

**SURFACE USE
LEASE AGREEMENT**

THIS SURFACE USE LEASE AGREEMENT (“Lease Agreement”) is entered into this ____ day of _____, 2015 (“Effective Date”) by and between the **TOWN OF CASTLE ROCK**, a Colorado home rule municipal corporation, by and through the **TOWN OF CASTLE ROCK WATER ENTERPRISE**, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“Lessor”) and **SUBLETTE, INC.**, a Colorado corporation, PO Box 21, Orchard, Colorado 80649 (“Lessee”).

RECITALS:

A. Lessor is the owner of an approximate 640-acre parcel of land, more particularly described in the attached ***Exhibit 1*** (“Property”).

B. Lessee desires to lease the Property for the hunting, livestock grazing and related agricultural purposes and Lessor desires to lease the Property to Lessor on the terms and conditions specified in this Lease Agreement.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

COVENANTS:

Section 1. Lease. Lessor hereby leases to Lessee and Lessee leases from Lessor the Property consisting of approximately 640-acres of land, located in Weld County, Colorado for the purposes expressly stated herein. Provided Lessee is in compliance with the terms and conditions of this Lease Agreement, Lessee shall have quiet and peaceable possession of the Property for such purposes.

Section 2. Term. The initial term of this Lease Agreement shall commence on the Effective Date and expire five years thereafter (“Initial Term”), provided, Lessee may extend the Lease for 2 additional 1-year terms (“Extended Term”).

Section 3. Rent. No rent shall be due for the Initial term, however, should Lessee choose to extend the Lease, the rent for each Extended Term shall be \$5,000 per year. Such rent payment shall be due on the effective date of each Extended Term (“Rent”).

Section 4. Permitted Use. Lessor hereby grants to Lessee (to include Lessee’s partners, officers, directors, employees, their family members, and invitees), the exclusive and unrestricted right to occupy and utilize the Property for all lawful hunting, grazing, agricultural and recreational activities. Lessee may enter upon the lands at any time, without notice to Lessor, to lawfully hunt or to prepare for hunting. Lessor shall not lease, license, or give permission to any other party for hunting purposes on the Property during the term of this Agreement, provided however, Lessor and their accompanied guests may hunt legal game on the

property after obtaining specific permission for each hunting day or event from the Lessee. Lessee shall not cause damage to the Property and shall be liable to Lessor for any such damages. Lessee may use all roads as they may exist (or as they may be altered from time to time by mutual agreement) to access the Property. Lessee may construct temporary hunting blinds and pits, providing that all dug pits are not located on center pivot wheel tracks, over buried electrical or pipeline services, or on existing roadways; that such pits are marked appropriately with flagging and/or reflectors when not in use; and such pits will be closed and covered when not in use to help prevent potential accidents.

Section 5. Suitability for Hunting Purposes. Lessor makes no assurances or warranties as to the suitability and/or huntability conditions existing on the Property. Lessee may improve the suitability and/or condition of the Property with the consent of Lessor.

Section 6. Crops and Irrigation. Lessee may, at its sole expense plant and harvest agricultural crops to enhance the hunting conditions on the Property. Lessor, at its sole expense, shall be responsible for equipment repairs as they relate to the sprinkler system (including but not limited to motors, pumps, etc.), provided such repairs are not necessitated by the negligence of Lessee. Lessee, at its sole expense, shall be responsible for day-to-day maintenance of the sprinkler systems (including, but not limited to oil changes, filter replacements, etc.) All water for irrigating such crops shall come from Lessee's own source of supply and in no event shall water owned or controlled by Lessor be used on the Property for such agricultural purpose. Lessor shall be responsible for all post-pumping depletions incurred prior to the Effective Date. Lessee shall use best land management practices at the end of each harvest season and comply with all local, State and Federal regulations in the application of any fertilizer on the Property.

Section 7. Lessor's Use of Property. Lessor reserves the right to utilize the Property for all other activities so long as such activities do not interfere with the permitted uses granted to Lessee under this Lease Agreement.

