

is capable of producing gas, as herein defined, but gas is not being produced therefrom.

While this agreement remains in force, the provisions of this Section X shall, as between ROYALTY OWNERS and SHELL, supersede and replace the respective provisions of each of the pooled leases providing for payment by lessee of a stated sum per year as shut-in gas royalty for a completed gas well from which lessee is not using or selling gas off of the leased premises; and if SHELL desires to continue any pooled lease in force by reason of a shut-in gas well on the pooled area, the provisions of this Section rather than the shut-in gas royalty provisions of the respective pooled leases shall control.

#### XI.

SHELL agrees that it will make reasonable and diligent efforts to obtain execution of this agreement by the owners of all of the royalty on gas under the leases described in Exhibit "A" hereof as to the respective lands described in Exhibit "A" hereof. If this agreement is executed by all of the owners of all of the royalty on gas under such leases as to said lands on or before the 15th day of August 1942, then SHELL agrees that it will accept this agreement by executing and filing one counterpart hereof for record with the County Clerks of DeWitt and Lavaca Counties, Texas, on or before ten (10) days after said date. If on or before said date all of the owners of all of the royalties on gas under such leases as to such lands have not executed this agreement, then SHELL shall have the right, at its option, either to accept or to refuse to accept this agreement, and if SHELL fails to accept same by executing and filing one copy hereof for record on or before ten (10) days after said date set forth above, this agreement shall terminate, retroactively effective as of the date hereof.

#### XII.

If SHELL accepts this agreement and files one counterpart for record as specified in Section XI hereof, then SHELL shall be obligated to commence, on or before the 15th day of October, 1942, operations for the drilling of a well at a location on the pooled area, and SHELL shall drill said well with reasonable diligence to a depth sufficient to encounter the horizon in which the SHELL No. 1. D. G. McManus well (in the Chas. P. Delmas Survey, Lavaca County, Texas) has been completed, or to such lesser depth at which either (1) oil or gas in paying quantities is encountered and produced, or (2) either an impenetrable formation of igneous material or heaving shale or cavity is encountered which renders further drilling impracticable. It is understood, however, that if a well is commenced within the time above provided and same is spoiled or lost before reaching the depth above provided, then SHELL shall have the right, at its option, to drill a substitute well at another location on the pooled area by commencing same within ninety (90) days after abandonment of the previous well.

#### XIII.

The term "Force Majeure," as used herein, shall mean and include: Requisition, order, regulation or control by governmental authority or commission; exercise of rights of priority or control by governmental authority for National Defense or war purposes resulting in delay in obtaining or inability to obtain either material, equipment or means of transportation normally necessary in prospecting or drilling for gas or in producing, handling, or transporting same; war; scarcity of or delay in obtaining materials or equipment; lack of labor or means of transportation of labor or material; acts of God, insurrection; floods; strikes.

If by reason of Force Majeure, as herein defined, SHELL is prevented from or delayed in drilling, completing or producing any well or wells for gas on the pooled area, including the well provided for in Section XII hereof, then while so prevented or during the period of such delay, SHELL shall be relieved of all obligations, whether express or implied, imposed on SHELL under the pooled leases and under this agreement to drill, complete or produce such well or wells on the pooled area, and SHELL shall not be liable in damages and neither this agreement nor any of the pooled leases shall be subject to cancellation for failure of SHELL to drill,