

**LEASE AGREEMENT**

**TO BENEFIT**

**AND**

**Agrarian Land Trust  
And to be assigned  
West Virginia Agrarian Commons**

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THIS LEASE AGREEMENT ("Lease") is effective as of the 19th of May 2022 ("Effective Date") by and between Agrarian Land Trust, a duly authorized California non-profit corporation, with a principal place of business located at P.O.Box 195, Weare, New Hampshire 03281, ("Lessor" or "Agrarian") including its successors and assigns West Virginia Agrarian Commons, and New Roots Community Farm ("Lessee") and its successor entities and assigns, if any. The Lessor and Lessee are collectively called the "Parties."

#### **PREAMBLE**

The purposes of this Lease are intended to be consistent with and in furtherance of all applicable state and federal laws.

Agrarian is organized for public welfare purposes, per section 501(c)(3) of the Internal Revenue Code, including:

- (a) To hold title to real property in order to protect agricultural lands from real estate speculation, unsustainable development, and to promote the renewal of the living earth as the foundation of sustainable communities;
- (b) To hold title to real property to protect affordable agricultural land and housing access;
- (c) To protect ecological integrity on diversified farmland that serves local communities through cultural, educational, vocational, agricultural, spiritual, and recreational activities; and
- (d) To support, develop, and share equitable and ecologically responsible land care practices and models of agrarian livelihood.

#### **RECITALS**

WHEREAS, this Lease recognizes the land management and infrastructure improvements that prioritize an agrarian landscape and support other local businesses, especially women-led and BIPOC-led businesses (Black, Indigenous, and People of Color).

WHEREAS, the Parties acknowledge the ownership, conservation, and protection mechanisms and encumbrances that exist in: (1) the national Agrarian Trust and local West Virginia Agrarian model; (2) conservation easements; (3) development restrictions; and/or other zoning protections.

WHEREAS, this Lease recognizes that the Leased Premises are subject to terms, conditions and restrictions memorialized as **EXHIBIT 1** (conservation easement dated 25th day of February, 2022, recorded with Fayette County Farmland Protection Board on \_\_\_\_\_ in Book 821, page 731).

WHEREAS, the Parties will strive to further develop and expand upon resource sharing agreements, recognizing that both Parties have shared philosophies and practices that can benefit cultural, educational, and vocational objectives.

WHEREAS, Lessor wishes to provide to Lessee long-term and affordable, non-extractive, and equitable access to agricultural premises to enable agricultural production, a viable business, and healthy soil for the long-term and Lessee desires such use for such ends.

WHEREAS, Lessee shares the purposes and goals of Agrarian and Agrarian and enters this Lease to further those charitable purposes.

NOW THEREFORE, Lessee and Agrarian agree on all the terms and conditions of this Lease as set forth in this Lease.

## ARTICLE I. DEFINITIONS

1.1 “Leased Premises” as described in the Property Description at **EXHIBIT 2** including:

- (a) Circa 1939 one and a half story farmstead house
- (b) Brick outbuilding behind the homestead and a well house.
- (c) 3,019 square feet market barn
- (d) 45 square feet toolshed
- (e) 1,584 square feet high tunnels (2)
- (f) 1,400 square feet high tunnels (2)
- (g) 2,760 square feet high tunnel
- (h) 3,840 feet of 4 feet fixed knot woven wire fencing
- (i) 2,700 feet of 8 feet fixed knot woven wire deer fence
- (j) 2,600 feet of 8 feet fixed knot woven wire fencing

1.3 Lease Term: Two (2) Years with mutual intention to renew to a ninety-nine (99) year lease term after March 1, 2024 and with transfer of lessor interests to the West Virginia Agrarian Commons.

1.4 Lease Commencement Date (also known as the Effective Date): May 19, 2022

1.5 Operating Charges: As defined in Section 5.4.

1.6 Stewardship Contribution: As defined in Section 5.6.

1.7 Lessee Notice Address: 167 Wolf Creek Road Fayetteville, WV 25840

1.8 Lessor Notice Address: PO Box 195, Weare, NH 03281-0195

1.9 Lessor Payment Address: PO Box 195, Weare, NH 03281-0195

**ARTICLE II.** Intentionally omitted.

**ARTICLE III. USE AND OCCUPANCY**

3.1 Agrarian leases to Lessee, and Lessee leases from Agrarian the Leased Premises upon the conditions and covenants set forth in this Lease.

3.2 Subject to Section 3.14, Lessee shall use and occupy the Leased Premises for the broadest definition of agriculture including: production of feed, forage, grains, vegetables, fruit, and non-timber forest products; animal husbandry; and related agricultural purposes that support land and/or community health including agritourism, agri-education, land restoration and stewardship, and soil improvement. Lessee shall not use or occupy the Leased Premises for any unlawful purpose, or in any manner that will constitute waste or nuisance. Lessee shall comply with all present and future laws concerning the use, occupancy, and condition of the Leased Premises and all machinery and equipment used thereon, all of which shall be complied with in a timely manner at Lessee's sole expense. Lessee shall obtain, renew, and provide copies to Lessor, all at Lessee's sole expense, all entitlement, permits, and approvals required for Lessee's use or occupancy of the Leased Premises. Use of the Leased Premises is subject to all covenants, conditions, and restrictions of record, including any existing conservation easements.

3.4 Subject to Section 3.14, the Leased Premises will be managed to achieve some or all of the land objectives described below, including: (1) soil health, (2) flora, fauna, and habitat diversity, (3) sustainable grazing, foraging, and hay land, (4) a healthy ecosystem, and (5) to protect water quality and quantity.

3.5 Subject to Section 3.14, the agricultural land will be maintained in sod, for use as, productive hay and pasture grazing land, with the exception of land: (1) in food production agriculture; (2) planted in cover crop to address soil restoration, improvement, and overall health; (3) for a land management objective, including forestry and pollinator habitat; (4) managed for agroforestry; and/or (5) that is converted for development or infrastructure, as allowed by this Lease.

3.6 Subject to Section 3.14, the land will be maintained in active agricultural and active ecosystem stewardship at all times. Active, including grace periods to support personal, climate, and business considerations, shall be defined in the Management Plan or the Pre-Existing Plan (both "plans" defined subsequently).

3.7 Subject to Section 3.14, habitat land will primarily be managed for food and shelter production for wildlife. Subject to Section 3.14, Lessee obtains use of forest and habitat land for rotational grazing and foraging only as long as soil health and compaction are monitored and maintained at appropriate markers as determined through collaboration with WVU and WVSU Extension, Natural Resources Conservation Services, or other similar organization. Rotational

grazing and foraging on forest or habitat lands will utilize temporary electric fence for no longer than six (6) months, followed by cover crop and an appropriate rest.

3.9 Subject to Section 3.14, wild land will be primarily natural and may not be used for any agricultural and/or production purpose.

3.10 Subject to Section 3.14, Lessee agrees to complete appropriate soil tests to establish a baseline, for all areas to be actively used. Lessee shall provide copies of all soil tests to Agrarian. Lessee then agrees to complete follow up soil testing on a schedule agreed to between Lessee and Agrarian.

3.11 Subject to Section 3.14, Lessee will adhere to Agrarian Trust Principles and Agrarian Farm, Forest, and Ecosystem Standards, if any.

3.12 Notwithstanding the rights to reasonable self-defense from parties or actions posing immediate physical danger to persons or the Leased Premises, subject to Section 3.14, Lessee shall use the Leased Premises in a manner so as not to cause harm to others, including workers, or to support activities that intentionally seek to denigrate, demean, or discriminate against persons on the basis of race, ethnicity, gender identity and expression, sexual orientation, class background or identity, age, ability, or religion.

3.13 Subject to this Lease, so long as Lessee performs all of its obligations under this Lease, Lessee has the right to not be disturbed in its possession of the Leased Premises by Agrarian, any management agent contracted by Agrarian, or any other person lawfully claiming a right to possession through or under Agrarian, except for inspection pursuant to Section 11.

