

**IN THE DISTRICT COURT OF BLAINE COUNTY  
STATE OF OKLAHOMA**

DDL OIL & GAS, LLC	)	
and DUSTIN M. FREEMAN,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. CJ-2019-17
	)	
DIVERSIFIED PRODUCTION, LLC,	)	
successor by merger with	)	
TAPSTONE ENERGY, LLC,	)	
	)	
Defendant.	)	

**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement (hereinafter, including all exhibits attached hereto and/or provided for herein referred to collectively as the “Settlement Agreement”) is entered into between DDL Oil & Gas, LLC and Dustin M. Freeman, for themselves and all others similarly situated (“Plaintiffs”), and Diversified Production LLC, successor by merger with Tapstone Energy, LLC (“Defendant”). Plaintiffs and Defendant are collectively referred to herein individually as a “Party” and collectively as the “Parties.” The settlement contemplated by this Settlement Agreement is conditioned upon the terms and conditions set forth in this Settlement Agreement, including but not limited to the Court (1) approving this Settlement Agreement without material alteration and (2) entering the orders and judgments upon which this Settlement Agreement is conditioned, as more fully described below:

**W I T N E S S E T H:**

WHEREAS, the above-styled action (the “Litigation”) was originally filed on June 5, 2019, with the filing of Plaintiffs’ Original Petition in the District Court of Blaine County, State of Oklahoma;

WHEREAS, on July 16, 2019, Defendant filed its Answer to the Original Petition;

WHEREAS, Plaintiffs have made certain claims against Defendant, as more fully described in the Original Petition;

WHEREAS, Plaintiffs and Plaintiffs' Counsel have prosecuted the Litigation for nearly four years, which has included discovery of documents and data, research, accounting review and analysis, consultation by and with experts, mediation, settlement negotiations among counsel, damage modeling, and other investigations and preparation;

WHEREAS, Plaintiffs and Plaintiffs' Counsel acknowledge that, during the course of their prosecution of the Litigation, they have received, examined, and analyzed information, documents, materials, and evidence they deem necessary and appropriate to enable them to enter into this Settlement Agreement on a fully informed basis, and after such examination and analysis, and based on the experience of Plaintiffs' Counsel, their experts and consultants, Plaintiffs and Plaintiffs' Counsel have concluded that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate and in the best interests of the Settlement Class and Plaintiffs;

WHEREAS, Plaintiffs have agreed to settle the claims asserted against Defendant in the Litigation pursuant to this Settlement Agreement after considering: (1) the substantial benefits Class Members will receive from resolution of such claims, (2) the risks of litigating those claims, and (3) the desirability of permitting the Settlement to be consummated as provided by the terms of this Settlement Agreement;

WHEREAS, Defendant has taken into account the expense, uncertainty, and risks inherent in this Litigation, and has determined it is desirable to compromise and settle the claims against it in the Litigation;

WHEREAS, on June 5, 2023, Plaintiffs filed an Amended Petition substituting Diversified Production LLC, successor by merger with Tapstone Energy, LLC as the Defendant in place of Tapstone Energy, LLC.

WHEREAS, Defendant has adamantly denied, and continues to adamantly deny, Plaintiffs' claims against it and any and all liability to Plaintiffs and the Settlement Class, and has vigorously defended against those claims; and

WHEREAS, Defendant enters into this Settlement Agreement without admitting any liability whatsoever, and solely to avoid further expense, inconvenience, and the disruption of defending against the claims asserted against it in the Litigation and to be completely free of any further controversy with respect to the claims that were asserted or could have been asserted in the Litigation, as more fully described herein.

NOW THEREFORE, in consideration of the payments, mutual promises, agreements, undertakings, releases, and other terms and provisions of this Settlement Agreement, the sufficiency of which is hereby acknowledged by the Parties hereto, Defendant and Plaintiffs, on behalf of themselves and the Settlement Class, stipulate and agree, subject to the approval of the Court, without admission of any liability or wrongdoing, and in consideration of the benefits set forth herein, that all Released Claims (defined below) shall be fully, finally and forever compromised, settled, released and discharged, and the Litigation shall be dismissed with prejudice, upon and subject to the following terms and conditions:

#### **1. DEFINITIONS**

As used throughout this Settlement Agreement, the Supplemental Agreement, the Initial and Final Plans of Allocation, and all other documents attached hereto, the following phrases and words will be given the meanings set forth below:

1.1 **“Administration, Notice, and Distribution Costs”** means the reasonable and necessary fees, costs, and expenses charged by the Settlement Administrator, JND Legal Administration Company (or any consultant retained by the Settlement Administrator with the approval of Plaintiffs’ Counsel) for fees, costs, and expenses generated or incurred in the administration, distribution, and notification of the Settlement, including: (a) fees, costs, and expenses incurred in identifying the names, addresses, owner numbers, and tax identification numbers of Class Members (to the extent not contained in the records provided by Defendant under Paragraph 3.3 below); (b) fees, costs, and expenses incurred to publish and mail the Notice of Settlement to the Settlement Class (such as the cost to print the Notices of Settlement, mail the Notices of Settlement, and/or publish the Notices of Settlement pursuant to the Plan of Notice); (c) fees, costs, and expenses to prepare, issue, and mail (and re-issue and re-mail, if necessary) the Distribution Checks to the Settlement Class; (d) fees, costs, and expenses to provide a reconciliation of the final amount of Residual Unclaimed Funds; (e) fees, costs, and expenses to calculate the amount each Class Member will receive under the Initial Plan of Allocation; and (f) fees, costs, and expenses to calculate the amount each Class Member who does not timely and properly submit a Request for Exclusion will receive under the Final Plan of Allocation. Administration, Notice, and Distribution Costs also include the costs described in (a) through (f) above incurred by Plaintiffs’ Counsel and/or Plaintiffs associated with experts, consultants, or other personnel retained for purposes of administration, distribution, and notification. Administration, Notice, and Distribution Costs also include any fees or costs charged related to administration of the Gross Settlement Fund, including any fees or costs charged by the Settlement Administrator. Subject to Court approval, all Administration, Notice, and Distribution Costs will be paid from the Gross Settlement Fund.

1.2 “**Allocation Methodology**” means the methodology Plaintiffs propose to use to calculate the amount of the Net Settlement Fund to be sent to each Participating Class Member as set forth in Paragraphs 6.2-6.4.

1.3 “**Answer**” means the Answer of Defendant filed in the Litigation on July 16, 2019.

1.4 “**Case Contribution Award**” means the award ordered by the Court, if any, to Plaintiffs for their, expense, and participation in this Litigation and in representing the Settlement Class.

1.5 “**Claim Period**” means May 31, 2015, through November 30, 2022.

1.6 “**Class Member**” is a person or entity belonging to the Settlement Class.

1.7 “**Court**” means the Honorable Judge Allison M. Lafferty, or any subsequent judge assigned to hear the Litigation.

1.8 “**Defendant**” is separately defined on page 1 of this Settlement Agreement.

1.9 “**Defendant’s Counsel**” means the Trimble Law Group, PLLC.

1.10 “**Distribution Check**” means a check payable to a Participating Class Member for the purpose of paying that Participating Class Member’s share of the Net Settlement Fund pursuant to the Allocation Methodology.

1.11 “**Effective Date**” has the meaning set forth in Paragraph 9.3.

1.12 “**Escrow Account**” means an interest-bearing account maintained by the Escrow Agent.

1.13 “**Escrow Agent**” means the escrow agent appointed and approved by the Court.

1.14 “**Escrow Agreement**” means the agreement(s) between Plaintiffs’ Counsel (on behalf of Plaintiffs and the Settlement Class), Defendant, and the Escrow Agent setting forth the

terms under which the Escrow Agent shall maintain the Escrow Account in accordance with this Settlement Agreement.

1.15 “**Final and Non-Appealable**” means that the following conditions are satisfied:

(a) thirty (30) days have elapsed without the filing of (i) any appeal or original action in any court challenging or seeking reconsideration, modification, or vacation of the Judgment, or otherwise seeking to interfere with or evade provisions of this Settlement Agreement and the Settlement contemplated hereunder; (ii) any motion that would extend the time to appeal from the Judgment, or which challenges or seeks reconsideration, modification or vacation of the Judgment; or (iii) any motion that would extend or reopen the time for commencing an appeal; or

(b) if any motion under subparagraph (a)(ii) or (iii) was filed, it has been denied with no appeal having been commenced within 30 days after the entry of the final order denying all such motions; or if any motion under subparagraph (a)(iii) was granted, the moving party has not commenced an appeal within the time allowed; or

(c) if an appeal is commenced, (i) the Judgment is affirmed in full or the appeal is dismissed, mandate of the appellate court is issued, and no petition for writ of certiorari is filed, or if one is filed, the Oklahoma Supreme Court either denies or dismisses such petition or affirms in full and mandate issues, or (ii) the appellate court remands to the Court for further proceedings in which the Court issues a final decision that does not vacate or alter the original Judgment in any material respect and that decision itself becomes Final and Non-Appealable; or

(d) if an original action listed in subparagraph (a)(i) above is filed, it results in a final decision that does not vacate or alter the original Judgment in any material respect and that final decision itself becomes Final and Non-Appealable; or

(e) if a motion under subparagraph (a)(ii) is granted, the Court's final decision on such motion does not vacate or alter the Judgment in any material respect and that decision itself becomes Final and Non-Appealable; or

(f) such date as the Parties may otherwise agree to in writing.

