

8-K - 2016-02-12

Form: 8-K

Filing date: 2016-02-12

Accession: 0001580695-16-000235

8-K

8-K 1 lei-8k_021116.htm CURRENT REPORT

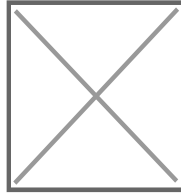
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 OR 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **February 1, 2016 (February 11, 2016)**



Lucas Energy, Inc.

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of
incorporation)

001-32508

(Commission File Number)

20-2660243

(I.R.S. Employer Identification No.)

450 Gears Road, Suite 780, Houston, Texas

(Address of principal executive offices)

77067

(Zip Code)

Registrant's telephone number, including area code (713) 528-1881

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ? Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ? Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ? Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ? Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

Item 1.01 Entry into a Material Definitive Agreement.

Effective February 1, 2016, Lucas Energy, Inc. (the “Company”, “we” or “us”) entered into a first amendment to the August 30, 2015, Non-Revolving Line of Credit Agreement with Silver Star Oil Company (“Silver Star” and the “Line of Credit”). The Line of Credit, which had an effective date of August 28, 2015, provides the Company the right, from time to time, subject to the terms of the Line of Credit, to sell up to \$2.4 million in convertible promissory notes (the “Convertible Notes”) to Silver Star of which \$1 million in Convertible Notes have been sold to date (when including the \$200,000 Convertible Note sold in February 2016, as described below). The Line of Credit is described in greater detail in the Current Report on Form 8-K, filed with the SEC on September 1, 2015.

Pursuant to the first amendment to the Line of Credit, the Line of Credit was amended to add a 9.99% ownership limitation and prevent the holder of the Convertible Notes from converting such Convertible Notes into common stock of the Company if upon such conversion, the holder would beneficially own more than 9.99% of our then outstanding common stock, subject to the ability of any holder to modify such limitation with 61 days prior written notice to us.

Pursuant to a letter agreement dated February 2, 2016, we provided Silver Star the required thirty days’ notice to prepay the outstanding Convertible Notes, provided that we do not currently have the funds necessary to prepay such notes. Additionally, pursuant to the agreement, we and Silver Star agreed to amend the Line of Credit to remove the requirement that Silver Star consent to the Company making distributions on its common stock, repurchasing common stock or making certain advances. Finally, Silver Star agreed that if Silver Star has not advanced the balance remaining under the Line of Credit (\$1.4 million) by February 19, 2016, the terms of the Convertible Notes which require us to provide thirty days prior written notice before prepayment will be removed from the Convertible Notes and such Convertible Notes can be repaid at any time. Silver Star also agreed to waive the requirement that the Company obtain its prior written consent to undertake certain corporate actions, including designating preferred stock, issuing securities totaling more than 10% of the Company’s outstanding common stock, and effecting stock splits, as originally required pursuant to the terms of the Line of Credit.

We also received notice that on February 2, 2016, \$300,000 of the Convertible Notes were assigned by Silver Star to Rockwell Capital Partners.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

We previously sold a Convertible Note to Silver Star in the aggregate principal amount of \$200,000 on September 28, 2015, pursuant to the terms of the Line of Credit (which note was required to be sold by us on or before October 1, 2015), as described in the Current Report on Form 8-K filed with the SEC on October 1, 2015.

On October 23, 2015, to be effective October 21, 2015, we sold Silver Star an additional Convertible Note in the amount of \$200,000, pursuant to the terms of the Line of Credit, as described in the Current Report on Form 8-K filed with the SEC on October 23, 2015.

On November 25, 2015, to be effective on November 23, 2015, we sold Silver Star an additional Convertible Note in the amount of \$200,000, pursuant to the terms of the Line of Credit, as described in the Current Report on Form 8-K filed with the SEC on November 25, 2015.

On January 4, 2016, to be effective on December 31, 2015, we sold Silver Star an additional Convertible Note in the amount of \$200,000, pursuant to the terms of the Line of Credit, as described in the Current Report on Form 8-K filed with the SEC on January 5, 2016.

On February 10, 2016, to be effective on February 8, 2016, we sold Silver Star an additional Convertible Note in the amount of \$200,000, pursuant to the terms of the Line of Credit.

