

## SURFACE USE AGREEMENT

This Surface Use Agreement ("**Agreement**") is made and entered into effective as of the 1st day of August 2018 ("**Effective Date**"), by and between Watkins Road Associates, LLLP, a Colorado limited liability limited partnership, ("**Grantor**"), and Burlington Resources Oil & Gas Company LP, a Delaware limited partnership ("**Grantee**"). Grantor and Grantee are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**."

### **RECITALS**

- A.** Grantor owns the surface estate or otherwise controls the surface rights in and to property located in Section 19, Township 4 South, Range 64 West, 6<sup>th</sup> P.M., Arapahoe County, Colorado, as more particularly described and depicted on **Exhibit A**, attached hereto and made a part hereof ("**Property**");
- B.** Grantee owns or operates oil and gas leases and rights in the vicinity of the Property ("**Leases**"), and desires to enter on the Property for the purposes of conducting oil and gas operations related to the Leases ("**Operations**");
- C.** Grantee desires to obtain and clarify the right to use the surface of the Property for the purpose of access to and from and for conducting Grantee's Operations and to compensate Grantor for that use and for the impacts it will have on Grantor's use and enjoyment of its surface estate as set forth in the Parties' unrecorded consideration and compensation agreement ("**UCCA**"); and
- D.** Grantor and Grantee desire to stipulate, confirm and agree as to Grantee's use of the surface estate of the Property to the extent necessary to effectuate and support Grantee's Operations, and the consideration and compensation as applicable to be paid for or in connection with such use.

### **AGREEMENT**

For and in consideration of TEN AND NO/100 DOLLARS (\$10.00), the foregoing recitals and the terms, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

#### **1. Surface Access Rights.**

- A. Right-of-Way.** Grantor grants to Grantee and its agents, employees, and others authorized by them an exclusive easement and right-of-way upon and across the Property (as indicated on Exhibit "B") to conduct its Operations ("**Right-of-Way**"), including without limitation, the rights to:
  - i. locate, drill, complete, operate, and maintain wells and well pads and associated production equipment on the Property;
  - ii. to construct, operate and maintain access roads;

- iii. to lay, construct, operate, inspect, maintain, and repair pipelines, and to replace with same or different size pipe, remove, or abandon in place pipeline(s),
- iv. to install, construct, operate, and repair compressors, power lines and communication line(s), and any other equipment or facilities reasonably related to the Operations ("**Facilities**").

Such Right-of-Way also includes the Ancillary Rights described in Paragraph 18, and the right for Grantee to construct from time to time and at any time or times additional pipelines, appurtenances, valves, metering equipment, cathodic protection, wires, conduits, cables, and/or underground power lines and other facilities reasonably needed for its Operations within the Right-of-Way granted. The Right-of-Way for the roads, pipeline(s), compressor(s), power line(s) and/or communication line(s) will not exceed 60 feet in total width. Grantee may temporarily use an additional 20 feet in width along and adjacent to the Right(s)-of-Way, subject to a mutually agreed upon location between the Parties, during construction, repair or maintenance.

Except for the portion of the Right-of-Way that Grantee uses for its well pad, wellheads and associated surface facilities, the rights of Grantee to use the Right-of-Way as set forth herein are non-exclusive. Grantor reserves the right to use all access roads, and the remainder of the Property outside the Right-of-Way, and to grant successive easements on or across the Property on such terms and conditions as Grantor deems necessary or advisable. If, because of governmental requirements or Grantor's development of the Property, it becomes necessary for Grantor to use a portion of the Right-of-Way for utilities or other infrastructure development, Grantor and Grantee shall confer and agree on the location of Grantor's use so that it minimizes any interference with Grantee's use of the Right-of-Way. Further, if the City of Aurora or any other authority with jurisdiction requires the widening of Watkins Road and/or any other street or road passing through or along the Property, then such widening shall to the extent possible avoid adverse impact to this Agreement, other than any portion of the Right-of-Way taken or needed in the widening process will no longer be part of the Right-of-Way under this Agreement. Without Grantor's prior, written permission, Grantee shall not use, disturb or enter on any portion of the Property other than the Right-of-Way.

**B. Grantor represents and warrants that the following are true:**

- i. Grantor is the owner of the Property, subject to all matters of record;
- ii. Grantor has the legal right to grant the Right-of-Way described herein, and
- iii. This Agreement does not restrict Grantee's quiet use and enjoyment of the Right-of-Way except as specifically provided for in this Agreement.

- C. Grantee represents and warrants that the following are true:
- i. It is the owner of record of the Leases;
  - ii. This Agreement does not restrict Grantor's quiet use and enjoyment of the Property except as specifically provided for in this Agreement; and
  - iii. It has the legal right to enter into this Agreement.
2. **Location of the Right-of-Way.** The Right-of-Way will be located approximately as specified and illustrated on the attached Exhibit B. Upon completion of construction of the Right-of-Way, as built drawings will be provided by Grantee to Grantor and the Parties agree to amend this Agreement to replace Exhibit B with an as built survey of the Right-of-Way.
3. **Notification and Consultation.** Ninety days prior to commencing any Operations, initiating the drilling of any well or initiating the conduct of seismic or activities on said Property, Grantee shall notify Grantor prior to entry upon the Property. Sixty days prior to permitting any well requiring the construction of a new pad location, Grantee shall notify and consult with Grantor as to the specific location of each well, road, pipeline, power line, tank battery, or other facility to be placed upon or under the Property. Grantor shall have 30 days from receiving notice to give consent, which consent shall not be unreasonably withheld. If such consultation results in the modification the Right-of-Way, the parties will execute an amendment to Exhibit B to reflect the final description of the Right-of-Way and record such amendment in the office of the Clerk and Recorder for Arapahoe County, Colorado. If the Parties cannot agree on a different location, then Paragraph 35 of this Agreement shall become applicable.

