

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") made and entered into as of this ____ day of _____, 2016, by and between the **MEMPHIS AND SHELBY COUNTY PORT COMMISSION**, an organization created by Chapter 500 and 529 of the Private Acts of Tennessee of 1947, as amended, **ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE** ("EDGE"), the **CITY OF MEMPHIS**, a municipal corporation, and the **COUNTY OF SHELBY**, one of the counties of the State of Tennessee, (hereinafter referred to as "Lessors") and **EBF FARM, LLC**, a Mississippi company, (hereinafter referred to as "Lessee").

W I T N E S S E T H:

WHEREAS, the Lessors are the owners and have management and control of certain lands situated, beginning at a Memphis and Shelby County Port Commission aluminum monument stamped corner #14 and on the east line of the Ensley Bottom Farm, LLC property as described in instrument number AW 2470 and also have Tennessee State plane cords of north 282,185.02 and East 717,311.56; Thence N 39°09'12" W along said east line of Ensley Bottom Farm, LLC property 255.23 feet to a point; Thence S 56°22'39" E leaving said east line 290.00 feet to a point; Thence S 30°55'17" W 3,423.01 feet to a point on said east line of Ensley Bottom Farm, LLC property; Thence N 0°09'33" W along said east line 250.00 feet to a standard aluminum monument corner # 16 (Cords=north 279,595.77 east 715,843.43); Thence N 0°37'36" W along east line 2,650.20 feet to a 2" iron pipe corner #15 (cords=north 282,244.66 east 715,926.84); Thence S 89°57'50" E along said east line 1,386.00 feet to the point of beginning. Containing 59.7 acres more or less. Said tract is reflected in the survey attached hereto as Exhibit "A" and shall be referred hereto as (the "Leased Premises");

WHEREAS, Lessee desires to lease the Leased Premises for the use and purposes and for the rental and upon the terms and conditions hereinafter set forth:

NOW THEREFORE, in consideration of the premises, the mutual advantage accruing each to the other, and for good and valuable consideration, the adequacy of which and the receipt of which the parties hereto acknowledge from the other, the parties, intending to be legally bound, agree as follows:

1. Term. The term of this Agreement shall commence on February 1, 2016 (the "Effective Date") and shall be for an initial period of five (5) years.

2. Rental.

(a) The rental for the initial period from **February 1, 2016 through January 31, 2021** is **seventy-five/100 Dollars (\$75.00)** per acre each year, which first year rental is to be paid on February 1, 2016. Unless advised to the contrary in writing, Lessee shall make all rental payments to the Memphis and Shelby County Port Commission, 1115 Riverside Boulevard, Memphis, Tennessee 38106-2504.

(b) The Lessee hereby agrees to be responsible for any and all property taxes and/or special assessments which are now assessed or hereafter assessed against the Leased Premises or any improvements hereafter installed by Lessee on the Leased Premises during the term of this Agreement and any extended terms thereof. It is specifically recognized and agreed that in the event property taxes and/or special assessments are not specifically assessed against the Leased Premises, then Lessee will be responsible only for the pro-rata share of the assessment based on the percentage the Leased Premises bears to the entirety of the assessed area.

(c) Lessee shall pay for all necessary utility services and all other services and installations to the Leased Premises required for its use of the premises. Lessee at its expense shall promptly make and pay for all necessary repairs and replacements to the Leased Premises whether interior, exterior, or underground, ordinary or extraordinary, or structural or non-structural, including the reimbursement to Lessors or its tenants for any crop losses, fence damage or other damages due to its activities on the Leased Premises. The Lessee shall at all times during the lease term, at its expense, put and maintain in thorough repair and in good and safe condition all improvements on the Leased Premises and equipment and appurtenances, both inside, outside and underground, structural and non-structural, extraordinary and ordinary, however the necessity or desirability for repairs may occur and regardless of whether necessitated by wear, tear, obsolescence, or defects, latent or otherwise. The quality and class of all repairs and replacements shall be equal to that of the original work and Lessee shall maintain the Leased Premises in good repair and in at least as good as condition as that in which they were delivered, normal wear and tear resulting from activities unassociated with Lessee's activities excepted. Lessee shall, at the expiration or earlier termination of this Agreement, surrender the Leased Premises in at least as good as condition as that in which they were delivered, normal wear and tear resulting from activities unassociated with Lessee's activities excepted.

