

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

**In re:**

**Samson Resources Corporation, *et al.*,**

**Debtors**

**Chapter 11**

**Case No. 15-11934 (CSS)**

**(Jointly Administered)**

**Hearing Date: February 19, 2016 at 11:00 a.m.**

**Objection Deadline: February 12, 2016**

**MOTION OF CREDITOR CHISOS, LTD. FOR ADEQUATE PROTECTION**

**TO THE HONORABLE UNITED STATES BANKRUPTCY COURT:**

Creditor Chisos, Ltd. (“Chisos”) files this its Motion for Adequate Protection pursuant to 11 U.S.C. §363(e) and in support would show the Court as follows:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. §363.
2. This matter constitutes a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(A), (M), and (O).
3. Venue for this Motion is properly before this Court in this District pursuant to 28 U.S.C. §§ 1408 and 1409(e).
4. Movant consents to the entry of final orders or judgments by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

## II. BACKGROUND FACTS

### A. SUMMARY

5. Chisos is the undisputed holder of overriding royalty interests (the “Chisos ORI”) in and to the oil, gas and other minerals produced from various oil and gas wells operated by Debtor Samson Lone Star, LLC. (“Samson Lone Star”) in the Cotton Valley Field in East Texas (the “Samson Burdened Wells”).
6. Chisos holds a perfected security interest in the hydrocarbons produced from the Samson Burdened Wells which are attributable to Chisos’ ORI in such wells. *See*, TEXAS BUSINESS AND COMMERCE CODE §9.343, a copy which is included in Exhibit A, attached hereto.
7. Proceeds from the sale of hydrocarbons attributable to Chisos’ ORI constitute “cash collateral” as that term is used in the Bankruptcy Code. TEXAS BUSINESS AND COMMERCE CODE §9.343. Chisos security interest survived this Chapter 11 filing. 11 U.S.C. §552(b)(1).
8. Samson Lone Star continues to operate and produce hydrocarbons from wells and leasehold interests burdened by Chisos’ ORI. However, in violation of (i) the terms of the November 23, 1993 Net Overriding Royalty Conveyance governing the payment of Chisos’ ORI, (ii) Texas Business and Commerce Code §9.343, and (iii) Subchapter J of the TEXAS NATURAL RESOURCES CODE, Samson Lone Star, has failed to pay Chisos’ ORI. Moreover, Samson has failed to even schedule Chisos’ ORI.
9. On November 10, 2015 counsel for Chisos, Barry Cannaday, notified bankruptcy counsel for Samson Lone Star, LLC. of this fact and requested that the obligation to Chisos be scheduled as a royalty interest and treated accordingly. A genuine copy of Mr. Cannaday’s letter is attached hereto as Exhibit B and constitutes a demand for adequate protection. Chisos never received any response to that request.

10. Pursuant to Subchapter J of the TEXAS NATURAL RESOURCES CODE, Chisos is entitled to interest on unpaid royalties at two percent (2%) above the designated prime interest plus reasonable and necessary attorneys fees incurred in recovering the unpaid royalties, pre and post petition. Chisos reserves its rights to seek recovery of this interest and attorneys fees.
11. Chisos is requesting this Court provide Chisos with adequate protection requiring the establishment of a \$1.0 million adequate protection trust fund to provide adequate protection for whatever amounts are determined to be owed to Chisos arising out of Samson Lone Star's unpaid pre petition obligations to Chisos and minimum post petition monthly payments of not less than \$30,000.00 to provide adequate protection for Samson Lone Star's post petition royalty obligations to Chisos.

***B. CHISOS INTERESTS IN WELLS AND ASSOCIATED LEASEHOLD INTERESTS OPERATED BY DEBTOR SAMSON LONE STAR, LLC***

12. Chisos is the holder of overriding royalty interests in Texas wells and leases operated by Samson Lone Star, LLC. These wells and leases are located in Rusk, Harrison, Panola and Brazos counties Texas.<sup>1</sup>
13. Until a few months before it filed for Chapter 11 protection Samson Lone Star regularly paid the royalty interests, which averaged approximately \$30,000.00 per month. Chisos has not received any payments from Samson since June 17, 2015.
14. Under Texas law the overriding royalty interests owned by Chisos are interests in real property and Chisos holds a perfected priority security interest in both the hydrocarbons and

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<sup>1</sup> An issue not addressed in this Motion, but one that Chisos reserves to assert in the future arises out of the fact that all or some of the Chisos property being sold by Samson Lone Star is property being "used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light, or power." See 11 U.S.C. §363(h).

proceeds from the sale of those hydrocarbons pursuant to TEXAS BUSINESS AND COMMERCE CODE §9.343.

15. Chisos acquired the overriding royalty interests pursuant to numerous recorded documents (See Exhibit C, attached hereto, for one example of such documents).<sup>2</sup>
16. Affiliates of Debtor Samson Lone Star, LLC may have revenue and joint interest billing records with respect to the wells and leasehold interests in which Chisos has an interest, although the details of the maintenance and responsibility for such records are currently unknown to Chisos.
17. Samson Lone Star is required to calculate the overriding royalty owed to Chisos based on a defined “Net Proceeds” formula. (See Exhibit C, pgs. 171 – 185). Because Chisos had (and currently has) to rely on Samson Lone Star’s calculations of a complex formula for such Net Proceeds based on Samson Lone Star’s books and records, Samson Lone Star had a special duty of good faith and fair dealing.<sup>3</sup>
18. Samson Lone Star improperly scheduled its pre-petition royalty obligations to Chisos as a “Trade Payable,” and listed the amount of that outstanding royalty as \$913,451.53. [D.I. 217-1, page 482 of 2442].
19. Based on information and belief some or all of the operating agreements pursuant to which Samson Lone Star, LLC is operating the properties in which Chisos has an overriding royalty interest require Samson Lone Star, LLC to account for and properly pay holders of royalty and overriding royalty interests in the wells and leases.

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<sup>2</sup> The chain of title is complex and it is not practical to attach the relevant documents, but the Samson Lone Star, LLC has been paying royalties for years without questioning title.

<sup>3</sup> Customarily, under Texas law, Chisos would have the legal right to have the purchaser of hydrocarbons from wells in which Chisos owns a royalty interest to pay Chisos directly. Because Samson must perform a complex calculation, Chisos rights to direct pay may, or may not, exist.

20. As of the Petition Date, based on Schedules filed by Samson Lone Star, LLC, Chisos believes it is owed in excess of \$900,000 for unpaid royalties and Chisos' timely filed proofs of claim based on this belief.

**C. SAMSON LONE STAR'S IMPROPER CLASSIFICATION OF AMOUNTS OWED  
TO CHISOS**

21. For whatever reason, Debtor Samson Lone Star elected to improperly treat Chisos' unpaid royalty claims as general unsecured obligations. The consequences of the Debtors' improper classification of Chisos' royalty interests are significant.
22. Not only are Chisos' prepetition claims improperly classified, but the Debtors have elected to convert funds in which Chisos held a security interest to pay claims subordinate to Chisos claims. These may include post petition administrative claims, prepetition unsecured claims and pre and post petition secured claims junior to the secured claims of Chisos.
23. Simply put, Debtor Samson Lone Star, LLC has used, and continues to use, the cash collateral of Chisos, Ltd. without providing adequate protection to Chisos and apparently justifies this by wrongfully claiming that Chisos is a general unsecured creditor.

**II. CHISOS RIGHT TO ADEQUATE PROTECTION**

24. 11 U.S.C. §363(e) of the Bankruptcy Code provides that an entity with an interest in property may request adequate protection. Specifically that Code Section states,

“Notwithstanding any other provision of this section, at any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest. This subsection also applies to property that is subject to any unexpired lease of personal property (to the exclusion of such property being subject to an order to grant relief from the stay under section 362).”

25. Unquestionably Chisos qualifies as an entity protected by 11 U.S.C. 363(e) since, under Texas law, it holds an ownership and security interest in the hydrocarbons which are

produced from the Samson Burdened Wells, and the funds obtained from the sale of those hydrocarbons. *See, In re 229 Main Street Ltd, Partnership*, 262 F.3d 1, 6, 10 (1<sup>st</sup> Cir. 2001).

### III. RELIEF REQUESTED

26. Samson Lone Star must segregate and account for any cash collateral in its possession, custody or control. 11 U.S.C. §363(c)(4). Chisos made demand on Samson Lone Star for “adequate protection” but such demand was ignored. Accordingly, Chisos requests that it be granted adequate protection by an Order:

- (1) Requiring Samson Lone Star to amend its schedules to schedule Chisos unpaid prepetition royalties as secured claims;
- (2) Requiring Samson Lone Star to promptly pay Chisos \$913,451.53 in estimated prepetition royalties in accordance with the Court’s order authorizing payment of prepetition royalties. [D.I. 294];
- (3) Requiring Samson Lone Star to retroactively account for the post-petition use of Chisos cash collateral;
- (4) Requiring Samson Lone Star to open a separate trust account *f/b/o* Chisos, Ltd. royalty interests and to deposit into that account \$340,000.00 for royalties (or good faith estimate of royalties) owed to Chisos for estimated post petition receipts from sales of hydrocarbons and to deposit an additional \$30,000.00 on the first banking day of each month to secure royalties owed to Chisos arising out of the estimated previous month’s sales of hydrocarbons; and
- (5) Granting Chisos all such further relief to which it justly may be entitled.

Dated: December 23, 2015

FERRY JOSEPH, P.A.

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*Counsel for Chisos, Ltd.*

# EXHIBIT A



Sec. 9.343. OIL AND GAS INTERESTS: SECURITY INTEREST PERFECTED WITHOUT FILING; STATUTORY LIEN. (a) This section provides a security interest in favor of interest owners, as secured parties, to secure the obligations of the first purchaser of oil and gas production, as debtor, to pay the purchase price. An authenticated record giving the interest owner a right under real property law operates as a security agreement created under this chapter. The act of the first purchaser in signing an agreement to purchase oil or gas production, in issuing a division order, or in making any other voluntary communication to the interest owner or any governmental agency recognizing the interest owner's right operates as an authentication of a security agreement in accordance with Section 9.203(b) for purposes of this chapter.

(b) The security interest provided by this section is perfected automatically without the filing of a financing statement. If the interest of the secured party is evidenced by a deed, mineral deed, reservation in either, oil or gas lease, assignment, or any other such record recorded in the real property records of a county clerk, that record is effective as a filed financing statement for purposes of this chapter, but no fee is required except a fee that is otherwise required by the county clerk, and there is no requirement of refiling every five years to maintain effectiveness of the filing.