3.14 The Parties shall, within six (6) months of the Effective Date of this Lease, develop a mutually agreeable Management Plan to address the uses permitted and obligations established by this Lease, including agriculture, storage, management objectives, forest, habitat, wild lands, soil testing, Principles, and inclusion described in Sections 3.2, 3.5, 3.6; 3.3; 3.4; 3.7; 3.8; 3.9; 3.10; 3.11; and 3.12, respectively. Where any management plan called for by a conservation easement, the Natural Resources Conservation Service, or similar already exists ("Pre-existing Plan"), the Parties may opt to waive the requirement of the Management Plan called for in this Section and instead adopt the Pre-existing Plan. The Management Plan or the Pre-existing Plan shall be incorporated into this Lease as **EXHIBIT 4**.

3.15 This Lease also includes the right of Lessee to extract groundwater, including drilling wells, and surface water, so long as such water use: (1) is necessary to accomplish the permitted uses; (2) is otherwise consistent with this Lease; and (3) complies with all applicable laws.

3.16 Any policy regarding public access to the Leased Premises is to be determined jointly by Lessor and Lessee and included in the Management Plan required in Section 3.14. In the event of any conflict with respect to public access between this Lease and any conservation easement, the terms of any conservation easement shall prevail.

3.17 Whether the plan in force is a Management Plan or a Pre-existing Plan, it shall be updated at least every year and shall also be updated upon the occurrence of any significant change of circumstances. Absent a significant change of circumstances, this update requirement is not intended to be onerous. If circumstances have changed only minimally, the update may be limited to brief conference between the parties resulting in a brief writing that circumstances have changed only minimally and the plan in force will continue in force.

#### **ARTICLE IV. TERM**

4.1 The term shall be two (2) years, beginning on the Effective Date and terminating on May 19, 2024, unless terminated sooner. Any lots/land added to the Leased Premises, regardless of when they are added, will run continuously with this term. The lease shall renew to a ninety-nine (99) year lease term after March 1, 2024 and with transfer of lessor interests to the West Virginia Agrarian Commons.

4.2. [intentionally omitted]

4.3 "Lease Year" shall mean a period of twelve (12) consecutive months commencing on the Effective Date, and each successive twelve (12) month period thereafter.

4.4 This Lease is intended to be a flexible framework that will allow the Parties' relationship to grow without having to renegotiate its terms. Changes can be made in the Lease pursuant to Section 4.6 below.

4.5 Both Parties shall review the status of this Lease and confer with each other at a minimum at least once every year, concurrent with review of the Management Plan or Pre-existing Plan pursuant to Section 3.17, to be sure that both Parties are reasonably satisfied with its terms and that it continues to accurately reflect the mutual understanding of both Parties.

4.6 The Parties shall review the status of this Lease and confer with each other when a substantive change is intended, such as new land additions, new conservation or other easements, modifications to existing conservation or other easements, changes in use of the farm or forest lands, construction of any new buildings, upgrade any existing buildings, change in use of any buildings, or similar occasions. This review shall take place in person at a mutually agreed upon time and location with at least a majority interest of both Agrarian and Lessee represented. Mutually agreed upon substantive changes to this Lease can be accomplished with a written addendum to this Lease signed by the Parties.

4.7 In the event that ownership of, or title to, the Leased Premises is conveyed or transferred, voluntarily or involuntarily, by Agrarian to any other person or entity, this Lease shall not cease, but shall remain binding and unaffected.

#### **ARTICLE V. OPERATING CHARGES, STEWARDSHIP CONTRIBUTION, AND REAL ESTATE TAXES**

5.1 Lessee shall be responsible for payment of the Lease Fee, all Operating Charges, the Stewardship Contribution, and all Real Estate Taxes, all as subsequently defined. By mutual agreement of the Parties in writing, the Lease Fee and Stewardship Contribution will be reassessed: (1) at least every two (2) years or sooner than every two years when a significant change occurs with farm productions and operations; sales, market, or community; and/or stewardship needs or goals.

5.2 "Lease Fee" shall be \$1,500.00 ("Base Rent") to be paid annually, with one year's payment of \$1,500.00 Base Rent paid upon the Effective Date and each subsequent Base Rent being due prior to the expiration of each Lease Year. This Lease Fee considers farm viability, ecological stewardship, and Agrarian management. The intent of the Lease Fee is to cover all expenses relating to ownership and stewardship of Agrarian, including administrative costs; to contribute to the long-term sustenance of Agrarian and its mission; and to provide Lessee long-term and affordable, non-extractive, and equitable agricultural premises to enable agricultural production, a viable business, and healthy soil for the long-term. If Lessee is BIPOC, the Lease Fee can be reduced by the amount of the indigenous solidarity payment and disenfranchised farmer support payment. Lessee shall pay the Lease Fee to the Lessor.

5.3 "Solidarity Payment" shall mean an amount mutually agreed to by the parties for purposes of indigenous solidarity and/or disenfranchised farmer support payment.

5.4 "Operating Charges" shall mean all expenses incurred in the operation, maintenance, and repair of the Leased Premises, including the following: (1) water, electricity, and other utility charges of every type and nature; (2) premiums and other charges for insurance and deductibles under such insurance policies; (3) any business, professional, and occupational license tax payable by the Lessee with respect to the Leased Premises; (4) any costs to comply with legal or insurance requirements applicable to the Leased Premises; and (5) any other expense incurred in maintaining the Leased Premises.

5.5 To the extent possible, Lessee shall be billed directly for Operating Charges and Real Estate Taxes and pay directly to the bill/invoice issuer. To the extent not possible for Lessee to be billed and pay directly, Lessor shall be billed and pay the bill/invoice issuer in the first instance. In such case, Lessee shall reimburse Agrarian on account of the amount of the Operating Charges and Real Estate Taxes that are incurred by Agrarian during the Lease Term. Agrarian shall submit a statement, at least quarterly, setting forth such Operating Charges and Real Estate Taxes to Lessee. Lessee shall pay to Agrarian the full amount of such Operating Expenses and Real Estate Taxes within sixty (60) days after Lessee's receipt of such statement. Lessee's obligations under this Section incurred up to the expiration or earlier termination of this Lease shall survive the expiration or earlier termination of this Lease.

5.6 "Stewardship Contribution" shall be something of value contributed by Lessee for the purpose of Lessor being able to use stewardship contributions for the proactive betterment of the Leased Premises and the activities permitted by this Lease to be made on such Leased Premises. Stewardship Contribution will be dynamic and targeted as stewardship must be. The



Stewardship Contribution shall be mutually agreed to by both Parties in writing and can be in a financial fee, goods, service, investment, management, time, or other valuable consideration.

5.7 "Real Estate Taxes" shall mean: (1) all real estate taxes, special user fees, rates, and assessments (including general and special assessments, if any), ordinary and extraordinary, foreseen and unforeseen, which are assessed against the Leased Premises; and (2) any other present or future taxes or governmental charges that are assessed against the Leased Premises which are in the nature of or in substitution for real estate taxes, including any tax levied on or measured by the rents payable by lessees of the Leased Premises. Notwithstanding the foregoing, Real Estate Taxes shall not include any inheritance, estate, gift, franchise, corporation, net income, or net profits tax assessed against Agrarian from the operation of the Leased Premises, including all costs, fees, taxes, and charges associated with Agrarian's other uses, subleases and/or all forestry or Agrarian-created agricultural products of the land.

5.8 Lessee shall have the right to contest the amount or validity of any taxes or assessments on the Leased Premises. Agrarian may, upon written request by the Lessee, join in any such proceedings if Agrarian shall reasonably determine that it shall be necessary or convenient for Agrarian to so join in order for the Lessee to prosecute such proceedings. All costs and expenses of such proceedings shall be paid by the Lessee.