Section 8. Termination. This Lease Agreement shall terminate:

A. Upon 120 days prior written notice by Lessor for any or no reason. In such event, any Rents previously paid, shall be prorated through the date of termination and returned to Lessee upon such termination.

B. At any time by Lessee upon 30 days written notice to Lessor for any reason or no reason. In such event, any Rents previously paid, shall be prorated through the date of termination and returned to Lessee upon such termination.

C. Upon expiration of the term of this Lease Agreement.

Section 9. Insurance. At all times during the term of this Lease Agreement, Lessee shall procure at its own cost and maintain Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form

property damage (including for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.

Certificates of insurance shall be completed by Lessee's insurance agent as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by the Lessor. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Lessor. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Lessor reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

Failure on the part of Lessee to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which the discretion may procure or renew any such policy or any extended connection therewith, and all monies so paid by the Lessor shall be repaid by Lessee to the Lessor upon demand, or the Lessor may offset the cost of the premiums against any monies due to Lessee from the Lessor.

The parties understand and agree that the Lessor is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$350,000 per person, \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, et sect, 10 C.R.S., as from time to time amended, or otherwise available to Lessor, its officers, or its employees.

Section 10. Indemnification. Lessee shall indemnify and hold Lessor harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the use and occupancy of the Premises by Lessee, its servants, agents or invitees, excepting, however, such claims or damages as may be due to or caused by the acts or omissions of Lessor, or its servants or agents.

Section 11. Warranties. Lessee and Lessor each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

Section 12. Default and Right to Cure.

A. The following will be deemed a default by Lessee and a breach of this Lease Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Lessor of such failure to pay; or (ii) Lessee's failure to perform any other term or condition under this Agreement within. If Lessee remains in default beyond any applicable cure period, Lessor will have the right to exercise any and all rights and

A. Lessee shall be solely responsible for and shall timely pay all personal property taxes levied and assessed against it or its personal property. Lessee shall be solely responsible for and shall timely pay all real property taxes levied and assessed against the Premises, if any, as a result of Lessee's use of the Property under this Agreement. At the request of Lessor, Lessee shall provide evidence of payment of taxes.

B. Lessee shall have the right to contest all taxes, assessments, charges and impositions assessed against its personal property or improvements, and Lessor agrees to join in such contest, if required by law, and to permit the Lessee to proceed with the contest in Lessors name, provided that the expense of the contest is borne by Lessee.

Section 18. Sale of Property. If Lessor, at any time during the terms of this Agreement, decides to sell all or any of portion of the Property, Lessor shall notify Lessee of its intent to sell and Lessee shall have a 90-day exclusive period to negotiate a purchase contract with the Lessor. In the event the Parties are unable to negotiate a purchase contract for all or a portion of the Property for whatever reason, Lessor may proceed with such sale.

Section 19. Existing Utilities. The existing electric meter with Morgan County REA shall be transferred to Lessee upon execution of the Lease Agreement. Lessee shall be responsible for all electrical charges incurred during the term of this Lease and shall be entitled to any capital account moneys paid during the time Lessee is responsible for such electric service.

Section 20. Miscellaneous.

A. **Amendment/Waiver.** This Lease Agreement cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Lessor and an authorized agent of the Lessee. No provision may be waived except in a writing signed by both parties.

B. **Bind and Benefit.** The terms and conditions contained in this Lease Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

C. **Entire Agreement.** This Lease Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties and will supersede all prior offers, negotiations, and agreements with respect to the subject matter of this Lease Agreement.

D. **Governing Law.** This agreement will be governed by the laws of the State of Colorado.

E. **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Lease Agreement, except as otherwise stated in this Lease

EXHIBIT 1

Parcel A:

The East 1/2 of Section 11 and the West 1/2 of Section 12, all in Township 4 North, Range 61 West of the 6th P.M., County of Weld, State of Colorado.

Parcel B:

Together with a non-exclusive easement for the purposes of ingress and egress for agricultural and hunting purposes over and across the North 30 feet of the Northeast 1/4 of Section 12, Township 4 North, Range 61 West of the 6th P.M., County of Weld, State of Colorado