

LEASE AGREEMENT
BETWEEN
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
AND
UNITED STATES SUGAR CORPORATION AND EACH OTHER LESSEE
NAMED BELOW

This **LEASE AGREEMENT** (this "**LEASE**"), is entered into BETWEEN (herein called the "**Parties**" and each a "**Party**"): the SOUTH FLORIDA WATER MANAGEMENT DISTRICT, a public corporation of the State of Florida, with its principal office at 3301 Gun Club Road, West Palm Beach, Florida 33406, and whose mailing address is Post Office 24680, West Palm Beach Florida 33416-4680, as **LESSOR** ("**LESSOR**"); and each of the following, as **LESSEE**: UNITED STATES SUGAR CORPORATION, a Delaware corporation (the "**Parent**"), and SOUTHERN GARDENS GROVES CORPORATION, a Florida corporation (the foregoing Parent and other Persons named as **LESSEE**, individually and collectively and jointly and severally, "**LESSEE**"), all with a mailing address of 111 Ponce DeLeon Avenue, Clewiston, Florida 33440.

WITNESSETH:

WHEREAS, the **LESSOR** is an agency of the State of Florida created by the Florida Legislature and given those powers and responsibilities enumerated in Chapter 373, Florida Statutes.

WHEREAS, the **LESSOR** is empowered to enter into contracts with public agencies, private corporations or other persons, pursuant to Section 373.083, Florida Statutes.

WHEREAS, the **LESSOR** is empowered to lease lands or interests in land, to which the **LESSOR** has acquired title, pursuant to Section 373.093, Florida Statutes.

WHEREAS, **LESSEE**, as seller, and **LESSOR**, as buyer, have entered into that certain Amended and Restated Agreement for Sale and Purchase dated as of [* __*] (the "**Agreement for Sale and Purchase**") for certain real property located in Hendry, Glades, and Palm Beach Counties, Florida, as described therein (the "**Purchased Premises**"). Unless otherwise defined herein, all capitalized terms used in this **LEASE** shall have the meanings assigned to the same in the Agreement for Sale and Purchase.

WHEREAS, concurrently herewith and pursuant to the Agreement for Sale and Purchase, **LESSOR** has acquired the Purchased Premises, which includes, among other real property, the real property described in **Exhibit "A"** attached hereto (the "**Premises**").



WHEREAS, pursuant to the Agreement for Sale and Purchase, LESSOR has agreed to lease the Premises to LESSEE for the Permitted Uses (as defined in Paragraph 2.B.) subject to the terms and conditions set forth herein and LESSEE has represented to LESSOR that it is qualified in all respects to operate the Premises under the Permitted Uses.

WHEREAS, the Governing Board of LESSOR, at its 2009, meeting has authorized entering into this LEASE with LESSEE.

WHEREAS, the Board of Directors of Parent, at its [_____*_____*], 2009, meeting has duly authorized each LESSEE entering into this LEASE with LESSOR. **[**NOTE: depending on the final financing structure, revisions to the recitals to clarify the structure may be added.**]**

NOW THEREFORE, in consideration of the duties, responsibilities, obligations and covenants herein contained to be kept and performed by the LESSEE, the LESSOR does hereby lease to the LESSEE the Premises in accordance with the following terms, conditions, covenants and provisions:

1. **Recitals:** The foregoing recitals are true and correct and are hereby incorporated herein by reference.

2. **Use of Premises:**

A. **[**TO BE INSERTED IN SUGAR LEASE ONLY-** LESSOR and LESSEE acknowledge that none of the crops (e.g., sugar cane), crop products or cane stubble are owned by LESSOR but shall be continued to be owned by LESSEE; provided however that any cane stubble existing on the Premises, as of the Expiration Date (as defined below) shall become the property of LESSOR in accordance with Paragraph 22).**] OR **[**TO BE INSERTED IN CITRUS LEASE ONLY-** LESSEE and LESSOR acknowledge that (i) all citrus trees and groves are owned by LESSOR and LESSEE is, pursuant to this LEASE, entitled only to the fruit and (ii) none of the crops (e.g., citrus fruit) or crop products are owned by the LESSOR**]. LESSEE may utilize the Premises solely for the Permitted Uses in accordance with the terms, conditions, covenants and provisions of this LEASE. LESSEE will not use or permit any use or entry upon the Premises for any other purpose. LESSEE's use of the Premises for the Permitted Uses shall be in accordance with the Best Management Practices (as defined below) and consistent with the industry standards. The Premises, including the improvements located thereon are being leased in their "AS IS", "WHERE IS" and "WITH ALL FAULTS" condition. LESSEE has examined the Premises to its complete and total satisfaction and is familiar with the condition thereof, and accepts the same in their present condition. LESSOR has made no representations or warranties to LESSEE respecting the condition of the Premises. LESSEE has had an adequate opportunity to investigate the zoning of the Premises and is satisfied that it can use the Premises in the manner required by this paragraph. LESSOR makes no warranty or representation as to the use or potential use to which the Premises may be put.

B. For the purposes of this LEASE, the term "Permitted Uses" shall mean the following: (a) all agricultural operations on the Premises, (b) LESSEE's historical business

of planting, cultivating, farming, growing, harvesting, storing, fertilizing, transporting and removing [****CITRUS LEASE** – citrus and sugar cane (to the extent permitted pursuant to a Conversion Plan (as defined in Paragraph 4.F below))******] [****SUGAR LEASE** - sugar cane******]; (c) all uses incidental or related to the uses described in clause (b) above, including, without limitation, (i) the planting, cultivating, farming, growing, harvesting, fertilizing, removing, using and selling of appropriate rotation crops and related nursery operations, (ii) the operation of existing railroads adjacent to the Premises and (iii) preexisting residential uses; (d) rock mining as otherwise has been conducted by **LESSEE** solely for use on the Premises (and not for sale to any third party) in connection with its business operations; (e) tenant farming operations; (f) any other historical business operations of **LESSEE** related or ancillary to the agricultural business operations described in clause (b) above or other agreements or leases that are in existence as of the Commencement Date; and (g) any other uses not otherwise described herein for which **LESSEE** obtains **LESSOR's** prior written approval, which approval may be withheld in **LESSOR's** sole and absolute discretion.

C. During the Lease Term, **LESSEE** shall maintain its current level of security for the Premises.

D. Furthermore, **LESSEE** shall control and eradicate to the extent practicable, and shall prevent infestation of, Category I and Category II exotic/invasive pest plants and Class I & II prohibited aquatic plants as described on Schedule "1" and Schedule "2" attached hereto and made a part hereof ("Exotic Pest Plants"). The sale of any Exotic Pest Plants is strictly prohibited and shall be sufficient cause for immediate termination of this **LEASE**. **LESSEE** agrees that its use and occupancy of the Premises shall result in the land being managed and maintained in accordance with applicable Best Management Practices, provided, however, that in no event shall such Best Management Practices or the terms of this **LEASE** require **LESSEE** to remove Exotic Pest Plants from the Premises to the extent such removal is not consistent with past practices of **LESSEE** on the Premises.

E. **LESSEE** shall neither hunt, trap or capture any wildlife upon the Premises nor allow others to do so; provided, however, **LESSEE** through its principals, contractors and employees may control nuisance wildlife in compliance with all state laws.

F. Prescribed burning on the Premises may be done by **LESSEE** provided that each such prescribed burning shall: (a)(i) have been requested by **LESSEE** in writing, (ii) be approved by **LESSOR** in writing, and (iii) be managed by a state approved burn manager; or (b) be conducted without **LESSOR's** consent or notification, so long as such controlled burning is regulated under the Division of Forestry's burning program, including the programs for [****SUGAR LEASE** - sugar cane burning******], [**** CITRUS LEASE** - citrus tree burning and sugar cane burning (to the extent sugar cane is grown pursuant to a Conversion Plan)******], agricultural container burning, etc. **LESSEE** shall not otherwise knowingly or deliberately set or cause to be set any fire or fires on the Premises.

G. There shall be no fertilization of the Premises, except for fertilization that is in compliance with the applicable Best Management Practices. Additionally there shall be no alterations, improvements or modifications of rangelands, wetlands, swamps or pastures of the Premises (including but not limited to mowing, chopping, disking, plowing, ditching, or digging



water holes), other than (i) as is common in the industry, consistent with LESSEE's past practices and specifically allowed in the Best Management Practices, or (ii) is otherwise consented to in writing by LESSOR, which consent may be withheld in LESSOR's sole and absolute discretion. LESSEE shall not cut or remove any standing green or fallen timber from the Premises, other than **[**TO BE INSERTED INTO CITRUS LEASE ONLY - removal of citrus trees for disease control or otherwise**]** in the ordinary course of LESSEE's business consistent with past practices. LESSEE shall not, for any purpose, drive nails, spikes or staples into or otherwise deface or mar any tree on the Premises.

H. The application of herbicides, pesticides, or agricultural chemicals with respect to the Premises, shall comply with the applicable Best Management Practices and shall be limited to those chemicals specified therein.

I. Intentionally Deleted.

J. LESSEE shall adhere to all management practices described in Schedule "3" attached hereto and made a part hereof with respect to the Premises ("Best Management Practices").

K. **[**TO BE INSERTED INTO SUGAR LEASE ONLY**]** LESSEE shall at all times during the Lease Term continuously commence and continue all applicable planting and cultivation of the sugar cane crops, as and to the extent typically performed by LESSEE in LESSEE's ordinary course of business consistent with past practices and in accordance with the Best Management Practices; provided, however, LESSEE is not obligated to continue planting or applicable cultivation with respect thereto after June 30, 2014.

[TO BE INSERTED INTO CITRUS LEASE ONLY - LESSEE shall not be obligated to continue any planting or cultivation of any citrus crops on the Premises during the Lease Term**]**.

L. So long as LESSEE is not in Default under Paragraphs 7(A)(1), (2) (solely with respect to the failure to pay real estate taxes as required in this LEASE), 3 or 4, LESSEE shall have the right to collect and retain all rents derived from the Premises (inclusive of rents paid during the Lease Term under leases that were in effect prior to the Commencement Date); provided, however that: (i) any such rents collected by LESSOR during any period of Default shall be applied to any unpaid amounts due hereunder; (ii) LESSOR shall provide written notice to LESSEE revoking the license described in Paragraph 2.M below at the same time as it provides notice to the tenants directing such rents to be paid directly to LESSOR; and (iii) in the event that LESSEE has cured any such Default, LESSEE shall again have the right to receive such rents, whereupon LESSOR shall, by written notice to LESSEE, reinstate the license and direct such tenants to deliver their respective rent payments directly to LESSEE. LESSOR shall, on or before the Commencement Date and thereafter, from time to time, as reasonably requested by LESSEE, deliver to each tenant who has a right to occupy the Premises a letter, in form and substance reasonably acceptable to LESSOR and LESSEE, which directs such tenant to deliver their respective rent payments directly to LESSEE during the Lease Term.



M. In addition to the rights granted to **LESSEE** under this **LEASE**, including the provisions set forth in **Paragraph 2.L** above, during the Lease Term, **LESSOR** hereby grants to **LESSEE** a revocable license (which may only be revoked by **LESSOR** in the event of a Default as described in **Paragraph 2.L** above and shall be reinstated pursuant to the terms of such paragraph) granting to **LESSEE** all rights and interest of **LESSOR** under any leases or contracts that have been assigned to and assumed by **LESSOR** on the Closing Date (collectively, the "**Related Contracts**"), which shall be deemed to include the right to seek any recourse against the applicable third parties thereunder for failure to perform thereunder. As consideration for the foregoing license, **LESSEE** hereby agrees, during the Lease Term, to timely: (a) pay all sums directly to the appropriate parties under the Related Contracts and any New Agreements (as defined in **Paragraph 33.P** of this **LEASE**) that become payable and accrue thereunder during the Lease Term; and (b) perform the obligations of **LESSOR** under the Related Contracts and any New Agreements that arise and accrue during the Lease Term. If reasonably requested by **LESSEE**, **LESSOR** agrees to execute authorizations reasonably required to evidence and effectuate the foregoing. **LESSEE** hereby agrees to promptly give **LESSOR** copies of any default notices given or received by **LESSEE** in connection with the Related Contracts or New Agreements.

N. **LESSEE** shall not at any time during the Lease Term, directly or indirectly, hypothecate, mortgage or pledge any of the Premises or any of **LESSEE**'s right, title or interest under this **LEASE**.