5.9 From and after notice (by the taxing authority having jurisdiction, or by Agrarian) that the Lessee is delinquent in payment of any taxes, Agrarian may require that some or all of such payments be made to Agrarian as an additional payment, with payment due monthly in an amount (the "Advance Tax Payment") determined by Agrarian based on its estimate of the taxes to be escrowed so that Agrarian will hold a sufficient amount to pay all such taxes not less than thirty (30) days prior to the date on which such items become due and payable. Agrarian shall keep Advance Tax Payments in a tax escrow account. Such tax escrow account may contain funds collected for such purpose from other Lessees of Agrarian. Agrarian shall not be entitled to any interest on the payments made. Lessee's failure to make Advance Tax Payments as a remedy to the event of failure to pay taxes described herein shall constitute a default as described in Article XV of this Lease Agreement. The curing of such default shall proceed according to Article XV and must include a repayment plan with Agrarian for all payments Agrarian made on behalf of Lessee.

5.10 Lessee shall pay before delinquency any business, rent, or other taxes or fees that are now or hereafter levied, assessed, or imposed upon Lessee's use of the Leased Premises, the conduct of Lessee's farming operations on the Leased Premises, or the use of Lessee's equipment, inventory, or personal property. If any such tax or fee is enacted or altered so that such tax or fee is levied against Agrarian or so that Agrarian is responsible for collection or payment thereof, then Lessee shall pay as additional rent the amount of such tax or fee.

## **ARTICLE VI. INDEMNIFICATION and HOLD HARMLESS**

6.1 Lessee shall not cause or permit any Hazardous Materials (as defined herein) to be generated, used, released, stored, or disposed of in or about the Leased Premises in such a way

as to cause waste. At the expiration or earlier termination of this Lease, Lessee shall surrender the Leased Premises to Agrarian free of Hazardous Materials and in compliance with all Environmental Laws. "Hazardous Materials" means: (1) synthetic pesticides; (2) asbestos and any asbestos containing material and any substance that is then defined or listed in, or otherwise classified pursuant to, any Environmental Law or any other applicable Law as a "hazardous substance," "hazardous material," "hazardous waste," "infectious waste," "toxic substance," "toxic pollutant" or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or Toxicity Characteristic Leaching Procedure (TCLP) toxicity; (3) any petroleum and drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources; and (4) polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive material (including any source, special nuclear, or by-product material), medical waste, chlorofluorocarbon, lead or lead-based product, and any other substance whose presence could be detrimental to the Leased Premises or hazardous to health or the environment. "Environmental Law" means any present and future law and any amendments (whether common law, statute, rule, order, regulation or otherwise), permits and other requirements or guidelines of governmental authorities applicable to the Leased Premises and relating to the environment and environmental conditions or to any Hazardous Material (including, CERCLA, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Clean Air Act, 33 U.S.C. § 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 1101 et seq., the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq., and any so-called "Super Fund" or "Super Lien" law, any law requiring the filing of reports and notices relating to hazardous substances, environmental laws administered by the Environmental Protection Agency, and any similar state and local Laws, all amendments thereto and all regulations, orders, decisions, and decrees now or hereafter promulgated thereunder concerning the environment, industrial hygiene or public health or safety).

6.2 Notwithstanding any termination of this Lease, Lessee shall indemnify and hold Agrarian harmless from and against any damage, injury, loss, liability, charge, demand, or claim based on or arising out of the presence or removal of, or failure to remove, Hazardous Materials generated, used, released, stored, or disposed of by Lessee in or about the Leased Premises. In addition, Lessee shall give Agrarian immediate verbal and follow-up written notice of any actual or threatened Environmental Default, as subsequently defined, which Environmental Default Lessee shall cure in accordance with all Environmental Laws and to the satisfaction of Agrarian and only after Lessee has obtained Agrarian's prior written consent, which shall not be unreasonably withheld. An "Environmental Default" means any of the following by Lessee: a violation of an Environmental Law; a release, spill, or discharge of a Hazardous Material on or from the Leased Premises; an environmental condition requiring responsive action; or an emergency environmental condition. Upon any Environmental Default, in addition to all other rights available to Agrarian under this Lease, at law or in equity, Agrarian shall have the right but not the obligation to immediately enter the Leased Premises, to supervise and approve any

actions taken by Lessee to address the Environmental Default, and, if Lessee fails to immediately address same to Agrarian's satisfaction, to perform, at Lessee's sole cost and expense, any lawful action necessary to address same. If any governmental agency shall require testing to ascertain whether an Environmental Default is pending or threatened, then Lessee shall pay the reasonable costs as additional rent. Promptly upon request, Lessee shall execute from time-to-time affidavits, representations, and similar documents concerning Lessee's best knowledge and belief regarding the presence of Hazardous Materials on the Leased Premises.

## **ARTICLE VII. ASSIGNMENT, SUBLETTING, AND FINANCING**

7.1 Lessee shall not assign, transfer, or otherwise encumber (collectively, "assign") this Lease or all or any of Lessee's rights hereunder or interests herein, or sublet or permit anyone to use or occupy (collectively, "sublet") the Leased Premises or any part thereof, without prior written approval from Agrarian. Such approval shall not be withheld provided that the Lessee can demonstrate that the requested approval will further agricultural and economic collaboration across lands and farmers and that such collaboration or activity will be consistent with Agrarian's goals. If Agrarian permits subleasing, the sublessee shall agree in writing to be subject to all terms of this Agreement.

7.2 Except as allowed in the Preamble, any event (whether voluntary, concurrent, or related) resulting in a dissolution, merger, consolidation, or other reorganization of Lessee, or the sale or transfer or relinquishment of the interest of shareholders who, as of the date of this Lease, own a controlling interest of the capital stock of Lessee, shall be deemed an assignment of this Lease subject to the provisions of this Article. In addition, a transfer of all or substantially all of the assets of Lessee, either by merger, consolidation, or otherwise shall be deemed to be an assignment. This Lease does recognize, and Agrarian does recognize, and consent to allow Lessee to reorganize and transfer the Lease, in full.

7.3 Notwithstanding the foregoing Lessor may assign, pledge, or otherwise encumber its interest in this Lease for financing purposes with the written consent of the Lessee as long as the lender subordinates its financing to this Lease Agreement.

## **ARTICLE VIII. MAINTENANCE AND REPAIRS**

8.1 Lessee, at Lessee's sole cost and expense, shall promptly make all repairs, perform all maintenance, and make all replacements in and to the Leased Premises that Lessee is the primary user of to keep the Leased Premises in good, safe, farmable condition, and otherwise in accordance with all laws and the requirements of this Lease. Lessee shall suffer no waste or injury to any part of the Leased Premises, and shall, at the expiration or earlier termination of the Lease Term, surrender the Leased Premises in an order and condition equal to or better than their order and condition on the Effective Date, except for ordinary wear and tear and damage by the elements. Except as otherwise provided, all damage to the Leased Premises caused by any act or omission of Lessee, shall be repaired by and at Lessee's expense, except that Agrarian shall have the right with written notification to the Lessee to make any such repair

and to charge Lessee for all reasonable costs and expenses incurred. In the event Lessee is unable to make needed repairs, Lessee shall so notify Lessor immediately.

#### **ARTICLE IX. WASTE**

9.1 Acknowledging that improvements have a limited lifetime, waste is considered beyond normal wear and tear to the property, and consists of the following: (1) voluntary waste occurs if Lessee intentionally or negligently causes harm to the land or other assets depleting any and all-natural resources; (2) Lessee is passively negligent, failing to maintain the property physically or financially (e.g. failure to pay property taxes, violation of conservation easement, non-report of mold in homes or buildings); (3) Lessee makes unauthorized improvements to the Leased Premises (e.g. constructing a building in violation of a conservation easement or converting agricultural zoned land to commercial use); (4) Lessee commits waste (e.g. extracting minerals, eroding the soil, or heavy application of a deadly fertilizer).

9.2 If Lessee commits any type of waste on the property referenced in Section 9.1 and all dispute resolution provisions have been exhausted per Section 19.14, the Lessee may opt for a no-fault termination of the Lease whereby the Lessee must vacate the property. If Lessee does not opt for no-fault termination of this Lease, then Lessor may commence a lawsuit, including against Lessee, to recoup monetary damages and/or possession of the Leased Premises. The Lessee will also be held responsible for any waste committed by any and all assignee(s), visitor(s), and/or temporary guest(s).

