

## PERMITTING AND SURFACE USE AGREEMENT AND GRANT OF EASEMENT

THIS SURFACE USE AGREEMENT AND GRANT OF EASEMENT ("Agreement") is entered into by and between James M. Konig, Janet F. Konig, Joel W. Konig, Kip A. Konig and Michael D. Konig ("Owner"), whose address is 57851 Grover, Co 80729, CO 80611, the owner of the surface estate described below (the "Property"), and HighPoint Operating Corporation ("Company"), whose address is 1099 18<sup>th</sup> Street, Suite 2300, Denver, CO 80202 (individually a "Party," together "the Parties") with respect to the following described lands:

Township 10 North, Range 62 West, 6<sup>th</sup> P.M.  
Section 21: NE/4  
Weld County, CO

### RECITALS

WHEREAS, Company owns the leasehold right to access the Property and use so much of the surface as is reasonably necessary to explore for and produce oil and gas from the leased premises; and,

WHEREAS, Company and Owner desire to enter into this Agreement as a supplement to, but not in derogation of, Company's leasehold rights, including the right to drill future wells in addition to any well enumerated herein;

The terms and provisions of this Surface Use Agreement and Grant of Easement are subject to the terms of that certain Letter Agreement, dated the 20 day of June, 2018, attached hereto and, by reference, made a part hereof.

NOW THEREFORE, in consideration of \$10.00 cash in-hand, and other good and valuable consideration, including Company's agreement to pay the additional sums as set out in the attached Letter Agreement prior to the spudding of a well proposed herein, as well as the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged:

### RELEASE & CONVEYANCE

Except as provided below in Additional Covenants 2, 3 and 7, Owner hereby releases and discharges Company, its agents, employees, contractors and licensees from and against any and all claims by Owner for damages, of whatsoever nature and character, including, but not limited to, diminution in value of the Property, arising from, incident to, or in connection with Company's oil and gas operations ("the Operations") on the Property, so long as such Operations are conducted in accordance with this Agreement.

AND,

Owner hereby grants, demises and conveys such easements and rights-of-way on and across the Property as may be convenient for the Operations. Company shall have the exclusive right to construct, drill, and operate wells ("Wells") and to conduct its Operations anywhere within the Exclusive Oil and Gas Operations Area ("EOGOA") and locate any associated access roads, flowlines, production facilities, pipelines, temporary pipelines, and easements shown on Exhibit A, attached hereto and incorporated herein, including directional and

horizontal wells that produce from and drain lands other than the Property. Owner recognizes that BBC's conducting oil and gas operations on the Property includes but is not limited to the following: permitting, obtaining consents and waivers, environmental impact assessments and evaluations, surveying, seismic activity, exploration, drilling, stimulation, completion, re-stimulation, re-completion, deepening, reworking, equipping, production, maintenance, plugging and abandoning of wells, together with accessing, inspection, construction, erection, installation, operation, maintenance, repair, removal, replacement, expansion, testing, updating, upgrading, ownership and use of related facilities including gathering, storage, and processing facilities, as well as associated flowlines, pipelines, temporary pipelines, access roads, and related buildings, fencing, and equipment, as all of the foregoing may be related to vertical, directional, horizontal or lateral wellbores ("Operations").

### **ADDITIONAL COVENANTS**

*The Parties agree that the Recitals above are integral to this Agreement and as such are expressly incorporated in these Covenants by reference as if fully set forth herein.*

1. Company may exercise its rights hereunder for all purposes convenient for Company to perform the Operations, including the right of unimpeded ingress and egress on the designated rights-of-way to access the EOGOA, to install and operate production facilities and pipelines, and to install other associated equipment and facilities within the EOGOA. Company may assign or delegate to a third party the right to install and operate pipelines in order to connect the Wells to a gas or liquids gathering or distribution system. The access and pipeline easements granted herein shall be non-exclusive and capable of use by Owner, so long as such use does not interfere with or impair the Operations, and with the permission of Company, which permission shall not be unreasonably withheld. Nothing contained in this section shall be construed as prohibiting Company from exercising any right it has to use the surface of the Property outside of the EOGOA, Access Road Area, Flowline Area, Temporary Pipeline Area, and Pipeline Area pursuant to any mineral leases, mineral deed or similar instrument granting Company the right to develop the mineral estate.

2. Company shall promptly repair, or compensate Owner for, damage to personal property or to improvements on the Property, such as damage to buildings, fences, gates, culverts and livestock, as well as any other such extraordinary losses or damages caused by Company. Any failure to reach mutual agreement with respect to such repair or compensation shall not, however, be deemed to constitute a breach or abrogation of this Agreement, nor to terminate or diminish the grants, conveyances, rights and obligations contained herein.

