of surface use, in the nature of a servitude, for the purposes of integrated coastal zone protection, management and restoration projects and hurricane and flood protection projects by the State of Louisiana, its departments, agencies, boards and commissions, whether solely or in conjunction with other State, local or federal government agencies.

**IF APPLICABLE**, this tract encompasses in part an area designated by the Louisiana Legislature or the Louisiana Wildlife and Fisheries Commission as a Public Oyster Seed Ground or Reservation. Surface activity within the boundaries of such an area is prohibited.

**IF APPLICABLE**, this tract encompasses in part Sixteenth Section or Indemnity Lands over which the State possesses trustee title. In furtherance of its fiduciary responsibilities, OMR is required to notify the appropriate Parish School Board(s) of this nomination to determine the School Board's interest in participating in this seismic agreement and potential mineral leasing process. In accordance with La. R.S. 30:153(A), no nominations can be granted on such lands without a valid Resolution from the School Board(s) directing the Board to lease its Property.

Grantor's and Grantee's rights and obligations provided for hereunder additionally shall be subject to any and all state and federal laws and regulations applicable to geological or geophysical surveys/operations.

#### **ARTICLE 6. PRE-EXISTING RIGHTS**

Grantee's rights hereunder shall not cover, shall be subject to and shall not supersede any existing valid oil and gas lease(s) or other agreement(s) for oil and gas development on the Property, such as an operating agreement or other exclusive geophysical agreement (Prior Agreements), whose effective date predates the Effective Date of this Agreement. Grantee must deal with said prior lessees or contractees separately and independently from this Agreement. Should any Prior Agreements terminate as to all depths, either fully or partially, before the end of the Initial Term or the Option Term, if activated, Grantee shall have the right to conduct 3D or other more advanced forms of geological or geophysical surveys or operations on the acreage of the terminated Prior Agreements subject to the following:

- (a) If Grantee has already entered into an agreement with the Prior Agreements party before termination and paid for the right to conduct geophysical surveying across the acreage subject to the Prior Agreements, Grantee shall not be required to pay Grantor any further fee to conduct geophysical surveying on said acreage once the Prior Agreements has terminated, either totally or in part; but
- (b) If Grantee has not so entered into an agreement with the Prior Agreements party, then Grantee shall pay Grantor an additional fee stipulated as the per acre Seismic Fee set forth above in Article 1, multiplied by the number of terminated acres of the Prior Agreements.

Additionally, there shall exist a buffer zone of one-half (1/2) mile around each pre-existing mineral lease or operating agreement, or portion thereof, within the geographical area covered by this Agreement.

#### **ARTICLE 7. EXCLUSIVITY AND NOMINATING RIGHTS**

- (a) During the Initial Term of this Agreement or the Option Term, if activated, the Board will not grant any nominations for leasing, grant any seismic permits, nor enter into any other geophysical agreements upon any acreage, in whole or in part, within the geographical boundaries of the Property subject to this Agreement.
- (b) Grantee shall have the exclusive right, prior to the end of the Initial Term or the Option Term, if activated, to nominate acreage within the geographical boundaries of the Property for a state mineral lease, except as to the area within the buffer zone specified in Article 6. The acreage nominated shall not exceed fifteen hundred (1,500) acres for each

tract and shall not be more than one-third (1/3) in the aggregate of the entire acreage within the geographical area covered by this Agreement, unless additional acreage is approved by the Board.

(c) Grantee shall have the right, concurrent with, but separate from the right of the Lessee of any existing lease or operating agreement or portion thereof within the geographical area subject to this Agreement, prior to the end of the Initial Term or the Option Term, if activated, to nominate acreage, pursuant to the limitations stated in article 7(b), within the buffer zone specified in Article 6.

(d) In exercising its option to nominate acreage for a mineral lease(s) hereunder, for each nomination selection, Grantee shall comply with the nomination procedures and requirements prescribed by OMR. Grantee shall submit its nomination application to OMR no later than 4:30 p.m. CT on the deadline date published by the Board. Each application must include a description of the land, including a map, on both paper and DVD or CDROM, and be accompanied by submission of a non-refundable Four Hundred (\$400.00) Dollars processing fee payable to the Office of Mineral Resources, as well as any other documentation and information required. LSA-R.S. 30:125; LAC 43:I.901.

(e) Grantee's exclusive right to nominate acreage for a mineral lease(s) hereunder shall not apply to acreage already covered by a pre-existing valid mineral lease or operating agreement unless, prior to the termination of the Initial Term or the Option Term, if activated, said pre-existing valid mineral lease terminates according to its terms, in which case Grantee may select for nomination such terminated acreage as above set forth, provided that the effective date of the nomination of such terminated acreage shall be the date a Release of the terminated acreage is secured, and no payment shall be due until such release is secured. If Grantor is, for any reason, despite diligent effort, unable to secure a release, either by affidavit from the parties or by judicial decree, the terminated acreage shall not be subject to selection for nomination by Grantee.