1.16 “**Final Fairness Hearing**” means the hearing set by the Court under Okla. Stat. tit. 12 § 2023 to consider final approval of the Settlement.

1.17 “**Final Plan of Allocation**” means the final calculation of the Distribution Check that will be sent to each Participating Class Member.

1.18 “**Gross Settlement Fund**” means the total cash amount of \$1,850,000.00 to be paid by Defendant. In no event shall Defendant be required to pay more than the Gross Settlement Fund.

1.19 “**Initial Plan of Allocation**” has the meaning set forth in Paragraph 6.5.

1.20 “**Judgment**” means the Order and Judgment Granting Final Approval of Class Action Settlement finally approving the Settlement between the Settlement Class and Defendant, which shall include provisions substantially the same as those set forth in Paragraph 3.6 below and be in substantially the same form as Exhibit 2, attached hereto.

1.21 “**Litigation**” is separately defined on page 1 of this Settlement Agreement.

1.22 “**Litigation Expenses**” means the reasonable costs and expenses incurred by Plaintiffs' Counsel in commencing and prosecuting the Litigation and approved by the Court.

1.23 “**Net Settlement Fund**” means the Gross Settlement Fund less: (a) any of Plaintiffs' Attorneys' Fees and Litigation Expenses awarded by the Court; (b) any Case Contribution Award awarded by the Court; (c) any Administration, Notice, and Distribution Costs; (d) any other costs and expenses that the Court orders to be deducted from the Gross Settlement

Fund and (e) the amount of money in excess of the separately agreed upon threshold under the Allocation Methodology attributable to Opt Outs as set forth in the Supplemental Agreement.

1.24 “**Notice of Settlement**” means the notice in substantially the same form as Exhibit 3 attached hereto, which will be mailed to potential Class Members, and the notice in substantially the same form as Exhibit 4 attached hereto, which will be published in accordance with the Plan of Notice, and the notice in substantially the same form as Exhibit 5 attached hereto, which will be published electronically on the website in accordance with the Plan of Notice and sent directly to Class Members upon request in accordance with the Plan of Notice.

1.25 “**Opt-Out**” means a Class Member who timely and properly submits a Request for Exclusion or who is otherwise excluded from the Settlement Class by order of the Court, separate and apart from the individuals and entities excluded by virtue of the Settlement Class definition.

1.26 “**Participating Class Member**” means a Class Member who is not an Opt-Out.

1.27 “**Parties**” is separately defined on page 1 of this Settlement Agreement.

1.28 “**Petition**” is separately defined on page 2 of this Settlement Agreement.

1.29 “**Plaintiffs**” is separately defined on page 1 of this Settlement Agreement.

1.30 “**Plaintiffs’ Attorneys’ Fees**” means the attorney fees that may be awarded by the Court to Plaintiffs’ Counsel with respect to their work on the Litigation.

1.31 “**Plaintiffs’ Counsel**” means the law firms of: (a) Nix Patterson, LLP; (b) Ryan Whaley Jantzen Peters & Webber PLLC; (c) Whitten Burrage; and (d) Barnes & Lewis, LLP.

1.32 “**Plan of Notice**” means the process described in Paragraph 3.5 below for sending and publishing the Notice of Settlement.

1.33 “**Preliminary Approval Order**” means the order in substantially the form attached hereto as Exhibit 1 as further described in Paragraph 3.1.



1.34 **“Released Claims”** include all claims and damages (statutory, contract, tort, equitable, punitive, and other relief) of the Releasing Parties related to underpaid and unpaid statutory interest for payments on Oklahoma oil and gas production made during the Claim Period. This release includes claims asserted in the Litigation, or that could have been asserted in the Litigation, for failure to pay interest on payments made outside the time periods set forth in the Production Revenue Standards Act or applicable contracts, including prior period adjustments (PPAs).

1.35 **“Released Parties”** means Defendant as well as its respective parent companies, subsidiaries, affiliates, former or present officers, directors, members, employees, agents, attorneys, board members, successors, assigns, and consultants.

1.36 **“Releasing Parties”** means Plaintiffs and all Participating Class Members; their predecessors, successors, heirs, assignors, and assignees; and any past and present affiliates, directors, officers, employees, attorneys, agents, consultants, servants, stockholders, members, representatives, subsidiaries, insurers, and affiliates of such persons or entities.

1.37 **“Request for Exclusion”** means any request for exclusion from the Settlement Class pursuant to Okla. Stat. tit. 12 § 2023 that meets the requirements set by the Court for exclusion.

1.38 **“Residual Unclaimed Funds”** means any portion of the Net Settlement Fund that has not been deposited, cashed or otherwise claimed by a Class Member, including but not limited to: (a) the amounts described as “Residual Unclaimed Funds” in Paragraphs 5.5, 6.10, 6.11, 6.12, and 6.16, along with any interest and returns that accrue on such amounts, and (b) the amount of Distribution Checks sent to Class Members that are voided because they are not cashed or

deposited within the time period specified on the Distribution Check, along with any interest and returns that accrue on such amounts.

1.39 “**Settlement**” means the Parties’ agreement to resolve the Litigation as described herein.

1.40 “**Settlement Administrator**” means the person or entity that is approved and appointed by the Court to administer the Settlement.

1.41 “**Settlement Class**” means the below-described class that the Parties have agreed should be certified for settlement purposes pursuant to the entry of the Preliminary Approval Order to be entered by the Court in the same or similar form attached hereto as Exhibit 1. The Settlement Class is to be specifically defined as follows:

All non-excluded persons or entities who received or, during the pendency of this action will receive, Untimely Payments from Defendant for O&G Proceeds from Oklahoma Wells and whose payments did not also include the statutory interest prescribed by the Act.

The persons or entities excluded from the Settlement Class are: (1) agencies, departments, or instrumentalities of the United States of America and the State of Oklahoma, including but not limited to the U.S. Department of the Interior (the United States, Indian tribes as defined at 30 U.S.C. §1702(4), and Indian allottees as defined at 30 U.S.C. §1702(2)); (2) Commissioners of the Land Office of the State of Oklahoma (CLO); (3) publicly traded oil and gas companies and their affiliates; (4) persons or entities (and their affiliates) who are the Oklahoma Corporation Commission (OCC) designated operator (and as reflected on Drilling Info, Inc., doing business as Enverus, data reports) of more than fifty (50) Oklahoma wells in the month when this Class definition was originally filed; (5) persons or entities that Plaintiffs’ counsel may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct.; (6) officers of the court, and (7) Owners in regard to whom Defendant is required by the Act to pay O&G Proceeds annually for the 12 months accumulation of O&G Proceeds totaling less than \$100.00, provided, however this exclusion of so-called “minimum pay” Owners does not apply to interest claims for other 12 month periods accumulation of O&G Proceeds when the same Owner was entitled to \$100 or more and thus not in a “minimum pay” status.

Except as expressly excluded from the Settlement Class as set forth above, the Parties intend the Settlement Class to be construed as broadly as possible to include all persons or entities that otherwise meet the definition of the Settlement Class.

1.42 “**Supplemental Agreement 1**” means the confidential supplemental agreement between the Parties relating to the separately agreed upon threshold referenced in Paragraph 9.1.

1.43 “**Supplemental Agreement 2**” means the confidential supplemental agreement between the Parties referenced in Paragraph 7.2.

1.44 “**Untimely Payment**” means payments made by Defendant (or on Defendant’s behalf) outside the time periods set forth in the Production Revenue Standards Act, Okla. Stat. tit. 52 § 570.1, *et seq.* (the “PRSA”) for oil and gas production proceeds from oil and gas wells in Oklahoma.

1.45 “**Supplemental Agreements**” Supplemental Agreement 1 and Supplemental Agreement 2.

## 2. CONSIDERATION

2.1 The Parties agree to settle the Litigation as set forth herein. In exchange for Plaintiffs’ releases, covenants, and agreements in the Settlement Agreement and Supplemental Agreement, both on their behalf and on behalf of the Class Members, Defendant agrees to pay the Gross Settlement Fund.

2.2 Defendant shall pay the Gross Settlement Fund into the Escrow Account as follows:

(a) Within five (5) business days after entry of the Preliminary Approval Order, Defendant will cause \$850,000.00 to be deposited into the Escrow Account;

(b) No later than five (5) business days before the Final Fairness Hearing or July 1, 2023, whichever occurs later, Defendant will cause \$1,000,000.00 to be deposited into the Escrow Account.

