

## **SURFACE DAMAGE AND RELEASE AGREEMENT**

This Surface Damage and Release Agreement ("**Agreement**") is made and entered into this \_\_\_\_ day of August, 2017, by and between **Ackard North, LLC.**, 11503 Royal Silver Drive, Houston TX 77082 ("**Owner**"), and **PetroShare Corp.**, 9635 Maroon Circle, Suite 400, Englewood CO 80112 ("**Operator**"); sometimes referred to each as a "**Party**," or collectively as the "**Parties**."

WITNESSETH:

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

1. **OWNERSHIP.** Owner is the surface owner of certain lands located in Adams County, Colorado as more specifically described as follows ("**Lands**"):

Township 2 South, Range 66 West, 6<sup>th</sup> P.M.  
Section 2: SW/4  
(Ackard North 2-35XYH)

Operator owns a working or operating interest in a valid oil and gas lease or leases covering all or portions of the Lands or lands pooled or included in a spacing unit therewith (each a "**Lease**," collectively, the "**Leases**").

2. **OPERATOR'S OIL AND GAS OPERATIONS ON THE LANDS.** Operator may drill or cause to be drilled oil and/or gas well or wells on the Lands ("**Well**" or "**Wells**") and may use directional and/or horizontal drilling as necessary to access subsurface locations outside the boundaries of the surface area described herein. Operator may also construct, complete, stimulate, re-stimulate, re-complete, rework, re-enter, deepen, produce, maintain, operate, and plug and abandon the Wells and all facilities associated therewith, and may construct related items including access roads ("**Access Roads**"), pipelines, flow lines, separators, tank batteries, electric lines, and any other facilities or property necessary for Operator to conduct operations on the Wells (each a "**Facility**," collectively, the "**Facilities**") and in pursuing these activities it is necessary that Operator enter and utilize a portion of the surface of the Lands. The Parties enter into this Agreement to evidence their entire agreement regarding the payment of surface damages, entry, surface use, and any other matters relating to Operator's use of the Lands.

3. **LOCATION.** The approximate location of the Wells, the Access Roads to the Well site and certain other Facilities to be constructed on the Lands will be illustrated on a survey plat which will be delivered to Owner prior to or concurrently with Operator's submission to the Colorado Oil and Gas Conservation Commission ("**COGCC**") of applications for drilling permits. Any changes to such locations that materially or unduly interfere with the Owner's existing use of the surface estate may be made by Operator with the consent of Owner, which will not be unreasonably withheld. Operator agrees not to use any more of the surface of the Lands than is reasonably necessary to conduct its operations.

4. **CONDUCT OF OPERATIONS.** Operator's operations on the Lands will be conducted pursuant to the terms of the Leases, this Agreement, and the statutes, rules, and regulations of the COGCC.

5. **COMPENSATION AMOUNT.**

A. Prior to entry Operator will pay Owner the [REDACTED] ("**Amount**"). The Amount is hereby acknowledged by Owner as full and final consideration for Operator's use of the Lands for the purposes enumerated in this Agreement and for any and all damages caused or created by reason of the reasonable and customary ingress, egress, rights-of-way, drilling, completion, recompletion, reworking, re-entry, production and maintenance operations associated with the Wells and Facilities. Such damages will include, without limitation, damage to growing crops, cropland, the removal, transportation and care of livestock, re-seeding, construction and use of Access Roads and the preparation and use of the Well site areas and construction, installation and maintenance of production equipment and facilities such as flowlines, gas pipelines, separators, tank batteries and other equipment or facilities necessary or convenient for the production, transportation and sale of oil and/or gas therefrom.

B. Operator will pay Owner a [REDACTED] for the right to construct new Access Roads on the Lands [REDACTED] to use existing roads as Access Roads on the Lands. The route of access or new Access Roads will be agreed to by both Operator and Owner.

6. **ADDITIONAL SURFACE USE PROVISIONS,  
ACCESS ROADS, FENCES AND FACILITIES.**

With respect to its operations on the Lands, Operator will comply with the following provisions:

A. Access Roads:

(i) Access Roads will not exceed thirty (30) feet in traveling road surface width.