#### **ARTICLE 8. LIQUIDATED DAMAGES**

Failure of Grantee to timely conduct the advanced seismic operations required hereby, and/or secure the full and complete acquisition of data therefrom, and/or make such data available to OMR for view or use as allowed by law shall be construed as an active default of this Agreement such that Grantee shall be liable to the Board for liquidated damages in the amount equal to the Seismic Fee required by this Agreement, which amount shall be payable in full within thirty (30) days after notice.

**IF APPLICABLE**, failure of Grantee to timely provide to OMR a copy of all final, processed and migrated 3D or other seismic data obtained from the Property shall be construed as an active default of this Agreement such that Grantee shall be liable to the Board for liquidated damages in the amount equal to the Seismic Fee required by this Agreement, which amount shall be payable in full within thirty (30) days after notice. This damage provision equally applies to Grantee's duty to provide OMR a copy of any reprocessed data obtained within five (5) years of the date of the end of this Agreement.

The payment of liquidated damages as required hereby, if such occurs, shall not in any way negate the obligations of Grantee nor the right of Grantor to secure any of the benefits provided under the terms of this Agreement. Should litigation become necessary to enforce the terms, requirements or obligations of this Agreement, Grantee shall be liable for all costs and attorney fees incurred by the State.

#### **ARTICLE 9. INDEMNITY**

Grantee agrees to protect, defend, indemnify, save and hold harmless Grantor, its employees, officers, agents and representatives from and against any and all claims, demands, expenses, damages, responsibility and liability arising out of harm, injury or death to any person, or damage, loss or destruction of any property which may occur or in any way result from any act or omissions by Grantee, its employees, officers, agents and representatives. Additionally, Grantee shall indemnify Grantor, its employees, officers, agents and representatives for any and all costs, expenses and/or attorney fees incurred as a result of any claim, demand and/or cause of action, regardless of nature, related to or resulting from any act or omission by Grantee, its employees, officers, agents and representatives.

## **ARTICLE 10. FORCE MAJEURE**

If at any time during the term of this Agreement, Grantee is prevented, through no fault of its own and despite diligent effort to so perform, as determined by the Board, from commencing, continuing or resuming any of the activities necessary to conduct the geophysical and geological surveys and other such seismic activities on all or any portion of the area covered by this Agreement because of a storm, flood or any other such natural disaster, an accident beyond Grantee's control, or any governmental law, order, rule, regulation or ordinance, this Agreement may be extended by the Board for an amount of time, on a day-for-day basis, equal to the amount of time during which Grantee was so prevented from performing the duties and obligations specified, for a period not to exceed one (1) additional year beyond the Initial Term or Option Term, if activated, of this Agreement. To exercise the benefit of this provision, Grantee shall:

- a) Provide written notice, in timely fashion, to OMR of the force majeure event causing Grantee's inability to perform. To be timely, barring consequential extenuating circumstances, such notice shall be given no later than three (3) months following onset of the force majeure event; and
- b) Provide an affidavit containing the date and nature of the force majeure event; its effects in preventing commencement, continuation or resumption of the seismic activities required hereby; the action taken by Grantee to mitigate or eliminate those effects; the efforts and activities by Grantee to resume seismic activities; and the extension of time requested by Grantee.

Should any such occurrence prevent Grantee from performing its required duties and obligations for a period exceeding one (1) year beyond the Initial Term or Option Term, if activated, then Grantee shall be released from any obligations required by this Agreement except, however, Grantee shall forfeit to Grantor the Seismic Fee previously paid which shall remain the property of Grantor and, if applicable, provide to Grantor any advanced seismic data thus far acquired, collected and/or processed by Grantee.

Nothing herein shall be construed to extend the amount of time within which Grantee may be required to perform duties and obligations specified in other agreements or contracts unrelated to this EGA.

## **ARTICLE 11. MISCELLANEOUS**

- (a) Notwithstanding any provision to the contrary in this Agreement or in any nomination granted pursuant to this Agreement, this Agreement is granted and accepted without any warranty of title and without any recourse against Grantor whatsoever, either express or implied. It is expressly agreed that Grantor shall not be required to return any payments received under the terms of this Agreement.
- (b) Within ninety (90) days after expiration or termination by its own terms of this EGA, Grantee shall execute and record an appropriate Release evidencing such expiration or termination, and shall also supply Grantor a copy thereof properly certified by the recorder(s) of the parish(es) in which the premises are located.

In the event Grantee fails to timely comply with this requirement, Grantee shall be liable for the reasonable attorney fees and costs incurred by Grantor for processing and/or in bringing suit for such cancellation, and for all damages, compensatory or otherwise, as Grantor may prove. It is further understood and agreed that additionally, liquidated damages in the amount of One Hundred (\$100.00) Dollars per day for each day of non-compliance subsequent to expiration of this ninety (90) day period, after notice, shall be paid by Grantee to Grantor, regardless of whether litigation is required, with Grantee hereby confessing judgment as regards this stipulated liquidated damage requirement.

- (c) The rights, duties or obligations of Grantee under this Agreement shall not be assignable or transferable, in whole or in part, without prior, express consent of the Board.

