ORIGINAL

IN THE IOWA DISTRICT COURT FOR IOWA COUNTY

WOLF CREEK ACRES, LLC; and WOLF CREEK PORK, LLC, Plaintiffs, v. VMC MANAGEMENT CORP.; and INTEGRITY BUILDERS & SUPPLY, INC., Defendants.	Case No. LACV024983 **JURY INSTRUCTIONS**
VMC MANAGEMENT CORP., Counterclaim Plaintiff, v. WOLF CREEK ACRES, LLC; and WOLF CREEK PORK, LLC, Counterclaim Defendants.	

FILED
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CLERK OF DISTRICT COURT

INSTRUCTION NO. 1

Members of the Jury:

This case centers on a farrowing operation (a pig farm) located in Johnson County, Missouri (the "**Operation**"). Plaintiff Wolf Creek Acres, LLC owned the land and buildings for the Operation, and Plaintiff Wolf Creek Pork, LLC (jointly, **"Plaintiffs"**) owned the livestock. Defendant Integrity Builders & Supply, Inc. (**"Integrity Builders"**) constructed the facilities for the Operation. Defendant VMC Management Corp. (**"VMC"**) was the on-site manager for the Operation.

Plaintiffs claim that VMC breached its contractual obligations by failing to properly manage the Operation and livestock, and that Integrity Builders breached its contractual

obligations due to defects in its construction work. Plaintiffs claim all this resulted in damage to the facilities, loss of livestock, and loss of productivity.

Defendants deny all liability and deny that they have breached any obligations. Defendant VMC also asserts that Plaintiffs failed to pay it in full for its management services, which Plaintiffs deny.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law which I will now give you.

INSTRUCTION NO. 2

My duty is to tell you what the law is. Your duty is to accept and apply this law. You must consider all of the instructions together because no one instruction includes all of the applicable law.

The order in which I give these instructions is not important.

Your duty is to decide all fact questions.

As you consider the evidence, do not be influenced by any personal sympathy, bias, prejudices or emotions. It is common to have hidden or implicit thoughts that help us form our opinions. You are making very important decisions in this case. You must evaluate the evidence carefully. You must avoid decisions based on things such as generalizations, gut feelings, prejudices, fears, sympathies, stereotypes, or inward or outward biases. The law demands that you return a just verdict, based solely on the evidence, your reason and common sense, and these instructions. As jurors, your sole duty is to find the truth and do justice.

INSTRUCTION NO. 3

Whenever a party must prove something they must do so by the preponderance of the evidence.

Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

INSTRUCTION NO. 4

You shall base your verdict only upon the evidence and these instructions.

Evidence is:

1. Testimony in person or by deposition.

2. Exhibits received by the court.

3. Stipulations which are agreements between the attorneys.

4. Any other matter admitted (e.g. answers to interrogatories, matters which judicial notice was taken, and etc.).

Evidence may be direct or circumstantial. The weight to be given any evidence is for you to decide.

Sometimes, during a trial, references are made to pre-trial statements and reports, witnesses' depositions, or other miscellaneous items. Only those things formally offered and received by the court are available to you during your deliberations. Documents or items read from or referred to which were not offered and received into evidence, are not available to you.

The following are not evidence:

1. Statements, arguments, questions and comments by the lawyers.

2. Objections and rulings on objections.

3. Anything you saw or heard about this case outside the courtroom.

INSTRUCTION NO. 5

Certain Testimony has been read into evidence from a deposition. A deposition is testimony taken under oath before the trial and preserved in writing. Consider that testimony as if it had been given in court.

INSTRUCTION NO. 6

During this trial, you have heard the word 'interrogatory'. An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

INSTRUCTION NO. 7

You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part or none of any witnesses' testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe;

2. The witnesses' appearance, conduct, age, intelligence, memory and knowledge of the facts; and,

3. The witnesses' interest in the trial, their motive, candor, bias and prejudice.

INSTRUCTION NO. 8

You have heard testimony from persons described as experts. Persons who have become experts in a field because of their education and experience may give their opinion on matters in that field and the reasons for their opinion.

Consider expert testimony just like any other testimony. You may accept it or reject it. You may give it as much weight as you think it deserves, considering the witness' education and experience, the reasons given for the opinion, and all the other evidence in the case.

INSTRUCTION NO. 9

You have heard evidence claiming that some witnesses made statements before this trial and while not under oath which were inconsistent with what the witness said in this trial.

Because the witness did not make their earlier statements under oath, you may use them only to help you decide if you believe the witness.