9.3 Agrarian does not lease to the Lessee the right to remove, mine, or extract from the Leased Premises any minerals, including any form of oil, gas, or coal, lying within or beneath the surface. Ownership of such minerals remains with Agrarian, and Agrarian shall not remove any such minerals from the Leased Premises or lease the mineral rights to any entity.

#### **ARTICLE X. IMPROVEMENTS**

10.1 Lessee is under no obligation to make any structural or other alterations, decorations, additions, improvements, or other changes (collectively, "Improvements") on or to the Leased Premises.

10.2 If any Improvements are made:

- (a) and there is no other reviewing entity, they will be made after review and written consent by Agrarian, which shall not be unreasonably withheld or delayed. Agrarian shall respond within 60 calendar days and if not, the request shall be deemed to be approved. If improvements are made without the prior written consent of Agrarian, Agrarian shall have the right at Lessee's expense to remove and correct such Improvements and restore the Leased Premises to its condition immediately prior thereto, or to require Lessee to do the same.

- (b) and approval is required from a municipal Planning Board, a holder of a Conservation Easement, or similar entity vested with decision-making jurisdiction, Lessee shall seek such approval, contemporaneously providing a written copy of the request for such approval to Agrarian and then provide Agrarian a copy of the entity's decision. So long as the entity approves construction of the improvement, and the Lessee has followed the requirements of this subparagraph, Lessee need not obtain approval of Agrarian for construction of the improvement approved by the entity.

10.3 All Improvements made by Lessee, whether purchased, constructed, or installed, on any part of the Leased Premises at any time during this Lease shall become the property of Lessee.

- (a) So long as Lessee is not in default under this Lease, Lessee shall have the following rights with respect to Improvements.
- (b) Lessee shall have the right, but not the obligation, to remove any non-permanent Improvements, including, arbors, movable sheds, appliances, solar panels, and other structures not anchored permanently to below-grade foundations, and to return the land to its original condition.
- (c) Lessee may remove permanent Improvements only with the prior written consent of Agrarian, which Agrarian in its sole discretion may withhold for reasons related to its organizational purposes.
- (d) For all improvements made by Lessee and not removed from the Leased Premises, Lessor shall compensate Lessee for associated costs, less depreciation value within one year after termination of this Lease or on a schedule mutually agreed to by the Parties in writing. The Parties shall mutually agree in writing upon the manner of determining valuation, which may be having a formal appraisal prepared, with costs of that to be paid as mutually determined by the Parties.

10.4 At the expiration or earlier termination of the Lease Term, if the Leased Premises is not returned to its original condition or in better condition than its original condition Agrarian shall have the right at Lessee's expense to repair all damage and injury to the Leased Premises caused by Improvements or to require Lessee to do the same.

#### **ARTICLE XI. INSPECTION**

11.1 Agrarian may inspect any part of the Leased Premises, except the interiors of fully enclosed buildings, at any reasonable time after notifying the Lessee at least 48 hours before inspection. No more than four (4) regular inspections may be carried out in a single year, except in the case of an emergency, a report of a potential Lease violation, or in the event of an ongoing Lease violation. In such exceptional cases, Agrarian may inspect any part of the Leased Premises except the interiors of fully enclosed buildings, after making reasonable efforts to inform the Lessee before inspection. Except in the event of an emergency, Agrarian shall use all

reasonable efforts to minimize disruption to Lessee's farming operations in connection with any such entry.

## **ARTICLE XII. INSURANCE**

12.1 Throughout the Lease Term, Lessee and Lessor shall obtain and maintain, at a minimum, the following insurance:

- (a) General liability insurance (written on an occurrence basis) including contractual liability coverage insuring the obligations assumed by Lessee under this Lease in minimum amounts typically carried by prudent lessees engaged in similar farming operations, but in no event shall be in an amount less than \$1 Million Dollars (\$1,000,000.00) combined single limit per occurrence with a \$1 Million Dollar (\$1,000,000.00) annual aggregate.
- (b) At least as required by law, worker's compensation insurance for all employees at or above minimum limits as defined by the law of the jurisdiction in which the Leased Premises is located (as the same may be amended from time to time).

12.2 All insurances shall be adjusted to match usual and customary practices by similar organizations, as it is not possible to delimit or predict an appropriate amount over the Lease term.

12.3 All insurance shall:

- (a) Be issued by a company that is licensed to do business in the jurisdiction in which the Leased Premises is located, and that has been approved in advance by the Parties;
- (b) Name the Parties as additional insured/loss payee;
- (c) Contain an endorsement that such policy shall remain in full force and effect notwithstanding that the insured may have waived its right of action against any party prior to the occurrence of a loss (both Parties hereby waiving their right of action and recovery against and releasing each other from any and all liabilities, claims, and losses for which they may otherwise be liable to the extent they are covered by insurance carried or required to be carried under this Lease);
- (d) Provide that the insurer thereunder waives all right of recovery by way of subrogation against the Parties, in connection with any loss or damage covered by such policy;
- (e) Be acceptable in form and content to the Parties;

- (f) Contain an endorsement prohibiting cancellation, failure to renew, reduction of amount of insurance, or change in coverage without the insurer first giving the Parties thirty (30) days' prior written notice (by certified or registered mail, return receipt requested) of such proposed action; and
- (g) Not contain any deductible provision except for a commercially reasonable deductible.

12.3 Agrarian reserves the right from time to time to require Lessee to obtain higher minimum amounts, situational, or different types of insurance if it becomes customary for other lessors of farmland in WV to require similar-sized farms to carry insurance of such higher minimum amounts or of such different types of insurance.

12.4 The Parties shall deliver a certificate of all such insurance and receipts evidencing payment (and, upon request, copies of all required insurance policies, including endorsements and declarations) to each other concurrently with execution of this Lease and at least annually thereafter.

12.5 Lessee shall give Agrarian immediate notice in case of fire, theft, or accident on the Leased Premises, and in the case of fire, theft, or accident on the Leased Premises if involving Lessee.

12.6 Neither the issuance of any insurance policy required under this Lease, nor the minimum limits specified herein shall be deemed to limit or restrict in any way Lessee's liability arising under or out of this Lease.

12.7. In the event Agrarian shall be required to pay any sum that is the Lessee's responsibility or liability, the Lessee shall reimburse Agrarian for such payment and for reasonable expenses caused thereby.

### **ARTICLE XIII. LIABILITY OF LESSOR**

13.1 Except as otherwise set forth in Section 13.4, below, Agrarian shall not be liable to Lessee or any other person or entity for any damage (including indirect and consequential damage), injury, loss, or claim (including claims for the interruption of or loss to business) based on or arising out of any cause whatsoever, including, interruption in the use of the Leased Premises; any accident or damage resulting from any use of the Leased Premises or the operation on the Leased Premises of equipment or apparatus; termination of this Lease by reason of damage to the Leased Premises; or any fire, robbery, theft, vandalism, mysterious disappearance, or any other casualty.

13.2 If any condition exists which may be the basis of a claim of constructive eviction, then Lessee shall give Agrarian written notice thereof and a reasonable opportunity to correct such condition, and in the interim Lessee shall not claim that it has been constructively evicted or is entitled to a rent abatement.

13.3 Any Improvement or property placed by Lessee on the Leased Premises shall be at the sole risk of Lessee, and Agrarian shall not in any manner be held responsible therefor. Any person receiving an article delivered for Lessee shall be acting as Lessee's agent for such purpose and not as Agrarian's agent.

13.4 Notwithstanding the foregoing Sections of this Article 13, Agrarian shall not be released from liability to Lessee for any physical injury to any person or property damage caused by the gross negligence or willful misconduct of Agrarian to the extent such injury or damage is not covered by insurance (a) carried by Lessee or other person, or (b) required by this Lease to be carried by Lessee.