3. Company hereby agrees to release, discharge, indemnify and hold Owner harmless from and against any and all third party claims, losses, liability, damages, and causes of action for personal injury or property damage arising out of Company's Operations, unless, and to the extent that, Owner's negligence causes or contributes to such third party claims. This indemnification extends to any action by a government agency with jurisdiction over the Operations under an environmental law or regulation.

4. Owner has requested that all consultation be conducted directly with Owner. Accordingly, Owner shall have the responsibility of notifying any affected tenant, lessee or other party who may own or have an interest in any crops or surface improvements which could be affected by the Operations. Owner agrees that all damages claimed by a surface tenant, lessee or other such party resulting from the Operations shall be settled by Owner, and Owner hereby agrees to release, discharge, indemnify and hold Company harmless from and against any such claims.

5. Company agrees to perform all reclamation in accordance with the rules and regulations of the Colorado Oil and Gas Conservation Commission ("COGCC"), unless a variance is granted by the COGCC upon the request of Owner. Company shall endeavor to keep the EOGOA and the flowline, pipeline, and access easements free of weeds and debris and to control erosion.

6. Commencement of the Operations with heavy equipment is estimated to begin in 2019. Owner acknowledges that this notice complies with, or hereby waives, all COGCC requirements that it be given advance notice by Company of the proposed Operations. Owner acknowledges receiving from Company a brochure prepared by the COGCC which describes the rights and responsibilities of Owner as a surface owner.

7. Company shall construct its well pad(s) and production facilities, access roads, flowlines, temporary pipelines, and pipelines, as depicted on Exhibit A as the Access Road Area, Flowline Area, Temporary Pipeline Area, Pipeline Area and EOGOA, except in the event of an emergency, or for reasonable incidental and temporary activities, and Company shall be responsible for any physical damage to the Property that may be caused by such emergency or temporary activities.

**8. Owner acknowledges and agrees that Company has consulted in good faith with Owner as to its proposed Operations, in accordance with COGCC requirements, or hereby waives such requirements. Owner expressly waives the application of any COGCC setbacks inconsistent with this Agreement.**

(a) Company will provide Owner with the COGCC Form 2A ("Oil and Gas Location Assessment") for the EOGOA when submitted to the COGCC, and Company undertakes to ensure that said Form 2A accurately reflects the provisions of this Agreement.

(b) Company is hereby expressly granted consent to locate any number of wells within the Exclusive Area, and for each well Company proposes within the Exclusive Area, Owner shall fully support Company's efforts to permit such wells including granting consent to locate any well greater than fifty (50) feet from an existing well pursuant to COGCC Rule 318A.(c) and granting consent to locate any well outside of the GWA windows as defined in COGCC Rule 318A.(a). Company or its successors and assigns may cite the waiver in this paragraph in order to obtain a location exception or variance under COGCC rules or from any other state or local governmental body. Owner agrees not to object to Company's use of the surface in the EOGOA Area, Access Road Area, Flowline Area, or Pipeline Area so long as such use is consistent with this Agreement. Owner will provide Company or its successors and assigns with whatever written support they may reasonably require to obtain permits from the COGCC or any state or local jurisdiction.

(c) Company is hereby granted a subsurface easement, during the term of this Agreement, for passage of any portion of any well bore for any of the future wells, whether producing or nonproducing, including the right to occupy and use the subsurface pore space displaced by the well bore and all structures appurtenant thereto.

(d) Owner agrees not to object to the Form 2A, so long as it is consistent with this Agreement, and hereby waives any right granted by COGCC rule to comment on the Form 2A, to request an extension of the comment period, to request an onsite inspection pursuant to COGCC policy, or to appeal the approval and issuance of the Form 2A, and any related Form 2 ("Application for Permit to Drill").

(e) Owner shall not oppose Company in any COGCC or other governmental proceedings related to Company's Operations, including, but not limited to, permitting, formation of drilling units, well



spacing, pooling, drilling, completion, stimulation, re-stimulation, workovers, deepening and recompleting, provided that Company's position in such proceedings is consistent with this Agreement.

9. Owner expressly acknowledges and agrees that this Agreement shall be deemed to be specifically applicable to, and to fully satisfy, the obligation of Company to reasonably accommodate Owner's use of the surface of the Property, existing or future, and waives any statutory or common law claim to the contrary.

10. Owner agrees to include a note on any annexation, subdivision plat, planned unit development or other land use designation for which Owner may apply to put successors or assigns on notice that the Property is subject to this Agreement. Owner agrees that Company may also record this Agreement, redacted as to any compensation amount. In all other respects, however, the Parties shall hold the provisions of the Agreement in confidence.