All of the Convertible Notes are due and payable on October 1, 2016, accrue interest at the rate of 6% per annum (15% upon the occurrence of an event of default), and allow the holder thereof the right to convert the principal and interest due thereunder into common stock of the Company at a conversion price of \$1.50 per share, provided that any conversion is subject to us first receiving approval for the issuance of shares of our common stock under the Convertible Notes and Line of Credit under applicable NYSE MKT rules and regulations (“NYSE Approval”), which we have not sought or obtained to date, and to the extent such conversion(s) would exceed 19.9% of our total shares of outstanding common stock on the date of our entry into the Line of Credit (totaling approximately 289,398 shares of common stock), stockholder approval for such issuances. We have the right to prepay the Convertible Notes at any time, provided we provide the holder at least 30 days prior notice of our intention to prepay such notes. The Convertible Notes include customary events of default for facilities of similar nature and size, including in the event a change of control (as defined in the Convertible Notes) occurs, or we fail to comply with the reporting requirements of the Securities Exchange Act of 1934, as amended.

Item 3.02 Unregistered Sales of Equity Securities.

As described above, on February 10, 2016 to be effective on February 8, 2016, we sold Silver Star a Convertible Note in the aggregate principal amount of \$200,000. If fully converted by Silver Star (without factoring in any accrued and unpaid interest thereon, which is also convertible into our common stock as provided in the note), notwithstanding the requirement for NYSE Approval (as discussed above), a total of 133,334 shares of common stock would be required to be issued to Silver Star (representing approximately 9.1% of our current outstanding shares of common stock) and if fully converted at maturity, when factoring in accrued interest thereon through maturity, a total of 138,761 shares of common stock would be required to be issued to Silver Star in connection with such Convertible Note (i.e., without factoring in the conversion of any other outstanding Convertible Note).

The Company claims an exemption from the registration requirements of the Securities Act of 1933, as amended (the “Securities Act”) for the sale and issuance pursuant to (a) Section 4(a)(2) of the Securities Act; and/or (b) Rule 506 of the Securities Act, and the regulations promulgated thereunder. With respect to the transaction described above, no general solicitation was made either by us or by any person acting on our behalf. The transaction was privately negotiated, and did not involve any kind of public solicitation. No underwriters or agents were involved in the foregoing sale and issuance and the Company paid no underwriting discounts or commissions. The securities sold are subject to transfer restrictions, and the certificate(s) evidencing the securities will contain an appropriate legend stating that such securities have not been registered under the Securities Act and may not be offered or sold absent registration or pursuant to an exemption therefrom. The recipient made various representations to us regarding its suitability to purchase the securities and knowledge of the risks involved in such purchase pursuant to the Line of Credit, including confirming that it was an “accredited investor”.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit

No.	Description
10.1*	First Amendment to Non-Revolver Line of Credit by Lucas Energy, Inc. and Silver Star Oil Company effective February 2, 2016
10.2*	February 2, 2016 Letter Agreement Regarding Non-Revolver Line of Credit Agreement and Convertible Notes between Lucas Energy, Inc. and Silver Star Oil Company
10.3*	\$200,000 Convertible Promissory Note (Note #5) issued by Lucas Energy, Inc. to Silver Star Oil Company dated February 10, 2016 and effective February 8, 2016

* Filed herewith.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

LUCAS ENERGY, INC.

By: /s/ Anthony C. Schnur
Name: Anthony C. Schnur
Title: Chief Executive Officer

Date: February 12, 2016

EXHIBIT INDEX

Exhibit No.	Description
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10.2*	<u>February 2, 2016 Letter Agreement Regarding Non-Revolving Line of Credit Agreement and Convertible Notes between Lucas Energy, Inc. and Silver Star Oil Company</u>
10.3*	<u>\$200,000 Convertible Promissory Note (Note #5) issued by Lucas Energy, Inc. to Silver Star Oil Company dated February 10, 2016 and effective February 8, 2016</u>

* Filed herewith.

**AMENDED AND RESTATED NON-REVOLVING
LINE OF CREDIT AGREEMENT**

This FIRST AMENDED AND RESTATED NON-REVOLVING LINE OF CREDIT AGREEMENT (this “Amendment”) to the Non-Revolving Line of Credit Agreement (the “Agreement”) is made and entered into as of February 1, 2016 (the “Execution Date”) and is made effective for all purposes as of August 28, 2015 (the “Effective Date”) by and between Silver Star Oil Company, a Texas corporation (the “Investor”) and Lucas Energy, Inc., a Nevada corporation (the “Company”).

