

**LEASE OF POLK COUNTY SCHOOL LAND
IN THROCKMORTON COUNTY, TEXAS**

THIS LEASE is made and entered into on this 27th day of September 2022, by and between **POLK COUNTY**, a political subdivision of the State of Texas, [hereinafter referred to as "Lessor"], by and through Honorable Sydney Murphy, County Judge, pursuant to Article 7, Section 6, of the Texas Constitution, and **HARLEY PORTWOOD RANCH**, [hereinafter referred to as "Lessee"].

1.

DESCRIPTION OF LAND LEASED

Polk County, Texas, Lessor, for and in consideration of the terms and conditions here set out, does hereby lease to Lessee all of the following described real property in Throckmorton County, Texas, [hereinafter referred to as the "Leased Premises"], subject to the exceptions set forth below.

POLK COUNTY SCHOOL LAND; BLOCK #20, BLOCK #21, BLOCK #22 (A PART), TOTALING 358.80 ACRES

SAVE AND EXCEPT the Lessor reserves to itself all of the oil, gas, and other minerals in, under and that may be produced from the above property. This lease is expressly made subject to all existing and future valid mineral leases and pipeline easements; and, this lease shall be subject to the rights of pipeline companies and owners of mineral leases, and the right of Lessor, any of its officers or agents, to enter upon said land to explore, develop, produce, and remove minerals, or for any other purposes. Lessee shall be directly compensated by the owners of all existing and future valid mineral leases and pipeline easements for any and all monetary or property damage which Lessee sustains, either directly or indirectly, from the operations of the mineral lease and/or the pipeline easements, on the above described property. Furthermore, the Lessee may charge a reasonable sum for the use of surface water by the mineral estate, such reasonableness to be determined by the Commissioners Court of Polk County, Texas.

2.

TERM

The term of said lease of the above described premises shall be a period of nine [9] months, beginning on the 27th day of September, 2022, and ending on the 30th day of June, 2023. Lessor grants to Lessee an option to extend this lease for a period of four [4] years, and if Lessee chooses to exercise this option, Lessor may increase the rental set out herein in an amount not to exceed twenty [20%] percent.

3.

PAYMENT OF RENTAL

In consideration for the lease of the above described premises for grazing purposes, the Lessee agrees to pay a total annual rental of Ten and No/100 Dollars [\$10.00] per acre on the verified grazing acreage of **308.80** acres in grazing, for cultivation purposes, the Lessee agrees to pay a total rental of Twenty One and 60/100 Dollars [\$21.60] per acre on the verified cultivation acreage of **50** acres in cultivation and for hunting purposes, the Lessee agrees to pay a total rental of Three and No/100 Dollars [\$3.00] per acre on the verified hunting acreage of **358.80** acres for a total rental consideration of \$5,094.40 for the term ending June 30, 2023, which shall be payable and is due upon the execution of this lease by the Lessee, and the receipt of which is hereby acknowledged by Lessor. The remaining annual installments shall each be due on or before the 1st day of July of each and every year of the term of this lease if Lessee chooses to renew for a four [4] year period. In the event that any annual installment is not made on or before the date it is due, the Commissioners Court of Polk County, Texas, may, at its option, upon written notice to the Lessee, charge an additional fifteen [15%] per cent of the amount of the annual installment, or portion thereof, not timely paid, and an additional five [5%] per cent per month for each full calendar month during which an annual installment or any portion thereof remains unpaid; provided, however, that the acceptance of a late rental payment by the Lessor shall not be deemed to be a waiver of the Lessor's right to timely payment of future rentals.

4.

LAND IMPROVEMENT PLAN

Lessee will conduct visible management practices to improve the land during the lease, at a cost to Lessee of at least One and 25/100 [\$1.25] per acre per annum. These practices may include fencing or fencing repair, soil erosion control, weed and brush control, water impoundments, and other improvements deemed necessary by the Lessee or the designated site inspector.