Decide if the earlier statements were made and whether they were inconsistent with the testimony given at trial. You may disregard all or any part of the testimony if you find the statements were made and they were inconsistent with the testimony given at trial, but you are not required to do so.

Do not disregard the testimony if other evidence you believe supports it or if you believe it for any other reason.

INSTRUCTION NO. 10

You have heard evidence claiming some witnesses made statements before this trial while under oath which were inconsistent with what the witness said in this trial. If you find these statements were made and were inconsistent, then you may consider them as part of the evidence, just as if they had been made at this trial.

You may also use these statements to help you decide if you believe the witness. You may disregard all or any part of the testimony if you find the statements were made and were inconsistent with the testimony given at trial, but you are not required to do so. Do not disregard the trial testimony if other evidence you believe supports it, or if you believe it for any other reason.

INSTRUCTION NO. 11

You have heard evidence claiming a party to this case made statements before this trial while under oath or while not under oath.

If you find such statements were made, you may regard the statements as evidence in this case as if the party had made it under oath during trial.

If you find such a statement was made and was inconsistent with the party's testimony during the trial you may also use the statement as a basis for disregarding all or any part of the party's testimony during the trial but you are not required to do so. You should not disregard that party's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

INSTRUCTION NO. 12

Upon retiring you shall select a foreman or forewoman. It will be his or her duty to see discussion is carried on in an orderly fashion, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but are judges - judges of the facts. Your sole interest is to find the truth and do justice.

INSTRUCTION NO. 13

The fact that a plaintiff or defendant is a corporation should not affect your decision. All person are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

INSTRUCTION NO. 14

During the trial, you have been allowed to take notes. You may take these with you to the jury room to use in your deliberations. Remember, these are notes and not evidence. Generally, they reflect the recollection or impressions of the evidence as viewed by the person taking them, and may be inaccurate or incomplete.

Upon reaching a verdict, leave the notes in the jury room and they will be destroyed.

INSTRUCTION NO. 15

You may not communicate about this case before reaching your verdict. This includes via cell phone and electronic media such as text messages, email, electronic messaging applications, and any social media platform including but not limited to Facebook, LinkedIn, YouTube, Twitter, TikTok, Instagram, Snapchat, and any other social media applications you may use.

Do not do any research or make any investigation about this case on your own. Do not visit or view any place discussed in this case, and do not use internet or application-based maps or programs, or any other application, program, or device to search for or view any place discussed in the testimony. Also, do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the judge. This includes using the Internet to research events or people referenced in the trial.

This case will be tried on evidence presented in the courtroom. If you conduct independent research, you will be relying on matters not presented in court. The parties have a right to have this case decided on the evidence they know about and that has been introduced here in court. If you do some research or investigation or experiment that we do not know about, then your verdict may be influenced by inaccurate, incomplete, or misleading information that has not been tested by the trial process, including the oath to tell the truth and by cross-examination. All of the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself so as to maintain the integrity of the trial process. If you decide a case based on information not presented in court, you will have denied the parties a fair trial in accordance with the rules of this state and you will have done an injustice. It is very important that you abide by

these rules. Failure to follow these instructions may result in the case having to be retried and could result in you being held in contempt and punished.

It is important that we have your full and undivided attention during this trial.

INSTRUCTION NO. 16

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct. There can be more than one cause of an injury or damage.

In assessing damages from multiple actors, you should consider all of the surrounding circumstances as shown by the evidence, together with the conduct of the parties and the extent of the causal relation between their conduct and the damages claimed. You should then determine how much, if any, each party's actions contributed to the damages.

INSTRUCTION NO. 17

The existence of a contract requires a meeting of the minds on the material terms. This means the parties must agree upon the same things in the same sense. You are to determine if a contract existed from the words and acts of the parties, together with all reasonable inferences you may draw from the surrounding circumstances.

INSTRUCTION NO. 18

In determining the terms of the contract you may consider the following:

1. The intent of the parties along with a reasonable application of the surrounding circumstances.

2. The intent expressed in the language used prevails over any secret intention of either party.

3. The intent may be shown by the practical construction of a contract by the parties and by the surrounding circumstances.

4. You must attempt to give meaning to all language of a contract. Because an agreement is to be interpreted as a whole, assume that all of the language is necessary. An interpretation which gives a reasonable, effective meaning to all terms is preferred to an interpretation which leaves a part of the contract unreasonable or meaningless.

