

LEASE AGREEMENT

THIS AGREEMENT, made and entered into by and between MARIANNA MUNICIPAL AIRPORT DEVELOPMENT AUTHORITY, a public entity of the City of Marianna, a Florida municipal corporation, herein called "LESSOR", and Adris Pender, herein called "LESSEE". This agreement supersedes all prior leases and lease modifications between the parties.

WITNESSETH:

For and in consideration of the mutual covenants contained herein and for other good and valuable considerations, the receipt and sufficiency of which are hereby mutually acknowledged, the Lessor does let, lease, and demise to the Lessee the following property located in Jackson County, Florida:

Property (1) 128.4 acres of land located in Section 7, Township 5 North, Range 9 West, Jackson County, Florida, as depicted on the aerial map attached hereto as Exhibit "A." The farm number is 9280.

Property (2) Approximately 74 acres of additional property which is included in the lease, Jackson County, Florida, as depicted on the aerial map attached hereto as Exhibit "B." The farm number is 9280.

1. **TERM OF LEASE**. The real property and improvements are leased for a term of five (5) years, commencing May 1, 2019 and ending April 31, 2024. This Lease may be extended for one (1) additional five (5) year term upon written request by the Lessee. This lease may be earlier terminated as hereinafter provided.

2. **POSSESSION**. The Lessee shall have immediate possession of the premises and may enter thereon for the purpose of conducting its business. The Lessor covenants that for so long as the Lessee pays the rent and performs the other obligations herein imposed upon it, the Lessee shall peaceably and quietly have, hold and enjoy the premises for the stated term, subject to the provisions of this lease. Upon the expiration or earlier termination of this lease, the Lessee shall peaceably surrender and deliver the subject premises to the Lessor in good, safe and substantial condition of repair, excepting ordinary wear and tear.

It is understood that this lease is subject to all of the provisions and covenants of the Quitclaim and Surrender of Lease dated August 2, 1947, as modified by public law 31-311, effective October 1, 1949.

3. **USE OF PREMISES.** The premises are leased to the Lessee for agricultural purposes of growing crops only. Lessee agrees not to use the premises, or to permit their use or the use of any part of them, for any other purpose. Lessee further agrees to keep parameter gates locked at all times.

4. **RENT PAYMENT SCHEDULE.** The Tenant agrees to pay during the term of this lease as a rental rate for the Lease of the Farm, the sum of \$60.00 per acre which equals annually \$12,144.00 with this payment due upon execution of this agreement. The payment shall be remitted no later than January 5th of each year of lease. In addition, the Tenant shall pay any and all state rental or sales taxes.

5. **TAXES AND UTILITIES.** The Lessee shall pay all ad valorem taxes and assessments made against the lease premises by any governmental authority during the term of the lease. Utility services, including water, fuel, gas, oil, heat, electricity, sewage or related services used on or about the premises, if any, shall be paid for by the Lessee.

6. **INDEMNITY AND INSURANCE.** The Lessee agrees to indemnify and save the Lessor harmless from any and all liabilities, damages, judgments and attorney's fees arising from accidents or injuries incurred during the term of this agreement to any person or properties occasioned by the acts or omissions of the Lessee, its agents or employees, or arising from any matter resulting from its occupancy of the premises other than any such injuries or damages caused by the negligence of Lessor, its agents, servants or employees. The Lessee shall, in connection therewith, at Lessee's own expense, maintain comprehensive liability insurance, including public liability and property damage, insuring Lessee and Lessor for not less than \$500,000 for each bodily injury, \$500,000 per occurrence and \$500,000 for property damage.

It shall be the responsibility of the Lessee to maintain additional insurance as it may desire, such insurance upon personal property located on the premises, business interruption insurance and other coverage.

The policies provided for herein shall be issued in the names of the parties as their interests may appear and Lessee shall provide Lessor with a copy of said policies prior to taking possession of the leased premises.

7. **IMPROVEMENTS, REPAIR AND MAINTENANCE.** The parties agree that the real property is leased in an "as is" condition.

During the term of this lease, the Lessee shall, at its own expense, keep and maintain the premises in as good and substantial condition as at the commencement hereof, excepting reasonable and ordinary wear and tear. Lessee agrees that it shall not make any alterations to the premises without the written consent of Lessor.

8. **CONDEMNATION.**

(a) If the whole of the leased premises shall be taken by condemnation or right of eminent domain, then the term of this lease shall cease as of the day possession shall be so taken as if such date were the date originally fixed herein for termination of this lease, and any unaccrued, prepaid rent paid by Lessee attributable to the period after such date shall be refunded to Lessee.

