

FARM LEASE AGREEMENT

This Farm Lease Agreement made in duplicate this 21st day of December, 2023

BETWEEN:

THE CORPORATION OF THE COUNTY OF ESSEX

OF THE FIRST PART

- and -

TRI-B ACRES INC.

OF THE SECOND PART

WHEREAS the Corporation of the County of Essex (the "**Landlord**") is the owner of the Farm Property (as defined below), and which Farm Property is not currently required by the Landlord for municipal purposes;

AND WHEREAS the Farm Property abuts certain lands the Landlord owns to the south at municipal address 174 Talbot Street East, Leamington, Ontario, where the Landlord operates the Sun Parlor Long Term Care Home (the "**Sun Parlor Lands**");

AND WHEREAS Tri-B Acres Inc. (the "**Tenant**", and together with the Landlord, the "**Parties**") owns the lands that border both the east and west sides of the Farm Property (the "**Tenant's Lands**");

AND WHEREAS County Road 33 borders the Farm Property to the North, but without there being access to the Farm Property from County Road 33;

AND WHEREAS the Farm Property is effectively landlocked except for limited access across the Sun Parlor Lands;

AND WHEREAS the Tenant has historically leased the Farm Property from the Landlord, with the most recent Lease Agreement being dated November 6, 2013,

with a term that commenced on January 1, 2014 and that terminates on December 31, 2023;

AND WHEREAS the Tenant has requested to continue leasing the Farm Property;

AND WHEREAS the Tenant is able to access the Farm Property from the Tenant's Lands without disturbing the Landlord's use of the Sun Parlor Lands;

AND WHEREAS it is deemed expedient by the Landlord to continue to lease the Farm Property to the Tenant on the terms and conditions set out in this Farm Lease Agreement.

NOW THEREFORE WITNESSETH THAT in consideration of the terms and covenants contained herein, and other valuable consideration, the receipt and sufficiency of which is expressly acknowledged by each of the Parties hereto, the Parties hereto agree with one another as follows:

Demised Premises

1. In consideration of the rents covenants and agreements set out herein, the Landlord hereby leases the Farm Property to the Tenant, and which Farm Property is comprised of vacant farmland more particularly described as the east part of Lot 242, North Talbot Road Concession, in the Municipality of Leamington, in the County of Essex now designated as Part 9 on Reference Plan 12R-276, being approximately forty (40) acres in size (the "**Farm Property**").
2. The Parties expressly agree that for the purposes of this Farm Lease Agreement that the size of the Farm Property shall be set at forty (40) acres and neither of the Parties will argue that the size of the Farm Property should be set at a higher or lower size during the term of this Farm Lease Agreement.
3. The Farm Property shall be used solely for general agricultural purposes in accordance with good farming practices, and shall at all times be used in compliance with all applicable laws, regulations, by-laws and any other rules and regulations affecting the Farm Property.

Term

4. The term of this Farm Lease Agreement shall be for a term of five (5) years commencing on the 1st day of January 2024 and expiring on the

31st day of December 2029 (the "**Term**"), but may be extended by the County, at its sole and absolute discretion for an additional five (5) year term, such that the term can be extended to the 31st day of December, 2033. At the conclusion of the Term, or the extended Term as the case may be, the Tenant agrees to vacate the Farm Property, unless a fresh Farm Lease Agreement is entered into between the Parties hereto in writing prior to the end of the Term.

5. Notwithstanding Section 4 above, the Tenant expressly acknowledges that the Landlord may terminate, notwithstanding any other provision herein, this Farm Lease Agreement on ninety (90) days written notice should the Farm Property be required for another purpose of the Landlord, other than for farming, and the Landlord shall have no liability to the Tenant should this Farm Lease Agreement be terminated pursuant to the terms of this Section 5.

