

## **GRAZING LEASE**

**APNs 903-0003-002-01, 903-0003-002-04, 903-0003-002-03,  
LIVERMORE, CALIFORNIA**

This GRAZING LEASE is made effective this July 1, 2013, between Chabot-Las Positas Community College District (the "Lessor"), and 7M Cattle Company (the "Lessee"), with regard to the following:

### RECITALS:

A. Lessor is the owner of certain real property known as the, land referred to herein below is situated in an unincorporated areas, County of Alameda, State of California, and is described as follows: Parcel One: Lots 3 and 4 and the East Half of the Southwest Quarter of Section 30, in Township 2 South, Range 2 East, Mount Diablo Base and Meridian, APN 903-0003-002-01; Parcel Two: Lots 1, 2 and 3 and the Northeast Quarter of the Northwest Quarter of Section 31, in Township 2 South, Range 2 East, Mount Diablo and Meridian, 903-0003-002-04; Parcel Three: Lots Numbered Four (4), Seven (7), Eight (8) and Eleven (11) in Section 31, Township 2 South, Range 2 East, Mount Diablo Base and Meridian, Excepting from Parcel Two and Three that portion described in the Grant Deed to Livermore Venture Partners, L.P., a limited partnership. Recorded July 31, 2006 Series No. 2006293854 Official Records, APN 903-0003-002-03 (the "Property"), more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, which Lessor owns and manages for the purpose of preserving and restoring the grasslands, blue oak woodlands and other natural ecological features found there. The property is depicted on the map attached hereto as Exhibit B.

B. The parties desire and intend to enter into a Lease for use by Lessee solely for cattle grazing purposes as described herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, Lessor hereby agrees to lease the Property to Lessee for the purposes and subject to the terms and conditions set forth below.

### 1. TERM.

A. The term of this Lease shall commence on July 1, 2013, and run through June 30, 2015.

B. Holding Over. This Lease shall terminate without further notice upon the expiration of the term specified, and any holding over by Lessee after the expiration of the term shall not constitute a renewal hereof or give Lessee any rights hereunder in or to the Property. Lessee waives the provisions of Section 1161(2) of the California Code of Civil Procedure regarding the right to hold over in certain circumstances on agricultural lands.

2. RENT. For use of the Property in accordance with the terms of this Lease, Lessee shall pay a rate of \$7,260 annually. Payment of the rental amount shall be made to Lessor as more particularly defined in Exhibit C, attached hereto and incorporated in this reference. Payment of the rental amount shall be made by Lessee to Lessor at the address stated below in Paragraph 17. Any rent not paid when due shall bear interest at the rate of twelve percent (12%) percent per annum (or the maximum rate permitted by applicable law, if less).

3. USE OF PROPERTY.

A. Grazing shall be carried out so as to leave standing no less than an average of 800 pounds per acre of residual dry matter (RDM) on the Property throughout the grazing season, as determined by the Lessor. Excluded from the RDM calculations are pastures that are burned, roads and rock outcroppings. Notwithstanding the average RDM requirement set forth in this Paragraph, in no event shall the Lessee permit grazing that leaves at the conclusion of a Grazing Season less than 400 pounds per acre RDM on any portion of the Property. Failure to meet the average of 800 pounds per acre RDM or the minimum of 400 pounds per acre on any portion of the Property shall constitute overgrazing.

B. The Property shall be used by the Lessee solely for the grazing of cattle. All operations incident to this Lease shall be carried on according to the best course of animal husbandry practiced in the vicinity, subject to specific limitations enumerated in this Lease. Lessee agrees to immediately remove any livestock from those portions of Lessor's land which are not to be grazed and/or from adjacent lands which are not subject to this Lease and Lessee shall correct or repair, at Lessee's sole cost, all defects in the Property under this Lease or in areas of Lessor's lands which are not to be grazed and/or adjacent lands which are not subject to this Lease upon which Lessee has encroached. Notwithstanding the preceding sentence, the Lessee may graze lands adjacent to the Property provided that the Lessee has a grazing agreement with the owner(s) of the adjacent lands.

