

AGRICULTURAL LEASE AGREEMENT

BETWEEN

WAUPACA COUNTY

AND

This Lease is made and entered into _____, 20____, by and between WAUPACA COUNTY, a municipal body corporate, duly organized and existing under the laws of the State of Wisconsin (hereinafter called the "Landowner") and _____ (hereinafter called the "Farmer").

WITNESSETH, Landowner does hereby lease, demise, and let unto the Farmer, subject to the terms stated herein, the following described Leased Premises situated in the County of Waupaca and State of Wisconsin, to-wit:

Parcel #1

Legal Description:

_____ Acres Term _____ years \$ _____ per acre Rental Payment \$ _____ per year

Parcel #2

Legal Description:

_____ Acres Term _____ years \$ _____ per acre Rental Payment \$ _____ per year

USE: This Lease is to allow the growing and harvesting of agricultural row-crops, vegetable crops and hay land located on real property owned by Waupaca County while preserving the soils, water and other related natural resources consistent with the terms, conditions and payment schedules of this Lease, as well as with the provisions contained in the Agricultural Land Lease Policy as adopted by the Waupaca County Public Property Committee on _____, as is time to time amended, which are hereby incorporated herein by reference.

TERM: This Lease shall be effective beginning January 1, _____ and shall remain in effect through December 31, _____ unless terminated per the provisions defined herein or by mutual agreement. Landowner retains the sole right to determine the Lease length, its conditions or whether the Lease will be renewed. The evaluation for renewal of any lease may be based partially on the degree of compliance with the terms of the lease.

RENTAL PAYMENT SCHEDULE: Farmer shall provide rental payments to Landowner according to the following payment schedule for each year of the Lease term:

\$ _____ due on or before April 1 and \$ _____ due on or before November 30.

Landowner will not provide rental rate adjustments for crop failures due to extreme weather conditions. If renters wish to receive subsidies or payments to offset crop losses they should work with the United States Department of Agriculture (“USDA”), Farm Service Agency (“FSA”), Natural Resource Conservation Service (“NRCS”), or the University of Wisconsin Extension Service to identify any available programs or funding sources.

IT IS MUTUALLY AGREED AND UNDERSTOOD BETWEEN THE LANDOWNER AND THE FARMER that:

- 1. Nutrient Management Plan:** Farmer shall be required to work with Waupaca County Land and Water Conservation Department (herein after “LWCD”) to develop a NRCS 590 Plan Nutrient Management Plan (herein after “NMP”) for the parcel(s) listed above. The NMP is made a part of this Lease and shall be complied with at all times by Farmer; failure by Farmer to so comply shall be considered a default under this Lease. The NRCS 590 Plan describes and specifies a crop rotation schedule, tillage methods, nutrient and pest management, and other best management practices required to reduce soil loss, achieve water quality goals and protect the natural resource base. Any modifications to the NRCS 590 Plan during the term of the Lease shall require written approval by Landowner in consultation with LWCD. The Farmer shall submit the NMP and soil sample data to LWCD annually by April 1st.
- 2. Crop Acreage Certification:** Farmer shall coordinate with FSA on crop acreage certification and submit said certification documentation to Landowner.
- 3. Records:** Farmer shall maintain a log, listing information about all fertilizer and pesticide use on each of the leased parcels. These records shall be submitted to LWCD annually prior to December 31 of the current year. By signing this contract, the landowner agrees to disclose all information related to any Federal Farm Service Agency crop records and to authorize the county to access files related to these records in accordance with the provisions of 16 U.S.C. 3844(b) (2) (D) (i). The following information must be recorded as follows:
 - a. Date of fertilizer and lime application, to include animal waste application
 - b. Amount, rate and mixture of fertilizer applied
 - c. Date of pesticide/herbicide treatment
 - d. Type, rate, and amount of pesticide/herbicide applied
 - e. Date of industrial and/or municipal waste application
 - f. Type, rate, and amount of industrial and/or municipal waste application
 - g. Crop(s) planted during current year
 - h. Soil test results
- 4. Waste Disposal:** Waupaca County lands are not to be used to store or to dispose of full or empty fertilizer or pesticide containers or any unused fertilizer, pesticide or other waste or material of any kind.
- 5. Condition of land:** Farmer shall not do, or permit or suffer any waste or damage to leased land.

6. **Notice of Planned Construction:** Farmer shall be notified of any utility construction or other activity that is proposed for any Waupaca County parcel leased under this agreement. Compensation for any loss in the short-term disrupted use of the rented parcel will be determined on a case-by-case basis at the discretion of the Landowner.

7. **County Use of Leased Property:** The Farmer understands that should the Landowner determine that the County needs all or part of a parcel presently subject to an agricultural lease, the lease can be modified or cancelled by the Landowner providing thirty (30) days' written notice to the Farmer. In the event a lease is cancelled or modified under this section by Landowner, the Landowner shall compensate the Farmer for crops then planted on the property that is removed from the lease at current fair market value.

8. **Access:** Waupaca County employees, agents and representatives have the right to enter any Waupaca County-owned parcel covered in this Lease at any time without any prior notice to Farmer.