11. In construing this Agreement, no consideration shall be given to the fact or presumption that one Party has had a greater or lesser hand in drafting this Agreement than the other Party.

12. This Agreement shall be subject to, and construed under, the laws of the State of Colorado, without regard to its conflict of law provisions, and jurisdiction and venue shall be solely in the courts of the State of Colorado, subject to the right of either Party to remove a matter to federal court.

13. Each of the undersigned principals of the Parties represents and warrants that such person has the requisite corporate or legal authority to bind the respective Parties to this Agreement.

14. Concerning any matter relating to the Operations, Owner may contact:

Company:	HighPoint Operating Corporation
Person to Contact:	Land Manager-Surface
Address:	1099 18 <sup>th</sup> Street, Suite 2300
	Denver, CO 80202
Phone Number:	(303) 293-9100
Fax:	(303)-291-0420

24-Hour Emergency Phone Number: 1-(800) 880-6359

15. This Agreement is freely transferable and shall extend to, bind, and inure to the benefit of, Owner and Company, and their respective heirs, personal representatives, successors and assigns. The rights and obligations contained herein shall constitute covenants running with the Property, and upon any assignment of this Agreement, the assigning party shall be forever released therefrom.

16. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

17. This Agreement, and the rights and benefits granted and created herein shall be effective as of the Effective Date and shall continue in full force and effect until Company has plugged and abandoned all wells owned or operated by Company and has complied with all requirements of all applicable oil and gas leases and applicable laws, rules and regulations pertaining to removal of equipment, reclamation, and clean-up. Except that

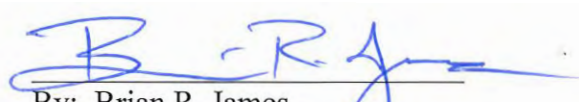
any release, discharge or indemnity from and against liability contained herein shall survive the expiration of this Agreement. An electronic copy of a Party's original signature shall be considered valid, binding and enforceable.

IN WITNESS WHEREOF, the Parties have executed this Agreement this 20<sup>th</sup> day of June, 2018.

**OWNER:**  
**JAMES M. KONIG, ET AL.**

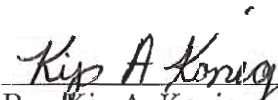
**COMPANY:**  
**HIGHPOINT OPERATING CORPORATION**


  
By: James M. Konig

  
By: Brian R. James  
Its: Surface Land Manager

  
By: Janet F. Konig

  
By: Joel W. Konig

  
By: Kip A. Konig

  
By: Michael D. Konig

\*\*\*ACKNOWLEDGEMENTS FOLLOW ON NEXT PAGE\*\*\*

ACKNOWLEDGEMENTS

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )



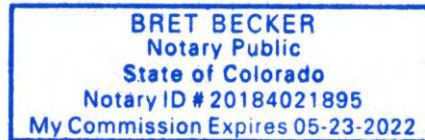
The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of June, 2018 by James M, Konig.

My commission expires 05-23-2022

A handwritten signature in black ink, appearing to be "Bret Becker", written over a horizontal line.

Notary Public

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )



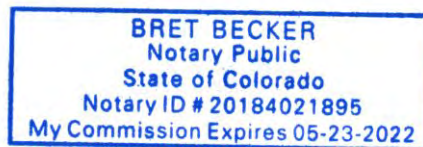
The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of June, 2018 by Janet F. Konig.

My commission expires 05-23-2022

A handwritten signature in black ink, appearing to be "Bret Becker", written over a horizontal line.

Notary Public

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )



The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of June, 2018 by Joel W. Konig.

My commission expires 05-23-2022

A handwritten signature in black ink, appearing to be "Bret Becker", written over a horizontal line.

Notary Public

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )

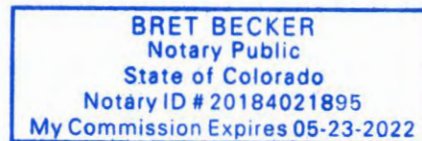


The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of June, 2018 by Kip A. Konig.

My commission expires 05-23-2022

Notary Public

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )



The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of June, 2018 by Michael D. Konig.

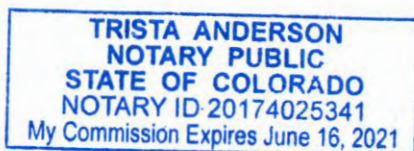
My commission expires 05-23-2022

Notary Public

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of June, 2018 by Brian R. James, as Surface Land Manager of HighPoint Operating Corporation, a Delaware corporation, on behalf of the corporation.