4. COMPLIANCE WITH HABITAT MITIGATION AND MANAGEMENT PLAN. Lessee recognizes that a portion of the Property is being managed according to a Habitat Mitigation and Management Plan (HMMP) approved by the U.S. Fish and Wildlife Service (Service) and dated DATE. The purpose of the HMMP is to describe the process by which the Property will be managed in perpetuity for species listed under the Federal Endangered Species Act. According to the HMMP, and as approved by the Service, managed grazing is beneficial to the use of the Property by listed species. However, grazing activities by the Lessee shall remain in compliance with the HMMP. The Lessee recognizes that grazing management under the HMMP is somewhat flexible (e.g., with respect to stocking rates) but must be adaptive, and that changes in stocking rates may be required within or between grazing seasons to meet Residual Dry Matter objectives for the site. The Lessee shall work with the Lessor, or a Property/habitat

manager assigned by the Lessor, to comply with the requirements of the HMMP and to provide pulsed grazing within certain fenced areas when such grazing is determined to be necessary in accordance with the HMMP.

5. PROHIBITED USES. In no event shall Lessee use the Property in any manner which would, in the Lessor's opinion, have an adverse effect on the Property as a nature preserve or on the present condition of the Property or be incompatible with the Lessor's preservation, protection, and restoration objectives. Uses and activities which are prohibited on the Property include, without limitation, supplemental feeding within a 100 yards of a spring or other body of water, the dumping of any trash, refuse or other offensive material; the use of herbicides, biocides or other agrichemicals as more particularly set forth in Paragraph 13 herein below; the cutting of any trees or riparian vegetation; fishing, hunting, trapping or the use of firearms; the grading, filling, excavation or removal of sand or other materials; mineral exploration or extraction; farming, rip-rapping and other manipulation, diversion or other alteration of natural water courses, wetlands or other bodies of water; any activity which may destabilize the banks of any course or body of water; and any uses or activities which would pollute, degrade or drain the Property's surface or subsurface waters.

6. IMPROVEMENTS. Lessee shall not construct any roads, ponds, fences, gates, or other structures, appurtenances or improvements without the prior written consent of the Lessor which may be withheld in Lessor's sole discretion.

7. MAINTENANCE. Lessee shall, at the Lessee's sole cost and expense, supply all labor and materials necessary for the routine maintenance of such fences, stock ponds, roads, gates, signs and other improvements and appurtenances as exist on the Property at the commencement of the term of this Lease, or which are constructed hereafter incident to Lessee's cattle grazing operation pursuant to this Lease. Lessee shall, at the Lessee's sole cost and expense, be responsible for keeping and maintaining in good repair all fences and stock ponds on the Property. All fences and stock ponds shall be inspected and repaired as needed by Lessee on at least a monthly basis.

8. DEFAULT AND TERMINATION.

A. In the event of drought, fire, depletion of water for livestock, or other condition which, in the sole discretion of Lessor, makes a continuance of this Lease incompatible with Lessor's preservation objectives, Lessor shall provide Lessee with written notice. Within twenty (20) days of the receipt of such notice, Lessee shall make such changes in grazing regime, including, but not limited to, reductions in the number of animals, the size of the area grazed, and the time during which an area is grazed, as Lessor directs. Any such changes required by Lessor pursuant to this Paragraph shall

result in an appropriate reduction in the rent payable by Lessee during the period such changes remain in effect.

B. Lessor shall have the right to immediately terminate this Lease, and to reenter and take possession of the Property, and assert such other legal remedies as are available to Lessor in law or equity, in the event that: (i) Lessee defaults in the payment of the rent, and such default is not cured within ten (10) days after written notice thereof from Lessor; or (ii) Lessee overgrazes the Property; (iii) Lessee uses the Property in a manner otherwise inconsistent with the provisions of this Lease; or (iv) Lessee shall fail to perform or observe any other term hereof to be performed or observed by Lessee; or (v) Lessee shall become insolvent or file or have filed against him a proceeding in bankruptcy, or shall abandon the Property, or if this Lease or any estate or interest of Lessee hereunder shall be levied upon under any attachment or execution which is not vacated within 10 days, or (vi) Lessee fails to remove, pursuant to paragraph 3.C. above, any cattle that may encroach onto lands which are not to be grazed pursuant to this Lease.

