

AGRICULTURAL LEASE

THIS LEASE, made and entered into on this the _____ day of _____, _____, is by and between the State of Alabama Department of Corrections (hereinafter referred to as "Lessor") and _____ (hereinafter referred to as "Lessee"), collectively referred to herein as the "Parties."

WHEREAS, the Lessor owns certain property (hereinafter referred to as the "Premises") situated in Escambia County, Alabama, to-wit:

A tract of land located in Township 2 North, Range 6 East, the SW ¼ of Section 3, comprised of Field Nos. 36 and 113, as identified in USDA Farm Service Agency maps for Farm #2908, Tract # 3592, recorded in the USDA Farm Service Agency Office, 175 Ag Science Drive, Brewton, Alabama.

Consisting of 103 acres, more or less.

WHEREAS, the Lessor received an appraisal on the Premises and issued a request for competitive bid for lease of the Premises in accordance with the Alabama State Land Sales and Leasing Act.

WHEREAS, Lessee submitted the highest qualified bid for the lease of the Premises.

NOW, THEREFORE, THIS LEASE IS MADE on the following TERMS, CONDITIONS, and COVENANTS:

1. **TERM**

The Lessor hereby grants to the Lessee a Lease interest in the Premises for the term beginning on the _____ day of _____, _____, and ending on the 31st day of December, 2024. At the conclusion of the initial lease period, the Lessor, at its discretion, may offer the Lessee an option to renew lease for two (2) additional one (1) year periods under the same general terms and conditions as stated herein. Lessee shall notify Lessor in writing of its interest in renewing this Lease at least one hundred and twenty (120) days prior to the lease period ending date. No renewal shall be deemed guaranteed, and no renewal shall be at Lessee's sole option.

2. **CONSIDERATION**

In consideration whereof, the Lessee agrees to take said property for the term above stated and to pay the Lessor an annual lease amount of _____ (\$ _____), which shall be pro-rated for the first year, plus appraisal and advertising costs totaling _____ (\$ _____), and less bid deposits in the amount of _____ (\$ _____), the sum total being _____ (\$ _____), due upon the execution of the Lease.

Lessee shall make a full annual rental payment of _____ (\$ _____), on or before _____, _____. Thereafter, annual rental will be due on or before January 1st for each year the Lease remains in effect and will increase each year by _____ percent (___%) of the amount of the previous full year's rental.

3. **PAYMENT**

Payments made pursuant to this Lease must bear "Fountain Farm Parcel B Agricultural Lease" on the check, payment stub, or cover letter. Payments must be made by cashier's check, money order, or other certified funds made payable to the "Alabama Department of Corrections." Personal checks will not be accepted.

Payments not received in the Lessor's Office, located at 301 S. Ripley, Montgomery, AL 36104, within fifteen (15) days from the due date identified in Paragraph 2 of this Lease shall be assessed a penalty of one hundred dollars (\$100.00).

4. **USE OF PREMISES**

The Premises shall be used and occupied solely for agriculture purposes and Lessee shall not use or permit the same to be used for any other purpose or purposes whatsoever. Lessee will not occupy, or permit to be occupied, the Premises for any business, occupation, or other use whatsoever, other than that expressed in this Lease. Lessee hereby accepts the Premises AS IS, WHERE IS, WITH ALL FAULTS.

Lessee shall not damage, sever, or remove any trees from the Premises without prior notification and consent of Lessor. Trees, seedlings, or saplings, alive or dead, shall not be disturbed in any manner, nor removed from the Premises without prior consent of the Lessor. The foregoing prohibition on use and removal includes, but is not limited to, either removal or on-site use of firewood, straw, and pine cones.

Lessee further agrees not to clear any land or to cut down or use any timber, or to allow any other person to clear said land or to cut down or use any timber, from the Premises without the written consent of Lessor or its authorized agent.

Lessee further agrees that no crops with harvest dates after the termination of the Lease will be planted without prior written approval of the Lessor.

5. **EXAMINATION OF PREMISES, WARRANTY**

Lessee shall examine the said Premises before taking possession, and entry into possession shall constitute conclusive evidence that, as of the date thereof, the Premises is in good order and satisfactory condition. Nothing herein shall be construed as a warranty that the Premises is fit or suitable for the use and purpose for which it is leased. Lessor has made no representations with respect to the Premises except as herein expressly set forth.

