

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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)	
In re:)	Chapter 11
)	
QUICKSILVER RESOURCES, INC., <u>et al.</u>,)	Lead Case No. 15-10585 (LSS)
)	
Debtors.)	Jointly Administered
)	
-----x		Hearing Date: April 15, 2015 at 2:00 pm

**LIMITED OBJECTION OF NOMAC DRILLING L.L.C. TO DEBTORS'
MOTION FOR AN ORDER AUTHORIZING AND APPROVING REJECTION
OF CERTAIN EXECUTORY CONTRACTS NUNC PRO TUNC**

Nomac Drilling L.L.C. ("Nomac"), as and for its limited objection (this "Objection"), by its undersigned attorneys The Rosner Law Group LLC and Baker Botts L.L.P., to the *Debtors' Motion for an Order Authorizing and Approving Rejection of Certain Executory Contracts Nunc Pro Tunc to the Dates Specified* (the "Motion"), respectfully represents as follows:

BACKGROUND

1. As set forth in the Motion, the Debtors are engaged in the acquisition, exploration, development, and production of onshore oil and natural gas in North America. Among the contracts to which the Debtors are a party are certain Daywork Drilling Contracts, by and between Debtor Quicksilver Resources, Inc. ("QRI"), and Nomac pursuant to which Nomac furnishes equipment and labor and performs other services, including security, in respect of certain of the Debtors' drilling rigs in the Permian Basin in Texas. Copies of the most recent such contract and amendment (collectively, the "Nomac Agreement") are annexed hereto as Exhibit A.

2. The Nomac Agreement had been renegotiated a number of times in 2014 and most recently pursuant to the letter agreement dated as of January 30, 2015, annexed hereto as part of Exhibit A (the "January Amendment"). In the January Amendment, Nomac agreed to reduce the day rates charged to QRI for Nomac's services for the Debtors' Rig 133 from \$24,000 per day to \$21,000 per day and to increase modestly the mobilization rate from \$20,665 to \$21,000. The January Amendment also provided that the contract for Rig 308 would be terminated while the contract for Rug 133 was extended.

3. Rather than terminate the Nomac Agreement prepetition which would have entitled Nomac to file a Mechanics and Materialsmen lien under Texas law and would have permitted Nomac to withdraw its personnel from the Debtors' rig, the Debtors instead opted to leave the Nomac Agreement in place knowing that Nomac would continue to incur personnel and security expenses at the rig post-petition. Since the Petition Date, consistent with the provisions of the Bankruptcy Code and the terms of the Nomac Agreement, Nomac has performed its obligations maintaining both labor and security at the rig.

4. Now the Debtors seek to reject the Nomac Agreement. While Nomac does not dispute that the Debtors may reject the Nomac Agreement as a matter of law, the Debtors cannot make that rejection effective as of the Petition Date so as to deprive Nomac of its administrative claim for the post-petition expenses incurred for the period through the entry of an order authorizing the rejection under Section 365 of the Bankruptcy Code.

THE DEBTORS ARE NOT ENTITLED TO REJECTION OF THE NOMAC AGREEMENT NUNC PRO TUNC AS OF THE PETITION DATE

5. Section 365(a) of the Bankruptcy Code provides that "the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). As set forth in a case cited by the Debtors, *In re Thinking Machines Corp.*,

67 F.3d 1021, 1025 (1st Cir. 1995), the language of Section 365 makes court approval a condition precedent to the effectiveness of the trustee's rejection and as a result the date of the court's approval controls rejection. *See In re Chi-Chi's, Inc.*, 305 B.R. 396, 399 (Bankr. D. Del. 2004). This is the general rule for all executory contracts. *See e.g. In re Fleming Companies, Inc.*, 304 B.R. 85, 96 (Bankr. D. Del. 2004) (citing, *In re CCI Wireless, LLC*, 279 B.R. 590 (Bankr. D. Colo. 2002)). Only when the principles of equity and fairness dictate otherwise may the court approve an earlier date in the context of a lease, *see In re Thinking Machines Corp.*, 67 F.3d at 1028, but the Debtors must demonstrate that such a balance of the equities exists in their favor by a preponderance of the evidence. *See id.*

6. The Motion fails with respect to the Nomac Agreement in two material respects. First, the Debtors offer no authority for its proposition that an executory contract other than a real estate lease can be rejected *nunc pro tunc* back to the Petition Date certainly not a services contract such as the Nomac Agreement. The decisions cited by the Debtors apply only to unexpired leases -- not service agreements. Second, even if the points and authorities cited by the Debtors could be applied to the Nomac Agreement, the Debtors made no showing that the balance of equities tips in their favor. The single, unsworn statement made by the Debtors in the Motion states "Because of market conditions in the oil and gas industry, this contract has become uneconomic and the pricing exceeds market standards." (See Motion at 3-4.) The Debtors' only other statement consists of what they believe they could get *after* rejection of the Nomac Agreement, but they do not appear to have any bids as of the date of the Motion.¹

7. While such limited conclusory statements may constitute a basis for the proper exercise of the Debtors' business judgment for rejection of the Nomac Agreement, they do not approach the threshold of evidence required to warrant *nunc pro tunc* rejection in contravention

¹ They fail to note that the terms of the Nomac Agreement were revised less than 60 days before the Petition Date.

of Section 365(d)(3) of the Bankruptcy Code. Pursuant to the terms of the Nomac Agreement, Nomac must maintain a substantial presence at the rig for security purposes and in order to respond to any request by the Debtors to drill. Nomac could not merely pull its personnel off the rig as of the Petition Date. Furthermore, the Debtors would be required to provide for the security of the rig if Nomac did so. In fact, Nomac did as it was told by the Debtors, followed their directions and awaited further orders. While it did so, Nomac continued to maintain the rig, incurred rental expenses for equipment and had crews ready and available to re-commence operations under the Nomac Agreement. The Debtors have made plain in the Motion that they have not solicited new bids as of the Motion date and so they have no ability to secure the rig or shut it down properly. In spite of this, the Debtors have simply failed to identify any basis for their request to make the rejection retroactive to the Petition Date.²

CONCLUSION

8. As the Debtors have failed to meet their burden with respect to the retroactive effectiveness of the Nomac Agreement or with respect to the applicability of retroactive rejection of the Nomac Agreement, this Court should deny making any rejection of the Nomac Agreement retroactive, or effective *nunc pro tunc*, to the Petition Date in these chapter 11 cases.

WHEREFORE, Nomac respectfully requests that this Court (i) uphold the Objection and deny the Motion insofar as it requests retroactive rejection of the Nomac Agreement *nunc pro tunc* to or as of the Petition Date, (ii) permit Nomac to reserve its rights to request any claim,

² Indeed, had the Debtors expressed an intent to reject the contract prior to bankruptcy or failed to make payment timely, Nomac would have been entitled to file a lien under Texas law and reserves the right to do so consistent with Texas law and the applicable provisions of the Bankruptcy Code. See 11 U.S.C. § 546(b).

including any administrative expense priority claim, consistent with rejection as of the date of the entry of any order authorizing such rejection, and (iii) grant such other and further relief as may be just and proper.

New York, New York
Dated: April 8, 2015

THE ROSNER LAW GROUP LLC
824 North Market Street, Suite 810
Wilmington, Delaware 19801
Phone: 302-777-1111

By: s/ Frederick B. Rosner

and

BAKER BOTTS LLP
30 Rockefeller Plaza
New York, New York 10112
Phone: 212-408-2500

By: Emanuel C. Grillo
A Member of the Firm



January 30, 2015

Quicksilver Resources Inc.
801 Cherry Street – Suite 3700, Unit 19
Fort Worth, TX 76102
Attn: Dennis Barrett

Re: Rig 308 and 133 Term and Rate Adjustment

Dear Dennis:

This letter is our agreement to amend the terms of those certain Daywork Drilling Contracts, entered into by and between Quicksilver Resources Inc. (“Operator”) and Nomac Drilling, L.L.C. (“Contractor”), dated July 9, 2014, in respect of Contractor’s Rig 308 (as amended to date, the “Rig 308 Contract”) and dated November 19, 2014, in respect of Contractor’s Rig 133 (as amended to date, the “Rig 133 Contract”). In consideration of market conditions, changes to Operator’s drilling program, the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

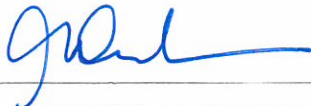
1. Effective the date hereof, the term of the Rig 308 Contract shall be reduced such that the Rig 308 Contract shall terminate upon rig release from the “Robbins Fed Unit 12H” well.
2. Effective the date hereof, the term of the Rig 133 Contract shall be extended until August 31, 2015.
3. Effective upon rig release from the “Puckett Trusts C 1H” well, the rates in the Rig 133 Contract shall be amended such that (a) the \$24,300.00 rate therein shall change to \$21,000.00 day rate and (b) the \$20,655.00 rate therein shall change to \$21,000.00 mobilization rate, for all purposes.
4. Except as otherwise herein modified, the Rig 308 Contract and the Rig 133 Contract shall remain in full force and effect pursuant to the terms thereof.