(c) The security interest exists in oil and gas production, and also in the identifiable proceeds of that production owned by, received by, or due to the first purchaser:

(1) for an unlimited time if:

(A) the proceeds are oil or gas production, inventory of raw, refined, or manufactured oil or gas production, or rights to or products of any of those, although the sale of those proceeds by a first purchaser to a buyer in the ordinary course of business as provided in Subsection (e) cuts off the security interest in those proceeds;

(B) the proceeds are accounts, chattel paper, instruments, documents, or payment intangibles; or

(C) the proceeds are cash proceeds, as defined in Section 9.102; and

(2) for the length of time provided in Section 9.315 for all other proceeds.

(d) This section creates a lien that secures the payment of all taxes that are or should be withheld or paid by the first purchaser and a lien that secures the rights of any person who would be entitled to a security interest under Subsection (a) except for lack of any adoption of a security agreement by the first purchaser or a lack of possession or record required by Section 9.203 for the security interest to be enforceable.

(e) The security interests and liens created by this section have priority over any purchaser who is not a buyer in the ordinary course of the first purchaser's business, but are cut off by the sale to a buyer from the first purchaser who is in the ordinary course of the first purchaser's business under Section 9.320(a). But in either case, whether or not the buyer from the first purchaser is in ordinary course, a security interest will continue in the proceeds of the sale by the first purchaser as provided in Subsection (c).

(f) The security interests and all liens created by this section have the following priorities over other Chapter 9 security interests:

(1) A security interest created by this section is treated as a purchase-money security interest for purposes of determining its relative priority under Section 9.324 over other security interests not provided for by this section. A holder of a security interest created under this section is not required to give the written notice every five years as provided in Section 9.324(b)(3) to have purchase-money priority over a security interest with a prior financing statement covering inventory.

(2) A statutory lien is subordinate to all other perfected Chapter 9 security interests and has priority over unperfected Chapter 9 security interests and the lien creditors, buyers, and transferees mentioned in Section 9.317.

(g) The security interests and liens created by this section have the following priorities among themselves:

(1) If a record effective as a filed financing statement under Subsection (b) exists, the security interests perfected by that record have priority over a security interest automatically perfected without filing under Subsection (b). If several security interests perfected by records exist, they have the same priority among themselves as established by real property law for interests in oil and gas in place. If real property law establishes no priority among them, they share priority pro rata.

(2) A security interest perfected automatically without filing under Subsection (b) has priority over a lien created under Subsection (d).

(3) A nontax lien under Subsection (d) has priority over a lien created under that subsection that secures the payment of taxes.

(h) The priorities for statutory liens mentioned in Section 9.333 do not apply to any security interest or statutory lien created by this section. But if a pipeline common carrier has a statutory or tariff lien that is effective and enforceable against a trustee in bankruptcy and not invalidated by the Federal Tax Lien Act, that lien has priority over the security interests and statutory liens created by this section.

(i) If oil or gas production in which there are security interests or statutory liens created by this section is commingled with inventory or other production, the rules of Section 9.336 apply.

(j) A security interest or statutory lien created by this section remains effective against the debtor and perfected against the debtor's creditors even if assigned, regardless of whether the assignment is perfected against the assignor's creditors. If a deed, mineral deed, assignment of oil and gas lease, or other such record evidencing the assignment is filed in the real property records of the county, it will have the

same effect as filing an amended financing statement under Section 9.514.

(k) This section does not impair an operator's right to set-off or withhold funds from other interest owners as security for or in satisfaction of any debt or security interest. In case of a dispute between an operator and another interest owner, a good faith tender of funds by anyone to the person who the operator and other interest owner agree on, to a person who otherwise shows himself or herself to be the one entitled to the funds, or to a court of competent jurisdiction in the event of litigation or bankruptcy operates as a tender of the funds to both.

(l) A first purchaser who acts in good faith may terminate an interest owner's security interest or statutory lien under this section by paying, or by making and keeping open a tender of, the amount the first purchaser believes to be due to the interest owner:

(1) if the interest owner's rights are to oil or gas production or its proceeds, either to the operator alone, in which event the operator is considered the first purchaser, or to some combination of the interest owner and the operator, as the first purchaser chooses;

(2) whatever the nature of the production to which the interest owner has rights, to the person that the interest owner agreed to or acquiesced in; or

(3) to a court of competent jurisdiction in the event of litigation or bankruptcy.

(m) A person who buys from a first purchaser can ensure that the person buys free and clear of an interest owner's security interest or statutory lien under this section:

(1) by buying in the ordinary course of the first purchaser's business from the first purchaser under Section 9.320(a);

(2) by obtaining the interest owner's consent to the sale under Section 9.315(a)(1);

(3) by ensuring that the first purchaser has paid the interest owner or, provided that gas production is involved, or the interest owner has so agreed or acquiesced, by ensuring that the first purchaser has paid the interest owner's operator; or

(4) by ensuring that the person or the first purchaser or some other person has withheld funds sufficient to pay amounts in dispute and has maintained a tender of those funds to whoever shows himself or herself to be the person entitled.

(n) If a tender under Subsection (m)(4) that is valid thereafter fails, the security interest and liens governed by this section remain effective.

(o) In addition to the usual remedy of sequestration available to secured parties, and the remedies given in Subchapter F, the holders of security interests and liens created by this section have available to them, to the extent constitutionally permitted, the remedies of replevin, attachment, and garnishment to assist them in realizing upon their rights.

(p) The rights of any person claiming under a security interest or lien created by this section are governed by the other provisions of this chapter except to the extent that this section necessarily displaces those provisions. This section does not invalidate or otherwise affect the interests of any person in any real property before severance of any oil or gas production.

(q) The security interest created under Subsections (a) and (b) do not apply to proceeds of gas production that have been withheld, in cash or account form, by a purchaser under Section 201.204(c), Tax Code.

(r) In this section:

(1) "Oil and gas production" means any oil, natural gas, condensate of either, natural gas liquids, other gaseous, liquid, or dissolved hydrocarbons, sulfur, or helium, or other substance produced as a by-product or adjunct to their production, or any combination of these, which is severed,

extracted, or produced from the ground, the seabed, or other submerged lands within the jurisdiction of this state. Any such substance, including recoverable or recovered natural gas liquids, that is transported to or in a natural gas pipeline or natural gas gathering system, or otherwise transported or sold for use as natural gas, or is transported or sold for the extraction of helium or natural gas liquids is "gas production." Any such substance that is transported or sold to persons and for purposes not included in the foregoing natural gas definition is "oil production."

(2) "Interest owner" means a person owning an entire or fractional interest of any kind or nature in oil or gas production at the time of severance, or a person who has an express, implied, or constructive right to receive a monetary payment determined by the value of oil or gas production or by the amount of production.

(3) "First purchaser" means the first person that purchases oil or gas production from an operator or interest owner after the production is severed, or an operator that receives production proceeds from a third-party purchaser who acts in good faith under a division order or other agreement authenticated by the operator under which the operator collects proceeds of production on behalf of other interest owners. To the extent the operator receives proceeds attributable to the interest of other interest owners from a third-party purchaser who acts in good faith under a division order or other agreement authenticated by such operator, the operator is considered to be the first purchaser of the production for all purposes under this section, notwithstanding the characterization of other persons as first purchasers under other laws or regulations. To the extent the operator has not received from the third-party purchaser proceeds attributable to the operator's interest and the interest of other interest owners, the operator is not considered the first purchaser for the purposes of this section and is entitled to all rights and benefits under this section. Nothing in this section impairs or affects any rights otherwise

held by a royalty owner to take its share of oil in kind or receive payment directly from a third-party purchaser for the royalty owner's share of oil production with or without a previously made agreement.

(4) "Operator" means a person engaged in the business of severing oil or gas production from the ground, whether for the person alone, only for other persons, or for the person and others.

Added by Acts 1999, 76th Leg., ch. 414, Sec. 1.01, eff. July 1, 2001.

# EXHIBIT B



大成 DENTONS

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November 10, 2015

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James H.M. Sprayregen, P.C.  
Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Fax No.: 312-862-2200

Re: In re: Samson Lone Star, LLC  
Case No. 15-11941  
U.S. Bankruptcy Court, District of Delaware  
Chisos, Ltd., Owner No. 748130

Gentlemen:

This firm represents Chisos, Ltd. Chisos owns a net profits interest in numerous wells operated by Samson in East Texas. A net profits interest is a real property interest and it is therefore an "Interest Burden." The payment of Interest Burdens is defined as a "Mineral Payments" in this proceeding. The Final Order Authorizing Payment of (I) Mineral Payments and (II) Working Interest Disbursements (Doc. #294) (the "*Mineral Payment Authorization*") authorizes Samson to pay the Mineral Payments currently due to Chisos. For reference, I am attaching a copy of a page from Schedule F to Samson Lone Star's October 15, 2015 filing in this case (Doc. #217-1). As you can see, this page reflects that Chisos is a creditor with a claim of \$913,451.53<sup>1</sup>. It is assumed that this number reflects the total amount of Mineral Payments due Chisos, as reflected by Samson's records, for the last calendar quarter of 2014 and the first two calendar quarters of 2015.

It would be appreciated if you could advise, at your earliest convenience, whether Samson Lone Star intends to pay Chisos this \$913,451.53 as authorized by the terms of the Mineral Payment Authorization.

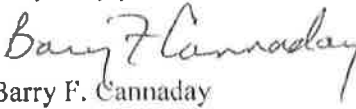
<sup>1</sup> Chisos does not agree with the characterization of this debt in Samson Lone Star's filings. However, this is an issue that will be addressed, if necessary, in an appropriate filing.

Domenic E. Pacitti  
Morton Branzburg  
Paul M. Basta, P.C.  
James H.M. Sprayregen, P.C.  
November 10, 2015  
Page 2

大成 Salans FMC SNR Denton McKenna Long  
dentons.com

Thank you for your prompt attention to this matter.