Notwithstanding any provision to the contrary, this Lease is granted and accepted without any warranty of title and without any recourse against Lessor whatsoever, either express or implied, it being expressly agreed that the Lessor shall not be required to return any payments received hereunder or be otherwise responsible to Lessee therefore.

6. **CARE OF PREMISES**

Lessee shall not permit, allow, or cause any act, deed, or depredation to be performed or committed on the Premises, nor allow any practice to be adopted or followed in or about the Premises which shall cause, or be likely to cause, injury to any person or damage to the Premises or any property located thereon. Lessee will take good care of the Premises and will return said Premises to Lessor at the expiration or the termination of this Lease in at least as good condition as at the commencement of this Lease. Lessee shall not commit, or permit others to commit, waste or erect, permit to be erected, or allow to exist any nuisance on the Premises. Lessee shall not permit any trash or garbage to accumulate on or about the Premises.

7. **FIRE PREVENTION**

Lessee will exert reasonable efforts to prevent fire on the Premises and will exercise due diligence in extinguishing any fire which might occur on said Premises. This provision shall not apply to the prescriptive silvicultural or agricultural burning practices performed or authorized by Lessor.

8. **ROAD MAINTENANCE**

Lessee agrees to maintain all the field roads and trails on the Premises in good and passable condition in accordance with Alabama's Best Management Practices for Forestry published by the Alabama Forestry Commission and any requirement of the Alabama Department of Conservation and Natural Resources.

Lessee will refrain from using said field roads and trails for vehicular traffic during periods of wet weather. Lessee will drain and fill all "wet" places in the roads and trails, maintain waterbars, and otherwise prevent erosion. No new roadways, trails, or other travel ways shall be cleared, constructed, or improved on the Premises except on the express written approval of the Lessor. All roads constructed by Lessee (except any lost through reclamation) shall become the property of the State. All roads constructed or used shall be left in good condition with proper provisions made for drainage and runoff.

9. **IMPROVEMENTS AND EQUIPMENT INSTALLATION**

Lessee shall not locate nor construct shelters, buildings, or other such improvements upon the Premises without the prior written approval of the Lessor. Lessor shall not be responsible for, or otherwise liable for, any damage to any improvements. All improvements, including permanent fencing as provided for in Paragraph 10 of this Lease, shall become the property of the State at termination of the Lease.

10. **POSTING BOUNDARIES**

Notwithstanding Paragraph 9 of this Lease, Lessee shall have the right to enclose the property with a fence or fences, at its sole expense, without prior written permission from the Lessor. Provided, however, if Lessee removes any monument of any sort marking the boundary line of lands owned by the State, Lessee shall replace any such monument to the satisfaction of the Lessor as soon as reasonably possible.

11. **PROPERTY SECURITY**

Lessee is required to maintain property access restrictions established by Lessor through the locking of all gates that access the Premises. The Lessee, at his own expense, may acquire and install locks on gates accessing the Premises; provided, however, that personal locks must not interfere with Lessor's access to the Premises. Lessee's failure to comply with this provision shall constitute cause for immediate Lease termination. Any and all property of Lessee or its agents which may be located or kept upon the Premises shall be at the sole risk of Lessee.

12. **ASSIGNMENT OR SUBLETTING**

Lessee shall not assign, nor in any manner transfer, this Lease or any estate, interest, or benefit therein; nor sublet said Premises, nor any part or parts thereof, nor permit the use of the same, or any part thereof, by any person other than Lessee. Any attempted assignment, sublet, or transfer of this Lease shall be null and void unless the written consent of Lessor be first obtained thereto. Consent to any assignment, sublet, or transfer of interest under this Lease shall not constitute a release, waiver, or consent to any other assignment, sublet, or transfer of interest.

13. **COMPLIANCE WITH LAWS**

Lessee at all times shall fully and promptly comply with all laws (including Environmental Laws as defined below), ordinances, orders, and regulations of any lawful authority having jurisdiction of said Premises. Lessee further agrees to comply with all State and Federal laws which prohibit discrimination on the basis of race, color, religion, age, gender, national origin, or disability.

