

LEASE AGREEMENT

THIS LEASE AGREEMENT (“LEASE”) is made this __ day of _____ 2014, by and between J. **ALDERMAN FARMS, INC.**, a Florida corporation, whose principal address is 11103 Townsend Lane, Boynton Beach, Florida 33472 (hereinafter “LESSEE”), and the **ACME IMPROVEMENT DISTRICT**, a dependent special district of the VILLAGE OF WELLINGTON, a municipal corporation of the State of Florida (hereinafter “LESSOR”).

WHEREAS, the LESSOR is the owner of a certain piece of property located in Wellington, Florida, and more particularly described in Exhibit “A” which is attached hereto and incorporated herein (hereinafter “LEASED PREMISES”); and

WHEREAS, the LESSOR desires to lease said property to LESSEE so that LESSEE may utilize the property for agricultural farming purposes; and

WHEREAS, the LESSOR hereby agrees to lease the LEASED PREMISES to the LESSEE for agricultural farming purposes for the LESSEE, as such term(s) is defined herein and any change of use as provided for and limited by the provisions herein.

NOW THEREFORE, in consideration of the mutual covenants, agreements and undertakings contained herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, LESSOR hereby leases and lets to LESSEE, and LESSEE hereby leases from LESSOR, in accordance with the terms, provisions and conditions of this LEASE, the LEASED PREMISES.

- A. **RECITALS.** The above recitals are acknowledged and agreed to by both parties as true and are incorporated herein.

- B. **TERM OF LEASE.** The initial term of the lease shall commence on July 1, 2014 (commencement date) and shall terminate on June 30, 2015, unless extended under the provisions of the LEASE as provided for herein. The LEASE may be extended for two additional one (1) year period running from July 1, 2015 to June 30, 2016 (“First Year Extension”) and from July 1, 2016 to June 30, 2017 (“Second Year Extension”) A request to extend the LEASE term shall be made in writing no later than ninety (90) days prior to the expiration of the LEASE term and is subject to approval by the Wellington Council. Thereafter, for a period of an additional two (2) years, if LESSOR offers the LEASED PREMISES for agricultural purposes, LESSEE shall have a first right of refusal to enter into a subsequent lease under the terms that are equal to or better, as solely determined by LESSOR, to that of any other offer the LESSOR may receive.

- C. **RENT.**
 - 1. **Rent Obligation.** All payments of rent to LESSOR shall be made at LESSOR’s mailing address, 12300 Forest Hill Blvd., Wellington, FL 33414, or at such other place or places as LESSOR shall from time to time designate by written notice to LESSEE.

2. **Initial Rate.** The LESSEE shall pay the LESSOR the sum of Fifty Four Thousand, Six Hundred Seventy Five Dollars (\$54,675.00) as rent for the use of the LEASED PREMISES during the initial term. One half of the rent in the amount of \$27,337.50 shall be due on July 1, 2014. The remainder of the rent in the amount of \$27,337.50 shall be due on or before January 15, 2015.

3. **Rate for Additional Years.** For the First Year Extension, LESSEE shall pay rent in the amount of Fifty Six Thousand Three Hundred Twenty Five Thousand Dollars (\$56,325.00), if extended. One half of the rent in the amount of \$28,162.50 shall be due on July 1, 2015. The remainder of the rent in the amount of \$28,162.50 shall be due on or before January 15, 2016.

4. For the Second Year Extension, LESSEE shall pay rent in the amount of Fifty Eight Thousand Twenty Five Dollars (\$58,025.00), if extended. One half of the rent in the amount of \$29,012.50 shall be due on July 1, 2016. The remainder of the rent in the amount of \$29,012.50 shall be due on or before January 15, 2017.

D. USE OF PREMISES. The premises shall be used for the purpose of organic farming in accordance with the USDA's established organic farming standards and the National Organic Program for planting, growing, and harvesting vegetables. The Organic Materials Review Institute (OMRI) or other certifying agency under the Organic Food Production Act of 1990 shall provide certification that the farm operation on the lease site qualifies as a certified organic farm. Prior to the rent payment coming due, a list of any chemicals, pesticides, fertilizers, and similar products intended to be used by the LESSEE shall be provided to LESSOR. Such chemicals, pesticides, fertilizers, and similar products may be used only in accord with the directions given on the label. Such list and copies of the labels shall be supplied to the LESSOR and if the LESSOR does not approve a chemical, it may not be used. If LESSEE believes that it will not be able to use the LEASED PREMISES if the requested chemical or other product has not been approved, then LESSEE may terminate the lease prior to making payment to LESSOR. The LEASED PREMISES shall not be used for any other purpose without the LESSOR'S prior written consent.

