

## SURFACE USE AGREEMENT

17<sup>th</sup> THIS SURFACE USE AGREEMENT ("Agreement") is made and entered into as of the day of October 2017, by and between:

**True Ranches LLC**, whose address is PO Drawer 2360 Casper, WY 82602 (hereinafter referred to as "Owner"); and

**Clear Creek Fund I-A, LP**, a Delaware Limited Partnership, whose address is 717 17<sup>th</sup> Street, Suite 1525, Denver, CO 80202 (hereinafter referred to as "Operator");

### WITNESSETH:

[A] Owner is the owner of the lands located in Weld County, Colorado, more particularly described as follows:

Township 12 North, Range 65 West

Section 27: South ½, All in Colorado

(hereinafter the "Property")

[B] Operator owns mineral interests and/or operates oil and gas leases covering an area south of the Property (the "Leases");

[C] Owner currently utilizes the Property for agricultural and other uses and such uses will continue during the term of this Agreement;

[D] There are additional Oil and Gas operations on the ranch property;

[E] Operator desires to prospect, drill, produce and explore for oil and gas on the Property pursuant to the terms of the Leases, and in association therewith, to exercise its right under applicable law to use and possess so much of the Property as is reasonably required for the operation of the Leases;

[F] The purpose of this Agreement is to agree as to reasonable compensation to be paid by Operator to the Owner for certain uses of the surface of the Property, and to assign certain responsibilities between Owner and Operator in regard to all activities associated with the capture, production and sale of oil or gas.

**NOW THEREFORE**, for and in consideration of the covenants and agreements herein contained, the parties agree as follows:

1. **Grant.** Owner hereby acknowledges and grants the right of ingress and egress currently afforded by the Leases, and other applicable laws and regulations to the Operator, its agents, employees, representatives, contractors and assigns, its right to enter upon and use
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the surface of the Property as may be reasonably necessary for the purpose of exploring for (including, without limitation, conducting seismic activities provided that surface damages for seismic activities shall be separately negotiated between Owner and third-party seismic contractors), and producing oil and gas from the Property, together with the right-of-way and easement across the surface of the Property to drill for oil and gas, construct, reconstruct, operate, inspect, test, repair, alter, replace, relocate, change the size of (subject to such limitations as may be set forth herein), remove and/or otherwise and maintain access roads, wells, well sites, power lines and pipelines, and other such related facilities (collectively, "Facilities"), whether currently existing or hereafter established, as necessary for Operator's complete enjoyment of the rights granted in the Leases. The parties agree that any and all surface uses not in conflict with the rights of Operator are reserved to Owner.

2. **Location of Facilities; Reasonable and Prudent Operator.** Prior to the construction thereof, Operator shall consult with Owner as to the location of Facilities and Owner shall have the right to approve the location of Facilities, so long as that approval is not unreasonably withheld. Operator shall use the Lands consistent with its rights and obligations under the Leases and applicable law, and as may be deemed appropriate by a reasonable and prudent Operator.
3. **Non-exclusive Rights.** The rights of Operator to use the surface of the Property are non-exclusive, and Owner reserves the right to use all access roads and all surface and subsurface uses of the Property, and to grant successive easements on or across the Property to third parties, including those developing wind energy and erecting the facilities therefor, on such terms and conditions as Owner deems necessary or advisable, provided they do not unreasonably interfere with the operations of Operator.
4. **Compensation for Use of Surface:** Operator shall compensate the Owner for use of the surface of the Property pursuant to the following:
  - A. **New Location:** Operator agrees to pay Owner a one-time payment of [REDACTED] and shall be paid to Owner when the well site construction is commenced. It is anticipated that a well site will encompass up to five (5) acres in size, and will include at least one well. For each acre disturbed greater than the five (5) acres, Operator shall pay Owner an additional [REDACTED] per disturbed acre. For each additional well on the same well site, regardless of whether that well site is five or more acres, Operator shall pay owner [REDACTED] when each additional well drilling is commenced.
    - i. Commencing each January after execution of this Agreement, Operator further agrees to pay to Owner an annual payment in the amount of [REDACTED] for each well site.
  - B. **Tank Batteries and Production Facility Sites ("Production Sites"):** Operator agrees to pay Owner a one-time payment of [REDACTED] per disturbed acre for tank batteries and other production facilities that are not located within the five or

more acres within the well site described in paragraph A. These Production Sites shall be no larger than necessary to conduct oil and gas operations.