Grantor acknowledges that Grantee has given sufficient notice and has met this requirement regarding the Lussing Trust 4-64 19-20 8-well pad located in the SW/4 of Section 19, T4S, R64W.

4. **Seven Year Buffer Area; Waiver.**

- A. **Buffer Area.** Grantor shall maintain a 1000-foot setback (the "Buffer Area") from the boundaries of the Right-of-Way and shall not plat lots and/or construct commercial/residential Building Units (as defined by COGCC Rules), industrial building improvements or recreational building improvements within the Buffer Area.

Upon three months' notice to Grantee, Grantor may farm within the Buffer Area and Grantor may install utilities and other infrastructure development in the Buffer Area so long as such activities do not interfere with Grantee's operations. Parties shall mutually agree on location of utilities and infrastructure within the Buffer Area. If the Parties are unable to agree on the location of the utilities and the infrastructure development within the Buffer Area, the location shall be resolved under Paragraph 35 of this Agreement.

The Buffer Area shall remain in place for a period of seven (7) years from the execution date of this Agreement. Grantor may request a release of the Buffer Area prior to the end of the seven years where drilling and completions operations have been completed on an individual location. Any release of the Buffer Area for such individual location may be granted by Grantee at its sole discretion. After such seven-year period, the Buffer Area shall not apply to the Property.

- B. **Waiver.** Grantor waives its right to object to any other state or local setback surface requirements that would increase surface setbacks and thereby materially interfere with the rights of Grantee, or its successors and assigns, to conduct Operations upon the Right-of-Way. Notwithstanding the foregoing, Grantor reserves the right to challenge any state or local setback requirements that would result in the loss of the use by Grantor of any portion of the Property. Grantor shall amend or update the Framework Development Plan with the city of Aurora to indicate the locations and setbacks agreed upon in this Agreement. Grantee shall not object to Grantor's current or future annexation or zoning of the Property or to any proposed site plan approval, development and improvement of the Property, and or any alterations or adjustments thereto, including but not limited to the Framework Development Plan with Aurora, as Grantor in its discretion deems appropriate, as long as it does not conflict with this Agreement or interfere with the rights granted herein. If the Parties dispute whether a conflict or interference exists, then Paragraph 35 of this Agreement shall become applicable.
5. **Colorado Waiver of Notice and Consultation.** With respect to filings and proceedings before the Colorado Oil and Gas Conservation Commission ("COGCC") pursuant to the Rules and Regulations ("COGCC Rules") promulgated thereby, Grantor and Grantee do not waive the right to receive notices, submit comments, and/or engage in consultations with the COGCC or each other with respect to matters concerning the use of the Right-of-Way. Grantee shall provide Grantor with a copy of any comments, notices or statements it issues regarding Grantor's use of the Property outside of the Right-of-Way. Grantor acknowledges the receipt from Grantee of the information brochure for surface owners described in COGCC Rules. Grantee has complied with all notice, meeting, comment and consultation requirements of the current versions of COGCC Rules 305 and 306. Grantor and Grantee do not waive the right to receive any required notice under the county or city code of the county or city in which the Right-of-Way is located in connection with the matters addressed herein.
6. **Use of Property.** As long as Grantee complies with this Agreement and the UCCA, Grantor expressly acknowledges that this Agreement will be deemed to be specifically applicable to, and to fully satisfy, the obligation of Grantee to reasonably accommodate Grantor's existing or future use of the surface of the Property, during the Term of this Agreement, and Grantor knowingly and voluntarily waives any statutory or common law claims to the contrary. Further, assuming Grantee complies with this Agreement and the UCCA, Grantor acknowledges that Grantee's proposed use of the Right-of-Way, pursuant to the terms of this Agreement, reasonably accommodates Grantor by minimizing intrusion upon and damage to the Property, and that Grantee has fully complied with Colorado's statutory

reasonable accommodation doctrine codified at C.R.S. § 34-60-127, as amended or re-codified.

Grantor and Grantee will have the right to erect a fence upon the boundary of the Right-of-Way, which is aesthetically appealing and is subject to the approval of Grantor, which approval shall not be unreasonably withheld. In the event the City of Aurora requires fencing in connection with any portion of the Right-of-Way, Grantee agrees to install such fencing at its cost and expense.

Grantor will not place any structure on or store any personal property or material of any kind within the Right-of-Way, including, but not limited to, placing or storing vehicles, farm equipment, hay or other crops on any well pad, other than as shown on Exhibit B attached hereto, or for purposes of utility and infrastructure development regarding which the Parties shall confer and agree on the location or resolve under Paragraph 35, or as otherwise provided herein.

Grantee waives any right to object or contest any proposed or actual use of the Property outside of the Right-of-Way.