After the date on which Defendant pays the Gross Settlement Fund into the Escrow Account, Defendant, Defendant's Counsel, and the Released Parties shall not have any liability to Plaintiffs, Plaintiffs' Counsel, or the Settlement Class with respect to the Gross Settlement Fund or its administration, including but not limited to any distributions made by the Escrow Agent. If Defendant fails to pay the amount of the Gross Settlement Fund into the Escrow Account within the time specified above, beginning on the date on which the payment is due, such amount will accrue interest at the effective federal funds rate, as posted by the Federal Reserve Bank of New York on the first business day of the calendar year in which the payment is due.

2.3 The Parties agree that the Settlement of the Released Claims is supported by adequate consideration reflecting the cash sum of \$1,850,000.00 to be paid by Defendant into the Escrow Account, and Defendant's agreements, releases, and covenants herein.

2.4 The Participating Class Members agree, in exchange for their respective shares, if any, of the Net Settlement Fund, and the performance of the other obligations and duties of Defendant as set forth herein, to give the Mutual Release, Dismissal, and Covenant Not to Sue described in Section 4 below, and the other valuable consideration provided herein.

### **3. PLAN OF NOTICE AND COURT APPROVALS**

3.1 Plaintiffs will file a motion with the Court no later than three days after the date this Settlement Agreement is executed by the Parties, seeking preliminary approval of the Settlement, which shall include the proposed Preliminary Approval Order in substantially the same form attached hereto as Exhibit 1, which will, *inter alia*: (a) certify the Settlement Class for the purposes of this Settlement only; (b) preliminarily approve the Settlement as set forth in this Settlement Agreement; (c) approve the Notice of Settlement and Plan of Notice; and (d) direct the Settlement Administrator to provide the Notice of Settlement to the Settlement Class in accordance

with the Plan of Notice or in any other manner the Court may direct in accordance with Okla. Stat. tit. 12 § 2023.

3.2 Plaintiffs will request the Court enter the Preliminary Approval Order no later than 20 days after the date the Parties execute this Settlement Agreement (unless the Court requires a later date).

3.3 No later than 14 days after the date the Parties execute this Settlement Agreement, to the extent not already provided, Defendant shall provide Plaintiffs' Counsel in electronic format: the names, last known addresses, and taxpayer identification numbers of persons or entities identified by owner number in the accounting data produced in the litigation, to the extent not already provided. Defendant will cooperate with Plaintiffs' Counsel by providing such other data within its possession as may be reasonably requested to aid in the allocation and payment of settlement proceeds to Class Members.

3.4 After the Preliminary Approval Order is entered and prior to sending the Notice of Settlement, the Settlement Administrator shall make reasonable efforts to: (a) verify the last-known addresses of potential Class Members provided by Defendant pursuant to Paragraph 3.3 and (b) locate current addresses of any potential Class Members for whom Defendant has not provided an address.

3.5 Within 30 days after the Court grants preliminary approval of the Settlement, or at such time as is ordered by the Court, the Settlement Administrator will mail (or cause to be mailed) the Notice of Settlement (in substantially the same form as Exhibit 3) by first class mail to all potential Class Members who have been identified after reasonable efforts to do so. The Notice of Settlement will be mailed to potential Class Members using the payment history data described in Paragraph 3.3 above and any updated addresses found by the Settlement Administrator. Within 10

days after mailing the first Notice of Settlement, or at such time as is ordered by the Court, the Settlement Administrator also shall publish (or cause to be published) the summary Notice of Settlement (in substantially the same form as Exhibit 4) one time in each of the following newspapers: (a) *The Oklahoman*, a paper of general circulation in Oklahoma; (b) the *Tulsa World*, a paper of general circulation in Oklahoma; (c) *The Daily Ardmoreite*, a paper of local circulation; (d) the *Fairview Republican*, a paper of local circulation; (e) the *McAlester News-Capital*, a paper of local circulation; and (f) the *Holdenville Tribune*, a paper of local circulation. Within 10 days after mailing the first Notice of Settlement and continuing through the date of the Final Fairness Hearing, the Settlement Administrator also will display (or cause to be displayed) on an Internet website dedicated to this Settlement the following documents: (a) the Notice of Settlement, (b) the Long Form Notice (in substantially the same form as Exhibit 5), (c) the Petition and Answer, (d) this Settlement Agreement, and (e) the Preliminary Approval Order. Upon request from a Class Member, the Settlement Administrator will directly mail a copy of the Long Form Notice to the Class Member. Neither Defendant, Defendant's Counsel, Plaintiffs, the Settlement Class, nor Plaintiffs' Counsel shall have any liability for failure of the Notice of Settlement to reach any Class Member.

3.6 No later than 28 calendar days prior to the Final Fairness Hearing, if the Settlement has not been terminated pursuant to this Settlement Agreement or Supplemental Agreements, Plaintiffs' Counsel and Plaintiffs shall move for: (a) final approval of the Settlement pursuant to Okla. Stat. tit. 12 § 2023(E); (b) entry of the Judgment in substantially the same form as Exhibit 2; (c) final approval of the Allocation Methodology and Initial Plan of Allocation; and (d) Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses, and/or a Case Contribution Award. After Notice of Settlement is given in the manner directed by the Court, the Parties will

request the Court hold a Final Fairness Hearing as described in the Notice of Settlement, and to then enter Judgment, and specifically approving all terms and provisions of the Settlement, including the Allocation Methodology and Final Plan of Allocation; provided however that Defendant will take no position on the Allocation Methodology (or any Plan of Allocation implementing the Allocation Methodology) unless such matters affect Defendant's bargained for rights under this Settlement Agreement or the Supplemental Agreements. The Judgment shall include substantially the following provisions:

- (i) Approve the Settlement between the Settlement Class and Defendant embodied in this Settlement Agreement, including any Allocation Methodology, as fair, reasonable and adequate to each Class Member within the meaning of Okla. Stat. tit. 12 § 2023;
- (ii) Dismiss all Plaintiffs' claims in the Litigation and the Released Claims with prejudice, but retain continuing jurisdiction to enter any orders necessary to enforce the terms of the Settlement Agreement, including the administration of the Settlement and/or entry of injunctive or other relief to enforce, implement, administer, construe and interpret the Settlement Agreement;
- (iii) Adjudge that Participating Class Members have conclusively released all the Released Claims that the Releasing Parties have against all Released Parties and likewise adjudge that the Released Parties have released the claims set forth in Paragraph 4.2;
- (iv) Bar and permanently enjoin all Participating Class Members from prosecuting, commencing, or continuing any of the Released Claims against the Released Parties;
- (v) Find that the Settlement is fair, reasonable, and adequate and was entered into between the Parties in good faith and without collusion;
- (vi) Find that, by agreeing to settle the Released Claims, the Released Parties do not admit, and specifically deny, any and all liability to the Settlement Class, Plaintiffs and Plaintiffs' Counsel;
- (vii) Find that the notice of the Settlement has been given as required by law, that all statutory and constitutional requirements have been met, and further, that the Class Members have been afforded a reasonable opportunity to opt out of or object to the Litigation and Settlement;
- (viii) Order that Defendant shall have no responsibility for the allocation and distribution of any Settlement Fund and shall not be liable for any claims by, through, or under the Class Members or any third party relating to the allocation or distribution of any Settlement Fund, including, but not limited

to, any claims that a Class Member should have been allocated and distributed a greater amount of any Settlement Fund than it actually received or was provided by the Plan of Allocation;

- (ix) Order any person or entity who receives a Distribution Check that he/she/it is not legally entitled to receive to either: (1) pay the appropriate portion(s) of the Distribution Check to the person(s) legally entitled to receive such portion(s) or (2) return the Distribution Check uncashed to the Settlement Administrator;
- (x) Find and determine that there is no just reason to delay the finality of the Judgment and expressly direct the filing of the Judgment as a judgment;
- (xi) Order that the Settlement may never be used for any purpose in any subsequent litigation against Defendant or any other Released Party other than to enforce the terms of this Settlement Agreement or to seek an order barring or precluding the assertion of Released Claims in any proceeding;
- (xii) Order that the Court shall retain continuing jurisdiction to enter any orders as necessary to administer the Settlement Agreement and to interpret, construe, and enforce the Judgment; and
- (xiii) Order that the Released Parties shall pay the Gross Settlement Fund amount set out above.

#### **4. MUTUAL RELEASE, DISMISSAL AND COVENANT NOT TO SUE**

4.1 Upon the Effective Date, the Released Parties, individually and collectively, shall be fully, finally and forever released from the Released Claims of the Participating Class Members and other Releasing Parties, and such Releasing Parties shall be enjoined from asserting or prosecuting any Released Claims against any Released Parties.

4.2 Upon the Effective Date, Defendant, on behalf of itself and the Released Parties for whom Defendant maintains control, individually and collectively: (a) shall be deemed by operation of law to have fully, finally and forever released, relinquished, waived, discharged and dismissed any and all claims against Plaintiffs and the Participating Class Members related to the Released Claims; (b) shall be enjoined from asserting or prosecuting any such claims against same; and (c) agrees and covenants not to sue Plaintiffs, Plaintiffs' Counsel, or the Participating Class Members for any and all claims related to the Released Claims.