i. [REDACTED]

C. Roads: Operator agrees to use existing roads on the Property wherever possible, and in conformance with acceptable and prudent oilfield standards and practices. Operator will consult with Owner with respect to the location of roads and both parties will mutually agree to locations prior to construction. Operator shall make a one-time payment in advance to Owner in the amount of [REDACTED] per linear rod for the use of any existing road(s) or [REDACTED] linear rod for construction of any new road(s) required by Operator, as damages and rental for the first year.

1. Commencing each January after execution of this Agreement, Operator further agrees to pay Owner, as damages and rental, an annual payment of [REDACTED] per linear rod for the use of said road(s).

D. Pipelines: Operator will consult with Owner with respect to the location of any proposed pipelines. For all pipelines constructed, Operator agrees to pay Owner for right of way and damages a one-time payment of [REDACTED] per linear rod thirty (30) feet wide for the first pipeline in a trench. There shall be no additional fee if more than one pipeline is installed in the same trench at the same time, but each time the ground is trenched and an additional line is installed, Operator shall pay additional damages of [REDACTED] per rod.

i. Commencing each January after execution of this Agreement, Operator further agrees to pay Owner an annual payment of [REDACTED] per linear rod for any pipeline trench on the property.

E. Power Lines: Operator will consult with Owner and with an independent power company supplying power to Operator with respect to the location of overhead or underground power lines prior to construction. Overhead and/or underground power lines will be constructed so as to minimize interference with existing and future ranching operations and, to the extent predictable and possible, the development of wind energy. Operator shall pay Owner a one-time payment of [REDACTED] per rod for overhead power lines and [REDACTED] per rod for underground powerlines.

i. Commencing each January after execution of this Agreement, Operator will further agree to pay Owner an annual payment of [REDACTED] per linear rod for overhead and/or underground power lines.

F. Other: Unless otherwise indicated in this Agreement, payments required hereunder shall be made to Owner prior to the specific surface disturbance

activity. Furthermore, any of Operator's buildings, structures or other facilities not specifically mentioned in this Agreement shall be negotiated under a separate agreement.

- G. **Compensation for Extraordinary Loss or Damage to Property:** In addition to the foregoing payments, which are acknowledged as sufficient and in full satisfaction for damages caused or created by the reasonable and customary entry, rights-of-way and use of the Property for locations, Facilities, roads, pipelines and power lines, Operator shall also compensate Owner for all other actual and documented damages suffered by Owner, including without limitation (i) damages to livestock, buildings or improvements or injuries to persons, damage or impairment to Owner's water wells caused by Operator and its employees, agents and contractors, and (ii) damages caused by fires, spills, discharges, leaks, releases and pipeline breaks arising out of Operator's operations on the Property.
- H. **Adjustment for CPI:** All annual payments identified above shall increase each January 1 to reflect the increase or decrease change in CPI; using the November to November time frame.
5. **Restrictions on Owner.** Owner shall not interfere with the use thereof by Operator for the purposes for which the Agreement is granted. Owner shall not erect, construct, nor permit the erection or construction of any houses, structures, lakes, ponds, dams or other obstructions on, over, across or within said Property that interferes with property currently being utilized by Operator.
6. **Payments, Default and Termination.** In the event of the failure by Operator to timely make any payment required hereunder or to otherwise comply with all material terms hereunder, Owner shall notify Operator in writing of said failure. Operator shall thereafter have forty-five (45) days to cure such default and/or make any required payment. The waiver of any default shall not be deemed to be a waiver of a subsequent default. In the event Operator does not cure the default within the time specified, the Operator's access to the Property may be suspended by Owner, including the right of ingress and egress, until such default has been cured, and Owner shall not be liable for any loss of damage to Operator occasioned by Owner's enforcement of this provision. Owner alternatively may seek accrued interest at the rate of one and one-half [REDACTED] [REDACTED] until paid, in instances where Operator has not cured an alleged default concerning payment.
7. **Waiver of Thirty Day Notice.** Owner hereby waives the minimum thirty day written notice requirement described in the Notice Letter provided by Operator to Owner when it initially gave notice of its intent to drill on the Property.
8. **Limitation of Rights.**
- A. **Well Locations.** No well shall be drilled closer than one thousand (1000) feet to any residence, corral, barn, or windmill and no closer than five hundred (500) feet to a water well, unless with the prior written consent of Owner.