As acceptance of our agreement, please sign and return a copy of this letter to the address below or via email to jay.reed@nomacdrilling.com.

Nomac Drilling, L.L.C.
Attention: Jay Reed
3400 S. Radio Road
El Reno, Oklahoma 73036

Quicksilver Resources Inc.

Nomac Drilling, L.L.C.

By:  _____
Name: GLENN DARDEN
Title: PRESIDENT

By:  _____
Name: James G. Minnier
Title: President

DAYWORK DRILLING CONTRACT

THIS CONTRACT CONTAINS PROVISIONS RELATING TO INDEMNITY, RELEASE OF LIABILITY, AND ALLOCATION OF RISK

This Contract is made and entered into on the date hereinafter set forth on the signature page hereto (the "Effective Date") by and between the parties herein designated as "Operator" and "Contractor."

OPERATOR: Quicksilver Resources Inc.
Address: 801 Cherry Street – Suite 3700, Unit 19
 Fort Worth, TX 76102
 Attn: Dennis Barrett

CONTRACTOR: Nomac Drilling, L.L.C. – Rig 133
Address: 3400 S. Radio Road
 El Reno, OK 73036

In consideration of the mutual promises, conditions and agreements herein contained and the specifications and special provisions set forth in Exhibit "A" attached hereto and made a part hereof (this "Contract"), Operator engages Contractor as an independent contractor to drill the hereinafter designated well or wells in search of oil or gas on a Daywork Basis.

For purposes hereof, the term "Daywork" or "Daywork Basis" means Contractor shall furnish equipment, labor, and perform services as herein provided, for a specified sum per day under the direction, supervision and control of Operator and any employee, agent, consultant or subcontractor engaged by Operator to direct drilling operations. **When operating on a Daywork Basis, Contractor shall be fully paid at the applicable rates of payment and shall assume only the obligations and liabilities stated herein. Except for such obligations and liabilities expressly assumed by Contractor, Operator shall be solely responsible and assumes liability for all consequences of operations by both parties, including results and all other risks or liabilities incurred in or incident to such operations.**

1. LOCATION OF WELL: Locations described below are for well and Contract identification only and Contractor assumes no liability whatsoever for a proper survey or location stake on Operator's lease.

1.1 Initial Well Locations or Areas:

Well Name and Number: TBD – (2) well contract + one well option
 Parish/County: TBD County State: TX Field Name: Permian Basin
 Well location/description: TBD

2. COMMENCEMENT DATE: Contractor agrees to use reasonable efforts to commence operations for the drilling of the first well hereunder by the 1st day of December, 2014, or upon rig release from current operator.

3. DEPTH: The well(s) shall be drilled to a depth of approximately +/- 18,000 MD feet, or to the N/A formation, whichever is deeper, but the Contractor shall not be required hereunder to drill said well(s) below a maximum depth exceeding the depth capacity of the rig (See Subparagraph 27.1), unless Contractor and Operator mutually agree to drill to a greater depth.

4. DAYWORK RATES: \$24,300.00 (including equipment inventory set forth in Exhibit "A"). Contractor shall be paid at the following rates for the work performed hereunder. For purposes of this Contract, mobilization shall conclude and the operating day rate shall begin upon completion of the pre-spud inspection and the start of nipping up conductor or BOP.

4.1 Mobilization: Operator shall pay Contractor a mobilization fee of \$ (See Subparagraph 27.2) or a mobilization rate of \$ (See Subparagraph 27.2) per day. This sum shall be due and payable in full at the time the rig is rigged up or positioned at the well site ready to spud. Mobilization shall include: All move in and rig up of drilling rig and equipment, all rig down and move out of drilling rig and equipment, including, but not limited to, all permits, trucking, forklifts, and cranes. Operator will pay all trucking, dozer, forklift charges and other associated costs directly to the trucking company.

4.2 Demobilization: Operator shall pay Contractor a demobilization day rate during rig down and transport of \$20,655.00 per day, provided that no demobilization fee shall be payable if this Contract is terminated due to total loss of destruction of the rig. Demobilization shall include: Rig down, load out and move of Contractor's equipment plus actual trucking and equipment costs to demobilize the rig at the time of rig release from the final well hereunder paid directly to the trucking company, plus 85% of the operating day rate per day to Contractor from the final well hereunder back to Contractor's yard in Odessa, TX. If the rig is contracted by a different operator, and such operator pays the mobilization from the final well hereunder to its first well, then Operator shall pay all actual trucking and equipment costs to demobilize (tear down and set out) rig at the time of rig release paid directly to the trucking company, plus 85% of the operating day rate per day to Contractor until such time as the rig is fully rigged down and ready for trucks. For purposes of this Contract, the rig will be considered released from operating day rate when the BOP stack has been nipped down and drilling fluids removed from pits and pits cleaned.

4.3 Moving Rate: During the time the rig is in transit to or from a drill site, or between drill sites (See Subparagraph 27.2), Operator shall pay Contractor a sum of \$20,655.00 per day, plus actual costs of trucking and other equipment used to move the rig between wells. In the event the rig moves between wells on the same location, by any means, the full operating day rate specified in Subparagraph 4.4 shall remain in effect in lieu of the moving rate.

4.4 Operating Day Rate: For work performed per twenty-four (24) hour day with 5 man crew the operating day rate shall be:

Depth Intervals		Without Drill Pipe	With Drill Pipe
From	To		
0'	TD	\$ 24,300.00	\$ 24,300.00
		per day	per day

Using Operator's drill pipe \$ 24,300.00 per day.

If an extra man is provided as a trainee, and Operator has an incentive bonus in place, Operator will pay the same per diem, housing, and bottom hole bonus as provided to all others.

If under the above column "With Drill Pipe" no rates are specified, then the rate per day when drill pipe is in use shall be the applicable rate specified in the column "Without Drill Pipe" plus compensation for any drill pipe actually used at the rates specified below, computed on the basis of the maximum drill pipe in use at any time during each day.

DRILL PIPE RATE PER 24-HOUR DAY

Straight Hole	Size	Grade	Directional or Uncontrollable Deviated Hole	
			Size	Grade
\$ <u>N/A</u> per ft.	_____	_____	\$ _____ per ft.	_____
\$ _____ per ft.	_____	_____	\$ _____ per ft.	_____
\$ _____ per ft.	_____	_____	\$ _____ per ft.	_____

Directional or uncontrolled deviated hole will be deemed to exist when deviation exceeds N/A degrees or when the change of angle exceeds N/A degrees per one hundred feet.

Drill pipe shall be considered in use not only when in actual use but also while it is being picked up or laid down. When drill pipe is standing in the derrick, it shall not be considered in use, provided, however, that if Contractor furnishes special strings of drill pipe, drill collars, and handling tools as provided for in Exhibit "A", the same shall be considered in use at all times when on location or until released by Operator. In no event shall fractions of an hour be considered in computing the amount of time drill pipe is in use but such time shall be computed to the nearest hour, with thirty minutes or more being considered a full hour and less than thirty minutes not to be counted.

4.5 Repair Time: In the event it is necessary to shut down Contractor's rig for repairs, excluding routine rig servicing, Contractor shall be allowed compensation at the applicable rate for such shut down time up to a maximum of 6 hours for any one rig repair job, but not to exceed 24 hours of such compensation for any calendar month. Thereafter, Contractor shall be compensated at a rate of \$0.00 per day. Routine rig servicing shall include, but not be limited to, cutting and slipping drilling line, changing pump or swivel expendables, testing BOP equipment, lubricating rig and servicing the top drive. For purposes of this Subparagraph 4.5, routine rig servicing shall also include repairing any and all damage caused by Operator, Operator's other contractors or Operator's drilling program and repairing any and all damages to the top drive systems and other load path equipment as a result of jarring.

4.6 Standby Rate: \$24,300.00 per day. Standby time shall be defined to include time when the rig is shut down although in readiness to begin or resume operations but Contractor is waiting on orders of Operator or its agents, consultants or representatives, or on materials, services or other items to be furnished by Operator.