WHEREAS, the Company and the Investor desires to amend and restate the Agreement as set forth below:

NOW THEREFORE, the parties hereto hereby agree to agree as follows:

1. A new Section 8.17 shall be added as to the Agreement as follows:

Section 8.17. Blocker. The Company agrees that it shall not effect any conversion of the Notes, and the Investor shall not have the right to convert any portion of the Notes, pursuant to Section 4(a) or otherwise, to the extent that after giving effect to such conversion, Investor (together with the Investor’s affiliates), as set forth on the applicable Notice of Conversion, would beneficially own in excess of 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to such conversion. For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Investor and its affiliates shall include the number of shares of Common Stock issuable upon conversion of the Notes with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (A) conversion of the remaining, nonconverted portion of the Notes beneficially owned by the Investor or any of its affiliates and (B) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Notes) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Investor or any of its affiliates. Except as set forth in the preceding sentence, for purposes of this Section 8.17, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. To the extent that the limitation contained in this section applies, the determination of whether the Notes are convertible (in relation to other securities owned by the Investor) and of which a portion of the Notes is convertible shall be in the sole discretion of such Investor. To ensure compliance with this restriction, the Investor will be deemed to represent to the Company each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this paragraph and the Company shall have no obligation to verify or confirm the accuracy of such determination. For purposes of this Section 8.17, in determining the number of outstanding shares of Common Stock, the Investor may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company’s most recent Form 10-Q or Form 10-K (or such related form), as the case may be, (y) a more recent public announcement by the Company or (z) any other notice by the Company or the Company’s transfer agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of the Investor, the Company shall within two Trading Days confirm orally and in writing to the Assignee the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including the Notes, by the Investor or its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The provisions of this Section 8.17 may be waived by the Investor upon, at the election of the Investor, not less than 61 days’ prior notice to the Company, and the provisions of this Section 4(d) shall continue to apply until such 61st day (or such later date, as determined by the Investor, as may be specified in such notice of waiver). The forgoing provision shall be treated as if a provision of the Notes.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and delivered as of the date set forth on the first page hereof.

LUCAS ENERGY, INC.

By: /s/ Anthony C. Schnur
Anthony C. Schnur
Chief Executive Officer

**SILVER STAR OIL
COMPANY**

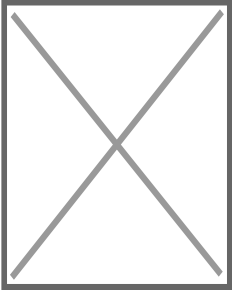
By: /s/ John Chambers
John Chambers
Principal

EX-10.2

EX-10.2 3 ex10-2.htm FEBRUARY 2, 2016 LETTER AGREEMENT REGARDING NON-REVOLVING LINE OF CREDIT AGREEMENT AND CONVERTIBLE NOTES

[Lucas Energy, Inc. 8-K](#)

Exhibit 10.2



450 Gears Rd,
Houston, TX 77067
Phone: (713) 528-1881
Fax: (713) 337-1510

February 2, 2016

Mr. John Chambers, Principal
Silver Star Oil Company
3631 Fairmount Street, Ste. 101 Dallas Texas 75219
Phone: (214) 305 2655

**VIA EMAIL AT:
JCHAMBERS@SILVERSTAROIL.COM**

**Re: LUCAS ENERGY, INC. ("Lucas"); NON-REVOLVING LINE OF CREDIT AGREEMENT,
Entered into on August 30, 2015, and the associated Convertible Notes**

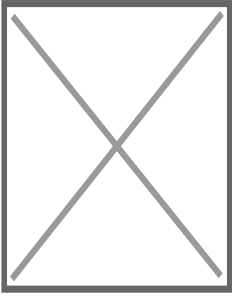
Dear Mr. Chambers:

I am writing to provide Silver Star Energy Company ("**Silver Star**") the required thirty days' written notice of Lucas' intent to prepay those certain four (4) outstanding Convertible Promissory Notes each in the amount of \$200,000, dated September 28, 2015, October 23, 2015 to be effective October 21, 2015, November 25, 2015 to be effective on November 23, 2015, and January 4, 2016 to be effective on December 31, 2015 (collectively, the "**Notes**"), pursuant to Section 5(a) of such Notes.

Additionally, Silver Star has not yet paid Lucas the \$200,000 owed for January 2016, which is required to be paid by Silver Star by February 1, 2016, pursuant to the terms of that certain Non-Revolving Line of Credit Agreement dated August 30, 2016. Lucas formally makes written demand for the immediate payment of such \$200,000 tranche.