Rent

6. The Tenant shall pay the Landlord rent, without any deduction or abatement whatsoever, based on annual rent of \$305.00 per acre plus applicable taxes for the Farm Property.
7. Based on the Parties express agreement that the size of the Farm Property is forty (40) acres, the Parties agree that the annual rent payment shall be the sum of \$12,200.00 plus applicable taxes.
8. The Tenant shall pay the Landlord the annual rent in the sum of \$12,200.00 plus applicable taxes by on or before the 1st day of November in each and every year of the Term, with all payments for rent being delivered to the Landlord at municipal address 360 Fairview Avenue West, Essex, Ontario N8M 1Y6.
9. If the Tenant fails to pay any rental payment when it is due and payable, in addition to such further and other remedies available to the Landlord, the Landlord has the express right to charge interest from the due date at the rate of 18% per annum.
10. The Landlord expressly agrees that the Tenant shall not be responsible for paying any municipal and/or school taxes assessed against the Farm Property, with the Landlord remaining responsible to pay such amounts.

Land Improvements

11. The Tenant acknowledges having the opportunity to inspect the Farm Property as the existing Tenant at the time this Farm Lease Agreement is being entered into, and hereby accepts the Farm Property in its current and existing condition.
12. The Tenant expressly acknowledges and agrees that it shall be solely responsible during the Term for any and all costs of and land improvements to the Farm Property, which may include, but are not limited to, drainage, irrigation, and soil improvements and alterations that may be required to prepare the Farm Property for future farming purposes.
13. The Parties each hereto acknowledge that, in order for the Farmed Property to have the maximum potential yield for any crops planted thereon, certain improvements to the drainage system on the Farm Property may be required from time to time, including but not limited to drainage and/or irrigation systems (the "**Improvements**"). The Landlord hereby grants expression permission to the Tenant to install any and all Improvements the Tenant deems necessary or appropriate to ensure the highest potential yield of crops thereon, but with such permission being granted on the understanding that:
 - (1) any and all Improvements made shall be at the sole expense of the Tenant;
 - (2) any and all improvements made, save and except any portion of an irrigation system that is used above the surface of the ground, shall vest in the Landlord and shall remain with the Farm Property at the expiration of the Term of this Farm Lease Agreement; and
 - (3) the Tenant agreeing that it shall not sell, remove, dispose of, or encumber any of the Improvements made to the Farm Property without the express written consent of the Landlord.

Petroleum and Natural Gas Lease

14. The Tenant acknowledges that the Farm Property is subject to the terms and conditions of a Petroleum and Natural Gas Lease (the "**Gas Lease**") between the Landlord and Telesis Oil and Gas, a Division of British Gas

Enterprises (Canada) Limited, which has been assigned to Dundee Oil and Gas Limited, General Partner for Dundee Energy Limited Partnership ("**Dundee**").

15. The Tenant expressly agrees that the Tenant's tenancy on the Farm Property during the Term of this Farm Lease Agreement is subject to the terms and conditions of the said Gas Lease between the Landlord and Dundee.
16. The Tenant expressly agrees to, and does, indemnify the Landlord, along with the Landlord's servants, agents, successors, and assigns, from any and all liability for damages or other actions, whatsoever, which may arise as a result of the exercise by Dundee, or Dundee's successors and assigns, of Dundee's rights under the said Gas Lease, and further, the Tenant expressly agrees that the Tenant's sole recourse for any damages will be to Dundee, or Dundee's successors and assigns, and the Tenant shall have no recourse as against the Landlord.
17. The Tenant further expressly acknowledges and agrees that all royalties, privileges or other remuneration, which relate to the said Gas Lease are the sole and exclusive property of the Landlord and that the Tenant has no right to receive any benefit under the said Gas Lease.
18. The Tenant further acknowledges and agrees that in the event the Tenant becomes entitled to any compensation as the result of the exercise by Dundee, or Dundee's successors and assigns, of its rights under the Gas Lease, such compensation is to be received directly from Dundee and not from any remuneration to which the Landlord may become entitled under the said Gas Lease.