4.7 Drilling Fluid Rates: When drilling fluids of a type and characteristic that increases Contractor's cost of performance hereunder, including, but not limited to, oil-based mud or potassium chloride, are in use, then Operator shall pay Contractor in addition to the operating rate specified above:

- (a) \$50.00 per man per day for Contractor's rig-site personnel.
- (b) \$350.00 per day additional operating rate; and
- (c) Cost of all labor, material and services plus up to 24 hours operating day rate to clean rig and related equipment.

4.8 Force Majeure Rate: \$24,300.00 per twenty-four (24) hour day for any continuous period that normal operations are suspended or cannot be carried on due to conditions of Force Majeure as defined in Paragraph 17 hereof. It is, however, understood that subject to Subparagraph 6.3 below, Operator can release the rig in accordance with Operator's right to direct stoppage of the work, effective when conditions will permit the rig to be moved from the location.

4.9 Reimbursable Costs: Operator shall reimburse Contractor for the costs of material, equipment, work or services which are to be furnished by Operator as provided for herein but which for convenience are actually furnished by Contractor at Operator's request, plus 10 percent for such cost of handling. **When, at Operator's request and with Contractor's agreement, Contractor furnishes or subcontracts for certain items or services which Operator is required herein to provide, for purposes of the indemnity and release provisions of this Contract, said items or services shall be deemed to be Operator furnished items or services. Any subcontractors so hired shall be deemed to be Operator's contractor, and Operator shall not be relieved of any of its liabilities in connection therewith.**

4.10 Revision in Rates: The rates and/or payments herein set forth due to Contractor from Operator shall be revised to reflect the change in costs if the costs of any of the items hereinafter listed shall vary by more than 0 percent from the costs thereof on the date of this Contract or by the same percent after the date of any revision pursuant to this Subparagraph:

- (a) Labor costs, including all benefits, of Contractor's personnel;
- (b) Contractor's cost of insurance premiums;
- (c) Contractor's cost of fuel, including all taxes and fees; the cost per gallon/MCF being \$ N/A;
- (d) Contractor's cost of catering, when applicable;
- (e) If Operator requires Contractor to increase or decrease the number of Contractor's personnel;
- (f) Contractor's cost of spare parts and supplies with the understanding that such spare parts and supplies constitute 20 percent of the operating rate and that the parties shall use the U.S. Bureau of Labor Statistics Oil Field and Gas Field Drilling Machinery Producer Price Index (Series ID WPU119102) to determine to what extent a price variance has occurred in said spare parts and supplies;
- (g) If there is any change in legislation or regulations in the area in which Contractor is working or other unforeseen, unusual event that alters Contractor's financial burden.

5. TIME OF PAYMENT: Payment is due by Operator to Contractor as follows:

5.1 Payment for mobilization, drilling and other work performed at applicable rates, and all other applicable charges shall be due, upon presentation of invoice therefor, upon completion of mobilization, demobilization, rig release or at the end of the month in which such work was performed or other charges were incurred, whichever shall first occur. All invoices may be mailed to Operator at the address hereinabove shown.

5.2 Disputed Invoices and Late Payment: Operator shall pay all invoices within 30 days after receipt except that if Operator disputes an invoice or any part thereof, Operator shall, within fifteen days after receipt of such invoice, notify Contractor of the item disputed, specifying the reason therefor, and payment of the disputed item may be withheld until settlement of the dispute, but timely payment shall be made of any undisputed portion. Any sums (including amounts ultimately paid with respect to a disputed invoice) not paid within the above specified days shall bear interest at the rate of 2 percent or the maximum legal rate, whichever is less, per month from the due date until paid. If Operator does not pay undisputed items within the above stated time, Contractor may suspend operations or terminate this Contract as specified under Subparagraph 6.3.

6. TERM: The term of this Contract shall be as follows:

6.1 Duration of Contract: This Contract is effective as of the Effective Date, and it shall remain in effect for a term of two (2) wells commencing on the later of the date specified in Paragraph 2 above or the date that operations actually commence.

6.2 Extension of Term: This Contract may only be extended for one (1) additional well, on like terms and conditions. Operator will notify Contractor of its intent to exercise the extension thirty (30) days prior to TD of second well hereunder. Any further extension to this Contract shall be upon such terms and conditions as are mutually agreeable in writing to each of the parties.

6.3 Early Termination:

(a) **By Either Party:** Upon giving of written notice, either party may terminate this Contract when total loss or destruction of the rig, or a major breakdown with indefinite repair time necessitate stopping operations hereunder. In such event, Operator shall not be obligated to pay Contractor the early termination compensation as set forth in Subparagraph 6.4.

(b) **By Operator:** Notwithstanding the provisions of Paragraph 3 with respect to the depth to be drilled, Operator shall have the right to direct the stoppage of the work to be performed by Contractor hereunder at any time prior to reaching the specified depth. In such event, Operator shall reimburse Contractor as set forth in Subparagraph 6.4 hereof.

(c) **By Contractor:** Notwithstanding the provisions of Paragraph 3 with respect to the depth to be drilled, in the event Operator shall become insolvent, or be adjudicated a bankrupt, or file, by way of petition or answer, a debtor's petition or other pleading seeking adjustment of Operator's debts, under any bankruptcy or debtor's relief laws now or hereafter prevailing, or if any such be filed against Operator, or in case a receiver be appointed of Operator or Operator's property, or any part thereof, or Operator's affairs be placed in the hands of a creditor's committee, or, following three business days after prior written notice to Operator if Operator does not pay Contractor within the time specified in Subparagraph 5.2 all undisputed items due and owing, Contractor may, at its option, (1) elect to terminate further performance of any work under this Contract and Contractor's right to compensation shall be as set forth in Subparagraph 6.4 hereof, or (2) suspend operations until payment is made by Operator in which event the standby rate contained in Subparagraph 4.6 shall apply until payment is made by Operator and operations are resumed.

(d) **Operator hereby expressly agrees to protect, defend and indemnify Contractor from and against any claims, demands and causes of action, including all costs of defense, in favor of Operator, Operator's co-venturers, co-lessees and joint owners, or any other parties arising out of any drilling commitments or obligations contained in any lease, farmout agreement or other agreement, which may be affected by any suspension of operations or termination of performance hereunder.**

6.4 Early Termination Compensation: If this Contract is terminated prior to completion of the term hereof, the parties agree that Contractor's damages would be extremely difficult to determine and that the following liquidated damages are fair and reasonable estimates under the circumstances and do not constitute a penalty.

(a) **Prior to Commencement of Mobilization:** In the event this Contract is terminated prior to commencement of mobilization of Contractor's rig or equipment to the initial well hereunder, Operator shall pay Contractor the sum of the following: (1) an amount equal to the standby rate for a period of 20 days and (2) all expenses reasonably incurred and to be incurred by Contractor by reason of this Contract plus ten percent (10%).

(b) **Subsequent to Commencement of Mobilization:** In the event this Contract is terminated after the commencement of mobilization of Contractor's rig or equipment to the initial well hereunder, Operator shall pay Contractor (1) the amount for all applicable rates and all other charges and reimbursements due to Contractor; provided, that, in no event shall such sum, exclusive of reimbursements due, be less than would have been earned for actual days at the applicable rate "Without Drill Pipe" and the actual amount due for drill pipe used in accordance with the above rates; or (2) at the election of Contractor and in lieu of the foregoing, Operator shall pay Contractor for all expenses reasonably incurred and to be incurred by reason of this Contract and by reason of such premature termination plus a lump sum of ~~\$24,300.00~~; provided, however, if this Contract is for a term of a period of time, Operator shall pay Contractor, in addition to the above, the remaining days of this Contract at 100% of the operating day rate; provided further, however, if this Contract is for a specified number of wells, Operator shall pay Contractor, in addition to the above, 100% of the operating day rate times the product of 50 times the number of wells specified but not drilled to TD pursuant to this Contract.

7. **CASING PROGRAM:** Operator shall have the right to designate the points at which casing will be set and the manner of setting, cementing and testing. Operator may modify the casing program, however, any such modification which materially increases Contractor's hazards or costs can only be made by mutual consent of Operator and Contractor and upon agreement as to the additional compensation to be paid Contractor as a result thereof.

8. **DRILLING METHODS AND PRACTICES:** Without prejudice to the risks of loss, release and indemnity obligations and limits of liability hereunder:

8.1 Contractor shall maintain its well control equipment in good condition at all times and shall use all reasonable means to prevent and control fires and blowouts.

8.2 Subject to the terms hereof, and at Operator's cost, at all times during the drilling of the well, Operator shall have the right to control the mud program, and the drilling fluid must be of a type and have characteristics and shall be maintained by Contractor in accordance with the specifications shown in Exhibit "A".

