

## SURFACE USE AGREEMENT

This Surface Use Agreement (“Agreement”) is made and entered into effective this 2<sup>ND</sup> day of July, 2021 by and between BBB Ranch LLC, (“Grantor”), and BNL (Enterprise) Inc., (“Operator”).

WITNESSETH:

WHEREAS, Grantor is the surface owner of certain land located in Las Animas County, Colorado (the “Land”) and described in Exhibit “A”.

WHEREAS, the Land is subject to an Oil and Gas Lease held by the Operator that was recorded on the \_\_\_ day of \_\_\_\_\_ in the Las Animas County Clerk and Recorder’s Office at Document No. \_\_\_\_\_ (“Oil and Gas Lease”).

WHEREAS, the Land is subject to a Deed of Conservation Easement granted to Colorado Cattleman’s Agricultural Land Trust (CCALT) and recorded on the December 12, 2003, in the Las Animas County Clerk and Recorder’s Office at Document No. 200300670733 as amended on December 7, 2004 at Document No. 200400677019 and on November 23, 2005 at Document No. 200500683255; and on September 7, 2005 at Document No. 200500681709 (collectively, the “Conservation Easement”); CCALT is a third-party beneficiary of this Agreement.

WHEREAS, the Conservation Easement grants to CCALT certain interests in the surface estate including a right of enforcement of the terms and conditions of the Conservation Easement.

WHEREAS, Operator wishes to use a portion of the Land for Operator’s proposed operations, in order to properly drill, complete rework or re-complete, equip, operate, maintain, produce and plug and abandon any wells and thereafter restore the surface of the Land.

WHEREAS, Grantor’s overall objective is to preserve the Land and vistas; uphold the Conservation Easement; and maintain the Land for its own use; while allowing for Operator to drill and produce helium pursuant to its rights under the Oil and Gas Lease, as a prudent operator.

WHEREAS, Grantor and Operator intend by this Agreement to define and assign responsibilities with regard to the activities discussed herein associated with the exploration, capture, production, processing and transportation of oil and gas, including helium, on and across the Land.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Operator agree as follows:

### SECTION 1

**1.1 Grants of Right-of-Way and Easement.** Grantor grants Operator, its employees and designated agents, a non-exclusive right-of-way to enter upon and use the Land for the purpose of staking, drilling, completing, equipping, producing and operating oil and gas wells, along with private rights-of-way and easements for constructing and maintaining production, processing and compressor facilities, access roads, power lines, and installing temporary (during the life of said wells) pipelines to gather and transport oil and gas to a gas or liquids gathering system, gas and water produced from wells drilled on Operator’s leasehold, subject to the terms of this Agreement. Operator shall notify Grantor of any designated agent that will need access to the property in advance of such access.

**1.2 Wells.** The rights granted to Operator hereunder shall be limited to operations related to the drilling and producing of oil and gas wells pursuant to the Oil and Gas Lease. Lessee agrees to limit its oil and gas operations conducted on the Land to no more than one (1) well site per 640 acres. The disturbed area for each well site shall be kept to a minimum and shall not exceed two (2) acres in size during the production phase and three (3) acres during the construction phase. Operator further agrees to work cooperatively with Grantor and CCALT to locate wells in a manner that is “limited, localized and concealed with existing topography”, areas which are not highly visible from U.S. Highway 350, areas which localize the impact on the real property that is not irremediably destructive of the Conservation Values of the Property subject to said

Conservation Easement, and areas primarily accessible from existing roads. All well locations shall be reviewed and agreed upon in writing by Grantor, Operator, and CCALT prior to the commencement of drilling operations. Without the express written consent of Grantor, no well site shall be located within a one-half (1/2) mile radius of Timpas Creek, or any residential dwelling or barn located on the Property. No historic sites, including remnants of the Santa Fe Trail, shall be disturbed.

**1.3 Termination of Rights.** This Agreement and Operator's obligations hereunder will terminate upon the last to occur: (a) termination of the Oil and Gas Lease or; (b) upon complete reclamation and restoration of the surface according to the standards prescribed herein and approval of such reclamation by state and/or federal authorities which have jurisdiction over such reclamation.

