

## TERMS AND CONDITIONS OF USE AND OCCUPANCY

### Introduction:

Welcome to the historic NAN Ranch! The NAN Ranch consists of approximately 67,000 acres of fee land, and land leased from the State of New Mexico and the U.S. Government by H&B Properties, Inc., a Texas corporation. The area in which you will be staying is within an approximately 80-acre parcel that served as the headquarters for ranch operations. This physical area will be referred to as the "Ranch" in these terms and conditions (the term "Ranch" shall also refer to the legal NAN Ranch Cattle Company, LLC, a subsidiary of H&B Properties which operates the "Ranch"). The remaining area of the NAN Ranch surrounding the "Ranch" will be referred to in these terms and conditions as the "surrounding area." H&B Properties, Inc., has agreed to allow guests of the Ranch to travel upon and see the sights of the surrounding area. Natural beauty abounds!

The Ranch and the surrounding area are a working cattle ranch, some of which is operated by H&B Properties, Inc., and part of which is leased by others. As such, you can expect to encounter horses, horseback riders, cowboys, cowgirls, livestock, and ranching operations which could include branding of livestock. While guests are free to observe cattle ranching operations, we ask that you keep a safe distance, not interfere with ranch operations, and follow the directives of the cowboys and cowgirls you may encounter.

Furthermore, the Ranch and surrounding area is located in wild and rugged country. Extreme weather including thunder, lightning, high winds, and torrential rains are common, depending on the season. Expect sudden changes in weather. Failure to adequately plan for and equip for the weather can result in sunburn, dehydration, heat exhaustion, heat stroke, heat cramps, hypothermia, or worse. We recommend that you not explore the Ranch or surrounding areas alone.

Let someone know where you are going and when you expect to return. Carry a cell phone with you at all times (although cellular service is not necessarily available from all portions of the Ranch and surrounding area). Do not park in washes or arroyos, as they can quickly become rushing, violent torrents in the rainy season. Never attempt to drive across a flooding wash or arroyo. Take a map and compass and/or GPS and know how to use them. Wear clothing appropriate for the season and footwear appropriate for the terrain. Take plenty of food and water. Ranch roads and those in the surrounding area are not designed or maintained for passenger cars. Plan any excursions away from the accommodations so that you return to the accommodations before dark.

Critters abound at the Ranch and in the surrounding area. Mammals you might see or hear include deer, elk, bear, coyotes, javelina, raccoons, skunks, foxes, bats, and possibly even mountain lions. Flying wildlife includes dove, quail, turkey, bats, and various birds of prey such as owls and hawks. Not all wildlife is benign. Mountain lions and coyotes pose risks to pets and small children. Rattlesnakes can be deadly to humans and animals (if you encounter a rattlesnake, leave it alone and report the encounter to Ranch personnel). Wasps, scorpions, and spiders can inflict painful and debilitating stings or bites. Skunks, foxes, raccoons, and bats can harbor rabies. As a general rule of thumb, be observant during your visit, keep your distance from wildlife, shake out your clothes and shoes before you put them on, do not walk about after dark without a flashlight, and never place your hands or feet in a place that you cannot see.

The Ranch is remote. The nearest medical services are located in Deming, New Mexico, approximately 40 miles to the south of the Ranch, and in Silver City, New Mexico, approximately 40 miles to the northwest of the Ranch. Medical evacuation can be slow and expensive. Be sure you have sufficient prescription medications for the duration of your stay.

Before making a reservation, be sure that a visit to a remote but beautiful place, albeit with exposure to risks different from the ones you may be exposed to in your day to day life, is right for you and other members of your party.

All Adult Guests must sign our Use Agreement, Acknowledgement of Risk, and Release of Liability prior to occupancy. The failure of any Adult Guest in a group to sign such agreement prior to occupancy shall justify the Ranch prohibiting occupancy to any person in the group or terminating the reservation without refund.

