

FARMING AND GRAZING LEASE AGREEMENT

THIS AGREEMENT made, entered into and executed this the 27th day of February, 2024, by and between Huerfano County, a political subdivision of the State of Colorado (hereinafter "Lessor"), and Jared Coulter of 5239 County Road 230, Walsenburg, CO 81089 (hereinafter "Lessee"). Lessor and Lessee contract and agree as follows:

1. Lessor hereby leases unto Lessee the following land and any improvements thereon (hereinafter "the leased property") described in Exhibit A, attached and incorporated herein by reference.
2. The term of this lease shall commence on March 1, 2024 and, unless earlier terminated as herein provided for, end February 28, 2029.
3. During the term, Lessee shall pay to Lessor, as rental, the sum of Four Thousand Five Hundred Dollars (\$4,500) per year, in advance, on or before September 1. Payment thereof shall be made payable to Huerfano County, and either mailed or delivered to:

Huerfano County
c/o Kim Trujillo, Finance Officer
401 Main Street, Suite 310
Walsenburg, CO 81089

4. Uses:
 - (A) The leased property may be used for the following purposes and for no other purposes: agricultural farming, crop production, and grazing (hereinafter "the permitted uses"). Such purposes are personal to the Lessee, and shall be limited to the Lessee's own farming operations and for the grazing of the Lessee's own livestock, and the Lessee expressly covenants and agrees not to allow the use of the leased property, or any part thereof, by any other farming operation, or by the livestock of any other farming operation, without first having obtained the prior written consent of Lessor. The Lessee shall not permit any party to establish residence on the leased property for any period of time. Any (a) use of the leased property for anything other than the permitted use, (b) assignment, sublease or agreement permitting the use of the leased property or any part thereof by any person or by the livestock of any other person without the prior written consent of the Lessor, or (c) encumbrance of this Lease or any Interest therein by the Lessee, without the prior written consent of the Lessor, shall be void and shall subject this Lease to immediate forfeiture and termination, in the Lessor's sole discretion, without refund of any advance rentals which shall have been paid by or on behalf of the Lessee.
 - (B) Lessee agrees to (a) use good management practices in the operation and maintenance of the leased property, (b) plow, cultivate, irrigate and farm the Land in a reasonable manner, and (c) construct and maintain fences, as applicable, on the Land as may be required to keep all livestock contained and off roads in the area. Lessor shall not be liable to Lessee for any loss or illness to any livestock that may be located on the Land. In addition, Lessee will, at its sole cost and expense, furnish all labor, tools and machinery required in all farming and other permitted operations hereunder, and it is expressly understood and agreed that Lessor shall in no way be liable for any such expenses or debts incurred by Lessee in its permitted operations under this Lease. Lessee shall also pay labor costs for seeding or reseeding the land and labor costs for permanent improvements to the land including, without limitation, fencing the land or repairing any existing fencing. Lessor shall pay the costs for materials used for permanent improvements to the land such as fencing, subject however, to Lessor's prior approval of any such improvements.
 - (C) Lessor may, from time to time, develop or incorporate standards to prevent overgrazing, degradation, or waste of the leased property. These standards shall address, at a minimum, carrying capacities, maintenance, enhancement and monitoring. In the absence of specific standards from

Lessor, Lessee shall comply with the standards established by the Bureau of Land Management for lands similar to the leased property.

- (D) Lessee's use of the leased property shall not significantly interfere with Lessor's use thereof, if any, and Lessee shall comply with any reasonable requests by Lessor to accommodate Lessor's use of the leased property.
- (E) These use provisions are agreed to be of the essence of this Lease, and a primary consideration therefor.