The site inspector, with the cooperation of the Lessee, will develop individual management plans for each tract of land during the first year of this lease, and the site inspector will have total access to all lands in question.

Annually, if there is a question of changing land use classification, i.e. from cultivation to grazing or vice versa, the Lessee will make the request to the site inspector and provide managing reasons for the change, prior to any changes being made. The site inspector, after consulting with local agriculture authorities, such as the County Extension Agent, the Farm Service Agency, or the Natural Resource Conservator Service, will make a recommendation to the Polk County Commissioners Court, who will have the final decision.

The total value of land improvements will be determined by cash receipts and/or usual and customary charges for various management practices.

5.

IMPROVEMENTS

It shall be a condition of this lease that any permanent improvements which are made upon the above described premises during the term of this lease shall remain upon the premises and become a part of the realty, and upon the termination or expiration of this lease, such improvements shall remain on the premises and belong to the Lessor without right of compensation to the Lessee. The Lessee shall obtain written approval from the Lessor prior to the placement of any structure considered by the local appraisal district to be a permanent improvement. Additionally, the Lessee shall be responsible for any and all ad valorem tax liability relating to a permanent improvement located or allowed to be located on Polk County

School Land by the Lessee and shall promptly pay such tax liability upon notification from the Lessor.

6.

RANGE MANAGEMENT

Lessee shall use said premises for grazing and farming purposes only during the term of this Lease in accordance with prudent range management practices, and shall not permit or permit to be committed any waste or injury to said premises or improvements located thereon, during the term of this lease. At any time during the term of this lease, if the Lessee does not in good faith undertake the Land Improvement Plan outlined in this contract and diligently pursue the same to completion, the Lessor, at its option, after giving thirty [30] days written notice to Lessee, shall have the right to terminate this lease. Termination of the lease under this provision shall not entitle the Lessee to a pro rata refund of any excess rental payment which may have already been paid by the Lessee. As used in this paragraph, the term "contract" includes this Lease Agreement and all the terms, provisions, conditions and specifications set forth herein.

7.

INDEPENDENT MONITOR

The Lessee shall provide an independent monitor to oversee the Land Improvement Plan outlined in this Lease Agreement. The Polk County Commissioners Court shall approve the selection of the Independent Monitor. Additionally, the Monitor shall inform the Court through annual reports as to the progress and status of the Land Improvement Plan. The Lessee shall bear the total cost of the Land Improvement Plan.

8.

LAND USE RIGHTS

By this lease, the Lessor grants Lessee the right to use the leased premises for grazing farming and hunting purposes only.

9.

CONDITION OF PREMISES

Lessee accepts the above described premises in the condition in which it exists at the date of execution and delivery of this lease.

10.

SUBLEASE OR ASSIGNMENT

The Lessee shall not sublease or assign the entirety or any portion of the above described premises without receiving prior written approval of the Commissioners Court of Polk County, Texas. Failure of the Lessee to obtain such approval shall constitute a default of the stated conditions set forth in this paragraph. Approved subleasing or assignment shall be made on a cash basis.

11.

DEFAULT

- A. The Lessee shall be in default of this lease if the Lessee:
 - 1. Fails to timely make rental payments in accordance with this lease;
 - 2. Fails to meet any of its other obligations under this lease in accordance with the terms and conditions of this lease; or
 - 3. Loses possession of the premises by reason of receivership, bankruptcy proceedings, or other operation of law in any manner whatsoever.
- B. If the Lessee should fail to make timely rental payments, or if the Lessee remains in default under any other condition or provision of this lease for a period of thirty [30] days after written notice from the Lessor in accordance with the terms of this Lease Agreement, or should any person other than the Lessee secure possession of the premises or any part thereof by reason of any receivership, bankruptcy proceedings, or other operations of law in any manner whatsoever, the Lessor may, at its option, without notice to the Lessee, terminate this lease; or, in the alternative, the Lessor may reenter and take possession of said premises and remove persons and property therefrom without being deemed guilty of any manner of trespass, and Lessor may relet the premises or any part thereof for all or any part of the remainder of the lease term to a party satisfactory to the Lessor for such rental as the Lessor may, with reasonable diligence, be able to secure. Should the Lessor be