### **Definitions:**

As used in these terms and conditions, the following terms have the following meanings:

- The "Ranch" and "surrounding area" are as defined above.
- "Reservation" means an expression of intent or desire by a person to reserve accommodations for future occupancy, whether such intent is expressed orally, in writing, in person, or via electronic means (*e.g.*, e-mail or on-line).
- "Entity" means a governmental agency, business entity (such as a partnership, corporation, or limited liability company), or non-profit entity.
- "Guest" means any person who, in his or her individual or representative capacity, or Entity which, makes a reservation regardless of whether that reservation is canceled by the guest or the Ranch.
- "Other Guest" means any person, regardless of age, who occupies accommodations, regardless of whether that occupation is terminated by the guest (or another guest who is a member of the guest's group), or the Ranch.
- "Responsible Guest" means any person over the age of 21 who signs a Rental Agreement [with NAN Ranch Cattle Company, LLC].
- "Adult Guest" means any guest over the age of 18 years.

"Rental Agreement" means the Short Term Vacation Rental Agreement signed by the Responsible Guest(s) and NAN Ranch Cattle Company, LLC.

### **Reservations:**

Reservations may be made only by adults over the age of 21. Any exceptions must be approved by NAN Ranch's management.

Reservations for specific accommodations are required prior to arrival. The Ranch offers the following accommodations: the Rancher's House, the Lodge, Patio Apartment 1, Patio Apartment 2, Bunk House Cabin 1, Bunk House Cabin 2, and Bunk House Middle Cabin.

Reservations require the identity of the accommodations requested, the number of guests in the group, the name(s), mailing address(es), e-mail address(es), and telephone number(s) of the person(s) making the reservations and of the financially responsible guest(s) within the group, a credit card number (Visa, or Mastercard), to guarantee the reservation, the type of event for which the reservation is needed, the

anticipated arrival and departure dates, and any special needs or accommodations requested. We may use your e-mail address to send a confirmation and, if necessary, might use the other information to contact you for help to process the reservation. We may also use your email address to notify you about special offers and promotions.

Reservations require full payment of the base occupancy rate in advance, plus all applicable taxes, plus a damage deposit as specified in the Rental Agreement. Such deposit shall be paid by credit card (Visa, Mastercard). Reservations will not be considered confirmed until the Rental Agreement has been signed by all Responsible Guests (and returned to NAN Ranch Cattle Company, LLC) and payment is made. Reservations are subject to change or cancellation by the Ranch until such time as the Rental Agreement has been signed (and returned to the Ranch) and full payment has been received (*see* below for policy re changing accommodations even after the Rental Agreement is signed).

Changes to a reservation by a guest (*e.g.*, changes the number or type of accommodations, the number of guests, or the length of stay) require approval by the Ranch and may result in different occupancy rates and deposit amounts.

Reservations and the Rental Agreement are for specific accommodations. However, the availability of reserved accommodations cannot be guaranteed for reasons that may be beyond the Ranch's control. The Ranch reserves the right to substitute accommodations for reserved accommodations or those identified in the Rental Agreement, and will strive to give advance notice of the substitution. Should substitute accommodations not be approved by a Responsible Guest prior to arrival, then upon arrival, a Responsible Guest may terminate his or her reservation and receive a full refund of all amounts prepaid to the Ranch (which shall be the sole limit of the Ranch's liability). The occupancy rate for substitute accommodations shall not be greater than the occupancy rate of the reserved accommodations unless otherwise agreed by the Responsible Guest(s). If the posted occupancy rate of the substitute accommodations is less than the occupancy rate of the reserved accommodations, the rate charged will be the lesser rate.

We will gladly help meet your special needs or requests based on availability.

#### **Cancellation by the Customer:**

Guests have the right to terminate or cancel a reservation or occupancy under a Rental Agreement at any time, subject to these terms and conditions.

Termination or cancellation must be in writing and received by the Ranch by fax, e-mail, first-class mail, commercial courier service (*e.g.*, Fed Ex or UPS) or hand-delivery.

If notice of termination or cancellation is received by the Ranch at least 15 days prior to the scheduled arrival date, 75% of the prepaid amount shall be refunded.

If notice of termination or cancellation is received by the Ranch more than 45 days prior to the scheduled arrival date, but at least 30 days prior to the scheduled arrival date, 90% of the prepaid amount shall be refunded.