8.3 Each party hereto agrees to comply with all laws, rules, and regulations of any federal, state or local governmental authority which are now or may become applicable to that party's operations covered by or arising out of the performance of this Contract. When required by law, the terms set forth below in this subparagraph shall apply to this Contract. In the event any provision of this Contract is inconsistent with or contrary to any applicable federal, state or local law, rule or regulation, said provision shall be deemed to be modified to the extent required to comply with said law, rule or regulation, and as so modified said provision and this Contract shall continue in full force and effect.

The following clauses, when required by law, are incorporated into this Contract by reference as if fully set out:

- (1) The Equal Opportunity Clause prescribed in 41 CFR 60-1.4.
- (2) The Affirmative Action Clause prescribed in 41 CFR 60-250.4 regarding veterans and veterans of the Vietnam era.
- (3) The Affirmative Action Clause for handicapped workers prescribed in 41 CFR 60-741.4.
- (4) The Certification of Compliance with Environmental Laws prescribed in 40 CFR 15.20.

8.4 Contractor shall keep and furnish to Operator an accurate record of the work performed and formations drilled on a form acceptable to Operator. A legible copy of said form shall be furnished by Contractor to Operator.

8.5 If requested by Operator, Contractor shall furnish to Operator a copy of delivery tickets covering any material or supplies provided by Operator and received by Contractor.

9. **INGRESS, EGRESS, AND LOCATION:** Operator hereby assigns to Contractor all necessary rights of ingress and egress with respect to the tract on which the well is to be located for the performance by Contractor of all work contemplated by this Contract. Should Contractor be denied free access to the location for any reason not reasonably within Contractor's control, any time lost by Contractor as a result of such denial shall be paid for at the standby rate. Operator agrees at all times to maintain the road and location in such a condition that will allow free access and movement to and from the drilling site in an ordinarily equipped highway type vehicle. If Contractor is required to use bulldozers, tractors, four-wheel drive vehicles, or any other specialized transportation equipment for the movement of necessary personnel, machinery, or equipment over access roads or on the drilling location, Operator shall furnish the same at its expense and without cost to Contractor. The actual cost of repairs to any transportation equipment furnished by Contractor or its personnel damaged as a result of improperly maintained access roads or location will be charged to Operator. Operator shall reimburse Contractor for all amounts reasonably expended by Contractor for repairs and/or reinforcement of roads, bridges and related or similar facilities (public and private) required as a direct result of a rig move pursuant to performance hereunder. Operator shall be responsible for any costs associated with leveling the rig because of location settling.

10. **SOUND LOCATION:** Operator shall prepare a sound location adequate in size and capable of properly supporting the drilling rig and preventing damage from any spills and release of contaminants or pollutants, and shall be responsible for a casing and cementing program adequate to prevent soil and subsoil wash out. It is recognized that Operator has superior knowledge of the location and access routes to the location, and must advise Contractor of any subsurface conditions, or obstructions (including, but not limited to, mines, caverns, sink holes, streams, pipelines, power lines and communication lines) which Contractor might encounter while en route to the location or during operations hereunder. ***In the event subsurface conditions cause a cratering or shifting of the location surface, or if seabed conditions prove unsatisfactory to properly support the rig during marine operations hereunder, and loss or damage to the rig or its associated equipment results therefrom, Operator shall, without regard to the other provisions of this Contract, including Subparagraph 14.1 hereof, reimburse Contractor for all such loss or damage including removal of debris and payment of Force Majeure Rate during repair and/or demobilization if applicable, and Operator shall release Contractor of any related loss or damage and shall protect, defend and indemnify Contractor against any and all claims, liability, and expenses relating thereto.***

11. **EQUIPMENT CAPACITY:** Operations shall not be attempted under any conditions which exceed 85% of the capacity of the equipment specified to be used hereunder or where canal or water depths are in excess of N/A feet. Without prejudice to the provisions of Paragraph 14 hereunder, Contractor shall have the right to make the final decision as to when an operation or attempted operation would exceed such capacity.

12. **TERMINATION OF LOCATION LIABILITY:** ***When Contractor has concluded operations at the well location, Operator shall thereafter be liable for damage to property, personal injury or death of any person which occurs as a result of conditions of the location and Contractor shall be relieved of such liability; provided, however, if Contractor shall subsequently reenter upon the location for any reason, including removal of the rig, any term of this Contract relating to such reentry activity shall become applicable during such period.***

13. **INSURANCE:** During the life of this Contract, Contractor shall at Contractor's expense maintain, with an insurance company or companies authorized to do business in the state where the work is to be performed or through a self-insurance program, insurance coverage of the kind and amounts set forth below, including Required Endorsements ("Required Endorsements" are the insurance policy endorsements described herein and set forth below) insuring the risks and liabilities assumed under this Contract. All such insurance shall not be canceled, or materially changed without thirty (30) days prior written notice having first been furnished to Operator. Contractor shall obtain from its insurers a waiver of subrogation against Operator's Parties (as herein defined) on all insurance, including insurance described herein. To the extent of the risks and liabilities assumed by Contractor under this Contract, Contractor further agrees to extend its insurance to Operator's Parties as additional insured on all insurance (except workers' compensation) including insurance described herein to the fullest extent permitted by law and agrees that Contractor's insurance shall be primary and without any right of contribution from any of Operator's Parties' insurance that may apply. Contractor's workers' compensation policy will include Operator as an alternate employer by endorsement. Further, the General Liability policies of Contractor shall delete any provisions that might exclude coverage to Operator for claims by Contractor's employees on the grounds of that employment relationship. The limits listed below are not a limitation or restriction on the indemnity provisions in this Contract. Operator will carry insurance of the same kind, in the same amount with the same endorsements as is required by Contractor, to the extent of the risks and liabilities assumed by Operator under this Contract. In addition, Operator shall also maintain control of well insurance covering cost to regain control of a well, pollution and re-drill with a minimum limit of \$10,000,000 per occurrence. The insurance coverage, limits and Required Endorsements of this paragraph 13 are set forth below:

	Insurance Coverage	Minimum Limit
(a)	Workers' Compensation	Statutory
(b)	Employers Liability, General Liability and Automobile Liability combined limit	\$10,000,000

The limits required herein are minimum limits and may be satisfied by a combination of self-insurance, primary and excess insurance. Excess Liability insurance shall be no less broad than the primary liability insurance underlying such excess insurance policy. Prior to commencing work for Operator, Contractor shall furnish to Operator a certificate or certificates of insurance acceptable to Operator evidencing the insurance coverages, limits and Required Endorsements described herein.

Required Endorsements:

Borrowed Servant/Alternate Employer for the following:

- Workers' Compensation and Employer's Liability

Waiver of Subrogation for the following:

- Workers' Compensation and Employer's Liability
- General Liability
- Automobile Liability
- Excess Liability

Additional Insured for the following:

- General Liability (Both CG 20 10 07 04 and CG 20 37 07 04 or the substantial equivalent of both)
- Automobile Liability
- Excess Liability

14. RESPONSIBILITY FOR LOSS OR DAMAGE, INDEMNITY, RELEASE OF LIABILITY AND ALLOCATION OF RISK:

14.1 Contractor's Surface Equipment: Contractor shall assume liability at all times for damage to or destruction of Contractor's surface equipment, regardless of when or how such damage or destruction occurs, and Contractor shall release Operator of any liability for any such loss, except loss or damage under the provisions of Paragraph 10 or Subparagraph 14.3 or Subparagraph 14.7.

14.2 Contractor's In-Hole Equipment: Operator shall assume liability at all times for damage to or destruction of Contractor's in-hole equipment, including, but not limited to, drill pipe, drill collars, and tool joints, and Operator shall reimburse Contractor for the value of any such loss or damage; the value to be determined by agreement between Contractor and Operator as current repair costs or 100 percent of new replacement cost of such equipment delivered to the well site.

14.3 Contractor's Equipment - Environmental Loss or Damage: Notwithstanding anything herein to the contrary, Operator shall assume liability at all times for damage to or destruction of Contractor's equipment resulting from the presence of H₂S, CO₂ or other corrosive elements that enter the drilling fluids from subsurface formations or the use of corrosive, destructive or abrasive additives in the drilling fluids.

14.4 Operator's Equipment: Operator shall assume liability at all times for damage to or destruction of Operator's or its co-venturers', co-lessees' or joint owners' equipment, including, but not limited to, casing, tubing, well head equipment, and platform if applicable, regardless of when or how such damage or destruction occurs, and Operator shall release Contractor of any liability for any such loss or damage.

