

SURFACE USE AGREEMENT AND GRANT OF EASEMENT

THIS SURFACE USE AGREEMENT AND GRANT OF EASEMENT ("Agreement"), effective this 25 day of January, 2019, ("Effective Date") is made by and between Rudder Brothers, LLC ("Owner"), and Grand Mesa Operating Company, 1700 N. Waterfront Parkway, Building 600, Wichita, KS 67206 ("Operator"), covering certain lands (the "Subject Lands") situated in Lincoln County, Colorado, described as follows:

Township 7 South, Range 55 West, 6th P.M.
Section 11: W/2 and SE/4
More specifically described in Exhibit A

Owner and Operator are referred to herein individually as a "Party" and collectively as "Parties."

WITNESSETH:

WHEREAS, Owner is the surface owner in and to the Subject Lands.

WHEREAS, Owner desires to grant Operator the right to use so much of the surface of the Subject Lands as depicted on Exhibit A as is reasonably necessary to explore for, produce and develop oil and gas from the Subject Lands along with the associated rights detailed below; and

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the parties herein contained, and other good and valuable consideration, Owner hereby grants unto Operator an exclusive right of way and easement on, over, through, under and across the Subject Lands, as limited below, for the purpose of drilling vertical wells on the Subject Lands that produce from and drain all or portions of the Subject Lands or from other offsetting lands, surveying, seismic activity, stimulation, completion, operation, re-stimulation, re-completion, deepening, reworking, plugging and abandoning of wells, access, construction, operation, maintenance, repair and replacement of surface equipment related to such well(s) including but not limited to wellheads, associated production equipment, flowlines, compressors, fluid retention reservoirs, temporary above-ground water lines and completion fluid lines, subsurface flowlines, gathering lines and other pipelines, data transmission lines, electrical lines and related equipment (both subsurface and above-ground), construction maintenance and repair of access roads and any additional purposes that may be necessary or convenient to its operations on the Subject Lands.

The parties further hereto agree as follows:

1. **Operations Area.** Owner shall set aside and provide Operator, for Operator's exclusive use, that portion of the Subject Lands consisting of not more than 6 acres during construction and not more than 3 acre post completion as depicted on Exhibit A attached hereto and made a part hereof, for the drilling and operation of oil and gas wells (the "Operations Area"). The Operations Area, including the Access Road and Utility Corridor as depicted on Exhibit A and defined further herein, shall be made available to Operator in its present condition for any operations conducted by Operator. Owner shall not occupy or disturb any portion of the Operations Area for any purpose.

2. **Compensation.** Operator shall compensate Owner for its use of the Subject Lands as set forth herein within thirty (30) days before the scheduled date of the first construction of the well pad, facility or access road on the respective oil and gas location. Compensation shall be paid in the following amounts:

a. **One-time Payment.** Operator shall pay to the Owner a sum of _____ as a one-time payment for the full execution of this Agreement per well and _____ per well for any additional wells drilled on the Subject Lands. For additional oil and gas wells, payment shall be made thirty (30) days prior to spud. Exhibit A shall be amended to reflect any additional wells.

b. **Access Road.** Whenever possible, Operator agrees to use existing roads for access to the Operations Area for drilling, production or other activities on the Subject Lands. "Access Road" used herein shall be any new or existing road necessary and convenient for Operator's use on the Subject Lands and shall be no greater than a total of thirty feet (30') in width during drilling and twenty feet (20') in width post drilling, as depicted on Exhibit A. Operator shall be responsible for all cattle guards if requested by Owner and for all

maintenance, on all roads, existing or new. Roads shall be maintained to provide a safe driving surface, repairing excessive washboard roads, washouts or other issues affecting drivability. Operator shall also be responsible for all costs related to putting up any road signs required by state or local law. Exhibit A shall be amended to reflect any additional road access. No access road shall be created or used to connect the Subject Lands to or with neighboring lands not owned by Owner.

c. **Operations Area Expansion.** In the event that the Operations Area should need to be expanded, due to drilling additional wells or any reason to assist in development, Operator shall coordinate with Owner prior to any construction for placement of access roads, tank battery, or additional land needed for Operations Area. Exhibit A shall be amended to reflect any additional expansion of the operations area.

d. **Tank Battery Payment.** Operator agrees to pay a one-time sum of _____ to Owner for the placement of a tank battery for the initial well drilled on the Subject Lands. Operator shall pay an additional _____ fee to the Owner to expand the tank battery for each new well drilled on the Subject Lands if commercial production is established. Operator shall pay an additional _____ to Owner for the placement of an additional tank battery. Exhibit A shall be amended to reflect tank batter expansion or for an additional tank battery.

