

## Conditional Memorandum of Understanding

This Conditional Memorandum of Understanding (“MOU”) is made and entered into as of the date of the last signature (“Effective Date”), by and between American Highland Cattle Association, located at Historic City Hall, 22 S. 4th Ave., Ste. 201, Brighton, Colorado 80601 (“AHCA”), and Heartland Highland Cattle Association, located at 976 State Highway 64, Tunas, Missouri 65764 (“HHCA”). AHCA and HHCA may be referred to individually as a “Party” and collectively as the “Parties.”

**WHEREAS**, AHCA has alleged that HHCA’s usage of AHCA’s intellectual property and other proprietary information constitutes copyright infringement and constitutes unfair misappropriation and exploitation of business value;

**WHEREAS**, HHCA denies such allegations and affirmatively represents that “HHCA has never received any information directly from AHCA’s registry”;

**WHEREAS**, AHCA enters into this MOU in reliance on HHCA’s above affirmative representation that “HHCA has never received any information directly from AHCA’s registry”; and

**WHEREAS**, the Parties desire to avoid litigation and wish to memorialize the terms set forth herein regarding the Parties’ MOU, subject to HHCA’s adherence to the restrictions described below.

**NOW, THEREFORE**, the Parties agree as follows:

### 1. Stand Down

AHCA agrees that it shall stand down on its threats to initiate or maintain any legal action, claim, or proceeding against HHCA, so long as HHCA agrees as follows:

- A. HHCA shall not reference AHCA, AHCA registration numbers, the AHCA Registry, or the AHCA Certificates of Registration in any HHCA materials, including but not limited to, HHCA’s website (and any future domains), any HHCA-affiliated websites, HHCA’s breed registries, HHCA’s rulebooks, marketing materials, social media accounts, and HHCA’s handbooks;
- B. HHCA shall not consider an animal’s AHCA registration as a factor when evaluating or determining an animal’s classification in the HHCA registry or HHCA herdbook;
- C. HHCA shall not accept a registration application to the HHCA’s registry that attaches or uses AHCA registration papers after the Effective Date; all

animal information provided to HHCA in the registration process must be supplied exclusively by the applicant; and

- D. HHCA shall not use, access, copy, or incorporate any information from AHCA's database, including but not limited to animal registration data, pedigree information, breeding records, or any other proprietary data maintained by AHCA that is not provided by a registrant on the registration form.

No provision within this Section 1 shall be interpreted to create an affirmative obligation upon HHCA to remove any animal information provided to HHCA prior to the Effective Date of this MOU. HHCA shall work diligently to remove references required under Section 1(A) of this MOU, and in no event shall removal take more than thirty (30) days.

## 2. Cumulative Remedies

The rights and remedies under this MOU are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

## 3. Breach of Contract and Consequences

- A. **Material Breach.** Any violation of the provisions set forth in Section 1 of this MOU shall constitute a material breach of this MOU.
- B. **Consequences of Breach.** If a breach is not cured within the thirty (30) day cure period, the following consequences shall apply:
  - i. **Legal Action.** AHCA may pursue any and all available legal remedies that it had as of effective date of the MOU, including but not limited to injunctive relief, damages, and attorney's fees; and
  - ii. **Injunctive Relief.** AHCA may seek immediate injunctive relief to prevent further violations without posting bond; and
- C. **Continuing Breach.** Each day that a breach continues shall constitute a separate and distinct breach of this MOU.

## 4. Reservation of Right to Sue for Breach

Notwithstanding the foregoing Sections, AHCA expressly reserves the right to bring a legal action for breach of this MOU if HHCA engages in any act described in Section 1, subject to the notice provisions set forth in Section 6, or if HHCA's

representation set forth in the WHEREAS provisions that AHCA relied upon in agreeing to this MOU proves to be untrue.

## 5. No Waivers of Rights

Except as expressly stated in this MOU, AHCA does not waive, release, or relinquish any rights, claims, or remedies it may have against the HHCA under law or equity in the event of a breach of this MOU.

## 6. Notice

All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the Parties at the addresses set forth on the first page of this MOU (or to such other address that may be designated by the receiving Party from time to time in accordance with this Section). All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this MOU, a Notice is effective only (a) upon receipt by the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.

## 7. Miscellaneous

- A. **Entire MOU.** This MOU contains the entire understanding between the Parties and supersedes all prior discussions or agreements related to the subject matter.
- B. **Amendment.** This MOU may not be modified except in writing signed by both Parties.
- C. **Severability.** If any provision of this MOU is found invalid or unenforceable, the remaining provisions shall remain in full force and effect.
- D. **Counterparts.** This MOU may be executed in counterparts, each of which shall be deemed an original.
- E. **Assignment.** This MOU and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.
- F. **Effectiveness.** This MOU is not effective until executed by both Parties.
- G. **Authority.** The undersigned represents and warrants that he or she has full power and is duly authorized to execute this MOU.

**IN WITNESS WHEREOF**, the Parties have executed this MOU as of the Effective Date of the last signature.

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Title**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**American Highland Cattle Association**

**Heartland Highland Cattle Association**