**1.4 Non-Exclusive Rights.** The rights granted by Grantor to Operator under this Agreement are nonexclusive, and Grantor reserves the right to use all access roads and reserves all surface uses of the Land and the right to grant successive easements on or across the Land on such terms and conditions as Grantor deems necessary or advisable. Any access or use rights granted to any third parties before or after the effective date of this Agreement shall not unreasonably interfere with Operator's exercise of its rights and responsibilities as provided herein. Grantor agrees to advise Operator in writing of any written approval granted by Grantor for the use of roads on the Land by others so that Grantor may assess the other users for maintenance, though Operator shall not assess Grantor any maintenance for such use of roads for any reason. Operator shall not assume any liability associated with Grantor's use of roads on the Land or actions/inactions of any other third parties granted access.

## SECTION 2

**2.1 Notification and Consultation.** Operator shall consult with Grantor and CCALT on the location of all well pads, new roads, facilities, gathering lines, temporary pipelines and power lines before construction or installation. Operator shall notify Grantor and CCALT prior to initial entry on the Land and prior to commencing operations for any surface disturbing activity on the Land. To the extent reasonably possible, Operator will use existing roads on the surface of the Land for its operations, and, if construction of a new road is desired, Operator will consult with Grantor as to the location of said new road to limit interference with Grantor's existing or future use of the Land as reasonably practicable. Said roads shall not exceed 30 feet in width and their location shall be subject to Grantor's approval, not to be unreasonably withheld, with CCALT's review. Any reclaimed portions of the road will be restored in accordance with Paragraph 2.11 (Reclamation) below. If a temporary pipeline or power line is to be installed by Operator, Operator will consult with Grantor and CCALT as to the location of any pipeline, power line and gathering system in a manner to limit interference as reasonably practicable with Grantor's existing or future use if outside of road right-of-ways. Temporary pipelines and powerlines will be contained and confined within roadways whenever reasonably practicable.

### **2.2 Construction of Gas, Oil, and Water Gathering Pipelines.**

**a.** Permanent pipeline and/or power line easements are not covered in this Agreement and shall be negotiated in a separate agreement with Grantor and CCALT and shall be configured so as to minimize impacts to the Land. Operator can install temporary oil, gas and water flowlines and gathering lines for each well drilled on the Wellpad (as defined below in 2.4(b)). Temporary gas, oil, or water gathering lines are not to exceed twelve (12) inches in diameter. Operator agrees that, whenever possible, Operator will construct any temporary pipelines within the access road right-of-way, if one exists.

**b.** Operator shall be responsible for segregating the topsoil, backfilling, repacking, reseeding, and recontouring the surface of any disturbed areas so as not to unreasonably interfere with Grantor's activities and shall reclaim and restore such areas to be returned to pre-existing conditions as best as reasonably possible at Operator's expense. All reclamation activities must comply with the terms of Paragraph 2.11 (Reclamation). Operator shall provide Grantor and CCALT with a map or as-built drawing showing the surface location of all temporary gas, oil, water gathering lines, temporary pipelines, and power lines before and after their installation.

### **2.3 Power Lines.**

a. Except as otherwise agreed to by Grantor, in writing, all power lines installed by Operator will be constructed to cause as little interference with Grantor's existing or future use as reasonably practicable. Existing power lines need not be relocated.

b. To the maximum extent reasonably practicable, Operator shall use power from any existing power lines that currently cross the Land instead of installing new lines. Operator agrees that, whenever possible, Operator will construct any temporary power lines within the access road right-of-way, if one exists.

c. At such time as Operator desires to abandon any power line located on the Land, it shall notify Grantor and CCALT of such desire, and Grantor shall have thirty (30) days within which to make a written election to take over such power line for Grantor's own use. If Grantor elects to take over a power line, Grantor shall assume all liability, costs and reclamation obligations associated therewith, and Operator shall have no further liability, nor responsibility for costs or reclamation for the power line, or the portion thereof, which Grantor elects to take over. Grantor shall promptly file all necessary notices or applications with the proper authorities and power company. If Grantor does not elect to take over a power line, Operator shall continue to assume all liability, costs and reclamation obligations associated therewith, and Grantor shall have no liability or responsibility for costs associated with the reclamation for the power line. In the event Grantor does not elect to take over a power line, Operator shall de-energize said power lines as soon as reasonably practicable, but in any case, within 60 days of said election. Operator shall back fill, compact, reseed, and re-contour the area disturbed by Operator's construction, installation, repair, or removal of any power line. All reclamation activities must comply with the terms of Paragraph 2.11 (Reclamation).