14.5 The Hole: In the event the hole should be lost or damaged, Operator shall be solely responsible for such damage to or loss of the hole, including the casing therein. Operator shall release Contractor and its suppliers, contractors and subcontractors of any tier of any liability for damage to or loss of the hole, and shall protect, defend and indemnify Contractor and its suppliers, contractors and subcontractors of any tier from and against any and all claims, liability, and expense relating to such damage to or loss of the hole.

14.6 Underground Damage: Operator shall release Contractor and its suppliers, contractors and subcontractors of any tier of any liability for, and shall protect, defend and indemnify Contractor and its suppliers, contractors and subcontractors of any tier from and against any and all claims, liability, and expense resulting from operations under this Contract on account of injury to, destruction of, or loss or impairment of any property right in or to oil, gas, or other mineral substance or water, if at the time of the act or omission causing such injury, destruction, loss, or impairment, said substance had not been reduced to physical possession above the surface of the earth, and for any loss or damage to any formation, strata, property, equipment, structure, or reservoir beneath the surface of the earth.

14.7 Inspection of Materials Furnished by Operator: Contractor agrees to visually inspect all materials furnished by Operator before using same and to notify Operator of any apparent defects therein. Contractor shall not be liable for any loss or damage resulting from the use of materials furnished by Operator, and Operator shall release Contractor from, and shall protect, defend and indemnify Contractor from and against, any such liability.

14.8 Contractor's Indemnification of Operator: Contractor shall release Operator of any liability for, and shall protect, defend and indemnify Operator, its officers, directors, employees and joint owners from and against all claims, demands, and causes of action of every kind and character, without limit and without regard to the cause or causes thereof or the negligence of any party or parties, arising in connection herewith in favor of Contractor or Contractor's employees or Contractor's subcontractors or their employees, or Contractor's invitees (collectively "Contractor's Parties"), on account of bodily injury, death or damage to property. Contractor shall further release Operator of any liability for, and protect, defend and indemnify Operator, its officers, directors, employees and joint owners from and against all claims, demands and causes of action of every kind and character, without limit, arising in connection herewith in favor of any third party or parties (excluding "Operator's Parties"), on account of bodily injury, death or damage to property caused by the negligent or willful acts of Contractor's Parties. Likewise, Contractor shall be responsible for and shall protect, defend and indemnify Operators, its officers, directors, employees and joint owners from and against any fines or sanctions imposed by any governmental agency or authority arising from any unlawful act or acts committed by Contractor's Parties while in the course of performance of this Contract. Contractor's indemnity under this paragraph shall be without regard to and without any right to contribution from any insurance maintained by operator pursuant to Paragraph 13. If it is judicially determined that the monetary limits of insurance required hereunder or of the indemnities voluntarily assumed under this paragraph (which Contractor and Operator hereby agree will be supported either by available liability insurance, under which the insurer has no right of subrogation against the indemnities, or voluntarily self-insured, in part or whole) exceed the maximum limits permitted under applicable law, it is agreed that said insurance requirements or indemnities shall automatically be amended to conform to the maximum monetary limits permitted under such law. The provisions of this paragraph shall be subject to those contained elsewhere in this contract (including Paragraph 14.11). In case of a conflict, the other provisions of this Contract shall govern.

14.9 Operator's Indemnification of Contractor: Operator shall release Contractor of any liability for, and shall protect, defend and indemnify Contractor, its officers, directors, employees and joint owners from and against all claims, demands, and causes of action of every kind and character, without limit and without regard to the cause or causes thereof or the negligence of any party or parties, arising in connection herewith in favor of Operator or Operator's employees or Operator's contractors or their employees, or Operator's invitees, (collectively "Operator's Parties") other than those parties identified in subparagraph 14.8 on account of bodily injury, death or damage to property. Operator shall further release Contractor of any liability for, and protect, defend and indemnify Contractor, its officers, directors, employees and joint owners from and against all claims, demands and causes of action of every kind and character, without limit, arising in connection herewith in favor of any third party or parties (excluding "Contractor's Parties") on account of bodily injury, death or damage to property caused by the negligent or willful acts of Operator's Parties. Likewise, Operator shall be responsible for and shall protect, defend and indemnify Contractor, its officers, directors, employees and joint owners from and against any fines or sanctions imposed by any governmental agency or authority arising from any unlawful acts or acts committed by Operator's Parties while in the course of performance of this contract. Operator's indemnity under this paragraph shall be without regard to and without any right to contribution from any insurance maintained by Contractor pursuant to Paragraph 13. If it is judicially determined that the monetary limits of insurance required hereunder or of the indemnities voluntarily assumed under this paragraph (which Contractor and Operator hereby agree will be supported either by available liability insurance, under which the insurer has no right of subrogation against the indemnities, or voluntarily self-insured, in part or whole) exceed the maximum limits permitted under applicable law, it is agreed that said insurance requirements or indemnities shall automatically be amended to conform to the maximum monetary limits permitted under such law. The provisions of this paragraph shall be subject to those contained elsewhere in this contract (including Paragraph 14.11). In case of conflict, the other provisions of this Contract shall govern.

14.10 Liability for Wild Well: Operator shall be liable for the cost of regaining control of any wild well, as well as for cost of removal of any debris and cost of property remediation and restoration, and Operator shall release, protect, defend and indemnify Contractor and its suppliers, contractors and subcontractors of any tier from and against any liability for such cost.

14.11 Pollution or Contamination: Notwithstanding anything to the contrary contained herein, except the provisions of Paragraphs 10 and 12, it is understood and agreed by and between Contractor and Operator that the responsibility for pollution or contamination shall be as follows:

(a) Contractor shall assume all responsibility for, including control and removal of, and shall protect, defend and indemnify Operator from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination, which originates above the surface of the land or water from spills of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in Contractor's possession and control and directly associated with Contractor's equipment and facilities.

(b) Operator shall assume all responsibility for, including control and removal of, and shall protect, defend and indemnify Contractor and its suppliers, contractors and subcontractors of any tier from and against all claims, demands, and causes of action of every kind and character arising directly or indirectly from all other pollution or contamination which may occur during the conduct of operations hereunder, including, but not limited to, that which may result from fire, blowout, cratering, seepage or any other uncontrolled flow of oil, gas, water or other substance, as well as the use or disposition of all drilling fluids, including, but not limited to, oil emulsion, oil base or chemically treated drilling fluids, contaminated cuttings or cavings, lost circulation and fish recovery materials and fluids. Operator shall release Contractor and its suppliers, contractors and subcontractors of any tier of any liability for the foregoing.

(c) In the event a third party commits an act or omission which results in pollution or contamination for which either Contractor or Operator, for whom such party is performing work, is held to be legally liable, the responsibility therefor shall be considered, as between Contractor and Operator, to be the same as if the party for whom the work was performed had performed the same and all of the obligations respecting protection, defense, indemnity and limitation of responsibility and liability, as set forth in (a) and (b) above, shall be specifically applied.

14.12 Consequential Damages: Subject to and without affecting the provisions of this Contract regarding the payment rights and obligations of the parties or the risk of loss, release and indemnity rights and obligations of the parties, each party shall at all times be responsible for and hold harmless and indemnify the other party from and against its own special, indirect or consequential damages, and the parties agree that special, indirect or consequential damages shall be deemed to include, without limitation, the following: loss of profit or revenue; costs and expenses resulting from business interruptions; loss of or delay in production; loss of or damage to the leasehold; loss of or delay in drilling or operating rights; cost of or loss of use of property, equipment, materials and services, including without limitation those provided by contractors or subcontractors of every tier or by third parties. Operator shall at all times be responsible for and hold harmless and indemnify Contractor and its suppliers, contractors and subcontractors of any tier from and against all claims, demands and causes of action of every kind and character in connection with such special, indirect or consequential damages suffered by Operator's co-owners, co-venturers, co-lessees, farmers, farmees, partners and joint owners.

14.13 Indemnity Obligation: Except as otherwise expressly limited in this Contract, it is the intent of parties hereto that all releases, indemnity obligations and/or liabilities assumed by such parties under terms of this Contract, including, without limitation, Subparagraphs 4.9 and 6.3(c), and Paragraphs 10, 12 and 14 hereof, be without limit and without regard to the cause or causes thereof, including, but not limited to, pre-existing conditions, defect or ruin of premises or equipment, strict liability, regulatory or statutory liability, products liability, breach of representation, warranty or covenant (express or implied), breach of duty (whether statutory, contractual or otherwise) any theory of tort, breach of contract, fault, the negligence of any degree or character (regardless of whether such negligence is sole, joint or concurrent, active, passive or gross) of any party or parties, including the party seeking the benefit of the release, indemnity or assumption of liability, or any other theory of legal liability. The indemnities, and releases and assumptions of liability extended by the parties hereto under the provisions of Subparagraphs 4.9 and 6.3 and Paragraphs 10, 12 and 14 shall inure to the benefit of such parties, their co-venturers, co-lessees, joint owners, their parent, holding and affiliated companies and the officers, directors, stockholders, partners, managers, representatives, employees, consultants, agents, servants and insurers of each. Except as otherwise provided herein, such indemnification and assumptions of liability shall not be deemed to create any rights to indemnification in any person or entity not a party to this Contract, either as a third party beneficiary or by reason of any agreement of indemnity between one of the parties hereto and another person or entity not a party to this Contract.