7. **Well Sites.** The Right-of Way is depicted on Exhibit B of this Agreement. Prior to commencing operations on the Right-of-Way, Grantee will provide a detailed plan depicting the location of the well pad(s), access road, permanent equipment, and the interim reclamation plan to Grantor for review and approval, not to be unreasonably withheld. Grantee agrees not to construct or allow any waste, disposal or other pits and will use a "closed loop" system to hold and contain all drilling and completion fluids, solids and waste.
8. **Compensation.** Consideration for the rights granted hereunder and compensation for damages incurred with respect to Grantee's use of the Right-of-Way for the purposes stated herein, including the Buffer Areas, is provided for in a separate Unrecorded Consideration and Compensation Agreement ("UCCA") between Grantor and Grantee, signed concurrently with this Agreement.
9. **Road Construction and Use.** Any access roads depicted on Exhibit B constructed or used by Grantee on the Property, will be constructed only within the Right-of-Way and used to the following specifications at Grantee's sole expense:
  - A. To the maximum extent reasonably possible, Grantee will use existing roads designated by Grantor for Grantee's Operations if such use is operationally and economically feasible in Grantee's judgment reasonably exercised.
  - B. The surface of all access roads shall be made of compacted gravel and shall comply with all regulations or laws applicable to such access roads. Grantee shall control dust from all access roads through the application of an appropriate dust suppressant. Any access roads constructed by Grantee shall be maintained in good condition by Grantee at its sole cost. When Grantor begins developing the Property, Parties will consult in good faith on how to accommodate Grantor and Grantee's use of access roads.

- C. Grantor may request that Grantee install swinging metal gate in addition to a cattle guard where there is access to the Right-of-Way from any public road, or from any adjoining Lands.
  - D. Culverts shall be placed in low areas for proper drainage.
  - E. No off-road travel or other travel which has the effect of widening an access road will be permitted by Grantee.
  - F. Grantor shall have no responsibility for maintenance of access roads constructed by Grantee. The use and construction of access roads by Grantee on the Right-of-Way is an exclusive use, and Grantor may consult with Grantee to allow other parties to use said access roads at Grantor's expense.
  - G. Grantee agrees, if requested by Grantor, to place an appropriate sign or signs on any access road designating them as "private roads" and to assist Grantor in excluding unauthorized users. The size and color of such signs shall be subject to Grantor's approval.
  - H. Grantor may lock gates across its private roads, provided that Grantee shall have the right to place its own locks on such gates. Grantor shall not lock out or prevent Grantee from entering the Right-of-Way by locking the gates, or any other means. Grantee shall not lock out or prevent Grantor from entering or using its Property or the Right-of-Way by locking the gates, or any other means.
  - I. Grantee shall maintain access roads used by Grantee to the extent necessary for Grantee's needs and to the reasonable satisfaction of Grantor, which maintenance shall to the extent required include shaling, ditching, graveling, blading, mowing grass to avoid fire danger, installing and cleaning cattle guards, and spraying for noxious weeds. This work shall be done at such reasonable times as Grantor shall request.
  - J. No access roads outside of the Right-of-Way that are located elsewhere on the Property shall be used by Grantee without a separately negotiated agreement.
10. **Pipelines.** Unless otherwise provided in or governed by an existing right of way or pipeline instrument between the Parties or their predecessors, any pipelines constructed by Grantee on the Right-of-Way shall be constructed and maintained to the following specifications:
- A. The top of each pipeline shall be buried at least 48 inches below the surface of the ground and shall be constructed in such a manner to safely permit Grantor to construct roads and utilities over such pipeline in such locations as may be designated by Grantor.
  - B. Grantee shall be responsible for backfilling, repacking, reseeding, and recontouring the surface so as not to interfere with Grantor's present or future agricultural operations and its present or planned future development or other use of the Property. If pipeline trenches settle so as to interfere with Grantor's

current or future use of the Property, Grantee shall, upon request by Grantor, fill in, repack, and level such trenches.

- C. Grantee shall provide Grantor with a plat showing the "as built" length and location of all pipelines promptly after their installation.
- D. Grantor reserves the right to occupy, use, and cultivate the lands affected by such pipelines, and to grant such rights to others, so long as such use does not interfere with Grantee's Operations. No structures may be built by Grantor within fifteen (15) feet of any pipeline.
- E. The pipelines referred to in this Agreement are limited to and include only those pipelines used in connection with the Right-of-Way. Grantor agrees to execute easements, on a form similar to those already in place on property owned by Grantor or its affiliate, Watkins Road Associates, LLLP, a Colorado limited liability limited partnership, needed to connect the Right-of-way to the pipeline gathering system used by Grantee.
- F. If Grantee fails to use any pipeline for a period of more than twenty-four (24) consecutive months, the pipeline shall be deemed abandoned, and Grantee shall promptly take all actions necessary or desirable to clean up and remove the pipeline, or render the pipeline environmentally safe and fit for abandonment in place, and restore the surface. All such cleanup and mitigation shall be at Grantee's sole expense and shall be performed in compliance with all applicable federal, state, and local laws and regulations.
- G. In the event of a conflict between the terms of an existing right of way agreement between the Parties and this Paragraph 10, the provisions of the existing right of way agreement shall control.

#### **11. Power Lines.**

- A. Grantee will consult with Grantor and with the independent power company supplying power to the Right-of-Way with respect to the location of buried power lines prior to construction, and shall obtain Grantor's written consent for such locations which consent shall not be unreasonably withheld. All power to the Right-of-Way and all Facilities incidental thereto shall be provided underground to the extent technically feasible and reasonably practicable in the opinion of Grantor and Grantee. If the Parties are unable to agree on whether underground power is technically feasible and reasonably practicable, the dispute shall be resolved under Paragraph 35 of this Agreement.
- B. Grantor hereby grants permission for any local electric company to raise, move and install underground utility lines on the Right-of-Way in locations mutually acceptable to Grantor and Grantee, when requested by Grantee in connection with its Operations. Grantor agrees to negotiate and execute such utility easements, in form acceptable to Grantor, with such local electric company as may be reasonably necessary to comply with this provision, and Grantor shall

receive all payments from the utility company for the installation and use of all power lines located within the Right of Way.