4.3 Upon the Effective Date and for the consideration provided for herein, Plaintiffs, each and every Participating Class Member, and Plaintiffs' Counsel: (a) agrees and covenants that, in addition to the foregoing release of the Released Claims, he, she or it shall not, at any time, directly or indirectly, on any Class Member's behalf, sue, institute, instigate, or assert against Defendant or the Released Parties any claims or actions on or concerning the Released Claims and (b) acknowledges that the foregoing covenant shall apply and have effect by virtue of this Settlement Agreement and by operation of the Judgment. Plaintiffs, each Participating Class Member, and Plaintiffs' Counsel further agree and acknowledge that the covenants not to sue provided for in this paragraph are made to inure to the benefit of, and are specifically enforceable by, Defendant and each of the Released Parties.

4.4 The Judgment approving the Settlement Agreement shall dismiss all claims asserted in the Litigation and the Released Claims with prejudice. However, any continuing obligations arising from the Settlement Agreement shall survive entry of the Judgment. The Court, along with any appellate court with power to review the Court's orders and rulings in the Litigation, shall retain exclusive and continuing jurisdiction over this Litigation for purposes of enforcing this Settlement Agreement and any issues associated therewith.

## **5. ESCROW ACCOUNT AND PAYMENT OF TAXES**

5.1 All funds held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Settlement Agreement and/or further order of the Court. Unless otherwise agreed to in writing between Defendant and Plaintiffs' Counsel, the Escrow Agent shall invest any funds in excess of \$100,000 in United States Treasury Bills having maturities of 90 days or less, or money market mutual funds comprised of investments secured by the full faith and credit of the United States Government, or an account fully insured

by the United States Federal Deposit Insurance Corporation (“FDIC”). Any funds held by the Escrow Agent in an amount less than \$100,000 may be held in an interest-bearing account insured by the FDIC or money market mutual funds comprised of investments secured by the full faith and credit of the United States Government or fully insured by the United States Government. All risks related to the investment of the Gross Settlement Fund shall be borne solely by the Gross Settlement Fund.

5.2 The Parties agree that the Gross Settlement Fund is intended to be a qualified settlement fund within the meaning of Treasury Regulation § 1.468B-1 and that the Settlement Administrator, as administrator of the Escrow Account within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for timely filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)). All taxes, interest, and penalties on the income earned on the funds in the Escrow Account shall be paid out of the Escrow Account as provided herein. The Settlement Administrator shall also be solely responsible for causing payment to be made from the Gross Settlement Fund of any taxes, interest, and penalties owed with respect to the Gross Settlement Fund. The Settlement Administrator, as administrator of the Gross Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a “relation back election,” as described in Treasury Regulation § 1.468B-1(j), to cause the qualified settlement fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

5.3 Any tax returns prepared for the Gross Settlement Fund (as well as the election set forth therein) shall be consistent with the Settlement Agreement and in all events shall reflect that all taxes (including any interest or penalties) on the income earned by the Gross Settlement Fund shall be paid out of the Gross Settlement Fund as provided herein. The Gross Settlement Fund shall be the source of funding to fully indemnify and hold all Released Parties, Defendant, Defendant's Counsel, Plaintiffs and Plaintiffs' Counsel harmless for any taxes, interest, penalties, and related expenses of any kind whatsoever (including without limitation, taxes payable by reason of any such indemnification) on income earned while the Gross Settlement Fund (or any portion thereof) is in the Escrow Account. The Parties shall notify the Settlement Administrator promptly if they receive any notice of any claim for taxes relating to the Gross Settlement Fund.

5.4 All income taxes, if any, incurred on the part of the Class Members in connection with the implementation of this Settlement Agreement shall be reported and paid by the individual Class Members to the extent of their individual tax liability on proceeds they individually receive. Except for any amounts withheld for tax purposes by the Settlement Administrator, the individual Class Members are solely responsible for the payment of any and all taxes attributable to payments to them under this Settlement Agreement. Settlement Administrator and the Gross Settlement Fund shall have no responsibility or liability whatsoever for such payments. Plaintiffs' Counsel, Released Parties, Defendant, and Defendant's Counsel shall have no responsibility or liability whatsoever for such payments or any taxes or assessments, interest, or penalties on amounts distributed to a Class Member. Plaintiffs shall not have any responsibility or liability whatsoever for any taxes or assessments, interest, or penalties on amounts distributed to another Class Member. The Released Parties, Defendant, Defendant's Counsel, and the Class Members will bear no responsibility for any taxes due on Plaintiffs' Attorney's Fees, any reimbursement of Litigation

Expenses, or any Case Contribution Award, and such taxes will not be paid from the Escrow Account.

5.5 All distributions shall be subject to any required federal, state, or local income tax withholding, which the Settlement Administrator shall withhold and pay to the appropriate taxing authorities. The Settlement Administrator shall prepare, file, and provide IRS Form 1099s to Class Members, or, in the event a Form 1099 is not required, an explanation of such payment. In the event Form 1099s are not filed by the Settlement Administrator, the Settlement Administrator is solely responsible for paying any resulting taxes, interest, or penalties associated with such failure to file Form 1099s. In the event a Distribution Check is not cashed or is returned to the Settlement Administrator, such that a Class Member does not receive payment of the amount distributed, the Settlement Administrator shall make reasonable efforts to identify a correct address for such Class Member and shall request a refund from the taxing authority to whom any withheld taxes were paid on behalf of the Class Member who did not receive payment, and such refunds will become part of the Residual Unclaimed Funds. The Parties and Plaintiffs' and Defendant's Counsel shall have no liability for any filed IRS Forms 1099. The Gross Settlement Fund shall be the source of funding to fully indemnify and hold all Released Parties, Defendant, Defendant's Counsel, Plaintiffs and Plaintiffs' Counsel harmless for any penalties and related expenses of any kind whatsoever associated with any filed IRS Forms 1099. The Parties shall notify the Settlement Administrator promptly if they receive any notice of any claim for penalties relating to a filed IRS Form 1099.

5.6 The Parties agree that the Released Parties, Defendant, Defendant's Counsel, Plaintiffs and Plaintiffs' Counsel have no responsibility or liability for any severance taxes or other

taxes any person or entity may later claim to be due on the amounts disbursed to the Class Members from the Escrow Account.

5.7 Plaintiffs, Plaintiffs' Counsel, Defendant, Defendant's Counsel, the Released Parties, and the Settlement Administrator do not provide any tax advice whatsoever and shall have no liability whatsoever for any taxes or assessments due, if any, on the Gross Settlement Fund, and make no representation or warranty regarding the tax treatment of any amount paid or received under this Settlement. Any Class Member with tax questions or concerns is urged to immediately contact his/her own tax adviser. Defendant, Defendant's Counsel, and the Released Parties will have no input in determining the amount of taxes payable by the Settlement Class or how the taxes will be paid from the Gross Settlement Fund and likewise will not be bound in any respect by such determination or be attributed with any agreement as to whether the taxes paid by the Settlement Class are due or payable.

5.8 Defendant, Defendant's Counsel, and the Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the maintenance, investment, distribution or any other action or inaction related to the Net Settlement Fund, the establishment or maintenance of the Escrow Account, the payment or withholding of any taxes, or any other expenses or losses in connection with such matters.

5.9 Before making any distribution from the Escrow Account, the Settlement Administrator and/or Plaintiffs' Counsel must request and receive approval of the distribution from the Court. The request for distribution shall include the amount of the distribution, a breakdown of the line items included in the proposed distribution, and any supporting documents necessary for the Court to verify that the amount comports with the terms of the Settlement and any applicable Court order.

**6. CLAIMS ADMINISTRATION, ALLOCATION,  
AND DISTRIBUTION OF NET SETTLEMENT FUND**

6.1 The Allocation Methodology is a matter separate and apart from the proposed Settlement between Plaintiffs and Defendant and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of this Settlement. Provided that none of the terms of the Settlement or the Supplemental Agreements are modified by such decision, any decision by the Court concerning the Allocation Methodology shall not affect the validity or finality of the Settlement or operate to terminate or cancel this Settlement or affect the finality of the Judgment. Further, after the issuance of any notice contemplated by this Settlement Agreement or ordered by the Court, the Allocation Methodology may be modified without any further notice being required, provided the modification satisfies due process and is approved by the Court, and does not affect Defendant's or Released Parties' rights under the Settlement Agreement.

6.2 Plaintiffs' Counsel shall, subject to Court approval, allocate the Net Settlement Fund to individual Participating Class Members proportionately based on the amount of statutory interest allegedly owed on the original underlying payment that allegedly occurred outside the time periods required by the PRSA, with due regard for the production date, the date the underlying payment was made, the amount of the underlying payment, the time periods set forth in the PRSA, any additional statutory interest that Plaintiffs' Counsel believes has since accrued, and the amount of interest or returns that have accrued on the Participating Class Member's proportionate share of the Net Settlement Fund during the time such share was held in the Escrow Account.