If notice of termination or cancellation is received by the Ranch more than 60 days prior to the scheduled arrival date, but at least 45 days prior to the scheduled arrival date, 100% of the prepaid amount shall be refunded. Any agency fees that are not refundable to the Ranch will not be refunded on cancellation.

If notice of termination or cancellation is received by the Ranch less than 15 days prior to the scheduled arrival date, no portion of the prepaid amount will be refunded.

Should a group or individual guests within a group desire to check out prior to the end of the reserved stay, no prorations or refunds shall be due from the Ranch.

Regardless of when the notice of termination or cancellation is received by the Ranch, the Responsible Guest(s) identified in the reservation form or Rental Agreement shall remain liable to the Ranch and third-party suppliers for the costs of any goods or services ordered from a third-party supplier by the Responsible Guest or the Ranch at a the request of a Responsible Guest.

#### **Cancellation by the Ranch:**

The Ranch may cancel any reservation without notice if a Rental Agreement is not signed (and delivered to the Ranch) and advance payment is not received.

The Ranch may cancel any reservation for which a deposit or payment has been made (and if occupancy has occurred, terminate the right of occupancy) under the following circumstances: (1) any material misrepresentation made by any Guest in connection with the reservation; (2) the failure of any Adult Guest to sign all required documents upon arrival at the Ranch or prior to occupancy; (3) material violation by any Guest of any of the terms and conditions of use and occupancy; (4) the failure or refusal of a Responsible Guest to pay any balance due at the time of check-in or thereafter upon request; (5) illegal possession, use, sale, distribution, or manufacture of a controlled substance by any Guest in the Responsible Guest's group anywhere on the Ranch; (6) possession or consumption of alcohol by minors; (7) intentional or reckless damage by a Guest of property of another; (8) violence or threats of violence by any Guest directed towards any other person; (9) loud, boisterous, or vulgar behavior or language by any Guest that disturbs or tends to disturb Ranch personnel or other guests; (10) failure to observe quiet hours; (11) entry or attempted entry by any Guest into the accommodations or vehicle of another guest; (12) aggressive behavior of a pet of any Guest towards other guests or Ranch personnel, other pets or working animals, wildlife, or livestock; (13) sexual assault or attempted sexual assault by a Guest on another person; (14) the discharge of a firearm, bb gun, pellet gun, cross bow, or bow outside of designated shooting areas except in a bona-fide case of self-defense; or (15) taking or attempting to take game or non-game wildlife on the Ranch or surrounding area by any means (without the prior express written permission to do so). If a reservation is cancelled or occupancy terminated for any of the foregoing reasons, no refund shall be due any person.

The Ranch may also cancel any reservation (even if a Rental Agreement has been signed or pre-payment made) (and if occupancy has occurred, terminate the right of occupancy) if in the judgment of Ranch personnel, weather, geologic, fire, or other conditions would expose any Guest to an unreasonable risk of harm. If a reservation is cancelled or occupancy terminated for any of the foregoing reasons, the guest shall be entitled to a full refund, which shall be the sole remedy for the cancelation or termination. Provided however, if termination of occupancy occurs, the refund shall be pro-rata based on the number of nights of actual occupancy.

#### **Pets and Service Animals:**

The only pets allowed are dogs.

No more than two dogs are allowed in any group of guests, unless explicit exception has been made by Ranch management prior to arrival.

Dogs and service animals must be housebroken.

Dogs and service animals must relieve themselves in only designated areas.

Excrement from dogs or service animals must be picked up and disposed of by the owner of the animal immediately.

A non-refundable pet fee of \$50 per pet per night may be charged by the Ranch. This fee shall not apply to service animals.

If an animal relieves himself within the accommodations or otherwise causes a situation requiring special cleaning, the guest who owns or has charge of the animal shall report the situation to staff so that staff may make a decision as to the best cleaning option. The Ranch may charge a cleaning fee of \$150 up to the actual cost of special cleaning or replacement of furnishings under such circumstances.

