

# Mineral Rights Leasing Terms

## I. Pre-leasing Stage

**Landman-** “a person that, in the course and scope of the person's business, does any of the following:

- (1) Acquires or manages oil or gas interests.
- (2) Performs title or contract functions related to the exploration, exploitation, or disposition of oil or gas interests.
- (3) Negotiates for the acquisition or divestiture of oil or gas rights, including the acquisition or divestiture of land or oil or gas rights for a pipeline.
- (4) Negotiates business agreements that provide for the exploration for or development of oil or gas.” GS § 113-425(a)

**Severed Estate-** Split ownership of the surface and subsurface “by conveyance of the oil and gas rights from the owner or by reservation of the oil and gas rights by the owner.” GS § 47E-4(b2)(2)

## II. Leasing Stage

**Assignment of lease-** Transfer of the lease by the lessee to a sub-lessee

**Force Majeure clause-**

**Free Ride-** “After being reimbursed for the actual expenditures for drilling and equipping and operating expenses incurred during the drilling operations and until the operator is reimbursed, the operator shall thereafter pay to the owner of each tract within the pool his ratable share of the production calculated at the market price in the field at the time of such production less the reasonable expense of operating the well.” GS § 113-393(a)

**Habendum clause-**

**Horizontal Pugh clause-**

**Leased interest owner-**

**Lessee-** “shall mean the person entitle under an oil and gas lease to drill and operate wells.” GS § 113-389(6a)

**Lessor-** “the owner of subsurface oil or gas resources who has executed a lease and who is entitled to the payment of a royalty on production.” GS § 113-389(6b)

**“Oil and gas developer or operator” or “developer or operator”-** “a person who acquires a lease for the purpose of conducting exploration for or extracting oil or gas.” GS § 113-389(7a)

**Owner-** “the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and others.” GS § 113-389(8)

**Producer-** “the owner of a well or wells capable of producing oil or gas, or both.” GS § 113-389(11)

**Pool-** an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. GS § 113-389(10)

**Pooling-** the grouping of mineral interests that lay within a common spacing unit (Landy and Reese’s Getting to Yes: A Proposal for a Statutory Approach to Compulsory Pooling in Pennsylvania, Environmental Law Reporter. 2011).

**Production cost-** cost of drilling, completion, and operating, including raw materials and labor

**Risk Penalty-** “reimbursement solely out of production, to the parties advancing the costs, of all actual and reasonable drilling, completion, and operating costs plus a charge for risk not to exceed [x] percent of the drilling and completion costs.” Tex. Nat. Res. Code § 102.052(a)

**Royalty interest-** A share of production, or the value or proceeds of production, free of the costs of production, when and if there is production. A *landowner’s royalty* is the share of production or production revenues or value, free of costs of production, provided for the lessor (e.g., the landowner) in the royalty clause of the oil and gas lease (John S. Lowe’s Oil and Gas Law in a Nutshell, 5<sup>th</sup> ed. 2009).

**Surface owner-** “the person who holds record title to or has a purchaser’s interest in the surface of real property.” GS § 113-389(12b)

### **Surface use agreement**

**Unleased interest owner-** A non-consenting, unleased mineral owner is a landowner who has not entered into an oil and gas lease (Landy and Reese’s Getting to Yes: A Proposal for a Statutory Approach to Compulsory Pooling in Pennsylvania, Environmental Law Reporter. 2011).

### **Vertical Pugh clause**

**Working interest** - The rights to the mineral interest granted by an oil and gas lease, so-called because the lessee (i.e., the developer or operator) acquires the right

to work on the leased property to search, develop and produce oil and gas and the obligation to pay all costs. It is sometimes used to describe the mineral interest itself. Generally, a working interest owner is an oil and gas company that has acquired the mineral rights to a piece of property via a lease for further development (John S. Lowe's Oil and Gas Law in a Nutshell, 5<sup>th</sup> ed. 2009).

