

SURFACE DAMAGE AND RELEASE AGREEMENT

This Surface Damage and Release Agreement ("**Agreement**") is made and entered into this 22nd day of June, 2018 ("**Effective Date**"), by and between **Hungenberg UH Farms, LLLP** ("**Owner**") with an address of 31466 County Rd 39 1/2, Greeley, CO 80631, and **Incline Energy LLC**, ("**Operator**") with an address of 5019 N. Central Expressway, Suite B, Dallas, TX 75205. Owner and Operator are sometimes referred to herein individually as a "**Party**," or collectively as the "**Parties**."

WITNESSETH:

For and in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **OWNERSHIP; PROPOSED OPERATIONS.** Owner owns the surface estate, including without limitation all subsurface voids and pore spaces, of certain lands located in Weld County, Colorado, more specifically described as follows (collectively, "**Lands**"):

TOWNSHIP 6 NORTH, RANGE 65 WEST, 6TH P.M.
SECTION 27: E/2SE/4

CONTAINING 80.00 ACRES, MORE OR LESS

Operator, and/or its affiliates, owns working interests in oil and gas leases covering all or portions of the Lands, lands pooled or included in spacing units therewith, and/or lands adjacent thereto (each a "**Lease**," and collectively, "**Leases**"). The Parties acknowledge that Operator may have responsibilities to one or more third parties pursuant to one or more joint operating agreements (collectively, "**JOAs**") with respect to the Leases and Lands.

Operator intends to drill or cause to be drilled one or more oil and/or gas well or wells on the Lands pursuant to the Leases (collectively, "**Wells**"), the surface locations of which shall be located on those discrete portions of the Lands set forth more particularly on Exhibit "A," attached hereto and incorporated herein (collectively, "**Operations Area**"). In order for Operator to locate, survey, drill, construct, complete, produce, maintain, rework, repair, operate and plug the Wells and all Facilities (as defined below) associated therewith (collectively, "**Operations**"), including, but not limited to, access roads (collectively, "**Access Roads**"), pipelines, flow lines, separators, tank batteries, electric lines and all other facilities and/or structures necessary for Operator to conduct its Operations concerning the Wells (collectively, "**Facilities**"), it is necessary that Operator enter and utilize a portion of the Lands.

2. **GRANT OF RIGHTS; NON-EXCLUSIVITY. OWNER HEREBY GRANTS TO OPERATOR, ITS SUCCESSORS AND ASSIGNS, AN EASEMENT AND RIGHT-OF-WAY OVER, ACROSS AND UNDER THE LANDS FOR THE PURPOSE OF CONDUCTING OPERATIONS. SUCH GRANT SHALL SPECIFICALLY INCLUDE THE CONVEYANCE OF ALL SUCH SURFACE AND SUBSURFACE EASEMENTS AND RIGHTS-OF-WAY UPON, OVER, ACROSS AND/OR BENEATH THE LANDS AS MAY BE REASONABLY NECESSARY FOR OPERATOR TO CONDUCT ITS OPERATIONS ON THE OPERATIONS AREA PROVIDED THAT OPERATOR SHALL USE ITS BEST EFFORTS TO ENTER, USE AND OPERATE THE WELLS, OPERATIONS AREA, ACCESS ROADS AND FACILITIES IN A MANNER TO CAUSE THE LEAST DISTURBANCE TO OWNER AND OWNER'S BUSINESS OPERATIONS; NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, OPERATOR'S USE OF THE LANDS FOR THE PURPOSES CONTEMPLATED BY THIS AGREEMENT SHALL BE NON-EXCLUSIVE IN NATURE, AND OWNER HEREBY RESERVES THE RIGHT TO USE THE LANDS FOR ALL PURPOSES NOT OTHERWISE INCONSISTENT AND/OR INTERFERING**

WITH THE RIGHTS CONVEYED TO OPERATOR PURSUANT TO THIS AGREEMENT. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE PARTIES ACKNOWLEDGE AND AGREE THAT THE GRANT AND EXERCISE OF ITS RIGHTS PURSUANT TO THIS AGREEMENT SHALL BE IN ALL CASES FULLY DEFERENTIAL AND SUBJECT TO THE RIGHTS OF THE PARTIES TO ANY EXISTING SUAS WITH RESPECT TO THE LANDS.

