

THIS AGREEMENT made effective on the \_\_\_ day of \_\_\_\_\_, 2023

**BETWEEN:**

**COUNTY OF PAINTEARTH NO. 18**  
(hereinafter called the “County”)

- AND -

(hereinafter called the “Company”)

**ROAD USE AGREEMENT**

**WHEREAS**

- A.** the County has the direction, control and management of certain public roads, streets, lanes, alleys and bridges (hereinafter referred to as “County Roadways”) within the County pursuant to the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended;
- B.** the Company desires to access undeveloped and developed road allowances for transporting goods and materials within the jurisdiction of the County pursuant to the terms as set out in this Agreement for the purpose of drilling wells within the County; and
- C.** the County has agreed to such use on the terms and conditions as set out below;

**NOW THEREFORE** this Agreement witnesseth that in consideration of the terms and conditions hereinafter specified, the parties agree to as follows:

**1. USE OF ROAD**

**1.1** Subject to the terms and conditions set out in this Agreement, the Company may:

- (a) Transport goods and materials on developed and undeveloped road allowances under the direction, control and management of the County;
- (b) Access and travel on undeveloped road allowances under the direction, control and management of the County;
- (c) Do whatever may be requisite for the right to access and travel upon undeveloped road allowance under the direction, control and management of the County, including the right to clear such undeveloped road allowances of brush or timber;

as set out specifically in Schedule “A” of this Agreement during the Term of this Agreement.

**2. TERM**

**2.1** The term of this Agreement shall be two (2) years from the execution of this Agreement.

**3. PRE AND POST HAUL ROUTE INSPECTIONS**

**3.1** The County, at its sole discretion, may conduct a pre- and post-haul inspection of the route as set out in Schedule “A” to this Agreement (hereinafter referred to as the “Haul Route”) to assess the condition of the Haul Route and to determine the deterioration of the Haul Route attributed to the Company, reasonable wear and tear, in the opinion of the County, excepted. The County shall notify the Company of the date and time of the pre- and post-haul inspections and such inspections may be conducted in the presence of a representative of the Company upon the Company’s request.

**4. COVENANTS AND OBLIGATIONS OF THE COMPANY**

**4.1** In consideration of the permission hereby granted by the County, the Company covenants and agrees to the following:

- (a) To pay for any and all damage which may result to roads, ditchways, culverts, bridges or other property on or adjacent to the Haul Route, as determined by the County, acting reasonably;
- (b) To pay any and all expenses or out-of-pocket disbursements which may be incurred by the County in connection with the terms and conditions of this Agreement whether they be for inspection, supervision, monitoring or whatsoever;
- (c) To provide dust control measures, at the Company’s own expense, for a length of TWO HUNDRED (200) meters on the Haul Route where the Haul Route passes in front of any residence. The dust control measures will be performed up to the standards prescribed by the County;
- (d) To provide daily clean-up of tracking materials located on the Haul Route;
- (e) To confirm that no restrictions have been placed on the Haul Route by the County prior to commencing any hauling for that day and if restrictions have been placed on any part of the Haul Route, the Company must abide by such restrictions unless the Company has obtained an express written exemption from the County. This will include, but is not limited to, any axle loading restrictions or road bans that the County may, acting reasonably, place on the Haul Route from time to time;
- (f) To cease hauling operations if road damage is evident, during adverse weather conditions, including but not limited to rain, or at any time at the County’s request, acting reasonably, and not to commence any further activities until the adverse weather conditions have passed or the Company has received notification from the County that they may recommence operations;
- (g) To ensure that no tire chains are used on any of their equipment on paved or oiled roadways along the Haul Route. The use of chains on graveled roadways may be permitted at the discretion of the County;

- (h) To provide any special signing and traffic control person as required by law to ensure the safety of other using the County Roadways that comprise the Haul Route; and
- (i) To obtain and maintain all the necessary permits, licenses, approvals and authorizations and to comply with any restrictions or regulations as required by law, bylaw, regulation or policy.