5. Water Rights and Irrigation:

- (A) During the term of this Lease, Lessee shall use best efforts to put the water rights appurtenant to the leased property, described in Exhibit "B" attached, to beneficial use on the leased property. Subject to the terms and conditions hereof, Lessee shall have the right to use all water rights appurtenant to the leased property for irrigation purposes in connection with the permitted uses. In farming and ranching the leased property, Lessee shall preserve any water rights appurtenant to the leased property, whether or not the same be conditional or absolute, and put to beneficial use, but shall not sell any water which may be judicially or otherwise appropriated for the leased property which can be used without waste in the raising of crops and for ranching purposes thereon.
- (B) During the term of this Lease, Lessee shall (a) use the water rights to the fullest extent available and shall not abandon such water rights or take any actions that may be construed as an abandonment thereof, (b) keep in good repair, and clean and maintain, as applicable, all ditches, flumes, headgates, diversion dams, laterals and reservoirs (and equipment associated with any of the foregoing) used in connection with the permitted use and the leased property in accordance with standard practice and rules or the ditch or lateral companies, if applicable, including, without limitation, cleaning and maintaining (1) the Badito and Martin Consolidated Ditch (the Ditch") headgate on the north side of the river, (2) the sand outs on the Badito and Martin Consolidated diversion ditches on both sides of the river, (3) the main delivery ditches and on-farm ditches and laterals of the Ditch on both sides of the river, (4) the two existing parshall flumes of the Ditch, and any additional parshall flumes installed on the Ditch.
- (C) Lessee agrees that upon expiration or earlier termination of this Lease, Lessee shall leave the ditches, flumes, headgates, diversion dams, laterals, reservoirs and other personal property in substantially the same condition as it exists as of the Effective Date, subject to Lessee's obligations hereunder, ordinary wear and tear excepted. Lessee acknowledges that it has no interest in the water rights described herein other than expressly set forth herein, and otherwise claims no right, title or interest in and to the water rights.
- (D) Notwithstanding anything to the contrary contained herein, Lessor expressly reserves the right to use any water or water rights appurtenant to the Exception Parcel described on Exhibit A at any time, and Lessor's use of water appurtenant to the Exception Parcel shall take precedence over Lessee's water use. In the event Lessor exercises its right to use any water rights appurtenant to the Exception Parcel, Lessee shall correspondingly reduce its use of water obtained pursuant to any water rights appurtenant to the leased property so that the total amount of water used by Lessor and Lessee from leased property does not exceed the amount that has been judicially or otherwise appropriated. Lessee shall use its best efforts to prevent any irrigation water from reaching the Exception Parcel.
- (E) Lessor does not guaranty the delivery or supply of irrigation water on the Land during the term of this Lease, and shall not be responsible for any shortage in the supply of water from any cause. During the term of this Lease, Lessee shall have the obligation to maintain the Irrigation System in good working order and condition.

6. Indemnification

- (A) Lessee agrees to take and use the Property subject to the usual hazards attendant to a farming operation and agrees to assume all risks and liability for accidents to the Lessee, its family, employees, guests, agents and contractors on the Property.
- (B) The acceptance of use rights hereunder by Lessee shall be conclusive evidence that Lessee has examined the Property and agrees that the improvements and all fixtures thereon were safe, adequate and suitable for their purposes when Lessee accepted rights to the Property
- (C) Indemnity: Lessee agrees to indemnify and save harmless Lessor against any claims, debts, demands or actions of any kind or nature and any related costs and expenses, including reasonable attorney fees, by any person or entity, arising, directly or indirectly, from any occurrence occasioned in whole or in part by Lessee's use of the Property, or by any act, omission or negligence of Lessee, its employees, agents or contractors. Lessee shall store its personal property and shall enter and use the Property at its own risk, and Lessee hereby releases Lessor, to the full extent permitted by law, from all claims of every kind, including damage to merchandise, equipment or other property, or damage to business or for business interruption, arising directly or indirectly from Lessee's use of the Property.
- (B) Insurance: Lessee shall, during the entire term of the Lease keep in full force and effect broad form comprehensive general liability insurance, including personal injury, property damage, products liability, completed operations and fire legal liability coverage with a singled combined liability limit of not less than \$1,000,000.00 for bodily injury, property damage and personal injury. Such general liability coverage shall insure against all liability of Lessee and its authorized employees, agents and representative arising out of or in connection with Lessee's use and occupancy of the leased property. Lessee shall deliver a certificate of insurance to Lessor at the execution of this lease and annually thereafter.