Very truly yours,

  
Barry F. Cannaday

cc: Sue Ann Craddock  
Frank Broyles

BFC/cg

In re Samson Lone Star, LLC  
Debtor

Case No. 15-11941 (CSS)  
(if known)

**SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

| CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER<br><i>(See instructions above.)</i>                 | CODEBTOR | HUSBAND, WIFE, JOINT, OR COMMUNITY | DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM.<br>IF CLAIM IS SUBJECT TO SETOFF, SO STATE. | CONTINGENT | UNLIQUIDATED | DISPUTED | AMOUNT OF CLAIM |                 |
|---|----------|------------------------------------|--|------------|--------------|----------|-----------------|-----------------|
| ACCOUNT NO.<br>CHISOS LTD<br>670 DONA ANA RD SW<br>DEMING, NM 88030-6728  |          |                                    | Trade Payable  |            |              |          | \$913,451.53    |                 |
| ACCOUNT NO.<br>CINTAS CORPORATION #618/IL<br>PO BOX 650838<br>DALLAS, TX 75265-0838   |          |                                    | Trade Payable  |            |              |          | \$579.24        |                 |
| ACCOUNT NO.<br>CLEAVER-BROOKS, A DIVISION OF AQUA-CHEM, INC.<br>221 LAW STREET<br>THOMASVILLE, GA 31792                     |          |                                    | Contingent Litigation Liability -<br>Case No. 1522-cc 01035                                      | X          | X            | X        | Undetermined    |                 |
| ACCOUNT NO.<br>CLEMENTS FLUIDS HENDERSON LTD<br>4710 KINSEY DT STE 200<br>TYLER, TX 75703-1009                              |          |                                    | Trade Payable  |            |              |          | \$4,883.99      |                 |
| ACCOUNT NO.<br>COMPRESSCO PARTNERS SUB INC<br>PO BOX 843960<br>DALLAS, TX 75284-3960  |          |                                    | Trade Payable  |            |              |          | \$6,827.96      |                 |
| ACCOUNT NO.<br>CONESTOGA PRODUCTION SVCS LLC<br>2905 COUNTY ROAD 205 N<br>HENDERSON, TX 75652-9320                          |          |                                    | Trade Payable  |            |              |          | \$113,530.28    |                 |
| Sheet no. <u>13</u> of <u>66</u> continuation sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims |          |                                    |  |            |              |          | Subtotal ▶      | \$ 1,039,273.00 |
|   |          |                                    |  |            |              |          | Total ▶         | \$              |

(Use only on last page of the completed Schedule F.)  
(Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)

# EXHIBIT C

BRAZOS COUNTY

538890

NET OVERRIDING ROYALTY CONVEYANCE  
(Torch Energy Royalty Trust)  
(Texas)

FILED

93 NOV 29 PM 2:59

THE STATE OF TEXAS  
COUNTIES OF BRAZOS ET AL.

§  
§  
§

*Christina Dauling*  
CLERK  
BRAZOS COUNTY COURTHOUSE  
HOUSTON, TEXAS  
BY *Christina Dauling*  
CLERK

This Net Overriding Royalty Conveyance (this "Conveyance"), in two Parts,

Part I being a conveyance from TORCH ROYALTY COMPANY, a Delaware corporation ("TRC"), the address of which is 1221 Lamar, Suite 1600, Houston, Texas 77010, to TORCH ENERGY ADVISORS INCORPORATED, a Delaware corporation ("TEAI"), the address of which is 1221 Lamar, Suite 1600, Houston, Texas 77010, and

Part II being a conveyance from TEAI to the TORCH ENERGY ROYALTY TRUST, a Delaware business trust (the "Trust"), the mailing address of which is c/o Wilmington Trust Company, Rodney Square North, 1100 North Market Street, Wilmington, Delaware 19890-0001, Attn: Torch Energy Royalty Trust,

W I T N E S S E T H:

DEFINITIONS APPLICABLE THROUGHOUT THIS CONVEYANCE

As used herein, the following words, terms or phrases have the following meanings (other defined terms may be found elsewhere in this Conveyance):

"Affiliate" means, as to the party specified, any Person controlling, controlled by or under common control with such Person, with the concept of control in such context meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another, whether through the ownership of voting securities, by contract or otherwise.

"Business Day" means any day that is not a Saturday, Sunday, a holiday determined by the New York Stock Exchange, Inc. as "affecting" 'ex' dates, or any other day on which the principal office of the Trustee is closed as authorized or required by law.

"Closing Date" means the date of the closing of the sale of the Firm Units as defined in the underwriting agreement

PLEASE RETURN TO:  
TORCH ENERGY ADVISORS INCORPORATED  
1221 LAMAR, SUITE 1600  
HOUSTON, TX 77010-3039  
ATTN: DUE DILIGENCE

contemplated by that certain Registration Statement on Form S-1 (Securities and Exchange Commission File No. 33-68688).

"Credits to Production Costs", for any Quarter, means amounts paid, reimbursed or credited to TRC during such Quarter as any of the following: (a) proceeds from insurance or from judgments or settlements of litigation or claims for loss or damage to any of the Wells or the Subject Interests or personal injury or death arising out of or related to the ownership or operation thereof, but only to the extent of the amount (if any) charged to Production Costs on account of such loss, damage, personal injury or death (including amounts so charged for repair or replacement of loss of or damage to property); (b) payments by owners of interests in properties or depths other than those included in the Subject Lands for the drilling or deferring of any well or other operations on the Subject Lands (including dry and bottom hole payments and payments for refraining from drilling an offset well); (c) adjustment of any well and leasehold equipment upon unitization of any of the Subject Interests or upon enlargement or reduction of any unit to which any of the Subject Interests may be subject; (d) sale or transfer off the Subject Lands of lease and well fixtures, equipment and personal property in, on, used or obtained in connection with the Wells or Subject Interests, with respect to such property existing at the Effective Time or (to the extent of the amount, if any, charged to Production Costs) acquired thereafter; (e) rent and other consideration for use of the surface of the Subject Lands or for subsurface reservoir use of the Subject Lands; (f) damage caused to the surface or subsurface of the Subject Lands; and (g) amounts representing downward adjustments or corrections made in such Quarter to Production Costs for any prior Quarter to the extent such adjustments or corrections result from errors or inaccuracies made in the accounting for such costs.

"Effective Time" means 7:00 o'clock A.M., local time in effect at the location of each Subject Interest, on October 1, 1993.

"Entitled Volume" means, in any Quarter, the volume of Gas (in MMBtu's) which is produced and saved from the Subject Lands during

such Quarter and which is attributable to the Subject Interests (regardless of (i) any Gas imbalance or (ii) the volume of the Gas which is actually taken and sold by TRC) less the volume of Gas attributable to Existing Burdens.

"Entitled Volume Amount" means, for any Quarter, an amount calculated by multiplying the Entitled Volume for such Quarter times the weighted average Monthly Gas Price under the Purchase Contract.

"Environmental Laws" means all applicable federal, state and local laws (including case law), regulations, ordinances, rules, orders, permits and governmental restrictions relating to the environment, the effect of the environment on human health or safety, pollutants, contaminants, hazardous substances or hazardous wastes, whether now or hereafter in effect.

"Excess Infill Costs" means, for any Quarter, an amount equal to the excess, if any, of Infill Costs for such Quarter (including any carried forward from any preceding Quarter) over Infill Proceeds for such Quarter.

"Excess NPI Costs" means, for any Quarter, an amount equal to the excess, if any, of NPI Costs for such Quarter (including any carried forward from any preceding Quarter) over NPI Proceeds for such Quarter.

"Excess Pre-1980 Costs" means, for any Quarter, an amount equal to the excess, if any, of Pre-1980 Costs for such Quarter (including any carried forward from any preceding Quarter) over Pre-1980 Proceeds for such Quarter.

"Existing Burdens" means all royalties, overriding royalties, production payments, net profits payments, and other payments out of or measured by production that are existing and of record as of the Effective Time, to the extent such payments are payable out of production attributable to the Subject Interests, as the same shall be enlarged or diminished by the discharge or imposition of any payments out of production or by the removal or imposition of any charges or encumbrances to which any of the same are subject pursuant to existing Instruments.

"Gas" has the meaning ascribed to it in the Purchase Contract.

"Gross Proceeds" means, for any Quarter, (i) with respect to Gas, the Entitled Volume Amount for such Quarter, and (ii) with respect to the Subject Hydrocarbons other than Gas the amounts received during such Quarter by TRC from the sale of such Subject Hydrocarbons under the Purchase Contract, as such amounts may be adjusted or corrected in such Quarter for any prior Quarter as a result of errors or inaccuracies (including, but not limited to, those made in measurement or computation), and provided that the following shall apply:

(a) If, for any reason (including failure of TEMI to purchase the quantity of Hydrocarbons which TEMI is obligated to purchase pursuant to the Purchase Contract), TEMI at any time does not make payments to TRC during such Quarter, as required by the Purchase Contract, for Hydrocarbons which TEMI is obligated to purchase and pay TRC for during such Quarter, Gross Proceeds shall nevertheless be calculated during such Quarter as if TRC had actually received during such Quarter the payments to which it is entitled under the Purchase Contract.

(b) There shall not be included in Gross Proceeds any Property Taxes which are deducted or excluded from proceeds of sale received by TRC.

(c) There shall not be included in Gross Proceeds any amount for Subject Hydrocarbons attributable to nonconsent operations conducted with respect to the Subject Interests (or any portion thereof) as to which TRC shall be a nonconsenting party and which is dedicated to the recoupment or reimbursement of costs and expenses of the consenting party or parties by the terms of the relevant Instrument providing for such nonconsent operations. TRC agrees that its election not to participate in such operations shall be made in conformity with the provisions of Section 6.02 of this Conveyance, but third persons shall not be under any duty to determine that such election so conformed.



(d) There shall not be included in Gross Proceeds any amount which TRC shall receive as any of the following: consideration for transfer or sale of any of the Subject Interests (subject to the Royalty Interests) or sale or transfer of the Subject Lands of lease and well fixtures, equipment and personal property (provided that amounts received from such sales or transfers shall be included in Credits to Production Costs to the extent provided in the definition of such term); and amounts received by TRC as a loan.

(e) There shall not be included in Gross Proceeds any amount for Subject Hydrocarbons lost in the production or delivery thereof to the Delivery Points (which term as used herein has the same meaning as in the Purchase Contract) or used by TRC or its operator in conformity with ordinary or prudent practices for drilling and production operations.

(f) There shall not be included in Gross Proceeds amounts which are included in Credits to Production Costs.

"Hydrocarbons" means oil, Gas and other minerals produced in association with oil or gas, but excluding all other minerals, whether similar or dissimilar.

"Infill Costs" means, for any Quarter, those Production Costs attributable to Infill Wells, or the production of Subject Hydrocarbons therefrom, or the Subject Interests attributable thereto, plus:

(a) Excess Infill Costs as determined at the end of the preceding Quarter; and

(b) interest on the amount of Excess Infill Costs existing at the end of the preceding Quarter calculated from the last day of the preceding Quarter to the last day of the Quarter for which Infill Costs are being determined at the Prime Rate.

"Infill Net Proceeds" means, for any Quarter, an amount equal to the excess, if any, of Infill Proceeds for such Quarter over Infill Costs for such Quarter.

"Infill Net Royalty Interest" means a net overriding royalty interest in and to the Hydrocarbons in and under the Subject Lands that may be produced and saved from the Infill Wells equal to twenty percent (20%) of the Infill Net Proceeds, all as more fully provided in this Conveyance.