My commission expires 6/16/2021



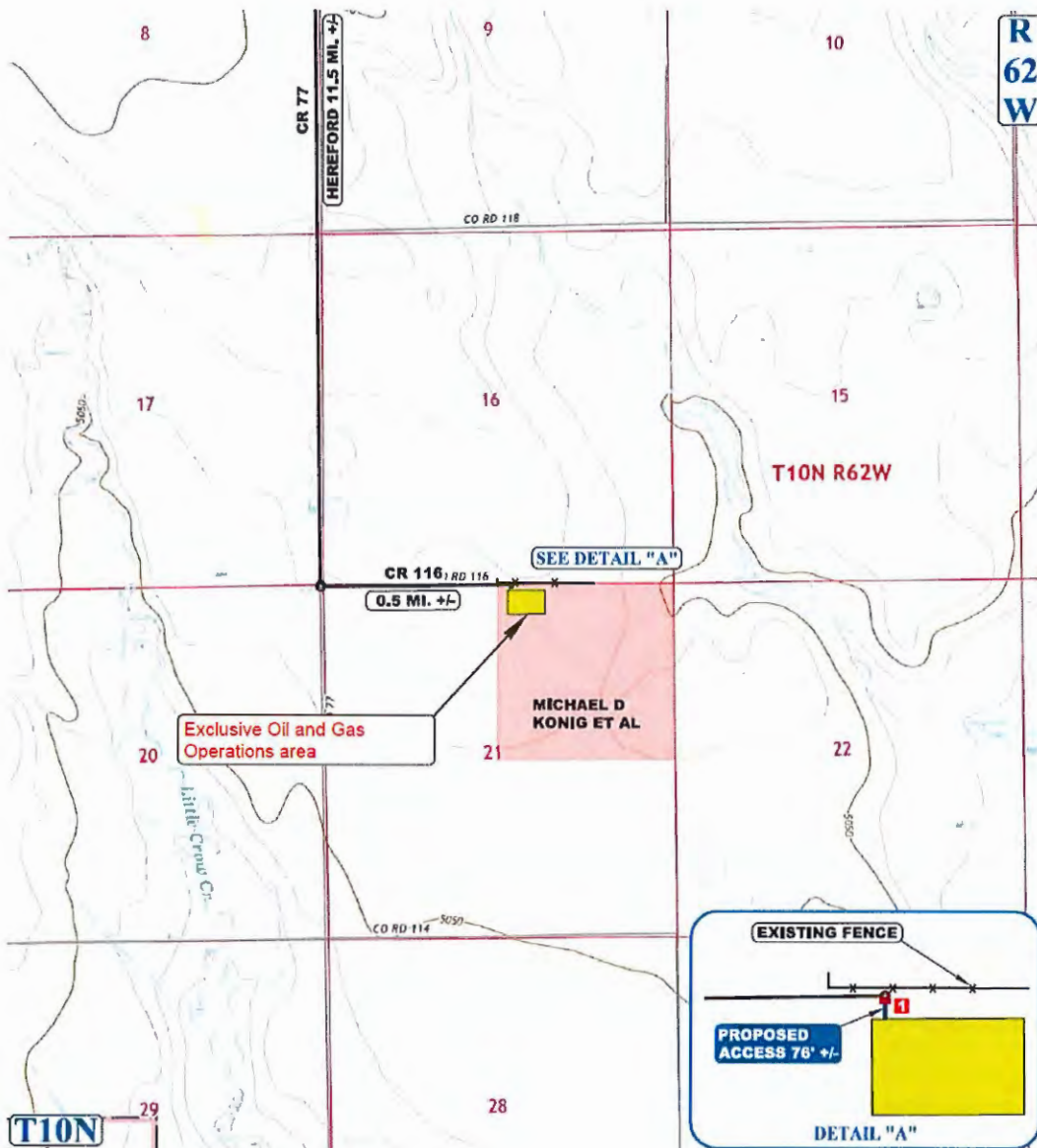
Notary Public



## EXHIBIT "A"

Attached to and by reference made a part of that certain Surface Use Agreement and Grant of Easement dated June 20, 2018, by and between James M. Konig, Janet F. Konig, Joel W. Konig, Kip A. Konig and Michael D. Konig "Owner", and HighPoint Operating Corporation as "Company", covering the following lands:

Township 10 North, Range 62 West, 6<sup>th</sup> P.M.  
Section 21: NE/4  
Weld County, Colorado



### LEGEND



EOGOA = APPROXIMATELY 6 ACRES



APPROXIMATE CL ACCESS ROAD AREA

\*Not to scale