3. Grant and Lease. The Lessors do hereby grant, demise and lease unto the said Lessee the Leased Premises owned, controlled or to which the Lessors are authorized to lease to third parties and described on Exhibit A attached, situated in the City of Memphis, County of Shelby, State of Tennessee in its "as is, where is" condition and "with all faults," for the purpose of agricultural planting.

4. Improvements and Usage.

(a) The Lessee will not make or permit to be made any alterations, additions, or additional permanent improvements to said premises, nor assign, mortgage, or pledge this Lease, nor sublet the whole or any part of the premises without the Lessors' written consent. Consent by the Lessors shall apply totally to the particular transaction consented to and shall not constitute a waiver by the Lessors of the provisions of this Lease. Any transfer or assignment of this Lease or any interest hereunder or subleasing shall be subject to the terms of the Lease and not relieve the Lessee of its liability for payment of the rent or performance of any covenant or other obligation imposed by Lessee by this Lease.

(b) The Lessee shall maintain all of the improvements now on the Leased Premises and return them to the Lessors at the termination of this Lease, or any extensions thereof, in as good condition as when received, reasonable wear and tear and damage by fire, unless caused by Lessee's negligence, or the elements or Acts of God, excepted. The type of farming conducted on the subject premises shall be followed by Lessee which will be profitable for the Lessee and at the same time will not be destructive to the fertility of the Leased Premises. The Lessee shall have the right to fully utilize all Agricultural Department allotments on the acreage. So long as Lessee shall not be in default in the performance of its obligations under this Lease, Lessors agree that they will keep Lessee in the sole, quiet and peaceful possession of said premises.

(c) All improvements which are desired by Lessee and made upon the premises by him, shall be installed and maintained at Lessee's expense. No alteration, addition or improvement to the leased property shall be made by the Lessee without the written consent of the Lessors. Any alterations, addition or improvements made by the Lessee after such consent shall have been given, and any fixtures installed as part hereof, at once become the absolute property of the Lessors without payment of any kind therefore.

(d) Lessee shall use the Leased Premises solely for customary agricultural and pasturage operations, and Lessee shall not operate or permit to be operated upon the Leased Premises any type hunting or any private or commercial fishing, or permit the operation of any facilities for any type of fishing or hunting. Lessee shall post "No Hunting" signs so as to adequately serve notice that no hunting is allowed. Controlled hunting under any circumstances requires written consent of the Memphis and Shelby County Port Commission.

(e) No land will be cleared or timber cut regardless of size nor any wildlife habitat unnecessarily disturbed without the written consent of the Memphis and Shelby County Port Commission. Lessee shall commit no waste or contamination of the Leased Premises and shall not dispose of petroleum products or agricultural chemicals in an unauthorized or unlawful manner and it shall be Lessee's duty and right to prevent the use of any portion of the Leased Premises by unauthorized persons.

5. Signage. No sign of any type, except that described above in Section 4(d), will be placed on any portion of the Leased Premises without the express written consent of the Port Commission regarding the size, general design and placement of said sign. Any such signs shall be used exclusively by Lessee to advertise Lessee's own business. Upon the expiration of this Agreement or any extension thereof, Lessee, at Lessee's expense, shall remove all signs placed or erected on the said Leased Premises during the term of this Agreement, and repair all damage to the Leased Premises due to the erection and subsequent removal of same.

6. Transfer. Lessee may not sell, transfer, or assign this Agreement or any interest of Lessee hereunder or sublease the whole or part of the Leased Premises to any person or entity without the prior written approval of the Port Commission. Any transfer or assignment of this Agreement or any interest hereunder or subleasing shall be subject to the terms of this Agreement and not relieve the Lessee of its liability for payment of the rent or performance of any covenant or other obligation imposed upon Lessee by this Agreement.