Lucas is inclined to take no further action at this time, while reserving our right to do so, in exchange for your agreement to amend our agreement(s) as follows:

1. Silver Star waives its right to consent(s) under the following sections in the Line of Credit: Section 1.1h, Section 7.9, Section 7.10, and Section 7.11,
2. Silver Star agrees to issue to Lucas the balance (\$1.4 to \$1.6 million) of the Line of Credit by February 19, 2016, or if said payment not made, forego the thirty notice period in each outstanding note, by replacing the existing language of Section 5(a) of each note and replace it with the following language: "a. This Note may be prepaid in whole or in part at any time without penalty."



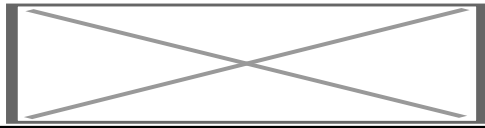
450 Gears Rd,
Houston, TX 77067
Phone: (713) 528-1881
Fax: (713) 337-1510

Finally, we have been advised that a company seeking to raise capital may suffer significant adverse consequences from engaging an unlicensed intermediary. Therefore, we advise you to refrain from contacting third parties regarding making direct investments in Lucas. Obviously, Silver Star is free to seek whatever business and financial arrangements it may choose. This is a serious issue and "finders" and unregistered broker-dealers have been subject to permanent injunctions and penalties for failing to register and then selling securities.

John, I would hope you are agreeable to the above as we advance the company for the benefit of all parties.

Kind Regards,

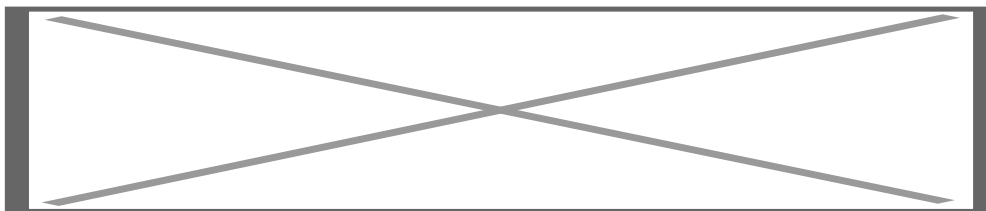
LUCAS ENERGY, INC.



By:

Anthony C. Schnur
Chief Executive Officer

Agreed (Outlined as Item 1 & 2 Above):
SILVER STAR OIL COMPANY



EX-10.2

EX-10.2 4 ex10-3.htm \$200,000 CONVERTIBLE PROMISSORY NOTE (NOTE #5)

[Lucas Energy, Inc. 8-K](#)

Exhibit 10.3

THIS NOTE, AND THE SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION OF THIS NOTE (THE “SECURITIES”) HAVE BEEN ACQUIRED FOR INVESTMENT PURPOSES ONLY AND MAY NOT BE TRANSFERRED UNTIL (i) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT” OR THE “SECURITIES ACT”) SHALL HAVE BECOME EFFECTIVE WITH RESPECT THERETO OR (ii) RECEIPT BY THE COMPANY OF AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY TO THE EFFECT THAT REGISTRATION UNDER THE ACT IS NOT REQUIRED IN CONNECTION WITH SUCH PROPOSED TRANSFER NOR IS IN VIOLATION OF ANY APPLICABLE STATE SECURITIES LAWS. THIS LEGEND SHALL BE ENDORSED UPON ANY NOTE ISSUED IN EXCHANGE FOR THIS NOTE AND ANY SECURITIES ISSUABLE UPON CONVERSION OF THIS NOTE (EXCEPT AS OTHERWISE PROVIDED BELOW).

FORM OF CONVERTIBLE PROMISSORY NOTE

\$200,000.00
Note # 5

February 10, 2016 to be Effective February 8, 2016

FOR VALUE RECEIVED, Lucas Energy, Inc., a Nevada corporation (the “**Company**”), hereby promises to pay to the order of Silver Star Oil Company, and/or permitted assigns (the “**Holder**”), the aggregate principal amount of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) (“**Principal**”), together with interest on the unpaid principal amount hereof, upon the terms and conditions hereinafter set forth.