6.3 No distributions will be made to Class Members who would otherwise receive a distribution of less than \$10.00 under the Initial Plan of Allocation. This *de minimis* threshold is set in order to preserve the overall Net Settlement Fund from the costs of claims that are likely to

exceed the value of those claims. It has been determined by Plaintiffs' Counsel that \$10.00 is a reasonable *de minimis* threshold. A Class Member that falls into this category may request to be excluded from this Litigation as described in this Settlement Agreement or otherwise will be bound by the Settlement Agreement and all provisions thereof despite receiving no payment under the Final Plan of Allocation. In the event the Court refuses to approve the \$10.00 *de minimis* payment provision contained in this paragraph, such refusal will not be grounds to disturb or terminate the Settlement Agreement by any Party; instead, Plaintiffs' Counsel will submit an alternative plan of allocation that does not include the \$10.00 *de minimis* payment provision contained in this paragraph.

6.4 This allocation is subject to modification by Plaintiffs' Counsel and final approval by the Court. Neither Defendant nor Defendant's Counsel, nor any Released Party, is responsible or liable for any aspect of the Allocation Methodology or any plan of allocation implementing that methodology. Defendant, Defendant's Counsel, and the Released Parties shall not be liable for any claims by, through, or under any Participating Class Member or third party relating to the allocation or distribution of the Net Settlement Fund, including but not limited to any claims that a Participating Class Member should have been allocated and distributed a different amount of the Net Settlement Fund than actually received or provided under the Plan of Allocation.

6.5 No later than 28 days prior to the Final Fairness Hearing, Plaintiffs' Counsel will provide the Initial Plan of Allocation to Defendant. The Initial Plan of Allocation will reflect the amount of the Distribution Check to be sent to each Class Member based upon (a) the payment history data described in Paragraph 3.3 above; (b) the assumption that no Class Member becomes an Opt-Out or is otherwise excluded from the Settlement Class by order of the Court; and (c) the assumption that Plaintiffs' Counsel's application for Plaintiffs' Attorneys' Fees, reimbursement of

Litigation Expenses, and Case Contribution Award will be approved. Plaintiffs' Counsel may rely on the payment history data provided by Defendant pursuant to Paragraph 3.3 above for purposes of the Initial Plan of Allocation and is under no obligation to independently verify such data. Plaintiffs will submit for approval by the Court the Initial Plan of Allocation based on the provisions of this section as part of or in conjunction with the Final Fairness Hearing.

6.6 Within thirty (30) days after the Effective Date, the Settlement Administrator will (a) refund to Defendant any amount due under Supplemental Agreement 1, and (b) provide Defendant with the detail necessary for the Court and Defendant to verify the Settlement Administrator's calculation of the refund amount. Supplemental Agreement 1 shall not be filed with the Court, unless requested by the Court, and then shall only be filed under seal for *in camera* inspection by the Court. The terms of this provision may only be altered or amended by written agreement signed by Defendant and Plaintiff's Counsel

6.7 Within 60 days after the date the Judgment becomes Final and Non-Appealable, Plaintiffs will file and seek approval of a Final Plan of Allocation. The Final Plan of Allocation will indicate the proportionate amount of the Net Settlement Fund to be paid to each Participating Class Member pursuant to the Allocation Methodology and the Initial Plan of Allocation.

6.8 The Settlement Administrator shall administer the Settlement and distribute the Net Settlement Fund under Plaintiffs' Counsel's supervision in accordance with this Settlement Agreement and subject to the jurisdiction of the Court. The Net Settlement Fund shall be distributed to Participating Class Members according to the Final Plan of Allocation, as determined by Plaintiffs' Counsel, or according to such other plan of allocation and distribution order(s) as the Court approves. Further, to the extent Defendant has not provided the taxpayer identification number for a Class Member, the Settlement Administrator shall make reasonable efforts to obtain



the Class Member's tax identification number, including making reasonable inquiry and sending a form W-9 Request for Taxpayer Identification Number and Certification to the best reasonably obtainable address of the Class Member.

6.9 The Parties agree that, other than the refund described in Paragraph 6.6 and any Administration, Notice, and Distribution Costs necessarily expended before that time, no part of the Gross Settlement Fund will be distributed until the Effective Date. If the Settlement is not finally approved in a Judgment, the full Gross Settlement Fund (less such funds as were previously expended as Administration, Notice, and Distribution Costs) and any accrued interest or returns earned in the Escrow Account will be refunded to Defendant within five (5) days from the date of entry of an order by the Court declining to approve the Settlement or as soon as practicable using reasonable commercial efforts.

6.10 After Court approval of the Final Plan of Allocation, the Settlement Administrator will make prompt distribution of funds to those ordered by the Court to receive those funds. The Settlement Administrator will only make distributions based on the Final Plan of Allocation approved by the Court. It is contemplated that distributions may be made in waves, where using that approach is more efficient for the Settlement Administrator, so that payments to readily identified owners are not unduly delayed. The Settlement Administrator will make a diligent effort to mail the first Distribution Checks within 90 days after the Effective Date and, within the subsequent 90 days, will mail the Distribution Checks representing the remaining 95% of the Net Settlement Fund (such percentage to be calculated based upon the amount of payments shown in the Final Plan of Allocation). The remainder of the Net Settlement Fund will be distributed to Participating Class Members by the Settlement Administrator as quickly as possible, using commercially reasonable efforts. Any portion of the Net Settlement Fund remaining in the Escrow

Account 120 days after the Settlement Administrator sends the final wave of Distribution Checks will be considered Residual Unclaimed Funds that will be sent to the appropriate state unclaimed property fund.

6.11 The Settlement Administrator will use commercially reasonable efforts, subject to review and approval by Plaintiffs' Counsel, to distribute the Net Settlement Fund. If the information needed to send a Distribution Check cannot be obtained through such efforts, the portion of the Net Settlement Fund attributable to such Class Member will remain in the Escrow Account as Residual Unclaimed Funds; provided, however, that for any Class Member for whom Defendant has sent allegedly Untimely Payments to a state unclaimed property fund, the Settlement Administrator will send the Distribution Check to that same state unclaimed property fund if the Settlement Administrator is unable to locate the Class Member through reasonable efforts, and such funds shall not be included in the Residual Unclaimed Funds refunded to Defendant.

6.12 If a Distribution Check is returned to the Settlement Administrator for incorrect or insufficient address, the Settlement Administrator and/or consultants working with the Settlement Administrator will use commercially reasonable methods to locate an updated address and will re-issue and re-mail the Distribution Check within 30 days. If the second Distribution Check is returned and the Class Member cannot be located through commercially reasonable efforts, the portion of the Net Settlement Fund attributable to that Class Member will remain in the Escrow Account for 90 days after the date the Second Distribution Check was returned and, thereafter, will be considered Residual Unclaimed Funds, unless Defendant previously had sent the allegedly Untimely Payments to a state unclaimed property fund, in which case the Settlement Administrator

shall send the Distribution Check to that same state unclaimed property fund, as provided in Section 6.10.

6.13 Included with each Distribution Check shall be an enclosure that includes the following notice (or, if a change is required by the Court, a notice substantially the same as the following):

Class Member: The enclosed check represents a share of the net settlement fund in the settlement of the Class Action *DDL Oil & Gas, LLC et al. v. Diversified Production, LLC, successor by merger with Tapstone Energy, LLC*, Case No. CJ-2019-17, District Court of Blaine County in the State of Oklahoma. You are receiving this distribution and check because you have been identified as a Class Member in this action. If you are not legally entitled to the proceeds identified on the check, the Court has entered an Order that requires you to pay these proceeds to persons legally entitled thereto or return this check uncashed to the sender.

The person to whom this check was originally made payable, and anyone to whom the check has been assigned by that person, has accepted this payment pursuant to the terms of the Settlement Agreement, Notice of Settlement, and Judgment related thereto, which releases, *inter alia*, Defendant and the other Released Parties (as defined in the Settlement Agreement) from any and all Released Claims (as defined in the Settlement Agreement). Pursuant to the Order of the Court, it is the duty of the payee of the check to ensure that the funds are paid to the Class Member(s) entitled to the funds, and the release by Class Member(s) entitled to the funds shall be effective regardless of whether such Class Member(s) receive some, all, or none of the proceeds paid to a payee of a settlement check.

This check shall be null and void if not endorsed and negotiated within ninety (90) days after its date. The release of claims provided in the settlement shall be effective regardless of whether this check is cashed.

6.14 Defendant, Defendant's Counsel, Released Parties, the Settlement Administrator, Plaintiffs, and Plaintiffs' Counsel shall have no liability to any Class Member for mispayments, overpayments, or underpayments of the Net Settlement Fund.

6.15 If any Class Member has been paid any portion of the Net Settlement Fund for any period of time for which that Class Member was not entitled to receive that payment, and some other person or entity who owned or claims they owned the right to assert the Released Claims asserts a claim against any of the Released Parties for payment of all or a portion of the Net

Settlement Fund or any other Released Claim, then the Class Member who received an excess share shall be liable for any overpayment amount to the person who is determined to have been properly owed that amount, and that Class Member shall indemnify, defend, and hold harmless any of the Released Parties, Plaintiffs' Counsel, Defendant's Counsel, or any other Class Member.