## **5. INDEMNIFICATION AND LIABILITY**

**5.1** Except as otherwise provided in this Agreement, the Company shall not be liable for any damage to the property of the County, or for the injury or death of any Councillor, director, officer, employee, agent, contractor, licensee or invitee of the County except where caused by the willful misconduct or gross negligence of the Company, its directors, officers, employees, contractors, agents and representatives

**5.2** The Company shall at all times and without limitation, indemnify and save harmless the County, its Councillors, directors, officers, employees, contractors, agents and representatives from and against all liabilities, losses, costs, damages, legal fees (on a solicitor and his own client full indemnity basis), disbursements, fines, penalties, expenses, all manner of actions, causes of action, claims, demands and proceedings, all of whatever nature and kind which any of the County, its Councillors, directors, officers, employees, contractors, agents and representatives may sustain, pay or incur or which may be brought or made against all or any of them, whether or not incurred in connection with any action or other proceedings, claims or demands made by third parties, with respect to any occurrence, event, incident or matter caused by, and/or arising as a direct or indirect result of:

- (a) Any act or omission of the Company and/or any of those persons for whom the Company is responsible at law (including, without limitation, any of its employees or subcontractors), whether occasioned by negligence or otherwise;
- (b) The costs of repairs, clean-up or restoration paid by the County and any fines levied against the County or the Company directly associated with the scope of or the Company's obligations under this Agreement;
- (c) Any breach, violation or non-performance of any representation, warranty, obligation, covenant, or condition of this Agreement set forth and contained on the part of the Company to be fulfilled, kept, observed or performed, as the case may be; or
- (d) Any damages to third parties caused by, resulting at any time from, arising out of or in consequence of the misconduct, negligent action or failure to act of the Company and/or any of those persons for whom the Company is responsible at law (including, without limitation, any of its employees or contractors).

**5.3** The County shall not be liable for any damage to the property of the Company, or for the injury or death of any director, officer, employee, agent, contractor, licensee or invitee of the Company except where caused by the willful misconduct or gross negligence of the County, its directors, officers, employees, contractors, agents and representatives

**5.4** The County hereby indemnifies the Company, its directors, officers, employees, contractors, agents and representatives from and against all liabilities, losses, costs, damages, legal fees (on a

solicitor and his own client full indemnity basis), disbursements, fines, penalties, expenses, all manner of actions, causes of action, claims, demands and proceedings, all of whatever nature and kind which any of the Company, its directors, officers, employees, contractors, agents and representatives may sustain, pay or incur or which may be brought or made against all or any of them, whether or not incurred in connection with any action or other proceedings, claims or demands made by third parties caused by the willful misconduct or gross negligence of the County, its Councillors, directors, officers, employees, contractors, agents and representatives.

**5.5** Notwithstanding anything contained in this Agreement, neither party shall be liable in any way for indirect or consequential losses or damages, nor damages for pure economic loss, of the other party, howsoever caused or contributed to, in connection with this Agreement.

**5.6** The provisions of this Section are in addition to and shall not prejudice any other rights that either party has at law or in equity. This Section shall survive the termination or expiry of this Agreement.

## **6 INSURANCE**

**6.1** Without in any way limiting the liability of the Company under this Agreement, the Company shall obtain and maintain in force during the Term of this Agreement the following insurance, all satisfactory to the County, acting reasonably;

(a) standard automobile, bodily injury and property damage insurance providing coverage of at least FIVE MILLION (\$5,000,000.00) DOLLARS per occurrence, inclusive and in respect of any claim for the injury to or death of one of more persons or damage to or destruction of property;

(b) a comprehensive general liability insurance policy providing coverage of at least FIVE MILLION (\$5,000,000.00) DOLLARS per occurrence, inclusive and in respect of any claim for injury to or death of any one or more persons or damage to or destruction of property. Coverage to include:

- i. non-owned automobiles;
- ii. independent subcontractors;
- iii. contractual liability including this Agreement;
- iv. broad form property damage endorsement; and
- v. environmental liability.

(c) Workers' Compensation coverage for all employees, if any, engaged by the Company in accordance with the laws of the Province of Alberta;

(d) employers' liability insurance respecting employees, if any, of the Company with limits of liability not less than TWO MILLION (\$2,000,000.00) DOLLARS per employee for each accident, accidental injury or death of an employee or any subcontractor engaged by the Company; and

(e) such other insurance as the County may from time to time reasonably require.