5. The meaning of a contract is the interpretation a reasonable person would give it if they were acquainted with the circumstances both before and at the time the contract was made.

6. Ambiguous language in a written contract is interpreted against the party who selected it.

7. Where general and specific terms in the contract refer to the same subject, the specific terms control.

INSTRUCTION NO. 19

A breach of the contract occurs when a party fails to perform a term of the contract.

INSTRUCTION NO. 20

In arriving at an item of damage you cannot arrive at a figure by taking down the estimate of each juror as to an amount of damage and agreeing in advance that the average of those estimates shall be your amount of damage.

INSTRUCTION NO. 21

To establish their claim for breach of contract against VMC, Plaintiffs must prove all the following propositions:

1. The existence of a contract between VMC and Plaintiffs.

2. The terms of the contract.

3. Plaintiffs did what the contract requires.

4. VMC breached the contract.

5. The amount of any damage VMC has caused.

If Plaintiffs have failed to prove any of these propositions, they are not entitled to damages from VMC. If Plaintiffs have proved all these propositions, you shall consider VMC's affirmative defense(s) as explained in instruction number 29.

INSTRUCTION NO. 22

To establish their claim for breach of contract against Integrity Builders, Plaintiffs must prove all the following propositions:

1. Wolf Creek Pork was a third-party beneficiary of the contract between Integrity Builders and Wolf Creek Acres, as described in the following instruction.

2. The terms of the contract.

3. Plaintiffs did what the contract requires.

4. Integrity Builders breached the contract.

5. The amount of any damage Integrity Builders has caused.

If Plaintiffs have failed to prove any of these propositions, they are not entitled to damages from Integrity Builders. If Plaintiffs have proved all these propositions, you shall consider Integrity Builders' affirmative defense(s) as explained in instruction number 28.

INSTRUCTION NO. 23

Integrity Builders and Plaintiffs stipulate that there was a contract between Integrity Builders and Wolf Creek Acres. Plaintiffs assert that Wolf Creek Pork was a third-party beneficiary of the contract and can recover damages for breach of that contract, which Integrity Builders denies. To find that Integrity Builders is liable to Plaintiffs for breach of contract, you must find that Wolf Creek Pork was a third-party beneficiary of the contract.

The primary question in determining whether a party is a third-party beneficiary to a contract is if the contract was intended to benefit a third party. If the contract does not explicitly state whether it was, or was not, intended to benefit a third party, you should look to the surrounding circumstances to determine if the parties to the contract intended to give the third-party the benefit of performance under the contract.

If you find that Wolf Creek Pork was a third-party beneficiary to the contracts between Integrity Builders and Wolf Creek Acres, then Wolf Creek Pork is bound by the same terms and conditions of those contracts.

INSTRUCTION NO. 24

To establish their claim for breach of contract against Plaintiffs, VMC must prove all the following propositions:

1. The existence of a contract between VMC and Plaintiffs.

2. The terms of the contract.

3. VMC had done what the contract requires.

4. Plaintiffs had breached the contract.

5. The amount of any damage Plaintiffs had caused.

If VMC has failed to prove any of these propositions, it is not entitled to damages. If VMC has proved all these propositions, you shall consider ~~VMC's~~ Plaintiffs affirmative defense(s) as explained in instruction number 25.

INSTRUCTION NO. 25

Plaintiffs allege that their performance of the contract with VMC was excused because VMC materially breached the parties' contract first.

When a person agrees to do something for a specified consideration to be received after full performance, they are not entitled to any part of the consideration until they have performed as agreed. However, a party who has not fully performed under the terms of the contract may still recover some amount if the failure to render performance due at an earlier time was not material (subject to the other party's claim for partial breach).

In determining whether Plaintiffs have proven that VMC's failure to render or to offer performance is material, the following circumstances are significant:

1. The extent to which Plaintiffs will be deprived of the benefit which they reasonably expected.

2. The extent to which Plaintiffs can be adequately compensated for the part of that benefit of which they will be deprived.

3. The extent to which VMC will suffer forfeiture.

4. The likelihood that VMC will cure the failure, taking account of all the circumstances including any reasonable assurances.

5. The extent to which the behavior of VMC is in line with standards of good faith and fair dealing.

If Plaintiffs established their defense of prior material breach by a preponderance of the evidence, they are not liable for damages. If Plaintiffs did not prove their defense of prior material breach, they may be liable for damages to VMC.