- (d) In all suits arising under this Agreement, the parties agree that Louisiana law shall govern, and that proper venue shall be the 19<sup>th</sup> Judicial District Court in and for the Parish of East Baton Rouge, unless suit is required to be filed or is rightfully removed to a federal court of this State.
- (e) Grantor makes no warranties as to the condition or suitability of the Property and Grantee accepts the Property "AS IS". Further, Grantor has no obligation to make any repairs, additions or improvements to the Property subject to this Agreement.
- (f) The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement.

**ARTICLE 12. GRANTOR'S RIGHTS NOT WAIVED**

No delay or failure by Grantor, in any one or more instances, to exercise any right or remedy or enforce any term or condition of this Agreement shall impair, prejudice or in any way be construed as waiving any such right, remedy, term or condition, and the same shall continue and remain in force and effect in the same manner and to the same extent as if such delay or failure had not occurred.

**ARTICLE 13. RELATIONSHIP OF PARTIES**

In the exercise of their respective rights and obligations under this Agreement, Grantor and Grantee act independently such that neither is to be considered an employee, contractor, officer or agent of the other.

**ARTICLE 14. SEVERABILITY**

In the event any provision within this Agreement is held to be void, unenforceable or illegal under the laws of the State of Louisiana, all remaining provisions shall continue to be valid and binding upon the parties who agree that the Agreement shall be reformed to replace such stricken provision with a valid, lawful and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**ARTICLE 15. CONFLICTING TERMS**

In the event of a conflict between the plat(s) and the property description(s) of the Property subject to this Agreement, the property description of record with OMR shall control.

**ARTICLE 16. AMENDMENT**

This Agreement represents the entirety of the Agreement between Grantor and Grantee, with any change, modification or amendment to the terms and provisions of this Agreement requiring a formal writing signed and dated by both parties.

**SIGNATURE PAGE FOLLOWS**

THUS DONE, READ, ACCEPTED AND SIGNED by the parties hereto in the presence of the respective undersigned witnesses as of the dates indicated.

WITNESSES as to the signature of Lessor:

STATE MINERAL AND ENERGY BOARD

\_\_\_\_\_  
Suzanne A. Hyatt

BY: \_\_\_\_\_, Executive Officer  
Victor Marx Vaughn, for State of Louisiana, Lessor

\_\_\_\_\_  
Elaine L. Williams

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WITNESSES as to the signature of Lessee:

\_\_\_\_\_  
Print/Type Name: \_\_\_\_\_

\_\_\_\_\_  
For: \_\_\_\_\_, Lessee

Print/Type Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Print/Type Name: \_\_\_\_\_

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WITNESS ACKNOWLEDGMENT FOR STATE MINERAL AND ENERGY BOARD

STATE OF LOUISIANA  
PARISH OF EAST BATON ROUGE

Before me, the undersigned authority, personally came and appeared Suzanne A. Hyatt who, by me being first duly sworn, deposed and said:

That she is one of the witnesses to the execution of the foregoing and she saw Victor Marx Vaughn sign as Executive Officer of the State Mineral and Energy Board, for and on behalf of the State of Louisiana, in the presence of appearer and Elaine L. Williams, the other subscribing witness.

Sworn to and subscribed before me this  
\_\_\_\_ day of \_\_\_\_\_, 20XX.

\_\_\_\_\_  
Suzanne A. Hyatt

\_\_\_\_\_  
James J. Devitt, III, #8973  
Notary Public

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WITNESS ACKNOWLEDGMENT FOR CORPORATE LESSEE

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

Before me, the undersigned authority, personally came and appeared \_\_\_\_\_ Name \_\_\_\_\_ who, by me being first duly sworn, deposed and said:

That he/she is one of the witnesses to the execution of the foregoing and he/she saw \_\_\_\_\_ (Name) \_\_\_\_\_ execute as \_\_\_\_\_ (Title) \_\_\_\_\_ of \_\_\_\_\_ (Company) \_\_\_\_\_ as the free act and deed of said company in the presence of appearer and \_\_\_\_\_ (Name) \_\_\_\_\_, the other subscribing witness.

Sworn to and subscribed before me this  
\_\_\_\_ day of \_\_\_\_\_, 20XX.

\_\_\_\_\_  
Print/Type Name: \_\_\_\_\_

\_\_\_\_\_  
Print/Type Name: \_\_\_\_\_  
Notary Public

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WITNESS ACKNOWLEDGMENT FOR INDIVIDUAL LESSEE

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

Before me, the undersigned authority, personally came and appeared \_\_\_\_\_ (Name) \_\_\_\_\_, who by me being first duly sworn, deposed and said:

That he/she is one of the witnesses to the execution of the foregoing and he/she saw \_\_\_\_\_ (Name) \_\_\_\_\_ execute said instrument as his own free act and deed in the presence of appearer and \_\_\_\_\_ (Name) \_\_\_\_\_, the other subscribing witness.

Sworn to and subscribed before me this  
\_\_\_\_ day of \_\_\_\_\_, 20XX.

\_\_\_\_\_  
Print/Type Name: \_\_\_\_\_

\_\_\_\_\_  
Print/Type Name: \_\_\_\_\_  
Notary Public