Material changes to the Operations Area may be made by Operator only with the prior written consent of Owner, which shall not be unreasonably withheld, but any such changes will not unduly interfere with Owner's use of the Lands. It is also understood and agreed that additional Facilities located outside of the Operations Area may be necessary for the conduct of Operations, and in these circumstances, Owner and Operator agree to designate in writing a mutually agreeable location for such Facilities.

4. **CONDUCT OF OPERATIONS.** Operator's Operations on the Operations Area will be conducted pursuant to the terms of the Leases, this Agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission ("**COGCC**"), and applicable Colorado law.

5. **COMPENSATION AMOUNT.** Operator shall pay Owner the sum of [REDACTED] for each Well (collectively, "**Consideration**") drilled from a surface location situated in the Operations Area, inclusive of all Facilities associated with each such Well. The Consideration shall be deemed full and agreed consideration for all damages caused or created by reason of the ingress/egress to/from the Operations Area, and the Operations conducted upon the Lands provided such ingress/egress and Operations conducted are conducted in accordance with the terms set forth herein. Such damages shall include, without limitation, damage to growing crops and crop land; the removal, transportation and care of any livestock; the re-seeding, construction and use of Access Roads; and the preparation and use of the Operations Area. Major Operations conducted in accordance with the terms herein, drilling and completion of any Well (such as refracing, recompletion, deepening, and/or redrilling), except in case of emergency, shall require ten (10) days prior written notice to Owner.

6. **ADDITIONAL SURFACE USE PROVISIONS.** With respect to its Operations, Operator shall comply with the following provisions:

A. Access Roads:

- (i) Access roads will not exceed twenty feet (20') in width;
- (ii) Operator will maintain all Access Roads in good repair and condition; and
- (iii) Operator will communicate with all vendors and service companies to obey speed restrictions upon the Access Roads; provided however, the Parties acknowledge that Operator cannot guarantee all traffic associated with Operations will be channeled in a certain direction.

B. Surface Reclamation (collectively, "**Reclamation**"):

(i) Upon the expiration of the Term (as defined below), all portions of the Lands used in the conduct of Operations shall be restored by Operator to their original contour, as nearly as is reasonably practicable, and as may be necessary pursuant to applicable Colorado law; and

(ii) All guy line anchors for drilling and completion rigs shall be immediately removed after such work is completed.

C. Drainage:

(i) Operator shall install culverts on the portions of the Lands utilized for Operations as may be necessary to maintain the drainage and irrigation existing on the Lands as of the time such Operations commenced.

D. Property damage:

(i) Notwithstanding Paragraph 5 hereof, if by reason of the Operations there is damage to personal property ("**Property Damage**") of the Owner, including but not limited to irrigation wells, fences, culverts, bridges, pipelines, ditches, and/or irrigation systems (collectively, "**Owner Property**"), Operator will repair or replace such items after consultation with and to the reasonable satisfaction of Owner. Moreover, and again notwithstanding Paragraph 5 hereof, if, by reason of installation and construction of the Wells or Access Roads, damage is caused to growing crops or Owner is unable to plant, cultivate or irrigate such crops (collectively, "**Crop Damage**"), Operator shall be entitled to and Operator shall be liable for the fair market value of only the crops which are located adjacent to, but outside of the Operations Lands that are impacted by such installation and construction. Owner shall notify Operator of any Owner Property damaged within fifteen (15) days of the occurrence of such damage.

E. Operations/cleanliness:

(i) Operator agrees that all trash, refuse pipe, equipment, liquids, chemicals, or other materials brought on the Lands that are not necessary for Operations shall be removed from the Lands no later than thirty (30) days after the initial drilling and completion of the Wells. No items will be burned or buried on the Lands. Additionally, the Operations Area shall be kept free and clear of all noxious weeds, unsightly growth and trash either during drilling operations or after completion and production.