INSTRUCTION NO. 26

I will now provide you with certain instructions on determining what, if any, damages a party is entitled to receive. The fact that I am instructing you on the proper measure of damages should not be considered as an indication that I have any view as to which party is entitled to your verdicts in this case. Instructions as to the measure of damages are given to you only for your guidance, in the event that you should find that any party is entitled to damages, in accord with the other Instructions.

Any measure of damage in this case must be that as will compensate the party for the injuries sustained and nothing more. The proper measure of damage will simply make good or replace the loss caused by the breach of contract. In other words, damages awarded should place the injured party in as good a position as they would have occupied if the contract had been performed.

You may not return an award of damages for any loss that is not proximately caused by a breach of contract by an opposing party.

You must not award damages under these Instructions by way of sympathy or punishment. Remember that, throughout your deliberations on damages, as on all other issues, you must not engage in any speculation, guess or conjecture. Your judgment must not be exercised arbitrarily or out of sympathy or prejudice for or against any of the parties. Rather, you must use your sound judgment based upon an impartial consideration of the evidence.

INSTRUCTION NO. 27

Profits which would have been realized had the contract been performed are recoverable if their loss was within the contemplation of the breaching party at the time the contract was made, and the profits can be proved with reasonable certainty. Lost profits may not be awarded if they are speculative. However, if uncertainty lies only in the amount of damages, recovery may be had if there is a reasonable basis in the evidence from which the amount can be inferred or approximated. In other words, it may be difficult to ascertain precise losses with certainty, and some speculation is acceptable as to the amount so long as there is supporting evidence in the record.

INSTRUCTION NO. 28

Integrity Builders asserts accord and satisfaction as an affirmative defense. Integrity Builders argues that it performed certain work for Plaintiffs and paid for certain expenses of Plaintiffs, in exchange for an agreement that Plaintiffs would accept this extra work and payment of expenses in complete satisfaction of a disputed claim as between the parties. Integrity Builders asserts that it performed the requested work and made the requested payments and because of that Plaintiffs are legally barred from bringing the current lawsuit.

To prove its affirmative defense of accord and satisfaction, the burden is on Integrity Builders to prove the existence of such an agreement, that Integrity Builders fully performed its portion of such agreement, and that Plaintiffs understood that the work performed and the payments made were done in full satisfaction of their claims against Integrity Builders.

INSTRUCTION NO. 29

As to the Plaintiffs' claims that VMC breached their contract, VMC asserts that the Plaintiffs prevented VMC from performing pursuant to the Management Agreement when (a) the Plaintiffs failed to provide adequate notice of alleged breaches of the Management Agreement to VMC, pursuant to which VMC could have undertaken corrective measures, and (b) the Plaintiffs terminated the Management Agreement prematurely. Plaintiffs disagree.

If VMC has proved this defense, then you shall find for VMC. If VMC has failed to prove this defense, then you shall decide whether the Plaintiffs are entitled to recover damages on their breach of contract claim.

INSTRUCTION NO. 30

I have not intended to suggest what I think your verdicts should be by these instructions or by any of my rulings or comments during the trial. Do not try to guess my opinion about any issues in the case based on the questions I asked or rulings I have made. I have not intended or attempted to give any opinions as to what the facts are, what the proof is, nor what the verdicts should be.

INSTRUCTION NO. 31

Occasionally, after a jury retires to the jury room, the members have questions. I have prepared the instructions after carefully considering the model instructions with the parties and lawyers. The instructions attempt to use language which is generally understandable. Usually your questions about the instructions can be answered by carefully re-reading them. If, however, you feel it necessary to ask a question, you must do so in writing, and I must respond in writing. I cannot communicate with you without first discussing your question and potential answer with the parties and the lawyers.

The court attendant who has been working with you on this case takes an oath not to communicate with you about the substance of the case. She cannot speak to you except to ask if you have agreed upon a verdict and to manage the logistics of your service. Please do not put her on the spot by asking any questions about the instructions or the evidence.

Finally, if you need to notify anyone about the time you will be deliberating, please notify them before entering the jury room. Please have your cell phones turned off at all times while in the jury room.

INSTRUCTION NO. 32:

I am giving you one Verdict Form. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree, the verdict and answers to questions must be signed by your foreman or forewoman.

After deliberating for six hours from 3 o'clock p.m. excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon the verdict and answers to questions. In that case, the Verdict Form must be signed by all seven jurors who agree.

When you have agreed upon the verdict and answers to questions and appropriately signed the Verdict Form, tell the Court Attendant.

Dated: July 13, 2026

Valerie L. Clay
Judge, Sixth Judicial District