**6.2** The Company shall ensure that all insurance coverage maintained by the Company in accordance with this Agreement shall name the County and any other party designated by the County as an additional named insured, contain a severability of interests or cross liability clause, and shall

provide that no such insurance policy may be cancelled without the insurer providing no less than thirty (30) days' written notice of such cancellation to the County.

**6.3** The Company shall, upon request of the County, furnish written documentation, evidencing insurance coverage satisfactory to the County. The cost of all insurance coverage held by the Company shall be borne by the Company.

**6.4** All liability insurance shall be maintained continuously until TWELVE (12) months after the conclusion date of this Agreement.

## **7 MAINTENANCE AND RESTORATION OF THE HAUL ROUTE**

**7.1** The Company accepts responsibility for all road damage caused as a result of its use, reasonable wear and tear excepted. The Company further agrees to restore the roadways, road allowances, drainage ditches and bridges that comprise the Haul Route to the condition they were in as of the commencement date of this Agreement.

**7.2** As determined by any inspection of the Haul Route contemplated pursuant to section 3.1 above, the County, at its sole discretion and acting reasonably, shall determine what maintenance or restoration work, if any, is required of the Haul Route to be completed by the Company, at the Company's sole expense. The restoration shall include maintenance of the road surface in a safe condition by adding surface material as well as restoration of the surface to an "as-found" condition prior to the expiry of this Agreement.

**7.3** Such maintenance and restoration work, to be undertaken at the Company's sole expense, must be commenced within FORTY-EIGHT (48) hours from the County providing notice of such repair and restoration and must be completed within SEVEN (7) days of the County providing such notice. Further, the restoration and repair may be undertaken by the County at the Company's request or by a contractor, approved by the County, acting reasonably, hired by the Company.

**7.4** If a grader and/or water truck, to be supplied at the expense of the Company, is required to maintain or restore the Haul Route in good condition and provide dust control, any work performed must meet the standards prescribed by the County. In addition, the Company may, at its own expense and to the standards prescribed by the County, make any road improvements on the Haul Route designed to minimize damage due to hauling.

**7.5** The County may, but is not obligated to, perform any road maintenance and restoration it deems appropriate throughout the Term of this Agreement to the Haul Route based upon an inspection performed in accordance with section 3.1 of this Agreement. The County may provide to the Company an invoice and the Company agrees to pay the said invoice within THIRTY (30) days of receipt of any invoice for the work completed by the County that is attributable to the activities of the Company.

## **8 TERMINATION, DEFAULT AND SUSPENSION**

**8.1** The failure by the Company to abide by any of the terms described in this Agreement may result in the immediate suspension of the Agreement by the County, as determined in its sole discretion and acting reasonably.

8.2 This Agreement may be terminated at any time by the County by giving SIXTY (60) days written notice to the Company.

## 9 GENERAL TERMS

9.1 The provisions of this Agreement shall survive the termination or expiration of this Agreement, as the context may require, and shall not be merged therein or herewith.

9.2 **The Company MUST have a copy of Schedule “A” of this Agreement in the transporting vehicles. Schedule “A” may be requested by County Officials, Community Peace Officers, the Royal Canadian Mounted Police, or other duly authorized personnel.**

9.3 Every notice required by this Agreement to be in writing shall be delivered personally or sent by prepaid registered mail. In the case of personal delivery, such notice shall be deemed to be received on the date of delivery and in the case of service by mail, shall be deemed to have been given seven (7) days following the date upon which it was mailed. The addresses of the parties for the purposes of notice are respectively:

TO THE COUNTY: County of Paintearth No. 18  
PO Box 509  
Castor, Alberta T0C 0X0  
Phone: (403) 882-3211  
Attention: Chief Administrative Officer

TO THE COMPANY:

Attention:  
Phone:  
Fax:

In the event that notice is served by mail at a time when there is an interruption of mail service affecting the delivery of such mail, the notice shall not be deemed to have been served until seven (7) days after the date that mail service is restored.

Either party may change its address for service by serving a notice on the other party in the manner herein provided.