7. Indemnity. Lessee shall, at all times prior to the termination of the Lease and to the delivery to Lessors of possession of the demised premises and all improvements thereon, indemnify Lessor against all liability, loss, cost, damage, expense or penalty sustained by Lessor, including attorneys' fees and other expenses of litigation, arising during the lease term prior to termination of the lease and delivery to Lessors of possession of the premises:

(a) For any violation of any law of the United States, the State of Tennessee, or any of the local laws, County and City, if occasioned by the neglect and fault of Lessee or of those holding or occupying under Lessee.

(b) Arising out of, or directly or indirectly due to, any accident or other occurrence causing injury to any person or persons (including death) or property resulting from the use, occupancy, maintenance or repair of the demised premises or any part thereof, by Lessee or by any person or persons holding or occupying under or employed by Lessee.

(c) On account of or through the use, occupancy, maintenance, or repair of the demised premises or improvements or any part thereof by Lessee or by any other person or persons holding or occupying under or employed by Lessee for any purpose inconsistent with the provisions of this Lease.

(d) Arising out of, or directly or indirectly due to, any failure of Lessee in any respect promptly and faithfully to satisfy their obligations under this Lease.

(e) Against all liens and charges of any and every nature that may at any time be established against the Leased Premises or any improvements thereon or any part thereof as a consequence, direct or indirect, of any act or omission of Lessee or any person or persons holding or occupying under or employed by Lessee or as a consequence, direct or indirect, of the existence of Lessee's interest under this Lease, except that Lessee shall not be liable for any income tax that may be imposed on Lessors as a result of Lessee's payment of rent to Lessors .

(f) On account of Lessee's failure to comply with its obligations under paragraph 18 herein including the Applicable Environmental Laws.

(g) Except as otherwise provided herein, Lessors shall not be responsible for any damage occasioned by Lessee; for loss of profits, lack of accessibility to Leased Premises, to equipment or otherwise, by any action of the Mississippi River or its backwaters, including flood, except as otherwise provided herein.

8. Condemnation.

(a) If the whole of the Leased Premises, or such portion thereof as will render the premises unsuitable for the purposes herein leased, is taken or condemned for any public use or purpose by any legally constituted authority, then in either of such events, this Lease shall cease from the time when possession was taken by such public authority and rents shall be accounted for between Lessors and Lessee,

as of such date. Such termination shall be without prejudice to the rights of either Lessors or Lessee to recover compensation for any loss or damage caused by such condemnation. Neither Lessors nor Lessee shall have any right in or to any award made to the other by the condemning authority.

(b) In the event that the Leased Premises demised, or any part thereof, are partially taken or condemned for any public use or purpose by any legally constituted authority, but not thereby rendered unsuitable for the purposes for which leased, then, Lessee shall receive a fair and proper abatement of rental as provided in Section 8(d) from and after the time when possession was taken by such public authority.

(c) Should the Lessors need any portion of the Leased Premises in connection with the development, operation, management and control of any of the properties under the jurisdiction of the Memphis and Shelby County Port Commission prior to the termination of the Lease, any portion of the property so required shall be surrendered immediately by the Lessee and an adjustment in rent shall be made in accordance with Section 8(d) hereof. If such surrender occurs, Lessors shall pay Lessee the fair market value of any unharvested crops located on Leased Premises and planted by Lessee during the current year only and, upon such payment, all such unharvested crops shall become the property of the Lessors.

(d) In the event it is necessary to adjust the rent or compensate Lessee for land required by Lessors as provided in Paragraphs 8(a), (b) and (c) of this Agreement, and the parties are unable to agree upon a fair and equitable compensation, including, but not limited to crop loss, then either party may request mediation to resolve the question regarding the fair adjustment or compensation with such mediator to be agreed upon by the parties. The expenses of mediation shall be shared equally by the Lessors and the Lessee. Neither party shall be prohibited from filing an action in a court of competent jurisdiction in the event mediation efforts are unsuccessful.