3. **Lease Term:** The **LESSOR** hereby leases the Premises to the **LESSEE** for a lease term commencing [* _____*] (the "**Commencement Date**"), and terminating (unless earlier terminated pursuant to other provisions of this **LEASE**) at 11:59 p.m. on the next occurring May 1st [*or July 1st as to Citrus*] that follows the seventh (7th) anniversary of the Commencement Date, to wit [****SUGAR LEASE - * _____****] and [****CITRUS LEASE * _____****] (the "**Initial Term**").

A. In the event that **LESSOR** has not exercised its Option under the Agreement for Sale and Purchase to acquire the Option Property (as defined in the Agreement for Sale and Purchase) on or before the expiration of the Initial Term or if **LESSOR** has exercised such Option prior to such expiration and thereafter not acquired the Option Property for reasons other than an Option Default (as defined below), then the Initial Term shall be automatically extended, without the necessity of either Party providing any written notice to the other (unless earlier terminated pursuant to other provisions of this **LEASE**), for an additional three (3) years (the "**First Renewal Term**") so that the Lease Term (as defined below) for the Premises is extended to 11:59 p.m. on the next occurring [****SUGAR LEASE - May 1st****] or [****CITRUS LEASE - July 1st****] that follows the tenth (10th) anniversary of the Commencement Date, which extension shall be on the same terms and conditions set forth herein [****SUGAR LEASE - , including, without limitation, the Initial Rent (as defined in Paragraph 5 of this LEASE).** If **LESSOR** timely exercises its Option and **LESSOR**'s acquisition of the Option Property does not occur until after the expiration of the Initial Term, the Initial Term shall be deemed to be extended on the same terms and conditions hereunder, to the extent applicable, until the closing of such acquisition whereupon **subparagraph D** below shall govern. In the event that **LESSOR** has exercised its Option to acquire the Option Property prior to the expiration of the Initial Term and thereafter not acquired the Option Property due to Seller's



default beyond all applicable notice and cure periods under the Agreement for Sale and Purchase or the Option Purchase Agreement (as defined in the Agreement for Sale and Purchase) and provided that Buyer is not then in default under either of such agreements beyond all applicable notice and cure periods (such default(s), an "Option Default"), then (x) LESSOR will have the right to elect to change the Rent (effective as of the date of the Option Default) to "Fair Market Rent" determined in accordance with Paragraph 5 of this LEASE, (y) the Initial Term will not be extended and (z) this LEASE will terminate without further notice or action by LESSOR on (a) the expiration of the Initial Term or (b) earlier, as to portions of the Premises as harvested, on a block-by-block basis, for LESSEE's harvest that occurs during the last harvest year of the Initial Term.**]

B. In the event that the LESSOR has not exercised its Option under the Agreement for Sale and Purchase to acquire the Option Property on or before the tenth (10th) anniversary of the Commencement Date) or if LESSOR has exercised such Option prior to such expiration and thereafter not acquired the Option Property for reasons other than an Option Default, then the First Renewal Term shall be automatically extended, without the necessity of either Party providing any written notice to the other (unless earlier terminated pursuant to other provisions of this LEASE), for an additional ten (10) years (the "Second Renewal Term"), so that the Lease Term for the Premises is extended to 11:59 p.m. on the next occurring [**SUGAR LEASE - May 1st**] or [**CITRUS LEASE - July 1st**] that follows twentieth (20th) anniversary of the Commencement Date, which extension shall be on the same terms and conditions set forth herein [**SUGAR LEASE - , except that the Initial Rent hereunder shall be adjusted to "Fair Market Rent" as determined in accordance with Paragraph 5 of this LEASE. If LESSOR timely exercises its Option and the acquisition of the Option Property does not occur until after the expiration of the First Renewal Term, the First Renewal Term shall be deemed to be extended on the same terms and conditions hereunder, to the extent applicable, until the closing of such acquisition whereupon subparagraph D below shall govern. In the event of an Option Default during the First Renewal Term, (x) LESSOR will have the right to elect to change the Rent (effective as of the date of the Option Default) to "Fair Market Rent" determined in accordance with Paragraph 5 of this LEASE, (y) the First Renewal Term will not be extended and (z) this LEASE will terminate without further notice or action by LESSOR (a) on the expiration of the First Renewal Term or (b) earlier, as to portions of the Premises as harvested, on a block-by-block basis, for LESSEE's harvest that occurs during the last harvest year of the First Renewal Term.**]

C. The Initial Term, First Renewal Term and Second Renewal Term, as applicable, are herein called the "Lease Term".

D. In the event that LESSOR acquires the Option Property, from and after the date of the closing of such acquisition, the Premises and the Option Property shall be governed by the terms of the New Lease (as defined in the Agreement for Sale and Purchase) in accordance with the provisions of the Agreement for Sale and Purchase. If the Option Property is not acquired after Buyer has exercised the Option due to Buyer's default under the Agreement for Sale and Purchase or the Option Purchase Agreement after expiration of applicable notice and cure periods, then this LEASE shall continue under the terms hereof as if the Option were not exercised.



E. The termination date of this **LEASE** as to any portion(s) of the Premises is herein called the "Expiration Date" solely with respect to such portion of the Premises being terminated, and otherwise refers to the date of expiration or earlier termination of this **LEASE**.

F. Commencing at least two (2) years prior to the expiration of the Second Renewal Term, if any, and provided that a Default by **LESSEE** does not then exist and would not exist with the giving of notice, the lapse of time or both, **LESSOR** and **LESSEE** agree to negotiate in good-faith an extension of the Lease Term with respect to the Premises, if **LESSOR** and **LESSEE** mutually determine such an extension would be mutually beneficial to the Parties, taking into consideration factors such as, impact on the local economy, **LESSOR's** intended use of the Premises and its construction plans and timelines therefor [**** SUGAR LEASE ONLY** - and the amount of sugarcane that is needed to keep the sugar mill owned by **LESSOR** or its successors and assigns economically viable, etc******]. Each Party shall bear its own costs and expenses and the fees of its consultants, contractors and advisors incurred in connection with any such negotiations. Either Party may terminate and withdraw from any such negotiations at any time in its absolute and sole discretion by notice to the other Party.

4. Right to Terminate:

A. Except as otherwise provided in **Paragraph 7.** of this **LEASE**, if either Party fails to fulfill its material obligations under this **LEASE** in a timely and proper manner, the other Party shall have the right to terminate this **LEASE** or exercise other rights and remedies hereunder after giving written notice of default to the applicable Party and an opportunity to cure the same as provided in this **Subparagraph 4.A.** An applicable Party that fails to fulfill its material obligations under this **LEASE** in a timely and proper manner (except as otherwise provided in **Paragraph 7.** of this **LEASE**) shall have forty-five (45) calendar days from receipt of notice from the other Party to remedy the deficiency. Notwithstanding the foregoing, if such deficiency cannot with due diligence be remedied by the applicable Party within such 45-day period, and if such Party diligently commences to remedy such deficiency within such 45-day period and thereafter prosecutes such remedy with reasonable diligence, the period of time to remedy such deficiency shall be extended to permit a cure period of one hundred and twenty (120) days in the aggregate so long as such Party prosecutes such remedy with reasonable diligence; provided, however that upon request of such Party, the other Party shall, from time to time, consent in writing to an extension of such 120 day period, which consent shall not be unreasonably withheld, so long as the applicable Party is diligently proceeding to cure such deficiency. Such curing Party's request for an extension of time to cure shall be accompanied by a reasonably detailed schedule for completing such cure. A Party shall not be deemed to be in default under the terms of this **LEASE** unless and until a Default (as defined in **Paragraph 7** below) has occurred.

B. [**** FOR INSERTION INTO CITRUS LEASE ONLY** - At any time during the Lease Term, **LESSEE**, in its sole discretion, shall have the right to terminate this **LEASE** as to any portion of the Premises, or all of the Premises, by giving a written termination notice to **LESSOR** at least one (1) year prior to the actual date of termination therefor, which notice shall include a harvest schedule and map describing the dates and sequence for the conduct of the harvest on the terminated lands (such portions of the Premises as to which the Lease has been terminated shall be referred to herein as the "Released Premises").



Notwithstanding the foregoing, in the event that **LESSEE** terminates this **LEASE** as provided in this subparagraph, then this **LEASE** shall partially terminate for portions of the Premises as harvested, on a block-by-block basis or the following July 1st] (i.e., **LESSEE**'s final harvest), whichever is earlier.**]

[ALTERNATE SUBPARAGRAPH B FOR INSERTION INTO SUGAR LEASE ONLY –LESSEE** shall have the right, in its sole discretion, to terminate all or portions of this **LEASE** as follows:

(1) From and after January 1, 2011, **LESSEE**, shall have the right to terminate this **LEASE** as to all but not less than all of the Premises by giving a written termination notice to **LESSOR** on or before June 10, 2011 and each June 10th of each calendar year thereafter, which notice shall include a harvest schedule and map describing the dates and sequence for the conduct of the harvest on the Premises, whereupon this **LEASE** shall terminate on May 1st of the next calendar year following such notice. For example, if **LESSEE** gives a termination notice to **LESSOR** on June 4, 2011, then this **LEASE** shall terminate on May 1, 2012 with respect to the Premises.

(2) At any time during the Lease Term, and provided that **LESSEE** has not exercised its right under subparagraph (3) with respect to the applicable portion of the Premises, **LESSEE** shall have the right to terminate this **LEASE** as to any portion of the Premises which it intends to leave fallow and as to which it has given a written termination notice to **LESSOR** setting forth a harvest schedule and map describing the dates and sequence for the conduct of the harvest on the terminated lands, which notice shall be given no later than one hundred eighty (180) days prior to the scheduled date of commencement of the harvest of the portion of the Premises to be left fallow pursuant to such notice; provided, however, that such termination may not occur pursuant to this subparagraph (2) prior to June 30, 2014. In the event that **LESSEE** terminates this **LEASE** as provided in this subparagraph (2), then this **LEASE** shall partially terminate for portions of the Premises as harvested, on a block-by-block basis, or the following May 1st, whichever is earlier.

(3) At any time during the Lease Term, and in addition to **LESSEE**'s termination rights under subparagraphs (1) and (2), **LESSEE**, in its sole discretion, shall have the right to terminate this **LEASE** as to any portion of the Premises, or all of the Premises, by giving a written termination notice to **LESSOR** at least one (1) year prior to the actual date of termination therefor, which notice shall include a harvest schedule and map describing the dates and sequence for the conduct of the harvest on the terminated lands (such portions of the Premises as to which the Lease has been terminated shall be referred to herein as the "Released Premises"); provided, however, that such termination may not occur pursuant to this subparagraph (3) prior to June 30, 2014. Notwithstanding the foregoing, in the event that **LESSEE** terminates this **LEASE** as provided in this subparagraph, then this **LEASE** shall partially terminate for portions of the Premises as harvested, on a block-by-block basis, or the following May 1st (i.e., **LESSEE**'s final harvest), whichever is earlier.**]

C. Intentionally Deleted



D. In the event of a termination of this **LEASE** by **LESSEE** with respect to a portion of the Premises pursuant to [****CITRUS LEASE – subparagraph B****] [****SUGAR LEASE - subparagraphs B.(2) and (3).****], (x) **LESSEE** shall be deemed to have a non-exclusive right of access, utility service and drainage (subject to reasonable relocation by **LESSOR**) until the Expiration Date over and across paved or unpaved roadways or pathways, utility/drainage lines and/or areas within the Released Premises as reasonably necessary for **LESSEE** to continue to have access to, utilities and drainage on the remaining portion of the Premises that is then still subject to the terms of this **LEASE** and (y) **LESSOR** shall be deemed to have a non-exclusive right of access, utility service and drainage (subject to reasonable relocation by **LESSEE**) until the Expiration Date over and across paved or unpaved roadways or pathways, utility/drainage lines and/or areas within the remaining Premises subject to this **LEASE** as reasonably necessary for **LESSOR** and its tenants, as applicable, to have access to, utilities and drainage on the Released Premises.

E. In the event that **LESSEE** terminates this **LEASE** in accordance with **subparagraph B** above, then, in such event, **LESSEE** agrees to reasonably cooperate with **LESSOR** and any successor tenants of the Released Premises, including with respect to planting, cultivation and harvesting, in order for such tenants to have access to the Released Premises over the Premises – if such access is the typical method of accessing the Released Premises (upon terms and conditions provided in this **LEASE** for access by private parties) - and to reasonably coordinate such operations with **LESSEE**'s operations on the remaining portion of the Premises.