6.16 Upon completing all distributions of the Net Settlement Fund to Participating Class Members, complying with the Court's order(s) in furtherance of this Settlement, the Settlement Administrator will have satisfied all obligations relating to the payment and distribution of the Net Settlement Fund.

6.17 Within one year after the Settlement Administrator sends the final wave of Distribution Checks, the Settlement Administrator shall send a reconciliation of the amount remaining in the Escrow Account to Defendant's Counsel and Plaintiffs' Counsel. The reconciliation must include (a) a detail of each distribution or refund made from the Escrow Account; (b) the detail of any interest or other returns earned on the Escrow Account; (c) the total Residual Unclaimed Funds and detail sufficient to verify that total; and (d) detail showing the total amount of the Administration, Notice, and Distribution Costs paid from the Escrow Account. The Settlement Administrator must pay the total amount remaining in the Escrow Account to Defendant no later than ten (10) business days after sending this reconciliation to Defendant's Counsel and Plaintiffs' Counsel.

6.18 The Court shall retain jurisdiction to determine any issues relating to the payment and distribution of the Net Settlement Fund, and any claims relating thereto shall be determined by the Court alone, and shall be limited to a determination of the claimant's entitlement to any portion of the Net Settlement Fund, and no consequential, punitive, or other damages; fees; interest; or costs shall be awarded in any proceeding regarding any such determination.

6.19 The Mutual Release, Dismissal, and Covenant Not to Sue shall be effective as provided in this Settlement Agreement, regardless of whether or not particular members of the Settlement Class did or did not receive payment from the Net Settlement Fund and regardless of whether or not any person or entity who received a Distribution Check was obligated pursuant to the Judgment to pay some or all of the distributed funds to another Class Member in fact made such payment to such other member of the Settlement Class. The failure of a person or entity who received a Distribution Check to make payment to another Class Member pursuant to the payment obligations of the Judgment shall not be a defense to enforcement of the release of the Released Claims against the Released Parties or the covenant not to sue, as to any Class Member.

6.20 Except in the case of willful and intentional malfeasance of a dishonest nature directly causing such loss, Plaintiffs' Counsel, Plaintiffs, Released Parties, Defendant's Counsel, Defendant, and the Settlement Class shall have no liability for loss of any portion of the Escrow Account under any circumstances and, in the event of such malfeasance, only the party whose malfeasance directly caused the loss has any liability for the portion of the Escrow Account lost.

**7. ATTORNEYS' FEES, CASE CONTRIBUTION AWARD,  
AND LITIGATION EXPENSES**

7.1 No later than 28 calendar days prior to the Final Approval Hearing, Plaintiffs' Counsel may apply to the Court for an award of Plaintiffs' Attorneys' Fees to Plaintiffs' Counsel, a Case Contribution Award to Plaintiffs, and for reimbursement of Litigation Expenses. Defendant has no obligation for Plaintiffs' Attorneys' Fees, Case Contribution Award, or Litigation Expenses, or any other expense beyond payment of the Gross Settlement Fund. Each of Plaintiffs' Counsel indemnifies and holds Defendant and the Released Parties, including Defendant's Counsel, harmless for any claims by any other attorneys or law firms for any alleged lien or interest in the award of Plaintiffs' Attorneys' Fees or Litigation Expenses, and Plaintiffs hold Defendant, the

Released Parties, and Defendant's Attorneys harmless for any claims by any other person or entity for any Case Contribution Award. Therefore, Defendant shall not take any position with respect to the applications; the amounts of Plaintiffs' Attorneys' Fees, Case Contribution Award, or Litigation Expenses sought; or with respect to whether the Court should make any or all such awards. However, Defendant agrees not to contest an application for Plaintiffs' Attorneys' Fees up to and including 40% of the Gross Settlement Fund. Plaintiffs and Plaintiffs' Counsel agree to seek any award of Plaintiffs' Attorneys' Fees, Case Contribution Award, and Litigation Expenses exclusively from the Gross Settlement Fund. Defendant shall have no responsibility for and shall take no position with respect to the allocation among Plaintiffs' Counsel of Plaintiffs' Attorneys' Fees or Litigation Expenses, or the award of any Case Contribution Award, nor will it encourage anyone to object thereto.

7.2 Subject to the conditions and qualifications set forth below, any Plaintiffs' Attorneys' Fees and reimbursement of Litigation Expenses that are awarded to Plaintiffs' Counsel by the Court shall be paid to Plaintiffs' Counsel from the Gross Settlement Fund, to the extent practicable through reasonably diligent efforts by the Settlement Administrator, no earlier than one (1) business day following the Court's entry of the Judgment or other order(s) finally approving the Settlement and awarding Plaintiffs' Attorneys' Fees and reimbursement of Litigation Expenses. However, the specific terms and conditions related to this provision are contained in Supplemental Agreement 2, and any distribution of Plaintiffs' Attorneys' Fees and/or reimbursement of Litigation Expenses are expressly subject to and governed by the specific terms and conditions contained therein. Supplemental Agreement 2 shall not be filed with the Court, unless requested by the Court, and then shall only be filed under seal for *in camera* inspection by

the Court. The terms of this provision may only be altered or amended by written agreement signed by Defendant's Counsel and Plaintiffs' Counsel.

7.3 Any Case Contribution Award that is awarded by the Court shall be paid to Plaintiffs with the Court's approval from the Gross Settlement Fund, on or after the Effective Date.

7.4 An award of Plaintiffs' Attorneys' Fees, Case Contribution Award, or Litigation Expenses is not a necessary term of this Settlement Agreement and is not a condition of this Settlement Agreement. No decision by the Court or any court on any application for an award of Plaintiffs' Attorneys' Fees, Case Contribution Award, or Litigation Expenses shall affect the validity or finality of the Settlement. Plaintiffs and Plaintiffs' Counsel may not cancel or terminate the Settlement Agreement or the Settlement based on this Court's or any other court's ruling with respect to Plaintiffs' Attorneys' Fees, Case Contribution Award, or Litigation Expenses.

## **8. REQUESTS FOR EXCLUSION**

8.1 Plaintiffs shall not submit a Request for Exclusion and neither Plaintiffs, Plaintiffs' Counsel, Defendant, Defendant's Counsel, nor anyone acting on behalf of said persons or entities, shall encourage anyone else to submit a Request for Exclusion. Nevertheless, this Settlement Agreement does not prohibit Plaintiffs' Counsel from counseling any Class Member as to his, her, or its legal rights under this Settlement Agreement or prohibit any Class Member who seeks such counsel from electing to file a Request for Exclusion from the Settlement Class in accordance with the Court's orders on the subject.

8.2 Any putative Class Member who timely and properly submits a valid Request for Exclusion, as described below, shall have no right to object to the Settlement in any way, including but not limited to, the fairness, reasonableness and/or amount of any aspect of the Settlement, Notice of Settlement, Plaintiffs' Counsel's request for Plaintiffs' Attorneys' Fees and Litigation Expenses, Case Contribution Award, the Allocation Methodology, any Plan of Allocation using

the Allocation Methodology, or any distribution of the Net Settlement Fund or Residual Unclaimed Funds.

8.3 All Requests for Exclusion must be served on the Settlement Administrator on such terms that will be contained in the Preliminary Approval Order and the Notice of Settlement, in the manner set by the Court at least 14 calendar days prior to the Final Fairness Hearing, unless such deadline is changed or altered by order of the Court. A Class Member may opt out individually and on his/her/its own behalf only, and not as or on behalf of a class, subclass, proposed class, or otherwise on behalf of any others whatsoever.

8.4 All Requests for Exclusion must include: (a) the Class Member's name, address, telephone number, and signature; (b) a statement that the Class Member wishes to be excluded from the Settlement Class in *DDL Oil & Gas, LLC et al. v. Diversified Production, LLC, successor by merger with Tapstone Energy, LLC* ; and (c) a description of the Class Member's interest in any wells for which the Class Member has received payments from Defendant, including the name, well number, county in which the well is located, and the owner identification number. Requests for Exclusion may not be submitted through the website or by telephone, facsimile, or e-mail.

8.5 All Class Members who do not timely and properly submit Requests for Exclusion and who are not otherwise excluded from the Settlement Class by order of the Court separate and apart from the individuals and entities excluded by virtue of the Settlement Class definition contained in Paragraph 1.41, and their heirs, successors, and assigns, will be enjoined by the Court in the Judgment from filing or prosecuting the Released Claims, without regard as to whether a member of the Settlement Class actually received a payment from the Net Settlement Fund, and without regard as to whether any payment received was correctly determined.