1. **Note Amount.** This Convertible Promissory Note (this “**Note**”, “**Promissory Note**” or “**Agreement**”) evidences amounts payable by the Company to the Holder in connection with an Advance made pursuant to that certain Non-Revolving Line of Credit Agreement dated on or around August 30, 2015, but effective August 28, 2015, by and between the Company and the Holder (the “**Line of Credit**”). Certain capitalized terms used herein, but not otherwise defined shall have the meanings given to such terms in the Line of Credit and this Note shall be subject in all cases to the terms and conditions of the Line of Credit.
2. **Payment Terms.** The Company promises to pay to Holder the balance of Principal, together with accrued and unpaid interest (which shall accrue until the Maturity Date) on October 1, 2016 (the “**Maturity Date**”), unless this Note is earlier prepaid as herein provided or earlier converted into Common Stock (as hereinafter defined) of the Company pursuant to Sections 4 hereof. All payments hereunder shall be made in lawful money of the United States of America. Payment shall be credited first to the accrued interest then due and payable and the remainder to Principal.

Secured Convertible Promissory Note
Note # 5
Page 1 of 10

3. **Interest.** Interest on the outstanding portion of Principal of this Note shall accrue at a rate of six percent (6%) per annum. All past-due principal and interest (which failure to pay such amounts shall be defined herein as an “**Event of Default**”) shall bear interest at the rate of fifteen percent (15%) per annum until paid in full (the “**Default Rate**”). All computations of interest shall be made on the basis of a 360-day year for actual days elapsed.
- a. Notwithstanding any provision in this Note, the total liability for payments of interest and payments in the nature of interest, including all charges, fees, exactions, or other sums which may at any time be deemed to be interest, shall not exceed the limit imposed by the usury laws of the State of Texas or the applicable laws of the United States of America, whichever shall be higher (the “**Maximum Rate**”).
- b. In the event the total liability for payments of interest and payments in the nature of interest, including, without limitation, all charges, fees, exactions or other sums which may at any time be deemed to be interest, which for any month or other interest payment period exceeds the Maximum Rate, all sums in excess of those lawfully collectible as interest for the period in question (and without further agreement or notice by, among or to the Holder the undersigned) shall be applied to the reduction of the principal balance, with the same force and effect as though the undersigned had specifically designated such excess sums to be so applied to the reduction of the principal balance and the Holder had agreed to accept such sums as a premium-free prepayment of principal; provided, however, that the Holder may, at any time and from time to time, elect, by notice in writing to the undersigned, to waive, reduce or limit the collection of any sums in excess of those lawfully collectible as interest rather than accept such sums as a prepayment of the principal balance. The undersigned does not intend or expect to pay nor does the Holder intend or expect to charge, accept or collect any interest under this Note greater than the Maximum Rate.
- c. If any payment of principal or interest on this Note shall become due on a Saturday, Sunday or any other day on which national banks are not open for business, such payment shall be made on the next succeeding Business Day. “**Business Day**” means a day other than (i) a Saturday, (ii) a Sunday or (iii) a day on which commercial banks in Houston, Texas, are authorized or required to be closed for business.
4. **Holder’s Option to Convert this Note.**
- a. At any time prior to the payment in full by the Company of this Note, the Holder shall have the option to convert the unpaid balance (Principal and accrued and unpaid interest, in each case subject to Section 4(l) and 4(m)) on this Note (or any portion thereof) into shares of Common Stock (the “**Shares**” and the “**Common Stock**”) of the Company (the “**Conversion Option**”) at the Conversion Price (each a “**Conversion**”). The “**Conversion Price**” shall equal \$1.50 per Share;