F. [****INSERTION INTO SUGAR LEASE ONLY –** Subject to the notice requirements set forth below, **LESSOR**, in its sole discretion, and without payment or consideration of any kind to **LESSEE** whatsoever, and in addition to **LESSOR**'s other termination rights in this **LEASE**, shall have the right to terminate this **LEASE** as follows:

(1) at any time during the Lease Term, this **LEASE** may be terminated as to portion(s) of the Premises in an amount not to exceed ten thousand (10,000) acres in the aggregate (in portions of land which shall be comprised of no less than two thousand (2,000) contiguous acres, except the last portion of Premises so terminated may be less in acreage if the aggregate acreage of prior terminations is greater than 8,000 acres), which are to be used in connection with a South Florida Water Management District ("**SFWMD**") funded project approved by the Governing Board of **SFWMD** ("**Project**") to be constructed on the Premises or in exchange for property necessary for a Project (subject to **subparagraph (6)** below);

(2) in addition to **LESSOR**'s rights under subparagraph (1) immediately above, at any time during the Second Renewal Term, this **LEASE** may be terminated as to portion(s) of the Premises in an amount not to exceed ten thousand (10,000) acres in the aggregate (in portions of land which shall be comprised of no less than two thousand (2,000) contiguous acres, except the last portion of Premises so terminated may be less in acreage if the aggregate acreage of prior terminations is greater than 8,000 acres), which are to be used in connection with a Project to be constructed on the Premises or in exchange for property necessary for a Project (subject to **subparagraph (6)** below);



(3) in the event that **LESSOR** acquires the Option Property pursuant to exercise of its Option under the Agreement for Sale and Purchase or if **LESSOR** has not acquired the Option Property as a result of an Option Default, then:

(a) from and after **LESSOR's** acquisition of the Option Property or an Option Default, **LESSOR** may terminate this **LEASE** as to all or any portion of the Premises or, to the extent acquired by **LESSOR**, the Option Property (in which event the applicable termination shall occur under the New Lease), to be used (i) in connection with a Project to be constructed on the Premises or the Option Property, (ii) in exchange for no more than 2,000 contiguous acres in the acreage located in the approximately 25,000 acre parcel depicted in Exhibit 4.F.6, which is necessary for a Project to be constructed within such 25,000 acre parcel, provided, however, that prior to the expiration of the tenth (10th) anniversary of the Commencement Date, **LESSOR** may terminate this **LEASE** for such exchanges only as to 1,000 acres or (iii) in exchange for all or any portion of the Premises that is adjacent to the "L-8 Canal" for a Project built primarily to provide water quality treatment for water discharges from the S-5A Basin; and

(b) after the tenth (10th) anniversary of the Commencement Date, **LESSOR** may terminate this **LEASE** as to all or any portion of the Premises or, to the extent acquired by **LESSOR**, the Option Property (in which event the applicable termination shall occur under the New Lease), to be used in exchange for property for a Project to be located within the area shown on Exhibit 4.F.3(b) – it being agreed by the Parties that if the **LESSOR** constructs multiple Projects within the area known as the "Everglades Agricultural Area" for restoration purposes, then **LESSOR** will, to the extent practicable, schedule the construction of such Projects that require portions of the Premises to be released from this **LEASE** pursuant to the provisions hereof, after the construction of such other Projects;

(4) after the expiration of the Initial Term, this **LEASE** may be terminated as to portion(s) of the Premises identified on Exhibit 4.F.(4) (individually or collectively, the "Transition Acres") in connection with a Project on or transfers of all or any portion of the Transition Acres by **LESSOR** to municipalities or other governmental entities (each, a "Governmental Transferee"). Any such transfer shall be made by **LESSOR** to the Governmental Transferee pursuant to the terms of a transfer agreement between **LESSOR** and Governmental Transferee, to which will be attached a form of lease agreement with respect to the applicable portion of the Transition Acres between Governmental Transferee and **LESSEE** reasonably acceptable to both **LESSOR** and **LESSEE**, setting forth the termination of such Transition Acres from this **LEASE** and providing that termination of such lease by Governmental Transferee for reasons other than a default by **LESSEE** thereunder shall be subject to Governmental Transferee providing the termination notices required under subparagraph (8) and thereafter under subparagraph (10) if **LESSEE** exercises its right under subparagraph (10) to continue to lease the Transition Acres to be terminated, in connection with the Governmental Transferee's use of relevant portion of the Transition Acres for a funded and approved development or other local government project. In no event shall the Governmental Transferee be subject to the **LESSEE's** ROFR under Paragraph 39 of this **LEASE**.

(5) Intentionally Deleted



(6) Prior to LESSOR's acquisition of the Option Property pursuant to the Option, during the Lease Term: (a) LESSOR shall be permitted to terminate this LEASE for no more than 2,000 contiguous acres in the acreage located in the approximately 25,000 acre parcel depicted in Exhibit 4.F.6. in connection with exchanges necessary for a Project to be constructed on the Premises, provided, however, that prior to the expiration of the tenth (10th) anniversary of the Commencement Date, LESSOR may terminate this LEASE for such exchanges only as to 1,000 acres; and (b) LESSOR may terminate this LEASE as to all or any portion of the Premises that is adjacent to the "L-8 Canal" in exchange for property for a Project built primarily to provide water quality treatment for discharges from the S-5A Basin - provided, however that the portions of the Premises as to which this LEASE may be terminated under clauses (a) or (b) are subject to the limitations of (and part of the acreages described in) subparagraph (1) and subparagraph (2) above.

(7) From and after June 30, 2014 until the Expiration Date, if LESSEE (a) has allowed fallow fields to exist on the Premises and (b) has identified in a written notice to LESSOR the fields that LESSEE intends to abandon (the "Applicable Premises"), LESSOR shall have the right, in its sole discretion and in addition to its other termination rights under this LEASE, to terminate this LEASE with respect to the Applicable Premises upon fifteen (15) days written notice to the LESSEE and LESSEE shall thereupon vacate the Applicable Premises within fifteen (15) days of such written notice in accordance with Paragraph 22. of this LEASE or be deemed to be holding over pursuant to Paragraph 23. of this LEASE. From and after the date of the termination of this LEASE for all or any portion of the Applicable Premises as provided in this Paragraph 4.F.(7), the annual Rent shall be reduced by the then existing Rent per acre multiplied by the acreage of such released portion of the Premises,

(8) In the case of each of subparagraphs (1), (2), (3), (4) [in connection with a Project] and (6) above, in order for a termination to be effective (including any termination for exchanges permitted thereunder), LESSOR shall provide written notice of its intention to terminate the LEASE with respect to any portion of the Premises, at least two (2) years prior to the May 1st on which LESSOR intends that such termination be effective (the "First Notice"), and then again at least one (1) year prior to the May 1st on which LESSOR intends such termination to be effective (the "Second Notice"), whereupon this LEASE shall terminate as to such portion(s) of the Premises so noticed on the May 1st which is at least two (2) calendar years following the First Notice; it being understood that if LESSOR provides a First Notice but does not subsequently send a Second Notice at least one year prior to the May 1st termination date specified in the First Notice, then no termination shall occur with respect to such portion of the Premises until LESSOR provides a second notice at least one (1) year prior to the May 1st on which such termination will be effective and confirming the lands (or portion thereof) designated in the First Notice to be terminated from this LEASE.

(9) In the event of any such termination by LESSOR pursuant to the above subparagraphs (1), (2), (3), (4) [in connection with a Project] and (6), (x) LESSEE shall be deemed to have a non-exclusive right of access, utility service and drainage (if necessary)(with provisions for relocation thereof) until the Expiration Date over and across paved or unpaved roadways or pathways, utility/drainage areas and lines within the portions of the Premises so terminated by LESSOR as reasonably necessary for LESSEE to continue to



have access, utilities and drainage for the remaining portion of the Premises that is then still subject to the terms of this **LEASE** and (y) **LESSOR** and its tenants, if any, shall be deemed have the right of access, utility service and drainage (if necessary) (with provisions for relocation thereof) over and across paved or unpaved roadways or pathways, utility/drainage areas and lines within the remaining portion of the Premises subject to this **LEASE** as reasonably necessary for **LESSOR** and its tenants to continue to have access, utilities and drainage for the portions of the Premises so terminated by **LESSOR**.

(10) Notwithstanding the foregoing, **LESSEE**, at **LESSEE**'s risk, may elect, by prior written notification to **LESSOR** provided not less than one hundred (180) days prior to the effective date of any termination by **LESSOR** pursuant to this **Paragraph 4.F.**, to continue farming operations on the portion of the Premises as to which this **LEASE** has been terminated pursuant to **subparagraphs (1), (2), (3), (4) [in connection with a Project] and (6)** above, as applicable, until **LESSOR**, in its sole and absolute discretion: (x) notifies **LESSEE** in writing that such farming operations are incompatible with the construction of the applicable Project and directs **LESSEE** to cease operations on the date set forth in such notice; or (y) in the event that the portions of the Premises being removed from this **LEASE** are being exchanged with property owned by another party for a Project, notifies **LESSEE** in writing that the farming operations of such property owned by such other party are incompatible with the construction of the applicable Project and that such other party has been notified of such in writing and has been directed to vacate its property and that **LESSEE** is directed to cease operations on the date set forth in such notice. If **LESSEE** elects to continue farming operations notwithstanding any termination notice by **LESSOR** pursuant to **subparagraphs (1), (2), (3), (4) [in connection with a Project] and (6)**, the **LEASE** Term with respect to such portions of the Premises shall be extended to allow **LESSEE** to continue such farming operations, but will terminate on the earliest of 11:59 p.m. on the next occurring May 1st that follows the twentieth (20th) anniversary of the Commencement Date or upon the occurrence of (x) or (y) above; provided, however, that as consideration for such extension of the Lease Term, the payment and performance terms, conditions and obligations under this **LEASE**, and all rights and remedies hereunder, shall remain in full force and effect with respect to each portion of the Premises **LESSEE** continues to farm pursuant to this **subparagraph (10)**. Such extension of the Lease Term shall automatically terminate upon the occurrence of any Default by **LESSEE** under this **LEASE** or the date of set forth in **LESSOR**'s termination notice as provided in (x) or (y) above. From and after the date **LESSEE** vacates a portion of the Premises in accordance with any provision of this **LEASE** which permits termination with respect to a portion of the Premises, the annual Rent shall be reduced by the applicable Rent, multiplied by the acreage of the applicable portion of the Premises so terminated. **LESSOR** and **LESSEE** hereby agree to use mutually reasonable efforts in order for **LESSOR** to provide **LESSEE** with as much time as possible when giving its notice to vacate the portion of the Premises so released, as provided in this **subparagraph (10)**, it being the intent of the Parties to allow **LESSEE** to harvest as many crops as reasonably practicable before the farming operation are incompatible with the construction of a Project as determined by **LESSOR** in its absolute and sole discretion.**]

*[**ALTERNATE 4.F. TO BE INSERTED INTO CITRUS LEASE ONLY- LESSOR, in its sole discretion, and without payment or consideration of any kind to LESSEE whatsoever, shall have the right to terminate this LEASE for all or any portion of the Premises upon notice prior to any July 1st, whereupon this LEASE shall terminate as to such portion(s) of the*



Premises so noticed as they are harvested after such July 1st, subject to the requirement that all such harvesting shall be completed no later than June 30 of the following year, as of which day **LESSEE** shall have vacated the terminated Premises. **LESSEE** shall, upon receipt of such termination notice from **LESSOR**, prepare and deliver to **LESSOR** a harvest schedule and map describing the dates and sequence for the conduct of the harvest on the terminated lands. Notwithstanding the foregoing, if at any time during the Lease Term, **LESSOR** and **LESSEE** have mutually agreed to a plan specifying the acreage and location of any portion of the Premises to be converted to sugarcane planting and cultivation, the schedule for effecting such conversion, the Rent, termination rights and other applicable terms and conditions thereof (the "Conversion Plan"), the Parties shall be governed by the Conversion Plan in respect of the portion of the Premises converted to sugarcane planting and cultivation. Notwithstanding the foregoing, **LESSOR** may only terminate this **LEASE** with respect to the portion of the Premises having approximately twenty (20) acres described in Exhibit 4.F upon the earlier to occur of (w) **LESSEE** fails within thirty (30) days after **LESSOR's** written request to provide reasonable information about the expected duration of the experimental citrus project being conducted thereon as of the Commencement Date; (x) the next occurring July 1st that follows the tenth (10th) anniversary of the Commencement Date, (y) the completion, failure or abandonment of the citrus project or (z) one year after **LESSOR's** notice to **LESSEE** of the termination of this **LEASE** because such experiment is incompatible with construction of a Project on the portion of the Premises that is within the immediate vicinity of such 20-acre parcel.