Each party shall notify the other party immediately of any claim, demand, or suit that may be presented to or served upon it by any party arising out of or as a result of work performed pursuant hereto, affording such other party full opportunity to assume the defense of such claim, demand, or suit and to protect itself under the obligations of this paragraph. Each party covenants and agrees to support this indemnity agreement by available liability insurance coverage as set forth in Paragraph 13. In the event that this Contract is subject to the indemnity limitations of any applicable state law, and so long as that law is in force, then it is agreed that the obligations to indemnify are limited to the extent allowed by law.

Additionally, the parties agree that:

(a) In the event that this Contract is subject to the indemnity limitations of Act 427 of the 1982 Louisiana Legislature, and so long as that act is in force, Paragraph 14 herein shall not be applicable to the services performed in the State of Louisiana. In lieu thereof, each party agrees to defend, indemnify, save and hold the other party harmless from and against all claims and causes of action to the extent such arise out of the indemnifying party's negligence, gross negligence, strict liability or breach of contract.

(b) In the event that this Contract is subject to the indemnity limitations of Chapter 127 of the Texas Civil Practices and Remedies Code, and so long as such limitations are in force, then it is agreed that the obligations to indemnify are limited to the extent allowed by law, and each party covenants and agrees to support this indemnity by equal amounts of liability insurance coverage, with limits of insurance required of each party equal to those specifically set forth in Paragraph 13. In the event that this Contract is subject to any other applicable state indemnity limitation, it is agreed that the above obligations to indemnify are limited to the extent allowed by law.

(c) In the event that this Contract is subject to the indemnity limitations in New Mexico Statutes, Sec. 56-7-2, and so long as that act is in force, Paragraph 14 herein shall not be applicable to the services performed in the State of New Mexico. In lieu thereof, each party agrees to defend, indemnify, save and hold the other party harmless from and against all claims and causes of action to the extent such arise out of the indemnifying party's negligence, gross negligence, strict liability or breach of contract.

15. AUDIT: If any payment provided for hereunder is made on the basis of Contractor's costs, Operator shall have the right to audit Contractor's books and records relating to such costs. Contractor agrees to maintain such books and records for a period of two (2) years from the date such costs were incurred and to make such books and records readily available to Operator at any reasonable time or times within the period.

16. NO WAIVER EXCEPT IN WRITING: It is fully understood and agreed that none of the requirements of this Contract shall be considered as waived by either party unless the same is done in writing, and then only by the persons executing this Contract, or other duly authorized agent or representative of the party. Neither party's failure to insist upon strict performance of any agreement contained in this Contract or to exercise any option or right herein contained shall act as a waiver with respect thereto.

17. FORCE MAJEURE: Except as provided in this Paragraph 17 and without prejudice to the risks of loss, release and indemnity obligations and limits of liability hereunder, each party to this Contract shall be excused from complying with the terms of this Contract, except for the payment of monies when due, if and for so long as such compliance is hindered or prevented by a Force Majeure Event. As used in this Contract, "Force Majeure Event" includes: acts of God, action of the elements, wars (declared or undeclared), insurrection, revolution, rebellions or civil strife, piracy, civil war or hostile action, terrorist acts, riots, strikes, differences with workmen, acts of public enemies, federal or state laws, rules, regulations dispositions or orders of any governmental authorities having jurisdiction in the premises or of any other group, organization or informal association (whether or not formally recognized as a government), inability to procure material, equipment, fuel or necessary labor in the open market, acute and unusual labor or material, equipment or fuel shortages, or any other causes (except financial) beyond the control of either party. Neither Operator nor Contractor shall be required against its will to adjust any labor or similar disputes except in accordance with applicable law. In the event that either party hereto is rendered unable, wholly or in part, by any of these causes to carry out its obligation under this Contract, it is agreed that such party shall give notice and details of such Force Majeure Event in writing to the other party as promptly as possible after its occurrence. In such cases, the obligations of the party giving the notice shall be suspended during the continuance of any inability so caused except that Operator shall be obligated to pay to Contractor the Force Majeure Rate provided for in Subparagraph 4.8.

18. GOVERNING LAW: This Contract shall be construed, governed, interpreted, enforced and litigated in, and the relations between the parties determined in accordance with the laws of the State of Texas without regard to its conflicts or choice of law principles.

19. INFORMATION CONFIDENTIAL: Upon written request by Operator, information obtained by Contractor in the conduct of drilling operations hereunder, including, but not limited to, depth, formations penetrated, the results of coring, testing and surveying, shall be considered confidential and shall not be divulged by Contractor or its employees, to any person, firm, or corporation other than Operator's designated representatives.

20. SUBCONTRACTS: Either party may employ other contractors to perform any of the operations or services to be provided or performed by it according to Exhibit "A".

21. ATTORNEY'S FEES: If this Contract is placed in the hands of an attorney for collection of any sums due hereunder, or suit is brought on same, or sums due hereunder are collected through bankruptcy or arbitration proceedings, then the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

22. CLAIMS AND LIENS: Contractor agrees to pay all valid claims for labor, material, services, and supplies to be furnished by Contractor hereunder, and agrees to allow no lien by such third parties to be fixed upon the lease, the well, or other property of the Operator or the land upon which said well is located.

23. ASSIGNMENT: Neither party may assign this Contract without the prior written consent of the other party, and prompt notice of any such intent to assign shall be given to the other party. In the event of such assignment, the assigning party shall remain liable to the other party as a guarantor of the performance by the assignee of the terms of this Contract. If any assignment is made that materially alters Contractor's financial burden, Contractor's compensation shall be adjusted to give effect to any increase or decrease in Contractor's operating costs.

24. NOTICES AND PLACE OF PAYMENT: Notices, reports, and other communications required or permitted by this Contract to be given or sent by one party to the other shall be delivered by hand, mailed, digitally transmitted or telecopied to the address hereinabove shown. All sums payable hereunder to Contractor shall be payable at its address hereinabove shown unless otherwise specified herein.

25. CONTINUING OBLIGATIONS: Notwithstanding the termination of this Contract, the parties shall continue to be bound by the provisions of this Contract that reasonably require some action or forbearance after such termination, and the accrued rights and obligations of the parties shall survive thereafter.

26. ENTIRE AGREEMENT: This Contract constitutes the full understanding of the parties, and a complete and exclusive statement of the terms of their agreement, and shall exclusively control and govern all work performed hereunder. All representations, offers, and undertakings of the parties made prior to the Effective Date hereof, whether oral or in writing, are merged herein, and no other contracts, agreements or work orders, executed prior to the execution of this Contract, shall in any way modify, amend, alter or change any of the terms or conditions set out herein. It is the intention of the parties that every covenant, term and provision of this Contract shall be construed simply according to its fair meaning and not strictly for or against any party hereto (notwithstanding any rule of law requiring an agreement to be strictly construed against the drafting party) and no consideration shall be given or presumption made, on the basis of who drafted this Contract or any particular provision thereof.

27. SPECIAL PROVISIONS:

27.1 Equipment Capacity: Contractor agrees to operate the equipment up to 85% of manufacturer's maximum rated capacity and pressure.

27.2 Mobilization and Moving:

(a) **Initial Rig Move:** Operator agrees to pay actual trucking costs and associated costs directly to the trucking company, plus Operator will pay Contractor 85% of the operating day rate during load out, rig move and rig up.

(b) **Subsequent Rig Moves Between Wells:** Operator agrees to pay actual mobilization costs and associated costs directly to the trucking company, plus Operator will pay Contractor 85% of the operating day rate from the time the rig is released from its current well until the rig is rigged up and ready to spud on the following well.

(c) **Rig Moves Between Wells on Same Location (Skidding or Walking):** Operator agrees to pay the full operating day rate specified in Subparagraph 4.4.

(d) **Delays:** Notwithstanding any limit to the contrary contained in this Contract, any delays associated with permits, weather conditions, location not being ready, trucking, time spent modifying 3rd party equipment, or any other delay beyond Contractor's reasonable control, will be billed extra at the applicable rate.