- b. In order to exercise this Conversion Option, the Holder shall surrender this Promissory Note to the Company, accompanied by written notice of its intentions to exercise this Conversion Option, which notice shall set forth the amount of this Promissory Note to be converted, and the Shares due, which shall be in the form of Exhibit A, attached hereto (“**Notice of Conversion**”). The date that the Company receives the Notice of Conversion shall be defined as the “**Conversion Date.**” Within ten (10) Business Days of the Company’s receipt of the Notice of Conversion and this Note, the Company shall deliver or cause to be delivered to the Holder, written confirmation that the Shares have been issued in the name of the Holder (the “**Share Delivery Deadline**”). Notwithstanding anything to the contrary set forth in this Section 4, following conversion of any portion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Company unless (A) the full amount of the Note is being converted (in which event this Note shall be delivered to the Company following conversion thereof) or (B) the Holder has provided the Company with prior written notice (which notice may be included in a Notice of Conversion) requesting reissuance of this Note upon physical surrender of this Note. The Holder and the Company shall maintain records showing the principal and interest converted and/or paid and/or adjusted (as the case may be) and the dates of such conversions and/or payments and/or adjustments (as the case may be) or shall use such other method, reasonably satisfactory to the Holder and the Company, so as not to require physical surrender of this Note upon conversion;
- c. If for any reason (including the operation of the adjustment provisions set forth in this Note), the Conversion Price on any date of Conversion of this Note shall not be lawful and adequate consideration for the issuance of the relevant Shares, then the Company shall take such steps as are necessary (including the amendment of its certificate of incorporation so as to reduce the par value of the Common Stock) to cause such Conversion Price to be adequate and lawful consideration on the date the payment thereof is due, but if the Company shall fail to take such steps, then the Company acknowledges that the Holder shall have been damaged by the Company in an amount equal to an amount, which, when added to the total Conversion Price for the relevant Shares, would equal lawful and adequate consideration for the issuance of such Shares, and the Company irrevocably agrees that if the Holder shall then forgive the right to recover such damages from the Company, such forgiveness shall constitute, and Company shall accept such forgiveness as, additional lawful consideration for the issuance of the relevant Shares;
- d. The Company shall at all times take any and all additional actions as are necessary to maintain the required authority to issue the Shares to the Holder, in the event the Holder exercises its rights under the Conversion Option;

- e. Payment to Company prior to Holder's delivery of a Notice of Conversion shall terminate Holder's option to convert;
- f. Conversion calculations pursuant to this Section 4, shall be rounded to the nearest whole share of Common Stock, and no fractional shares shall be issuable by the Company upon conversion of this Note. Conversion of this Note in full shall be deemed payment in full of this Note and this Note shall thereupon be cancelled;
- g. If the Company at any time or from time to time on or after the effective date of the issuance of this Note (the "**Original Issuance Date**") effects a subdivision of its outstanding Common Stock, the Conversion Price then in effect immediately before that subdivision shall be proportionately decreased, and conversely, if the Company at any time or from time to time on or after the Original Issuance Date combines its outstanding shares of Common Stock into a smaller number of shares, the Conversion Price then in effect immediately before the combination shall be proportionately increased;
- h. All Shares of Common Stock which may be issued upon Conversion of this Note will, upon issuance by the Company in accordance with the terms of this Note, be validly issued, free from all taxes and liens with respect to the issuance thereof (other than those created by the holders), free from all pre-emptive or similar rights and be fully paid and non-assessable;
- i. On the date of any Conversion, all rights of any Holder with respect to the amount of this Note converted, will terminate, except only for the rights of any such Holder to receive certificates (if applicable) for the number of Shares of Common Stock which this Note has been Converted;
- j. Unless the Shares are eligible to be issued as free trading shares pursuant to the requirements of Rule 144 or otherwise, which shall be determined by the Company in its reasonable discretion, prior to the issuance date of such Shares, such Shares shall be issued as restricted shares of Common Stock; and
- k. The Company shall not be required to pay any tax allocated or attributed to Holder which may be payable in respect to any transfer involved in the issue and delivery of shares of Common Stock upon Conversion in a name other than that in which the shares of the Note so converted were registered, and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax, or has established, to the satisfaction of the Company, that such tax has been paid. The Company shall withhold from any payment due whatsoever in connection with the Note any and all required withholdings and/or taxes the Company, in its sole discretion deems reasonable or necessary, absent an opinion from Holder's accountant or legal counsel, acceptable to the Company in its sole determination, that such withholdings and/or taxes are not required to be withheld by the Company.

1. Notwithstanding anything herein to the contrary, the maximum number of shares of Common Stock to be issued in connection with the Conversion of this Note, and any other Notes issued in connection with the Line of Credit (“**Other Notes**”) shall not (i) exceed 19.9% of the outstanding shares of Common Stock immediately prior to the date of the Line of Credit, (ii) exceed 19.9% of the combined voting power of the then outstanding voting securities of the Company immediately prior to the date of the Line of Credit, in each of subsections (i) and (ii) before the issuance of the Common Stock upon conversion of this Note or the Other Notes, or (iii) otherwise exceed such number of shares of Common Stock that would violate applicable listing rules of the NYSE MKT in the event the Company’s shareholders do not approve the issuance of the Common Stock upon the conversion of this Note or the Other Notes, in each of (i) through (iii), only to the extent required by applicable NYSE MKT rules and guidance (the “**Share Cap**”). In the event the number of shares of Common Stock to be issued upon conversion of this Note or the Other Notes exceeds the Share Cap, then this Note and the Other Notes, or applicable portions thereof shall cease being convertible, and the Company shall instead repay such Note and Other Notes (or portions thereof) in cash, or if required, the Company shall first obtain the Stockholder Approval (as defined in the Line of Credit).