**2.4 Wells, Processing Facilities and Locations.** Operator agrees that the location of any facilities relating to the completion and production of oil and gas shall be reviewed and agreed upon in writing by Grantor, Operator, and CCALT. Such facility location selection shall be based upon scenic and open space regulations as required by the Treasury Regulations which require facilities to be "limited, localized, and concealed by existing topography." In order to minimize surface disturbance, Operator shall not construct any processing, treatment, or other such facilities or infrastructure on the Land that are not reasonably necessary to the extraction of oil and gas on the Land or transportation off the Land.

a. No wells shall be drilled within a half (1/2) mile radius of any existing residence or occupied house or within a half (1/2) mile radius of any existing barn, corral, or feedlot, or within 250 feet of any existing windmill or water well on the Land or within a half (1/2) mile radius of Timpas Creek. No historic sites, including remnants of the Santa Fe Trail, shall be disturbed.

b. **Well Pads.** Any well pad location shall be limited to approximately five (5) acres of Land during drilling and completion activities and approximately two (2) acres thereafter for each production well pad containing multiple wells, not including access roads for purposes of calculating location size.

c. **Miscellaneous.** Operator shall not install disposal wells without a separate written agreement to be negotiated and agreed to by Grantor, CCALT and Operator for each such well.

d. **Maintenance.** Operator shall keep well pads, road rights-of-way, and other areas used by Operator safe and in good order, and control noxious weeds, and clean all litter and debris. Operator shall regularly remove trash and debris from the area subject to this Agreement. Operator shall comply with applicable state and federal rules and regulations governing the presence of any petroleum products, toxic or hazardous chemicals or wastes on the Land. All equipment and facilities placed on the property by Operator shall be painted in tones consistent with the surrounding area. Operator shall observe the following best management practices related to wildlife habitat on the Land:

i. Establish company guidelines to minimize wildlife mortality from vehicle collisions on roads.

- ii. Use noise reduction equipment on compressors and other development and production equipment, including pump jacks, to muffle or otherwise control exhaust noise and other operational noise from any wellsite.
- iii. Use topographical features to provide visual concealment of facilities.
- iv. Design tanks and other facilities with structures such that they do not provide perches or nest substrates for raptors, crows and ravens.
- v. Install perch deterrents on equipment, fences, cross arms and pole tops.
- e. Operator shall transport any excess water production during drilling or operations off the Land for disposal.

**2.6 Roads.** New all-weather roads will be constructed only when necessary and after consultation with Grantor and CCAAL. Operator shall provide Grantor with a plat showing the location and length of all roads prior to construction or improvement. Any road constructed upon the Land shall be constructed and used to the following specifications:

a. The surface of all roadways constructed shall not exceed thirty (30) feet in width for traveled surface. Improved roads shall be constructed with a sufficient crown from the center of the road to the shoulder to promote positive drainage. Operator shall install side ditches along roads to transport runoff. 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 per the reclamation requirements outlined in Paragraph 2.11 (Reclamation).

b. Access to the Land from any county road shall be controlled by a metal, hinged gate or a cattle guard, which Operator shall construct and install in accordance with the reasonable specifications of Grantor. During production operations, Operator shall lock gates across its access roads at the request of Grantor, and provide Grantor use of same.

c. Operator shall employ industry-standard management practices to suppress dust from Operator's roads.

**2.7 Operator's Use Roads.** In the interests of safety and dust control, Operator and its contractors, agents, and employees shall not exceed 30 miles per hour on roads located on the Land. If livestock is present, the speed limit shall be 20 miles per hour. Livestock and wildlife species, including but not limited to deer, antelope, game birds, and songbirds, shall have the right-of-way on roads located on the Land and Operator and its contractors, agents, and employees shall come to a stop and give ample time for wildlife and livestock to move from the roadway.

**2.8 Fences.** Operator shall construct stock-tight fences around any dangerous area, including any pits where Operator drills wells. Operator shall, at its expense, construct permanent fencing around all wellheads and other surface facilities. Maintenance around Operator's surface facilities shall be the responsibility of Operator and Grantor shall not be responsible for damage to such fences or Operator's surface facilities in the event livestock gain access to these areas. Operator shall reasonably repair and/or replace any and all damage done to any existing fences or gates, or any other improvements of Grantor, which result from Operator's operations on the Land. All fences shall be repaired in a manner consistent with surrounding fences and in accordance with reasonable and customary practices.