13.5 Except to the extent caused by the gross negligence or willful misconduct of Agrarian, Lessee shall reimburse Agrarian for (as additional rent), and shall indemnify, defend upon request, and hold them harmless from and against all costs, damages, claims, liabilities, expenses (including attorneys' fees), losses, penalties, and court costs suffered by or claimed against them, directly or indirectly, based on or arising out of, in whole or in part, (a) use and occupancy of the Leased Premises or the farming business conducted therein, (b) any act or omission of Lessee, (c) any breach of Lessee's obligations under this Lease, including failure to comply with laws or surrender the Leased Premises upon the expiration or earlier termination of the Lease Term, or (d) any entry by Lessee upon the Leased Premises prior to the Lease Commencement Date.

13.6 If Lessee is awarded a money judgment against Agrarian, then recourse for satisfaction of such judgment shall be limited to execution against Agrarian's estate and interest in the Leased Premises. No other asset of Agrarian shall be available to satisfy or be subject to such judgment, nor shall any such person or entity be held to have personal liability for satisfaction of any such claim or judgment.

#### **ARTICLE XIV. CONDEMNATION**

14.1 If all of the Leased Premises is taken by eminent domain or otherwise by government entities, or if so much of the Leased Premises is lost or damaged beyond repair (collectively, "condemned"), then this Lease shall terminate on the day prior to the date Lessee is required to give up possession of the Leased Premises and rent shall be apportioned as of such date.

14.2 All awards, damages, and other compensation paid on account of such condemnation shall be used for Agrarian and the continuation of its mission-aligned projects. Nothing in this Lease, however, shall prevent Lessee from pursuing a separate claim against the authority for relocation expenses and for the value of crops, equipment, and personal property on the Leased Premises. Notwithstanding the foregoing, in the case of such condemnation, the Parties may exercise their rights and responsibilities pursuant to Article 10 with respect to the disposition of Improvements upon termination of this Lease.



14.3 If this Lease is terminated as a result of damage, destruction, or taking, Agrarian shall take reasonable steps to allow Lessee to enter into Lease on another parcel of land owned by Agrarian if such land can reasonably be made available. Lessee understands there are numerous reasons why it may not be possible to make such land available and shall have no claim against Agrarian if such land is not made available.

#### **ARTICLE XV. DEFAULT**

15.1 Each of the following shall constitute an "Event of Default":

- (a) Lessee's failure to make when due any payment or other fee; unless Lessee notifies Agrarian, and both agree in writing hardship circumstances merit a reduction or waiver of payment or fee for an agreed upon timeframe;
- (b) Lessee's failure to perform or observe any material covenant or condition of this Lease, and such failure continues for ten (10) days after Agrarian delivers written notice thereof to Lessee;
- (c) Lessee's failure to farm or failure to complete stewardship practices for more than twenty-four (24) months, both pursuant to Article 3, unless Lessee notifies Agrarian, and both agree in writing hardship circumstances merit waiver of such requirements. Lessor specifically reserves the right to brush hog or otherwise maintain fields that lessee fails to farm or steward;
- (d) An Event of Bankruptcy as specified in Article XVI;
- (e) Lessee's dissolution or liquidation;
- (f) Any Environmental Default as specified in Article VI;
- (g) Any subletting, assignment, transfer, mortgage, or other encumbrance of the Leased Premises, unless agreed to under Article VII; or
- (h) Lessee's failure to comply with all applicable laws.

15.2 In the Event of Default, even if prior to Lease Commencement Date, then Agrarian shall have the right to terminate this Lease and initiate summary proceedings under applicable law against Lessee. If necessary, Agrarian may proceed to recover possession of the Leased Premises under applicable laws, or by such other proceedings, including re-entry and possession, as may be applicable. If Agrarian elects to terminate this Lease and/or elects to terminate Lessee's right of possession, everything contained in this Lease on the part of Agrarian to be done and performed shall cease. Agrarian shall have additional rights and remedies to recover from Lessee arrears of rent and damages from any preceding breach of any covenant of this Lease.

15.3 Whether or not this Lease and/or Lessee's right of possession is terminated or any suit is instituted, Lessee shall be liable for any Base Rent, additional rent, damages, or other sum which may be due or sustained prior to such default, and for all costs, fees, and expenses (including, brokerage fees, expenses incurred in enforcing any of Lessee's obligations under the Lease, or in placing the Leased Premises in rentable condition, and advertising expenses) incurred by Agrarian in pursuit of its remedies hereunder, and/or in recovering possession of the Leased Premises and renting the Leased Premises to others.

15.4 Agrarian shall in no event be in default in the performance of any of its obligations under the Lease unless and until Agrarian has failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to correct any default, after notice by Lessee to Agrarian properly specifying Agrarian's failure to perform any such obligation.

15.5 All rights and remedies of Agrarian set forth in this Lease are cumulative and in addition to all other rights and remedies available to Agrarian at law or in equity, including those available as a result of any anticipatory breach of this Lease. The exercise by Agrarian of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. No delay or failure by Agrarian to exercise or enforce any of Agrarian's rights or remedies or Lessee's obligations shall constitute a waiver of any such rights, remedies, or obligations. Agrarian shall not be deemed to have waived any default by Lessee unless such waiver expressly is set forth in a written instrument signed by Agrarian. If Agrarian waives in writing any default by Lessee, such waiver shall not be construed as a waiver of any covenant, condition, or agreement set forth in this Lease except as to the specific circumstances described in such written waiver.

15.6 Neither the payment by Lessee of a lesser amount than any sums due hereunder nor any endorsement or statement on any check or letter accompanying a check for payment of rent or other sums payable hereunder shall be deemed an accord and satisfaction. Agrarian may accept the same without prejudice to Agrarian's right to recover the balance of such rent or other sums or to pursue any other remedy. Notwithstanding any request or designation by Lessee, Agrarian may apply any payment received from Lessee to any payment then due. No re-entry by Agrarian, and no acceptance by Agrarian of keys from Lessee, shall be considered an acceptance of a surrender of this Lease.

15.7 If Lessee fails to make any payment to any third party or to do any act herein required to be made or done by Lessee, then Agrarian may, but shall not be required to, make such payment or do such act. The taking of such action by Agrarian shall not be considered a cure of such default by Lessee or prevent Agrarian from pursuing any remedy it is otherwise entitled to in connection with such default. If Agrarian elects to make such payment or do such act, then all expenses incurred by Agrarian shall be added to the next Base Rent payment and shall adhere to the terms set forth for Base Rent.

15.8 If Lessee fails to make any payment of Base Rent, additional rent, or any other sum on or before the date such payment is due and payable, then It shall be an Event of Default if such failure is not cured by Lessee within sixty (60) days. However, if Lessee shall make a good faith

partial payment of at least half (1/2) of the amount owed during such initial 60-day period, then such period shall be extended one additional 30-day period. Should Lessee be unable to cure the default in either grace period, Agrarian may grant further 30-day extensions in writing at its discretion provided that Lessee offers a reasonable explanation of the default and a plan to cure such default within a reasonable period of time.

15.9 Agrarian at its sole discretion may reduce, delay, or waive entirely the Lease Fee at any time and from time to time in consideration of the hardship or incapacity of the Lessee or Lessee's general ability to pay. The intent of this Section is to foster continued occupancy and farming by the Lessee despite the occurrence of unforeseeable financial and/or personal hardship, if reasonably possible. Any such reduction, delay, or waiver must be in writing and signed by Agrarian before it will be effective.

## **XVI. BANKRUPTCY**

16.1 An "Event of Bankruptcy" is the occurrence with respect to Lessee of any of the following:

- (a) Lessee becoming insolvent, as that term is defined in Title 11 of the United States Code (the "Bankruptcy Code") or under the insolvency laws of any state (the "Insolvency Laws");
- (b) Appointment of a receiver or custodian for any property of Lessee, or the institution of a foreclosure or attachment action upon any property of Lessee;
- (c) Filing by Lessee of a voluntary petition under the provisions of the Bankruptcy Code or Insolvency Laws;
- (d) Filing of an involuntary petition against Lessee as the subject debtor under the Bankruptcy Code or Insolvency Laws, which either (1) is not dismissed within thirty (30) days after filing, or (2) results in the issuance of an order for relief against the debtor; or
- (e) Such person making or consenting to an assignment for the benefit of creditors or a composition of creditors.