- B. Roads, Gas Gathering Lines, Water Pipelines and Power Lines. Operator will use existing roads on the Property for its operations whenever possible and reasonably appropriate for its operations, and will locate roads, pipelines, power lines and other facilities in a manner so as to minimize interference with Owner's operations on the Property. Operator will consult with Owner before determining the location of the roads and will act in good faith to accommodate any reasonable request from Owner. New all-weather roads will be constructed only when reasonably necessary, and shall be limited to thirty (30) feet in width for the actually traveled road bed, together with a reasonable width for fills, shoulders and crosses. All roads shall be maintained at Operator's sole cost and expense for all weather travel and provided further that Operator shall have the right to require maintenance contributions from third parties authorized by Owner to use such roads but Owner shall have the unlimited use of all such roads at no expense to Owner. Operator shall provide Owner, at Operator's expense, a survey plat showing the location of all new roads, pipelines, power lines and well sites. All pipelines shall be buried and maintained at a depth of at least forty inches (40") between the top of the pipe and the present ground level on all lands when reasonably practicable.
- C. Minimize Impact. Operator shall at all times use reasonable efforts to minimize the impact of its operations on the Property. Whenever possible and reasonably appropriate for its operations, Operator shall consolidate its facilities for as many wells as practical, locate in-coming power at a central point, construct underground power lines whenever possible, and place all roads, pipelines and power lines in the same corridor. To minimize the visual impact on the landscape of the Property, Operator shall keep buildings and structures as small and few as possible, and paint such buildings and structures using earth tones on the exterior thereof. Operator shall at all times keep well locations, road rights-of-way and other areas used by Operator safe and in good order, free of litter, and debris and control the weeds on the Property.
- D. Erosion Prevention; Dust Suppression. Operator agrees to use reasonable means to prevent washes, erosion, run-off problems, ruts or other property damage. Operator shall monitor and promptly correct any erosion caused by Operator's activities. Operator shall install water bars as necessary. Operator shall supply dust suppression when it is reasonably necessary.
- E. No Stacking of Rigs and Equipment. Neither Operator, nor its agents or contractors, shall have the right to stack or store rigs or other equipment, supplies or parts on the Property, except during drilling, reworking or construction operations, and then only at mutually agreed locations for a mutually agreed compensation, if not on land for which Operator is already paying damages hereunder.

- F. No Living Quarters. Operator shall not cause to be constructed any living quarters on the well site or on any of the Property with the exception of necessary personnel during actual drilling, completion and flowback operations. Notwithstanding the foregoing, no crew camps or man camps will be permitted on the Property.
- G. No Drilling Water. Operator shall have no right to use water from ponds, creeks, springs or water wells located on the Owner's lands without the prior written consent of, and agreement of compensation to Owner.
9. **Operator Obligations**. In conducting operations on the Property, Operator shall:
- A. Locate the well site(s), access road, flowlines, tank batteries and other associated production facilities as generally depicted on Exhibit "A" attached hereto and by this reference made a part of this Agreement.
  - B. Erect and maintain fencing and cattle guards as necessary around well site, access roads, equipment and tank batteries to prevent interference with livestock.
  - C. Operator will utilize "closed-loop" systems (i.e. no reserve or mud pits) for drilling, completion and production activities at all well sites.
  - D. Reclaim the well site and all disturbed areas as nearly as practicable to its original condition and if the location is in pasture, reseed the location with native grasses as agreed by Owner. Weather permitting, reclamation operations shall be completed within six (6) months following drilling, completion, flowback and subsequent related operations, unless Operator and Owner mutually agree to postponement because of crop or other considerations.
  - E. Use reasonable efforts to keep the well, Property and production facilities free of weeds and debris.
10. **Term**. This Agreement shall terminate upon the cessation of all production from the wells constructed pursuant to the Leases or the expiration of the Leases, whichever is the latter.
11. **Restoration**. Within a reasonable time after expiration of this Agreement, Operator shall restore the surface of the Property affected thereby in accordance with any applicable rules, regulations, and guidelines of the Colorado Oil and Gas Conservation Commission, as near as practicable to its original condition. All fixtures, equipment and improvements placed on or fixed to the premises by Operator shall remain the property of Operator and Operator shall have the right to remove any or all of its property from the Surface Easement Site for a period of twelve (12) months after the Surface Easement Site has been deemed abandoned and such non-removal of fixtures, equipment, and improvements