9. LESSOR'S ACCESS. The Lessor and its guests, employees, contractors and invitees shall have access to and use of the Property for any purpose, at any time, and in any manner which does not substantially interfere with Lessee's use of the Property for grazing cattle. The Lessor's uses shall include but not be limited to, scientific research, invasive weed control including prescribed burns, education, inspection, measurement of RDM, protection and restoration. Lessor shall notify Lessee of access to property.

Pacific Gas and Electric Company, and other third parties, may have rights to enter the Property. Lessee agrees to comply with all terms of any third party agreements. In the event Lessee fails to so comply, Lessor has the right to terminate this Lease, and to reenter and take possession of the Property.

10. ASSIGNMENT BY LESSOR AND LESSOR'S LIABILITY. In the event of any conveyance of title to the Property, Lessor may assign this Lease to the new owner of the Property. The term "Lessor," as used in this Lease, means only the owner or owners of the Property at the time in question. In the event of any conveyance of title to the Property, then from and after the date of such conveyance, the transferor Lessor shall be relieved of all liability with respect to Lessor's obligations to be performed under this Lease after the date of such conveyance.

11. INSURANCE AND OTHER COSTS. During the term of this Lease, Lessee agrees to maintain bodily injury and property damage liability insurance for the Property with a responsible insurance carrier in the amount of not less than \$1,000,000 combined single limit. Such policy or policies shall include Lessor as an additional insured. Such insurance protection may be carried under a blanket policy.

Within ten (10) days of the date of execution of this Lease, Lessee shall furnish Lessor with a certificate establishing that such insurance is in full force and

effect.

Lessee further agrees to maintain during the term of this Lease at its own expense proper and adequate worker's compensation insurance for Lessee's employees if any. Lessee shall furnish Lessor with proof of worker's compensation insurance within ten (10) days of execution of this lease.

All expenses of every nature and character whatsoever incurred by Lessee in and about the Property, including, but not limited to, all taxes levied on Lessee's activities under this Lease, all ranching operations, maintenance, repairs, improvements, utility and water charges, assessments and standby charges as well as the cost of insurance and any employee-related expenses and all costs incurred by Lessee in complying with the terms of this Lease shall be borne and paid for exclusively by Lessee. Lessee shall bear the full risk of any loss or damage to persons or properties, including loss of or damage to Lessee's property and livestock, sustained on the Property. Lessee also agrees to indemnify and defend the Lessor against and to hold the Lessor harmless from any and all claims, expenses, or liabilities including but not limited to attorneys' fees and litigation costs in connection with the foregoing.

12. HAZARDOUS SUBSTANCES. The use of biocides, herbicides, insecticides, or other agrichemicals, shall be prohibited unless the Lessee receives the prior written approval of the Lessor, which approval may be withheld in the Lessor's sole discretion. Lessee hereby agrees not to use or permit the Property to be used in any manner for the production, storage, recycling or disposal of any hazardous or toxic substance, waste or other materials. Lessee further agrees not to bring onto the Property or allow to be brought onto the Property tanks, either under or above ground, that contain any of the materials listed above or petroleum-based product, nor any material containing or producing any polychlorinated biphenyls, dioxins, or asbestos.

All such chemicals or substances which Lessee may apply or allow to be applied to the Property shall be used and applied at Lessee's sole cost, risk and liability, and Lessee does hereby agree to indemnify and defend, hold and save the Lessor free, clear and harmless of, from and against any and all claims, demands, damages or liabilities including but not limited to attorneys' fees and litigation costs which in any manner arise out of or result from any use or application of any of such substances.

13. COMPLIANCE WITH LAWS. Lessee shall comply with all applicable laws and regulations of the State of California, the County of Alameda, and any other governmental authority, affecting the Property, at Lessee's sole cost and expense, and shall indemnify and defend and hold Lessor and the Property harmless against and from all liens, claims, expenses or liabilities, including attorneys' fees and litigation costs, which may result from the failure, neglect or refusal of Lessee to comply with such laws and regulations.