5. **Redemption.** This Note may be redeemed by the Company by payment of the entire Principal and interest outstanding under this Note in cash to Holder.
 - a. This Note may be prepaid in whole or in part at any time without penalty provided that the Company shall provide the Holder a minimum of thirty (30) days prior written notice before the date of the Company’s planned prepayment.
 - b. Any partial prepayment shall be applied first to any accrued interest and then to any principal Loan amount outstanding.

6. **Events of Default.** If an Event of Default (as defined herein or below) occurs (unless all Events of Default have been cured or waived by Holder), Holder may, by written notice to the Company, declare the principal amount then outstanding of, and the accrued interest and all other amounts payable on, this Note to be immediately due and payable. The following events shall constitute events of default ("**Events of Default**") under this Note, and/or any other Events of Default defined elsewhere in this Note shall occur:
- (a) the Company shall fail to pay, when and as due, the Principal or interest payable hereunder (or under any other outstanding Convertible Note issued by the Company and held by Holder); or
 - (b) If there shall exist final judgments against the Company aggregating in excess of One Hundred Thousand Dollars (\$100,000) and if any one of such judgments shall have been outstanding for any period of forty-five (45) days or more from the date of its entry and shall not have been discharged in full, released or stayed pending appeal; or
 - (c) the Company shall have breached in any respect any term, condition, warrant, representation or covenant in this Note or the Line of Credit, and, with respect to breaches capable of being cured, such breach shall not have been cured within fifteen (15) days following the receipt of written notice of such breach by the Holder to the Company; or
 - (d) a Change of Control shall have occurred without the prior written consent of the Holder; or
 - (e) the Company fails to meet any deadlines or requirements set forth herein; or
 - (f) the Company shall fail to comply with the reporting requirements of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), at any time the Company is subject to the Exchange Act; or
 - (g) the Company shall cease to be subject to the reporting requirements of the Exchange Act; or
 - (h) the Company shall take or fail to take steps which cause the Company's securities to be ineligible for sale pursuant to Rule 144; or
 - (i) the Company shall: (i) make an assignment for the benefit of creditors, file a petition in bankruptcy, petition or apply to any tribunal for the appointment of a custodian, receiver or a trustee for it or a substantial portion of its assets; (ii) commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation or statute of any jurisdiction, whether now or hereafter in effect; (iii) have filed against it any such petition or application in which an order for relief is entered or which remains undismissed for a period of ninety (90) days or more; (iv) indicate its consent to, approval of or acquiescence in any such petition, application, proceeding or order for relief or the appointment of a custodian, receiver or trustee for it or a substantial portion of its assets; or (v) suffer any such custodianship, receivership or trusteeship to continue undischarged for a period of ninety (90) days or more; or

- (j) the Company shall take any action authorizing, or in furtherance of, any of the foregoing; or
- (k) the Company shall be in material default of any of its debt obligations which separately or in aggregate have a value in default of more than \$50,000, and such default shall not have been cured within thirty (30) days following the receipt by the Company of a notice of default in connection therewith by the applicable debt holder(s).

In case any one or more Events of Default shall occur and be continuing, Holder may proceed to protect and enforce its rights by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein or for an injunction against a violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise. In case of a default in the payment of any principal of or premium, if any, or interest on this Note, the Company will pay to Holder such further amount as shall be sufficient to cover the reasonable cost and expenses of collection, including, without limitation, reasonable attorneys' fees, expenses and disbursements. No course of dealing and no delay on the part of Holder in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice Holder's rights, powers or remedies. No right, power or remedy conferred by this Note upon Holder shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise.