16.2 Upon occurrence of an Event of Bankruptcy, Agrarian shall have all rights and remedies available pursuant to Article XVI; provided, however, that while a case (the "Case") in which Lessee is the subject debtor under the Bankruptcy Code is pending, Agrarian's right to terminate this Lease shall be subject, to the extent required by the Bankruptcy Code, to any rights of Lessee or its trustee in bankruptcy (collectively, "Trustee") to assume or assign this Lease pursuant to the Bankruptcy Code. After the commencement of a Case: (i) Trustee shall perform all post-petition obligations of Lessee under this Lease; and (ii) if Agrarian is entitled to damages (including, unpaid rent) pursuant to the terms of this Lease, then all such damages shall be entitled to administrative expense priority pursuant to the Bankruptcy Code.

16.3 Any person or entity to which this Lease is assigned pursuant to the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of assignment, and any such assignee shall upon request execute and deliver to Agrarian an instrument confirming such assumption. Trustee shall not have the right to assume or assign this Lease unless Trustee promptly (a) cures all defaults under this Lease, (b) compensates Agrarian for damages incurred as a result of such defaults, (c) provides adequate assurance of future performance on the part of Trustee as debtor in possession or Trustee's assignee, and (d) complies with all other requirements of the Bankruptcy Code. If Trustee fails to assume, or assume and assign, this Lease in accordance with the requirements of the Bankruptcy Code within sixty (60) days after the initiation of the Case, then Trustee shall be deemed to have rejected this Lease. If this Lease is rejected or deemed rejected, then Agrarian shall have all rights and remedies available to it pursuant to Article XVI.

#### **XVII. HOLDING OVER**

17.1 If Lessee does not immediately surrender the Leased Premises or any portion thereof upon the expiration or earlier termination of the Lease Term, then the rent payable by Lessee hereunder shall be increased to equal one hundred fifty percent (150%) of the Base Rent, additional rent, and other sums that would have been payable pursuant to the provisions of this Lease if the Lease Term had continued during such holdover period. Such rent shall be computed by Agrarian and paid by Lessee on a monthly basis and shall be payable on the first day of such holdover period and the first day of each calendar month thereafter during such holdover period until the Leased Premises has been vacated.

17.2 Notwithstanding any other provision of this Lease, Agrarian's acceptance of such rent shall not in any manner adversely affect Agrarian's other rights and remedies, including Agrarian's right to evict Lessee and to recover all damages. The Parties agree that any such holdover shall be deemed to be a tenancy-at-sufferance and not a tenancy-at-will or tenancy from month-to-month.

#### **XVIII. COVENANTS OF LESSOR**

Agrarian covenants that it has the right to enter, share, and use the Leased Premises for the primary purposes of: (1) engaging in land and property management and/or stewardship activities, (2) hosting, promoting, engaging members and community in Agrarian; and (3) any other planning, evaluation, and assessment, and/or actions to address its goals, vision, and mission of Agrarian, so long as not unreasonably inconsistent with the uses pursuant to Article 3. Agrarian must give Lessee at least 48 hours' notice before such entering, sharing, or using the Leased Premises to accomplish property management and/or stewardship activities. Agrarian must give Lessee at least seven days' notice before entering, sharing, or using the Leased Premises to accomplish any other activities outlined in (2) or (3).

#### **XIX. GENERAL PROVISIONS**

19.1 Notices: All notices, requests, demands and other communications which are required or permitted to be given under this Lease will be in writing and will be deemed to have been duly given (a) upon receipt if delivered in person, (b) within seven business days if mailed, (c) the following business day if sent by recognized overnight courier, with proof of delivery, or upon receipt if delivered via email and a delivery receipt is requested and received by the sender.

19.2 Lessee acknowledges that Agrarian has not made any representation or promise with respect to the Leased Premises except as herein expressly set forth, and no right, privilege, easement, or license is being acquired by Lessee except as herein expressly set forth.

19.3 Agrarian and Lessee each warrant to the other that in connection with this Lease it has not employed or dealt with any broker, agent, or finder. Lessee shall indemnify and hold Agrarian harmless from and against any claim for brokerage or other commissions asserted by any broker, agent, or finder employed by Lessee or with whom Lessee has dealt. Agrarian shall indemnify and hold the Lessee harmless from and against any claim for brokerage or other commissions asserted by any broker, agent, or finder employed by Agrarian or with whom Agrarian has dealt.

19.4 Each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, then such provision shall be deemed to be replaced by the valid and enforceable provision most substantively similar to such invalid or unenforceable provision, and the remainder of this Lease and the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected.

19.5 The provisions of this Lease shall be binding upon and inure to the benefit of the Parties and each of their respective representatives, successors, and assigns, subject to the provisions herein restricting assignment or subletting. In this Lease, use of the terms "Lessor" and "Lessee" includes the invitees, agents, board, board members, brokers, employees, contractors, clients, family members, licensees, customers, attorneys, consultants, representatives of any kind, and guests of the Lessor or Lessee.

19.6 This Lease contains and embodies the entire agreement of the Parties and supersedes all prior agreements, negotiations, letters of intent, proposals, representations, warranties, understandings, suggestions, and discussions, whether written or oral, between the Parties. Any representation, inducement, warranty, understanding, term of any kind, or agreement that is not expressly set forth in this Lease shall be of no force or effect.

19.7 This Lease includes and incorporates all Exhibits.

19.8 This Lease shall be governed by the Laws of the jurisdiction in which the Leased Premises is located. There shall be no presumption that this Lease be construed more strictly

against the party who itself or through its agent prepared it, it being agreed that all Parties have participated in the preparation of this Lease and that each party had the opportunity to consult legal counsel before the execution of this Lease.

19.9 Time is of the essence with respect to each of Lessee's and Agrarian's obligations under this Lease.

19.10 This Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which together constitute one and the same document. Electronic and/or digital signatures shall have the same binding effect as original signatures.

19.11 The Parties agree to execute and record a Notice of Lease in the form of **EXHIBIT 5**.

19.12 If Agrarian or Lessee is in any way delayed or prevented from performing any obligation (except, with respect to Lessee, an obligation to pay rent, additional rent, or other sums owed by Lessee to Agrarian under this Lease) due to fire, act of God, governmental act, or failure to act, strike or labor dispute involving employees other than those of the party seeking to rely on this Section, inability to procure materials, or any cause beyond such party's reasonable control (whether similar or dissimilar to the foregoing events), then the time for performance of such obligation shall be excused for the period of such delay or prevention and extended for a period equal to the period of such delay, interruption, or prevention.

19.13 Lessee and the person executing and delivering this Lease on Lessee's behalf each represents and warrants that such person is duly authorized to so act; that Lessee is duly organized, is qualified to do business in the jurisdiction in which the Leased Premises is located, is in good standing under the laws of the state of its organization and the laws of the jurisdiction in which the Leased Premises is located, and has the power and authority to enter into this Lease; and that all action required to authorize Lessee and such person to enter into this Lease has been duly taken.

19.14 All disputes arising out of or relating to this Lease Agreement or the performance of either party hereunder shall be handled as follows.

- (a) Any dispute shall first be submitted to non-binding mediation to be held in Fayetteville, WV or in close proximity. The complaining party shall notify the other party in writing of its intent to submit a matter to non-binding mediation. Within thirty (30) days after the other party's receipt of this notice, each party shall either:
  - (i) Appoint either a person experienced in sustainable farming in West Virginia or the agrarian real estate market in the same region to serve as a mediator. The two mediators shall select a third mediator who also must meet one of the qualifications set forth in the preceding sentence. The three mediators shall work with the Parties to help them in reaching a resolution to their dispute; or

(ii) agree to work with the USDA Agricultural Mediation Program for West Virginia.

(b) If the Parties are still unable to reach a resolution after this mediation process, then either party may submit the matter to binding arbitration or to a court, as described below.