9.4 No waiver of any breach of any representation, warranty, obligation, covenant, or condition in this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give the same and unless other provided, shall be limited to the specific breach which is waived.

9.5 The Company shall responsible for, and within Thirty (30) days of the presentation of an account, paying to the County all legal and engineering costs, fees, expenses and disbursements reasonably incurred by the County for the preparation, fulfillment, execution and enforcement of this Agreement.

- 9.6 This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta.
- 9.7 The headings in this Agreement have been inserted for reference and as a matter of convenience only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision hereof.
- 9.8 All of the provisions of this Agreement will be treated as separate and distinct and if any provision hereof is declared invalid, the other provisions will nevertheless remain in full force and effect.
- 9.9 This Agreement is non-transferable but shall enure to be binding upon the parties hereto, their respective heirs, executors, administrators, successors and assigns.

**IN WITNESS WHEREOF**, the parties have hereunto caused their corporate seals to be affixed, attested under the hands of their proper officer in that behalf, as of the day and year first above written.

**COUNTY OF PAINT EARTH NO. 18**

(corporate seal)

PER: \_\_\_\_\_

PER: \_\_\_\_\_

COMPANY NAME:

(corporate seal)

PER: \_\_\_\_\_

PER: \_\_\_\_\_

**SCHEDULE "A"**

**ROAD USE AGREEMENT**

Agreement No. \_\_\_\_\_

***A COPY OF THIS AGREEMENT MUST BE CARRIED BY EACH HAULING VEHICLE***

\_\_\_\_\_,  
agrees to all conditions as identified in the Road Use Agreement dated \_\_\_ of \_\_\_\_\_, 2022 and as set out below  
in order to maintain all roads in a safe condition and meet all policy and standards for County of Paintearth No. 18  
(the "County") Roadways.

\_\_\_\_\_  
Contact Name and or Field Contact Phone Number

***CONDITIONS:***

1. EQUIPMENT/MATERIAL/PRODUCT BEING HAULED:

\_\_\_\_\_  
\_\_\_\_\_

HAUL FROM: \_\_\_\_\_ to \_\_\_\_\_

**ROUTE(S) USED:**

2. Attach hauling map route(s) as Appendix "A".  
3. Specify loads/day/week for each route and equipment used

\_\_\_\_\_  
\_\_\_\_\_

4. Haul to take place from \_\_\_\_\_ 20\_\_\_, to \_\_\_\_\_ 20\_\_\_

Days and hours of operation \_\_\_\_\_

5. The trucking contractor will be \_\_\_\_\_ of \_\_\_\_\_

Phone Number: \_\_\_\_\_

Contact Name: \_\_\_\_\_

6. County personnel to be notified 24 hours before the move and not more than 12 hours after completion of haul.  
During office hours, one of the following the County personnel should be called:

Public Works Director Bryce Cooke 403-740-6311

Community Peace Officer Colm FitzGerald 403-740-2997

In addition, 24 hours notice is required if a haul is discontinued and then restarted.



7. The use of the Haul Route, including but not limited to the inspection, repair and maintenance of the Haul Route, shall be in accordance with the County's Road Use Agreement of which this form is a Schedule to. This includes the conditions specifically set out in Section 4.1 of the said Agreement, and the insurance, indemnification and security obligations.
8. Proper signage for trucks include: \_\_\_\_\_
9. In the event of any road damage, during adverse weather conditions or at any time upon request of the County, acting reasonably, the haul is to be stopped immediately in order to protect the road from damage.
10. The loading or unloading of equipment/materials or associated components shall not take place on a public road.
11. No loads can exceed vehicle GVW.
12. Special Conditions:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Duration of this Agreement from \_\_\_\_\_, 20\_\_\_\_ to \_\_\_\_\_, 20\_\_\_\_

<i>Company Representative</i>	<i>Position</i>	<i>Phone Number</i>	<i>Fax Number</i>
<i>Company Representative Signature</i>	<i>Date</i>		
<i>Signature (County of Paintearth No. 18)</i>		<i>Date</i>	

**APPENDIX “A” – HAULING MAP ROUTE(S)**

*[NTD: Insert Diagram of the Routes]*