

## **Auction Terms and Conditions**

### **(Hurd Creek Ranch)**

All bidders and participants in this auction sale hereby agree that they have read and fully understand the following terms. By participating in this auction sale, bidders and participants further agree to be bound by the terms and conditions of auction contained herein.

**General Information:** United Country - Gingery & Associates, Inc. (herein as "AUCTIONEER") has a contract with the Hurd Creek Ranch Company (herein as "SELLER") to offer for sale at public sale (herein as "AUCTION"), select tracts of land commonly referred to as the **Hurd Creek Ranch** (herein as "PROPERTY"), consisting of 926+/- acres of land, together with (5) water rights. The Property will be offered to the public at auction in individual tracts, combinations of tracts, and in its entirety. Water rights will be auctioned in conjunction with the land they have historically been used with. Auction is with reserve, and the bids received at auction are subject to seller(s) confirmation.

**Auction Date & Time:** The auction will be held on **Saturday, October 13<sup>th</sup>, 2018 at 2:00 PM (MDT)**.

**Auction Location:** The auction will be held at **Headwaters Center, 730 Baker Dr., Winter Park, Colorado 80482**. There are multiple hotels in the area, if overnight travel is needed.

**Bidder Registration:** To receive a bid card and participate at the Auction, all prospective Bidders must present a valid form of photo identification the morning of the auction. Any Bidder unfamiliar to the Seller or the Auction Company may be required to submit a letter of good standing from their bank, and should be prepared to present said proof upon request. Seller reserves right to waive proof of financial credit and good standing at time of Auction registration.

**Buyers Premium:** a Six Percent (6%) Buyer's Premium shall be added to any winning bid placed at the auction, which will determine the total contract price to be paid by the successful Bidder(s).

**Method of Auction:** The property will be offered in individual tracts, combination of tracts and in its entirety. There will be open bidding on all tracts and combinations during the auction as determined by the Auctioneer. Bids on individual tracts, combinations of tracts and the entire property may compete.

**Title Insurance & Deed:** Sellers shall provide an owners title insurance policy to the Buyer in the amount of the purchase price, at the Sellers expense. The surface (land) shall transfer by Special Warranty Deed. The water rights shall transfer by Bargain and Sale Deed.

**Real Estate Taxes:** The 2017 and prior years taxes will be paid by the Seller. 2018 taxes shall be prorated to the date of closing.

**Property Inspection:** It is the sole responsibility of the Bidder to:

**a)** perform all inspections (legal, environmental, economic, or otherwise) of the Property and to be satisfied as to its condition prior to bidding; **b)** review all property information and due diligence materials; **c)** independently verify any information they deem important including information available in public records; **d)** inquire of public officials as to the applicability of and compliance with land use and environmental laws, zoning, building and health & safety codes and ordinances and any other local, state or federal laws and regulations.

**Property Preview Instructions:** Auctioneer strongly recommends that any prospective Bidder personally inspect the Property prior to the Auction. To schedule a time to visit the Property or to perform an inspection, the Bidder and/or Bidder's Broker should contact Auctioneer as soon as possible. You can reach the Auction Company (Brett Gingery) at (970) 531-5051. An onsite property preview date has been scheduled for **Saturday, Sept 22, 2018**. All Property Previews should be performed prior to participating in the auction event.

**Acceptance of Bids (Winning Bidders):**

**1)** Once a bid is approved and upon being declared the successful high-bidder, the Bidder will be required to place into escrow a non-refundable earnest deposit in the amount equal to **ten percent (10%)** of the total contract price. The Deposit, due by the first legal banking day following the Auction Date, shall be: **a)** in U.S. Funds; **b)** paid by a wire transfer or cashiers or personal check; and **c)** held by the Closing Company pending completion of the closing process. Bidder shall take possession of the Property upon successful closing and transfer of title, subject to any matters contained in the Title Commitment and the Real Estate Auction Sales Contract.

**2)** The Bidder shall immediately execute and deliver a completed Real Estate Auction Sales Contract together with all related Addenda for the Property at the Auction. The fully executed Real Estate Auction Sales Contract shall control all terms and conditions of the sale and constitute the entire agreement between Buyer and Seller. In the event of any conflict between these Terms and Conditions of Sale and the Terms and Conditions of said Real Estate Auction Sales Contract, the Terms and Conditions of the Real Estate Auction Sales Contract shall prevail. **NO CHANGES TO THE TERMS AND CONDITIONS OF THE REAL ESTATE AUCTION SALES CONTRACT WILL BE PERMITTED. BUYER WILL BE REQUIRED TO EXECUTE THE REAL ESTATE AUCTION SALES CONTRACT "AS-IS" ON THE AUCTION DATE. THIS SALE IS NOT CONTINGENT ON THE BUYER'S ABILITY TO OBTAIN FINANCING.**

**3)** If for any reason the Bidder fails or refuses to deposit the required funds on the Auction Date, or on the first legal banking day following the Auction Date, or fails to execute the Real Estate Auction Sales Contract immediately after being confirmed as the winning Bidder, the Seller, at the Seller's sole discretion, may declare the Bidder's rights forfeited and may re-sell the Property, or may seek damages from said Bidder for losses incurred by Seller for Bidder's failure to act in accordance with the terms and conditions as specified herein.