3. **Notice.**

a. Owner hereby requires the notices mandated by the Colorado Oil and Gas Conservation Commission ("COGCC") and any 30-day comment periods attributable thereto:

- 1) COGCC Rule 305.a.(2) Pre-Application Notification to Surface Owner
- 2) COGCC Rule 305.c.(1) Completeness Determination and Comment Period Notifications/OGLA Notice to Surface Owner
- 3) COGCC Rule 305.f. Statutory Notice to Surface Owner
- 4) COGCC Rule 306.a. Consultation and Meeting Procedure for Surface Owners
- 5) Any other notices required by COGCC.

b. Owner acknowledges and agrees that Operator has consulted in good faith with Owner as to its proposed operations, in accordance with COGCC requirements.

c. Operator shall provide Owner with the COGCC Form 2A ("Oil and Gas Location Assessment") for the well(s) when submitted to the COGCC, and Operator agrees to ensure that said Form 2A accurately reflects the provisions of this Agreement

4. **Water.** Without prior written approval of Owner, Operator shall not use any water from any existing water wells owned by Owner, reservoirs or springs on Subject Lands or any of Owner's surrounding property. Operator shall not disturb, interfere with, fill, or block any creek, reservoir, spring, or other source of water on Subject Property. Operator shall perform baseline water testing of water wells on the Lands. Operator agrees and warrants that there shall be no diminution in baseline water quality on said Lands. In the event of diminution in baseline water quality on said Lands, Operator shall immediately cure such diminished quality and make Owner whole in the provision of quality water.

5. **Fences and Cattle Guards.** If or when operations will interfere with cattle, at any time during operations on the Subject Lands, operator shall install fences around any operations areas, including any pits, where Operator drills any new wells or operates a facility. Operator shall build and maintain all livestock fences to be comprised of four-strand barbed-wire, post spacing maximum 20 feet with one stay in the approximate middle of the posts around said operations areas prior to commencement of construction activities, including grading, at no cost to Owner. Operator shall construct cattle guards at all places where Operator requires access through Owner's fences. Cattle guards constructed by Operator shall be installed in a workmanlike manner with properly braced corners. The fence at point of installation shall be properly stretched and maintained by Operator so as to prevent the migration of livestock. Owner has the option to have Operator remove the fence upon request to Operator following completion of reclamation.

6. **Notice and Repairs.** Operator agrees to notify Owner in writing and consult with Owner prior to cutting or damaging any existing fences, cattle guards, or other improvements of Owner. If Owner observes damage to his property caused by Operator, Owner shall provide written notice to Operator of the damage. Operator shall have thirty

(30) days to repair, compensate, or, in appropriate circumstances, repair and compensate Owner for damage to personal property, the land, or improvements on or around the Subject Lands, such as damage to buildings, fences, gates, culverts, vegetation, and livestock, or for other such extraordinary losses or damages caused by Operator. If Operator fails to repair or compensate Owner for the damage within thirty (30) days, that shall constitute a breach of this Agreement

7. **Reclamation.** It is understood that Operator shall be solely responsible for all reclamation and associated costs related to all oil and gas activities that take place on Subject Lands. This shall include, but not be limited to, reclamation required within well sites, access easements, flowline and pipeline easements and utility easements. However, Owner shall have the opportunity to retain any portion of the access road constructed by Operator.

Operator agrees to diligently reseed and revegetate on a continuous basis until such vegetation is established even if such actions may take longer than twelve (12) months. Within three (3) months following the expiration of the associated oil and gas lease(s) or abandonment of operations, all surface equipment and surface appurtenances, together with all foreign substances (including gravel), associated with such well and related gathering pipeline, not requested to remain by Owner shall be removed by Operator from the Subject Lands. Operator will perform all reclamation at a minimum in accordance with the rules and regulations of the COGCC and applicable state and federal law, rules, and regulations, and also subject to the requirements set forth below.