14. **COMPLIANCE WITH APPROVED AGRICULTURE PRACTICE STANDARDS**

Lessee agrees to use the Premises in accordance with approved methods of modern agriculture and standards set by the Alabama State Department of Agriculture and Industries and the United States Department of Agriculture, and to so use said Premises as to prevent soil erosion and other material wastes. The rotation of crops shall be under such practices approved for modern agriculture by the State and Federal Departments of Agriculture.

15. **AGRICULTURAL CHEMICALS**

No fertilizer, pesticide, herbicide, chemical or other foreign substance, except those substances (and quantities) approved by the United States Department of Agriculture, by the Alabama State Department of Agriculture and Industries and by any other applicable State or Federal governmental agency ("Approved Substances"), shall be stored upon or applied by Lessee to the Premises or crops growing thereon or otherwise be used by Lessee. The use of Approved Substances by Lessee shall be in strict conformity with all applicable laws (including Environmental Laws as defined below), rules, and regulations and with the manufacturer's instructions respecting the manner and timing of application and with all legal requirements. Approved Substances used by Lessee shall not be used or applied in such a fashion as to impact any property other than the Premises. Lessee shall maintain records regarding the time, location, quantity, kind, and method of application of all Approved Substances as may be utilized by Lessee and shall furnish to County, upon request, true and correct copies thereof. Lessee agrees not to store any Approved Substances on the Premises.

16. **HAZARDOUS MATERIALS**

a. **Definitions.**

"Environment" includes soils, land surface, or subsurface strata, surface waters, groundwaters, stream sediments, ambient and other air, atmosphere, plant and animal life, or other environmental medium or natural resource soils, land surface,

or subsurface strata, surface waters, groundwaters, stream sediments, ambient, and other air, atmosphere, plant and animal life, or other environmental medium, or natural resource.

“Environmental Law” means any federal, state, and local law, common law, equitable doctrine, rule, regulation, statute, code, ordinance, directive, guidance document, cleanup, or other standard, and any other governmental requirement or standard currently in existence or hereafter enacted or rendered, whenever in effect concerning or relating to (i) protection of human health or the Environment or workplace safety or occupational health; (ii) liability for or costs of remedial work or prevention of Release of Hazardous Materials, (iii) liability for or costs of any other actual or future threat to human health or the Environment; (iv) the use, transportation, presence, storage, handling, management, disposal, recycling, treatment, generation, processing, labeling, production, Release, contamination, or exposure of or to Hazardous Materials; and (v) any other laws whose purpose is to conserve or protect human health or the Environment. Environmental Law includes but is not limited to the following Federal laws and their State equivalents: Clean Air Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), the Emergency Planning and Community Right-to-Know Act, the Federal Water Pollution Control Act, the Rivers and Harbors Appropriation Act, the Safe Drinking Water Act, the Superfund Amendments and Reauthorization Act, the Toxic Substance Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Resource Conservation and Recovery Act, the Solid Waste Disposal Act, the Hazardous Materials Transportation Act, the National Environmental Policy Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Oil Pollution Act of 1990, the Occupational Safety and Health Act.

"Hazardous Material" means any (i) petroleum, waste oil, crude oil, asbestos, urea formaldehyde, or polychlorinated biphenyl; (ii) waste, gas, or other substance or material that is explosive or radioactive; (iii) “hazardous substance”, “pollutant”, “contaminant”, “hazardous waste”, “regulated substance”, “hazardous chemical”, or “toxic chemical” as designated, listed, or defined (whether expressly or by reference) in any statute, regulation, Environmental Law (including CERCLA and any other so called “superfund” or “superlien” law and the respective regulations promulgated thereunder); (iv) other substance or material (regardless of physical form) that is subject to any Environmental Law that regulates or establishes standards of conduct in connection with, or that otherwise relates to, the protection of human health, plant life, animal life, natural resources, property, or the enjoyment of life or property from the presence in the Environment of any solid, liquid, gas, odor, noise, or form of energy; or (v) compound, mixture, solution,

product, or other substance or material that contains any substance or material referred to in clause (i), (ii), (iii), or (iv) above.