9. **Compliance With Law:** Farmer shall obey, observe and comply with all rules, regulations, ordinances and laws, as adopted from time-to-time, which shall be applicable to the property, (including any improvements now or hereafter erected), and shall promptly comply with all orders, rules, rulings and directives of any governmental authority or agency having jurisdiction thereof.

10. **Utility Charges:** Farmer shall pay, in addition to all other sums required to be paid by it under the provisions of this Lease, all utility charges for the Leased Premises.

11. **Indemnification by Farmer:** Farmer agrees to protect and save Landowner harmless and indemnified against and from any penalty or damage or charge imposed for any violation of any laws or ordinances, whether occasioned by Farmer or those holding under the Farmer. Farmer further agrees to protect, indemnify and save Landowner harmless from and against any and all claims, and against any and all loss, damage, expense, liabilities, demands and causes of action, and any reasonable expenses (including attorney fees) incidental to the defense thereof by Landowner, arising out of any failure of Farmer in any respect to comply with and perform all of the requirements and provisions of this Lease, and against any and all loss, damage expense, liabilities, demands and causes of action and any reasonable expenses (including attorney fees) incidental to the defense thereof by Landowner resulting from injury or death of persons or damage to property, including without limitation the person and property of Farmer, its agents, employees and invites, occurring on the Leased Premises or on the adjoining sidewalks, street, alleys or ways, or in any manner directly or indirectly growing out of or in connection with the use and occupancy or disuse of the Leased Premises, or any part thereof, or any improvement now or hereafter located thereon by Farmer or any person holding under the Farmer. Farmer further agrees to indemnify and hold Landowner harmless against any and from all liabilities which may arise by virtue of environmental degradation of the Leased Premises or surrounding area caused by actions or omissions of the Farmer. Such indemnification and hold-harmless requirement applies to any damages governed by, but not limited to, the statutory law and case law of the State of Wisconsin and the United States government. Violation indicates violations of any rules or regulations of the Wisconsin Department of Natural Resources or the United States Environmental Protection Agency. Liability is deemed to include responsibility for all remedial steps including liability for the costs of any court proceedings, necessitated by the environmental damage caused by Farmer. Liability shall also extend to any claims filed against Waupaca County or to Farmer by third-parties alleging damages to such parties arising out of the actions of the Farmer.

Waupaca County does not waive, and specifically reserves, its rights to assert any and all available defenses and limitations of liability as specifically set forth in Wisconsin Statutes, Chapter 893 and related statutes.

12. Insurance: Farmer shall keep in effect, at its sole expense, a comprehensive general liability policy or policies satisfactory to the Landowner covering the Leased Premises and providing coverage with combined single limits of \$1,000,000.00 for bodily injury and property damage. The County shall be afforded a thirty day (30) written notice of cancellation or non-renewal. Such policy shall name the Landowner as an additional insured, and a copy of such policy, or a certificate thereof, shall be delivered to Landowner prior to the execution of this Lease for review and approval by Waupaca County's Purchasing and Asset Manager.

13. Additions, Changes, Alterations and Demolition: Farmer shall not construct improvements upon the Leased Premises, demolish improvements upon Leased Premises, and/or make additions to or structural changes or alterations in and upon, any or all of such improvements, or other improvements upon the Leased Premises, without the written consent of the Landowner, which consent shall not be unreasonably withheld. Such work shall be performed in a good and workmanlike manner at the sole expense of the Farmer. Any wetlands or farmed wetlands on any Waupaca County property shall not be graded, filled or drained in any way. Any surface or subsurface drainage alterations of any parcel included in this Lease shall be conducted only with the prior written permission of the Landowner. Any improvements or additions upon the Leased Premises at the expiration of this Lease shall be deemed part of the Leased Premises and shall be rendered to the Landowner in good condition and repair, reasonable wear and tear and damage by fire or other casualty not occurring through the neglect of the Farmer excepted. Removal, cutting or pruning of any trees or other woody vegetation on any Waupaca County-owned land is prohibited unless conducted with the prior written permission of Landowner.

14. Mechanic or Construction Liens: Farmer shall not permit, create, incur or impose or cause or suffer others to permit, create incur or impose any lien or other obligation against the Leased Premises or the Landowner by reason of any work performed or materials furnished by, to or for the account of the Farmer, and the Farmer agrees to hold the Landowner harmless of and from any and all claims or demands by any contractor, subcontractor, material man, laborer or any other third person against the Leased Premises or the Landowner relating to or arising because of such work or materials.

15. Warranty of Quiet Possession: Landowner hereby warrants and covenants that it has good and marketable title to the Leased Premises and has full authority to execute this Lease, and further agrees that the Farmer, upon paying rent at the time and manner aforesaid, and performing and keeping all of the covenants and conditions of this Lease by it to be kept and performed, may have and shall quietly have, hold, and enjoy the Leased Premises during the term hereof.

16. Assignment and Subletting: Farmer shall not assign or sublease all or any interest in this Lease without the prior written consent, in each instance, of Landowner, which consent may be withheld or denied by Landowner at its sole and absolute discretion.