(b) If less than all but so much of the lease premises as to render the balance unsuitable for use by Lessee for the purposes for which the leased premises are being used by Lessee shall be taken by condemnation or right of eminent domain, then the term of this lease shall likewise cease as of the day of possession shall be so taken with the same consequences specified in paragraph (a) above.

(c) If only a portion of the lease premises shall be taken by condemnation or eminent domain and this lease is not terminated under the provisions of paragraph (b) above, the lease shall continue in effect notwithstanding such taking in accordance with and subject to the other terms and provisions herein, in which event Lessee shall be liable only for such proportionate part of the prepaid rental as the part of said improvements which are usable after such condemnation shall bear to the whole of same.

(d) All damages and amounts awarded for taking by condemnation or right of eminent domain, whether for the whole or a part of the leased premises, shall belong to and be the sole property of Lessor (whether such damages or amounts shall be awarded as compensation for taking of or diminution in value of the leasehold or the fee of the leased premises) provided, however, that Lessee shall be entitled to receive and retain any amount which may be specifically awarded to it in such proceedings because of the taking of its trade fixtures or other personal property belongings to Lessee in the leased premises; and provided, further, that in the event Lessee is able to and does recover in any condemnation proceeding an award of damages to Lessee for the value

of Lessee's leasehold estate under this lease, then Lessee shall be entitled to receive and retain such additional award of damages.

9. **ASSIGNMENT**. The Lessee shall not have the right to assign this lease or sublet any portion of the premises without written consent of the Lessor, which consent may be withheld in Lessor's absolute discretion.

10. **FEDERAL AVIATION ACT LIMITATIONS**. Nothing in this Lease Agreement shall be construed as a grant, to the Lessee or to any other person, firm or corporation, in violation of the meaning and intent of Section 308 of the Federal Aviation Act, as amended, and the Lessee will not erect or permit to be erected on the premises any structure which will impede or limit the use of that property or adjacent property for public airport or aeronautical purposes, or which would otherwise constitute a hazard to aircraft. It is also recognized that the terms and conditions of this lease are further subject to the provisions contained in instruments of record by which the Lessor acquired title to and ownership of the subject premises through the United States of America.

11. **RESTRICTION AGAINST USE OF PROPERTY AS DUMPING GROUND**. Neither Lessee nor any person or persons connected with Lessee shall use the property leased herein or any portion of the property as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the disposal or storage of such material shall be kept in a clean and sanitary condition.

12. **ENVIRONMENTAL PROTECTION - AIR AND WATER POLLUTION**. After the effective date and during the term hereof, Lessee agrees to comply with all applicable air and water pollution control and prevention laws, regulations and state and federal air pollution and water pollution control agencies' recommendations in the maintenance of all facilities located on the leased premises.

13. **HAZARDOUS SUBSTANCES**.

A. **Hazardous Substances**. The term "hazardous substances" as used in this Article 13, shall include, but not be limited to, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and

petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or later enacted or promulgated by any governmental authority.

B. **Environmental Prohibitions**. After the effective date and during the term hereof, Lessee shall not cause or permit to occur:

(1) Any violation of any federal, state or local law, ordinance or regulation now or later enacted, related to environmental conditions on, under or about the leased premises, or arising from Lessee's use or occupancy of the leased premises, including, but not limited to, soil, and ground water conditions; or

(2) The dumping, burying or disposal of any hazardous substance on, under or about the leased premises, or the transportation to or from the leased premises.

C. **Environmental Compliance**. After the effective date and during the term hereof:

(1) Lessee shall, at Lessee's expense, comply with all laws regulating the use, generation, storage, transportation, or disposal of hazardous substances relating to the leased premises (the "laws").

(2) Lessee shall, at Lessee's expense, make all submissions to, provide all information required by and comply with all requirements of all governmental authorities (the "authorities") under the laws.

(3) If any lawful authority demands that a clean-up plan be prepared and that a clean-up be undertaken because of any deposit, spill, discharge or other release of hazardous substances caused by Lessee that occurs during the term, at or from the leased premises, or which arises at any time from Lessee's use or occupancy of the leased premises, then Lessee shall, at Lessee's expense, prepare and submit the required plans and all related bonds and other financial assurance; and Lessee shall carry out all work required by such clean-up plans.