(ii) Operator will take reasonable steps to ensure that Operator and its employees and contractors remain on Access Roads when accessing the Lands.

(iii) Operator agrees to back-slope all new Access Roads.

(iv) Operator will provide Owner with a minimum of ten (10) days prior written notice before restoring the surface of all Access Roads to be permanently abandoned by Operator. No later than 10 days following receipt of such notice, Owner may elect, in writing, not to have such Access Roads abandoned by Operator. In such event, Operator will have no liability under this Agreement, the Lease, or otherwise, to restore the surface of the Lands utilized as Access Roads. Failure to timely respond will be deemed as Owner's election that Operator proceed with the abandonment of the Access Roads and the restoration of the surface thereof.

(v) Operator will stockpile and save any topsoil removed while constructing Access Roads for rehabilitation or re-seeding as reasonably directed by Owner.



(vi) Operator will maintain all Access Roads in good repair and condition.

B. Surface Restoration:

Upon permanent cessation of Operator's operations on the Lands, all areas thereof occupied or utilized by Operator will be restored by Operator to their original contour as nearly as is reasonably practicable, and re-seeded if so requested by Owner, all in accordance with COGCC rules and regulations unless Owner requests that Operator seek a variance therefrom and such variance is granted by the COGCC; provided however, that Operator's intent to abandon any Access Roads will be subject to the provisions of Paragraph 6(A)(iv) herein.

C. Other:

(i) Operator will install culverts on the Lands that may be necessary to maintain present drainage and irrigation otherwise affected by its operations on the Lands.

(ii) If by reason of the activities of the Operator, including, but not limited to, drilling, completing, equipping, and operating of the Wells, there is unanticipated damage to personal property of the Owner, including, but not limited to, irrigation wells, fences, culverts, bridges, pipelines, ditches, or irrigation systems, Operator will repair or replace such items after consultation with and to the reasonable satisfaction of the Owner. Owner will notify Operator upon discovery any items damaged after any Well's construction and Operator will repair or replace such items after consultation with the Owner within 15 days.

(iii) Operator agrees that all trash, refuse pipe, equipment, liquids, chemicals, or other materials brought on the Lands that are not necessary for continued operations of the Wells will be removed and disposed away from the Lands no later than 90 days after the completion of the Wells. No such items will be burned or buried on the Lands.

(iv) Operator shall not permit any of its employees or contractors operating hereunder to bring any dog, firearm, explosive device, weapon, alcoholic beverage, marijuana, or illegal drugs on Owner's property. No employee or contractor of Operator shall hunt, prospect for antlers, fossils or antiquities, recreate, consume alcoholic beverages, or carry on any illegal activities on the Lands. In the event Owner discovers any employee, contractor or representative of Operator failing to abide by the terms of this paragraph, Owner shall provide Operator with as much information as possible regarding any individual violating this provision and Operator agrees to take appropriate action regarding such violation.

(v) 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 operations of Operator. Owner agrees that all damages claimed by a surface tenant, lessee or

other such party resulting from operations of Operator shall be settled by Owner, and Owner hereby agrees to indemnify and hold Operator harmless from and against any such claims.

(vi) Owner expressly waives the application of any COGCC setbacks inconsistent with this Agreement, including, but not limited to, setbacks for high density areas and surface lot lines. Owner hereby waives any right to appeal COGCC issuance of drilling permits, including COGCC conditions of approval of Operator's applications for such permits.

(vii) Owner hereby does not consent to the conduct of wildlife surveys on the Lands, and to the imposition of timing restrictions, buffer zones or other conditions of approval, stipulations, or standard operating practices related to wildlife protection and habitat preservation by the COGCC with respect to the Well(s).

7. **NOTICE.**

(i) Operator will provide Owner with 10 days' notice by email, U.S. mail or phone call prior to commencing operations on the Lands with heavy equipment.