unable to relet the premises after reasonable efforts to do so, or should such rental be less than the rental the Lessee was obligated to pay under this lease, then the Lessee shall pay to the Lessor the amount of such deficiency, plus the expenses of reletting the premises.

- C. In the event of any termination of this lease agreement or reentry by the Lessor under the terms of this section, the Lessee shall not be entitled to any return of any portion of any previously paid rental payment; provided, however, that any unearned rental payment shall be credited toward the amount of any deficiency required to be paid by the Lessee under the terms of this section.
- D. It is expressly understood and agreed that in the event of default by the Lessee under the terms of this section or under other provisions of this lease, the Lessor shall have a lien upon all goods, chattel, or personal property of any character, kind, or description belonging to the Lessee which are placed on or become a part of the Leased premises as security for rent due and rent to become due for the remainder of the current lease term, which lien shall not be in lieu of or in any way affect statutory Lessor's lien given by law, which shall be cumulative thereto.

12.

SALE OF PREMISES

Should the sales market improve and present Lessor with future options, Lessee will be given the right of first refusal to purchase the leased premises.

13.

RIGHTS AND REMEDIES

All rights and remedies of the Lessor under this lease shall be cumulative and none shall exclude any other right or remedy at law. Such rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefor arises.

14.

RELATIONSHIP OF PARTIES

This lease shall not give rise to a partnership relationship between the parties hereto. Neither party shall have the authority to bind the other without its written consent.

15.

INDEMNITY

- A. The Lessee agrees and covenants to indemnify and hold harmless Lessor against any and all claims, demands, costs, and expenses, including reasonable attorney's fees for the defense thereof, for damage or injury to any person or persons and for damage to or loss of any property arising directly or indirectly in whole or in part from the intentional or negligent acts or omissions of the Lessee, his agents, servants, employees, contractors, guests, or invitees on or about the leased premises, including, but not limited to, the conduct or management of the Lessee's business or his use of the above described leased premises.
- B. In the event any action or proceeding is brought against the Lessor by reason of any demands, damages, costs, or expenses arising under those circumstances described in paragraph A above, the Lessee further agrees and covenants to defend the action or proceeding by legal action acceptable to the Lessor. The Lessee shall give the Lessor notice of said action or proceeding as provided in Article 19 of this Lease Agreement.
- C. The Lessee shall carry liability insurance sufficient to cover the liability of the Lessee under paragraphs A and B of this section. Before execution of this Lease Agreement, the Lessee shall provide a certificate or certificates of insurance evidencing the insurance coverage. Said insurance shall run for a term of one [1] year and shall be renewed throughout the term of this lease. In the event the insurance evidenced by said certificate or certificates is cancelled for any reason, the Lessee shall provide the Lessor notice of said cancellation within thirty [30] days after the Lessee receives notice of said cancellation; and, within thirty [30] days after receiving notice of said cancellation, the Lessee shall provide the Lessor with a new certificate or certificates of insurance evidencing the insurance

coverage. Failure to maintain the insurance required by this paragraph in accordance with the terms, conditions, and provisions set forth herein shall constitute default by the Lessee; and, in the event of such default, the Lessor shall be entitled to any and all rights and remedies allowed under Texas law [case law, statutory law, or regulations], and any and all rights and remedies allowed under this Lease Agreement.