shall be deemed as abandonment; however, should Operator be prevented from removing fixtures, equipment, and improvements from Surface Easement Site due to *force majeure*, or any other cause beyond its reasonable control, such non-removal shall not be deemed abandonment.

12. **Control of Noxious Weeds**. Operator shall undertake all reasonable efforts necessary to prohibit the germination and growth of noxious weeds (as designated by the Colorado and Wyoming Weed & Pest Control Acts and the Colorado and Wyoming Seed Law Designated & Prohibited Lists), on the Lands. Owner and Operator shall discuss applicable methods of control and times for application.
13. **Fences and Gates**. Operator may make fence openings upon the Property to provide reasonable, uninterrupted entry and departure as may be necessary for operations; and, Operator shall install cattle guards or gates of customary size and quality for the type of traffic used in such operations. All gates used by Operator shall be kept shut and locked during the big game hunting seasons, and during such other times as reasonably requested by Owner. Operator shall reasonably repair and/or replace any and all damage done to any fences or gates, or any other improvements of Owner which result from Operator's operations. All fences shall be repaired in a manner consistent with surrounding fences and reasonable and customary ranching practices. Operator shall provide keys for all gates to Owner.
14. **Damage by Livestock**. Owner shall not be liable for any damage caused by livestock to any of Operator's facilities. Operator shall take reasonable measures to prevent Owner's livestock from entering its Facilities and/or being exposed to hazards.
15. **Alcohol, Guns, Dogs and Hunting Prohibited**. Operator shall not permit its agents or employees to possess or be under the influence of alcohol or controlled substances, or to possess firearms, crossbows, or other weapons, or to hunt while on the Property. No recreational use, including but not limited, camping, hunting, fishing, foot traffic, or similar activities are allowed at any time by Operator or Operator's representatives while on the Property. No dogs, or other animals, shall be allowed on the Property, including any animal confined to a vehicle in any manner. The failure of any representative of Operator to comply with the foregoing shall entitle Owner to treat the person as a trespasser.
16. **Recording**. This Agreement may not be recorded. Owner hereby authorizes Operator to file a memorandum of this Agreement in the records of Laramie County, Wyoming and Weld County, Colorado. Operator will provide Owner a copy of the recorded memorandum when available.
17. **Indemnity**. OPERATOR SHALL INDEMNIFY, RELEASE AND HOLD HARMLESS THE OWNER FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, DAMAGE, CLAIMS, DEMANDS, COSTS AND EXPENSES OF WHATSOEVER NATURE, INCLUDING COURT COSTS AND ATTORNEY'S FEES, WHICH MAY RESULT FROM INJURY TO OR DEATH OF PERSONS WHOMSOEVER, OR

DAMAGE TO OR LOSS OR DESTRUCTION OF PROPERTY HOWEVER CAUSED, WHICH IN ANY WAY WHATEVER IS DUE TO OR ARISES BECAUSE OF OPERATOR'S (AND OPERATOR'S INVITED CONTRACTORS OR GUESTS) PRESENCE ON, OCCUPATION OF OR USE OF THE PROPERTY, EXCEPT TO THE EXTENT THAT SUCH LIABILITY, LOSS, DAMAGE, CLAIM, DEMAND, COST AND EXPENSE ARISES AS A RESULT OF OWNER'S, OR OWNER'S THIRD PARTY'S, NEGLIGENCE OR WILLFUL MISCONDUCT.