Tenant's Covenants

19. The Tenant covenants with the Landlord:
 - (1) to pay the rent when due;
 - (2) to cultivate, seed, and harvest crops on the Farm Property;
 - (3) to control weeds, insects, and disease on the Farm Property;

- (4) to use pesticides in accordance with applicable legislation and regulations and in conformity with the manufacturer's labelled directions;
- (5) to minimize soil loss from erosion with accepted conservation practices;
- (6) not to construct any structures or abandon any equipment or vehicles on the Farm Property, at any time;
- (7) not to discharge or spill any contaminants or pollutants on the Farm Property or into the environment that cause, or are likely to cause, an adverse effect to the Farm Property;
- (8) to upon termination of this Lease, either upon expiry of the Term or otherwise, to leave the Farm Property neat, clean, level, and free of all noxious weeds, waste material, debris, and rubbish, and ready for a new crop in the following year on the basis of a no-till system;
- (9) to, within thirty (30) calendar days after receiving written notice from the Landlord that the Tenant is in breach of any of the covenants under the provisions of this Farm Lease Agreement, bring itself into compliance with all covenants, and failing which, the Landlord may re-enter and take possession of the Farm Property until such time as the Tenant has brought itself into compliance with its covenants, to the satisfaction of the Landlord;
- (10) not to register this Farm Lease Agreement, or any notice thereof, against title to any portion of the Farm Property; and
- (11) not to assign this Farm Lease Agreement, or sublet the Farm Property, either in whole or in part, with the express written consent of the Landlord, which consent may be unreasonably withheld.

Default

20. Any of the following constitutes an "**Event of Default**" under this Farm Lease Agreement:

- (1) if the Tenant, or its successor(s) or an authorized assignee, fails to pay rent when due;
 - (2) if the Tenant, or its successor(s) or an authorized assignee, makes an assignment for the benefit of creditors, or becomes insolvent or commits an act of bankruptcy as defined by the *Bankruptcy and Insolvency Act*, R. S. C. 1985, c. B -3, as amended; or
 - (3) if the leasehold interest created by this Farm Lease Agreement is at any time seized or taken in execution or in attachment; or
 - (4) if the Tenant is subject to a voluntary or compulsory receivership, liquidation, or winding up; or
 - (5) if the Tenant, or its successor(s) or an authorized assignee, has breached any of its obligations or covenants contained in this Farm Lease Agreement and, if such breach is capable of being remedied and is not otherwise listed in this Section 20, after notice in writing from the Landlord, the Tenant fails to remedy such breach within thirty (30) calendar days; or
 - (6) if the Farm Property becomes abandoned.
21. If and whenever an Event of Default occurs, then, without prejudice to any other rights which it has pursuant to this Farm Lease Agreement, or at law, the Landlord shall have the following rights and remedies, which are cumulative and not alternative:
- (1) to terminate this Farm Lease Agreement by notice to the Tenant, or to re-enter the Farm Property and repossess the said Farm Property, and, in either case, enjoy the Farm Property as of its former estate, and to remove all persons and property from the Farm Property and store such property at the expense and risk of the Tenant, or sell or dispose of such property in such manner as the Landlord sees fit, without notice to the Tenant. If the Landlord enters the Farm Property without notice to the Tenant as to whether it is terminating this Lease under Section 21(1) of this Farm Lease Agreement or proceeding under Section 21(2), or any other provision of this Farm Lease Agreement, the Landlord shall be deemed to be proceeding under Section 21(2), and the Farm Lease Agreement shall not be terminated, nor shall there be any surrender by operation of law, but the Farm Lease Agreement shall remain in full force and effect until the Landlord notifies the Tenant

that it has elected to terminate this Farm Lease Agreement. No entry by the Landlord during the Term shall have the effect of terminating this Farm Lease Agreement without notice to that effect to the Tenant;