## 9. TERMINATION

9.1 Within 10 business days after: (a) the Court enters an order denying the motion for preliminary approval of the Settlement or expressly declines to enter the Preliminary Approval Order; (b) the Court refuses to approve this Settlement Agreement or any material part of it; (c) the Court denies the motion for final approval or declines to enter the Judgment; or (d) the date upon which the Judgment is modified or reversed in any material respect and such modification or reversal becomes Final and Non-Appealable, Plaintiffs and Defendant shall each have the right, without agreement by the other Party, to terminate the Settlement by providing written notice to the other entities that are signatories to this Settlement Agreement of an election to do so, and in such event, the Parties shall revert to the legal positions they occupied before the Settlement on April 25, 2023; *provided, however*, that any court decision, ruling, or order solely with respect to an application for Attorneys' Fees, Case Contribution Award, or Litigation Expenses, or to the Allocation Methodology (or any Plan of Allocation using the Allocation Methodology) shall not be grounds for termination. The Parties may also terminate the Settlement pursuant to the terms of Supplemental Agreement 1.

9.2 In the event that the Settlement is terminated, all Administration, Notice, and Distribution Costs paid from the Escrow Account prior to the date of termination will not be returned or repaid to Defendant. In the event that the Settlement is terminated, any Administration, Notice, and Distribution Costs paid or incurred by Plaintiffs or Plaintiffs' Counsel under 1.1(f) cannot be recovered as costs by Plaintiffs in the Litigation.

9.3 The "Effective Date" shall be the first business day on which all of the following shall have occurred:

- (a) Defendant has fully paid, or caused to be fully paid, the Gross Settlement Fund, as required above;

- (b) neither Defendant nor Plaintiffs have terminated the Settlement and all such rights have expired;
- (c) the Court has approved the Settlement as described herein and entered the Judgment in substantially the same form and content attached hereto as Exhibit 2; and
- (d) the Judgment has become Final and Non-Appealable, as set forth in Paragraph 1.15.

9.4 If either Party exercises a right to terminate the Settlement pursuant to this Settlement Agreement or Supplemental Agreement 1:

- (a) this Settlement Agreement shall be canceled and terminated;
- (b) the Effective Date shall not occur;
- (c) Plaintiffs and Defendant shall be restored to their respective positions as of the day before the Settlement was preliminarily agreed to by the Parties on April 25, 2023;
- (d) the terms and provisions of this Settlement Agreement, except as otherwise provided herein, shall have no further force and effect with respect to Plaintiffs, Defendant, or any Class Member and shall not be used in the Litigation or in any other proceeding by anyone for any purpose except to enforce the surviving terms of the Settlement Agreement;
- (e) any Judgment or other order, including any order certifying the Settlement Class for settlement purposes only, entered by the Court in accordance with the terms of this Settlement Agreement, shall be treated as vacated, *nunc pro tunc*; and
- (f) the Litigation shall proceed as if the Settlement Agreement and any orders entered or motions filed to further the Settlement were never entered or filed.

## 10. OBJECTIONS

10.1 The Notice of Settlement shall require that any objection to the Settlement, this Settlement Agreement, or to the application for Plaintiffs' Attorneys' Fees, Litigation Expenses, and Case Contribution Award be in writing and comply with all the requirements set forth herein and by the Court in the Preliminary Approval Order and Notice of Settlement.

10.2 If the Court determines that the Settlement, including the Allocation Methodology, the Initial Plan of Allocation, and the awards of Plaintiffs' Attorneys' Fees, Case Contribution

Award, and Litigation Expenses are fair, adequate, and reasonable to the Settlement Class, Plaintiffs and Plaintiffs' Counsel shall represent the Settlement Class as a whole in all future proceedings in district court or on appeal, even if Class Members have objected to the Settlement and those objectors are severed for purposes of appeal.

10.3 The Parties entered into the Settlement to provide certainty and finality to an ongoing dispute. Any Class Member wishing to remain a Class Member, but objecting to any part of the Settlement, can do so only as set forth herein and in the Notice of Settlement documents in substantially the same form as Exhibits 3, 4, and 5, attached hereto. If, after hearing the objection(s), the Court determines that the Settlement, including but not limited to, the Allocation Methodology, any Plans of Allocation, and the awards of Plaintiffs' Attorneys' Fees, any Case Contribution Award, and reimbursement of Litigation Expenses, is fair, adequate and reasonable to the Class as a whole, then the Court, in its sole discretion, may require each objecting Class Member to preserve their appellate rights (prior to filing a Notice of Appeal) with respect to any motions for severance and separate appellate review of the individual objecting Class Member's portion of the Settlement.

10.4 If the Court determines that the Settlement, including but not limited to, the Allocation Methodology, any Plans of Allocation, and the awards of Plaintiffs' Attorneys' Fees, any Case Contribution Award, and reimbursement of Litigation Expenses, is fair, adequate, and reasonable to the Class as a whole, then the Court, in its sole discretion may require any objecting Class Member, as a prerequisite to pursuing an appeal, to put up a cash bond in an appropriate amount.

10.5 Only a Participating Class Member shall have the right to object to the Settlement, the Settlement Agreement, or the application for Plaintiffs' Attorneys' Fees, Litigation Expenses

and Case Contribution Award. In order for an objection to be valid, the written objection must be (a) filed with the Court at least 14 calendar days prior to the Final Fairness Hearing, unless such deadline is extended or altered by Order of the Court and (b) contain the following:

- (i) A heading referring to *DDL Oil & Gas, LLC et al. v. Diversified Production, LLC, successor by merger with Tapstone Energy, LLC*, Case No. CJ-2019-17, District Court of Blaine County in the State of Oklahoma;
- (ii) A statement as to whether the objector intends to appear at the Final Fairness Hearing, either in person or through counsel, and, if through counsel, identifying counsel by name, address and telephone number;
- (iii) A reasonably detailed statement of each objection;
- (iv) The objector's name, current address, and current telephone number;
- (v) The objector's signature;
- (vi) Identification of the objector's interest in wells for which the objector has received payments made by or on behalf of Defendant (by well name, payee well number, and county in which the well is located) during the Claim Period; and
- (vii) If the objector is objecting to any portion of the Plaintiffs' Attorneys' Fees or Litigation Expenses sought by Plaintiffs' Counsel on the basis that the amounts requested are unreasonably high, the objector must specifically state the portion of Plaintiffs' Attorneys' Fees and/or Litigation Expenses he/she believes is fair and reasonable and the portion that is not.

If the objector intends to appear and request permission to speak at the Final Fairness Hearing, either in person or through counsel, then the objector must also provide:

- (i) A list of any witnesses the objector wishes to call at the Final Fairness Hearing, together with a brief summary of each witness's expected testimony (to the extent the objector desires to offer expert testimony and/or an expert report, any such evidence must fully comply with the Oklahoma Rules of Civil Procedure, Oklahoma Rules of Evidence, and the Local Rules of the Court);
- (ii) A list of and copies of any exhibits the objector may seek to use at the Final Fairness Hearing; and
- (iii) A list of any legal authority the objector may present at the Final Fairness Hearing.

Any Class Member who fails to timely file such written statement and provide the required information will not be permitted to present any objections at the Final Fairness Hearing and such failure will render any such attempted objection untimely and of no effect. All presentations of objections will be further limited by the information listed. A Class Member's mere compliance with the foregoing requirements does not in any way guarantee a Class Member the ability to present evidence or testimony at the Final Fairness Hearing. The decision whether to allow any testimony, argument, or evidence, as well as the scope and duration of any and all presentations of objections at the Final Fairness Hearing, will be in the sole discretion of the Court.

10.6 The Parties will not object to the fairness, adequacy, or reasonableness of the Settlement on appeal. Nor will Defendant take any position on appeal regarding Plaintiffs' Attorneys' Fees, any Case Contribution Award, or any reimbursement of Litigation Expenses. Defendant further will not take any position on appeal regarding the Allocation Methodology (or any Plan of Allocation using the Allocation Methodology) unless such matters affect Defendant's bargained-for rights under this Settlement Agreement or the Supplemental Agreements.

## **11. OTHER TERMS AND CONDITIONS**

11.1 Defendant expressly denies all allegations of wrongdoing or liability with respect to the claims and allegations in the Litigation and the Released Claims and denies that the Litigation and Released Claims could have been properly maintained as a class action. It is expressly agreed that neither this Settlement, the Settlement Agreement, any document referred to herein, the Supplemental Agreement, nor any action taken to carry out the Settlement is, may be construed as, or may be used as, evidence of an admission by Defendant of any fault, wrongdoing or liability whatsoever with respect to the claims and allegations in the Litigation and the Released Claims, or that a class could properly be certified in the absence of a settlement. There has been no determination by any court, administrative agency or other tribunal regarding the claims and

allegations made in this Litigation or the Released Claims. By agreeing to settle the claims of the Settlement Class in the Litigation and the Released Claims, Defendant does not admit that the Litigation and/or Released Claims could have been properly maintained as a contested class action and the Settlement Class does not admit any deficiency in the merits of their claims. Defendant asserts it has valid defenses to Plaintiffs' and the Class Members' claims and is entering into the Settlement solely to compromise the disputed claims and avoid the risk and expense of continued litigation.

11.2 Entering into or carrying out the Settlement Agreement, and any negotiations or proceedings related thereto, is not, and shall not be construed as, or deemed to be evidence of, an admission or concession by any of the Parties to the Settlement Agreement and shall not be offered or received in evidence in any action or proceeding by or against any party hereto in any court, administrative agency or other tribunal for any purpose whatsoever other than to enforce the provisions of the Settlement between Defendant and any Class Member(s), the provisions of the Settlement Agreement, or the provisions of any related agreement, order, judgment, or release.