F. Fencing:

(i) During the initial construction, drilling and completion portions of the Operations, the locations of the Wells within the Operations Area shall be fenced, at Operator's and any other leasehold owner privity to a JOA including the Lands and Leases sole cost and expense, if requested by Owner in writing. Operator shall also install cattle guards and/or gates where reasonably necessary.

G. Sound Walls/Visual screen:

(i) Operator and any other leasehold owner privity to a JOA including the Lands and Leases, at their sole cost and expense, will provide engineered noise abatement sound walls to comply with COGCC requirements.

7. **DEFAULT AND RIGHT TO CURE.** In the event of alleged default by Operator in the performance of this Agreement, Owner shall notify Operator, by certified mail, return receipt requested, of such alleged default. Operator shall have thirty (30) days from receipt of such written default notification in which to cure, dispute or otherwise respond to Owner before any formal proceedings may be initiated by Owner. Except as otherwise agreed in writing, no waiver by Owner of any breach by Operator of any of its obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any subsequent or continuing breach of the same, nor shall any forbearance by Owner to seek a remedy for any breach by the Operator be deemed to be a waiver by Owner of its rights or remedies with respect to such breach; however in no event will Operator be liable for consequential damages except as expressly set forth herein.

8. **RELEASE; INDEMNITY.** The Parties enter into this Agreement to evidence their entire agreement regarding the payment of surface damages, entry, surface use, and any other matters relating to Operator's use of the Lands. Owner hereby releases and agrees to hold harmless Operator from any and all liability for damages to the Lands which arise from, out of or in connection with the Operations for which Consideration has been paid to Owner or for which Property Damage and Crop Damage

compensation has been paid by Operator to Owner. Operator agrees to indemnify and hold Owner harmless from any and all claims, damages and causes of action arising out of the Operations on or use of the Lands that may be asserted by any of Operator's agents, employees, subcontractors, contractors or persons entering upon the premises at the request of Operator.

9. **WAIVER OF 30-DAY NOTICE.** Owner hereby waives the minimum 30-day written notice requirement for Operations commencement, and any other notice or consultation requirements, as may be required under Colorado law, including without limitation the COGCC Rules. Without waiving the foregoing, Operator agrees to provide written notice to Owner after it has submitted a request for permit to drill to the COGCC for each of the Wells.

10. **NOTICE FOR ADDITIONAL OPERATIONS.** Operator will comply with the COGCC Rules requiring that advance notice be provided to Owner for major Operations subsequent to the initial location, drilling and completing on the Wells.

11. **NOTICES.** Notice by either Party as required or contemplated by this Agreement shall be promptly given, in writing via e-mail, with subsequent written confirmation sent by United States mail, postage prepaid and addressed to either Party at the address as designated below; or to such other place as either Party may from time to time designate by notice in writing to the other:

Owner(s):

Hungenberg UH Farms, LLLP
31466 County Rd 39 1/2
Greeley, CO 80631

Attn: Paul Hungenberg

E-Mail: Jordan@hungenbergproduce.com

Operator:

Incline Energy, LLC
5019 N. Central Expressway, Suite B,
Dallas, TX 75205

Attn: William Francis

E-Mail: william@inclineresources.com

12. **BINDING EFFECT.** The covenants and conditions herein contained, and all of the provisions of this Agreement shall inure to the benefit of and be binding upon the Parties, their respective heirs, representatives, successors and/or assigns. It shall be Owner's sole responsibility to advise any third parties of the existence of this Agreement, and Operator's right to utilize the Lands pursuant hereto, in connection with the payment of any portion of the Consideration, if any, due such third party(ies) from Owner.

13. **CONFIDENTIALITY.** The Parties agree to keep the terms and conditions of this Agreement confidential, and will not disclose such matters to any third party, without the advance written consent of the other Party, or if ordered to do so in a legal proceeding. While the specific terms hereof are to remain confidential between the Parties, Operator or Owner may record a memorandum of this Agreement in records of Weld County, Colorado.