(4) Lessee shall promptly provide all information regarding the use, generation, storage, transportation or disposal of hazardous substances by Lessee at or from the leased premises that is reasonably required by Lessor. If Lessee fails to fulfill any duty imposed under this Section C, within a reasonable time, Lessor may do so; and in such case, Lessee shall cooperate with Lessor in order to prepare all documents Lessor deems reasonably necessary or appropriate to determine the applicability of the laws to the leased premises and Lessee's use of them, and for

compliance with the laws, and Lessee shall execute all lawful and necessary documents promptly upon Lessor's request. No such action by Lessor and no attempt made by Lessor to mitigate damages under any law shall constitute a waiver of any of Lessee's obligations under this Section

(5) Lessee's obligations and liabilities under this Section C shall survive the expiration or termination of this lease.

D. Environmental Indemnity. Lessee shall indemnify, defend and hold harmless Lessor and its officers, directors and employees from all fines, suits, procedures, claims and actions of every kind and all costs associated with such claims (including attorneys' and consultants' fees) arising out of or in any way connected with any deposit, spill, discharge or other release of hazardous substances that occurs during the term hereof at or from the leased premises by Lessee, which arises from Lessee's use or occupancy of the leased premises, or from Lessee's failure to provide all information reasonably and lawfully required, make all submissions and take all actions required by all lawful authorities under the laws and all other environmental laws. Lessee's obligations and liabilities under this Section D shall survive the expiration or termination of this lease.

14. **RIGHT OF INSPECTION**. The Lessor shall have the right, at all reasonable times, to enter upon the leased premises for the purpose of inspecting the property and determining whether all of the terms and conditions of this lease have been complied with by the Lessee, as well as for the purpose of making any repairs or alterations to the premises that the Lessor may, from time to time, desire to make, provided, however, that such entry shall not interfere with the business and operations of Lessee.

15. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSOR:**
Lessor represents, warrants and agrees that, as of the effective date of this lease:

(a) The present use of the premises is in compliance with all applicable ordinances and other governmental regulations (including all environmental laws);

(b) Lessor has not received any notice of a violation of housing, building, safety or fire ordinances;

(c) There are no unpaid assessments for the installation of any sewer or water lines or charges for making connection thereto or for street paving or curbing, or for any

other public improvements, nor has Lessor received any notice from appropriate governmental authorities of intention to make any public improvements; and

(d) Lessor has good and marketable title in fee simple (or its equivalent under the law of the state in which the leased premises are located) to the leased premises, free from all liens, restrictions and encumbrances.

16. **RIGHTS AND DUTIES OF PARTIES IN EVENT OF LITIGATION.** If Lessor is made a party defendant to any litigation concerning the lease or the leased premises or the occupancy of the premises by lessee for which Lessee is liable hereunder, the Lessee shall indemnify Lessor against all liability by reason of such litigation, including reasonable attorneys' fees and expenses incurred by Lessor in any such litigation whether or not any such litigation is prosecuted to judgment. If Lessor commences an action against Lessee to enforce any of the terms of this lease, for the recovery of any rent due under this lease, or for the unlawful detainer of the lease premises, Lessee shall pay to Lessor reasonable attorneys' fees and expenses, and the right to such attorneys' fees and expenses shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment. If Lessee breaches any term of this lease, Lessor may employ an attorney or attorneys to protect Lessor's rights under this Lease, and in the event of such employment following any breach by Lessee, Lessee shall pay Lessor whether or not an action is actually commenced against Lessee by reason of such breach.

If Lessee is made a party defendant to any litigation concerning this lease or the leased premises or any loss, cost, expense, damage (including clean-up and recovery costs and expenses incurred following notice by any state or federal authorities and including the fees of any expert) arising out of or resulting from the storage, dumping, burying, disposal, release or emission of any hazardous material on, under or from the leased premises by Lessor prior to the effective date hereof for which Lessor is liable hereunder, then Lessor shall indemnify Lessee against all liability by reason of such litigation or violation of any environmental laws, including reasonable attorneys' fees and expenses incurred by Lessee in any such litigation, whether or not any such litigation is prosecuted to judgment. If Lessee commences an action against Lessor to enforce any of the terms of this lease, because of the breach by Lessor of any of the terms of this lease, Lessor shall pay to Lessee reasonable attorney's fees and expenses and the right of such attorney's fees and expenses

shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment. If Lessor breaches any term of this lease, Lessee may employ an attorney or attorneys to protect Lessee's rights under this lease, and in the event of such employment following any breach by Lessor, Lessor shall pay Lessee reasonable attorney's fees and expenses incurred by Lessee whether or not an action is actually commenced against Lessor by reason of such breach.