**12. Release.**

- A. To the maximum extent permitted by law, Grantee releases and waives and discharges Grantor and, if applicable, Grantor's officers, owners, directors, employees, agents, successors, and assigns from any and all liability for personal injury, death, property damage, or other claims and losses arising out of Grantee's or its agents' operations under this Agreement or Grantee's or its agents' use of the Property, unless such injury, death, or property damage is the result of Grantor's gross negligent acts or omissions or those of its members, officers, directors, employees, agents, successors, and assigns.
- B. Grantor, and on behalf of its heirs, owners, executors, directors, employees, successors and assigns, as applicable, acknowledges the receipt and sufficiency of all compensation and consideration paid by Grantee pursuant to this Agreement and the UCCA as full and complete settlement for and as a release of all claims for loss, damage or injury to the Right-of-Way arising out of Grantee's Operations, except that the foregoing settlement and release does not apply to Grantee's obligation to comply with this Agreement, or any other Claims, as hereinafter defined, that arise from or relate to Grantee's Operations.

**13. Conduct of Operations.**

- A. Grantee shall conduct its Operations in a safe and workmanlike manner and in compliance with all applicable federal, state and/or local laws, rules and/or regulations. Grantee shall also obtain any permit, consent, license, or other authorization for its Operations that is required by law or by any governmental authority having jurisdiction.
- B. Grantee will design and construct well locations and Facilities located thereon to provide a safe working area while reasonably minimizing the total surface area of the Right-of-Way disturbed.
- C. At the time any access road is initially constructed upon the Right-of-Way, Grantee will install a cattleguard and/or gate at each existing fence line crossed by such access road.
- D. Grantee shall maintain all disturbed areas of the Right-of-Way affected by Operations to control dust and minimize erosion, noise, vibrations, and air



pollution in accordance with all local, state, federal rules and regulations, and during the Term of this Agreement.

- E. Grantee shall at all times keep the Right-of-Way safe and in good order, free of noxious weeds, litter and debris, and shall spray for noxious weeds upon reasonable demand by Grantor or as required by the rules of the COGCC.
- F. Grantee will have the right to clear all trees, undergrowth and other obstructions from the Right-of-Way.
- G. Except for utility and infrastructure development for which the Parties shall confer and agree on the location, or resolve per Paragraph 35 herein, Grantor will not impound water or build, construct, create or install, nor permit others to impound water or build, construct, create or install, any buildings, structures, fences, trees, engineering works or any obstructions on the Right-of-Way and Grantor will not change the grade of the Right-of-Way without the express written consent of Grantee.
- H. Grantor agrees that during times of construction or other significant work by Grantee, Grantee may park vehicles in areas immediately adjacent to the Right-of-Way or along access roads connecting the Right-of-Way to the county roads, but no such vehicles shall be parked on any other portion of the Property.
- I. Grantee shall remove only the minimum amount of vegetation necessary for the construction of roads, well locations, and Facilities. Topsoil shall be segregated and conserved during excavation, stockpiled and reused as cover on disturbed areas to facilitate regrowth of vegetation. Grantee may store material (*e.g.*, soil and gravel) excavated from the Right-of-Way on the Right-of-Way to be used for Operations or reclamation. Grantee also may import material from outside the Right-of-Way for Operations or reclamation. After constructing Facilities upon the Right-of-Way, if Grantee determines that there is material in excess of what is required for reclamation that can reasonably be stored on the Right-of-Way, then Grantee, at Grantee's sole cost and expense, with the consent of Grantor, in Grantor's sole discretion, may deliver said excess material to a location on the Property that is mutually acceptable to Grantee and Grantor. Any such excess material so delivered will become the sole responsibility of Grantor, and Grantee will have no further responsibility for said excess material. Should a mutually acceptable location on the Property not be found, then Grantee will remove such excess material from the Property. Prior to delivery of any excess material to Grantor, Grantee shall confirm, to Grantor's reasonable satisfaction, that such excess material does not contain any hazardous materials.
- J. All cattle guards and fences installed by Grantee shall be kept clean and in good repair and will become the property of Grantor upon the expiration or

termination of Grantee's oil and gas lease(s) covering that portion of the Property.