- (2) to enter the Farm Property as agent of the Tenant to do any or all of the following:
 - (a) to re-let the Farm Property for whatever length and on such terms as the Landlord, in its sole and absolute discretion, may determine, and to receive the rent therefor;
 - (b) take possession of any property of the Tenant on the Farm Property, store such property at the expense and risk of the Tenant, or sell or otherwise dispose of such property in such manner as the Landlord sees fit without notice to the Tenant;
 - (c) make any and all alterations to the Farm Property as may be required to facilitate the re-letting of the said Farm Property; and
 - (d) apply the proceeds of any such sale or re-letting first, to the payment of any expenses incurred by the Landlord with respect to any such re-letting or sale, second, to the payment of any indebtedness of the Tenant to the Landlord other than rent, and third, to the payment of rent in arrears (and/or to any accelerated rent), with the residue to be held by the Landlord and applied to payment of future rent as it becomes due and payable, provided that the Tenant shall remain liable for any deficiency to the Landlord;
- (3) to remedy or attempt to remedy any default of the Tenant under this Farm Lease Agreement for the account of the Tenant and to enter on the Farm Property for such purposes. No notice of the Landlord's intention to remedy or attempt to remedy such default need be given to the Tenant unless expressly required by this Farm Lease Agreement, and the Landlord shall not be liable to the Tenant for any loss, injury or damages caused by acts of the Landlord in remedying or attempting to remedy such default. The Tenant shall pay to the Landlord all expenses incurred by the Landlord in connection therewith;

- (4) to recover from the Tenant all damages, costs and expenses incurred by the Landlord as a result of any default by the Tenant including, if the Landlord terminates this Farm Lease Agreement, any deficiency between those amounts which would have been payable by the Tenant for the portion of the Term following such termination and the net amounts actually received by the Landlord during such period of time with respect to the Farm Property; and
- (5) to recover from the Tenant the annual amount of rent due for the current year of the Term and the following Year, all of which shall immediately become due and payable as accelerated rent.

Distress

- 22. Notwithstanding any provision of this Farm Lease Agreement, or any provision of any applicable legislation, none of the goods and chattels of the Tenant on the Farm Property at any time during the Term shall be exempt from levy by distress for rent in arrears, and the Tenant waives any such exemption. If the Landlord makes any claim against the goods and chattels of the Tenant by way of distress, this provision may be pleaded as an estoppel against the Tenant in any action brought to test the right of the Landlord to levy such distress.

Costs

- 23. The Tenant shall pay to the Landlord all damages, costs and expenses (including, without limitation, all legal fees on a solicitor and client basis) incurred by the Landlord in enforcing the terms of this Farm Lease Agreement.

Remedies Cumulative

- 24. Notwithstanding any other provision of this Farm Lease Agreement, the Landlord may from time to time resort to any or all of the rights and remedies available to it in the event of any default hereunder by the Tenant, either by any provision of this Farm Lease Agreement, by statute, or common law, all of which rights and remedies are intended to be cumulative and not alternative. The express provisions contained in this Farm Lease Agreement as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Landlord by statute or at common law.

Landlord Not Responsible

25. The Tenant, except as otherwise specifically provided for herein, assumes the entire responsibility for the condition, operation, maintenance, and management of the Farm Property, and the Landlord shall have no responsibility whatsoever for same, nor shall the Landlord be responsible for damage to the Tenant's property in and upon the Farm Property under any circumstances whatsoever except damages caused by the negligent act or omission of the Landlord or the Landlord's employees or contractors.

Indemnity and Insurance

26. The Tenant shall at all times indemnify and save harmless the Landlord from and against any and all manner of claims, demands, losses, costs, charges, actions, and other proceedings, whatsoever, made or brought against, suffered by or imposed on the Landlord or its property in respect of any loss, damage or injury (including fatal injury) to any person or property (including, without restriction, employees, agents and/or property of the Landlord or of the Tenant) directly or indirectly arising out of, resulting from or sustained as a result of the Tenant's occupation or use of, or any operation in connection with, the Farm Property, except to the extent attributable to the Landlord's negligence.
27. The Tenant shall, at all times during the Term of this Farm Lease Agreement, at its own expense, maintain in force insurance coverage with respect to its use and occupation of the Farm Property, and shall provide the Landlord with certificates of a policy or policies issued by an insurance company or companies for liability insurance for bodily injury, death or property damage for not less than two million dollars (\$2,000,000.00) for each occurrence. Every policy or policies of insurance maintained by the Tenant shall name the Landlord as an additional named insured, and provide cross-liability coverage and waiver of subrogation, and the Landlord may require the Tenant to supply evidence of such insurance being valid and in place from time to time.