**2.9 Improvements, Existing Cattleguards, Gates.** No existing fences, cattle guards, gates, or other improvements shall be altered by Operator, its employees and authorized agents, without the consent of Grantor.

**2.10 Non-Disturbance.** Operator and its employees and authorized agents shall not disturb, use, or travel on any of the Land of Grantor not subject to this Agreement without Grantor's consent. The Company will comply with Colorado Oil and Gas Conservation Commission ("COGCC") Rule 423 concerning noise abatement and will also install sound walls, mufflers or other devices to facilitate noise abatement if operations are undertaken within 1000 feet of any house or barn now on the Leased Premises and noise levels exceed prescribed limits at such house or barn and after consultation with the Grantor.

**2.11 Reclamation.** It is understood that Operator shall be solely responsible for all reclamation related to all oil and gas activities that take place on the Land. This shall include, but not be limited to, reclamation required within well sites, access easements, flowline and pipeline easements and utility easements. However, Operator shall permit Grantor the opportunity to retain “as is” any portion of the access road or surface facilities constructed by Operator. Should Owner elect to retain “as-is” any portion of the access road(s) or surface facilities, Owner shall execute all necessary waivers as requested by Operator to satisfy any obligations to or obtain variances from the COGCC.

a. **Bonding.** To ensure the completion of reclamation as set forth in this Section 2.11 and otherwise in this Agreement, Operator agrees to maintain during the term of this Agreement a bond issued by an entity or institution acceptable to CCALT and Grantor and for the benefit of CCALT and Grantor in the amount of \$15,000, which bond amount shall be increased every fifth (5<sup>th</sup>) year by the percentage increase in the United States Consumer Price Index for All Urban Consumers from such five-year period. Grantor and CCALT agree that Operator shall have complied with this obligation if it has posted an applicable reclamation bond with the COGCC in accordance with its rules.

b. **Interim Reclamation.** Operator will perform interim reclamation in compliance with the rules and regulations of the COGCC subject to the requirements set forth below:

i. Depending on the season of the year, Operator will sow a sterile cover crop using appropriate seed mixture, as determined by Grantor and CCALT, as interim reclamation to protect the location from erosion, assist with weed control and to improve the organic matter of the seedbed.

ii. In the spring or fall, Operator will mow the cover crop and sow the chosen native seed mix approved by Grantor and CCALT 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 Grantor 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.

iii. Operator shall inspect disturbed areas at such times as Grantor shall reasonably request in order to determine the growth of ground cover and/or noxious weeds, and Operator shall reseed ground cover and control noxious weeds from time to time to the extent necessary to accomplish its obligations hereunder. Operator recognizes that this shall be a continuing obligation and Operator shall reseed ground cover and/or control noxious weeds until areas disturbed by Operator are returned to the condition specified in Section 2.11.c.v. If the native seed re-vegetation effort fails in whole or in part for any reason or if the location is re-disturbed with additional heavy equipment for well servicing operations creating additional impact to any wellsite, the reclamation process will continue until such time that the site has been successfully reclaimed.

c. **Final Reclamation.** Upon conclusion of operations on any portion of the Land, Operator shall reclaim and restore the subject areas disturbed by Operator's operations, as provided herein, within twelve (12) months at the site or right-of-way where operations have concluded, unless Grantor, Operator, and CCALT mutually agree to postponement because of crop or other considerations. Operator will perform all reclamation in accordance with the rules and regulations of the COGCC and subject to the requirements set forth below:

i. When Operator permanently ceases to use any road (except permanent roads), rights-of-way, or wellsite, Operator shall return such road, right-of-way, or wellsite to its original grade and restore vegetation in accordance with Section 2.11c.v. Operator shall use water bars and such other measures, as appropriate, to prevent erosion and nonsource pollution.

ii. Within ninety (90) days following the abandonment of operations of a well or wellsite, all related surface equipment and surface appurtenances, together with all foreign substances (including gravel), associated with such well and related, flowlines and

gathering lines, not requested to remain by Grantor, shall be removed by Operator from the Property.

iii. 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. Operator shall remove any gravel used on any wellsite.

iv. Operator will build and maintain a game proof fence built to Colorado Parks and Wildlife standards around any wellsite to exclude wildlife and livestock until the re-vegetation process is complete.