G. In the event any portion of the Premises is transferred with a reservation of **LESSEE's** leasehold rights as provided for in this Paragraph 4, **LESSOR** and **LESSEE** agree that they shall record a memorandum of this **LEASE** in the public records of the applicable Counties memorializing the leasehold reservations set forth in this Paragraph 4 such that each applicable leasehold reservation is binding on such transferee, **LESSOR**, **LESSEE** and their respective successors and assigns.

5. Rent:

A. **[**TO BE INSERTED INTO CITRUS LEASE ONLY - LESSOR and LESSEE acknowledge and agree that, during the Lease Term, no Rent is due hereunder, unless LESSEE converts all or any portion of the Premises from citrus groves to sugarcane fields in accordance with the terms of a Conversion Plan, in which event from and after the date of such conversion LESSEE shall pay, in advance, to LESSOR a quarterly rental in the amount specified in the Conversion Plan representing twenty-five percent (25%) of the annual rental rate specified in the Conversion Plan (the "Initial Rent") for the portion of the Premises so converted to sugarcane planting and cultivation. **]**

[ALTERNATE SUBPARAGRAPH A TO BE INSERTED INTO SUGAR LEASE ONLY - As consideration for the rights conferred upon LESSEE by LESSOR pursuant to this LEASE, from and after the Commencement Date until the earlier to occur of (i) the expiration of the First Renewal Term; or (ii) the date of LESSOR's acquisition of the Option Property under the Option, LESSEE shall pay, in advance, to LESSOR a quarterly rental in the amount of * _____ * representing twenty-five percent (25%) of the One Hundred Fifty and No/100 Dollars (\$150.00) per acre multiplied by [] gross acres [**NOTE – ACTUAL ACREAGE OF SUGAR CANE PORTION OF PREMISES FROM THE FINAL APPROVED**



SURVEYS SHALL BE INSERTED AT CLOSING*] (the "Initial Rent") (it being understood and agreed that the Rent due hereunder may change from time to time on a pro-rata basis (based upon acreage) as this **LEASE** is terminated as to portions of the Premises as provided in this **LEASE** for reasons other than a Default). In the event that **LESSOR** has not acquired the Option Property under the Option, for reasons other than an Option Default, the Initial Rent hereunder shall be adjusted to be the "Fair Market Rent" for the Premises on the next occurring May 1st that follows the tenth (10th), thirteenth (13th), and sixteenth (16th) anniversaries of the Commencement Date, and be determined as follows:

(1) No later than one (1) year prior to the commencement of the Second Renewal Term, **LESSOR** shall provide written notice to **LESSEE** containing an original, signed appraisal dated within thirty (30) days of such notice setting forth the **LESSOR's** proposed fair market rent for the Premises (the "LESSOR's Proposed FMR"). The appraisal must comply with the statutorily mandated appraisal standards (to the extent applicable to **LESSOR**) and must have been performed by an appraiser meeting the Appraiser Requirements set forth in **Paragraph 5.A.(4)** ("LESSOR's Appraisal").

(2) Within sixty (60) days after receipt of **LESSOR's** Proposed FMR), **LESSEE** shall elect to either: (i) accept **LESSOR's** Proposed FMR as the Fair Market Rent; or (ii) deliver to **LESSOR** an original, signed appraisal setting forth **LESSEE's** proposed fair market rent for the Premises (the "LESSEE's Proposed FMR"), which appraisal must be performed by an appraiser meeting the Appraiser Requirements set forth in **Paragraph 5.A.(4)** and must be dated within sixty (60) days of **LESSEE's** receipt of **LESSOR's** Proposed FMR ("LESSEE's Appraisal").

(3) If **LESSEE** elects to obtain **LESSEE's** Appraisal under **subparagraph A(2)** above, then:

(a) In the event **LESSOR's** Proposed FMR is equal to or more than ninety percent (90%) and less than or equal to one hundred ten percent (110%) of **LESSEE's** Proposed FMR, then the "Fair Market Rent" shall be deemed to be the average of **LESSOR's** Appraisal and **LESSEE's** Appraisal (i.e., the sum of both proposed rents divided by two (2)).

(b) In the event **LESSOR's** Proposed FMR is less than ninety percent (90%) of or greater than one hundred ten percent (110%) of **LESSEE's** Proposed FMR, then within fifteen (15) days after **LESSEE's** delivery of **LESSEE's** Appraisal to **LESSOR**, **LESSOR's** appraiser and **LESSEE's** appraiser must select a third (3rd) appraiser meeting the Appraiser Requirements set forth below (the "Third Appraiser"). The Third Appraiser shall perform its appraisal of its proposed fair market rent for the Premises within sixty (60) days of being selected by **LESSOR's** appraiser and **LESSEE's** appraiser. Once such appraisal is complete, the average of the two (2) closest appraisals in terms of fair market rent shall be deemed to be the "Fair Market Rent".

(4) Unless otherwise agreed to writing by **LESSOR** and **LESSEE**, each of the appraisers set forth above shall be M.A.I. certified appraisers, having at least ten (10)



years experience in appraising the fair market rental value of agricultural property in Palm Beach County, Florida (the "Appraiser Requirements").

(5) **LESSOR** and **LESSEE** shall each be responsible for the fees, costs and expenses of their respective appraiser. The fees, costs and expenses of the Third Appraiser and any mediation to select the same as provided in subparagraph (6) below shall be shared equally by **LESSOR** and **LESSEE**.

(6) If **LESSOR's** appraiser and **LESSEE's** appraiser fail to appoint the Third Appraiser within the time and in the manner prescribed in subparagraph (3)(b) above, then **LESSOR** and/or **LESSEE** shall promptly apply to the Palm Beach County office of Mediation, Inc. (or if such company is no longer in business, another mediation company with offices in Palm Beach County) for the appointment of the Third Appraiser. Within five (5) days of receipt of notice from one Party that such mediation application has been filed, each Party shall submit the names of up to three (3) appraisers meeting the Appraisal Requirements for the mediator to select. The mediator shall be instructed by either Party to select the Third Appraiser within ten (10) days after receipt of such names. The failure of a Party to timely submit any names constitutes a waiver of the right to so submit such names and the mediator shall select the Third Appraiser from the list of names that was timely submitted.

The Initial Rent and Fair Market Rent, as may be applicable, shall be referred to individually and collectively, as the "Rent". **LESSEE** agrees to pay Rent to **LESSOR**, without notice, offset, deduction, or set-off. Initial Rent shall be payable (a) on the Commencement Date on a pro-rated basis based on the number of days for the period beginning on the Commencement Date through and including the last day of the calendar quarter in which the Commencement Date falls and (b) on the first day of each calendar quarter (i.e. January 1st, April 1st, July 1st, and October 1st) thereafter, through and including the final calendar quarter of the First Renewal Term, if **LESSOR** does not acquire the Option Property, or the date of closing of the acquisition of the Option Property by **LESSOR**, if **LESSOR** so acquires the Option Property, together with all applicable sales and use taxes (it being agreed that the Rent due for the last or any interim calendar quarter shall be appropriately adjusted and prorated). After the Fair Market Rent is determined in accordance with Paragraph 5.A., Rent shall be subject to yearly adjustment for each subsequent twelve-month period of the Lease Term in accordance with subparagraph F below until the Fair Market Rent determination is again applicable (i.e., on the next occurring May 1st that follows the thirteenth (13th) and sixteenth (16th) anniversaries of the Commencement Date), and shall be payable quarterly in accordance with the schedule, together with all applicable sales and use taxes.**]

B. In addition, **LESSEE** shall be responsible for payment of any and all Additional Rent (as defined in Paragraph 5.D. below) throughout the Lease Term as and when due under the terms of this **LEASE**.

C. All payments of Rent, as well as all other amounts due under this **LEASE** from **LESSEE** to **LESSOR** shall be made to **LESSOR** at the following address:

South Florida Water Management District
Attention: _____

Post Office Box 24680
3301 Gun Club Road
West Palm Beach, Florida 33406

RE: Contract # _____

D. This **LEASE** shall be totally and absolutely net to **LESSOR**. In addition to the Rent and Additional Rent stated above, **LESSEE** shall pay all charges for gas, water, sewer, waste removal, dumpster charges, janitorial services, electricity, telephone, and other utility services used by **LESSEE** in connection with the Premises during the Lease Term and any and all other costs, expenses, taxes or obligations of every kind related to the Premises and the use, operation, occupancy thereof during the Lease Term, including obligations arising under recorded or unrecorded documents encumbering or relating to the Premises, if any (to the extent such recorded or unrecorded documents exist on the day immediately preceding the Commencement Date). Without limiting the foregoing, if any charges, costs, expenses, taxes or other monetary obligations of **LESSEE** under this **LEASE** are not paid by **LESSEE** as and when due, after expiration of all applicable grace and notice periods, **LESSOR**, without limiting any of its other rights and remedies under this **LEASE**, shall have the right, but not the obligation, to pay any of the foregoing, and the amount of the expense or cost of any such obligations so paid by **LESSOR** shall thereupon become due to **LESSOR** from **LESSEE** within five (5) days following **LESSOR**'s written demand, together with interest accruing on such amount at the highest rate allowed by law if not paid to **LESSOR** within such five (5) day period, as "Additional Rent".

E. If any Rent due from **LESSEE** to **LESSOR** hereunder is not received by **LESSOR** on or before the date due, then, in addition to all other rights and remedies available to **LESSOR** under this **LEASE**, **LESSOR** at **LESSOR**'s sole option may either: (i) charge **LESSEE** a late fee equal to five percent (5%) of the installment of Rent not paid when due; or (ii) charge interest on the installment of Rent not paid when due at the highest rate allowed by law from the date due until the date received by **LESSOR** in immediately available funds.

F. **[**TO BE INSERTED INTO SUGAR LEASE ONLY** - The yearly adjustment to the Fair Market Rent for the applicable twelve (12) month periods after determination of the Fair Market Rent in accordance with Paragraph 5.A. shall be determined, as follows:

The Fair Market Rent shall be adjusted to the extent that the Producer Price Index for "Raw Cane Sugar and Byproducts", as published in the U.S. Department of Labor, Bureau of Labor Statistics, based on a 1982 base year value of 100 ("PPI") for the average of the twelve (12) calendar month period immediately preceding the new twelve (12) calendar month period of the Lease Term ("Comparison Period") differs from the PPI for the corresponding average of the twelve (12) month calendar period that occurs immediately prior to the Comparison Period of the Lease Term ("Base Period"). If the average PPI for the Comparison Period is different from (i.e., more than or less than) the average PPI for the Base Period, then the Rent for the new year shall be changed upward or downward, as appropriate, by the same percentage as the average PPI has changed upward or downward, as appropriate, from the Base Month. Since the monthly PPI that comes out is preliminary and subject to revision four months after original publication,



the final determination of the average PPI for the applicable twelve (12) month period will not be made until it is final. The Rent paid for any new twelve (12) month period will be based on the preliminary average PPI and then will be finally adjusted when the PPI becomes final for the applicable period.

As an example of yearly adjustment in year 2, assume that the Fair Market Rent in year 1 is \$150/acre and that final average PPI for the 12-month Base Period immediately preceding the 12-month period that represents year 1 is 100 and that the final average PPI for the Comparison Period which is the 12-month period immediately prior to the commencement of year 2 (i.e., which is the 12-month period comprising year 1) is 137. The Rent for year 2 would be adjusted upward by $137 - 100 = .37 \times \$150/\text{acre} = \$55.5/\text{acre}$. So the new Rent commencing year 2 would be $\$150/\text{acre} + \$55.5/\text{acre} = \$205.5/\text{acre}$.

As an example of yearly adjustment in year 3, assume that the Rent for year 2 is \$205.5/acre as in the preceding example and assume that the final average PPI for the Base Year in year 2 is 147. The Rent for year 3 would be adjusted upward from the Rent for year 2 by $147 - 137 = 10/137 = .0729$ rounded to $.073 \times \$205.5/\text{acre} = \$15/\text{acre}$. So the new Rent of year 3 would be $\$205.5/\text{acre} + \$15/\text{acre} = \$220.5/\text{acre}.$ **]

G. In the event **LESSOR** exercises the Option, then at the closing of the acquisition of the Option Property, the Parties will execute the New Lease in accordance with the terms of the Agreement for Sale and Purchase and thereafter the Premises and the Option Property will be governed by the terms of the New Lease.