- a. Pursuant to COGCC Rule 1003, Operator shall conduct interim reclamation and restore all areas disturbed that are not needed for production after the well(s) has been drilled. The operator will replace segregated topsoil, eliminate weeds, and prevent erosion by reestablishing either perennial vegetation on non-crop land or comparable crops on farmland. Any pits used during drilling shall be closed.
- b. Upon expiration of the associated oil and gas lease(s) or final termination of operations on any portion of Subject Lands, Operator shall return roads (except permanent roads), rights of way, and any well sites, the use of which is to be terminated, to their original grade and vegetation. Operator shall use water bars and such other measures as appropriate to prevent erosion and non-source pollution. All surface restoration shall be accomplished to the satisfaction of the Owner.
- c. Operator shall remove any gravel used on any well site if requested by landowner.
- d. In the spring or fall Operator will mow the cover crop and sow the chosen native seed mix approved by Owner into the cover crop stubble. Operator shall reseed any disturbed area using a seed mixture recommended by either, (1) the county weed/pest department; (2) County Extension Office; or (3) any reputable seed company. Operator shall consult with the Owner in the selection of the seed used in the reclamation of any disturbed site. It shall be the duty of Operator to ensure that a growing ground cover is established upon disturbed soils and Operator shall reseed and water as necessary to accomplish that duty.
- e. It shall be the duty of Operator to comply with the Colorado Noxious Weed Act.
- f. At any site where Operator does not discover oil, gas, or hydrocarbons of commercial quantity and determines it to be a "dry hole," Operator agrees to reseed said area as soon as is practically possible not to exceed one year and will restore any area disturbed by its operations on the Subject Lands to as near original conditions as practically possible and in accordance with all applicable laws, rules, and regulations.
- g. If Operator's operations require any excavation or digging on the Subject Lands, as authorized by this Agreement, Operator shall remove the topsoil and stockpile and replace it in conformance with COGCC Regulations. Operator agrees to separate the topsoil at the time of excavation of pits in accordance with Rule 1002.b.(2) of the Rules and Regulations of the COGCC so that the topsoil and subsurface soil can be placed back in proper order as nearly as practicable.
- h. Within 3 months following the expiration of the oil and gas lease or the abandonment of operations, all surface equipment and surface appurtenances, together with all foreign substances (including gravel), associated with such well, not requested to remain by Owner, shall be removed by Operator from the Subject Property.

8. **Scope of Right of Way and Easement.** Operator shall ensure that employees, agents, contractors and others on the site will not hunt, fish, or bring firearms onto the Subject Lands. Dogs are not permitted in or outside vehicles on the Subject Lands.

9. **Speed Limit.** A maximum speed limit of twenty-five (25) M.P.H. will be observed by all of Operator's personnel, contractors, sub-contractors, or agents while crossing Owner's lands. Violators will be removed immediately, and not allowed to return to Owner's lands or leases for any reason. Owner's vehicles, equipment, personnel, and livestock shall be given right-of-way at all times. Operator will notify Operator's personnel of such speed limit and will post signage on access roads.

10. **Maintenance and General Operations.** Operator shall at all times keep the well sites, road rights-of-way, facility locations, and other areas disturbed by Operator, safe and in good order, free of noxious weeds, litter, and debris. Operator shall dispose of all litter, sewage, and debris off of Owner's property at a legal disposal site. Using reasonable efforts, Operator shall not allow or permit erosion to continue on any disturbed sites and shall promptly repair, reclaim and reseed all erosion sites. Operator shall not permit the release or discharge of any toxic or hazardous chemicals or wastes on the Lands. All cattle guards and fences installed by Operator shall be kept clean and in good repair. This section is subject to the Notice and Repair provision provided in Paragraph 6 above.

11. **Hydraulic Fracturing.** During any hydraulic fracturing operations on the Subject Lands, Operator shall require fracturing service providers to park trucks onto a retaining tarp to collect any liquids that might fall from the trucks. If the quantities of spilled fluids are minimal then the service provider shall mop up the materials with absorbent cloths. Service providers shall use a vacuum truck for any larger spills on the tarp. In either circumstance, any spill associated with fracturing services shall be contained and cleaned up by the service provider without affecting the surface of the Subject Lands.