11.3 Plaintiffs and Defendant shall use their best efforts to encourage and obtain approval of the Settlement. Plaintiffs and Defendant also agree to use their best efforts to promptly prepare and execute all documentation as may be reasonably required to obtain final approval by the Court of this Settlement and to carry out the terms of this Settlement Agreement and Supplemental Agreements.

11.4 Within 30 calendar days after the Settlement Administrator distributes the Residual Unclaimed Funds, each Party, each Party's counsel, each Party's consultants, each Party's experts, and any other persons who have hard copy or electronic documents or computer disks of documents produced by the other Party that were designated confidential in the Litigation or

documents or information derived from documents the other Party designated as confidential in the Litigation will (at their sole expense) return or destroy all such hard copy or electronic documents and computer disks, and will erase or otherwise delete any and all data stored on computer or on computer disks of such documents or information or the data from such documents or information, and each Party will, upon request, certify in writing (email is sufficient, once acknowledged as received) to the other Party's counsel that such documents, disks, data and information have been destroyed, returned, erased or deleted. In addition, within 90 calendar days after the Settlement Administrator distributes the Residual Unclaimed Funds, Plaintiffs and any person or entity to whom Plaintiffs have provided such documents will (at their sole expense) destroy, return, delete, or erase any hard copy or electronic copy of transcripts of depositions or trial testimony or other sworn statements of Defendant's witnesses and any exhibits to any transcripts or statements. Neither Party will be obligated to destroy, return, erase, or delete: any documents previously filed in the public record during the course of the Litigation; any documents Plaintiffs and Defendant may agree are not to be considered confidential; any documents subject to a prior agreement between Plaintiffs and Defendant allowing their use in other litigation; or transcripts of depositions or trial testimony or other sworn statements of witnesses or exhibits to any transcripts or statements or to any documents filed in the public record. Any protective order on file in this Litigation will survive any Judgment issued by the Court and any documents or other information not destroyed in accordance with this paragraph will remain subject to any protective order and all remedies thereunder.

11.5 Except as otherwise provided herein or by a writing signed by all the signatories hereto, the Settlement Agreement and the Supplemental Agreement shall constitute the entire agreement among Plaintiffs and Defendant related to the Settlement of the Litigation, and no

representations, warranties, or inducements have been made to any Party concerning the Settlement other than the representations, warranties, and covenants contained and memorialized in the Settlement Agreement and Supplemental Agreements. Further, none of the Parties have relied upon any representations, warranties, or covenants made by any other Party other than those expressly contained and memorialized in the Settlement Agreement and Supplemental Agreements. This Settlement Agreement may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all signatories hereto or their successors-in-interest.

11.6 This Settlement Agreement and the Supplemental Agreement may be executed in one or more counterparts, including by facsimile or imaged signatures. Facsimile or imaged signatures will have the same force and effect as original signatures. All executed counterparts taken together shall be deemed to be one and the same instrument. Counsel for the Parties shall exchange among themselves signed counterparts of this Settlement Agreement and the Supplemental Agreement, and Plaintiffs will file a complete copy of the Settlement Agreement that has been executed by all Parties with the Court.

11.7 Plaintiffs and Defendant and their respective counsel have mutually contributed to the preparation of the Settlement Agreement and the Supplemental Agreement. Accordingly, no provision of the Settlement Agreement or the Supplemental Agreement shall be construed against any Party on the grounds that any of the Parties or their counsel drafted the provision. Plaintiffs and Defendant are each represented by competent counsel who have advised their respective clients as to the legal effects of this Settlement, and neither Plaintiffs nor Defendant have received or relied upon advice from opposing counsel. Except as otherwise provided herein, each party shall



bear its own costs in connection with the Litigation, Settlement, and preparation of the Settlement Agreement and the Supplemental Agreement.

11.8 The Settlement Agreement and the Supplemental Agreement shall be binding upon, and inure to the benefit of, the successors, trustees, and assigns of the Parties hereto.

11.9 Plaintiffs and Defendant intend this Settlement to be a final and complete resolution of all disputes asserted or that could be asserted with respect to the Released Claims. Accordingly, Defendant agrees not to file a claim against Plaintiffs or Plaintiffs' Counsel based upon an assertion that the Litigation was brought by Plaintiffs or Plaintiffs' Counsel in bad faith or without a reasonable basis. Similarly, Plaintiffs agree not to file a claim against Defendant or Defendant's Counsel based upon an assertion that the Litigation was defended by Defendant or Defendant's Counsel in bad faith or without a reasonable basis. Plaintiffs and Defendant agree that the amount paid and the other terms of this Settlement were negotiated at arm's length and in good faith, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel. Neither Plaintiffs nor Defendant shall assert any claims that the other violated the Oklahoma Rules or any other law or rule governing litigation conduct in the maintenance or defense of the Litigation.

11.10 The headings in the Settlement Agreement are used for the purpose of convenience only and are not meant to have legal effect.

11.11 All disputes and proceedings with respect to the administration, enforcement, and interpretation of the Settlement Agreement and the Supplemental Agreement shall be subject to the jurisdiction of the Court. Plaintiffs and Defendant waive any right to trial by jury of any dispute arising under or relating to this Settlement Agreement, the Supplemental Agreement, or the Settlement.

11.12 To the extent non-material modifications of this Settlement Agreement are necessary, such modification may be made by written agreement among Plaintiffs and Defendant after the date of execution hereof without further notice to the Settlement Class as provided herein. This Settlement Agreement, the Supplemental Agreements, and attached exhibits represent the entire, fully integrated agreement between the Parties with respect to the Settlement of the Litigation and may not be contradicted by evidence of prior or contemporaneous oral agreements between the Parties. This Settlement Agreement cancels and supersedes any and all prior agreements, understandings, representations, and negotiations concerning this Settlement. No additional obligations or understandings shall be inferred or implied from any of the terms of this Settlement Agreement, as all obligations, agreements, and understandings with respect to the subject matter hereof are solely and expressly set forth herein. It is understood and agreed that the Parties rely wholly on their own respective judgment, belief, and knowledge of the facts relating to the making of this Settlement, which is made without reliance upon any statement, promise, inducement, or consideration not recited herein.

11.13 All counsel and any other persons executing this Settlement Agreement and any of the exhibits hereto, the Supplemental Agreement, or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms. Plaintiffs and each member of the Settlement Class are deemed to represent and warrant that he, she, or it holds the claims being released in the Settlement and that he, she, or it has full authority to release such claims.

11.14 Plaintiffs and Defendant stipulate and agree that (a) all activity in the Litigation, except that contemplated in the Settlement Agreement, the Supplemental Agreement, the

Preliminary Approval Order, the Notice of Settlement, and the Judgment shall be stayed and (b) all hearings, deadlines, and other proceedings except the preliminary approval hearing (if any), and the Final Fairness Hearing, shall be taken off the calendar.

11.15 If any Party is required to give notice to the other Party under this Settlement Agreement, such notice shall be in writing and shall be deemed to have been duly given upon receipt by hand delivery, facsimile transmission or electronic mail to the individuals named in the signature blocks below as for Plaintiffs' Counsel, and to the following individuals as for Defendant's Counsel:

Robert P. Costello  
Paul D. Trimble  
Trimble Law Group, PLLC  
5510 N. Francis Avenue  
Oklahoma City, Oklahoma 73118  
Telephone: (405) 594-7100  
[ptrimble@trimblelawgroup.com](mailto:ptrimble@trimblelawgroup.com)

11.1 The Parties agree the Litigation and the Settlement do not relate to the offering of goods or services to persons in the European Union or the monitoring of behavior of persons residing in the European Union; thus, the Parties and Plaintiffs' and Defendant's Counsel are not subject to the General Data Protection Regulation (GDPR) by virtue of anything related to this Settlement.

**IN WITNESS WHEREOF**, the Parties and Plaintiffs' Counsel have executed this Agreement, in several, as of June 8, 2023.

**PLAINTIFFS:**

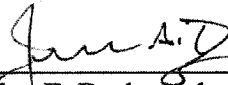


DDL Oil & Gas, LLC



Dustin M. Freeman

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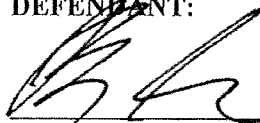
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**DEFENDANT:**



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Diversified Production LLC  
Executive Vice President, Benjamin M. Sullivan

**DEFENDANT'S COUNSEL**



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**ATTACHMENTS:**

- Exhibit 1: Order Granting Preliminary Approval of Class Action Settlement, Certifying the Class for Settlement Purposes, Approving Form and Manner of Notice, and Setting Date for Final Fairness Hearing
- Exhibit 2: Order and Judgment Granting Final Approval of Class Action Settlement
- Exhibit 3: Notice of Settlement (for Mailing)
- Exhibit 4: Notice of Settlement (for Publication)
- Exhibit 5: Long Form Notice (for Website and Mailing Upon Request)