### **III. Pre-Drilling Stage**

#### ***Buffers***

#### ***Drilling unit***

#### ***Setbacks***

***Spacing units***- created based upon minimum spacing requirements. Dictate both the minimum acreage required to drill a well, in addition to well density over the designated common source of supply. These units are distinct from the larger patches of land created by "unitization." A spacing unit refers to the area in which only a single well may be drilled. Multiple spacing units may sit over a single common source of supply. (Landy and Reese's Getting to Yes: A Proposal for a Statutory Approach to Compulsory Pooling in Pennsylvania, Environmental Law Reporter. 2011)

***Tender***- "a permit or certificate of clearance for the transportation of oil, gas or products, approved and issued or registered under the authority of the Department." GS § 113-389(13)

***Unitization***- designates a common source of supply, such as reservoir of oil. The entirety of the land overlaying the common source of supply is considered to be within this unit. (Landy and Reese's Getting to Yes: A Proposal for a Statutory Approach to Compulsory Pooling in Pennsylvania, Environmental Law Reporter. 2011)

***Water supply***- shall mean any groundwater or surface water intended or used for human consumption; household purposes; or farm, livestock, or garden purposes. GS § 113-389(15)

#### ***Well Spacing***

### **IV. Drilling Period**

***Base fluid***- "the continuous phase fluid type, such as water, used in a hydraulic fracturing treatment." GS § 113-389(1)

#### ***Drilling***

**Hydraulic fracturing additive-** “any chemical substance or combination of substances, including any chemical or proppants, which is intentionally added to a base fluid for purposes of preparing a hydraulic fracturing fluid or treatment of a well.” GS § 113-389(3a)

**Hydraulic fracturing fluid-** “the fluid, including the applicable base fluid and all hydraulic fracturing additives, used to perform a hydraulic fracturing treatment.” GS § 113-389(3b)

**Hydraulic fracturing treatment-** “all stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and gas.” GS § 113-389(3c)

**Illegal gas-** “gas which has been produced within the State of North Carolina from any well during any time that well has produced in excess of the amount allowed by any rule, regulation or order of the Department, as distinguished from gas produced within the State of North Carolina from a well not producing in excess of the amount so allowed, which is ‘legal gas.’” GS § 113-389(4)

**Illegal oil-** “oil which has been produced within the State of North Carolina from any well during any time that that well has produced in excess of the amount allowed by rule, regulation or order of the Department, as distinguished from oil produced within the State of North Carolina from a well not producing in excess of the amount so allowed, which is ‘legal oil.’” GS § 113-389(5)

**Illegal product-** any product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal oil or illegal gas or from any product thereof, as distinguished from “legal product,” which is a product processed or derived to no extent from illegal oil or illegal gas. GS § 113-389(6)

**Proppant-** sand or any natural or man-made material that is used in a hydraulic fracturing treatment to prop open the artificially created or enhanced fractures once the treatment is completed. GS § 113-389(12a)

## **V. Maintenance/Production/Accident Remediation Stage**

**Gas-** “all natural gas, including casing-head gas, and all other hydrocarbons not defined as oil in subdivision (7).” GS § 113-389(3)

**Product-** “any commodity made from oil or gas and shall include refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casing-head gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzene, wash oil, waste oil, blended gasoline, lubricating oil, blends or

mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.” GS § 113-389(12)

**Oil-** “crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.” GS § 113-389(7)

### ***Production***

### ***Storage***

**Waste-** “in addition to its ordinary meaning, shall mean ‘physical waste’ as that term is generally understood in the oil and gas industry. It shall include:

- a. The inefficient, excessive or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner which results, or tends to result, in reducing inefficiently the quantity of oil or gas ultimately to be recovered from any pool in this State.
- b. The inefficient storing of oil, and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.
- c. Abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals causing undue drainage between tracts of land.
- d. Producing oil or gas in such manner as to cause unnecessary water channelling or coning.
- e. The operation of any oil well or wells with an inefficient gas-oil ratio.
- f. The drowning with water of any stratum or part thereof capable of producing oil or gas.
- g. Underground waste however caused and whether or not defined.
- h. The creation of unnecessary fire hazards.
- i. The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount which is necessary in the efficient drilling or operation of the well.
- j. Permitting gas produced from a gas well to escape into the air.” GS § 113-389(14)

## **VI. Closing Stage**

DRAFT