“Release” means any depositing, spilling, leaking, pumping, pouring, placing, emitting, discarding, abandoning, emptying, discharging, injecting, escaping, leaching, dumping, migrating, or disposing of any Hazardous Materials into the Environment.

b. Lessee’s Compliance with Environmental Laws.

Lessee covenants, represents, and warrants that Lessee’s use of the Premises shall not and will not involve the use, storage, generation, or disposal of Hazardous Materials in violation of any Environmental Law, and that Lessee shall not cause or permit any Hazardous Materials to be brought, used, stored, generated, or disposed on or about the Premises in violation of any Environmental Law, and Lessee shall not cause or, as a result of Lessee’s operations, permit the Premises to be in violation of any Environmental Law.

c. Lessee’s Responsibility for Releases of Hazardous Materials.

In the event of any Release of Hazardous Materials or violation of Environmental Law by Lessee or any of Lessee’s employees, agents, invitees, or contractors, Lessee shall at its sole expense promptly conduct all required remedial work in accordance with applicable Environmental Laws and promptly notify Lessor of any such Release or violation. Lessor may elect to test the Premises for the presence of Hazardous Materials at any time during the Lease term and after Lessor vacates the Premises. If any such testing indicates the presence of Hazardous Materials in violation of Environmental Law, and if Lessee brought Hazardous Materials of that type into the Premises at any time, whether before or during the Term, Lessee shall promptly conduct all required remedial work in accordance with applicable Environmental Laws.

17. RESERVATION OF INTEREST

Lessor specifically reserves unto itself all rights and interests in the Premises not inconsistent with the restricted agriculture rights made the subject of this Lease. Lessor specifically reserves the right to full use and enjoyment of the Premises for all activities except farming, including, without limitation, game management objectives; harvesting timber or conducting other silvicultural activities; prospecting or exploring for sand, gravel, rock, oil, gas, and other minerals; development or production of oil, gas, minerals, or other natural resources, including all activities incident thereto. This Lease is conveyed subject to all other restrictions and reservations of record.

Some areas within the Premises are, or may in the future be, under active leases for oil and gas exploration through a third party. Reimbursement for crop damage and or destruction that may result from oil and gas exploration activities will be the sole responsibility of the oil and gas lease holder pursuant to that lease. In no event shall Lessor, the State of Alabama, or its agents or employees, be liable for any damages of any kind arising out of or related to any such oil and gas exploration or related activities.

Some areas within the Premises may in the future be, purchased by a third party to promote economic development of the State. Third party lease-holders shall be required to make Lessee whole upon acquiring of any interest in the Premises. In no event shall Lessor, the State of Alabama, or its agents or employees, be liable for any damages of any kind arising out of or related to any such economic development or related activities.

18. **ENTRY BY LESSOR**

Lessor reserves to itself, through its agents and employees, the right at all times to enter said Premises for any purpose.

19. **INDEMNIFICATION**

Lessee shall indemnify, defend, and save harmless the Lessor of and from all suits, claims, demands, actions, proceedings, liabilities (including strict liability), damages, costs (including costs for remediation of Hazardous Materials), expenses (including court costs, reasonable fees of attorneys, investigators, and experts), obligations, debts, losses, diminutions in value, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement and damages of whatever kind or nature (including fees or costs of enforcing this indemnity), which may be asserted against, imposed upon, or incurred by Lessor arising out of or in connection with (i) the loss of life, personal injury, or damage to property in or about the Premises; (ii) the use or occupancy of the Premises by Lessee or or any of Lessee's employees, agents, invitees, or contractors, including any work undertaken or contracted for by Lessee; (iii) Lessee's breach of this Lease; (iv) any negligent or wrongful act or omission of Lessee or its employees, agents, invitees, or contractors; (v) any accident, injury, occurrence or damage in or about the Premises; (vi) any claim against Lessor by any employee or former employee of Lessee; (vii) Lessee's failure to observe or perform Lessee's obligations under Section 16(c). This indemnity is not contingent upon insurance coverage and is not limited to the amount of any insurance proceeds. Lessee shall use legal counsel reasonably acceptable to Lessor in defense of any action within Lessee's defense obligation.