17. **DEFAULT**. The Lessee shall be deemed to have breached the terms and conditions of this lease:

(a) as to the payment of sums due the Lessor when any such sums remain unpaid for ten (10) days after the same becomes due; and

(b) as to performance of any other covenant when default in any action required by the Lessee has not been cured, or action commenced to cure such default within thirty (30) days after written notice to the Lessee, provided that the Lessee shall be allowed an additional reasonable time, if required, to perform any essential work.

(c) upon the occurrence of an event of default of Lessee, Lessor shall have the right (i) to terminate this lease by giving written notice to Lessee of Lessor's election to terminate, and in such event, Lessor shall have no further obligation hereunder but Lessee shall continue to be responsible to Lessor for all damages incurred by Lessor as a result of Lessee's breach or (ii) to have the provisions hereof specifically enforced by any court having jurisdiction over the subject matter hereof.

Upon breach of any of the terms and conditions of this lease, and after notice as aforesaid, the Lessor shall have the right to terminate this lease and reenter the premises, removing therefrom the Lessee's agents, employees and property. The Lessor shall have all of the rights and remedies provided to Lessor under the provisions of Florida law. In the event the Lessor files an action to enforce any covenant or provision of this lease, the Lessee agrees to pay the Lessor's reasonable attorney's fees and costs incurred.

Time is of the essence of this agreement. This agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties. This agreement shall be construed under the laws of the State of Florida. Should any paragraph, sentence, clause or phrase of this lease be declared unconstitutional, invalid or otherwise ineffective by a court of competent

jurisdiction, such determination shall not affect the remaining provisions hereof. Any notice required to be given to the parties shall be provided in writing to them at the following addresses or at such other addresses as may be provided, in writing, by either party:

LESSOR'S ADDRESS:

Marianna Municipal Airport Development Authority
Post Office Box 936
Marianna, Florida 32447

LESSEE'S ADDRESS:

Adris Pender
PO Box 18671
Panama City Beach, FL 32417

18. **Early Termination of Lease:** Notwithstanding any other provisions of this Lease, it is agreed between the Tenant and the Landlord that in the event the Landlord contracts with a client for the sale or lease of any of the property identified within the Lease, in conjunction with an Economic Development Project, the Landlord shall have the option of terminating this lease under the following conditions:

- A. Upon giving the Tenant sixty (60) day notice in writing, by mail, and
- B. Upon the Landlord allowing the Tenant reasonable time to remove/harvest agriculture crops in production, and
- C. In the event of any early termination of the lease or any portion thereof by the Landlord, the Tenant shall be reimbursed a sum equal to \$2.50 per acre times the number of acres to which the termination applies, time the number of whole months remaining in the calendar year after the effective date of the termination. Upon any early or other termination of the lease, the Tenant shall be entitled to recover no other compensation, remediation, reimbursements, damages, costs or monies of any kind to such early termination, and all of such are waived and released.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this _____ day of _____, 2017.

Signed, Sealed and Delivered
in the Presence of:

First Witness Signature

Printed or Typed Name of First Witness

Second Witness Signature

Printed or Typed Name of Second Witness

LESSOR:

MARIANNA MUNICIPAL AIRPORT
DEVELOPMENT AUTHORITY

BY: _____
ALLEN WARD II,
Mayor-Commissioner-Chairman

ATTEST: _____
KIMBERLY APPLEWHITE,
City Clerk-Finance Director

Signed, Sealed and Delivered
in the Presence of:

First Witness Signature

Printed or Typed Name of First Witness

Second Witness Signature

Printed or Typed Name of Second Witness

LESSEE:

BY: _____
ADRIS PENDER

State of Florida
County of Jackson

THE FOREGOING INSTRUMENT was acknowledged before me on this the _____ day of _____, 2017, by ALLEN WARD and KIMBERLY APPLEWHITE, Mayor-Commissioner and Chairman and City Clerk, respectively, of the Marianna Municipal Airport Development Authority, on behalf of the Authority. They (XXX) are personally known to me or () have produced _____ as identification and who did not take an oath.

NOTARY PUBLIC

Printed Name: _____
State of Florida at Large
Commission Number: _____
Commission Expires: _____

State of Florida
County of Jackson

THE FOREGOING INSTRUMENT was acknowledged before me on this the _____ day of _____, 2017, by ADRIS PENDER who () is personally known to me or () produced _____ as identification and who did not take an oath.

NOTARY PUBLIC

Printed Name: _____
State of Florida at Large
Commission Number: _____
Commission Expires: _____

THIS INSTRUMENT PREPARED BY:

H. Matthew Fuqua
Florida Bar No. 0520330
Fuqua and Milton, P.A.
4450 Lafayette Street
Post Office Box 1508
Marianna, Florida 32447
(850) 526-2263

Attorneys for Lessor