"Infill Proceeds" means, for any Quarter, that portion of Gross Proceeds for such Quarter attributable to production of Subject Hydrocarbons from Infill Wells.

"Infill Wells" means all wells drilled on the Subject Lands, commenced after the Closing Date, whether or not any such well is drilled to a formation from which a Well or Wells previously drilled are then producing or capable of producing and whether or not any such well is drilled on a drilling or spacing unit previously containing a Well or Wells then producing or capable of producing, together with any replacement well for an Infill Well, but such term shall not include (a) a well drilled to replace an NPI Well or a Pre-1980 Well which is no longer capable of producing in paying quantities by reason of damage, destruction or other physical cause and not by reason of depletion of reserves, or (b) an NPI Well or a Pre-1980 Well which is reworked, recompleted, deepened, plugged back or sidetracked.

"Instrument" means an oil, gas or mineral lease, pooling or unitization agreement or order, operating agreement, division order, transfer order, and any other type of agreement, conveyance, assignment or other instrument or evidence of title relating to any of the Subject Interests.

"MMBtu" means one million British thermal units.

"Net Royalty Interest" means a net overriding royalty interest in and to the Hydrocarbons in and under the Subject Lands that may be produced and saved from the NPI Wells equal to ninety-five percent (95%) of the NPI Net Proceeds, all as more fully provided in this Conveyance.

"Non-Affiliate" means, as to the party specified, any Person who is not an Affiliate of such party.

"NPI Costs" means, for any Quarter, those Production Costs

attributable to NPI Wells, or the production of Subject Hydrocarbons therefrom, or the Subject Interests attributable thereto, plus:

(a) Excess NPI Costs as determined at the end of the preceding Quarter; and

(b) interest on the amount of Excess NPI Costs existing at the end of the preceding Quarter, calculated from the last day of the preceding Quarter to the last day of the Quarter for which NPI Costs are being determined at the Prime Rate.

"NPI Net Proceeds" means, for any Quarter, an amount equal to the excess, if any, of NPI Proceeds for such Quarter over NPI Costs for such Quarter.

"NPI Proceeds" means, for any Quarter, that portion of Gross Proceeds for such Quarter attributable to production of Subject Hydrocarbons from NPI Wells.

"NPI Wells" means all wells and boreholes, except Infill Wells and Pre-1980 Wells, located on the Subject Lands, whether or not they produce in paying quantities, including without implied limitation any well temporarily abandoned, any well or borehole which is reworked, deepened, plugged back, sidetracked or recompleted at the same or a different depth, and any replacement well for any such well.

"Person" means any individual, corporation, partnership, trust, estate, limited liability company or other entity, organization or association.

"Pre-1980 Costs" means, for any Quarter, those Production Costs attributable to Pre-1980 Wells, or the production of Subject Hydrocarbons therefrom, or the Subject Interests attributable thereto, plus:

(a) Excess Pre-1980 Costs as determined at the end of the preceding Quarter; and

(b) interest on the amount of Excess Pre-1980 Costs existing at the end of the preceding Quarter, calculated from the last day of the preceding Quarter to the last day of the Quarter for which Pre-1980 Costs are being determined at the

**Prime Rate.**

"Pre-1980 Net Proceeds" means, for any Quarter, an amount equal to the excess, if any, of Pre-1980 Proceeds for such Quarter over Pre-1980 Costs for such Quarter.

"Pre-1980 Net Royalty Interest" means a net overriding royalty interest in and to the Hydrocarbons in and under the Subject Lands that may be produced and saved from the Pre-1980 Wells equal to ninety-five percent (95%) of the Pre-1980 Net Proceeds, all as more fully provided in this Conveyance.

"Pre-1980 Proceeds" means, for any Quarter, that portion of Gross Proceeds for such Quarter attributable to production of Subject Hydrocarbons from Pre-1980 Wells.

"Pre-1980 Wells" means all wells located on the Subject Lands that produced marketable quantities (as such term is used for Federal income tax purposes) of Hydrocarbons prior to the year 1980.

"Prime Rate" means the lesser of (a) a rate of interest per annum, compounded Quarterly, equal to the rate announced publicly by Citibank, N.A. (or its successor) in New York, New York, from time to time as its "prime rate" in effect at its principal office in New York City (each change in the Prime Rate to be effective on the date such change is publicly announced), with the understanding that such bank's "prime rate" may be one of several base rates and may serve as a basis upon which effective rates are from time to time calculated for loans making reference thereto or (b) the maximum nonusurious interest rate permitted by applicable law.

"Production Costs" means, for any Quarter, the following amounts (whether capital or non-capital in nature) in any way related to (i) the Wells, (ii) the production of Hydrocarbons therefrom or (iii) the Subject Interests, for periods from and after the Effective Time, to the extent such amounts are attributable to the Subject Interests and were not the subject of reductions to or exclusions from Gross Proceeds, and without duplication:

- (a) all amounts paid by TRC (or on its behalf) during

such Quarter for the following: delay rental; shut-in gas well royalty or payment; minimum royalty; payments to owners of interests in properties or depths other than those included in the Subject Lands for refraining from drilling an offset well; adjustment of any well and leasehold equipment upon unitization of any of the Subject Interests or upon enlargement or reduction of any unit to which any of the Subject Interests may be subject; rent and other consideration for use of the surface or for subsurface reservoir use; and damage caused to the surface or subsurface;

(b) the Property Tax Accrual for such Quarter;

(c) the aggregate costs paid by TRC (or on its behalf) during such Quarter under any joint operating agreement applicable to the Subject Interests to which TRC and one or more Non-Affiliates are parties, except Property Taxes;

(d) the aggregate costs paid by TRC (or on its behalf) during such Quarter under Exhibit C attached hereto with respect to any Subject Interest not subject to a joint operating agreement between TRC and a Non-Affiliate, except Property Taxes;

(e) all other costs, expenses and liabilities (except those provided for in (c) and (d) above and except Property Taxes) paid by TRC (or on its behalf) during such Quarter for locating, drilling, completing and plugging and abandoning any Well, including title examination and curative expenses, operating and producing Subject Hydrocarbons, including without implied limitation costs paid by TRC (or on its behalf) for: equipping, maintaining, plugging back, reworking, recompleting and sidetracking of any Well on the Subject Lands; and secondary or other enhanced recovery, pressure maintenance, repressuring, cycling and other operations conducted for the purpose of enhancing production; provided that the costs and expenses paid by TRC to an Affiliate of TRC or TEAI for performing the operations or services referred to in this paragraph (e) and chargeable under this paragraph (e)

shall not exceed competitive contract charges prevailing in the area for such operations or services;

(f) any amounts paid by TRC (or on its behalf) during such Quarter, whether as refund, interest or penalty, to a purchaser or any governmental agency or other Person because the amount initially received by TRC as sales price under the Purchase Contract was more or allegedly more than permitted by the terms of the Purchase Contract or any applicable statute, regulation, order, decree or other obligation; provided such amounts (in the case of a refund), or the amounts with respect to which the interest or penalty was paid, were previously included in Gross Proceeds;

(g) additional tax or other charges (including any interest and penalty) paid by TRC (or on its behalf) during such Quarter as a result of any audit by any federal or state agency or body or other interested Person relating to operation of the Subject Interests or sale of production therefrom;

(h) any amounts paid by TRC (or on its behalf) during such Quarter for defending or asserting claims, including litigation, concerning title to the Subject Interests or brought by TRC to protect the Subject Interests;

(i) any amounts paid by TRC (or on its behalf) during such Quarter for losses associated with property damage, personal injury or death that relate to the operation of the Subject Interests, provided that TRC has not breached Section 6.01 hereof;

(j) any other amounts paid by TRC (or on its behalf) during such Quarter with respect to operation of the Subject Interests or production of Hydrocarbons therefrom, whether such amounts are paid as refund, fine, judgment or settlement amount (including any interest or penalty amounts), in connection with litigation or settlement of threatened litigation or claims that arise on or after the Closing Date or in connection with order of a governmental agency or body

that is issued on or after the Closing Date, provided that in each case TRC has not breached Section 6.01 hereof;

(k) all consideration hereafter paid and costs and expenses hereafter incurred and paid by TRC (or on its behalf) during such Quarter for any renewals or extensions of leases and other Instruments which are included in the definition herein of Subject Interests, unless the interest which lapsed or expired did so as a result of violation by TRC of the standard set out in Section 6.01 hereof;

(l) amounts paid by TRC (or on its behalf) during such Quarter to comply with Environmental Laws for acts or omissions occurring on or under, or in connection with, the Subject Lands or the Wells on or after the Closing Date, or conditions on or under the Subject Lands or the Wells that arise on or after the Closing Date; and

(m) amounts representing upward adjustments or corrections made in such Quarter to Production Costs for any prior Quarter to the extent such adjustments or corrections result from errors or inaccuracies made in the accounting for such Production Costs;

provided, however, in no event shall Production Costs include the following (all of which shall be borne solely by TRC):

(i) any amount that would otherwise be included in Production Costs, but that is attributable to periods prior to the Effective Time;

(ii) any amount (including any amount paid by way of indemnity of the Trustee under the Trust Agreement) arising out of or in connection with liabilities under Environmental Laws to the extent such amount arises out of or relates to acts or omissions occurring on or under, or in connection with, the Subject Lands or the Wells prior to the Closing Date, or conditions existing on or under the Subject Lands or the Wells prior to the Closing Date;

(iii) amounts borne by TRC as an overproduced party and paid to an underproduced party in order to settle in whole or

in part a gas balancing account in lieu of balancing in kind;  
and

(iv) amounts which would otherwise be included in Production Costs for any Quarter equal to the amounts which are included in Credits to Production Costs for such Quarter, so that such Credits to Production Costs shall operate to reduce Production Costs.

"Property Taxes" means the sum of all general property (ad valorem), production, severance, sales, gathering and excise taxes and other taxes (whether state, federal or otherwise and whether presently in effect or hereafter levied), except income, franchise and other similar taxes, assessed or levied on or in connection with the Subject Interests, the Royalty Interests or the production therefrom or equipment on the Subject Lands, or against TRC as owner of the Subject Interests or TEAI or the Trust (as its assignee in Part II hereof) as owner of the Royalty Interests, taking into account any applicable credits, exemptions, moratoria or other special benefits.

"Property Tax Accrual" means, for any Quarter, an amount that may be set aside by TRC as an accrual to be applied against Property Taxes other than those which are deducted or excluded from proceeds of sale received by TRC, which accrual shall be adjusted if and to the extent actual Property Taxes differ.