v. A site shall be successfully reclaimed when (i) two growing seasons have passed and (ii) the location has reached eighty (80%) percent cover of native species when compared to its prior condition or adjacent locations. When the location has reached this level of re-vegetation, Operator will remove the fence and the location will be re-introduced to livestock or wildlife grazing, as appropriate. If the Parties cannot agree that a site has been successfully reclaimed, then the Parties will ask the Colorado State University County Extension Office to assess the site and determine if the revegetated area has achieved 80% of the prior vegetative cover condition.

d. **Noxious Weed Act.** It shall further be the duty of Operator to comply with the Colorado Noxious Weed Act. Operator shall inspect and control all noxious weeds that may become established within areas used or disturbed by Operator, and those found to spread to other areas of the Land as a result of Operator's operations. Operator shall inspect disturbed areas at such times as Grantor or CCALT shall reasonably request in order to determine the growth of ground cover and or noxious weeds, and Operator shall reseed ground cover in accordance with Section 2.11 hereof and control noxious weeds from time to time to the extent necessary to accomplish its obligations hereunder. Operator recognizes that this shall be a continuing obligation and Operator shall reseed ground cover and/or control noxious weeds until areas disturbed by Operator until the site is successfully reclaimed as set forth in Section 2.11 hereof. Operator shall also control weeds by inspection of vehicles and washing and spraying of vehicles.

e. **Top Soil.** If Operator excavates any area of the Land permitted by this Agreement, Operator shall remove the topsoil and stockpile and replace it in conformance with the rules and regulations of the COGCC. Operator agrees to separate the topsoil at the time of excavation of pits in accordance with COGCC Rule 1002.b.(2) so that the topsoil and subsurface soil can be placed back in proper order as nearly as practicable.

**2.12 Water.** Without prior written approval of Grantor, Operator shall not use any water from any existing water wells owned by Grantor, reservoirs or springs on the Land. Operator shall not disturb, interfere with, fill, or block any creek, reservoir, spring, or other source of water on the Land. Operator shall perform baseline water testing of current streams and water wells on the Land. Operator agrees that there shall be no diminution in baseline water quality on the Land.

**2.13 Biological Survey.** Unless required to do so by law, Operator, its employees, agents and independent contractors, are specifically and strictly prohibited from conducting any biological survey, assessment, or inventory on the Land without the express written prior consent of Grantor. When permission has been granted; a summary of any findings and any information/data collected will be turned over to the Grantor.

**2.14 Archeological Survey.** Unless required to do so by law, Operator, its employees, agents and independent contractors, are specifically and strictly prohibited from conducting any archeological survey, assessment, or inventory on any of the Land without the express written prior consent of Grantor. When permission has been granted; a summary of any findings and any artifacts collected will be turned over to the Grantor.

**2.15 Employees, Agents and Contractors.**

a. Operator shall not permit any of its employees or contractors to bring any dog, firearm, explosive device, weapon, alcoholic beverage, or illegal drugs on Grantor's property. No employee or contractor of Operator shall hunt, prospect for antlers, fossils or antiquities, recreate, consume alcoholic beverages, or carry on any illegal activities on the Land. In the event Grantor discovers any employee, contractor or representative of Operator failing to abide by the

terms of this paragraph, Grantor shall provide Operator with as much information as possible regarding any individual violating this provision and Operator agrees to take immediate and appropriate action regarding such violation.

b. Use of 4-wheeler ATV's on the Land will be restricted to inclement weather when surface conditions dictate, or with Grantor's prior approval. The use of 4-wheeler ATV's for recreational activities on the Land is strictly prohibited. Operator will notify all its contractors, agents, employees and representatives of this restriction.

**2.16 Communication and Contacts Between Grantor and Operator.**

Notices as provided for herein shall be made in the manner provided to the following addresses:

<b>Grantor</b>	<b>Operator</b>
Name (Primary): Kelly Bond	Name: BNL Enterprises
Name (Secondary): Tylor Bond	
Title: Owner	By: Trent Spry, Executive Director
Email: jbond1820@msn.com	Email: tspry@bluestarhelium.com
Phone: 719-251-1702	Phone: 6-140-893-4600

**CCALT**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

**2.17 Equipment Storage.** Operator's drilling equipment shall not be stacked, stored or maintained outside of well pads, nor shall employees be housed on the Land. Rigs may be stacked on a well pad for not more than thirty (30) days unless weather or mechanical reasons reasonably prevent such removal.