14. NO WARRANTY. Lessee understands that Lessor makes no warranty concerning the safety of the Property and improvements for any purpose whatsoever and Lessee accepts the Property in the condition it is now in, and acknowledges that Lessee knows the condition thereof and that no representations or warranties have been made to it with respect to the Property or any part thereof. This Lease is subject to all easements, covenants, restrictions, conditions and other rights of record or otherwise.

15. SURRENDER. Lessee agrees, on the last day of the term or upon the sooner termination of this Lease, to surrender the Property and the appurtenances thereto to the Lessor in the same condition as when received, except for (i) any reasonable use, wear, and damage by act of God or the elements or (ii) any acts or use by the Lessor, its guests, employees, contractors or invitees (other than Lessee).

16. AGENTS. Where in this instrument rights are given to either Lessor or Lessee, such rights shall extend to the agents, employees, or representatives of such person.

17. NOTICE. Where notice to either party is required, by the terms of this Lease, such notice shall be delivered by first class mail, postage prepaid, to the following address or to such other address of which either party may inform the other from time to time:

FOR THE LESSOR: Chabot-Las Positas Community College District  
5020 Franklin Drive, Pleasanton, CA 94588

FOR THE LESSEE: Leo Murray, 7M Cattle Company  
1087 Angelica Way, Livermore, CA 94550

18. ATTORNEYS' FEES. In the event that either party shall institute proceedings to compel performance of, or to recover damages for, any breach of any provision of this Lease, the prevailing party shall be entitled to recover all its costs of suit, including reasonable attorneys' fees.

19. DISCLOSURE. Lessee warrants and represents to Lessor that neither Lessee nor any member of Lessee's family nor any officer, director, major shareholder, general or limited partner of Lessee is a board member, chapter trustee or major donor of Lessor or an officer, director or major shareholder of a corporate donor of Lessor. Lessee shall indemnify, defend and hold harmless Lessor and Lessor's members, directors, officers, employees, agents, and contractors and their heirs, successors and assigns from and against any claims, expenses, demands or liabilities, including without limitation attorney's fees and litigation costs incurred by Lessor as a result of the inaccuracy of the representations and warranties set forth in this Paragraph 19.

20. EXHIBITS. The following exhibits are attached to this Lease and incorporated into this Lease by this reference:

Exhibit A: Legal Property Description  
Exhibit B: Map of Property (approximate boundaries)  
Exhibit C: Schedule for Calculating and Paying Rent

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

LESSEE

LESSOR

7M CATTLE COMPANY

CHABOT-LAS POSITAS  
COMMUNITY COLLEGE DISTRICT

By: \_\_\_\_\_  
Leo Murray

By: \_\_\_\_\_  
Its: Lorenzo Legaspi

## **EXHIBIT "A"**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN AN UNINCORPORATED AREA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

### **PARCEL ONE:**

Lots 3 and 4 and the East Half of the Southwest Quarter of Section 30, in Township 2 South, Range 2 East, Mount Diablo Base and Meridian.

APN: 903-0003-002-01

### **PARCEL TWO:**

Lots 1, 2 and 3 and the Northeast Quarter of the Northwest Quarter of Section 31, in Township 2 South, Range 2 East, Mount Diablo Base and Meridian.

APN: 903-0003-002-04

### **PARCEL THREE:**

Lots Numbered Four (4), Seven (7), Eight (8) and Eleven (11) in Section 31, Township 2 South, Range 2 East, Mount Diablo Base and Meridian,