"Purchase Contract" means the Oil and Gas Purchase Contract between TRC, Velasco Gas Company, Ltd., TEAI and Torch Energy Marketing Incorporated ("TEMI") dated as of October 1, 1993, together with all amendments and modifications to, or replacements for, such contract.

"Quarter" means a calendar quarter.

"Royalty Interests" means, collectively, the Net Royalty Interest, the Infill Net Royalty Interest and the Pre-1980 Net Royalty Interest.

"Section 29 Tight Sands Tax Credits" means those tax credits for non-conventional fuels production allowed pursuant to Section 29 of the Internal Revenue Code of 1986, as amended.



"Subject Hydrocarbons" means all Hydrocarbons in and under, and which may be produced and saved from, and which are attributable to, the Subject Interests, less the portion of such Hydrocarbons which are attributable to Existing Burdens.

"Subject Interests" means each kind and character of right, title, claim or interest which TRC has on the Effective Time in or under each Instrument (including units created by any Instrument) relating to the Subject Lands (including but not limited to the Instruments described or referred to in Exhibit A), insofar as they cover the Subject Lands, and all other right, title, claim or interest which TRC has on the Effective Time in and to the Subject Lands, whether such right, title, claim or interest be under and by virtue of an Instrument or under any other type of claim or title, legal or equitable, recorded or unrecorded, even though TRC's interests be incorrectly or incompletely described in, or a description thereof be omitted from, Exhibit A, all as the same shall be enlarged or diminished by the discharge or the imposition of any payments out of production or by the removal or imposition of any charges or encumbrances to which any of the same are subject pursuant to existing Instruments, and any and all renewals and extensions of any of the same (to the extent provided for below), but subject to all Existing Burdens to which TRC's such right, title, claim or interest is subject (while same remains so subject), limited, however, if TRC's interest in any Subject Interest should terminate at any time, to the period to which TRC's interest in such Subject Interest is limited. There shall be excluded from the term "Subject Interests" any interest hereafter acquired by TRC in and to any of the Subject Lands, except any interest acquired through non-participation in operations by third parties and any other interest acquired pursuant to existing agreements for no new consideration and renewals or extensions of leases and other such agreements. For purposes of this Conveyance "renewals or extensions" of any lease or other such agreement shall be limited to renewals or extensions of an existing lease or other such agreement obtained by the present owner thereof (or such

owner's successors in interest) while such lease is in force or within six months after such lease or other such agreement terminates. TRC shall be under no duty to seek renewals or extensions of any lease or other such agreement.

"Subject Lands" means the lands in which TRC has a right, title, claim or interest and which are described in or which are subject to the Instruments described in Exhibit A attached hereto, provided that (a) there are excepted from each parcel of the Subject Lands described in Exhibit A attached hereto and retained by TRC all its right, title and interest in all depths deeper than one hundred feet (100') below the base of the lowest depth, formation or reservoir from which, on the Effective Date, a Well drilled on or producing from such parcel or land pooled or unitized therewith is producing or capable of producing Hydrocarbons, (b) where the description in Exhibit A excepts land or refers to an Instrument insofar only as it covers certain land, no interest in such excepted land or in land other than to which such reference is limited shall be included in the terms "Subject Lands" and (c) if Exhibit A described an Instrument but does not limit such description to certain land, then "Subject Lands" shall include all land covered by such Instrument in which TRC has an interest (subject to the depth limitation in (a) above). If allocation of acreage to any Well is required by governmental authority or existing Instrument for spacing or allowable or other purposes in order to comply with governmental authority or existing Instrument, TRC shall have the right to select such allocated acreage from the Subject Lands provided that such allocation shall not reduce the quantity of Hydrocarbons that may be lawfully produced from an NPI Well on the Subject Lands or cause such NPI Well to violate applicable spacing rules or regulations. If permitted by governmental authority or existing Instrument, the acreage so allocated to an Infill Well or a Pre-1980 Well shall be limited to the depths, formations or reservoirs from which the Infill Well or Pre-1980 Well is producing or capable of producing Hydrocarbons. In the case of Subject Lands which are pooled or unitized, if an

Infill Well is drilled on a pooled or unitized tract from which a well on the Subject Lands which is not an Infill Well is producing or capable of producing Hydrocarbons and the method of allocating pooled or unitized production to such tract (under the pooling or unitization Instrument providing for such allocation) does not provide for an allocation between different interests in two or more wells on such tract, then such allocation shall be made between Infill Wells and wells which are not Infill Wells producing from the same tract on the basis of their relative actual monthly production of Hydrocarbons.

"Trust Agreement" means the Trust Agreement of the Trust entered into by and among TEAI, TRC, Velasco and Trustee, effective as of October 1, 1993, as amended from time to time.

"Trustee" means Wilmington Trust Company, a banking corporation organized under the laws of the State of Delaware with its principal office in Wilmington, Delaware, and its successors and permitted assigns.

"Wells" means, collectively, the NPI Wells, the Infill Wells and the Pre-1980 Wells, and the fixtures, equipment and personal property in, on, used or obtained in connection therewith.

**PART I**

**ARTICLE I.**

**GRANT**

Section 1.01. Royalty Interests. For and in consideration of good and valuable consideration paid to TRC, the receipt and sufficiency of which are hereby acknowledged, TRC does hereby BARGAIN, SELL, GRANT, CONVEY, TRANSFER and ASSIGN unto TEAI the Net Royalty Interest, the Infill Net Royalty Interest and the Pre-1980 Net Royalty Interest.

Section 1.02. Habendum Clause. TO HAVE AND TO HOLD the Net Royalty Interest, the Infill Net Royalty Interest and the Pre-1980 Net Royalty Interest, together with all and singular the rights and appurtenances thereto in anywise belonging, unto TEAI, subject, however, to the terms and provisions of this Conveyance.

Section 1.03. Nature of Interests. The Royalty Interests

conveyed hereby are nonoperating, nonexpense-bearing variable royalty interests in and to the Subject Lands, and this Conveyance is an absolute conveyance of interests in real property.

ARTICLE II

RECORDS AND REPORTS

Section 2.01. Books and Records. TRC shall at all times maintain true and correct books and records sufficient to determine the amounts payable hereunder to the Trust (as assignee of TEAI under the following Part II), including, but not limited to, (a) a NPI Net Proceeds account to which NPI Proceeds and NPI Costs attributable to the NPI Wells are credited and charged, (b) an Infill Net Proceeds account to which Infill Proceeds and Infill Costs attributable to the Infill Wells are credited and charged and (c) a Pre-1980 Net Proceeds account to which Pre-1980 Proceeds and Pre-1980 Costs attributable to the Pre-1980 Wells are credited and charged.

Section 2.02. Inspections. The books and records referred to in Section 2.01 hereof shall be open for inspection by the Trustee and its designated representatives, on behalf of the Trust (as assignee of TEAI under the following Part II), at the office of TRC during normal business hours and upon reasonable notice; provided, however, that the Trustee and its designated representatives shall have no right to review books and records that pertain to calendar years for which the period for raising objections under Section 2.05 has expired unless such books and records are necessary to prepare a response by a holder or former holder of units in the Trust in connection with an administrative or legal proceeding by the Internal Revenue Service.

Section 2.03. Quarterly Statements. On or before the last Business Day preceding the fiftieth (50th) day following the last day of each Quarter, TRC shall deliver to the Trustee, on behalf of the Trust (as assignee of TEAI under the following Part II), an unaudited statement showing (a) the computation of NPI Net Proceeds, Infill Net Proceeds and Pre-1980 Net Proceeds for such Quarter and all amounts payable to the Trust for such Quarter, and

(b) the Section 29 Tight Sands Tax Credit production volumes attributable to the Net Royalty Interest for the preceding Quarter (as such volumes are determined in accordance with TRC's interpretation of the applicable provisions of the Internal Revenue Code of 1986, as amended). On or before the sixty-fifth (65th) day following the last day of each of the first three Quarters of each calendar year, TRC shall deliver to the Trustee, on behalf of the Trust (as assignee of TEAI under the following Part II), an unaudited statement showing revenues and direct operating expenses in such Quarter attributable to the Subject Interests.

Section 2.04. Annual Statements. On or before the sixtieth (60th) day following December 31, 1993, TRC shall deliver to the Trustee, on behalf of the Trust (as assignee of TEAI under the following Part II), an unaudited statement showing the Section 29 Tight Sands Tax Credit production volumes attributable to the Net Royalty Interest for the Quarter ending December 31, 1993 (as such volumes are determined in accordance with TRC's interpretation of the applicable provisions of the Internal Revenue Code of 1986, as amended). On or before the sixtieth (60th) day following the close of each calendar year after 1993, TRC shall deliver to the Trustee, on behalf of the Trust (as assignee of TEAI under the following Part II), an unaudited statement showing the Section 29 Tight Sands Tax Credit production volumes attributable to the Net Royalty Interest for each Quarter of such calendar year (as such volumes are determined in accordance with TRC's interpretation of the applicable provisions of the Internal Revenue Code of 1986, as amended). On or before the ninetieth (90th) day following the close of each calendar year, TRC shall deliver to the Trustee, on behalf of the Trust (as assignee of TEAI under the following Part II), a statement audited by an independent accounting firm selected by TRC showing the computation of NPI Net Proceeds, Infill Net Proceeds and Pre-1980 Net Proceeds for such calendar year and all amounts payable to the Trust (as assignee of TEAI under the following Part II) for such calendar year.

Section 2.05. Objections to Quarterly and Annual Statements.

If the Trust (as assignee of TEAI under the following Part II) objects to any item or items included in the quarterly or annual statements provided by TRC, the Trustee shall notify TRC in writing, setting forth in such notice the specific items included in such statement to which the Trust objects. With respect to the objections that are justified, an adjustment will be made. With respect to any audited annual statement delivered by TRC under Section 2.04, if the Trustee fails to give TRC notice of any objection to such audited annual statement (or the other quarterly or annual statements provided by TRC for such year) within 180 days after such annual statement is delivered to the Trustee, then all statements for such calendar year shall be deemed to be correct for all purposes, and the Trustee and the Trust shall be deemed to have waived any objection to such statements.

#### ARTICLE III

##### PAYMENT

Section 3.01. Payment. On or before the last day of the second month following each Quarter (or, if such day is not a Business Day, the first Business Day thereafter), beginning with the Quarter ending December 31, 1993, TRC shall pay to the Trust (as assignee of TEAI under the following Part II), in respect of the Royalty Interests, the sum of (a) an amount equal to ninety-five percent (95%) of the NPI Net Proceeds for such Quarter, (b) an amount equal to ninety-five percent (95%) of the Pre-1980 Net Proceeds for such Quarter and (c) an amount equal to twenty percent (20%) of the Infill Net Proceeds for such Quarter.