27.3 Tribal Jurisdiction: In the event operations hereunder (including mobilization and demobilization) occur in or around jurisdictional boundaries subject to tribal authority or similar sovereign power, then Operator shall be solely responsible for any and all associated incremental costs to Contractor and for compliance with all laws, regulations, rules and ordinances promulgated by the relevant jurisdictional authority, including, but not limited to, preference laws, permits, fees, tariffs and all associated costs.

27.4 Performance of Work: Contractor represents that the rig furnished by Contractor conforms to reasonable and customary oilfield standards. All work to be performed by Contractor hereunder will be performed with due diligence, in a good and workmanlike manner, using competent and experienced workers and supervisors and in accordance with good oilfield practices.

[Signature page follows]

The foregoing Contract, including the provisions relating to indemnity, release of liability and allocation of risk of Subparagraphs 4.9 and 6.3(c), and Paragraphs 10, 12 and 14, is acknowledged, agreed to and accepted this 19th day of NOVEMBER, 2014.

CONTRACTOR: Nomac Drilling, L.L.C.

By: _____

Name: James G. Minnier

Title: President

OPERATOR: Quicksilver Resources Inc.

By: _____

Name: GLENN DARTEN

Title: PRESIDENT

EXHIBIT "A"

SPECIFICATIONS AND SPECIAL PROVISIONS

1. **CASING PROGRAM:** To be determined by Operator (See Paragraph 7).

	Hole Size	Casing Size	Weight	Grade	Approximate Setting Depth	Wait on Cement Time
Conductor	_____ in.	_____ in.	_____ lbs/ft.	_____	As directed by Operator	ft. _____ hrs
Surface	_____ in.	_____ in.	_____ lbs/ft.	_____	_____	ft. _____ hrs
Protection	_____ in.	_____ in.	_____ lbs/ft.	_____	_____	ft. _____ hrs
	_____ in.	_____ in.	_____ lbs/ft.	_____	_____	ft. _____ hrs
Production	_____ in.	_____ in.	_____ lbs/ft.	_____	_____	ft. _____ hrs
Liner	_____ in.	_____ in.	_____ lbs/ft.	_____	_____	ft. _____ hrs
	_____ in.	_____ in.	_____ lbs/ft.	_____	_____	ft. _____ hrs

2. **MUD CONTROL PROGRAM:** To be determined by Operator (See Subparagraph 8.2).

Depth Interval (ft)		Type Mud	Weight (lbs./gal.)	Viscosity (Secs)	Water Loss (cc)
From	To				
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Other mud specifications: _____

3. **INSURANCE:** (See Paragraph 13).

4. **EQUIPMENT, MATERIALS AND SERVICES TO BE FURNISHED BY CONTRACTOR:** The machinery, equipment, tools, materials, supplies, instruments, services and labor hereinafter listed, including any transportation required for such items, shall be provided at the well location at the expense of Contractor unless otherwise noted by this Contract.

4.1 **Drilling Rig - 133**

Complete drilling rig, designated by Contractor as its Rig No. 133, the major items of equipment being:

DRAWWORKS:
 Ideco 1200E, 1200 HP

AUXILIARY BRAKE:
 Elmagco 6032

MAST:
 Drilling Structures, Inc. 142' 750,000 LB SHL 10 lines

SUBSTRUCTURE:
 Drilling Structures, Inc. Box-On-Box, 22' floor height

TRAVELING EQUIPMENT:
 BLOCK HOOK: National 545G350

ROTARY TABLE:
 Gardner Denver 27.5"

SCR SYSTEM:
 Ross Hill Model 1400

ENGINE/GENERATORS:
 3 - Caterpillar 3512B / Kato generators 1375 kW

MUD PUMPS:
 1 - Weatherford MP-16, 1600 HP
 1 - Hong Hua HHF-1600

MUD SYSTEM:
 2 tank, 1050 Bbl w/ Pit Roof

SOLIDS CONTROL EQUIPMENT:

SHAKERS: 2 – Derrick Shakers 503/504
 DEGASSER: Derrick VacuFlo 500
 DESANDER: Derrick 2 Cone
 DESILTER: Derrick 12 Cone

BOP EQUIPMENT:

DOUBLE: Cameron 13 5/8" x 10000 PSI
 ANNULAR: Shaffer Type 13 5/8" x 5000 PSI
 Mud Cross 4 1/16" X 4 1/16" 10,000PSI

CHOKE MANIFOLD:

4" x 4" 10000 PSI

CLOSING UNIT:

Advanced Pressure 6 station, 200 gallon

AUXILIARY EQUIPMENT:

Iron Roughneck Varco ST-80
 Water Tank: 500 Bbl.
 Water Tank 500 Bbl.
 Fuel Tank: 10,000 Gal
 Air Hoist: 2 - Ingersoll Rand Copy K5UL
 Pipe Spinner: Oil Works
 Wireline Machine: Five Star
 EDR: MD Totco

Rig Walker: 90' X Y capability (optional)

TOP DRIVE:

NOV TDS-11 - 500 ton

TUBULARS:

Drill Pipe: 18,000' of 5" 19.50 S-135
 Drill Collars: 21 - 6-1/2" Slick
 6 – 8"

- 4.2 Derrick timbers.
- 4.3 Normal strings of drill pipe and drill collars specified above (including necessary subs and crossovers for rig-provided drilling equipment and standard drill bits).
- 4.4 Conventional drift indicator.
- 4.5 Circulating mud pits.
- 4.6 Necessary pipe racks and rigging up material.
- 4.7 Normal storage for mud and chemicals.
- 4.8 Shale Shaker.

5. **EQUIPMENT, MATERIALS AND SERVICES TO BE FURNISHED BY OPERATOR:** The machinery, equipment, tools, materials, supplies, instruments, services and labor hereinafter listed, including any transportation required for such items, shall be provided at the well location at the expense of Operator unless otherwise noted by this Contract.

- 5.1 Furnish and maintain adequate roadway and/or canal to location, right-of-way, including rights-of-way for fuel and water lines, river crossings, highway crossings, gates and cattle guards.
- 5.2 Stake location, clear and grade location, and provide turnaround, including surfacing when necessary.
- 5.3 Test tanks with pipe and fittings.
- 5.4 Mud storage tanks with pipe and fittings.
- 5.5 Separator with pipe and fittings.
- 5.6 Labor and materials to connect and disconnect mud tank, test tank, and mud gas separator.
- 5.7 Labor to disconnect and clean test tanks and mud gas separator.
- 5.8 Drilling mud, chemicals, lost circulation materials and other additives.
- 5.9 Pipe and connections for oil circulating lines.
- 5.10 Labor to lay, bury and recover oil circulating lines.
- 5.11 Drilling bits, reamers, reamer cutters, stabilizers and special tools.
- 5.12 Contract fishing tool services and tool rental.
- 5.13 Wire line core bits or heads, core barrels and wire line core catchers if required.
- 5.14 Conventional core bits, core catchers and core barrels.
- 5.15 Diamond core barrel with head.
- 5.16 Cement and cementing service.
- 5.17 Electrical wireline logging services.
- 5.18 Directional, caliper, or other special services.
- 5.19 Gun or jet perforating services.
- 5.20 Explosives and shooting devices.
- 5.21 Formation testing, hydraulic fracturing, acidizing and other related services.
- 5.22 Equipment for drill stem testing.
- 5.23 Mud logging services.
- 5.24 Sidewall coring service.
- 5.25 Welding service for welding bottom joints of casing, guide shoe, float shoe, float collar and in connection with installing of well head equipment if required.
- 5.26 Casing, tubing, liners, screen, float collars, guide and float shoes and associated equipment.
- 5.27 Casing scratchers and centralizers.
- 5.28 Well head connections and all equipment to be installed in or on well or on the premises for use in connection with testing, completion and operation of well.
- 5.29 Special or added storage for mud and chemicals.
- 5.30 Casinghead, API series, to conform to that shown for the blowout preventers specified in Subparagraph 4.1 above.
- 5.31 Blowout preventer testing packoff and testing services.
- 5.32 Replacement of BOP rubbers, elements and seals, if required, after initial test.

- 5.33 Casing Thread Protectors and Casing Lubricants.
- 5.34 H₂S training and equipment as necessary or as required by law.
- 5.35 Site septic systems.
- 5.36 Fuel additives and conditioners as required for cold weather operations.
- 5.37 All rubber products furnished as required while using an oil based drilling fluid, including all pump expendables and mud system valves.
- 5.38 Any special downhole tools.
- 5.39 Additional solids control equipment not on Contractor's normal rig inventory (including maintenance).
- 5.40 Any items listed as normal rig inventory that Operator requests to be changed.
- 5.41 Any additional survey equipment.
- 5.42 Fuel (including additives and fuel surcharge).