- K. Grantee shall not permit the spill, release or discharge of any toxic or hazardous chemicals or wastes on the Property or the Right-of-Way. Any spill, release or discharge of oil, grease, solvents, chemicals, or other toxic or hazardous substances on the Right-of-Way or Property which are reportable to regulatory authorities under applicable law or regulations shall be immediately (within 24 hours) reported to Grantor by telephone, fax, or e-mail, to be followed by copies of written notices which Grantee has filed with regulatory authorities within five (5) business days after such filing.
- L. Grantee shall use reasonable efforts to assure that construction or routine maintenance activities will not be performed during periods when the soil is too wet to adequately support construction equipment. Once a well is completed, if Grantee accesses the Right-of-Way with heavy trucks and tankers owned or commissioned by Grantee, it will do so only as may be necessary for the efficient operation of the Leases taking into account the levels of production from wells drilled on the Leases; it being understood that access may be frequent in the production process.
- M. Grantee shall confer with Grantor concerning the size and appearance of all surface facilities, which shall be as low profile as possible and shall be painted colors which blend with the natural color of the Property.
- N. No living quarters shall be constructed upon the Right-of-Way, except that drilling crews and geologists or service personnel may use temporary "dog houses" during drilling, completion, or reworking activities.
- O. Grantee shall construct fences to keep humans, sheep, cattle and other animals from any Operations areas or Facilities within the Right-of-Way.
- P. Grantee and its employees, agents, and contractors shall leave all gates located on the Property as they found them; gates found closed are to be closed; gates found open are to be left open.
- Q. None of Grantee's employees, agents, or contractors, or any other person under the direction or control of Grantee shall be permitted to carry firearms or any other weapon on the Property or Right-of-Way and they shall not hunt, fish, or engage in recreational activities on the Property or Right-of-Way. No dogs will be permitted on the Property or Right-of-Way at any time. Grantee will notify all of its contractors, agents, and employees that no dogs, firearms, weapons, hunting, fishing, or recreational activities will be allowed on the Property or Right-of-Way. Notwithstanding the foregoing, this provision does not apply to law enforcement units or personnel, whether on or off duty, who may serve as security contractors for Operator. None of Grantee's employees, agents, or contractors, or any other persons under the direction or control of Grantee, shall

possess or be under the influence of alcohol or illegal drugs while on the Property or Right-of-Way.

- R. Grantee shall take all reasonable steps to prevent fire and to promptly extinguish fire. Grantee shall fully and promptly compensate Grantor for all damages caused by fire arising out of Grantee's operations, including, without limitation, any charges incurred by Grantor for fire suppression and the replacement of fences and other property damaged or destroyed by fire.
  - S. Grantee shall conduct dust suppression in such areas and at such times as Grantor shall reasonably request as long as the dust is a result of Grantee's Operations.
14. **Produced Water.** With respect to any water produced from wells drilled on the Right-of-Way in connection with the production of oil, gas, or other hydrocarbons, Grantee agrees to properly dispose of such produced water off the Property and Right-of-Way.
15. **Groundwater.** In the event that Grantee discovers water during its drilling operations, Grantee shall advise Grantor of the location and quantity thereof. Grantee acknowledges that all groundwater underlying the Property is or will be owned by the City of Aurora and any use thereof is subject to agreement with Grantor and the City of Aurora.
16. **Extraordinary Damages.** The compensation provided for herein and in the UCCA does not include payment for damage to livestock, buildings, or improvements in the Right-of-Way, and does not include or relieve Grantee from liability for spills or discharges of any hydrocarbon, injuries to persons, toxic substance or hazardous chemicals or wastes from its Operations, or from leaks or breaks in Grantee's pipelines.
17. **Mutual Indemnification.** Grantee hereby agrees to indemnify, defend and hold Grantor harmless from and against all losses, damages, claims, demands and suits (including court costs and reasonable attorney' s fees) that Grantor may incur or be liable for (collectively, "Claims" ), to the extent that such Claims result directly from Grantee' s exercise of the rights granted hereunder, EXCEPT to the extent any such Claims result from or are attributable to the negligence, gross negligence, willful misconduct or malicious acts (or omissions) of Grantor, its agents, employees, contractors or representatives.
- Grantor hereby agrees to indemnify, defend and hold Grantee harmless from and against all losses, damages, claims, demands and suits (including court costs and reasonable attorney' s fees) that Grantee may incur or be liable for (collectively, "Claims" ), to the extent that such Claims result directly from Grantor' s exercise of the rights granted hereunder, EXCEPT to the extent any such Claims result from or are attributable to the negligence, gross negligence, willful misconduct or malicious acts (or omissions) of Grantee, its agents, employees, contractors or representatives.
18. **Environmental Indemnification.** "Environmental Laws" shall mean any laws, regulations, rules, ordinances, or order of any governmental authority(ies), which relate to or otherwise impose liability, obligation, or standards with respect to pollution or the protection of the

environment, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.), the Clean Water Act (33 U.S.C. §§ 466 et seq.), the Safe Drinking Water Act (14 U.S.C. §§ 1401-1450), the Hazardous Material Transportation Act (49 U.S.C. §§ 1801 et seq.), the Clean Air Act, and the Toxic Substances Control Act (15 U.S.C. §§ 2601-2629);

a. Grantee will promptly remediate any release or spill of any substances on the Property and Right-of-Way arising from or relating to its Operations. Grantee hereby agrees to indemnify, defend and hold Grantor harmless from and against all losses, damages, claims, demands and suits (including court costs and reasonable attorneys' fees) that Grantor may incur or be liable for which arise from or relate to Grantee's Operations on the Property or Right-of-Way or on lands pooled or unitized with the Property including, without limitation, release or spill of substances, violation of or noncompliance by Grantee with Environmental Laws, and any health, or other governmental laws or regulations, and mechanic's or materialmen's liens imposed against Grantor or any portion of the Property (including, without limitation, the Right-of-Way) by Grantee's contractors, subcontractors, employees, representatives or agents, if any (collectively, "Claims"), to the extent that such Claims result, arise from or are related to Grantee's Operations and/or its exercise of any rights granted hereunder, EXCEPT to the extent any such Claims result from or are attributable to the negligence, willful misconduct or malicious acts (or omissions) of Grantor, its agents, contractors, subcontractors, employees, or representatives.