(ii) Operator and Owner acknowledge that pursuant to COGCC Rule 305.c.(4), Owner may have an obligation to give notice of the proposed operations to third parties. Operator therefore agrees to notify Owner by email, U.S. mail or phone call upon its submission of an Oil and Gas Location Assessment, Form 2A with the COGCC and further agrees to provide Owner with an "OGLA Notice" pursuant to COGCC Rule 305.c.(1) when Owner proposes an Oil and Gas Location in the Lands that is located within the Exception Zone Setback as defined in COGCC Rule 604.a.(1).

(iii) Owner expressly disclaims any other obligation to notify Building Unit owners as defined by COGCC Rules, or any other third parties.

(viii) Owner acknowledges that the notice requirements in this section either comply with, or hereby waives, all other COGCC requirements that it be given advance notice by Operator of its operations. Owner acknowledges receiving from Operator a brochure prepared by the COGCC which describes the rights and responsibilities of Owner as the surface owner of the Lands.

8. **DEFAULT AND RIGHT TO CURE.** In the event that either Operator or Owner defaults under this Agreement, the defaulting party shall be notified in writing of the facts relied upon as constituting a breach thereof, and that party, if in default, shall within sixty (60) days after receipt of such notice, commence compliance with the obligations imposed by virtue of this agreement. In the event the defaulting party does not commence compliance with the obligations imposed by virtue of this agreement within said sixty (60) day period, the non-defaulting party shall have the right to take such action as will cure the default and invoice the defaulting party for the reasonable costs incurred in curing the default, and/or may require specific performance of the defaulting party's obligations under this agreement. The defaulting party agrees to pay any and all reasonable attorney's fees of the other party incurred as a result of a breach of this agreement.



Except as otherwise agreed in writing, no waiver by Owner or Operator of any breach by the other Party of any of its obligations, agreements, or covenants hereunder will be deemed to be a waiver of any subsequent or continuing breach of the same, nor will any forbearance by Owner or Operator to seek a remedy for any breach by the other Party be deemed to be a waiver by Owner or Operator of its rights or remedies with respect to such breach; however, in no event will Operator be liable for additional payment for reasonably anticipated damages to the Lands caused by Operator's oil and gas operations, and in no event will Operator be liable for consequential damages.

9. **INDEMNITY/RELEASE.** Operator hereby releases, waives, and discharges Owner from any and all claims, liabilities, rights, demands, actions and causes of action, of every kind and nature, in law, equity or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, asserted, or which could have been asserted for personal injury, death, property damage, environmental damage or otherwise (each individually a "Claim" and together "Claims") arising from Company's operations or other activities on the Lands, unless such Claim arises from Owner's intentional act, willful misconduct, or sole negligence. Owner hereby releases, waives, and discharges Company from any and all Claims arising from Operator's operations or other activities on the Lands, unless such Claim arises from Company's intentional act, willful misconduct, or sole negligence.

A. Operator shall protect, defend, and hold harmless Owner, and any subsequent owner of the Lands from and against any and all Claims that in any way arise out of Operator's operations or other activities on the Lands; provided, however, Operator will not protect, defend, indemnify and hold harmless Owner, and any subsequent Owner of the Property from any Claims that arise from Owner's intentional act, willful misconduct, or sole negligence.

10. **INSURANCE.** Not later than ten (10) days prior to commencing operations on the Lands, Operator shall provide proof of insurance to Owner, evidenced by a certificate of insurance, showing the types and amounts of insurance that Operator shall maintain during the term of this Agreement. Operator shall provide at least thirty (30) days advance written notice to Owner of a cancellation or material change of such insurance. By requiring insurance information herein, Owner do not represent that coverage and limits will necessarily be adequate to protect Operator, and such coverage and limits shall not be deemed as a limitation on Operator's liability under the indemnities granted to Owner in this Agreement. Failure of Owner to demand proof of insurance or identify a deficiency in the insurance proof provided shall not be construed as a waiver of Operator's obligation to maintain such insurance.