7. General Conditions:

- (A) Lessee shall pay for all electricity and other utilities used on the premises.
- (B) Lessee shall, at Lessee's expense, keep the leased property and improvements thereon, including, without limitation, fences and roads, in good repair throughout the term of this Lease, provided Lessor shall pay for the materials for the permanent improvements subject to Lessor's prior approval of such improvements. Such improvements may include, but are not limited to, grass seed for hay production, blading and graveling roads, or improvements relating to water infrastructure.
- (C) Lessor shall, at Lessor's expense, map, treat, and manage with the intent to eradicate all noxious weeds upon the leased property in proper season.
- (D) Lessee shall conduct its operations on the leased property so as not to commit, or permit the commission of, any waste or damage, including undue soil erosion or deposition, to or upon the leased property.
- (E) Lessee shall not place or construct any additional improvements on the leased property without first having obtained the prior written consent of Lessor. Any additional improvements authorized by Lessor shall become part of the realty and the property of Lessor and shall remain on the leased property after the expiration or earlier termination of this Lease
- (F) Lessee shall not store or place temporary buildings, equipment, vehicles, materials, feed, etc. on the leased property that is unnecessary for the purposes of farming and grazing the leased property.

- (G) Lessee shall continuously, during the term of this Lease, look for and discover all squatters or persons who, without authority, take or exercise possession of all or any part of the leased property or any persons who, without authority, cut and remove timber from or deposit garbage or trash on the leased property. Upon discovery of any unauthorized activity, Lessee shall orally request the party or parties involved to vacate the premises and on any such party or parties failing to so vacate, Lessee shall immediately notify Lessor. In no event will Lessee take any other action toward removal of any person or persons from leased property or the abatement of any unauthorized activity thereon and at no time shall Lessee act as Lessor's Agent.
- (H) In all operations on the leased property, Lessee shall comply with all applicable federal state, and local laws, statutes, rules, ordinances, and regulations of any government or governmental agency including environmental laws and regulations (' Applicable Laws") including, but not limited to, any Applicable Laws that relate to the control or eradication of pests of any and every kind. Lessee shall only use fertilizers, herbicides, insecticides and other sprays or chemicals as allowed by, and in accordance with, all Applicable Laws. Lessee shall take no action which may result in the contamination of ground water upon, under or near the Land.
- (I) Under Colorado law, Lessor's property, including the leased property, is exempt from the levy and collection of property tax. Lessee's interest in the Property under this Lease may be taxable. Lessee is responsible for any taxes or assessments, if any, resulting from Lessee's rights of use under this Lease (whether assessed against Lessor or Lessee), including, without limitation, any real property taxes and assessments levied against the Property (whether assessed against the Lessor or assessed against Lessee, or both) for all time periods starting as of the date of this Lease, and for personal property and sales, use and other taxes related to the business of the Lessee for the same periods.
- (J) Lessee agrees that neither Lessee nor Lessee's Associates shall hunt or conduct hunting operations on the leased property without the prior written consent of the Lessor. Hunting operations as defined herein shall include, but not be limited to: (1) The collection of fees for access to the leased property, or for access to federal lands which are adjacent to or nearby the leased property; (2) Use of facilities which are permanently or temporarily located on the leased property for the housing, entertainment and/or feeding of hunters; and (3) Use of facilities which are permanently or temporarily located on the leased property for the processing and/or storage of wildlife killed on federal lands or other lands owned or leased by Lessee
- (K) Lessee shall not (a) cut any timber or remove any improvements from the leased property; (b) plow up any native pasture land which has not been historically cultivated without obtaining prior written consent from Lessor; (c) burn or permit the burning of brush, grass, straw, stubble, or loose material of any kind upon the leased property; (d) use, or permit the use of, the leased property for any unlawful purpose; shall not overgraze the grazing areas, and in this connection it is agreed that grazing standards of use applied by the Bureau of Land Management on the nearest similar Federal Grazing Allotments shall be the standards herein applied
- (L) Lessee will notify Lessor of any condition which affects or has a significant potential to affect the value of the leased property or the life or health of any persons entering upon lands within or adjacent to the leased property.
8. Lessor reserves the right to reduce the total acreage granted hereunder when necessary at Lessor's sole discretion for the Lessor's program and operations. Any such reduction that reduces the amount of irrigated acres, shall entitle Lessee to a pro rata rent reduction based on the reduced acreage but shall not be grounds for termination of this Lease. Lessor and Lessee agree to negotiate any other reduction that reduces the amount of grazing land.