The provisions of this section shall survive the expiration or termination of this Lease Agreement

20. **WAIVER**

The failure of Lessor to insist upon strict performance of any of the covenants or conditions of this Lease or to exercise any option herein conferred in any one or more instances shall not be construed as a waiver or relinquishment of any such covenants, conditions, or options, but the same shall be and remain in full force and effect. The receipt by Lessor of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Lessor of any provisions hereof shall be deemed to have been made unless expressed in writing.

21. **DEFAULT**

In case of failure by Lessee to keep and perform any of the conditions of this Lease, including, without limitation, failure of Lessee to make any rental payment, the Lessor shall have the right to declare the same terminated and said Lease shall immediately terminate, the property interest herein leased shall revert to the Lessor, Lessor shall take possession, and Lessee shall vacate same peaceably.

No action for possession or termination taken by Lessor shall preclude any claim by Lessor for damages either under the terms hereof or other such damages or other relief as may be provided by law.

22. **BOYCOTT CERTIFICATE**

In compliance with Act 2016-312, as codified by Alabama Code Section 41-16-5, the contractor hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

23. **DEBT TO STATE AND ALTERNATIVE DISPUTE RESOLUTION**

The terms and commitments contained in this Lease shall not be construed as a debt to the State of Alabama in violation of Article 1, Section 214 of the Constitution of Alabama of 1901, as amended by Amendment Number 26. It is further agreed that if any provision of the Lease shall contravene any statute of the Constitution provision or amendment, either now in effect or which may, during the course of this Lease, be enacted, then that conflicting provision in the Lease shall be deemed null and void.

In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment for the State of Alabama. For any and all other disputes arising

under the terms of this Contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation, subject, however, at all times to the sovereign immunity of the State. Such dispute resolution shall occur in Montgomery, Alabama utilizing, where appropriate, mediators selected from the roster of mediators maintained by the Center For Dispute Resolution of the Alabama State Bar.

24. **INDEPENDENT CONTRACTOR**

Nothing in this Lease shall be construed to create an agency relationship, an employee/employer relationship, or a joint venture relationship among the parties. Nothing herein shall grant to the Lessee, its employees, or agents, any right or privilege created by the State Merit System Act.

25. **PRISON RAPE ELIMINATION ACT**

Pursuant to Alabama Code Section 14-11-31 as well as 28 C.F.R. Part 115, the Prison Rape Elimination Act ("PREA"), any type of sexual contact with or sexual harassment of an inmate in the custody of the ADOC by one who is responsible for the care, control, or supervision of inmates – with or without the consent of the inmate – is illegal. Under Alabama law, it constitutes a felony – custodial sexual misconduct. See also, ADOC Administrative Regulation 454, Inmate Sexual Assault and Harassment Awareness (Prison Rape Elimination Act (PREA)). The ADOC has a Zero Tolerance Policy toward all forms of custodial sexual misconduct, sexual abuse, and sexual harassment. Any type of conduct – including suspected conduct – that falls within the context of custodial sexual misconduct/sexual abuse, as defined by either the State or Federal laws referenced above, shall be reported immediately to the Warden of the facility to which he or she is assigned, or the Warden's designee.

26. **IMMIGRATION**

The Parties agree, and hereby acknowledge, that all terms, covenants, and conditions, or actions taken under this Agreement shall comply with all applicable state, federal, or local laws, including the Alabama Beason-Hammon Alabama Taxpayer and Citizen Protection Act as amended. By signing this contract, the contracting parties affirm, for the duration of this Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

27. **MODIFICATIONS**

It is understood that this Lease constitutes the entire agreement of the Parties. Any modifications, renewals, or extensions, must be mutually agreed upon in writing by both Parties.

28. **TERMINATION PRIVILEGE.**

The Lessor reserves the right to terminate this Lease upon one hundred and eighty (180) days written notice to the Lessee. In the event that Lessor terminates the Lease prior to the expiration of any term, Lessor will reimburse Lessee for any rental amounts pre-paid under this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the date of their respective acknowledgments thereto.

APPROVALS:

LESSOR:
ALABAMA DEPARTMENT OF
CORRECTIONS

LESSEE:

BY: _____
Jefferson S. Dunn, Commissioner

BY: _____

APPROVED AS TO LEGAL FORM

APPROVED:

Governor of Alabama