E. GENERAL OPERATIONS ON PREMISES.

1. **General Operations.** All operations conducted on the LEASED PREMISES as specified in paragraph D of this LEASE shall be in accordance with the best course of organic farming practiced in the geographical vicinity of the LEASED PREMISES and in accordance with the United States Department of Agricultural Standards established under the Organic Foods Production Act of 1990 Organic Farming. If LESSEE fails to perform any of such obligations in the prescribed manner, after LESSOR shall have given LESSEE 30 days written notice of such failure, LESSOR may enter the premises and take whatever action it deems necessary to protect its interest therein and in this LEASE. LESSEE shall reimburse LESSOR on demand for all costs incurred in taking any action LESSOR may take under the provisions of this paragraph.

2. **Removal of Tree and Bush Materials.** Prior to initiating any planting on the site LESSEE shall remove from the perimeter of the site any and all exotic trees and bushes allowing a clear view of the farm operations from the adjacent roadways.

3. **Drainage and Roadway Easements.** LESSEE acknowledges that LESSOR and the owners of the adjacent church site have agreed to the establishment of drainage and roadway easements across the LEASED PREMISES. Those existing and proposed easements are more particularly set forth in Exhibit B to this agreement. LESSEE operations on the LEASED PREMISES shall not interfere or encumber the drainage and roadway easements identified in Exhibit B.

F. REAL ESTATE TAXES

1. **Taxes and Assessments.** LESSEE shall, at his own expense and at all times during the term(s) of this LEASE, pay any and all lawful taxes and assessments, including ad valorem taxes levied against the real property, improvements attached thereto by the LESSEE or LESSEE's personal property or otherwise arising out of its operation of or on the LEASED PREMISES. LESSOR shall request appropriate agricultural classification on the LEASED PREMISES within ten (10) days of the full execution of this LEASE AGREEMENT. None of the terms, covenants, or conditions of this LEASE shall be construed as a release or waiver by LESSOR, as a Florida Municipal Corporation, of its right to assess, levy or collect any license, personal, tangible, intangible, occupational, or other tax which it, or any other governmental authority, may lawfully impose on the business or property of LESSEE. All taxes and assessments levied against the LEASED PREMISES or against LESSEE's property during the term of the LEASE shall be the sole responsibility of the LESSEE. LESSOR may, at its sole option, choose to pay property taxes due on the LEASED PREMISES on or before November 30 of the lease year in order to take advantage of the discounted rate for early payment. The LESSEE shall be responsible for reimbursing the LESSOR in full for all taxes paid no later than January 30 of the following calendar year.

2. **Different Method of Assessment.** If some method or type of taxation shall replace the current method of the assessment or imposition of ad valorem taxes or assessments, or of any other taxes due, LESSEE agrees that it shall pay the same as then computed in the same manner as set forth in paragraph F1 above.

G. REPAIRS, ALTERATIONS AND LIENS, UTILITIES, AND WASTE

1. **Repairs.** Without limitation, LESSEE and its assigns shall be responsible for the making of any improvements on or repairs of the LEASED PREMISES. The LESSEE shall keep the LEASED PREMISES and all improvements constructed thereon in good order, condition and repair.

2. **Alterations and Liens.** LESSEE and its assigns may cause any alterations, additions or improvements to the LEASED PREMISES necessary for agricultural purposes without the prior written consent of LESSOR. However, upon conclusion of the LEASE term, LESSEE shall return the LEASED PREMISES to the condition it was in on the date of execution of this LEASE, unless otherwise agreed to in writing by the parties hereto. LESSEE shall keep the LEASED PREMISES free and clear from all liens, claims,

encumbrances and demands of any kind for work performed, materials furnished, or operations conducted thereon by LESSEE or at its request.

3. **Utilities.** LESSEE and its assigns shall pay all charges for gas, electric, water (including irrigation), telephone service, solid waste disposal, sewage disposal and other services used on or about or supplied to the LEASED PREMISES.

4. **Waste.** LESSEE shall at all times protect the LEASED PREMISES from any waste and shall not maintain, commit, or permit any nuisance to occur, as provided in Wellington's Code of Ordinances; nor shall the LEASED PREMISES be used for any unlawful purpose. In determining whether the LESSEE is in violation of this provision, LESSEE shall be entitled to invoke the protections set forth in Florida Statute § 823.14 "Florida Right to Farm Act".

H. ASSIGNMENT AND SUBLETTING

1. This LEASE may not be assigned or sublet in whole or in part without the prior written consent of the LESSOR.

2. The LESSEE shall not permit the LEASED PREMISES, nor any portion thereof, to be used in any manner and for any purpose other than as above stipulated without the prior written consent of the LESSOR.