6. **EQUIPMENT, MATERIALS AND SERVICES TO BE FURNISHED BY DESIGNATED PARTY:** The machinery, equipment, tools, materials, supplies, instruments, services, and labor listed as the following numbered items, including any transportation required for such items unless otherwise specified, shall be provided at the well location and at the expense of the party hereto as designated by an X mark in the appropriate column.

Item	To Be Provided By and At The Expense Of	
	Operator	Contractor
6.1 Cellar and Runways	X	
6.2 Ditches and sumps	X	
6.3 Fuel (located at Rig – including propane)	X	
6.4 Fuel Lines (length _____)		X
6.5 Water at source, including required permits	X	
6.6 Water well, including required permits	X	
6.7 Water lines, including required permits	X	
6.8 Water storage tanks _____ 500Bbl capacity		X
6.9 Potable water, living quarters sewage, and all other connections	X	
6.10 Labor to operate water well or water pump		X
6.11 Maintenance of water well, if required	X	
6.12 Water Pump (electric pump and generator)	X	
6.13 Fuel for water pump	X	
6.14 Mats for engines and boilers, or motors and mud pumps	N/A	N/A
6.15 Transportation of Contractor's property:		
Move in	X	
Move out	X	
6.16 Materials for "boxing in" rig and derrick	N/A	N/A
6.17 Special strings of drill pipe and drill collars as follows:		
_____	X	

6.18 Kelly joints, subs, elevators, tongs, slips and BOP rams for use with special drill pipe	X	
6.19 Drill pipe protectors for Kelly joint and each joint of drill pipe running inside of Surface Casing as required, for use with normal strings of drill pipe	X	
6.20 Drill pipe protectors for Kelly joint and drill pipe running inside of Protection Casing	X	
6.21 Rate of penetration recording device – 2 Pen Recorder or TOTCO EDR		X
6.22 Extra labor for running and cementing casing (Casing crews)	X	
6.23 Casing tools	X	
6.24 Power casing tongs	X	
6.25 Laydown and pickup machine	X	
6.26 Tubing tools	X	
6.27 Power tubing tong	X	
6.28 Crew Boats, Number _____	N/A	N/A
6.29 Service Barge	N/A	N/A
6.30 Service Tug Boat	N/A	N/A
6.31 Rat Hole	X	
6.32 Mouse Hole	X	
6.33 Reserve Pits	X	
6.34 Upper Kelly Cock		X
6.35 Lower Kelly Valve		X
6.36 Drill Pipe Safety Valve		X
6.37 Inside Blowout Preventer		X
6.38 Drilling hole for or driving for conductor pipe	X	
6.39 Charges, cost of bonds for public roads	X	
6.40 Portable Toilet	X	
6.41 Trash Receptacle	X	
6.42 Linear Motion Shale Shaker		X
6.43 Shale Shaker Screens – all screens to be provided by Operator	X	
6.44 Mud Cleaner	X	
6.45 Mud/Gas Separator	X	
6.46 Desander		X
6.47 Desilter		X
6.48 Degasser		X
6.49 Centrifuge	X	
6.50 Rotating Head	X	
6.51 Rotating Head Rubbers	X	
6.52 Hydraulic Adjustable Choke	X	
6.53 Pit Volume Totalizer	X	
6.54 Communication, type _____ Mobile Phone Only (each their own)		X
6.55 Forklift, capacity _____ 8000# Overhead Extended Boom	X	
6.56 Corrosion Inhibitor for protecting drill string – Corrosion company to be specified by Contractor	X	
6.57 Mud Pump Liners	Other than initial (size)	Initial (size)
6.58 String-Up Crew and Equipment	X	
6.59 Right-of-way for water and gas lines	X	

6.60	Water line permits, if required.....	X	
6.61	Drill pipe corrosion control to less than 1lb/sq ft. per year, if required.....	X	

7. OTHER PROVISIONS:

- 7.1 Operator will pay standby rate for any delay in drilling (Waiting on Trucks, Permits, Weather, Rat Hole / Mouse Hole, etc.).
- 7.2 Contractor shall furnish initial tested annular preventer element. If element is damaged during the job, Operator agrees to furnish a new element.
- 7.3 Chemical additives to the mud for preventing oxidation of the drill string and hydrogen sulfide scavenging chemicals to treat the mud or drilling fluids are necessary to remove all traces of H₂S and to control oxygen corrosion levels not to exceed 1 pounds per square foot per year to be furnished by Operator. Contractor shall specify the company which provides corrosion control.
- 7.4 Operator's representative and Operator's subcontractors shall support Contractor's safety policies and procedures in general and in particular will comply with all Contractor's personal protective equipment requirements.
- 7.5 Operator shall be responsible for all materials and welding to hook up flow line, chokes and mud gas separator.
- 7.6 Operator shall be responsible for all materials and welding associated with all air drilling and oil base mud requirements.
- 7.7 Weight run on bit shall not exceed drill collar weight in mud, (to be applicable to vertical and curve sections only.) Rotary speed shall be run at mutually agreed upon speed between Operator and Contractor as not to damage drill pipe.
- 7.8 Should oil-based mud be used on this job, any special revision or protection of pits and cleanup costs shall be at the expense of Operator. Any mud cleaning equipment (including power and fuel) required by Operator, not in the normal rig inventory, shall be furnished by Operator. Any modifications of the rig (drain under racking board, etc.) or replacement of rig parts (mud buckets, etc.) required by Operator in order to reduce the cost of oil-based mud shall be at the Operator's expense. Operator shall bear all expense to clean rig upon completion of well (including labor and steam cleaner.) Operator shall pay up to 24 hours of day rate for cleaning of rig.
- 7.9 Contractor shall not be liable for any Operator third party equipment. Any electrical connections made to Contractor's light plant shall be made at owner of equipment's risk.
- 7.10 In the event of there is a conflict between any or all of the terms and provisions of this contract and any other agreement, oral or written, to include but not limited to a master service agreement, then it is understood and agreed that the terms and provisions of this contract shall prevail and control.
- 7.11 Daywork shall be billed at the end of each month or upon well completion and be due within 30 days.
- 7.12 Contractor will provide API premium drill pipe (CAT 4 w /UT) inspection prior to commencement of well. Inspections (including the CAT 4 w /UT inspection at the end of the job) of all drill pipe, drill collars, Kelly, Kelly joints, valves, subs and HWDP shall be at Operator's expense. All repairs, replacements and hauling for repairs to restore drill pipe to API Premium specifications will be at Operator's expense.
- 7.13 If Operator elects to run standby pump in tandem with the main pump (and main pump is operational), Operator will waive the down time provision in 4.5 as to the repair of the mud pumps while operations in said connection continue.
- 7.14 Operator shall be responsible and bear all expenses for any H₂S training or equipment (including safety equipment, detection equipment, and corrosion inhibitor to less than two pounds per foot per year) as well as any additional personnel needed due to encounter or potentially encounter H₂S.
- 7.15 Operator shall bear all responsibility and costs to adhere to any and all city regulations including but not limited to sound abatement, security and traffic control.
- 7.16 Rig's mud pumps will be operated up to a maximum of 85% of rated pressure and strokes.
- 7.17 If Contractor supplies air heaters or boilers, Operator shall be charged an additional \$500.00 per day, plus the cost of fuel required to operate such equipment. Contractor will verify usage on the tour sheets daily. Size and specifications are TBD.
- 7.18 It is mutually agreed upon by Operator and Contractor that Operator may use the trucking company of their choice to move the rig; provided, however, notwithstanding anything in this agreement to the contrary, Operator shall i) verify that such trucking company complies with all applicable laws and regulations and maintains adequate insurance coverage in accordance with industry best practices, and ii) indemnify Contractor from any and all claims and damages as a result of the usage of such trucking company.
- 7.19 Should Contractor determine job to be a "camp job," Contractor will provide mobile homes and needed hook-up for on-site living quarters for crews, Operator will provide Potable water and sewer.
- 7.20 Contractor's DP is not to be used below KOP unless mutually agreeable to each of the parties. KOP is the point in the hole where the build-up radius or rate of build exceeds 8° per 100' dog legs. Footage is calculated by taking the well's KOP and subtracting it from TD. Rental days start on the day directional tools capable of building the above described radius occur and continues until DP is laid down for the incremental pipe between KOP and total depth. The rental rate will be 15¢ per foot. Footage and days are multiplied times the footage rental rate.