9. Lessor's Use of Leased Premises. If Lessors need any portion of the Leased Premises in connection with the development, operation, management and control of any of the properties under the jurisdiction of the Port Commission prior to the termination of this Agreement, any portion of the Leased Premises so required shall be surrendered immediately by the Lessee and an adjustment in the rent described herein shall be made. If such surrender to Lessors occurs, Lessors shall pay Lessee the fair market value of any unharvested crops located on the Leased Premises and planted by Lessee during the current year only and, upon such payment, all such unharvested crops shall become the property of Lessors.

10. Insurance.

(a) Lessee at its own risk and expense, during the period of this Lease or any extended term of this Lease, shall provide liability insurance in the minimum amounts of TWO MILLION DOLLARS (\$2,000,000) combined single limits covering property damage and bodily injury with the CITY OF MEMPHIS, COUNTY OF SHELBY, MEMPHIS AND SHELBY COUNTY PORT COMMISSION, and ECONOMIC DEVELOPMENT GROWTH ENGINE (EDGE) named as an additional insured; this policy will fully protect Lessors from any and all claims for damages to property or persons, including death, which may arise from Lessee's or any sublessee's operations on the Leased Premises or adjacent thereto, whether such operations are by Lessee or by anyone directly or indirectly employed or licensed by Lessee

or by anyone directly or indirectly employed or licensed by Lessee or acting under Lessee's authority or orders. Further, this policy shall be written with insurance companies satisfactory to the MEMPHIS AND SHELBY COUNTY PORT COMMISSION.

(b) Upon the execution of this Lease, the Lessee shall deliver to Lessors certificates of insurance certifying that such insurance is in full force and effect and naming Lessors as additional insured.

(c) At least thirty (30) days prior to the expiration of any policy of insurance the Lessee is obligated to carry under this Lease, the Lessee shall furnish a binder to the Lessors renewing each such policy. Each policy and/or binder shall provide for at least thirty (30) days' notice to the Lessors of any change or cancellation thereof. Lessee shall promptly deliver to Lessors a certificate from the insurance carrier evidencing the renewal of the policy and the payment of premium.

(d) At least thirty (30) days prior to the Effective Date, the Lessee shall deliver to Lessors certificates of insurance which satisfy the conditions of sub-paragraph (a) of this paragraph and which certifies that such insurance is in full force and effect.

(e) Lessors may at any time upon reasonable notice and at principal office where such items are normally maintained, review and inspect pertinent sections of all required policies under this Agreement.

11. Inspections.

(a) Lessors and their agents, surveyors, and workmen may at all reasonable times during the term hereof, enter upon the subject premises to inspect the same and to cut and remove any and all timber and other trees. Lessors shall have the right to go upon said premises at any time and perform such work thereon as they may deem advisable, which does not prevent the Lessee from carrying out the terms and conditions of this Lease.

(b) Lessors reserve the right of ingress and egress over and across the Leased Premises for property protection, maintenance, and showing sites to prospective industrial users. This Lease is subject to any existing easements or uses of record in the Register's Office of Shelby County, Tennessee, and the rights of ingress and egress are reserved for the holders of these easements.

12. Default.

1. In case Lessee, during the term of this Agreement shall cause a default hereunder by committing one or more of the following:

(a) file a voluntary petition in bankruptcy or if proceedings be instituted by anyone to adjudge Lessee a bankrupt; or

(b) make an assignment for the benefit of creditors; or

- (c) be adjudicated a bankrupt; or
- (d) be declared insolvent; or
- (e) abandon the Leased Premises; or
- (f) fail to perform any material part of this Agreement including the payment of rent heretofore agreed following 60 days prior written notice from Lessors;

and such default shall continue for fifteen (15) days after the Memphis and Shelby County Port Commission has given written notice of such default to Lessee, then and henceforth, in any of said events, the Memphis and Shelby County Port Commission at its option has the right to cancel this Lease or the Memphis and Shelby County Port Commission may reenter and resume possession of same, and may, at its option, relet premises as agent of Lessee but in name of Lessor and receive rent thereof, applying the same, the first, to payment of expenses to which it may be put in reentering and reletting, and then to payment of rent due by these presents, remainder, if any, to be paid over to Lessee, who shall be liable for any deficiency, the execution of a new lease for the same premises being permitted without terminating Lessee's liability or obligation hereunder. The Lessee waives service of any notice of intention to reenter, or of instituting legal proceedings to that end.