- 7. **Certain Waivers by the Company.** Except as expressly provided otherwise in this Note, the Company and every endorser or guarantor, if any, of this Note waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note, and assent to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of collateral available to Holder, if any, and to the addition or release of any other party or person primarily or secondarily liable.
- 8. **Assignment by Holder.** If and whenever this Note shall be assigned and transferred, or negotiated, including transfers to substitute or successor trustees, in each case subject to applicable law and an exemption from registration for such transfer, which shall be reasonably approved, and not unreasonably delayed or conditioned by the Company. Notwithstanding the above, the Holder may assign any of its rights under this Note (subject where applicable to federal securities laws), to any Person (including, but not limited to Affiliates or related parties of the Holder), with written notice to the Company and the Company shall have no ability to restrict or condition such assignment (subject where applicable to compliance with applicable federal securities laws).

9. **Amendment.** This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.
10. **Costs and Fees.** Anything else in this Note to the contrary notwithstanding, in any action arising out of this Agreement, the prevailing party shall be entitled to collect from the non-prevailing party all of its attorneys' fees. For the purposes of this Note, the party who receives or is awarded a substantial portion of the damages or claims sought in any proceeding shall be deemed the "**prevailing**" party and attorneys' fees shall mean the reasonable fees charged by an attorney or a law firm for legal services and the services of any legal assistants, and costs of litigation, including, but not limited to, fees and costs at trial and appellate levels.
11. **Governing Law.** It is the intention of the parties hereto that the terms and provisions of this Note are to be construed in accordance with and governed by the laws of the State of Texas, except as such laws may be preempted by any federal law controlling the rate of interest which may be charged on account of this Note.
12. **No Third Party Benefit.** The provisions and covenants set forth in this Agreement are made solely for the benefit of the parties to this Agreement and are not for the benefit of any other person, except for Frank & McNear, LLC, and no other person shall have any right to enforce these provisions and covenants against any party to this Agreement.
13. **Jurisdiction, Venue and Jury Trial Waiver.** The parties hereby consent and agree that, in any actions predicated upon this Note, venue is properly laid in Texas and that the Circuit Court in and for Houston, Texas, shall have full subject matter and personal jurisdiction over the parties to determine all issues arising out of or in connection with the execution and enforcement of this Note.
14. **Interpretation.** The term "**Company**" as used herein in every instance shall include the Company's successors, legal representatives and assigns, including all subsequent grantees, either voluntarily by act of the Company or involuntarily by operation of law and shall denote the singular and/or plural and the masculine and/or feminine and natural and/or artificial persons, whenever and wherever the contexts so requires or properly applies. The term "**Holder**" as used herein in every instance shall include the Holder's successors, legal representatives and assigns, as well as all subsequent assignees, endorsees and holders of this Note (subject to the provisions of this Note providing for transfers and assignments by Holder), either voluntarily by act of the parties or involuntarily by operation of law. Captions and paragraph headings in this Note are for convenience only and shall not affect its interpretation. In this Agreement words importing the singular number include the plural and vice versa; words importing the masculine gender include the feminine and neuter genders and visa versa. The word "**person**" includes an individual, body corporate, partnership, trustee or trust or unincorporated association, executor, administrator or legal representative.

15. **WAIVER OF JURY TRIAL.** THE COMPANY AND HOLDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS, (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THE COMPANY ACKNOWLEDGES THAT THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT TO THE HOLDER IN EXTENDING CREDIT TO THE COMPANY, THAT THE HOLDER WOULD NOT HAVE EXTENDED SUCH CREDIT WITHOUT THIS JURY TRIAL WAIVER, AND THAT THE COMPANY HAS BEEN REPRESENTED BY AN ATTORNEY OR HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY IN CONNECTION WITH THIS JURY TRIAL WAIVER AND UNDERSTANDS THE LEGAL EFFECT OF THIS WAIVER.
16. **Entire Agreement.** This Agreement and the Line of Credit constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the subject matter hereof.
17. **Effect of Facsimile and Photocopied Signatures.** This Agreement may be executed in several counterparts, each of which is an original. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts. A copy of this Agreement signed by one Party and faxed or scanned and emailed to another Party (as a PDF or similar image file) shall be deemed to have been executed and delivered by the signing Party as though an original. A photocopy or PDF of this Agreement shall be effective as an original for all purposes.

[Remainder of page left intentionally blank. Signature page follows.]

IN WITNESS WHEREOF, the Company has caused this Convertible Promissory Note to be executed and delivered by a duly authorized officer as of the date first above written, to be effective as of the effective date set forth above.

LUCAS ENERGY, INC.

By: /s/ Anthony C. Schnur

Anthony C. Schnur

Chief Executive Officer

Secured Convertible Promissory Note

Note # 5

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