19. **Ancillary Rights.** In addition to the other rights granted herein, Grantee will be entitled to, and is granted a right-of-way and easement through any subsurface interests owned by Grantor in connection with the Right-of-Way and Property (e.g., minerals, pore spaces, dirt, rock, etc.) to drill, complete, produce, deepen, rework, drill additional laterals or wells, frac, re-frac and recomplete vertical wells, directional and/or horizontal wells (collectively, "Wells") under the Right-of-Way and Property to reach lands not covered by this Agreement, specifically including Wells which have bottom hole locations (if vertical wells) or horizontal drainhole locations (if horizontal wells) on lands pooled or unitized with the Property. Notwithstanding the foregoing, any use by Grantee of the Right-of-Way that precludes, prevents or impedes development of the surface of the Property lying outside the Right-of Way by Grantor is prohibited.
20. **Exclusion from Indemnities.** The indemnities herein shall not cover or include any amounts which the indemnified Party is actually reimbursed by any third party. The indemnities in this Agreement shall not relieve any Party from any obligations to third parties.
21. **Reclamation and Reseeding.**
  - A. Grantee shall notify Grantor prior to final reclamation of well pads within the Right-of-Way, including final removal of equipment, plugging and abandonment, and final reclamation of the well pad(s) and shall comply with all

federal, state or local notification rules, regulations or requirements associated with the same. Grantee shall use its reasonable efforts to consult in good faith with Grantor regarding all aspects of final reclamation, including, but not limited to, the timing of such activities, topsoil protection and general Reclamation of the Right-of-Way.

- B. Unless otherwise agreed by Grantor or unless otherwise provided in the rules of the COGCC, all areas disturbed by Grantee's activities will be reseeded with suitable grasses or crops selected by Grantor, at a reseeding rate determined by Grantor, and during a planting period selected by Grantor. In the absence of direction from Grantor, no reseeding (except for borrow pits) will be required on any access roads existing as of the date of this Agreement. It shall be the duty of Grantee to ensure that a growing ground cover is established upon disturbed soils and Grantee shall reseed as necessary to accomplish that duty.
- C. As to all disturbed areas affected by Grantee's Operations that are no longer needed or used for Operations, or upon termination of this Agreement, Grantee shall commence activities and continue the same as soon as practicable in a diligent manner to fully reclaim and re-seed the disturbed areas to a condition as similar as is practicable to that existing prior to the commencement of Grantee's Operations, and will comply with all then-applicable federal, state or local laws and regulations with respect to such reclamation, and in accordance with these provisions (collectively, "Reclamation").
- D. It shall further be the duty of Grantee to inspect and control all noxious weeds as may become established within areas used or disturbed by Grantee as required by the rules of the COGCC. Grantee shall inspect all disturbed areas from time to time and as Grantor shall reasonably request in order to determine the growth of ground cover and/or noxious weeds. Grantee shall reseed ground cover and control noxious weeds from time to time to the extent necessary to accomplish its obligations hereunder. Grantee recognizes that this provision shall be a continuing obligation and Grantee shall reseed ground cover and/or control noxious weeds until areas disturbed by Grantee are returned to as near the condition as existed prior to construction as possible, or until the Right-of-Way has reached vegetation acceptance as determined by local jurisdictions and/or state rules and regulations, and the Right-of-Way is removed from vegetation inspections. If Grantor so requests, Grantee shall construct and remove fences for the purpose of temporarily excluding livestock from newly seeded areas.

22. **Designated Contact Person.** Grantor and Grantee designate the following as their primary contact person for discussions, consultation and/or notification purposes required by this Agreement:

## GRANTOR:

Watkins Road Associates, LLLP, a Colorado limited liability limited partnership  
Attn: Steven M. Cohen  
7400 E. Crestline Circle, Suite 150  
Greenwood Village, CO 80111-3655  
Work Phone: 720-554-9419; Home Phone: 303-321-7265; Cell Phone: 720-308-7392  
Fax: 303-773-6256

## GRANTEE:

Burlington Resources Oil & Gas Company, LP  
Real Property Administration  
PO Box 7500  
Bartlesville, OK 75005-7500

## And to:

ConocoPhillips Company  
Attn: Surface Land  
34501 E. Quincy Ave, Building #1  
Watkins, CO 80137  
Phone: 303-268-3711  
Fax: 303-268-3730

All notices and communications required under this Agreement must be in writing and addressed as set forth above. Any communication or delivery hereunder will be deemed to have been duly made and the receiving Party charged with notice, whether personally delivered, sent by facsimile transmission, mail or overnight courier, when received. Grantor or Grantee may notify the other of a change in its designated contact person.

23. **Assignability**. This Agreement and its covenants run with the Property. This Agreement may be assigned by Grantor, without Grantee's consent. This Agreement may only be assigned by Grantee to any person or entity holding an oil and gas leasehold interest in any of the Wells associated with the Right-of-Way but may not otherwise be assigned without Grantor's prior written consent. Grantor shall give consent within twenty (20) days of receipt of notice of such potential assignment, which must not be unreasonably withheld, conditioned or delayed. Failure to respond to a request for consent to assign within 20 days after receipt of the request will be deemed consent to the assignment. Such assignment will not act to terminate the assigning party's duties, obligations, and liabilities under this Agreement from and after the effective date of the assignment, unless Grantor specifically consents to such release, at Grantor's sole discretion.
24. **Binding Effect**. All provisions of this Agreement will be binding on and inure to the benefit of Grantor and Grantee and their respective heirs, executors, administrators, successors and assigns.