2. The right in the Lessors to cancel this Lease as herein set forth is in addition to and not in exhaustion of such rights that the Lessors have or causes of action that may accrue to the Lessors because of the Lessee's failure to fulfill, perform or observe the obligations, agreements or covenants of this Lease, and the exercise or pursuit by the Lessors of any of the rights or causes of action accruing hereunder shall not be in exhaustion of such other rights or causes of action that the Lessors might otherwise have.
3. If the Lessee defaults in the observance or performance of any term or covenant on the Lessee's part to be observed or performed under any of the terms or provisions in any paragraph of this Lease, the Lessors may immediately or at any time thereafter and without notice, perform the same for the account of the Lessee, and if the Lessors make any expenditures or incur any obligations for the payment of money in connection therewith, including, but not limited to, attorney fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred with interest and costs shall be deemed to be additional rent hereunder and shall be paid by the Lessee to the Lessors.

13. Interest. Any rent or other sum (including taxes) payable to Lessors by Lessee under the terms of this Lease which Lessee does not pay within ten (10) days of the date it becomes due and owing shall bear interest in favor of Lessors from the due date at the rate of ten percent (10%) per annum.

14. Payment. No payment by Lessee, or acceptance by Lessors, of a lesser amount of rent than shall be due from Lessee to Lessors shall be treated otherwise than as a payment on account. The acceptance by Lessors of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check that such lesser amount shall constitute payment in full, shall be given no effect and Lessors may accept such payment without prejudice to any other rights or remedies which Lessors may

have against Lessee. Any payment, however designated, may be accepted by Lessors and applied against any part of Lessee's then existing and then due rent obligations, and Lessors may apply such payment against any sum then due or may retain such payment (without interest) as a credit against Lessee's accruing future obligations.

15. Rights. The right in the Lessors to terminate this Agreement as herein set forth is in addition to and not in exhaustion of such rights that the Lessors have or causes of action that may accrue to the Lessors because of the Lessee's failure to fulfill, perform or observe the obligations, agreements or covenants of this Agreement, and the exercise or pursuit by the Lessors of any of the rights or causes of action accruing hereunder shall not be in exhaustion of such other rights or causes of action that the Lessors might otherwise have.

16. Waivers. It is hereby covenanted and agreed that no waiver of a breach of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

17. Collection Costs. Lessee agrees to pay all reasonable costs of collection, including reasonable attorneys fees, if all or any part of the rent reserved herein is collected after maturity with the aid of an attorney; also, Lessee agrees to pay reasonable attorney fees in the event that it becomes necessary for Lessors to employ an attorney to enforce any of the covenants, obligations or conditions imposed in this Agreement.

18. Compliance with Laws. The Lessee shall comply with and cause to be complied with, all statutes, regulations, ordinances and other requirements of any government, whether federal, state or local, as amended from time to time, relating to the Leased Premises and the use there of or any part thereof, including, without limitation, 42 U.S.C. § 9601 et seq., 42 U.S.C. § 6901 et seq., 33 U.S.C. § 1251 et seq., T.C.A. § 68-212-201 et seq., T.C.A. § 68-212-101 et seq., T.C.A. § 68-215-101 et seq., T.C.A. § 69-3-101 et seq., and all other applicable federal, state and local health or environmental statues and regulations. Lessee shall also comply with all restrictive covenants and other such restrictions of record and shall meet and comply with all requirements of federal and state common law, e.g. Statues and Regulations and the Applicable Environmental Common Law together are referred to herein as the "Applicable Environmental Laws." Lessee covenants that all reporting requirements of Applicable Environmental Laws shall be complied with and all spills shall be cleaned and removed in a manner in compliance with the Applicable Environmental Laws even if Lessee is no longer in possession under this Lease.