12. **Conduct of Operations.** Operator shall conduct its operations on the Subject Lands in accordance with the rules and regulations promulgated by the COGCC, and other state or federal agencies having jurisdiction.

13. **Safety and Environmental Issues.** Operator agrees to comply with all applicable local, state and federal laws and regulations governing its operations with respect to all environmental matters, including, but not limited to, release or discharge of any material into the air, ground or water or the discharge of produced water. Operator agrees to indemnify, defend and hold Owner harmless, of and from any and all liability, damage, claim and expense (including reasonable attorney's fees), to which Owner may be threatened or put by any reason whatsoever, arising out of any activities conducted upon the leased premises or upon lands unitized therewith or adjacent thereto, including but not limited to the discharge of produced water or the contamination of the surface or subsurface water, by Operator or by third-parties at the direction of Operator. In such event, Operator agrees to comply with all federal, state, and local laws governing proper cleanup of hazardous and toxic compounds or chemicals introduced on or near the Subject Lands. Operator shall be responsible and shall retain all responsibility for any environmental contamination in all respects, resulting from its operations. Accordingly, for clarification and not limitation, Operator shall be fully responsible for (a) compliance with any Government Cleanup Order concerning environmental contamination resulting from its operations; (b) compliance with environmental laws; (c) obtaining a Final Certificate of Completion from the governing authority or other written documentation which determines that no further action is required with respect to any of Operator's environmental contamination and that remediation at the Owner's property is complete; and (d) all Claims concerning Operators environmental contamination, including third party claims. This clause shall survive termination of this agreement.

14. **Indemnity.** Operator, along with its successors and assigns, hereby covenants and agrees at its sole cost and expense, to relieve, release, indemnify, protect, and hold harmless Owner, its directors, officers, employees, Trustees, beneficiaries, partners, members, equity holders, shareholders, successors and assigns, representatives and agents (collectively, the "Owner Parties"), from and against any action, claim, or demand for damage to any person or property arising out of use of the Subject Lands for operations by Operator, its agents, contractors, or employees for damages proximately caused by Operator, its agents, contractors, employees, or invitees, including but not limited to (i) any default, breach, misrepresentations, or failure to perform any warranties, representations, covenants or any other obligations pursuant to this Agreement of or by Operator and/or Operator's representatives or agents, including employees and subcontractors; (ii) any negligent acts or omissions or willful misconduct and/or failure to comply with environmental laws and other applicable laws (including but not limited to statutes, regulations, rules, codes, and ordinances) or by Operator and/or Operator's representatives or agents, including employees and subcontractors. Provided however, Operator shall not be responsible where such action, claim, or demand results from the gross negligence or willful misconduct of Owner, its agents, contractors, or employees.

15. **Governing Law.** This Agreement shall be subject to, and construed under, the laws of the State of Colorado.

16. **Assignment.** The rights of Operator under this Agreement may not be assigned, in whole or in part, without the prior written consent of Owner, which shall not be unreasonably withheld. Owner may assign the Subject Lands and any portion thereof, without the prior written consent of the Operator.

17. **Covenants Running with the Land.** The terms and provisions of this Agreement are covenants running with the Subject Lands and shall be binding upon and inure to the benefit of the Parties, and their respective heirs, executors, administrators, legal representatives, successors and assigns.

18. **Breach or Default.** No action shall be initiated by Owner with respect to a breach or default by Operator hereunder, for a period of at least thirty (30) days after Owner has given Operator written notice as provided herein, fully describing the breach or default, and then only if Operator fails to remedy or commence to remedy all or any part of the breach or default within such period. Time is of the essence with any such breach and the commencement of a remedy shall be completed as quickly as possible.

19. **Severability.** In the event that any provision of this Agreement is deemed invalid or void by any court of competent jurisdiction or cannot be performed, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other provision of this Agreement. If any provision of this Agreement shall be deemed invalid due to scope or breadth, then such provision shall be valid to the extent and scope permitted by applicable law.

20. **Entire Agreement.** This Agreement constitutes the full and final agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements, representations or understandings, whether written or oral, and this Agreement may be modified or amended only in a writing signed by the Parties.

21. **Authority to Execute Agreement.** Each Party represents that it has the full right and authority to enter into this Agreement with respect to the surface rights or oil and gas interests it owns in the Subject Lands, as applicable.