Section 3.02. Interest on Payments. Gross Proceeds shall not include any interest on proceeds received by TRC prior to the payment dates provided for in Section 3.01, but any amount not paid by TRC to the Trust (as assignee of TEAI under the following Part II) when due shall bear interest from such due date until such amount is paid at the Prime Rate.

Section 3.03. Overpayment. If at any time TRC pays the Trust more than the amount due for any reason, the Trust will not be obligated to return any such overpayment, but the amount otherwise

payable to the Trust in respect of the Royalty Interests for any subsequent Quarters will be reduced by an amount equal to such overpayment, plus an amount equal to interest at the Prime Rate on the unrecouped balance of such overpayment from the date of such overpayment until TRC has recovered such overpayment plus such interest.

ARTICLE IV

SALE OF SUBJECT HYDROCARBONS

Section 4.01. Disposition of Production. The Subject Hydrocarbons are subject to the Purchase Contract, which shall govern the disposition thereof to the extent provided in the Purchase Contract. Any quantity of Hydrocarbons not sold by TRC to TEMI and not purchased by TEMI from TRC under the Purchase Contract shall be marketed by TRC. The parties agree that the prices paid or payable under the Purchase Contract for Hydrocarbons are the wellhead value of such Hydrocarbons.

Section 4.02. Reliance by Third Party. As to any Person, the acts of TRC under the Purchase Contract will be binding on the Trust (as assignee of TEAI under the following Part II). TRC reserves the right to execute any division or transfer order and the Purchase Contract without necessity of joinder by or consent of TEAI or the Trust. Proceeds from the sale of the Subject Hydrocarbons shall be paid by the purchasers thereof directly to TRC without necessity of joinder by or consent of TEAI or the Trust.

ARTICLE V

NON-LIABILITY OF TEAI, TRUSTEE AND THE TRUST

In no event will TEAI (in its capacity as assignee in Part I or as assignor in Part II hereof), the Trust (as assignee of TEAI under Part II hereof) or the Trustee be personally or individually liable, or responsible in any way, for payment of any costs or liabilities incurred by TRC or others attributable to the Wells, the Subject Interests or the Subject Hydrocarbons, except to the extent (in the case of TEAI) of TEAI's obligations set out in the Standby Performance Agreement among TEAI, TRC and Velasco Gas

Company, Ltd.

ARTICLE VI

OPERATION OF SUBJECT INTERESTS

Section 6.01. Reasonably Prudent Operator Standard. To the extent it has the legal right to do so under the terms of any Instrument affecting or pertaining to the Subject Interests or the Wells (or any portion thereof), TRC shall exercise such rights with respect to the maintenance and operation of the Subject Interests and the Wells in a good and workmanlike manner and as would a reasonably prudent operator under the same or similar circumstances, without regard to the existence or burden of the Royalty Interests or the direct or indirect effect, financial or otherwise, on TRC or TEMI or any of their Affiliates, of the Purchase Contract.

Section 6.02 Nonconsents. Nothing in Section 6.01 shall be deemed to prevent or restrict TRC from electing not to participate in any operation to be conducted under the terms of any Instruments affecting or pertaining to the Subject Interests or any of the Wells, and allowing consenting parties to conduct nonconsent operations thereon, if such election is made by TRC in accordance with the reasonably prudent operator standard set forth in Section 6.01, without regard to the existence or burden of the Royalty Interests or the direct or indirect effect, financial or otherwise, on TRC or TEMI or any of their Affiliates, of the Purchase Contract. By way of example and not by way of limitation, if TRC reasonably concludes that the cost of such operation (which would be included in Production Costs) is likely to result in Excess Infill Costs, Excess NPI Costs or Excess Pre-1980 Costs for an unreasonable period of time under the circumstances, then its election not to participate in such operation shall be deemed not to breach the foregoing standard. Similarly, if TRC does or does not undertake any operation on a Subject Property (other than in a consent or non-consent context, such as where TRC owns 100% of the operating interest in such Subject Property), then its election to undertake or not to undertake such operation shall be deemed not to



breach the standard in Section 6.01 if the same criteria are followed as in the foregoing consent or non-consent example. If TRC elects not to participate in an operation, with the result that any of the Subject Interests are relinquished (for a period of time or permanently) to the Persons electing to participate, such interest so relinquished shall (for such period of time) not be part of the Subject Interests or burdened by the Royalty Interests, and the costs (including the costs of conducting such operation) related thereto shall not be Production Costs. If TRC elects to participate in an operation and another party elects not to participate, with the result that all or a part of such third party's interest is relinquished (for a period of time or permanently) to TRC, such interest so relinquished shall (for such period of time) become a part of the Subject Interests and the costs (including the costs of conducting such operation) attributable to such interest shall be Production Costs.

Section 6.03 Limitation on Liability. NOTWITHSTANDING ANYTHING ELSEWHERE HEREIN TO THE CONTRARY, TRC SHALL NOT BE LIABLE TO TEAI, THE TRUST (as assignee of TEAI under the following Part II) OR THE TRUSTEE FOR THE MANNER IN WHICH TRC PERFORMS ITS RIGHTS AND DUTIES HEREUNDER, SO LONG AS TRC ACTS IN ACCORDANCE WITH THE REASONABLY PRUDENT OPERATOR STANDARD SET FORTH IN SECTION 6.01. TRC EXPRESSLY DISCLAIMS AND TEAI AND THE TRUST AGREE THAT THE TRC DOES NOT HAVE ANY FIDUCIARY DUTY OR FIDUCIARY OBLIGATION IN FAVOR OF TEAI OR THE TRUST.

Section 6.04. Abandonment of Properties. Nothing herein contained shall obligate TRC as a working interest owner of any Well (whether or not TRC is the designated operator) to continue to operate such Well, to continue to participate in the operation of such Well or to maintain in force or attempt to maintain in force any of the Subject Interests attributable to such Well when, in TRC's judgment (reasonably exercised), such Well is no longer capable of producing Hydrocarbons in paying quantities and a reasonably prudent operator (without regard to the existence or burden of the Royalty Interests or the direct or indirect effect;

financial or otherwise, on TRC or TEMI or any of their Affiliates, of the Purchase Contract) in similar circumstances would not undertake reworking operations to restore production.

Section 6.05. Insurance. TRC is not obligated under this Conveyance to carry insurance on any Well or the Subject Interests or covering any risks with respect thereto. Provided that TRC has not breached Section 6.01 hereof, TRC shall not be liable to TEAI or the Trust (as assignee of TEAI under the following Part II) or the Trustee on account of any losses sustained that are not covered by insurance. In the event TRC elects to carry insurance purchased from a third party on any Well or the Subject Interests or operation thereof, the premiums for such insurance shall be included in Production Costs.

#### ARTICLE VII

##### POOLING AND UNITIZATION

Section 7.01. Pooled Subject Interests. Some of the Subject Interests have been heretofore pooled, unitized or communitized for the production of Hydrocarbons. Such Subject Interests are and shall be subject to the terms and provisions of the Instruments governing such pooling, unitization or communitization, and the Royalty Interest in each such Subject Interest shall apply to and affect only the production from such units which accrues to such Subject Interest under and by virtue of the applicable pooling, unitization or communitization Instruments.

Section 7.02. Right to Pool. TRC shall have the exclusive right and power (as between TEAI and the Trust as assignee of TEAI under the following Part II), exercisable only during the period provided in Section 7.03 hereof, to pool, unitize or communitize any of the Subject Interests and to alter, change or amend or terminate any pooling, unitization or communitization orders or Instruments heretofore or hereafter entered into, as to all or any part of the land covered hereby, as to any one or more of the formations or horizons hereunder, and as to any one or more Hydrocarbons, upon such terms and provisions as TRC shall in its sole discretion determine. If and whenever through the exercise of

such right and power, or pursuant to any law hereafter enacted or any rule, regulation or order of any governmental body or official hereafter promulgated, any of the Subject Interests are pooled, unitized or communitized in any manner, the Royalty Interest insofar as it affects such Subject Interest shall also be pooled, unitized or communitized, and in any such event such Royalty Interest in such Subject Interest shall apply to and affect only the production which accrues to such Subject Interest under and by virtue of the pooling, unitization or communitization, and it shall not be necessary for TEAI or the Trust (as assignee of TEAI under the following Part II) to agree to, consent to, ratify, confirm or adopt any exercise of such right and power by TRC.

Section 7.03. Applicable Period. TRC's power and rights in Section 7.02 shall be exercisable only during the period of the life of the last survivor of the descendants of the signers of the Declaration of Independence living on the date of execution hereof, plus twenty-one (21) years after the death of such last survivor.

#### ARTICLE VIII

##### GOVERNMENT REGULATION

All obligations of TRC hereunder are subject to all present and future valid federal, state and local laws, statutes, codes and orders; and all applicable rules, orders, regulations and decisions of every court, governmental agency, body or authority having jurisdiction over TRC, the Wells, the Subject Interests or the Subject Hydrocarbons.

#### ARTICLE IX

##### ASSIGNMENTS

Section 9.01. Assignment by TRC. TRC shall have the right to assign, sell, transfer, convey, mortgage or pledge the Subject Interests, or any part thereof or interest therein, to any third party, including an Affiliate of TRC, subject to the Royalty Interests and to the terms and provisions of this Conveyance; provided that such assignment shall be subject to the conditions and the notice requirements of Section 12.08 of the Trust Agreement. From and after the effective date of any such

assignment, sale, transfer or conveyance by TRC, the assignee thereunder shall succeed to all the rights and duties of TRC hereunder as to the interests in the Subject Interests so acquired by such assignee, and, if such assignee expressly assumes all duties of TRC hereunder as to the interests so acquired, TRC shall be relieved of such duties, except to the extent such relate to periods prior to effective date of such assignment. If TRC assigns a part of or interest in (but less than all) the Subject Interests, then, from and after the effective date of any such assignment, in determining the Royalty Interests payable with respect to the part or interest so assigned, the Royalty Interests shall be computed and determined by the assignee in the aggregate as to the assigned interests owned by such assignee, separate from and not aggregated with the computation and determination made by TRC as to unassigned interests.

**Section 9.02. Assignment by TEAI and the Trust.** TEAI shall have the right to assign and convey the Royalty Interests only to the Trust (as is done in the following Part II), and the Trust shall not assign or convey the Royalty Interests except as provided under the Trust Agreement. In making conveyances or assignments of any of the Subject Interests (to the extent permitted hereunder), the Trust need not vest in its grantee or assignee all of the rights of TEAI or the Trust hereunder with respect to the interest in the Subject Interests so conveyed or assigned.