6. Real Estate Taxes:

A. **LESSEE** understands and agrees that upon execution of this **LEASE**, the Premises shall be placed upon the tax rolls of the county in which the Premises is located without state government exempt status, but with any agricultural use exemption that **LESSEE** obtains, provided that **LESSEE** shall be solely responsible for obtaining and maintaining the agricultural exemption. **LESSOR** agrees that it will not take any affirmative action during the Lease Term which removes the agricultural use exemption. **LESSOR** may, in **LESSOR'S** sole and absolute discretion, record a Memorandum of **LEASE**, executed by the **LESSOR**. **LESSEE** shall pay all real property taxes, intangible property taxes and personal property taxes, as well as all assessments, including but not limited to pending, certified, confirmed and ratified special assessment liens, accrued or levied with respect to the Premises or this **LEASE** during the Lease Term. The amount of taxes or assessments will be determined by the county property appraiser. **LESSEE** acknowledges that it shall be liable for such real property taxes, personal property taxes and intangible taxes, and assessments as are applicable for the Premises and this **LEASE** during the period in which this **LEASE** is in effect.

B. **LESSEE** shall pay such taxes and assessments promptly upon receipt of an assessment notice from the taxing authority but no later than their due date, and shall furnish proof of such payment to the **LESSOR'S** Division of Procurement and Contract Administration (see **Paragraph 5.B.** above) within 30 days of payment. Any penalties or late fees incurred for failure to pay said taxes and assessments shall be the responsibility of the **LESSEE**.



C. With respect to **LESSEE's** obligation to pay real estate taxes under this **LEASE**, in the event the assessing authority permits any tax assessments to be paid in installments, **LESSEE** may exercise the option to pay the same in installments and shall pay all such installments that relate to the Lease Term as the same respectively become due and before they become delinquent, and provided that any such assessments which relate to a fiscal period for the taxing authority, part of which period is included in the Lease Term and a part of which is included in a period of time prior to or after the Lease Term, shall be allocated and prorated between **LESSOR** and **LESSEE** as of the Expiration Date of this **LEASE**. Taxes shall be prorated based on the tax for the year of the Expiration Date with due allowance made for exemptions and/or special classifications, if any. If the assessment for the year of the Expiration Date is not available, then taxes will be prorated on the prior year's tax. Any tax proration based on an estimate shall be subsequently readjusted at the request of either Party upon receipt of a tax bill. Upon the Expiration Date, **LESSEE** shall pay all real property taxes accrued with respect to the Premises in accordance with Section 196.295, Florida Statutes, if applicable. The provisions of this subparagraph shall survive the Expiration Date.

D. **LESSEE** shall have the right to contest the amount or validity of any real property taxes or any assessment liens ("Tax Claims"), by appropriate legal proceedings in good faith and with due diligence, provided that this shall not be deemed or construed in any way as relieving, modifying or extending **LESSEE's** covenants to pay or its covenants to cause to be paid any such charges at the time and in the manner provided in this **LEASE** or operate to relieve **LESSEE** from its other obligations hereunder, and shall not cause the sale of the Premises, or any part thereof, to satisfy the same. **LESSOR** agrees to join in any such proceedings if the same is necessary or required by **LESSEE** to legally prosecute such contest of the validity of such Tax Claims upon the reasonable request of **LESSEE**; provided, however, **LESSOR** will not be required to join in any such proceeding wherein the Tax Claims are imposed by **LESSEE**, provided **LESSOR** does not require its own joinder in connection with such Tax Claims. **LESSEE** shall be entitled to any refund of any Tax Claims and such charges and penalties or interest thereon which have been paid by **LESSEE**. In the event that **LESSEE** fails to pay any Tax Claims when due or fails to diligently prosecute any contest of the same, **LESSOR** may, upon thirty (30) days advance written notice to **LESSEE**, pay such charges together with any interest and penalties and the same shall be repayable by **LESSEE** to **LESSOR** pursuant to Paragraph 5.C above; provided that, should **LESSOR** reasonably determine that the giving of such notice would risk loss to the Premises, or portion thereof, then **LESSOR** shall give such written notice as is appropriate under the circumstances. Nothing herein shall be deemed to limit **LESSOR's** right to file any Tax Claims for any real property taxes or any assessment liens that are imposed for the period after the Expiration Date.

7. **Default; Remedies:**

A. Failure by the **LESSEE** to perform or abide by any material term, provision, covenant, agreement, undertaking or condition of this **LEASE** after the expiration of all applicable grace and notice periods, if any, set forth in this **LEASE**, including Paragraph 4.A above, shall constitute a material default (a "Default") of this **LEASE** for which the **LESSOR** may exercise all such rights and remedies as provided at law, in equity or under this **LEASE** (provided, however, that the foregoing materiality standard for the failure to perform or abide by a term, provision, covenant, agreement, undertaking or condition of this **LEASE** shall



not apply to any such matter that is already qualified to a materiality standard). Without limiting the foregoing, notwithstanding the notice and cure rights under **Paragraph 4.A** above, the failure of **LESSEE** to comply with any of the following within the cure period, if any, specified for any such breach or failure, shall constitute an immediate Default by **LESSEE** under this **LEASE**:

(1) Failure of **LESSEE** to pay any installment of Rent hereunder when payment is due. Notwithstanding the foregoing, **LESSEE** shall have one (1) five day grace period following written notice of non-payment from **LESSOR** of one installment of Rent in any twelve (12) month period during the Term of this **LEASE**.

(2) Failure of **LESSEE** to pay any Additional Rent or other monetary obligation within five (5) days following **LESSOR**'s written demand therefore.

(3) Failure of **LESSEE** to maintain all insurance coverages required hereunder in full force and effect at all times during the Term of this **LEASE**.

(4) Failure of the **LESSEE** to replenish the Security Deposit in accordance with **Paragraph 33.B.** of this **LEASE**.

B. Upon the occurrence of a Default under this **LEASE**, **LESSOR** shall have the right, with or without notice or demand, to exercise all such rights and remedies granted or available under this **LEASE**, the laws of the State of Florida, federal law and/or common law (including, without limitation, the right to terminate this **LEASE**) without limiting any of the other remedies that **LESSOR** may have under this **LEASE**.

C. Mediation: In the event a dispute arises which the Parties cannot resolve between themselves, the Parties shall have the option to submit to non-binding mediation. The mediator or mediators shall be impartial, shall be selected by the Parties, and the cost of the mediation shall be borne equally by the Parties. The mediation process shall be confidential to the extent permitted by law.

8. Notices: All notices to the **LESSEE** under this **LEASE** shall be in writing and sent by certified mail return receipt requested, any form of overnight mail delivery or hand delivery to:

If to **LESSEE**: c/o United States Sugar Corporation
111 Ponce de Leon Avenue
Clewiston, Florida 33440
Attention: Malcolm S. (Bubba) Wade, Jr. and
Edward Almeida, Esq.
Fax (863) 902-2120

With a copy to: Gunster, Yoakley & Stewart, P.A.
Attorneys At Law
Las Olas Centre
450 East Las Olas Boulevard, Suite 1400
Fort Lauderdale, FL 33301-4206
Attention: Daniel M. Mackler, Esq. and



Danielle DeVito Hurley, Esq.
Fax: (954) 523-1722

If to **LESSOR**: South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406
Attention: Executive Director and General Counsel
Telefax: (561) 681-6233

With a copy to: Chairman of the Governing Board
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406
Attention: Executive Director
Telefax: (561) 681-6233

With a copy to: Florida Department of Environmental Protection
3900 Commonwealth Boulevard, M.S. 49
Tallahassee, FL 32399
Attention: Secretary
Telefax: 850-245-2021

All notices required by this **LEASE**, provided they are addressed as set forth above, shall be considered delivered: (i) on the date delivered if by hand delivery, (ii) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed by certified mail return receipt requested and (iii) one day after such notice is deposited with any form of overnight mail service for next day delivery. Either Party may change its address by providing prior written notice to the other of any change of address.

9. **Relationship between Parties:** Nothing contained in this **LEASE** shall be construed to create the relationship of principal and agent, partnership, joint venture or any other relationship between the Parties hereto other than the relationship of **LESSOR** and **LESSEE**.

10. **Assignment and Subletting:**

A. The **LESSEE** shall not assign, delegate or otherwise transfer all or any part of its rights and obligations as set forth in this **LEASE** collectively ("Assignment") or sublease all or any portion of the Premises ("Sublease") without the prior written consent of the **LESSOR** in each instance, which consent may be withheld by **LESSOR** in **LESSOR**'s sole and absolute discretion; provided, however, that notwithstanding the foregoing, **LESSOR**'s consent to an Assignment shall not be unreasonably withheld so long as **LESSEE** complies with subparagraph C, below. Any Assignment made by **LESSEE** without the prior written consent of **LESSOR** shall be void and of no force or effect.

B. In the event **LESSOR** does permit an Assignment by **LESSEE**, then the assignee shall automatically be deemed to have assumed all duties, responsibilities and obligations of **LESSEE** under this **LEASE** from and after the effective date of the Assignment



(including, without limitation, the funding of the Security Deposit Fund pursuant to **Paragraph 33.B.** below) and the **LESSEE** shall, upon such Assignment, be automatically released of its duties, responsibilities or obligations under this **LEASE** from and after the effective date of the Assignment; provided, however, that **LESSEE** shall not be released with respect any of the representation, warranties, duties, responsibilities, liabilities or obligations under this **LEASE** for matters or conditions arising, occurring or existing prior to the effective date of any Assignment. Any sale or other transfer of at least a fifty percent (50%) majority interest of the voting stock of **LESSEE** if **LESSEE** is a corporation (including by way of merger or consolidation), or any sale or other transfer of at least fifty percent (50%) of the general partnership interest in the event **LESSEE** is a general partnership or limited partnership, shall constitute an Assignment for purposes of this **LEASE**.

C. If **LESSEE** shall desire **LESSOR's** consent to any Assignment, **LESSEE** shall notify **LESSOR**, which notice shall include: (i) the name and address of the proposed assignee; (ii) the proposed effective date (which shall not be less than 45 nor more than 180 days after **LESSEE's** notice); (iii) reasonable evidence that the proposed assignee has the financial ability to perform its obligations under this **LEASE**; and (iv) reasonable evidence that the proposed assignee is experienced in the operation of the Premises for agricultural operations, and such other information as **LESSOR** may reasonably require. In the event that **LESSOR** does not provide written notice of its approval or disapproval of a proposed Assignment within thirty (30) days after receipt of written request from **LESSEE**, then such Assignment shall be deemed to be approved by **LESSOR**.

D. Notwithstanding anything herein to the contrary, **LESSEE** shall have the right to assign its rights under this **LEASE** to an affiliate or subsidiary of **LESSEE** (i.e., an entity in which at least one of the entities comprising **LESSEE** owns more than a 50% voting interest or otherwise effectively controls the same) or to any Person(s) that acquires all or substantially all of the assets of **LESSEE** related to the [****SUGAR LEASE - sugar cane**] [****CITRUS LEASE - citrus**] business and operations, without **LESSOR's** consent, provided, however, **LESSEE** agrees to give **LESSOR** a copy of the fully executed assignment and assumption of this **LEASE** evidencing such transfer and **LESSEE** shall not be released from its obligations hereunder.

E. Notwithstanding anything to the contrary contained in this **LEASE**, including this **Paragraph 10.**, **LESSEE** shall have the right to enter into licenses or Subleases for other parties to use all or portions of the Premises for agricultural crop production without **LESSOR's** consent to the extent the same are entered into in the ordinary course of **LESSEE's** business consistent with past practices and such licensee or sublessee agrees to comply with Best Management Practices, all of which shall be subordinate to **LESSOR's** interest in the Premises.

F. Notwithstanding anything to the contrary contained in this **LEASE**, upon the Expiration Date, **LESSEE** shall assign to **LESSOR** all permits obtained by **LESSEE** in connection with the Premises to the extent such permits are assignable. To the extent that any licenses or permits that are required for the operation of the Permitted Uses have been assigned to **LESSOR** prior to or during the Lease Term, then **LESSOR** shall take such actions as are reasonably requested by **LESSEE** in order to maintain such licenses and permits in full force and effect during the Lease Term.



11. **Permits and Approvals:**

A. The **LESSEE** shall obtain all federal, state, local, and other governmental approvals and permits necessary for the occupancy, use, maintenance and operation of the Premises, as well as all necessary private authorizations and permits prior to the Commencement Date and shall maintain same throughout the Lease Term. Within five (5) days of demand by **LESSOR** to **LESSEE**, **LESSEE** shall provide and/or make available to **LESSOR** copies of all permits and authorizations that **LESSEE** is required to obtain pursuant to the provisions of this **LEASE**.

B. The **LESSEE** shall also obtain, and maintain throughout the term of this **LEASE**, any and all applicable **LESSOR (South Florida Water Management District)** permits, including but not limited to **LESSOR** Right of Way Permits and Consumptive Use Permits, as well as permits required by any of the Counties, if applicable. **LESSEE** acknowledges that there is no guarantee that **LESSEE** will receive any permits.