**2.18 Signage.** Operator shall provide and install signs denoting areas, and the boundaries therefor, subject to this Agreement. Signage shall communicate that employees, agents, contractors, and assigns of Operator shall be prohibited from entering onto Grantor's property that is not subject to this Surface Use Agreement. Operator agrees to assume liability for any damages associated with its employees, agents, and contractors entering onto Grantor's land without express written consent, including any attorney fees and court costs associated with enforcing this provision.

**SECTION 3**

**3.1 Well Payments.** Operator shall pay Grantor the sum of [REDACTED] per well drilled from a well pad on the Land. Such payment for each well shall be made upon the commencement of drilling operations of each well.

**3.2 Road Right-Of-Way Payments for Roads.** Operator shall pay Grantor the sum of [REDACTED] per rod of the actual length of the centerline of existing roads and new roads constructed by Operator traversing the Land. Such payment shall be made upon commencement of use/construction of such roads.

**3.3 Right-Of-Way Payments for Pipelines and Powerlines Located "Outside" Road Right-Of-Ways.** Operator shall pay Grantor a one-time payment in the sum of [REDACTED] per rod for temporary pipeline and/or powerline right-of-way located outside of road right-of-way's. Such payment shall be made upon commencement of the construction of such pipelines and/or powerlines located outside road right-of-way's related to this Agreement. No double payments shall be required for the construction of pipelines and powerlines within the same right-of-way and no payments shall be required for pipelines and powerlines located within road right-of-ways.

**3.4 Payment Limitation.** The payments herein provided are acknowledged as sufficient and in full satisfaction for damages caused or created by the reasonable and customary

terms of this paragraph, Grantor shall provide Operator with as much information as possible regarding any individual violating this provision and Operator agrees to take immediate and appropriate action regarding such violation.

b. Use of 4-wheeler ATV's on the Land will be restricted to inclement weather when surface conditions dictate, or with Grantor's prior approval. The use of 4-wheeler ATV's for recreational activities on the Land is strictly prohibited. Operator will notify all its contractors, agents, employees and representatives of this restriction.

## 2.16 Communication and Contacts Between Grantor and Operator.

Notices as provided for herein shall be made in the manner provided to the following addresses:

Grantor	Operator
Name: Tylor Bond	Name: BNL Enterprises
Title: Owner	By: Trent Spry, Executive Director
Email: tylor.bond@yahoo.com	Email: tspry@bluestarhelium.com
Phone: 719-251-1824	Phone: 6-140-893-4600

### CCALT

Name: ERIK GLENN  
Title: Executive Dir.  
Email: eglewn@CCALT.org  
Phone: 303.225.8677

2.17 Equipment Storage. Operator's drilling equipment shall not be stacked, stored or maintained outside of well pads, nor shall employees be housed on the Land. Rigs may be stacked on a well pad for not more than thirty (30) days unless weather or mechanical reasons reasonably prevent such removal.

2.18 Signage. Operator shall provide and install signs denoting areas, and the boundaries therefor, subject to this Agreement. Signage shall communicate that employees, agents, contractors, and assigns of Operator shall be prohibited from entering onto Grantor's property that is not subject to this Surface Use Agreement. Operator agrees to assume liability for any damages associated with its employees, agents, and contractors entering onto Grantor's land without express written consent, including any attorney fees and court costs associated with enforcing this provision.

## SECTION 3

3.1 Well Payments. Operator shall pay Grantor the sum of one thousand five hundred dollars (\$1,500) per well drilled from a well pad on the Land. Such payment for each well shall be made upon the commencement of drilling operations of each well.

3.2 Road Right-Of-Way Payments for Roads. Operator shall pay Grantor the sum of five dollars (\$5.00) per rod of the actual length of the centerline of existing roads and new roads constructed by Operator traversing the Land. Such payment shall be made upon commencement of use/construction of such roads.

3.3 Right-Of-Way Payments for Pipelines and Powerlines Located "Outside" Road Right-Of-Ways. Operator shall pay Grantor a one-time payment in the sum of five dollars (\$5.00) per rod for temporary pipeline and/or powerline right-of-way located outside of road right-of-way's. Such payment shall be made upon commencement of the construction of such pipelines and/or powerlines located outside road right-of-way's related to this Agreement. No double payments shall be required for the construction of pipelines and powerlines within the same right-of-way and no payments shall be required for pipelines and powerlines located within road right-of-ways.