**Section 9.03. Change in Ownership.** No change in ownership or right to receive payment of the Royalty Interests, or of any part thereof, however accomplished, shall be binding upon TRC until notice thereof shall have been furnished by the Person claiming the benefit thereof, and then only with respect to payments thereafter made. Notice of sale or assignment shall consist of a certified copy of the recorded instrument accomplishing the same; notice of change of ownership or right to receive payment accomplished in any other manner (for example by reason of incapacity, death or dissolution) shall consist of certified copies of recorded documents and complete proceedings legally binding and conclusive

of the rights of all parties. Until such notice accompanied by such documentation shall have been furnished TRC as above provided, the payment or tender of all sums payable on the Royalty Interests may be made in the manner provided herein precisely as if no such change in interest or ownership or right to receive payment had occurred, or (at TRC's election) TRC shall have the right to suspend payment of such sums without interest in the event of such change until such documentation is furnished. The kind of notice herein provided shall be exclusive, and no other kind, whether actual or constructive, shall be binding on TRC. Assignment by the Trust shall not affect the method of computing the Royalty Interests, and if more than one Person becomes entitled to participate in the Royalty Interests, TRC may withhold from such other Person payments to which such Person would otherwise be entitled hereunder and the furnishing of any data or information which TRC is required by the terms hereof to furnish TEAI or the Trust until TRC is furnished a recordable instrument executed by or binding upon all Persons interested in the Royalty Interests designating one Person who is to receive such payments, data and information.

Section 9.04. Rights of Mortgagee. If the Trust (as assignee of TEAI under the following Part II) should at any time execute a mortgage or deed of trust or security interest covering all or part of the Royalty Interests, the mortgagee or trustee therein named or the holder of any obligation secured thereby shall be entitled, to the extent such mortgage, deed of trust or security agreement so provides, to exercise all the rights, remedies, powers and privileges conferred upon the Trust by the terms of this Conveyance and to give or withhold all consents required to be obtained hereunder by the Trust, but the provisions of this Section 9.04 shall in no way be deemed or construed to impose upon TRC any obligation or liability undertaken by the Trust under such mortgage, deed of trust or security agreement or under the obligation secured thereby.

PART XI

ARTICLE X

GRANT

Section 10.01. Royalty Interests. For and in consideration of good and valuable consideration paid to TEAI, the receipt and sufficiency of which are hereby acknowledged, TEAI does hereby BARGAIN, SELL, GRANT, CONVEY, TRANSFER and ASSIGN unto the Trust the Net Royalty Interest, the Infill Net Royalty Interest and the Pre-1980 Net Royalty Interest, which were vested in TEAI under Part I of this Conveyance.

Section 10.02. Habendum Clause. TO HAVE AND TO HOLD the Net Royalty Interest, the Infill Royalty Interest and the Pre-1980 Net Royalty Interest, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the Trust, subject to and entitled to all the benefits of the terms and provisions of this Conveyance.

Section 10.03. Nature of Interests. The Royalty Interests conveyed hereby are nonoperating, nonexpense-bearing variable royalty interests in and to the Subject Lands, and this Conveyance is an absolute conveyance of interests in real property.

THE FOLLOWING PROVISIONS SHALL BE DEEMED TO BE INCORPORATED IN BOTH PARTS OF THIS CONVEYANCE.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Controlling Document. This Conveyance and any terms contained herein shall control over any other document between the parties hereto with respect to the conveyance of the Royalty Interests.

Section 11.02. Proportionate Reduction. In the event of failure or deficiency in title to any of the Subject Interests not in breach of the warranty as to title in Section 11.06 hereof, the portion of the production from such Subject Interest out of which the Royalty Interests attributable to such Subject Interest shall be payable shall be reduced in the same proportion that such Subject Interest is reduced.

Section 11.03. Notices. Any notice, request, consent, demand, statement, payment or other communication required or permitted between the parties to this Conveyance shall be in writing and shall be deemed to have been duly given on the date of service, if served personally on the party or parties to whom such notice is directed, or on the date of receipt, if mailed to the party or parties to whom the notice is directed by registered or certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

TORCH ROYALTY COMPANY  
1221 Lamar  
Suite 1600  
Houston, Texas 77010  
Attention: Roland E. Sledge  
Senior Vice President and General Counsel

TORCH ENERGY ADVISORS INCORPORATED  
1221 Lamar  
Suite 1600  
Houston, Texas 77010  
Attention: Roland E. Sledge  
Senior Vice President and General Counsel

and

TORCH ENERGY ROYALTY TRUST  
c/o Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Torch Energy Royalty Trust

Any party may change its address for purposes of this paragraph by giving the other parties hereto written notice of the new address in the manner set forth above.

Section 11.04. Binding Effect. This Conveyance shall bind and inure to the benefit of the successors and assigns of the parties hereto.

Section 11.05. Governing Law. This Conveyance shall be governed by the laws of the State of Texas, without regard to the conflict of laws principles thereof.

Section 11.06. Warranty as to Title to Subject Interests. This Conveyance, in Part I and Part II, is made with warranty of title against every person whosoever lawfully claiming or to claim the same or any part thereof by, through or under TRC (in Part I) and TEAI (in Part II) and its and their Affiliates, but not otherwise, except as provided in Section 11.08 below. TRC warrants to the

Trust, and its successors and assigns, by, through or under TRC and its Affiliates, but not otherwise, that TRC and its Affiliates (i) have not taken any action or (ii) failed to take any action, with respect to the Subject Interests covering or attributable to each Well identified on Exhibit B attached hereto, which, in either case, pursuant to the terms of the Instruments by which title is held, (i) would result in a Net Revenue Interest (as such term is defined in Exhibit B) in each Well which is less than the Net Revenue Interest specified in Exhibit B for that Well, or (ii) would result in a Working Interest (as such term is defined in Exhibit B) in each Well which is greater than the Working Interest specified in Exhibit B for that Well. TEAI (under Part I) and the Trust (under Part II) each accepts the Royalty Interests conveyed hereby in an AS IS, WHERE IS condition. SUBJECT TO THE FOREGOING, EACH OF TRC AND TEAI MAKES NO WARRANTIES, EITHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO ANY OF THE SUBJECT INTERESTS, THE WELLS OR THE ROYALTY INTERESTS, AND EACH OF TRC AND TEAI SPECIFICALLY DISCLAIMS ANY EXPRESS, IMPLIED OR STATUTORY WARRANTY REGARDING THE CONDITION OF THE SUBJECT INTERESTS, THE WELLS AND THE ROYALTY INTERESTS, THE MERCHANTABILITY THEREOF OR THE FITNESS THEREOF FOR A PARTICULAR PURPOSE. Except as expressly set forth above, each of TEAI and the Trust acknowledges and agrees that TRC (in Part I) and TEAI (in Part II) MAKES NO WARRANTIES EITHER EXPRESS, IMPLIED OR STATUTORY WITH RESPECT TO ANY PERSONAL PROPERTY OR FIXTURES LOCATED ON OR SERVING ANY OF THE SUBJECT INTERESTS, AND EACH OF TRC AND TEAI SPECIFICALLY DISCLAIMS ANY EXPRESS, IMPLIED OR STATUTORY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE REGARDING THE CONDITION OF ANY SUCH PERSONAL PROPERTY OR FIXTURE.

Section 11.07. Substitution of Warranty. This instrument is made with full substitution and subrogation of TEAI and the Trust, as assignee of TEAI under the foregoing Part II, in and to all covenants of warranty by others heretofore given or made with respect to the Subject Interests, or any part thereof, or interest therein.



Section 11.08. Consents and Waivers. For purposes of Section 11.06, it shall be considered a breach of TRC's warranty of title if any necessary consent or approval has not been obtained or if any preferential purchase right has not been waived, in each case, where the failure to obtain any such consent, approval or waiver renders (i) any conveyance of the Subject Interests by an Affiliate of TRC to another Affiliate of TRC, (ii) the conveyance of the Subject Interests by an Affiliate of TRC to TRC or (iii) the conveyance of the Royalty Interests to TEAI and then to the Trust, void or results in a valid action for breach of contract as a result of the failure to obtain such consent, approval or waiver.

Section 11.09. Arbitration. ANY DISPUTE, CONTROVERSY OR CLAIM THAT MAY ARISE UNDER THIS CONVEYANCE SHALL BE GOVERNED BY AND SUBJECT TO THE ARBITRATION PROVISIONS SET FORTH IN ARTICLE XI OF THE TRUST AGREEMENT.

Section 11.10. Counterpart Execution. This Conveyance may be executed in several counterparts, all of which are identical and each of which will be an original. All of such counterparts together shall constitute one and the same instrument. Certain counterparts may have descriptions relating to different recording jurisdictions omitted from Exhibit A. A counterpart with all such descriptions is being filed for record in Harris County, Texas. Where a description covers an interest located in more than one county, such description may be included in counterparts recorded in each county but such inclusion of the same description in more than one counterpart does not have any cumulative effect as to the interests covered by such description.

Section 11.11. Further Assurances. TRC and TEAI agree to execute and deliver all additional instruments, agreements and other documents as may be necessary or appropriate to effectuate fully the terms and conditions hereto, including, but not limited to, such other additional instruments, agreements and other documents as may be necessary to correct or more fully describe and identify the properties and interests herein intended to be assigned and conveyed, or such other instruments as may be required

by the appropriate governmental agencies or bodies having jurisdiction over such Federal, State or Indian lands as are covered by this Conveyance.

Section 11.12. Filing. TRC shall file this Conveyance in the real property records of the Counties in which the Subject Interests are located as shown by the recitations in Exhibit A attached hereto and shall make all other appropriate filings with Federal, State and Indian agencies as determined appropriate by TRC.

Section 11.13. Construction. In construing this Conveyance, the following principles shall be followed:

(a) no consideration shall be given to the captions of the articles or sections, which are inserted for convenience in locating the provisions of this Conveyance and not as an aid in its construction;

(b) the word "includes" and its syntactical variants mean "includes, but is not limited to" and corresponding syntactical variant expressions;

(c) a defined term has its defined meaning throughout this Conveyance and in each exhibit, attachment and schedule to this Conveyance, regardless of whether it appears before or after the place where it is defined; and

(d) each exhibit, attachment and schedule to this Conveyance is a part of this Conveyance, but if there is any conflict or inconsistency between the main body of this Conveyance and any exhibit, attachment or schedule, the provisions of the main body of this Conveyance shall prevail.

IN WITNESS WHEREOF, each of the parties hereto has caused this Conveyance to be executed in its name and behalf and delivered on the 22<sup>nd</sup> day of November, 1993, effective as of the Effective Time.