18. **Counterparts; Signatures.** This Agreement may be executed in multiple counterparts, and copies of signatures, whether by facsimile, photocopy, or electronic scans, shall be treated as originals for all purposes hereunder.
19. **Compliance with Laws.** This Agreement is made subject to all applicable laws, ordinances, easements, leases, restrictions, reservations or covenants, either of record or evidenced by improvements upon the ground and to the extent same are in force. In addition, OPERATOR shall comply with all governmental rules, regulations, and statutes, including those regarding environmental requirements.
20. **Agreement Runs with Land.** This Agreement shall run with the land and shall be binding on the heirs, successors, assigns, and personal representatives of the undersigned. It is further agreed that this grant covers all the agreement between the parties and no representations or statements, verbal or written, have been made modifying, adding to, or changing the terms of this agreement.
21. **Choice of Law.** For any dispute concerning portions of the Property situated in Wyoming, this Agreement shall be construed in accordance with the laws of the State of Wyoming. For any dispute concerning portions of the Property situated in Colorado, this Agreement shall be construed in accordance with the laws of the State of Colorado. In the event of a dispute hereunder, the parties stipulate and agree that sole venue will lie in the federal or state courts in Wyoming if the dispute arises primarily concerning the Wyoming lands, or Colorado if the dispute arises primarily concerning the Colorado lands.
22. **Enforcement Costs.** In the event of a dispute hereunder, and either party is required to employ the services of an attorney to enforce its rights hereunder, the substantially prevailing party shall be entitled to reasonable attorney's fees and costs.
23. **Default; Notice and Cure.** If either party believes that the other party is in default of any of its obligations under this Agreement, then prior to exercising any rights or remedies provided for in this Agreement or at law or in equity for such breach, the party alleging such breach must give written notice to the defaulting party of the existence of such default, specifying the action or omission constituting such default, and the defaulting party shall have thirty (30) days after receipt of such written notice to cure such default.

24. **No Warranty.** Owner makes no warranty of title or otherwise in entering into this Agreement.
25. **Notices.** Any notice or communication permitted or required hereunder shall be given promptly, orally if possible, and when in writing via email or certified mail/return receipt requested. Notice shall be deemed given three days after mailing, or on the same day if delivered personally, by email or by facsimile transmission, when addressed as follows:

Owner:	Operator:
True Ranches LLC	Clear Creek Fund I-A, LP
Attn: Robert Gill	Attn: Ian Myers
PO Drawer 2360	717 17 <sup>th</sup> Street, Suite 1525
Casper, WY 82602	Denver, CO 80202
Phone: 307-266-0216	Phone: 720-961-4926
Email: <a href="mailto:Robert.Gill@truecos.com">Robert.Gill@truecos.com</a>	Email: <a href="mailto:imyers@clearcreekrp.com">imyers@clearcreekrp.com</a>
Fax: 307-266-0373	Fax: 720-398-5754

26. **Assignment.** This Agreement may be assigned by Operator with the prior written consent of Owner, such consent not to be unreasonably withheld.
27. **Titles and Headings.** The titles and headings used in this Agreement are for illustrative purposes only and shall not be construed as terms of this Agreement.
28. **Entire Agreement.** This is the entire Agreement between the parties with respect to the transactions contemplated herein and shall supersede all previous oral and written negotiations, commitments, and understandings between the parties and/or their predecessors hereto with respect to the subject matter hereof.

[SIGNATURE AND ACKNOWLEDGEMENT PAGE FOLLOWS]

IN WITNESS WHEREOF, this instrument is dated and effective as of the date first written above, and is executed as of the date of each Acknowledgment attached hereto.

**True Ranches LLC**

By: David L. True  
David L. True, Member

**Clear Creek Fund I-A, LP**

- By: Clear Creek Fund I-A GP, LP, its General Partner
- By: Clear Creek Resource Partners, LP, its General Partner
- By: Clear Creek Resource Partners GP, LLC, its General Partner

By: Keith Engler  
Keith Engler  
Authorized Signatory

EXHIBIT "A"