No Guest shall allow a pet or service animal to roam on or about the Ranch or the surrounding area. All pets or service animals shall be on a lead at all times they are outside of the accommodation.

No Guest shall allow a pet or service animal to chase, herd, or otherwise molest livestock or wildlife.

#### **Charges:**

Occupancy rates and other charges do not include gross receipts or any other applicable taxes. Responsible Guests are financially liable for these charges and taxes. Charges arising during a stay, if any, may be paid only by traveler's check, credit card, bank draft or cash.

#### **Rules of occupancy and use:**

In addition to other and additional rules governing occupancy and use set forth elsewhere in these terms and conditions and the Rental Agreement, the following rules govern the occupancy of accommodations and use of the Ranch and surrounding area.

- Check-in time is 2:00 p.m. on the agreed arrival date or as otherwise specified in the Rental Agreement. The Ranch is happy to accommodate early arrivals upon prior notice and availability.

- Unless otherwise specified in the Rental Agreement, accommodations must be vacated (all guests and belongings removed) and available for cleaning not later than 11:00 a.m. on the departure date. In the absence of prior agreement by the Ranch, if not vacated by that time the Ranch reserves the right to charge levy additional charges equal to 50% of the daily base occupancy rate (plus applicable taxes) for the additional use of the accommodations until 3:00 p.m. and 100% after 3:00 p.m.

- "Quiet hours" are from 10:00 p.m. to 8:00 a.m. During this time, no Guest shall engage in activity within or without the accommodations that disturbs or tends to disturb the peace and quiet of any other guest.

- On multi-night stays, Guests shall be responsible for daily removal of trash from the accommodations and placement of same in receptacles designated by Ranch personnel.

- Follow all posted signs and rules.

- Keep motor vehicles on existing roads. Do not travel cross-country with motor vehicles.

- Leave all gates as you find them, open or closed.
- Do not molest wildlife or livestock.
- Do not interfere with ranching operations.
- Be respectful of other guests, Ranch personnel, and people you encounter in the surrounding area.
- Parents and adult guests shall supervise their children and non-adult members of their group at all times.
- No hunting (without prior express written permission).
- Do not remove rocks, vegetation, artifacts, or junk you may find on the Ranch or surrounding area.
- No discharge of firearms, bb guns, pellet guns, cross bows, or bows outside of designated shooting areas (except in a bona-fide case of self-defense).
- The pool may be used only by Guests in a group whose Rental Agreement authorizes its use. No life guard is on duty. Use if the pool is at the user's sole risk. Follow all posted pool rules. Guests under the age of 18 may use the pool and pool area only when under the direct supervision of an Adult Guest.
- Housekeeping and linen services are not offered.
- "Wake-up" service is not offered.

**Legal:**

- These terms and conditions apply to, and are part of, the occupancy and use of Ranch facilities and services, reservations made for occupancy at the Ranch, and use of the surrounding area. Occupation of accommodations on the Ranch, use of Ranch property in any manner, use of the surrounding area, or engaging in any activity on the Ranch or surrounding area constitutes acceptance by each guest of the terms and conditions set forth herein, and constitutes an agreement by such guest that he or she is bound by, and shall abide by, such terms and conditions.
- The Ranch reserves the right to take photographic or video records of any or all of the activities conducted within its premises and the surrounding area, and to use such records for promotional and/or commercial purposes without any remuneration to me.
- The exclusive venue for any civil action arising out of a reservation, occupancy or use of the accommodations, the Rental Agreement, the Ranch, or the surrounding area, the provision of services at the Ranch (whether by the Ranch or third-party providers), these terms and conditions, or the Release shall be Luna County, New Mexico, (if suit is brought in state court) or Dona Ana County, New Mexico (if suit is brought in federal court). Any suit or other proceeding shall be governed by the substantive law of the State of New Mexico without regard to the conflict of laws law in New Mexico or any other jurisdiction.
- Guests are encouraged to obtain travel, vacation, and short-term renters insurance to insure against risks that may arise from travel to or from, or on the Ranch and surrounding area, the use or occupancy of the accommodations on the Ranch and surrounding area, or cancellation of reservations.