(c) Any non-equitable dispute arising out of or relating to this Agreement or the performance of either party hereunder shall be finally settled by binding arbitration to be held in Fayetteville or Beckley, WV. The Commercial Dispute Resolution Rules of the American Arbitration Association shall govern the arbitration, except that the Federal Rules of Evidence shall also apply. Any decision made pursuant to such arbitration shall be binding on the Parties and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

(d) Any equitable action entitled to be taken by a party arising out of this Agreement shall be filed exclusively within the courts of the State of West Virginia and the Parties consent to, and agree not to contest, the jurisdiction of such courts for the purposes of any such action. In the event that the arbitration or court should rule in favor of Agrarian, the Lessee shall pay one-half (50%) of Agrarian's expenses (including legal fees) and in the event that the arbitration or court should rule in favor of the Lessee, Agrarian shall pay one-half (50%) of the Lessee's legal expenses.

19.15 Notwithstanding any requirement of this Lease for Lessee to obtain advance permission, approval, allowance, or similar from Lessor to perform an act, engage in a use, or make any improvement ("Approval"), Lessee shall not be required to obtain such Approval where such act, use or improvement would involve less than \$5,000 and less than 500 square feet of land and would not trigger the application any governmental approval or notice requirement.

19.16 Lessee and the Lessor shall keep and make available to each other accurate records of the performance (or non-performance) of all rights and obligations included in this Lease, including receipts, contracts, quotes, labor records, and similar records.

19.17 No third party shall have any right of enforcement with respect to this Lease.

IN WITNESS WHEREOF, Agrarian and Lessee have executed this Lease as of the day and year first above written.

Agrarian Land Trust

\_\_\_\_\_  
Printed name, title w/ AGRARIAN LAND TRUST.  
*Duly authorized*

\_\_\_\_\_  
DATE

Lessee

\_\_\_\_\_

Printed name, title  
*Duly authorized* (if lessee is an organization)

\_\_\_\_\_  
DATE

Witness/Attest

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
DATE

Witness/Attest

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
DATE



**EXHIBIT 1**  
**TERMS, CONDITIONS, AND RESTRICTIONS**  
Conservation easement  
[pdfs to be inserted]

**EXHIBIT 2**  
**PROPERTY DESCRIPTION**

Deed Book 739, page 562.

Circa 1939 one and a half story farmstead house (uninhabitable)  
Block outbuilding behind the homestead and a well house.



3,019 square feet market barn  
45 square feet toolshed  
1,584 square feet high tunnels (2)  
1,400 square feet high tunnels (2)  
2,760 square feet high tunnel  
3,840 feet of 4 foot fixed knot woven wire fencing  
2,700 feet of 8 foot fixed knot woven wire deer fence  
2,600 feet of 8 feet fixed knot woven wire fencing



Pasture, Hayland, Rangeland and Woodlot  
45 acres of mixed pasture and hayland



15 acres rangeland  
10 Acres Wood Lot



Wildlife Habitat and Wetland

5 acres are designated for wildlife habitat and wetland with a  $\frac{3}{4}$  acre pond

5 acres are suitable for intensive vegetable production

Other

2 acres are designated as farmstead and impervious surface

**Tax Map 70, Parcel 0026 0000, New Haven District, Fayette County, West Virginia, consisting of approximately 82.25 acres, more or less, and known as the Whitlock Farm property.**

All that certain tract or parcel of land, containing 82.25 acres, more or less, together with the improvements thereon and all rights, privileges, appurtenances, easements and rights of way thereunto belonging or in anywise appertaining, situate at 167 Wolf Creek Road, Fayetteville, in New Haven District, Fayette County, West Virginia, and being more particularly described as:

**PARCEL ONE**

BEGINNING at corner of lands of Bell, Hodge and Smith, and running with Smith and then with Stull, S 43-10 W 712 feet to corner with Stull on new state road right of way, thence with said right of way, N 17-55 E 503 feet to a right of way marker, thence S 72-25 E 5 feet to a right of way marker, thence N 17-30 E 151 feet to a marker, thence 72-03 E 20 feet to a marker, thence 13-07 E 171 feet to corner to Bell, thence leaving right of way and with Bell, S 5-07 E 182 feet, S 65-05 E 194 feet to the beginning, containing 2.5 acres, more or less.

And being the same property conveyed to Icie Whitlock by deed of Bessie Moreau and Francis Moreau, her husband, dated the 26<sup>th</sup> day of July, 1941, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 99 at page 3.

**PARCEL TWO**

BEGINNING at a fence post on the south side of the Crooked Run road, thence leaving the road S 1-45 W 560.5 feet to a stake with a small white oak and dogwood pointers in a flat, S 73-30 E 185 feet to a stake on sloping ground, N 51-00 E 535 feet to a stake in the center of a road and with said road N 54 W 198.5 feet to a stake, N 53 W 119 feet to a stake, N 57 W 113 feet to a stake where said road intersects with the Crooked Run road, thence with the latter road S 78-30 W 117.5 feet to the beginning, containing 5.2 acres.

And being the same property conveyed to Icie Whitlock by deed of Lawrence Hefner and Dixie Hefner, his wife, dated the 18<sup>th</sup> day of October, 1955, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 195 at page 204.

### PARCEL THREE

FIRST (1) BEGINNING at a stake in the center of the County Road, Corner to Lot No. 1, thence with the road N 58-30 E 981 feet to a stake, corner to L. E. Rhodes, thence leaving the road and with Rhodes S 31-30 E 540 to a stake, corner to Lot No. 5, thence with Lot No. 5 S 47-30 W 990 feet to a stake on a new road, corner to Lot No. 2 thence with and past Lot No. 2, N 33-00 W 720 feet to the beginning, containing 13 1/2 acres.

FIRST (2) BEGINNING at a stake, corner to Lots Nos. 3 and 6 of the estate of J. T. Rhodes, deceased, thence with Lot No. 3 S 47-30 W 114 feet to a stake, thence leaving S 37-00 E 1305 feet to a stake (black oak and black pine pointers) in line of Sanger, thence with Sanger N 26-15 E 121 feet to a stake, corner to aforesaid Lot No. 6 and with N 37-00 W 1255 feet to the beginning, containing 3.18 acres.

FIRST (3) BEGINNING at a stake, corner to Lots No. 3 and 5, thence with latter S 37-00 E 1255 Feet to a stake, corner to same, and in line of Sanger, thence leaving Lot No. 5 and with Sanger N 26-15 E 715 feet to a stake on the south edge of the County Road, near the mouth of a lane and corner to Sanger and Smith, thence with the lane N 31-30 W 964 feet to a stake corner to L. E. Rhodes, thence with S 58-30 W 742 1/2 feet to a stake corner to same, and in line of Lot No. 3, thence with Lot No. 3 S 31-30 W 58 1/2 feet to the beginning, containing 18 acres.

FIRST (4) BEGINNING at a stone on line between the land of John T. Rhodes and J. N. Barber (formerly Dozier), thence in a northeast course through the lands of the said Rhodes for a distance of 45 poles to a stone on the line between Thomas Burley and said Rhodes, thence with Burley's line a south-east course for a distance of 29 poles to a stone, thence a south-west course through the Rhodes survey for a distance of 45 poles to a stone and thence at right angles and a north-west course 29 poles to the beginning, containing 8- 25-32 acres.

SECOND (1) BEGINNING at a stake, corner to Lot No. 2, thence with the Road N 30-30 E 145 feet to a stake,

corner to Lot No. 2, and 3; thence with Lot No. 3, N 47-30 E 990 feet to a stake, corner to same and Lot No. 6, thence with Lot No. 6, S 37-00 E 1255 feet to a stake, corner to same and in line of Sanger: thence leaving Lot No. 6, and with S 26-15 W 845 feet to a chestnut, white oak and maple, corner to Low Moor Iron Company; thence with N 77-30 W 192 feet to a stake on the west bank of Wolf Creek, corner to Lot No. 4; thence with Lot No. 4, N 47-00 W 1322 feet to the beginning.