14. **ENTIRE AGREEMENT.** This instrument contains the entire agreement between the Parties and may not be modified orally or in any other manner other than by agreement in writing signed by all Parties or their respective successors or assigns.

15. **TERM.** This Agreement shall remain in full force and effect for so long as the oil and gas leases which were executed between Paul Hungenberg and Michael Hungenberg, as Lessors and Incline Energy, LLC, as Lessees, both dated February 22, 2018 and recorded on March 22, 2018 at the Weld County, Colorado Clerk & Recorder under Reception Numbers 4384956 and 4385001 respectively, shall remain in full force and effect ("Term"), after which time this Agreement shall terminate in its entirety, subject only to the payment of any Consideration required hereunder and the performance of Operator's Reclamation obligations hereunder.

16. **REASONABLE ACCOMMODATION.** Owner acknowledges the right to use of the Lands by Operator as herein described is expressly granted to Operator, its successor and assigns; therefore, Owner further acknowledges that Operator's use of the Lands as contemplated herein shall constitute "reasonable accommodation" by Operator, its successors and assigns, with respect to Colorado Revised Statute §34-60-127.

17. **COUNTERPARTS.** This Agreement may be executed by facsimile or electronic scan, in counterparts, each of which will be considered an original and enforceable against either Party.

18. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by, construed and enforced in accordance with the laws of Colorado. Venue shall be deemed to be exclusively in the state district court(s) of Weld County, Colorado.

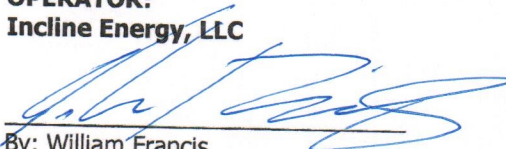
19. **ATTORNEY'S FEES AND COSTS.** The Parties agree that the prevailing Party in any action resulting from a breach of this Agreement will be entitled to recovery of its reasonable attorneys' fees and costs incurred therein.

20. **AUTHORITY OF SIGNATORIES.** The signatories below declare, warrant and represent that they have the authority to enter into this Agreement on behalf of their respective principals, if any.

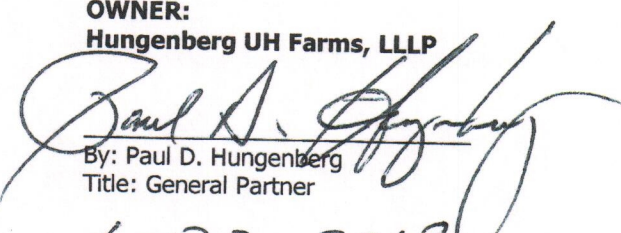
21. **SUCCESSORS.** This Agreement constitutes a covenant running with the Lands, and is binding upon, inures to the benefit of, and is enforceable by, the Parties and their respective successors, affiliates, administrators, trustees, executors and assigns.

IN WITNESS WHEREOF, the Parties have set their hands, the day and year first written above, to be effective for all purposes on the Effective Date.

OPERATOR:
Incline Energy, LLC


By: William Francis
Title: Manager

OWNER:
Hungenberg UH Farms, LLLP


By: Paul D. Hungenberg
Title: General Partner

6-22-2018

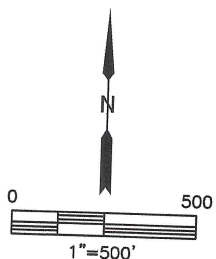
EXHIBIT "A"

This Exhibit "A" is attached to and made a part of that certain Surface Use Agreement by and between Hungenberg UH Farms LLLP, Owner, and Incline Energy, LLC, Company. Covering the following lands:



Township 6 North, Range 65 West, 6th P.M.
Section 27: PT E1/2SE1/4
Parcel Number(s): 080327400080
Weld County, Colorado

Reviewed by Owner: Hungenberg UH Farms LLLP

Initial here: _____



LEGEND

-  OIL AND GAS OPERATIONS AREA ("OGOA") = 5.0 ACRES
-  APPROXIMATE ± PERMANENT ACCESS EASEMENT



DATE: 5/31/2018
PROJECT#: 2018097