9. Default and Remedies

- (A) In the event of the default or failure by Lessee to comply with any of the terms and conditions herein contained, and such failure continues for a period of thirty (30) days after delivery of written notice of such failure to Lessee by Lessor at the address specified for Lessee in Section 16 below, Lessor may, at its option, with or without further notice to Lessee and without limiting Lessor in the exercise of any other right or remedy which Lessor may have by reason or such default or failure, (a) terminate this Lease by delivering written notice of termination to Lessee, in which event Lessee shall promptly surrender possession of the leased property to Lessor and comply with all the surrender provisions contained herein, and/or (b) proceed in accordance with any or all of the remedies now or hereafter available to Lessor under Applicable Law. Any failure to surrender the Premises to Lessor upon termination of this Lease shall render Lessee a trespasser, subject to immediate eviction without notice by such lawful means as Lessor shall care to employ. Such remedy of forfeiture and eviction shall be a cumulative and not an exclusive remedy, and shall not prevent recovery of damages, if any, for such breach.
- (B) The failure of the Lessor to take action against the Lessee for any breach hereof shall not be deemed a waiver of the continuation of such breach or of any other or subsequent breach hereof.
- (C) If either Lessor or Lessee shall commence any action or other proceeding against the other arising out of, or relating to, this Lease or the leased property, the prevailing party shall be awarded its reasonable attorneys' fees from the non-prevailing party, irrespective of whether or not the action or other proceeding is prosecuted to judgment.
10. Lessor shall be accorded access to the Property in cases of emergency and at all reasonable times in order to observe Lessee's use of the Property and all farm and ranching activities and to secure its rights and perform its obligations hereunder.
11. Lessee shall not assign this Lease nor lease the Property or any part thereof. No assignment, lease, pledge or mortgage of Lessee's interest herein shall be made. Lessee shall do no act that shall in any way encumber Lessor's title to the Property, nor permit the Property to become subject to a lien of any kind.
12. Notwithstanding any other provision herein contained, this Lease may be terminated at any time by either Party by giving to the other not less than ninety (90) days prior written notice thereof, specifying the termination date. In the event this Lease is so terminated by Lessor, Lessee shall have the right, subject to the terms of this Lease, to harvest crops that were planted by Lessee during the then current Lease Year and Lessor shall refund to Lessee the pro rata amount of any rental previously paid for the unexpired portions, if any, of the then current Lease Year. At the termination of this Lease by expiration or otherwise, Lessee shall surrender peaceable possession of the leased property to Lessor in good condition and repair, with all of Lessee's personal property removed from the leased property.
13. It is understood and agreed that the relationship of the parties hereto is strictly that of Lessor and Lessee and that the Lessor has no ownership in the Lessee's enterprise and the Agreement shall not be construed as a joint venture or partnership. The Lessee is not and shall not be deemed to be an agent or representative of the Lessor.
14. All covenants, conditions and agreements and undertakings contained in this Agreement shall extend to and be binding on the respective heirs, successors and assigns of the respective parties hereto the same as if they were in every case named and expressed.
15. It is further understood and agreed by and between the Lessor and Lessee that, on account of breach or default by either party of any of their obligations hereunder, it shall become necessary for the other party to employ and/or consult with an attorney to give advice, or to enforce or demand any of either party's rights or remedies

hereunder, then, and in any such event, the defaulting or breaching party shall pay all attorney fees, court costs and other expenses occasioned by such default(s) or breach(es).

16. Until further written notice to Lessee, all notices from Lessee to Lessor shall be sent via email to commissioners@huerfano.us or served or sent via mail to:
Huerfano County
ATTN: Board of County Commissioners
401 Main Street, Suite 201
Walsenburg, CO 81089

Until further written notice to Lessor, all notices from Lessor to Lessee shall be sent via email to jrodculter@gmail.com and hhomerding@gmail.com or served or sent to Lessee at the following address:
5239 County Road 230
Walsenburg, CO 80189

All notices to be given under this Agreement shall be in writing and shall be sent by email or by United States certified or registered mail.

17. This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any other manner other than by agreement in writing signed by all parties hereto or their respective successors in interest.
18. If any section, paragraph, sentence or portion of this Agreement or the application thereof to any party or circumstance shall, to any extent, be or become invalid or illegal, such provision is and shall be null and void, but, to the extent that said null and void provisions do not materially change the overall agreement and intent of this entire agreement, the remainder of this Agreement shall not be affected thereby and each remaining provision of this Agreement shall be valid and enforceable to the fullest extent provided by law.
19. This Agreement shall be governed in accordance with the laws of the State of Colorado.

* * *

WITNESS the signatures of the parties, this the 27th day of February, 2024.

Lessor:

Lessee:

By: John Galusha
Title: Chairman, Board of County Commissioners

By: Jared Coulter