**4)** Bids are NOT subject to the Bidders ability to obtain financing, so all Bidders must have their financing arranged prior to bidding at the auction. Earnest money deposits are "non-refundable" in the event a Bidder cannot complete closing.

**5)** Closing will be held at **Land Title Guarantee Company, 78336 US Highway 40, Suite B3, Winter Park, CO 80482**, and closing is scheduled to be on or before Friday, November 16th, 2018. The closing agent is **Leslie L Larkins** and she can be reached at **970-722-0454 llarkins@ltgc.com**

**Buyer's Broker Guidelines:** Upon the Closing of the transaction contemplated herein, Auctioneer shall be paid a commission pursuant to a separate written agreement between Auctioneer and Seller. If a Buyer's Broker is properly registered with the Auctioneer in accordance with the guidelines specified within the Buyer's Broker Registration Form, then at closing, the Buyer's Broker shall be paid a commission of **two percent (2%)** of the high bid amount as shown on the Auction Sales Contract. If for any reason whatsoever (including the default of any party hereto), the Closing hereunder does not occur, then no commission shall be due and payable to Buyer's Broker. To qualify for a commission, the Buyer's Broker must register the prospect, using the Buyer's Broker Registration Form provided by the Auctioneer. There will be no exceptions to the guidelines and no oral registrations will be accepted. No Broker will be recognized that is participating as a principal, buyer, or partner in the purchase.

**Survey:** Any survey of adjacent tracts purchased in a combination will be for the perimeter only, and no interior survey shall be provided by Seller.

**Mineral Rights:** The seller's share of mineral rights (if any), shall be conveyed with any lands sold to the Buyer at closing.

**Disclaimer:**

1) Personal on-site inspection of the Property is recommended and the bidders are advised to independently verify all information they deem important. This Property is being sold **"AS-IS", "WHERE-IS" and with "ALL-FAULTS"**. The Seller and Auctioneer have not made, do not make and will not make, and hereby disclaim, any representation or warranty, whether expressed or implied or statutory, whether oral or written, with respect to the Property, including, without limitation, any warranty as to its value, condition, acreage, square footage, suitability, merchantability, marketability, operability, zoning or subdivision regulations, mineral rights, wind rights, water rights, environmental condition or fitness for a particular use or purpose. No Guarantees are given as to the availability of utilities or accesses, or the permitted or allowable uses of the Property.

2) Neither the Seller, its attorneys, any broker, nor the Auctioneer, shall be liable for any relief including damages, rescission, reformation, allowance or adjustments based on the failure of the Property, including, but not limited to, amount of acreage, square footage, zoning, and environmental condition to conform to any specific standard or expectation, or to any third-party documents or information.

**Agency Disclosure:** The Auctioneer and Broker are acting exclusively as the agent for Seller in this transaction and is to be paid a fee by Seller pursuant to a separate written agreement between Seller and Auctioneer. The Auctioneer is not acting as agent in this transaction for the Buyer. Any third-party broker is not a subagent of Auctioneer.

**Equal Opportunity:** All bidding is open to the public. The Property is available to qualified Bidders without regard to a prospective Bidders race, color, national origin, religion, sex, familial status, or physical handicap.

**Miscellaneous:**

- 1) All decisions of the Auctioneer are final as to the methods of bidding, disputes among bidders, increments of bidding, and any other matters that may arise before, during, or after the Auction. Seller reserves the right to deny any person admittance to the Auction or expel anyone from the Auction who attempts to disrupt the Auction.
- 2) Property in whole or part is subject to sale prior to the Auction.
- 3) Bidders are given notice that the Auction may be video or audio recorded and photographed.
- 4) Auctioneer reserves the right to accept or reject offsite bidding via the internet, by telephone, or by written bid.
- 5) All announcements made Auction Day supersede any prior oral or written statements. The Seller reserves the right to announce additional Terms and Conditions of the sale prior to or during the Auction.
- 6) Kathy Gingery, Colorado Broker (ER. 040018281), Brett Gingery, Colorado Agent (FA. 1000044706) and Shawn Terrel, Auctioneer.
- 7) Any announcements made the day of the auction shall take precedence over printed material or any other oral statements made prior to auction.

**AUCTIONEERS FOR THIS AUCTION ARE SELLING AGENTS ONLY AND MAKE NO REPRESENTATIONS CONCERNING THE PROPERTY WHATSOEVER.**

**Accepted and Agreed by:**

\_\_\_\_\_  
Bidder Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company

\_\_\_\_\_  
Date