

FARM LEASE AGREEMENT

This Farm Lease Agreement made in duplicate this 6th day of June, 2024

BETWEEN:

THE CORPORATION OF THE COUNTY OF ESSEX

OF THE FIRST PART

- and -

ESSEX WINDSOR SOLID WASTE AUTHORITY

OF THE SECOND PART

- and -

CHRISTOPHER MALOTT FARMING ENTERPRISES INC.

OF THE THIRD PART

WHEREAS the Corporation of the County of Essex (the "**County**") formed the Essex-Windsor Solid Waste Authority (the "**Authority**" or the "**Landlord**") with the Corporation of the City of Windsor (the "**City**") by way of an Agreement, dated May 18, 1994, and as amended from time to time (the "**Agreement**");

AND WHEREAS the Agreement provides, among other things that the Authority is not authorized to hold legal title to real property in its name, with the County holding land in trust for the Authority for Authority lands located in the County, and the City holding land in trust for the Authority for Authority lands located in the City;

AND WHEREAS the County is the registered legal owner of the Farm Property (as defined below);

AND WHEREAS the County holds title to the Farm Property (as defined below) for the benefit and use of the Authority;

Farm Lease Agreement
November 1, 2024 to October 31, 2029

AND WHEREAS the Farm Property is not currently required by the Authority for the municipal purposes required of the Authority by the County and the City;

AND WHEREAS the Farm Property (as defined below) consists of the various properties further outlined at **Schedule "A"** appended hereto and as depicted on the EWSWA Vacant Land Map appended as **Schedule "B"** hereto, and which properties are located in close proximity to the Essex-Windsor Regional Landfill on County Road 18, in the Town of Essex (the "**Landfill**");

AND WHEREAS it is deemed expedient by the Landlord to lease the Farm Property to Christopher Malott Farming Enterprises Inc. (the "**Tenant**", and together with the County and the Authority, the "**Parties**") 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 in **Schedule "A"** and depicted in **Schedule "B"**, both appended hereto, being approximately 813 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 813 acres and none 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, except as specifically provided for in Section 9 below.
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 November 1, 2024 and expiring on October 31, 2029 (the "**Term**"), with three (3) optional one-year extensions, if

Farm Lease Agreement
November 1, 2024 to October 31, 2029

mutually agreed upon by all parties, on the same terms and conditions as set out in the Agreement. At the conclusion of the Term, 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.

Rent

5. The Tenant shall pay the Landlord rent, without any deduction or abatement whatsoever, based on annual rent of \$425 per acre plus applicable taxes for the Farm Property.
6. Based on the Parties express agreement that the size of the Farm Property is 813 acres, the Parties agree that the annual rent payment shall be the sum of \$345,525 plus applicable taxes.
7. The Tenant shall pay the Landlord the annual rent set out above as follows:
 - (1) the sum of \$50,000.00, plus applicable taxes, on the day this Farm Lease Agreement is executed by the Tenant, and \$50,000.00, plus applicable taxes, by on or before April 1 in each and every subsequent year of the Term; and
 - (2) the balance of the annual rent specified in Section 6 above, by on or before October 31 in each and every year of the term,with all payments being delivered to the Landlord at municipal address 360 Fairview Avenue West, Essex, Ontario N8M 1Y6.
8. 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.

Reduction of Size of Farm Property

9. The Landlord shall have the right, upon giving at least 60 days notice to the Tenant, to remove from the Farm Property, a maximum of 100 acres of the Farm Property from use by the Tenant and for another purpose of the Landlord, other than for farming, and the Landlord shall have no liability to the Tenant, except for the following:

Farm Lease Agreement
November 1, 2024 to October 31, 2029

- (1) to repay the Tenant any rent paid to the Landlord on account of the acres removed from the Farm Property in the year in which the said acres are so removed; and
- (2) to pay compensation for damages done to any crops existing on the acres removed from the Farm Property at the time the said acres are removed from the Farm Property, with the amount of compensation owing by the Landlord to the Tenant to be negotiated by the Parties acting reasonably.

Land Improvements

10. The Tenant hereby accepts the Farm Property in its current and existing condition.
11. 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.
12. 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.