I. LESSOR'S ACCESS TO LEASED PREMISES. LESSEE shall permit LESSOR or LESSOR's agents, employees or officers to inspect or examine the LEASED PREMISES at any time upon reasonable notice to LESSEE by LESSOR. Whenever possible, LESSOR will provide at least forty eight (48) hours' notice of its intent to inspect the LEASED PREMISES. Notwithstanding the foregoing, LESSOR may access the LEASED PREMISES at any time and without notice in the event of an actual or potential emergency, including in the event of approaching storms.

J. DEFAULT

1. **LESSEE'S Default.** Upon the happening of any one or more of the following events, LESSEE shall be in default under the terms of this LEASE:

a. LESSEE's failure to pay any installment of rent, pursuant to section C, above, or any other sum to be paid by LESSEE under this LEASE within **thirty (30) days** after the same becomes due and payable under this LEASE; or

b. LESSEE's failure to perform or observe any other term or condition of this LEASE; or

c. LESSEE's insolvency; or

d. LESSEE's abandonment of the premises.

e. The making by LESSEE or of any guarantor hereof of any general assignment, or general arrangement for the benefit of creditors; (ii) the filing by or against LESSEE of a petition to have LESSEE adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against LESSEE, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of LESSEE's assets located at the LEASED PREMISES or of LESSEE's interest in this LEASE, where possession is not restored to LESSEE within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of LESSEE's assets located at the LEASED PREMISES or of LESSEE's interest in this LEASE, where such seizure is not discharged within thirty (30) days.

2. **LESSOR's Remedies.** Upon any occurrence in subsection (J) (1) above, the LESSOR, at its discretion, may terminate this LEASE for cause, provided LESSOR has given LESSEE thirty (30) days notice of the default and an opportunity to cure said default, and may reenter and take possession of the LEASED PREMISES for its own use or, at LESSOR'S discretion, for the account of the LESSEE, all without prejudice to LESSOR's right to collect from LESSEE all rent and other sums due and owing under the LEASE and all other remedies provided by law.

K. TERMINATION.

1. **Termination for Convenience.** LESSOR may terminate this LEASE for convenience upon providing LESSEE one hundred twenty (120) days notice of same. If the LESSOR elects to terminate the LEASE for convenience, LESSEE shall be able to complete the growing and harvesting of any crops that have been planted prior to the expiration of the one hundred twenty (120) days notice.

L. MISCELLANEOUS PROVISIONS

1. **Acceptance by LESSEE.** LESSEE accepts the LEASED PREMISES, as well as the improvements thereon and the facilities appurtenant thereto, as is and in their present condition. LESSEE warrants and represents to LESSOR that LESSEE has inspected the premises, that LESSEE has been assured by means independent of LESSOR or LESSOR's agents of the truth of all facts material to this LEASE, and that LESSEE is leasing the LEASED PREMISES based on its inspection and investigation, and has not relied in any way on any representations made by LESSOR or its officers, employees or agents.

2. **Hold Harmless.** LESSEE agrees to indemnify, defend and save harmless the LESSOR from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including attorneys' fees and costs at all trial and appellate levels, of any kind and nature arising or growing out of or in any way connected with the performance of this Agreement by LESSEE.

3. **Relationship.** It is mutually understood and agreed that nothing contained in this LEASE AGREEMENT is intended, nor shall be construed in any way, creating or establishing a partnership or joint venture between the parties hereto, nor shall LESSEE be

deemed to be the agent or representative of the LESSOR for any purpose or in any manner whatsoever.

4. **Surrender of Premises.** Upon the expiration or earlier termination of this LEASE, LESSEE shall quit and surrender the LEASED PREMISES in neat and clean condition and in good order, condition and repair. Any or all improvements made by LESSEE shall be removed by LESSEE from the LEASED PREMISES and LESSEE shall return the LEASED PREMISES to its original condition, unless otherwise agreed to in writing by the parties hereto.

5. **Right To Enter.** LESSOR, or LESSOR's officers, employees, designees, agents or contract purchasers, may enter the LEASED PREMISES to perform such surveys, inspections, environmental analyses, soil borings and other tests as LESSOR may require. Such testing shall not interfere with the farming operation and the LESSEE shall be given forty eight (48) hours notice of any proposed testing or inspections of the LEASED PREMISES.

6. **Holding Over.** Any holding over by LESSEE after the expiration of the term(s) of this LEASE shall be treated as a tenancy at sufferance at the rent and other charges specified herein, prorated on a daily basis, and shall otherwise be on the terms and conditions set forth in this LEASE, so far as applicable. In such event, LESSOR shall be entitled to all remedies provided by law.