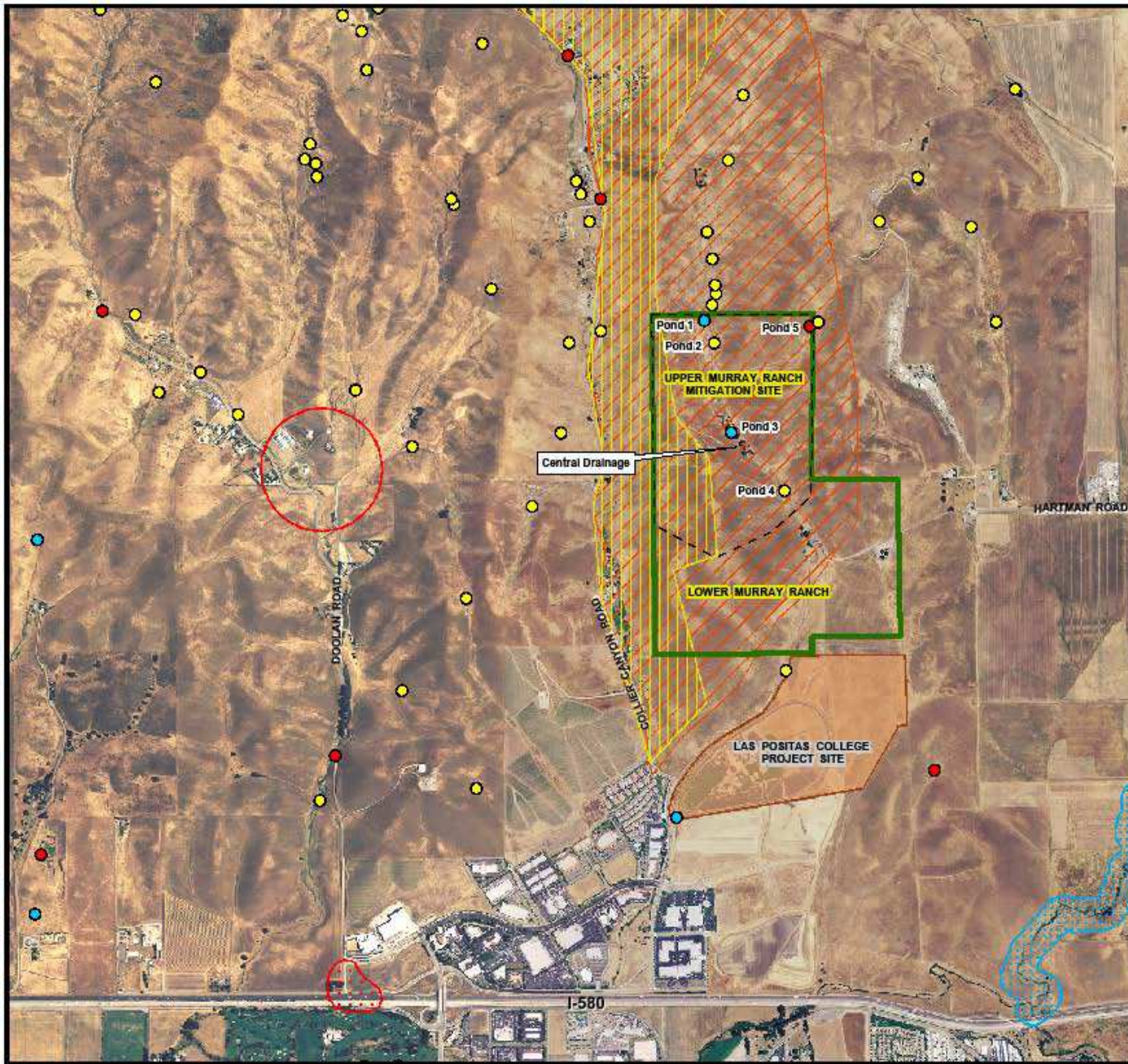
Excepting from Parcel Two and Three that portion described in the Grant Deed to Livermore Venture Partners, L.P., a limited partnership. Recorded July 31, 2006 Series No. 2006293854 Official Records.

APN: 903-0003-003-03

APN: 903-0003-002-01; 903-0003-002-04 & 903-0003-003-03



## Exhibit B



**Exhibit C**

Payment of the rental amount shall be made to Lessor for each Grazing Season in two payments as follows:

For period July 1, 2012 to June 30, 2013	July 31, 2012	\$6,600.00
For period July 1, 2013 to June 30, 2014	July 31, 2013	\$7,260.00