22. **Notification.** Any notice or other communication given by either Party to the other relating to this Agreement shall be in writing, and shall be delivered in person, sent by certified mail, return receipt requested, or sent by reputable overnight courier, to such other Party at the respective addresses set forth in this Agreement (or at such other address as may be designated from time to time by written notice given in the manner provided in this Agreement). Such notice shall, if hand delivered or personally served, be effective immediately upon receipt. If sent by certified mail, return receipt requested, such notice shall be deemed given on the third business day following the deposit in the United States mail, postage prepaid and properly addressed; if delivered by overnight courier, shall be deemed effective on the first business day following deposit with such courier:

If to Owner:

**Rudder Brothers, LLC
28920 County Road 3W
Genoa, CO 80818**

If to Operator:

**Grand Mesa Operating Company
1700 N. Waterfront Parkway
Building 600
Wichita, KS 67206**

23. **Termination of Rights.** This Agreement shall remain in full force and effect from the Effective Date, and for so long thereafter as any oil and gas lease owned by Operator covering all or any portion of the Subject Lands remains valid from production from the Subject Lands or from production from lands pooled or unitized with the Subject Lands, or for so long thereafter as Operator conducts oil and/or gas operations upon the Subject Lands or lands pooled or unitized therewith. If all oil and/or gas wells on the Subject Lands are permanently plugged and abandoned and the related rights-of-way and easements are not used by Operator for a period of more than twelve (12) months, then said rights-of-way and easements shall terminate and all rights herein granted will automatically revert to Owner, its successors and assigns, and Operator shall have a period of three (3) months from and after the date of such termination in which to remove, at its sole cost, risk, and expense, all of its personal property and equipment located on the Subject Lands, and Operator shall thereafter restore the Subject Lands as near to its former condition as is reasonably practical in accordance with the requirements of the COGCC and as more fully described above. In the event any oil and/or gas wells are not permanently plugged and abandoned, but are only temporarily abandoned for further evaluation or for any other reason, then all of the terms and conditions of this Agreement shall remain in full force and effect. As to any portion of the Operations Area used for oil and gas well drilled from a surface location on the Subject Lands to produce from offsite lands which do not include the Subject Lands, this Agreement shall remain in full force and effect from the effective date of the Agreement and for so long thereafter as Operator conducts oil and/or gas operations upon the Subject Lands or lands pooled or unitized therewith.

24. **Reasonable Accommodation.** Provided Owner is able to continue to use and enjoy its land and its livestock is protected, Owner expressly acknowledges and agrees that this Agreement shall be deemed to be specifically applicable to, and to fully satisfy, the obligation of Operator to reasonably accommodate Owner's use of the surface of the Subject Lands. Any interference shall be deemed a default and Owner shall be rectified in accordance with the terms of this Agreement.

25. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[Signature page follows]

IN WITNESS WHEREOF, this instrument is executed, to be effective as of the Effective Date.

OWNER:

Rudder Brothers, LLC
By: Wayne Rudder
Name: Wayne Rudder
Title: Managing Member

OPERATOR:

Grand Mesa Operating Company
By: [Signature]
Name: Michael J. Reilly
Title: President

ACKNOWLEDGEMENTS

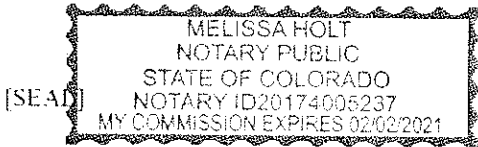
STATE OF COLORADO §
 §ss:
COUNTY OF Lincoln §

Subscribed, sworn to, and acknowledged before me by Wayne Rudder, as managing member of Rudder Brothers, LLC and subscribed and sworn to before me on 2-4, 2019.

Witness my hand and official seal.

My commission expires 2-2-21.

Melissa Holt
Notary Public



~~STATE OF COLORADO~~ §
 §ss:
COUNTY OF Sedgwick §

Subscribed, sworn to, and acknowledged before me by Michael J. Reilly, as President of Grand Mesa Operating Company and subscribed and sworn to before me on January 25, 2019.

Witness my hand and official seal.

My commission expires October 10, 2020.

Adam Petz
Notary Public Adam Petz