SECOND (2) BEGINNING at a stake, corner to Lot No. 1, and in line of Low Moor Iron Company, thence leaving said line with Lot No. 1, N 58-30 E 653 feet to a stake, corner to same, and in line of Lot No. 3, thence with Lot No. 3, S 33-00 E 178 feet to a stake, corner to same on a new road; thence S 30-30 W 605 feet to a



stake, corner to Lot No. 4 and in line of the Low Moor Iron Company; thence with said Company N 46-15 W 480 feet to the beginning, containing 4 1/2 acres, together with a right of way 16 feet wide from Lot No. 4, along the line of Lots Nos. 2 and 3, to County Road, said right to be perpetual and run with the land, reserving from this deed a right of way 16 feet wide from Lot 4 running through Lot 5.

There is hereby reserved from the operation of this deed a certain tract or parcel of real estate containing 28 acres, more or less, which was conveyed by deed of the parties of the first part to J. H. Wells, dated December 5, 1917, and of record in the Fayette County Court Clerk's office in Deed Book 45, at page 635, recited therein as being a part of second (1), heresabove mentioned and described, reference to which deed is here made for a more particular description of said real estate, and excepting further from the operation of this deed Tract Second (2), containing 4 1/2 acres, which together with 4.51 acres of the above described real estate was conveyed by J. M. Crouse and Jennie M. Crouse, his wife, parties of the first part, to H. L. Moore, by deed dated November 27, 1922, and of record in said Clerk's Office in Deed Book 55, at page 81.

And being the same property conveyed to Icie Whitlock by deed of J. M. Crouse and Jennie M. Crouse, his wife, dated the 28<sup>th</sup> day of August, 1936, and of record in the Office of the Clerk of the County Commission of Fayette County West Virginia, in Deed Book 84 at page 485.

#### PARCEL FOUR

FIRST TRACT: BEGINNING at a white oak corner to Welch and Baber, thence a northerly course with Baber's line to a stone, thence at right angles and running a straight line to border Spring Branch, thence down with said branch to a maple, thence to Smith's line cornering on a rock; thence with Smith's line to the beginning, containing 1/4 of an acre.

SECOND TRACT: BEGINNING at a white oak corner to Smith and George E. Legg and on Light's line; thence a westerly course with Smith's line to a stone corner to Burley at a branch; thence down the branch to two maples, thence up another branch to a stone, thence a straight line to a stone on Light's line, thence with Light's line to the beginning, containing 1 acre, more or less.

THIRD TRACT: BEGINNING at two white oaks, being the old Dosier corner, thence a northerly course a distance of 12 rods to a stone at a spring, thence a southwesterly course 19 rods to a stone on the old Dosier line, and thence an easterly course with the said Dosier line to Smith's line 20 1/2 rods to the beginning containing 1/4 of an acre, more or less.

FOURTH TRACT: BEGINNING at a stake corner to Smith and John T. Rhodes, thence a southerly course to a stone on the edge of the County road, thence with said road to a service bush and a stone, thence crossing the road a distance of about 12 rods in a northeast course to a stone at a branch, thence a westerly course to two white oaks on the Dosier line, and thence with the Dosier line to the beginning, containing 3 acres, more or less.

There is excepted and reserved from this conveyance and not conveyed hereby, a certain portion of the above described property conveyed by Icie Whitlock and J. E. Whitlock, her husband, now deceased, to Hazel Bryant by deed dated September 5, 1942, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia in Deed Book 102, at page 310.

described as a certain tract or parcel of surface land situate on the waters of Wolf Creek about two miles south of Fayetteville, and more particularly described as follows:

Comprising all of the surface land below an old road leading from the Crooked Run road near the Wells residence, which is owned by the parties of the first part, and being a part of the four tracts of land conveyed to said Icie Whitlock by C. E. Mahan, Jr., Trustee, by deed hereinafter mentioned.

And being the same property conveyed to Icie Whitlock by deed of Robert E. Joseph and Dorothea H. Joseph, his wife, dated the 14<sup>th</sup> day of July, 1975, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 335 at page 438.

#### PARCEL FIVE

BEGINNING at an iron pin driven in the center of the Sanger Road, corner to lands of Geo. Sink, and running with Sink N 16-00 W 31 feet to set stone on east side of New State Road right-of-way, thence with same N 17-40 E 188 feet to set stone corner to Frances Moreau, thence with same N 43-10 E 169 feet to set stone corner to J. H. Smith, thence with same S 26-05 E 687 feet to iron pin driven in the center of the Sanger road, thence with same S 59-15 W 385 feet to the beginning, containing 5 acres, more or less.

And being the same property conveyed to Icie Whitlock by deed of Margaret E. Halthcoat and Herman E. Halthcoat, Jr., her husband, dated the 30<sup>th</sup> day of December, 1936, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 84 at page 467.

#### PARCEL SIX

BEGINNING at a white oak stump, corner to George Stull, on the north side of the Sanger road and running with said road S. 58° - 40' W. 111.0 feet to a poplar stump; thence leaving said road and running N. 40° - 10' W. 125.0 feet to a stake, a corner in a field; thence running N. 67° - 40' W. 114.1 feet to a stake on the right of way of U. S. Highway No. 21; thence running with said highway N. 18° - 20' E. 429.5 feet to a stake, corner on said highway; thence leaving said highway and crossing a field S. 16° - 11' E. 520.8 feet to the point of beginning; ~~the tract containing one and fifty-two hundredths (1.52) acres.~~

And being the same property conveyed to Icie Whitlock by deed of Giovanni Dileonardo and Nancy Dileonardo, his wife, dated the 24<sup>th</sup> day of April, 1954, and of record in the office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 184 at page 93.

And being a portion of the same property devised by the Last Will and Testament of Icie Whitlock (date of death November 5, 1996) to her children Billy P. Whitlock, Anna Frances Wilder, Grady Lee Whitlock, James Henry Whitlock and Thelma L. Neal by her Will of record in the Office of the Clerk of the County Commission of Fayette County Commission in Will Book 54 at Page 491. The said Billy P. Whitlock having died testate on February 9, 1992, in Nicolas County and by the Will of Icie Whitlock all of his interest passed to his children, Thomas F. Whitlock, William P. Whitlock, Larry J. Whitlock, David J. Whitlock and Kenneth D. Whitlock.

And further being the same in which all the interest other than those of Grady Lee Whitlock were conveyed to Grady Lee Whitlock, dba White Fence Horse Estates by James Henry Whitlock and Mava I. Whitlock, husband and wife, Anna Frances Wilder, single, Thelma L. Neal and Loran E. Neal, wife and husband, Thomas F. Whitlock and Shirley Whitlock, husband and wife, William P. Whitlock and Betty Whitlock, husband and wife, Larry J. Whitlock and Deborah Whitlock, husband and wife, David J. Whitlock and Cynthia Whitlock, husband and wife and Kenneth D. Whitlock, single by their deed dated June 25, 2004, of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia.



**EXHIBIT 4**  
**MANAGEMENT PLAN OR PRE-EXISTING PLAN**  
**[pdf to be inserted]**

**EXHIBIT 5**  
**NOTICE OF LEASE**

**NOTICE OF LEASE**

*This notice is evidence of the lease agreement existing between Agrarian Land Trust (Agrarian), a duly authorized California nonprofit corporation and 501(c)(3) non-profit organization, mailing address - P.O. Box 195 , Weare, New Hampshire 03281, including its successors and assigns, and New Roots Community Farm (NRCF), a duly authorized West Virginia nonprofit corporation and 501(c)(3) non-profit organization, with a principal place of business located at 167 Wolf Creek Road Fayetteville, WV 25840 and its successor entities and assigns, if any.*

*1. The term of this lease is two (2) years. The term of this lease commences on May 19, 2022 and expires on May 19, 2024.*

*2. This lease contains restrictions on use of certain portions of the property deemed natural reserves for conservation purposes.*

*3. This lease provides that the parties may establish a method of providing NRCF with equity in the land over the course of the Lease Term.*

*IN WITNESS WHEREOF, Agrarian and NRCF have executed this Lease as of the day and year first above written.*

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*Ian McSweeney* Director  
*Agrarian Land Trust*  
*A California Nonprofit Corporation and 501(c)(3) organization*

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*Susanna Wheeler, Director*  
*New Roots Community Farm*  
*A West Virginia Nonprofit Corporation and 501(c)(3) organization*