17. Termination of Lease: This Lease shall terminate at the end of the term or earlier if by mutual agreement. The Lease may also be terminated at the option of the Landowner, if any of the following circumstances occur:

- a. If a Farmer is found to be subleasing the parcel to another entity.
- b. In the case of non-payment of rent due by the dates specified in the contract.

- c. In the case of non-compliance with any of the terms of the contract.
- d. If the Farmer is found to be utilizing, or allowing others to be use the land for any purpose other than the approved agricultural practices, including but not limited to, the following:
 - i. Hunting, trapping
 - ii. ATV/UTV operation
 - iii. Snowmobiling
 - iv. Equipment or material storage
 - v. Dumping
 - vi. Firewood collection
 - vii. Any other activity prohibited by County or local Ordinances
- e. If a Farmer is found to be in violation of any federal, state or local law or regulations or County Ordinances on, or related to, land management, including United States Department of Agriculture and Wisconsin Department of Natural Resources policies and regulations.

If a parcel included in this agreement is required for County use, Section 6 above controls.

18. Remedies: Rent payment shall be made as stated herein without delay. If payment is not received, Farmer shall have ten (10) days to make such payment or Landowner shall notify Farmer that the Lease has been terminated. Termination shall be effective on the date specified by the Landowner in its notice to the Farmer which date shall allow for any grace period specified in this Lease. Upon such termination, Landowner may reenter the Leased Premises with or without process of law using such force as may be necessary, and remove all persons and chattels therefrom and Landowner shall not be liable for damages or otherwise by reason of reentry or termination of the term of this Lease. **Any crops remaining on the Leased Premises at the time notice of termination is given shall become the property of the Landowner.**

No receipt of money by Landowner from Farmer after termination of this Lease or after the service of any notice or after the commencement of any suit, or after final judgment for possession of the Leased Premises shall reinstate, continue or extend the term of this Lease or affect any such notice, demand or suit.

All rights and remedies of the Landowner herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law or equity, and such rights and remedies may be exercised and enforced concurrently and whenever and as often as the occasion therefore arises. The failure or forbearance on the part of the Landowner to enforce any of its rights or remedies in connection with any default shall not be deemed a waiver of such default, nor a consent to any continuation thereof, nor a waiver of the same default at any subsequent date.

Any actions taken by the Landowner under the provisions of this Lease, or to enforce the provisions of this Lease, or to declare a termination of the Farmer's interest under this Lease, or to repossess itself of the Leased Premises (whether through the medium of legal proceedings instituted for that purpose or otherwise), shall not, in any event, release or relieve the Farmer from its continuing obligations hereunder, including, without limitation, its continuing obligation to make all payments herein provided.

19. Abandonment of Farmer's Property: If, upon termination of this Lease (whether by lapse of time or otherwise), the Farmer fails to remove any property belonging to it, the same shall be deemed abandoned by the Farmer and shall become the property of Landowner.

20. Surrender at Termination: At the termination of this Lease for any reason, the Farmer shall quietly and peaceably surrender possession of the Leased Premises (and any improvements located thereon) to the Landowner, maintained as herein provided and free of any and all claims thereto by the Farmer or any party holding under the Farmer.

21. Successors and Assigns: Except as otherwise herein provided, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, as the case maybe unless the Farmer violates the provisions hereof or Landowner determines, at its sole and absolute discretion, to cancel the Lease.

22. Consent of Landowner: Whenever the consent of the Landowner is required under this lease, such consent shall be obtained from the Landowner in writing at the address listed below.

23. Notices: All notices with respect to this Lease shall be in writing. Except as otherwise expressly provided in this Lease, a notice shall be deemed duly given and received upon delivery, if delivered by hand, or three days after posting via US Mail, to the party addressed as follows:

If to Landowner: Waupaca County Clerk Jill Lodewegen
811 Harding Street
Waupaca, WI 54981

If to Farmer:

Either party may designate a new address for purposes of this Lease by written notice to the other party. This Lease can be revised only by written mutual agreement by all Parties.

24. Lack of Agency: Nothing contained in this Lease shall be deemed or construed by the parties nor by any third party as creating the relationship of principal and agent of or partnership or of joint venture between the parties.

25. Totality and Severability: This document constitutes the sum and total agreement between the Landowner and Farmer. Any other understandings or agreements are null and void unless in writing and incorporated by reference into this document. Should any section, clause or provision of this lease be found to be unenforceable, all other sections, clauses and provisions shall remain in full force and effect.

26. Acknowledgement: Farmer acknowledges that it has received a copy of (1) this Agricultural Lease Agreement; and (2) the Agricultural Land Lease Policy, and has read the documents and fully understands the terms and conditions of each and that Farmer will comply with all the terms and conditions. Farmer further acknowledges that it has had sufficient time and opportunity to consult with advisors of your own choosing about the potential benefits and risks of entering into this Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands as follows:

Waupaca County

by _____

Date _____

Farmer

by _____

Date _____

END OF DOCUMENT

VERSION: February 9, 2018