C. The **LESSEE** shall be responsible for compliance with all permit terms and conditions applicable to the Premises, including but not limited to those terms and conditions required by Environmental Resource Permits, Consumptive Use Permits, Surface Water Management Permits, Wetlands Resource Management Permits, Works of the District Permits, and Right of Way Permits issued by **LESSOR** with respect to the Premises. **LESSEE** further acknowledges that **LESSEE**'s responsibility for compliance with all permit terms and conditions applicable to the Premises, shall include, but not be limited to, operating and maintaining the surface water management system and mitigation areas on the Premises in accordance with all permit requirements.

12. **Compliance with Laws, Rules, Regulations and Restrictions:** **LESSEE** shall comply with, and be the responsible entity for remedying all violations of, all applicable federal, state, local and **LESSOR** laws, ordinances, rules and regulations, permits, and private restrictions, applicable to the Premises and **LESSEE**'s operations conducted thereon and occupancy thereof, as well as **LESSEE**'s performance of this **LEASE**. **LESSOR** undertakes no duty to ensure such compliance. All rules and regulations under Chapter 373, Florida Statutes pertaining to the Premises remain in full force and effect.

13. **Indemnification:** For good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the **LESSEE** shall defend, indemnify, save, and hold the **LESSOR** harmless from and against any and all claims, suits, judgments, loss, damage and liability incurred by **LESSOR**, including but not limited to reasonable attorney's fees and costs incurred by **LESSOR**, ("**Loss**") which arise(s) directly, indirectly or proximately as a result of **LESSEE**'s or its officers', employees', contractors' or agents' use or occupation of the Premises, its operations conducted on the Premises, or from the performance or non-performance of any term, condition, covenant, obligation or provision of this **LEASE** by **LESSEE**, even if such **Loss** is caused by negligence on the part of **LESSOR**, but not **LESSOR**'s or its officers' or employees' gross negligence or willful misconduct. **LESSEE** acknowledges that it is solely responsible for compliance with the terms of this **LEASE**. **LESSOR** shall have the absolute right to choose its own legal counsel in connection with all matters indemnified for and defended against herein and to the extent that **LESSEE** is providing such defense, **LESSEE** shall have the



right, to the fullest extent permitted by law, to assert any defenses that are available to LESSOR in such matter.

14. **LESSEE's Property at Risk:** All of LESSEE's personal property, equipment and fixtures located upon the Premises shall be at the sole risk of LESSEE and LESSOR shall not be liable under any circumstances for any damage thereto or theft thereof. In addition, LESSOR shall not be liable or responsible for any damage or loss to property or injury or death to persons occurring on or adjacent to the Premises resulting from any cause, including but not limited to, defect in or lack of repairs to the improvements located on the Premises, unless the same is caused by LESSOR's gross negligence or willful misconduct.

15. **Attorney's Fees:** In any litigation arising out of this Agreement, the prevailing Party shall be entitled to recover reasonable attorney's fees and costs from the other Party.

16. **Insurance:**

A. **Types of Insurance.** To the extent applicable and unless otherwise agreed to in writing by the LESSOR, including, without limitation, to the extent provided in **Schedule "4"**, LESSEE shall procure and maintain throughout the Lease Term at LESSEE's sole cost and expense the following types of insurance with deductibles acceptable to LESSOR but in no event greater than \$100,000 (unless otherwise agreed to herein and other than with respect to windstorm, which deductible shall not exceed 5% of the total insurable value):

(1) **Worker's Compensation Insurance.** If applicable, LESSEE shall provide workers' compensation subject to statutory limits and employers liability in the amount of ONE MILLION AND 00/100 DOLLARS (\$1,000,000).

(2) **Liability Insurance.** (A) Comprehensive General Liability Insurance relating to the Premises and its improvements and appurtenances, which shall include, but not be limited to, Premises and Operations, Independent Contractors, Products and Completed Operations and Contractual Liability. Coverage shall be no more restrictive than the latest edition of the Commercial General Liability policies of the Insurance Services Office (ISO). This policy shall provide coverage for death, bodily injury, personal injury, and property damage that could arise directly, indirectly or proximately from the performance of this LEASE. The minimum limits of coverage shall be \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate for Bodily Injury Liability and Property Damage Liability and (B) Umbrella liability insurance containing minimum limits of Fifty Million and No/100 Dollars (\$50,000,000.00) for the Premises and shall follow form to the underlying General Liability. The limits of liability insurance shall in no way limit or diminish LESSEE's liability under **Paragraph 13** hereof.

(3) **Business Automobile Liability Insurance.** Business Automobile Liability Insurance protecting LESSEE which shall have minimum limits of \$5,000,000 per occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall be an "any-auto" type of policy including owned, hired, non-owned and employee non-ownership coverage.

(4) Casualty Insurance. Property insurance insuring against loss or damage customarily included under so called "all risk" or "special form" policies covering fire, lightning, vandalism, and malicious mischief, and including loss caused by any type of windstorm or hail (including Named Storms) on all Improvements and Personalty. To the extent commercially available, coverage must also include Certified Acts of Terrorism per the current Terrorism Risk Insurance Reauthorization Act of 2007 or any subsequent act, reauthorization or extension thereof. Said Property coverage on the Improvements shall (A) be in an amount equal to one hundred percent (100%) of the full replacement cost with a waiver of depreciation; and (B) contain an agreed amount endorsement with respect to the Property waiving all co-insurance provisions or to be written on a no co-insurance form.

(5) Environmental Impairment Insurance. Environmental Impairment Insurance with limits and in form and substance acceptable to LESSOR, in its sole and absolute discretion, with a maximum deductible of \$250,000 and a policy term extending through the Expiration Date of this LEASE. Said policy must provide coverage for on-site clean-up and third-party claims for unknown pre-existing conditions & new conditions. Coverage must also include business interruption on an actual loss sustained basis and coverage for natural resource damage. Coverage must include above ground storage tanks and any other equipment with a risk of causing environmental impairment.. Acquisition of this insurance shall in no way limit or diminish LESSEE's liability under Paragraph 19 hereof.

B. Proof of Insurance. LESSEE shall provide LESSOR with current insurance certificates or proof of self-insurance (for Worker's Compensation Insurance) evidencing all insurance required pursuant to this LEASE as proof of insurance prior to the Commencement Date and each year, upon renewal, thereafter. Upon request, LESSEE shall provide LESSOR with complete copies of the policies. All insurance required under this LEASE shall be written on a financially sound company acceptable to LESSOR with a rating of "A VIII" or better with AM Best or "A" or better with S&P and shall name LESSOR as loss payee and as additional insured as their interests may appear as applicable and shall contain a waiver of subrogation in favor of LESSOR.

C. Notice of Insurance Cancellation. LESSEE shall notify LESSOR at least fifteen (15) days prior to cancellation or modification of any insurance required by this LEASE. Insurance required under Paragraphs 16.A. (1) (2), (3), (4), and (5) above of this LEASE shall contain a provision that it may not be cancelled or modified until thirty (30) days after written notice to LESSOR. In the event LESSEE fails to obtain and keep any insurance required hereunder in full force and effect, LESSOR may at its option obtain such policies and LESSEE shall pay to LESSOR the premiums therefore, together with interest at the maximum rate allowed by law, upon demand as "Additional Rent". Without limiting the foregoing, LESSEE's failure to obtain, pay for and keep any insurance required hereunder in full force and effect and unmodified (unless LESSEE has obtained LESSOR's prior written consent for any such modification) shall constitute an Event of Default under this LEASE.

D. Subcontractor Insurance. It shall be the responsibility of LESSEE to ensure that all subcontractors are adequately insured or covered under its policies.



E. **Business Interruption Insurance & Crop Insurance for Loss of Revenue/Yield.** To the extent applicable and unless otherwise agreed to in writing by the LESSOR (A) Business Interruption insurance (1) covering all risks required to be covered by the insurance provided for in subparagraph (iv) above and (2) on an actual loss sustained basis for the period of restoration in an amount equal to one hundred percent (100%) of the projected gross revenues from the operation of the Premises for a period of at least eighteen (18) months after the date of casualty and (3) containing an additional extended period of indemnity endorsement which provides that after the physical loss to the Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss or twelve 12 months, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. In no event shall the period of indemnification, including the extended period of indemnity, be less than thirty (30) months. The amount of such business income insurance shall be determined prior to the date hereof and at least once each year thereafter based on LESSEE's reasonable estimate of the gross revenues from the Property for the succeeding twenty-four (24) month period; and (B) Crop Insurance providing revenue protection or coverage against yield losses Except in the case of a monetary Default under this Agreement or as otherwise set forth in this Agreement, however, in no event shall LESSOR have any claim to any business interruption insurance that LESSEE may procure (or proceeds thereof).

F. **Casualty.** Notwithstanding anything to the contrary in this LEASE, in the event of a casualty, LESSEE shall be obligated to restore the Premises.

(1) Notwithstanding the foregoing, in the event of a loss or damage to all or any portion of the Premises due to fire or other casualty that causes seventy-five percent (75%) or more of the Premises to be destroyed or damaged during the Lease Term, then LESSEE shall have the option to restore such loss or damage, by electing to do so in a written notice to LESSOR within thirty (30) days after such loss or damage.

(2) In the event that LESSEE elects to restore such loss or damage pursuant to **subparagraph 16.F.(1)** above, then LESSEE and LESSOR shall endorse any checks received so that the insurance proceeds can be paid into a bank account controlled by a mutually and reasonably acceptable third party escrow agent that will disburse the insurance proceeds to LESSEE from time to time as restoration progresses in order for LESSEE to timely pay all invoices related to same in accordance with the terms of a mutually and reasonably agreed upon escrow agreement, with any excess or surplus following completion of restoration to be paid to LESSEE. To the extent of any loss or damage to the Premises less than or equal to \$500,000, LESSOR's consent shall not be required for the type, plans or manner of such restoration; provided, however, that prior to commencement of the restoration LESSEE shall provide LESSOR with a description of the restoration process, an evaluation of the proposed restoration that demonstrates that the same production capacity (if applicable) that was actually achieved prior to such loss or damage will be met after the restoration is complete. No later than forty-five (45) days after completion of the restoration, LESSEE shall notify LESSOR in writing of such completion and shall provide a certificate from the licensed engineer and/or architect that was engaged by LESSEE in connection with the restoration or, if none, a licensed engineer and/or architect that is reasonably acceptable to both parties, which certification (i) identifies the loss or damage to the Premises, (ii) identifies the nature and the amount of costs

incurred by **LESSEE** in restoring the loss or damage, (iii) states that the restoration costs incurred were reasonable to perform the restoration in accordance with all applicable laws, and (iv) if applicable, states that the restoration work is substantially complete and that the restored facility is at least comparable in production capacity to that which was actually achieved immediately prior to the casualty loss or damage.

(3) In the event that **LESSEE** does not restore such loss or damage as provided above, then insurance proceeds for the property damage shall be paid by **LESSEE**'s insurer to **LESSOR** with all other recoveries being paid to **LESSEE**.

(4) Notwithstanding anything contained in this **LEASE** to the contrary, to the extent of any loss or damage to the Premises less than or equal to \$500,000, **LESSEE** shall have the exclusive right to settle and adjust any claim with its insurance company, at its sole cost and expense, regarding the amount to be paid for any loss or damage under insurance as to which **LESSOR** is named as an additional insured and/or loss payee without **LESSOR**'s participation or consent (except that **LESSOR** shall cooperate in executing any documents/assignments relating to such settlement or adjustment, upon **LESSEE**'s request); otherwise, to the extent of any loss or damage to the Premises greater than \$500,000, **LESSOR** shall have the right (i) to participate with **LESSEE** in the adjustment, collection and compromise of any and all claims under all Property insurance policies and (ii) during any Event of Default, to execute and deliver on behalf of **LESSEE** all necessary proofs of loss, receipts, vouchers and releases required by the insurers. If **LESSEE** does not restore any loss or damage to the Premises as provided in subparagraph 16.F.(1) above, then **LESSOR** shall have the exclusive right to settle and adjust any claims with the insurance company, at its sole cost and expense, for insurance proceeds for property damage under insurance as to which **LESSOR** is named as an additional insured and/or loss payee without **LESSEE**'s participation or consent (except that **LESSEE** shall cooperate in executing any documents/assignments relating to such settlement or adjustment, upon **LESSOR**'s request). Except in the case of a monetary Default under this Agreement or as otherwise set forth in this Agreement, however, in no event shall **LESSOR** have any claims or rights with respect to any business interruption or business income insurance proceeds which are payable under any insurance maintained by **LESSEE**.