19. Notices. Until further notice of change of address, any notice in writing given under this Agreement shall be sufficient if sent by mail, postage prepaid, and addressed as follows:

Lessors: Chairman
Memphis and Shelby County Port Commission
1115 Riverside Blvd.
Memphis, Tennessee 38106-2504

Lessee: EBF FARM, LLC
4900 Old Summer Road
Memphis, Tennessee 38122

20. Choice of Law and Venue. It is specifically agreed between the parties that this contract and the enforcement of any of the provisions thereof shall be construed and enforced in accordance with the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Agreement shall be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, without regard to conflicts of laws principles. In accordance herewith, the parties to this Agreement submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

21. Entire Agreement. This writing constitutes the entire agreement by and between the parties and no renewal, extension or amendment of this Agreement shall be binding unless in writing and signed by all of the parties hereto.

22. Binding Nature. This Agreement shall be binding upon the heirs, executors, administrators and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers or officials, duly authorized so to do, on the day and year indicated below.

[SIGNATURE PAGES TO FOLLOW]

ATTEST:

LESSOR:
MEMPHIS AND SHELBY COUNTY PORT
COMMISSION

[Signature] Secretary-Treasurer By: [Signature] Chairman

APPROVED AS TO FORM:

[Signature]
Port Commission Attorney

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a notary public within and for said state and county, at Memphis, Tennessee, duly commissioned and qualified, personally appeared **JOHNNY B. MOORE, JR.**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the Chairman of the Memphis and Shelby County Port Commission, created by Chapters 500 and 529 of the Private Acts of Tennessee of 1947, as amended, and that he as such chairman being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Memphis and Shelby County Port Commission by himself as chairman.

WITNESS my hand and seal of office at Memphis, Tennessee, this the 14th day of July, 2016.

My commission expires _____
My Commission Expires
January 20, 2020

[Signature]
Notary Public



ATTEST:

LESSOR:
CITY OF MEMPHIS

City Comptroller

By: _____
Jim Strickland, Mayor

APPROVED AS TO FORM:

City Attorney

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a notary public within and for said state and county, at Memphis, Tennessee, duly commissioned and qualified, personally appeared **Jim Strickland**, and with whom I am personally acquainted, and who upon oath acknowledged himself to be the Mayor of the City of Memphis, a municipal corporation of the State of Tennessee, and that he as mayor being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the municipal corporation by himself as mayor thereof.

WITNESS my hand and seal of office at Memphis, Tennessee, this the _____ day of _____, 20__.

Notary Public

My commission expires: _____

APPROVED AS TO FORM
AND LEGALITY:

LESSOR:
COUNTY OF SHELBY

Contract Administrator
Assistant County Attorney

By: _____
Mark H. Luttrell, Jr., Mayor

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a notary public within and for said state and county, at Memphis, Tennessee, duly commissioned and qualified, personally appeared **MARK H. LUTTRELL, JR.**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the Mayor of the County of Shelby, State of Tennessee, and that he as such mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of Shelby County by himself as mayor thereof.

WITNESS my hand and seal of office at Memphis, Tennessee, this the _____ day of _____, 20__.

Notary Public

My commission expires: _____

LESSEE:

EBF FARM, LLC
4900 Old Summer Road
Memphis, Tennessee 38122

By: [Signature]

STATE OF TENNESSEE

COUNTY OF Shelby

Before me, a notary public within and for said state and county, duly commissioned and qualified, personally appeared John Kalb with whom I am personally acquainted, and who upon oath acknowledged himself to be the Member of **EBF FARM, LLC**, a Tennessee Corporation and that he as Member being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Member.

WITNESS my hand and seal of office at 1115 Riverside Blvd., this 14th day of July, 2016.

[Signature]
Notary Public

My Commission Expires
September 21, 2016

My commission expires: _____



Exhibit A
Leased Property