- D. The insurance coverage required in paragraph C of this section shall not be the exclusive remedy for Lessor to recover for any liability incurred by the Lessee pursuant to paragraphs A and B of this section. In the event the insurance policies purchased by lessee, pursuant to paragraph C of this section, do not cover liability incurred by the Lessee under paragraph A or paragraph B of this section, or, in the event said policies are not in effect for any reason at the time Lessee incurs such liability, the Lessor shall be entitled to any and all rights and remedies allowed under Texas law [statutory law, case law, regulations, or ordinances], including, but not limited to, any and all rights and remedies provided by other insurance policies, covering Lessee, which are heretofore or hereafter in effect, as well as any and all assets of Lessee necessary to cover such liability. Notwithstanding the requirements for insurance coverage set forth in paragraph C of this section, Lessee shall be liable for and shall indemnify Polk County for any and all damages, personal injuries, or losses, as prescribed in paragraphs A and B of this section, whether or not Lessee carries insurance to cover said damages, personal injuries or losses.

16.

ASSIGNMENT BY LESSOR

The Lessor is expressly given the right to assign any or all of its interests under the terms of this Lease. The Lessor expressly reserves the rights, during the term of this lease, to convey any or all of its rights, title, or interests in or to the leased premises by deed or otherwise; provided, however, that any such conveyance shall be subject to the terms and conditions of this agreement. As used in this paragraph, the term "assignment" does not mean an outside sale of the leased premises as defined in Section 14 of this Lease.

17.

NOTICE

- A. All notices sent to Lessor or Lessee pursuant to this agreement shall be hand-delivered or given by registered or certified mail, postage prepaid, return receipt requested, and addressed to the proper party at the following addresses:

Lessor:

Sydney Murphy, County Judge
101 W. Church, Ste 300
Livingston, Texas 77351

Lessee:

Harley Portwood Ranch
944 Babe Rd.
Seymour, TX 76380

- B. Either the Lessor or the Lessee may change its above designated address by giving notice as provided in this section.
- C. Notice sent by registered or certified mail shall be deemed effective three [3] days after deposit at a U. S. Post Office or in a U. S. Mailbox. Written notice hand-delivered, shall be effective immediately.

18.

APPLICABLE LAW

This Lease Agreement shall be construed under and in accordance with the laws of the State of Texas.

19.

VENUE

All obligations of the parties created by virtue of this Lease Agreement are fully performable in Polk County, Texas; and, venue for any dispute arising out of this Lease Agreement shall be in Polk County, Texas.

20.

SEVERABILITY

In the event that any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, by a Court of competent

jurisdiction, such invalidity, illegality, or enforceability shall not affect any other provision of this Lease Agreement, and this Lease Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

21.

VACATING PREMISES AT EXPIRATION

At the expiration of this Lease, the Lessee shall promptly and peaceably vacate the whole of said premises, and shall remove all livestock of every character and description belonging to the Lessee, and shall surrender possession of said premises to the Lessor in as good a condition as it is in at present, except for normal wear and tear.

22.

BREACH

If Lessee fails to meet its obligations under this agreement, Lessee shall be deemed to be in breach of this agreement; and, in the event of such breach, Polk County shall be entitled to any and all rights and remedies allowed under Texas law [case law, statutory law, regulations, or local ordinances]. The County's waiver of a breach of this Agreement shall not be a continuing waiver of such breach or of any such subsequent breach.

EXECUTED in duplicate originals on this the 27th day of September, 2022.

LESSOR:
POLK COUNTY, TEXAS

LESSEE:

BY: SYDNEY MURPHY
County Judge



BY: HARLEY PORTWOOD

THE STATE OF TEXAS #

COUNTY OF POLK #

THIS INSTRUMENT was acknowledged before me on the ___ day of _____
2022, by SYDNEY MURPHY in her capacity as County Judge of Polk County, Texas.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

THE STATE OF TEXAS #

COUNTY OF Baylor #

THIS INSTRUMENT was acknowledged before me on the 07 day of October
2022, by HARLEY PORTWOOD as Lessee.

Deana Dalton
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