(5) In the event of a loss or damage to all or any portion of the Premises due to fire or other casualty during the Lease Term, no abatement of rent will occur.

17. Notice to **LESSOR** Concerning Specific Acts: The **LESSEE** agrees to immediately report any incidence of the following to the **LESSOR**:

- LEASE)**
- A. Fire (other than controlled burning permitted pursuant to the terms of this
 - B. Death or injury resulting in potential death or permanent disability.
 - C. Poaching and trespassing
 - D. Any hazard, condition or situation that is reasonably likely to (i) become a material liability to the **LESSOR**, or (ii) materially damage the Premises or improvements on the Premises of the **LESSOR**.



E. Any activity observed by **LESSEE** on the Premises that **LESSEE** should reasonably know is a violation of rules and regulations promulgated by the **LESSOR**, the Florida Fish and Wildlife Conservation Commission or any other State or local agency.

F. Any written notice of any violation of applicable Federal, State or local laws received by **LESSEE** from the applicable governmental authority.

G. Disposition of pollutants or contaminants per **Paragraph 18** hereof.

18. Hazardous Materials and Pollutants:

A. For purposes of this **LEASE**:

(1) "Pollutant" shall mean any hazardous or toxic substance, chemical, material, or waste of any kind, petroleum, petroleum product or by-product, contaminant or pollutant as defined or regulated by Environmental Laws.

(2) "Disposal" shall mean Pollution as defined in § 376.301(37) of the Florida Statutes Annotated (provided that for purposes of this **Paragraph 18.A(2)**, "pollutants" in § 376.301(37) shall mean Pollutants as defined in **Paragraph 18.A(1)** of this **LEASE**) and the release, storage, use, handling, discharge or disposal of Pollutants.

(3) "Environmental Laws" shall mean any applicable federal, state or local laws, statutes, ordinances, rules, regulations or other governmental restrictions.

B. During the Lease Term, **LESSOR** shall have the right to cause the Premises to be monitored in accordance with the Best Management Practices to be developed by mutual agreement by **LESSOR** and **LESSEE**.

C. Prior to the Commencement Date, **LESSOR** has performed Buyer's Environmental Assessment pursuant to the Agreement for Sale and Purchase and performed sampling in those areas of the Premises where **LESSOR** identified concerns regarding the likely presence of Pollutants. Pursuant to the Agreement for Sale and Purchase, **LESSOR** has agreed to perform certain responsibilities for the Remediation of the Pollutants Identified in the Buyer's Environmental Assessment. **LESSEE** and **LESSOR** have no responsibility or liability under the terms of this **LEASE** for the Remediation of the Disposal of Pollutants Identified in Buyer's Environmental Assessment and such Disposal of Pollutants that occurred prior to the Commencement Date.

D. **LESSEE** shall not cause or permit the Disposal of any Pollutants upon the Premises, or upon adjacent lands, during the Lease Term, which violates Environmental Laws. Any Disposal of a Pollutant, whether caused by **LESSEE** or any other third party, in violation of Environmental Laws shall be reported to **LESSOR** immediately upon the knowledge thereof by **LESSEE**.

E. Within ninety (90) days, or such longer time as is reasonably necessary, of delivery of notice from **LESSOR** to **LESSEE**, and except as otherwise provided in **subparagraph C.** above, **LESSEE** shall be solely responsible, at **LESSEE**'s sole cost and



expense, for commencing and thereafter performing, or causing to be performed, any and all assessments, cleanup and monitoring (collectively, "Remediation") of all Pollutants disposed of or otherwise discovered on the Premises or emanating from the Premises to adjacent lands, in violation of Environmental Laws, as a result of use or occupation of the Premises or surrounding lands by **LESSEE**, its agents, licensees, invitees, subcontractors or employees during the Lease Term (provided, however, that the foregoing shall not in any way limit any liability, obligations or rights of **LESSEE** or **LESSOR**, to the extent independently arising under the Agreement for Sale and Purchase, as modified and amended). In the event Remediation is necessary as required in the previous sentence, then **LESSEE** shall furnish to **LESSOR** within a reasonable period of time written proof from the appropriate local, state and/or federal agency with jurisdiction over the Remediation that the Remediation has been satisfactorily completed in full compliance with all Environmental Laws.

F. **LESSEE** understands and acknowledges **LESSOR's** intended use of the Premises as an everglades restoration project (hereinafter referred to as "**LESSOR's Intended Use**") and that it is imperative that **LESSEE's** use of chemicals be monitored in accordance with the Best Management Practices to prevent the release of chemicals in concentrations that may have adverse impacts which jeopardize **LESSOR's** Intended Use, including, but not limited to, adverse impacts to human health or fish and wildlife. Material non-compliance with the Best Management Practices by **LESSEE** its agents, licensees, invitees, subcontractors or employees during the Lease Term, after expiration of applicable grace and notice periods, shall constitute a Default under this **LEASE**.

G. For good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, **LESSEE** shall indemnify; defend and hold harmless **LESSOR**, from and against any and all claims, suits, judgments, loss, damage, and liability which may be incurred by **LESSOR**, including but not limited to **LESSOR's** reasonable attorney's fees and costs, which arises directly, indirectly or proximately as a result of the Disposal of any Pollutants which violate Environmental Laws and are caused by **LESSEE**, its agents, licensees, invitees, subcontractors or employees with respect to the Premises during the Lease Term. This responsibility shall continue to be in effect for any Disposal of Pollutants in violation of Environmental Laws for which **LESSOR** provides written notice to **LESSEE** on or before the third anniversary of the Expiration Date.

H. While this Paragraph 18 establishes contractual liability for **LESSEE** regarding Disposal of Pollutants on the Premises as provided herein, it does not alter or diminish any statutory or common law liability of **LESSEE** for such Disposal of Pollutants, except to the extent provided in subparagraph C above.

I. The provisions of this Paragraph 18 shall survive for three years after the Expiration Date.

19. **Discrimination:** The **LESSEE** shall ensure that no person shall, on the grounds of race, color, creed, national origin, handicap, or sex, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in any activity under this **LEASE**. The **LESSEE** shall take all measures necessary to effectuate these assurances.



20. **Publicity:** Prior to engaging in any discussions with the news media pertaining to this **LEASE**, the **LESSEE** shall notify the **LESSOR's** Office of Communications and obtain **LESSOR's** prior written consent, which may be given electronically. This includes news releases, media requests for interviews, feature articles, fact sheets, or similar promotional materials.

21. **Affidavit Regarding Ability to Enter into LEASE with State Agency:** The **LESSEE**, by its execution of this **LEASE**, acknowledges and attests that neither it, nor any of its suppliers, subcontractors, or consultants who shall perform work which is intended to benefit the **LESSOR** is a convicted vendor or, if the **LESSEE** or any affiliate of the **LESSEE** has been convicted of a public entity crime, a period longer than 36 months has passed since that person was placed on the convicted vendor list. The **LESSEE** further understands and accepts that this **LEASE** shall be either voidable by the **LESSOR**, in the event there is any misrepresentation or lack of compliance with the mandates of Section 287.133, F.S. The **LESSOR**, in the event of such termination, shall not incur any liability to the **LESSEE** for any work or materials furnished.

22. **Vacation of Premises:** Upon the expiration or termination of this **LEASE** as to any portion of the Premises, the **LESSEE** shall promptly vacate and surrender the Premises or applicable portion of the Premises to **LESSOR**. The **LESSEE** shall remove all personal property of the **LESSEE** and shall restore such vacated portion of the Premises to its original condition existing as of the Commencement Date of this **LEASE**, subject to reasonable wear and tear, casualty not subject to restoration pursuant to **Paragraph 16.F** and property taken by condemnation pursuant to **Paragraph 36**, within a period not to exceed five (5) calendar days from the Expiration Date. Notwithstanding anything in this **LEASE** to the contrary, **LESSEE**, at its sole cost and expense, shall clean up and remove all abandoned personal property (including but not limited to mobile home trailers), refuse, garbage, junk, rubbish, solid waste, trash and debris from the portion of the Premises so vacated and shall deliver the portion of the Premises so vacated with cane stubble thereon to the extent the same exists from the then last harvest and, except as provided in **Paragraph 2.K** above, **LESSEE** is not obligated to replant any harvested crops or to disk any portion of the Premises after any harvest by **LESSEE**.

23. **Holding Over:** Any holding over without **LESSOR** consent shall constitute a Default by **LESSEE** and entitle **LESSOR** to reenter the Premises and collect monthly rent equal to 150% of the Rent at such time, together with the Additional Rent.

24. **Insolvency or Bankruptcy:** The appointment of a receiver to take possession of all or substantially all of the assets of **LESSEE**, or an assignment of **LESSEE** for the benefit of creditors, or any action taken or suffered by **LESSEE** under any insolvency, bankruptcy, reorganization or other debtor relief proceedings, whether now existing or hereafter amended or enacted, shall at **LESSOR's** option constitute a breach of this **LEASE** by **LESSEE**. Upon the happening of any such event or at any time thereafter, this **LEASE** shall terminate five (5) days after written notice of termination from **LESSOR** to **LESSEE**. In no event shall this **LEASE** be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this **LEASE** or any rights or privileges hereunder be an asset of **LESSEE** under any bankruptcy, insolvency, reorganization or other debtor relief proceedings.

25. **Sale by LESSOR:** Notwithstanding anything contained in this **LEASE** to the contrary, in the event of a sale or conveyance by **LESSOR** of the Premises or any portion thereof or in the event of an assignment of this **LEASE** by **LESSOR**, any such assignment, sale or conveyance shall automatically operate to release **LESSOR** from any future liability upon any of the terms, provisions, covenants or conditions, express or implied, herein contained in favor of **LESSEE**, provided that the purchaser of the Premises or assignee of this **LEASE** executes a non-disturbance agreement in favor of **LESSEE** and agrees to be bound by the terms of this **LEASE** and in such event **LESSEE** agrees to look solely to the successor in interest of **LESSOR** in and to this **LEASE**. This **LEASE** shall not be affected by any such sale, and **LESSEE** agrees to attorn to the purchaser or assignee.

26. **Estoppel Confirmation:** **LESSEE** and **LESSOR** shall, within seven (7) days after written request of the other Party, execute an estoppel letter regarding the status of this **LEASE** which may be relied upon by any lender, mortgagee or purchaser of the Premises or the Crops and any assignee of either Party's interest in this **LEASE**. Such estoppel letter shall confirm the terms, conditions and provisions of this **LEASE**; that this **LEASE** is in full force and effect; that this **LEASE** is unmodified, or if modified, the provisions of any modifications; that neither **LESSOR** nor **LESSEE** is in default of any of the terms, conditions or provisions of this **LEASE**; that **LESSEE** has no offsets, counterclaims or defenses to the payment of any Rent or Additional Rent; that **LESSEE** has no options to renew or purchase, and any other statements which **LESSOR** or **LESSEE** reasonably requests. In the event **LESSEE** or **LESSOR** fails to comply with any of the foregoing, such failure to comply shall automatically be deemed a confirmation by such Party that all items contained in the estoppel letter requested by the other Party are true and correct and any lender, mortgagee or purchaser of the Premises or the Crops, and any assignee of **LESSOR**'s interest in this **LEASE** may rely on such confirmation.

27. **Capital Improvements and Alterations:**

A. **LESSEE** shall not make any alterations, additions or improvements, whether capital, internal or external, (collectively, "Alterations") in, on or to the Premises or any part thereof without the prior written consent of **LESSOR**, which consent may be withheld in **LESSOR**'s sole and absolute discretion.

B. Any Alterations to the Premises, except for **LESSEE**'s movable furniture and equipment, shall immediately become **LESSOR**'s property and, at the end of the Lease Term, shall remain on the Premises without compensation to **LESSEE**; provided, however, that any such movable furniture and equipment, otherwise belonging to **LESSEE**, but remaining on the Premises at the expiration or other termination of this **LEASE** shall also become the property of **LESSOR**.

C. In the event **LESSOR** consents to the making of any Alterations by **LESSEE**, the same shall be made by **LESSEE**, at **LESSEE**'s sole cost and expense, in accordance with the plans and specifications previously approved in writing by **LESSOR**. **LESSEE** shall comply with all applicable laws, including but not limited to Construction Lien Law of the State of Florida, ordinances, regulations, building codes, and obtain all required permits, inspections, and certificates as may be required by all governmental agencies having jurisdiction thereof.



28. **Liens:**

A. **LESSEE** shall keep the Premises free from any liens, including, but not limited to mechanic's liens, arising out of any work performed, materials furnished or obligations incurred by **LESSEE**.