3.4 Payment Limitation. The payments herein provided are acknowledged as sufficient and in full satisfaction for damages caused or created by the reasonable and customary entry, rights of way, operation, use of the roads, pipelines, powerlines, and wells, but do not include

entry, rights of way, operation, use of the roads, pipelines, powerlines, and wells, but do not include damage to livestock, buildings, personal property, improvements of Grantor, injuries to persons, or damage to or destruction of Grantor's water wells or water supply. Operator shall pay Grantor the fair market value of any livestock killed or injured as a direct result of Operator's operations as well as for any damages to buildings, personal property, improvements of Grantor and for injuries to persons or damage to or destruction of Grantor's water wells or water supply.

#### SECTION 4

**4.1 Default.** In the event that Operator or Grantor hereunder shall fail to comply with any of their duties or obligations hereunder, the other party shall so notify the defaulting party in writing by certified mail and if the defaulting party does not commence correction of such default within forty-five (45) days after receipt of said notice, the non-defaulting party shall have the right to enforce the provisions of this Agreement in law or in equity and/or have such other rights and remedies as may be provided to it under the laws of the State of Colorado. The defaulting party agrees that it shall be responsible for all costs and expenses, including reasonable attorney's fees, incurred by the non-defaulting party as a result of said default as may be determined by a court of law or equity.

#### SECTION 5

**5.1 Warranty.** Grantor warrants that it is the sole surface owner of the Land and further warrants that it has not granted any right or title to any third party whose consent or permission would need to be obtained prior to the Operator carrying out any of the operations contemplated by this Agreement.

**5.2 Indemnification.** Operator shall be solely responsible for all risks and liabilities of any kind and nature incident to, occasioned by or resulting in any manner, directly or indirectly from Operator's operations or activities on the Land and that of its contractors, employees, agents, and assigns. Operator shall protect, indemnify, defend, and hold Grantor and CCALT harmless from any kind and character of damage, loss, expense, claim or cause of action asserted by or arising in favor of any person or entity on account of personal injury, death or property damage growing out of or attributable to the operations or activities of Operator, its contractors, employees, agents and assigns including without limitation any environmental damage claims. Operator shall keep the Land free from any liens of any character resulting from Operator's operations or activities. Operator at its own expense shall defend any suit or action brought against Grantor and/or CCALT based on any alleged injury, death or property damage or violation of rule, regulation, ordinance, statute or law arising out of the operations or activities of Operator, its contractors, employees, agents, and assigns and pay all damages, claims, costs and expenses, including reasonable attorneys' fees incurred by Grantor and/or CCALT in connection therewith or in any manner resulting therefrom.

**5.3 Conservation Easement.** The Deed of Conservation Easement Deed burdens the Land. CCALT believes that the provisions of this Agreement, as written, are in accord with the Deed of Conservation Easement. Operator must, however, conduct its activities under this Agreement in compliance with the Deed of Conservation Easement. If Grantor or CCALT ever believe that Operator is conducting its activities in a manner contrary to the Deed of Conservation Easement, it will provide written notice to Operator and meet with Operator to discuss its concerns and possible alternatives. CCALT retains all rights of enforcement under the Deed of Conservation Easement. CCALT is a third-party beneficiary of this Agreement.

**5.4 Liability for Damage Resulting from Produced Water** Operator shall be responsible for complying with the rules and regulations applicable to the removal and/or disposal of waters produced by its operations as established by the State of Colorado and other applicable authorities, and Operator agrees to indemnify, defend, and hold Grantor harmless from any claims, demand, judgment, or liability arising as a result of damages to persons or property caused by or in connection with the removal or utilization of said water. Nothing in this paragraph shall be interpreted to allow Operator to discharge produced water on Grantor's Land.

**5.5 Compliance with Law.** Operator and Grantor shall conduct all operations and activities in accordance with all applicable local, state and federal laws, rules and regulations.

**5.6 Notice.** Notice may be given to either Party to this Agreement or to CCALT by email or via certified mail return receipt requested in the United States Mail postage prepaid, duly addressed to the other party at the addresses set out in Section 2.12 of this Agreement, or at such other addresses as each party may subsequently provide to the other.