25. **As Is/Where Is.** Grantee acknowledges that it is and will be aware of all natural and manmade conditions and hazards on the Right-of-Way and takes and will use the Right-of-Way subject to such conditions and hazards, as is, where is.
26. **Term.** This Agreement will be effective on the date it is executed by all Parties and will remain in force and effect as to all of the Right-of-Way and Ancillary Rights for as long as the Leases, pursuant to which any Wells located on the Right-of-Way are, were, or will be drilled remain in effect ("**Term**").
27. **Will Not Diminish Other Rights.** This Agreement is a clarifying and confirming document and shall not be construed as a waiver of any rights Grantee or Grantor have under any other agreement, instrument or ownership interest pertaining to the Property.
28. **Modification of Locations and Amendments of Agreement.** If, prior to drilling a well, it becomes necessary or desirable to utilize locations materially different from those agreed upon due to regulatory requirements or otherwise, either Party may request such a reasonable relocation in writing to the other, in which event the Parties will negotiate a modification to this Agreement. Any amendment or modification to this Agreement must be by written agreement by both parties.
29. **Force Majeure.** Neither Grantor nor Grantee will be liable to the other for any damages for failure to perform its obligations under this Agreement due to fire, earthquake, flood (other than fire, earthquakes or floods proximately caused by the Operations), adverse weather conditions, war, sabotage, rebellion, insurrection, riot, acts of terrorism, strike or labor disputes and other like casualty or other causes beyond its reasonable control (including, but not limited to, inability to complete Reclamation responsibilities; provided, however, that such responsibilities will continue but with an extension of the completion deadline), nor for damages caused by public improvements or condemnation proceedings.
30. **Transfer of Grantor's Interest.** No transfer of Grantor's interest, by assignment or otherwise, will be binding on Grantee until Grantee has been furnished with written notice, including copies of all recorded instruments or documents and other information necessary to establish a complete chain of record title from Grantor. No present or future division of Grantor's ownership as to different portions or parcels of the Right-of-Way will operate to enlarge the obligations or diminish the rights of Grantee, and all of Grantee's Operations may be conducted without regard to such division.
31. **Headings.** Paragraph headings or captions in this Agreement are for reference and convenience only and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision.
32. **Construction of Agreement.** Whenever required by the context of this Agreement, the singular will include the plural, and vice versa, and the masculine gender will include the feminine and neuter genders, and vice versa. The provisions of this Agreement have been independently, separately and freely negotiated by Grantor and Grantee as if drafted by both. The Parties waive any statutory or common law presumption that would serve to have this Agreement construed in favor of or against either of them.

33. **Applicable Law.** This Agreement will be governed by and interpreted in accordance with the laws of Colorado, excluding any choice of law provisions that would refer the matter to the laws of another jurisdiction. The State Court of Arapahoe County, Colorado shall be the sole and exclusive venue for the resolution of any disputes arising under this Agreement where judicial intervention is needed.
34. **Notice of Breach or Default.** An alleged breach or default by Grantee of any obligation under this Agreement, or the failure of Grantee to satisfy any condition or limitation contained in this Agreement, will not work as forfeiture or termination of this Agreement, nor be grounds for cancellation of this Agreement in whole or in part unless a forfeiture, cancellation or termination is the final order of the state courts of the State of Colorado. Grantor will not initiate litigation with respect to any alleged breach or default or under this Agreement by Grantee for a period of at least thirty (30) days after Grantor has given Grantee written notice describing the breach or default in reasonable detail, and if Grantee fails to remedy or commence to remedy the breach or default within such period and diligently pursue, in Grantor's reasonable discretion, such cure to completion, with cure being effected, in all events, within ninety (90) days after the notice of default was delivered to Grantee. Grantor shall be entitled to all rights and remedies at law or in equity in the event Grantee fails to cure a default within the time periods provided herein.
35. **Dispute Self-Resolution.** In the event of any dispute, disagreement or controversy arising out of, relating to or connected with this Agreement including but not limited to the location of any well, surface sites or Facilities, access roads or pipelines, upon receipt of a written notice of dispute, the Parties shall use reasonable, good faith efforts to settle such dispute or claim through negotiations with each other. If such negotiations fail to produce a mutually acceptable resolution to the matter in dispute within 30 days upon receipt by either Party of a notice of dispute, the Parties will proceed in accordance with Section 33 of this Agreement.
36. **Relationship of Grantor and Grantee.** Grantor and Grantee acknowledge that this Agreement does not create any special relationship between them, including, without limitation, that of joint venturers or partners. Nothing in this Agreement will be construed to establish a fiduciary relationship, a relationship of trust or confidence or a principle-agent relationship between Grantor and Grantee for any purpose.
37. **Severability.** If any provision of this Agreement is illegal, invalid or unenforceable under present or future laws applicable to this Agreement, Grantor and Grantee intend that the remainder of this Agreement will remain in full force and effect so as to fulfill as fully as possible their intent as expressed by the then existing terms of this Agreement, including the invalidated provision.
38. **Merger of Prior Agreements.** This Agreement and that separate UCCA between the Parties and their predecessors that relate to the Property contain the sole and entire agreement and understanding of Grantor and Grantee with respect to the Right-of-Way and will supersede all prior agreements, if any, insofar as they pertain to the Right-of-Way or to other matters addressed in this Agreement. All prior discussions, negotiations, commitments and understandings relating to the Right-of-Way are merged into this Agreement, which shall



control in the event of a conflict between this Agreement and any other agreement between the Parties.