Quiet Enjoyment

28. Subject to the Tenant paying the rent as it becomes due and keeping, observing, and performing the Tenant's covenants as set out in this Farm Lease Agreement, the Landlord covenants with the Tenant for the Tenant's quiet enjoyment of the Farm Property.

Notices

29. Any notice required to be given pursuant to any of the provisions of, or in connection with, this Farm Lease Agreement, shall be in writing, and shall be deemed to have been properly given if delivered in person, or mailed by prepaid first class mail addressed to:

- (1) If to the Landlord:

The Corporation of the County of Essex
Attention: Clerk
360 Fairview Avenue West
Essex, Ontario N8M 1Y6

- (2) If to the Tenant:

Tri-B Acres Inc.
Attention: Mr. Peter Brunato
323 Road # 3, RR#3
Leamington, Ontario N8H 3V5

or to such other addresses as either of the Parties hereto may notify the other Party of, and in the case of mailing, such notice shall be deemed to have been received by the addressee in the absence of a major interruption of postal service, on the third (3rd) business day following the date of mailing.

General

30. Any waiver by the Landlord of any breach of any term, covenant or condition in this Farm Agreement Lease shall not be deemed to be a waiver of any subsequent breach of such term, covenant, or condition. No term, covenant, or condition of this Farm Lease Agreement shall be deemed to have been waived by the Landlord, as such waiver shall be in writing and signed by the Landlord. The subsequent acceptance of rent hereunder by the Landlord shall not be deemed to be a waiver of any preceding breach by the Tenant.
31. The termination of this Lease, by expiry or otherwise, shall not affect the liability of either of the Parties to this Farm Lease Agreement to the other with respect to any obligation under the Farm Lease Agreement which

- has accrued up to the date of such termination, but has not been properly satisfied or discharged.
32. Words importing the singular number only shall include the plural and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders, and words importing persons shall include firms and corporations and *vice versa*.
33. The division of this Farm Lease Agreement into Articles or Sections and the insertion of headings are for convenience of reference only, and shall not affect the construction or interpretation of this Farm Lease Agreement.
34. If any Article or Section, or part or parts of an Article or Section, in this Farm Lease Agreement is, or is held to be, illegal or unenforceable, it or they shall be considered separate and severable from this Farm Lease Agreement and the remaining provisions of this Farm Lease Agreement shall remain in full force and effect and shall be binding on the Parties as though such Article or Section, or part or parts thereof, had never been included in this Farm Lease Agreement.
35. The Parties acknowledge that there are no covenants, representations, warranties, agreements, or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to this Farm Lease Agreement other than as set out in this Farm Lease Agreement, which constitutes the entire agreement between the Parties concerning the Farm Property.
36. This Farm Lease Agreement may be executed electronically and in counterparts, each of which so executed shall be deemed to be an original, and with such counterparts together constituting one and the same instrument. A facsimile or electronic portable document format (.pdf) signature of any party shall be sufficient to constitute the original execution of this Agreement by each of the Parties, for all purposes related to this Farm Lease Agreement.
37. This Farm Lease Agreement shall be governed and construed in accordance with the laws of the Province of Ontario.
38. The provisions of the Farm Lease Agreement shall be binding upon, and enure to the benefit of the Parties and their respective successors and (where applicable) permitted assigns.

IN WITNESS WHEREOF the Parties have electronically executed this Farm Lease Agreement, written on this and the preceding 12 pages, by their officers duly authorized to do so.

**The Corporation of the County
of Essex**

Tri-B Acres Inc.

Per: Hilda MacDonald
Title: Warden

Per: Peter Bruanto
Title: President

I have authority to bind the
Corporation.

Per: Mary Birch
Title: Clerk

We have authority to bind the County.