TORCH ROYALTY COMPANY

By: [Signature]  
Name: Sue Ann Craddock  
Title: Vice President

TORCH ENERGY ADVISORS INCORPORATED

By: [Signature]  
Name: Sue Ann Craddock  
Title: Vice President

TORCH ENERGY ROYALTY TRUST  
By WILMINGTON TRUST COMPANY, its  
Trustees

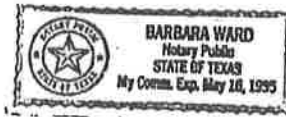
By: [Signature]  
Name: Tim Lawler  
Title: Vice President

STATE OF TEXAS    §  
                          §  
COUNTY OF HARRIS §

The foregoing instrument was acknowledged before me this 22nd day of November 1993 by Sue Ann Craddock, Vice President of TORCH ROYALTY COMPANY, a Delaware corporation, on behalf of said corporation.

[Signature]  
Notary Public in and for  
the State of Texas

My Commission Expires:  
May 16, 1995



STATE OF TEXAS    §  
                          §  
COUNTY OF HARRIS §

The foregoing instrument was acknowledged before me this 22nd day of November 1993 by Sue Ann Craddock, Vice President of TORCH ENERGY ADVISORS INCORPORATED, a Delaware corporation, on behalf of said corporation.

[Signature]  
Notary Public in and for  
the State of Texas

My Commission Expires:  
May 16, 1995



STATE OF TEXAS  
COUNTY OF HARRIS

The foregoing instrument was acknowledged before me this  
22ND day of NOVEMBER, 1993 by ITH LAWLER, VICE PRESIDENT of  
WILMINGTON TRUST COMPANY as Trustee of TORCH ENERGY ROYALTY  
TRUST, a Delaware business trust, on behalf of said trust.

*Barbara Ward*  
Notary Public in and for STATE OF TEXAS

My Commission Expires:  
MAY 14, 2005



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**EXHIBIT A**

**Anderson No. 2, 3 & 4**

Oil and Gas Lease dated February 5, 1991, from Carol Anderson and Jean Stephen, as Lessors, to the Williams Partnership, as Lessee, recorded by Memorandum of Oil and Gas Lease in Volume 1237, Page 148, Official Records, Brazos County, Texas, as amended by Amendment of Oil, Gas and Mineral Lease dated March 2, 1992 recorded in Volume 1441, Page 237 of the Official Records of Brazos County, Texas, and as further amended by Amendment to Lease Description dated April 9, 1992, recorded in Volume 1473, Page 201 of said Official Records, INSOFAR AS AND ONLY INSOFAR AS said lease covers and includes 1696.17 acres of land, more or less, in the Augustus Williams League, A-58, Brazos County, Texas.

**INSTRUMENTS APPLICABLE TO THE FOREGOING LEASES:**

Letter Agreement dated August 6, 1990 between Clayton W. Williams, Jr. and Wintershall Energy.

Letter Agreement dated May 21, 1991 but effective May 1, 1991 between Union Pacific Resources Company, Nuevo Energy Company, Torch Energy Associates Ltd, and Sinclair Oil Corporation.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

**In re:**

**Samson Resources Corporation, *et al.*,**

**Debtors**

**Chapter 11**

**Case No. 15-11934 (CSS)**

**(Jointly Administered)**

**Hearing Date: February 19, 2016 at 11:00 a.m.**

**Objection Deadline: February 12, 2016**

**NOTICE OF MOTION OF CREDITOR CHISOS, LTC.,  
FOR ADEQUATE PROTECTION**

To: Parties on Attached Service List

Chisos, Ltd., has filed a Motion or Adequate Protection which seeks the following relief:  
adequate protection of Chisos, Ltd.'s security interest in Debtors' property.

**HEARING ON THE MOTION WILL BE HELD THURSDAY, FEBRUARY 19,  
2016 AT 11:00 A.M.**

You are required to file a response (and the supporting documentation required by Local Rule 4001-1(c)) to the attached motion at least seven (7) days before the above hearing date.

At the same time, you must also serve a copy of the response upon Chisos, Ltd.'s attorneys:

Jason C. Powell, Esquire  
Ferry Joseph, P.A.  
824 Market Street, Suite 1000  
P.O. Box 1351  
Wilmington, DE 19899

Franklin Lewis Broyles, Esq.  
Law Office of Frank L. Broyles  
4956 N. O'Connor Blvd.  
Irving, TX 75062

Barry Frank Cannaday, Esq.  
Dentons US LLP  
2000 McKinney Ave., #1900  
Dallas, TX 75201

The hearing date specified above may be a preliminary hearing or may be consolidated with the final hearing, as determined by the Court.

The attorneys for the parties shall confer with respect to the issues raised by the motion in advance for the purpose of determining whether a consent judgment may be entered and/or for the purpose of stipulating to relevant facts such as value of the property, and the extent and validity of any security instrument.

Dated: December 23, 2015

FERRY JOSEPH, P.A.

*/s/ Jason C. Powell, Esq.*

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Jason C. Powell, Esq. (No. 3768)  
824 Market Street, Suite 1000  
P.O. Box 1351  
Wilmington, DE 19899  
(302) 575-1555  
jpowell@ferryjoseph.com  
*Local Counsel for Chisos, Ltd.*

-and-

Franklin Lewis Broyles, Esq.  
Law Office of Frank L. Broyles  
4956 N. O'Connor Blvd.  
Irving, TX 75062  
Telephone (469) 417-0100 x 105  
E-mail: [frank.broyles@utexas.edu](mailto:frank.broyles@utexas.edu)  
*Counsel for Chisos, Ltd.*

-and-

Barry Frank Cannaday, Esq.  
Dentons US LLP  
2000 McKinney Ave., #1900  
Dallas, TX 75201  
Telephone (214) 259-1855  
E-mail: [barry.cannaday@dentons.com](mailto:barry.cannaday@dentons.com)  
*Counsel for Chisos, Ltd.*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|  |   |                                |
|--|---|--------------------------------|
| <b>In re:</b>                                | : | <b>Chapter 11</b>              |
|  | : |                                |
| <b>Samson Resources Corporation, et al.,</b> | : | <b>Case No. 15-11934 (CSS)</b> |
|  | : |                                |
| <b>Debtors.</b>                              | : | <b>Jointly Administered</b>    |
|  | : |                                |
|  | : | <b>Re: D.I. _____</b>          |
|  | : |                                |

**ORDER GRANTING MOTION OF CREDITOR CHISOS, LTD.  
FOR ADEQUATE PROTECTION**

Upon consideration of the Motion of Creditor Chisos, Ltd. (“Chisos”) for Adequate Protection (the “Motion”), it appearing that proper notice of the Motion has been given and that no further notice is required prior to granting the relief requested in the Motion, and the Court having found that the relief sought therein is reasonable and necessary,

IT IS HEREBY ORDERED as follows:

1. The Motion is GRANTED;
2. The above-captioned Debtors (“Debtors”) shall amend its schedules to reflect the unpaid prepetition royalties owed to Chisos as secured claims;
3. The Debtors shall pay Chisos estimated prepetition royalties in the amount of \$913,451.53 within \_\_\_ days of the entry of this Order;
4. The Debtors shall provide an accounting to Chisos for the post-petition use of Chisos’ cash collateral within \_\_\_ days of the entry of this Order; and
5. The Debtors shall establish a separate trust account f/b/o Chisos, Ltd. royalty interests and deposit into such account (i) the amount of \$340,000.00 within \_\_\_ days of the entry of this Order, for the payment of estimated post-petition royalties from sales of hydrocarbons, and (ii) the amount of \$30,000.00 on the first banking day of each month hereafter for the payment of estimated royalties arising out of the previous month’s sales of hydrocarbons going forward.

Dated: \_\_\_\_\_, 2016

\_\_\_\_\_  
The Honorable Christopher S. Sontchi, Judge



**CERTIFICATE OF SERVICE**

I, Jason C. Powell, Esquire, hereby certify that on this 23rd day of December, 2015, one copy of the foregoing **Motion of Creditor Chisos, Ltd., for Adequate Protection** was made upon the following counsel in the manner indicated.

**BY HAND-DELIVERY:**

David Gerardi  
Office of the U.S. Trustee  
J. Caleb Boggs Federal Building  
844 King Street, Suite 2313, Lockbox 35  
Wilmington, DE 19801

Tiara N. A. Patton  
U.S. Dept. Of Justice  
Office of the United States Trustee  
J. Caleb Boggs Federal Building  
844 King St., Ste 2207, Lockbox # 35  
Wilmington, DE 19801

Domenic E. Pacitti, Esquire  
Michael W. Yurkewicz, Esquire  
Klehr Harrison Harvey Branzburg, LLP  
919 Market Street, Suite 1000  
Wilmington, DE 19801

Joseph J. Farnan, Jr., Esquire  
Joseph J. Farnan, III, Esquire  
Michael H. Farnan, Esquire  
Farnan, LLP  
919 N. Market Street, 12th Floor  
Wilmington, DE 19801

**BY U.S. MAIL:**

Morton R. Branzburg, Esquire  
Klehr Harrison Harvey Branzburg, LLP  
1835 Market Street, Suite 1400  
Philadelphia, PA 19103

Ryan J. Dattilo, Esquire  
Robert A. Gretch, Esquire  
Yosef Reimer, Esquire  
Edward O. Sassower, Esquire  
Joshua Sussberg, Esquire  
Kirkland & Ellis, LLP  
601 Lexington Avenue  
New York, NY 10022

Stephen C. Hackney, Esquire  
Ross Kwasteniet, Esquire  
James H.M. Sprayregen, Esquire  
Kirkland & Ellis, LLP  
300 North LaSalle  
Chicago, IL 60654

John C. O'Quinn, Esquire  
Kirkland & Ellis, LLP  
655 Fifteenth Street, N.W.  
Washington, DC 2005-5793

Angela Ferrante, Esquire  
Karen Beth Shaer, Esquire  
The Garden City Group, Inc.  
1985 Marcus Ave., Suite 200  
Lake Success, NY 11042

Claudine Columbres, Esquire  
Glenn M. Kurtz, Esquire  
Thomas MacWright, Esquire  
Michele J. Meises, Esquire  
J. Christopher Shore, Esquire  
White & Case, LLO  
1155 Avenue of the Americas  
New York, NY 10036

Thomas E. Lauria, Esquire  
White & Case  
200 South Biscayne Blvd., Suite 4900  
Miami, FL 33131

Upon penalty of perjury I declare that the foregoing is true and correct.

/s/ Jason C. Powell  
Jason C. Powell, Esquire (No. 3768)