Tenant's Covenants

13. 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

Farm Lease Agreement
November 1, 2024 to October 31, 2029

- (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

14. 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.
15. 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

Farm Lease Agreement
November 1, 2024 to October 31, 2029

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 15(1) of this Farm Lease Agreement or proceeding under Section 15(2), or any other provision of this Farm Lease Agreement, the Landlord shall be deemed to be proceeding under Section 15(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

Farm Lease Agreement
November 1, 2024 to October 31, 2029

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

16. 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

17. 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

18. 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,

Farm Lease Agreement
November 1, 2024 to October 31, 2029

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

19. 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

20. 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.
21. The Tenant shall, at all times during the Term of this Farm Lease Agreement, at its own expense, including the cost of any deductible, the following policies of insurance:
- (1) Commercial General Liability Insurance including, but not limited, to bodily injury including death, personal injury and property damage having an inclusive limit of not less than **five million dollars (\$5,000,000) per occurrence;
 - (2) Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than **five million dollars (\$5,000,000) per occurrence and for Third Party Liability, in

Farm Lease Agreement
November 1, 2024 to October 31, 2029

respect of the use or operation of vehicles owned, operated or leased by the Tenant related to this Farm Lease Agreement;

- (3) Non-Owned Automobile Liability Insurance in standard form having an inclusive limit of not less than **two million dollars (\$2,000,000) per occurrence in respect of vehicles not owned by the Tenant, that are used or operated on its behalf related to this Farm Lease Agreement;
 - (4) ** Umbrella and/or Excess Liability Insurance policies may be applied to increase liability limits for coverages indicated by double asterisks (**). Certificate(s) of insurance must specify the underlying policies (**) to which the umbrella/excess coverages apply and indicate any applicable aggregates;
 - (5) Contractors Environmental Insurance for gradual and/or sudden pollution events including cleanup expenses and, if applicable, transportation risks including loading and unloading exposures providing coverage in an amount of not less than two million dollars (\$2,000,000) per claim. Coverage must be maintained in force for twelve months following the termination of this Farm Lease Agreement; and
 - (6) Property Insurance, All Risk, Replacement Cost basis with respect to loss or damage of its own property and property of the Authority in the Tenant's care, custody and control, used in connection with this Farm Lease Agreement.
22. All policies of insurance outlined in Section 21 above must:
- (1) include as additional named insureds:
 - (a) Essex-Windsor Solid Waste Authority;
 - (b) The Corporation of the County of Essex; and
 - (c) The Corporation of the City of Windsor.
 - (2) deposit with the Landlord such evidence of its insurance as provided in or required under this Farm Lease Agreement, and must be in a form and issued by an insurance company satisfactory to the Landlord, that is licensed to carry on business in Ontario; and

Farm Lease Agreement
November 1, 2024 to October 31, 2029

- (3) be maintained continuously during the course of this Farm Lease Agreement, and, with respect to the insurance policy specified in Section 21(5) above for twelve months following termination of this Farm Lease Agreement.

Quiet Enjoyment

23. 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

24. 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:
Essex-Windsor Solid Waste Authority
Attention: General Manager
360 Fairview Avenue West, Suite 211
Essex, Ontario N8M 1Y6

- (2) If to the Tenant:

Christopher Malott Farming Enterprises Inc.
432W County Rd 34
Essex, ON N8M 2X5

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

25. 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

Farm Lease Agreement
November 1, 2024 to October 31, 2029

- 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.
26. 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.
 27. 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*.
 28. 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.
 29. 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.
 30. 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.
 31. 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.

Farm Lease Agreement
November 1, 2024 to October 31, 2029

32. This Farm Lease Agreement shall be governed and construed in accordance with the laws of the Province of Ontario.
33. 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

Per: Hilda MacDonald, Warden

Per: Katherine Hebert, Deputy Clerk

We have authority to bind the County

Essex- Windsor Solid Waste Authority

Per: Gary Kaschak, Board Chair

Per: Michelle Bishop, General Manager

We have authority to bind the Authority.

Christopher Malott Farming Enterprises Inc.

Per: Christopher Malott
I have authority to bind the Tenant.