11. **NOTICE FOR ADDITIONAL OPERATIONS.** Operator will comply with COGCC rules and regulations requiring that advance notice be provided to Owner for subsequent operations on the Wells, including, but not limited to, reworking operations thereto.

12. **NOTICES.** Notice by either Party will be promptly given pursuant to the terms of this Agreement and if a method is not specified herein, notice will be promptly given orally, if possible, with subsequent written confirmation sent by United States mail, postage prepaid and addressed to either Party at the address as designated below; or to such other place as either Party may from time to time designate by notice to the other:



Owners

Ackard North, LLC  
Peggy A. Ackard  
11503 Royal Silver Drive  
Houston TX 77082  
Phone: (713) 828-8381  
Email: packard99@sbcglobal.net

Operator

PetroShare Corp.  
Attention: Bill Givan  
9635 Maroon Circle, Suite 400  
Englewood, CO 80112  
Phone: (303) 500-1160  
Fax: (303) 770-6885  
Email:

13. **BINDING EFFECT.** The covenants and conditions herein contained and all of the provisions of this Agreement will inure to the benefit of and will be binding upon the Parties hereto, their respective heirs, representatives, successors or assigns. Owner agrees to contact any and all tenants of Lands or any other third parties utilizing the surface of the Lands that may be affected by Operator's activities on the Lands. It will be Owner's sole responsibility to advise such third parties of the existence of this Agreement and Operator's right to utilize the surface of the Lands pursuant to this Agreement for the payment of any consideration, if any, due such third party from Owner.

14. **CONFIDENTIALITY.** The Parties agree to keep the terms and conditions of this Agreement confidential and will not disclose such matters to any third party without the advance written consent of the other, or if ordered to do so in a legal proceeding. While the specific terms hereof are to remain confidential between the Parties, the Parties shall execute a Memorandum of Surface Damage and Release Agreement that Operator shall place of record in Adams County, Colorado.

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

16. **TERM.** This Agreement will remain in full force and effect for so long as Operator has the right to conduct oil and gas operations on the Lands pursuant to the Leases; provided, however, that the termination of this Agreement will not relieve the Parties from their respective obligations or liabilities arising herein prior to such termination.

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

18. **GOVERNING LAW AND VENUE.** This Agreement will be governed by, construed and enforced in accordance with the laws of the State of Colorado. 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.

19. **SUCCESSORS.** This Agreement constitutes a covenant running with the Lands and will be binding upon and inure to the benefit of, and be enforceable by, the Parties and their respective successors, administrators, trustees, executors and assigns.

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

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

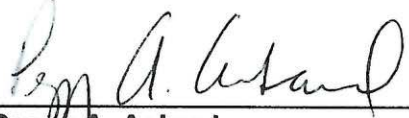
IN WITNESS WHEREOF, the Parties hereby execute as herein dated, but effective, the day and year first written above.

**PETROSHARE CORP.**

By:   
**William R. Givan**  
**Vice President Land**

Dated: \_\_\_\_\_

**Owner**

By:   
**Peggy A. Ackard,**  
**Manager, Ackard North, LLC**

Dated: 8-22-2017


**ACKNOWLEDGEMENT**

STATE OF TEXAS       §  
                                     §  
COUNTY OF HARRIS   §

The foregoing instrument was acknowledged before me this 22 day of August, 2017, by **Peggy A. Ackard**, known to me, and who acknowledged that he/she/they executed the foregoing instrument as his /her/their free and voluntary act and deed, as Manager of Ackard North, LLC, for the uses and purposes therein set forth.

Witness my hand and official seal.

My Commission Expires:  
6-26-2019  
(seal)

  
Notary Public:



STATE OF COLORADO     §  
  §  
COUNTY OF DOUGLAS   §

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of August, 2017, by William R. Givan, as Vice President Land of **PETROSHARE CORP.**, a Colorado corporation, on behalf of such corporation.

Witness my hand and official seal.

My Commission Expires:

9/12/18

Sami Alexander

Notary Public:

[seal]