7. **Insurance Requirements.** LESSEE shall not commit or permit the commission of any hazardous acts on the LEASED PREMISES nor use or permit its use in any manner that will increase the existing rates for or cause the cancellation of any fire, liability, or other insurance policy insuring the premises, and the crops and improvements thereon. LESSEE shall maintain general liability insurance in the amount of no less than One Million Dollars (\$1,000,000) per occurrence and shall furnish a certificate of same to LESSOR, naming the LESSOR as an additional insured.

8. **Debts.** Neither party shall be responsible in any way for the debts or liabilities of the other party, unless otherwise stated herein.

9. **Severability.** In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless the parties hereto elect to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

10. **Binding Effect.** Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors and assigns, respectively, of LESSOR and LESSEE. This reference to successors and assigns of LESSEE is not intended to constitute LESSOR's consent to assignment by LESSEE, as required by the provisions of paragraph (H) hereof.

11. **Recording.** LESSEE and LESSOR agree not to record this LEASE.

12. **Notices.** Whenever by the term(s) of this LEASE, notice or demand shall or may be given either to LESSOR or to LESSEE, such notice or demand shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested, postage prepaid:

a. TO LESSOR: Paul Schofield, Manager
Village of Wellington
12300 Forest Hill Boulevard
Wellington, Florida 33414

With a Copy To: Laurie Cohen
Village Attorney
12300 Forest Hill Boulevard
Wellington, Florida 33414

b. TO LESSEE: James M. Alderman, President
PO Box 740631
Boynton Beach, FL 33474

With a Copy To: Mark A. Perry, P.A.
50 SE 4th Avenue
Delray Beach, Florida 33483

All such notices shall be effective when deposited in the United States mail or when hand delivered.

13. **Governing Law and Venue.** This LEASE shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be in Palm Beach County, Florida.

14. **Palm Beach County Office of Inspector General.** In accordance with Palm Beach County ordinance number 2011-009, LESSEE understands that this LEASE AGREEMENT may be subject to investigation and/or audit by the Palm Beach County Inspector General. LESSEE has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

15. **Attorneys' Fees.** LESSOR and LESSEE agree that in the event it should become necessary for either of them to employ an attorney or to enforce any of their rights hereunder or under Florida law, the prevailing party shall be entitled to recover all of its costs and expenses from the other party, including attorney's fees which may reasonably be incurred or paid at any time or times in connection therewith, including, without limitation, attorneys' fees for legal services rendered prior to litigation and in all trial, appellate and bankruptcy court proceedings. The private market rate shall apply for government attorneys, paralegals and legal assistant fees.

16. **Captions and Interpretation.** The titles or captions to the paragraphs contained in this LEASE are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this LEASE. Any gender used herein shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates. The use of the singular herein shall be deemed to include the plural, and conversely, the plural shall be deemed to include the singular.

17. **Waiver.** The rights of the LESSOR under the foregoing shall be cumulative, and failure on the part of the LESSOR to exercise promptly any rights given hereunder shall not operate to forfeit any of said rights.

18. **Entire Agreement.** This LEASE contains the entire agreement of the parties with respect to the LEASED PREMISES, and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties relative to the LEASED PREMISES not embodied in this LEASE shall have any force or effect. This LEASE shall not be modified or supplemented except in writing subscribed by all parties.

19. **Time of Essence.** It is understood and agreed between the parties hereto that time is of the essence of this Lease, and this applies to all terms and conditions herein contained.

20. **Construction.** This Agreement has been mutually prepared and drafted by both parties, upon advice and consent of legal counsel. As a result, it is the intent of the parties that neither party shall be entitled to benefit from any rules of construction with respect to the interpretation of any terms, conditions or provision of this Agreement in favor of or against any person or party who drafted this Agreement.

21. **Effective Date.** The Effective Date of this Agreement shall be the date of commencement shown in paragraph B above.

IN WITNESS WHEREOF, the parties hereto have executed this instrument for the purposes herein expressed on the day and year first written above.

WITNESSES AS TO
J. ALDERMAN FARMS, INC:

J. ALDERMAN FARMS, INC., a Florida Corporation

Sign: _____
Print: _____
Sign: _____
Print: _____

Sign: _____
James M. Alderman as President

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared _____, who produced as identification a _____ Driver's License, showing him to be the person described in and who executed the foregoing instrument as _____ of **J. ALDERMAN FARMS, INC.**, a Florida corporation and did acknowledge before me that he executed the same for and on behalf of said corporation as such officer by due and regular corporate and company authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this _____ day of _____, 2014.

Notary Public

State of _____

My commission expires: _____

ATTEST:

ACME IMPROVEMENT DISTRICT

By: _____
Awilda Rodriguez, Secretary

By: _____
Bob Margolis, President

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Laurie Cohen, Board Attorney