39. **Counterparts.** This Agreement may be executed in two or more original counterparts, all of which together will constitute one and the same Agreement.
40. **Memorandum of Agreement.** A memorandum of this Agreement will be prepared and recorded in the records of Arapahoe County, Colorado
41. **No Surface Occupancy Agreement - Section 25, Township 4 South, Range 65 West, 6<sup>th</sup> P.M., Arapahoe County, Colorado.** Grantee, who holds the exclusive right to drill oil and gas wells upon said Section 25 as the lessee, hereby agrees that it will not exercise its legal right of surface use and access in Section 25, Township 4 South, Range 65 West, 6<sup>th</sup> P.M. for oil and gas drilling, storage, transportation (surface and underground pipelines) and any other operations in exchange for the rights granted herein.

EXECUTED as of the date of acknowledgement, but this Agreement is effective as of the Effective Date.

**GRANTOR:**


Watkins Road Associates, LLLP, a Colorado  
limited liability limited partnership

By: \_\_\_\_\_  
Steven M. Cohen, General Partner

Date: \_\_\_\_\_

**GRANTEE:**

Burlington Resources Oil & Gas  
Company LP

By:   
Printed Name: T.D. ADKINS

Title: Attorney-in-Fact

Date: Aug. 2, 2018

## ACKNOWLEDGMENTS

State of Colorado        }  
                                      }  
 County of Arapahoe        }

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Steven M. Cohen, whose name as general partner of Watkins Road Associates, LLLP, a Colorado limited liability limited partnership, is signed to the foregoing Surface Use Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument he, as authorized agent and with full authority, executed the same voluntarily and as the act of said entity.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
 Notary Public

My Commission Expires: \_\_\_\_\_.

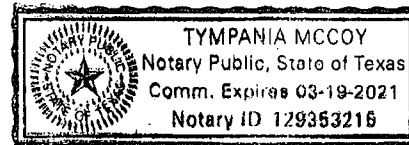
State of Texas        }  
                                      }  
 County of Harris        }

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that, J.D. Adkins, whose name as Attorney-in-Fact of Burlington Resources Oil & Gas Company, LP is signed to the foregoing Surface Use Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument she, as authorized agent and with full authority, executed the same voluntarily and as the act of said corporation.

Given under my hand and official seal, this the 2 day of August 2018.

Tympania McCoy  
 Notary Public

My Commission Expires: 3.19.2021.



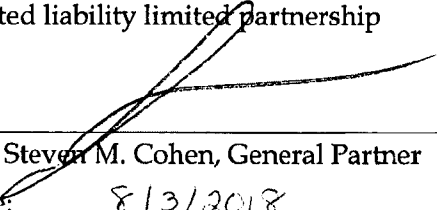
control in the event of a conflict between this Agreement and any other agreement between the Parties.

- 39. **Counterparts.** This Agreement may be executed in two or more original counterparts, all of which together will constitute one and the same Agreement.
- 40. **Memorandum of Agreement.** A memorandum of this Agreement will be prepared and recorded in the records of Arapahoe County, Colorado
- 41. **No Surface Occupancy Agreement – Section 25, Township 4 South, Range 65 West, 6<sup>th</sup> P.M., Arapahoe County, Colorado.** Grantee, who holds the exclusive right to drill oil and gas wells upon said Section 25 as the lessee, hereby agrees that it will not exercise its legal right of surface use and access in Section 25, Township 4 South, Range 65 West, 6<sup>th</sup> P.M. for oil and gas drilling, storage, transportation (surface and underground pipelines) and any other operations in exchange for the rights granted herein.

EXECUTED as of the date of acknowledgement, but this Agreement is effective as of the Effective Date.

**GRANTOR:**

Watkins Road Associates, LLLP, a Colorado limited liability limited partnership

By:   
Steven M. Cohen, General Partner

Date: 8/3/2018

**GRANTEE:**

Burlington Resources Oil & Gas Company LP

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: Attorney-in-Fact

Date:

## ACKNOWLEDGMENTS

State of Colorado        }  
                                      }  
 County of Arapahoe        }

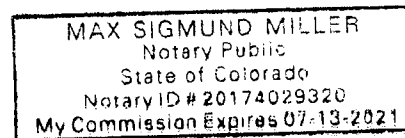
I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Steven M. Cohen, whose name as general partner of Watkins Road Associates, LLLP, a Colorado limited liability limited partnership, is signed to the foregoing Surface Use Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument he, as authorized agent and with full authority, executed the same voluntarily and as the act of said entity.

Given under my hand and official seal, this the 3<sup>rd</sup> day of August 2018.

My Commission Expires: 7/13/21.

Notary Public

State of \_\_\_\_\_ }  
                                      }  
 County of \_\_\_\_\_ }



I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that, \_\_\_\_\_, whose name as Attorney-in-Fact of Burlington Resources Oil & Gas Company, LP is signed to the foregoing Surface Use Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument she, as authorized agent and with full authority, executed the same voluntarily and as the act of said corporation.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

Notary Public

My Commission Expires: \_\_\_\_\_.

**Exhibit A**

Attached to and made a part of that certain  
Surface Use Agreement  
dated Aug 1<sup>st</sup>, 2018,  
by and between  
Watkins Road Associates, LLLP  
and  
Burlington Resources Oil & Gas Company LP

**Property**

Township 4 South, Range 64 West, Arapahoe County, CO

Section 19: All

**Exhibit B**

Attached to and made a part of that certain  
Surface Use Agreement  
dated Aug. 1<sup>st</sup>, 2018,  
by and between  
Watkins Road Associates, LLLP  
and  
Burlington Resources Oil & Gas Company LP

**Right-of-Way**