**6.7 Construction of Agreement.** This Agreement shall be construed under the laws of the State of Colorado.

**6.8 Binding Effect.** This Agreement is binding upon the successors and assigns of the parties. This Agreement sets for the entire understanding among the Parties hereto regarding the matters addressed herein, and supersedes any previous communications, representations or agreement, whether oral or written. This Agreement shall not be amended, except by written document signed by the Parties with the written consent of CCALT.

**6.9 Force Majeure.** Should Operator be prevented from complying with any expressed or implied covenants of this Agreement, conducting normal operations, or from transporting natural gas or other hydrocarbons there from by reason of scarcity of, or inability to obtain or use equipment or material, or by operation of force majeure, or because of any federal or state law or any order, rule or regulation of a governmental authority then while so prevented, Operator's obligations to comply with such covenant shall be suspended, and Operator shall not be liable in damages for failure to comply therewith and the express or implied covenant or other provision of this Agreement so affected shall be extended while and so long as Operator is prevented by any such cause from conducting normal operations or transportation of natural gas or other hydrocarbons and the time while Operator is so prevented shall not be counted against Operator, anything in this Agreement to the contrary notwithstanding.

**6.10 Recording.** This Agreement shall not be recorded; however, the parties shall sign, notarize, and record the attached Memorandum of Surface Use Agreement giving public notice of its existence.

**6.11 Survival.** Operator's obligations and responsibilities hereunder shall survive the term of this Agreement on a well-by-well basis, including without limitation, all reclamation obligations and the proper disposal of any hazardous materials.

**6.12 Confidentiality.** Grantor agrees to keep this Agreement strictly confidential and to not disclose or confirm to any third party the contents or terms contained herein.

**6.13 Construction.** In this Agreement, the word "gas" includes, but is not limited to, helium and all expressions including the word "gas" shall be construed accordingly. In this Agreement, the term "processing facility" means a facility in which raw gas containing helium from two or more wells is treated, purified and compressed for sale and does not include gathering systems or any gas treatment facilities at the wellhead.

**GRANTOR:**  
**BBB Ranch LLC**  
**Name: Kelly G. Bond**  
**Title: Owner**

X 

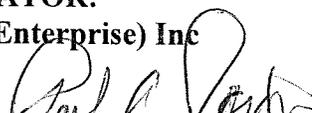
**OPERATOR:**  
**BNL (Enterprise) Inc**

**Name:**

**By:**

**Name:**

**Title:**

  
\_\_\_\_\_  
Paul A. Jordan  
\_\_\_\_\_  
President

**CCALT consent:**

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**By:** \_\_\_\_\_

email or via certified mail return receipt requested in the United States Mail postage prepaid, duly addressed to the other party at the addresses set out in Section 2.12 of this Agreement, or at such other addresses as each party may subsequently provide to the other.

**6.7 Construction of Agreement.** This Agreement shall be construed under the laws of the State of Colorado.

**6.8 Binding Effect.** This Agreement is binding upon the successors and assigns of the parties. This Agreement sets for the entire understanding among the Parties hereto regarding the matters addressed herein, and supersedes any previous communications, representations or agreement, whether oral or written. This Agreement shall not be amended, except by written document signed by the Parties with the written consent of CCALT.

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**GRANTOR:**  
BBB Ranch LLC  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
By: \_\_\_\_\_

**OPERATOR:**  
BNL (Enterprise) Inc  
Name: \_\_\_\_\_  
By: Paul A. Jordan  
Name: \_\_\_\_\_  
Title: President

**CCALT consent:**

Name: Erik L. Glenn  
Title: Executive Dir.  
By: Erik L. Glenn

Exhibit "A"

The Land:

TOWNSHIP 28 SOUTH, RANGE 60 WEST, 6th P.M.

Section 17: S2S2, NWSW

Section 20: N2

Section 21: ALL

Section 22: ALL

Section 25: S2SWSW, N2SESW

Section 26: ALL

Section 27: ALL

Section 28: E2

Section 33: E2

Section 34: ALL

Section 35: ALL

TOWNSHIP 29 SOUTH, RANGE 60 WEST, 6th P.M.

Section 02: Pt of N2N2, Pt of the NE North of Highway 88.09 ac

Section 03: Pt. NENE