B. The **LESSEE** herein shall not have any authority to incur liens for labor or material on the **LESSOR's** interest in the Premises and all persons contracting with the **LESSEE** for the destruction or removal of any building or for the erection, installation alteration, or repair of any building or other improvements on the Premises and all materialmen, contractors, mechanics and laborers, are hereby charged with notice that they must look to the **LESSEE** and to the **LESSEE's** interest only in the Premises to secure the payment of any bill for work done or material furnished during the rental period created by this **LEASE**.

C. In the event that **LESSEE** shall not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record by payment or posting of a property bond, **LESSOR** shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by **LESSOR**, including, but not limited to reasonable attorney's fees and expenses incurred by it in connection therewith, together with interest at the maximum rate allowed by law, shall be considered Additional Rent and shall be payable to **LESSOR** by **LESSEE** on demand.

D. **LESSOR** shall have the right at all times to record in the public records or post and keep posted on the Premises any notice permitted or required by law, or which **LESSOR** shall deem proper, for the protection of **LESSOR**, the Premises, the improvements located thereon and any other Party having an interest therein, from mechanic's and materialmen's liens, and **LESSEE** shall give to **LESSOR** at least thirty (30) days prior notice of commencement of any construction on the Premises.

E. Pursuant to Sections 713.01(21) and 713.10, the interest of **LESSOR** in the Premises and the improvements located thereon shall not be subject to liens for improvements made by **LESSEE** and such liability is expressly prohibited.

F. Notwithstanding anything to the contrary contained in this **LEASE**, **LESSEE** may from time to time, in its ordinary course of business, grant to certain lenders selected by **LESSEE** and its affiliates (the "Lenders") a lien on and security interest in all assets and personal property located on the Premises and owned by **LESSEE**, including, but not limited to, all crops (e.g., citrus and sugar cane), crop products, inventory, goods, machinery and equipment owned by **LESSEE** (but expressly excluding **LESSEE's** right, title and interest in, to or under this **LEASE**) ("LESSEE's Property") as collateral security for the repayment of any indebtedness to the Lenders and all amendments, modifications and renewals thereof (the "Indebtedness"). The Lenders may, in connection with any foreclosure or other similar action relating to the **LESSEE's** Property, enter upon the Premises (or permit their representatives to do so on their behalf) in order to implement an action for default, foreclosure and/or any other remedy that Lenders may have against **LESSEE** and/or **LESSEE's** Property under the terms and conditions of the Indebtedness without liability to **LESSOR**, to the extent any of **LESSEE's**

Property is located on the Premises. The Lender's rights with respect to access to the Premises and the crops thereon shall be strictly limited to the then current harvest season, subject to Lenders exercise of due care in connection with such access. LESSOR hereby agrees that any security interest, lien, claim or other similar right, including, without limitation, rights of levy or distraint for rent and LESSOR's statutory lien rights that LESSOR may have in or on LESSEE's Property, whether arising by agreement or by law, are hereby subordinate to the liens and/or security interests in favor of the Lenders which secure the Indebtedness, whether currently existing or arising in the future. Nothing contained herein shall be construed to grant or permit a lien upon or security interest in any of LESSOR's assets or LESSEE's right, title or interest in, to or under this LEASE. LESSOR agrees to accept timely performance on the part of any of the Lenders or their agents or representatives as though performed by LESSEE to cure any default or condition for termination (although the Lenders shall have no obligation to do so) to the extent such cure is completed within the applicable cure period LESSEE has to cure any such default under this LEASE. Subject to compliance with the terms and conditions of this Paragraph 28.F., the foregoing subordination shall be automatic and self-effective without the necessity to execute any further documentation evidencing the same; however, without limiting the effectiveness of such subordination, LESSOR agrees to promptly execute any additional documents reasonably required by the Lenders to evidence LESSOR's subordination of its lien rights described herein. Notwithstanding anything in this LEASE to the contrary, LESSEE hereby agrees that any Loss incurred by LESSOR due to bodily injury or property damage in connection with: (i) the Indebtedness; (ii) actions by any of the Lenders; (iii) any subordination by LESSOR set forth herein; or (iv) any other matters contained in this Paragraph 28.F., all shall fall under the indemnification provisions in favor of LESSOR set forth in Paragraph 13. above.

29. Repair: LESSEE covenants and agrees that LESSEE shall maintain the Premises (which excludes the crops) in its original condition existing as of the Commencement Date of this LEASE, subject to reasonable wear and tear, casualty pursuant to Paragraph 16.F and condemnation pursuant to Paragraph 36. LESSEE shall, at LESSEE's expense, maintain and preserve the Premises in the state of condition and repair as required in the immediately preceding sentence and make all necessary repairs to the Premises and all improvements, fixtures and equipment located thereon, if any, including but not limited to repairs to all interior, exterior, roof and structural portions of the Premises, all culverts, all pumps and pumping stations, all paved surfaces, windows, landscaping and all electrical, plumbing, HVAC and other machinery located on the Premises consistent with repair standard set forth in this paragraph. Subject to the other provisions of this LEASE that may provide to the contrary, including Paragraph 16.F, Paragraph 35 and Paragraph 36. LESSEE shall be responsible for all such repairs and maintenance whether caused by acts of LESSEE, its agents, servants, employees, customers, guests, licensees or by acts of third parties, governmental regulations, acts of God, casualties, or any other reason.

30. Existing Interests in Premises: Pursuant to Section 373.099, Florida Statutes, LESSOR does not warrant or represent that it has title to the Premises. LESSEE's occupancy of the Premises shall be subject to the rights of others existing as of the day immediately preceding the Commencement Date of this LEASE which are set forth in easements, restrictions, reservations, all matters of public record and all other encumbrances affecting the Premises as of the day immediately preceding the Commencement Date of this LEASE.



31. **LESSOR Inspection, Ingress and Egress:**

A. The right of entry is hereby reserved by the **LESSOR**, for itself and its officers, agents, employees, contractors, subcontractors, and assigns, to enter upon and travel through and across the Premises for the purposes of: inspections, maintenance, and for any lawful purpose including, but not limited to, inspecting the Premises to ensure the **LESSEE**'s performance of its obligations under this **LEASE**; sampling and monitoring the **LESSEE**'s use of chemicals and pesticides on the Premises; performing environmental remediation or performing any work or repairs, which the **LESSOR** may determine is necessary by reason of the **LESSEE**'s default under the terms of this **LEASE**; exhibiting the Premises for lease, sale or mortgage financing; conducting inspections, investigations, soil borings, surface and groundwater sampling, monitoring, and any other testing, sampling, or other investigation necessary to support the engineering design and/or any other analyses associated with the future use of the Premises. The **LESSEE** shall have no claim for damages of any character on account thereof against the **LESSOR** or any officer, agent, or assign thereof to the extent provided in this **LEASE**.

B. **LESSOR** agrees that from the Commencement Date through the Expiration Date, all officers, employees, contractors and agents of **LESSOR** shall have at all reasonable times upon reasonable advance notice to Edward Almeida, Esq., Vice President of Legal Affairs at (863) 902-2120 the right to enter upon the Premises for the purposes set forth in subparagraph A above; provided however that: (a) any contractors or agents of **LESSOR** shall first provide a certificate of insurance evidencing that such contractor or agent carries commercial general liability insurance in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage liability, which certificate shall name **LESSEE** as an additional insured thereunder; and (b) all such inspections, investigations and examinations by **LESSOR** or **LESSOR**'s officers, employees and accredited agents shall be conducted in such a manner so as (i) not to cause any lien or claim of lien to exist against the Premises, (ii) not to unreasonably interfere with the operation of **LESSEE** or its business or its tenants and occupants; and (iii) at all times to comply with all of **LESSEE**'s or its tenants' safety standards and requirements.

C. **LESSOR** agrees to be responsible for: (x) any property damage that arises out of or is caused by **LESSOR** or its officers, employees, contractors and agents while such persons are acting within the proper scope of conducting inspections of, or accessing, the Premises, provided that with respect to any damaged sugarcane crop, **LESSEE**'s exclusive remedy shall be limited to compensation from **LESSOR** in the amount of \$2,400 per acre of damaged sugarcane crop, subject to proration where the damage is less than a full acre, (y) to the extent found legally responsible, any property damage that arises out of or is caused by **LESSOR**'s gross negligence or willful misconduct, or its officers, employees, contractors and agents, while acting outside the proper scope of conducting inspections of, or accessing, the Premises (e.g., negligence); and (z) to the extent found legally responsible, any personal injury arising from **LESSOR**'s or its officers', employees', contractors' and agents' inspections of or access to the Premises (but the foregoing shall only be applicable to **LESSOR** only as to its gross negligence or willful misconduct). **LESSOR** shall promptly restore, if applicable, any property damage described above. For the purposes hereof, the term "to the extent found legally responsible" shall be deemed to mean "to the extent that **LESSOR** has the legal authority to



agree to be responsible for the acts of its officers, employees, contractors and agents". **LESSEE** acknowledges that **LESSOR** has not made any representation or warranty to **LESSOR** as to, nor has **LESSOR** waived any right to claim that it does not have, legal authority to agree to the provisions of this **Paragraph 31**. The provisions of this **Paragraph 31** shall survive the Expiration Date or any termination of this Agreement for a period of one (1) year.

32. Miscellaneous Provisions:

A. **Invalidity of LEASE Provision:** Should any term or provision of this **LEASE** be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this **LEASE**, to the extent that the **LEASE** shall remain operable, enforceable and in full force and effect to the extent permitted by law.

B. **Inconsistencies:** In the event any provisions of this **LEASE** shall conflict, or appear to conflict, the **LEASE**, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.

C. **Governing Law and Venue:** The laws of the State of Florida shall govern all aspects of this **LEASE**. In the event it is necessary for either Party to initiate legal action regarding this **LEASE**, venue shall be in the Fifteenth Judicial Circuit for claims under state law and the Southern District of Florida for any claims which are justiciable in federal court.

D. **Amendment:** This **LEASE** may be amended only with the prior written approval of **LESSOR** and **LESSEE**.

E. **Waiver:** Failures or waivers to enforce any covenant, condition, or provision of this **LEASE** by the Parties, their successors and assigns shall not operate as a discharge of or invalidate such covenant, condition, or provision, or impair the enforcement rights of the Parties, their successors and assigns nor shall it be construed as a waiver or relinquishment for the future enforcement of any such covenant, condition or right but the same shall remain in full force and effect. Furthermore, the acceptance of Rent, any Additional Rent or a partial payment of same by **LESSOR** shall not constitute a waiver of any preceding breach by **LESSEE** of any provision of this **LEASE** nor a waiver of the right to receive full payment of Rent or Additional Rent.

F. **Final Agreement:** This **LEASE** states the entire understanding between the Parties with respect to the use and occupancy of the Premises after the Commencement Date and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. The **LESSEE** recognizes that any representations, statements or negotiations made by **LESSOR'S** staff do not suffice to legally bind the **LESSOR** in a contractual relationship unless they have been reduced to writing, authorized, and signed by an authorized representative of **LESSOR**. This **LEASE** shall bind the Parties, their assigns, and successors in interest.

G. **Time of the Essence:** Time is of the essence with respect to every term, condition and provision of this LEASE.

H. **Survival:** The provisions of Paragraphs 13, 18, 22 and 23 shall survive the expiration or termination of this LEASE. In addition, any covenants, provisions or conditions set forth in this LEASE which by their terms bind LESSEE, LESSOR or both LESSOR and LESSEE after the expiration or termination of this LEASE, shall survive the expiration or termination of this LEASE for a period of two (2) years, except for the provisions of Paragraph 18, which shall survive as and to the extent provided therein.

I. **Prohibition Against Recording:** LESSEE shall not record this LEASE or any portion or any reference thereto without the prior written consent of LESSOR, which consent may be withheld by LESSOR in LESSOR's sole and absolute discretion. In the event LESSEE violates any of the foregoing, this LEASE shall terminate at LESSOR's option or LESSOR may declare a Default hereunder and pursue any and all of its remedies provided in this LEASE.

J. **WAIVER OF JURY TRIAL.** AS INDUCEMENT TO BOTH PARTIES AGREEING TO ENTER INTO THIS AGREEMENT, LESSOR AND LESSEE HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY EITHER PARTY AGAINST THE OTHER PARTY PERTAINING TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE. EACH OF THE PARTIES CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS LEASE BY, AMONG OTHER THINGS, THE ACTUAL WAIVERS AND CERTIFICATIONS OF THIS SUBPARAGRAPH J.

33. **Special Clauses:**

A. **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

B. **Security Deposit:**

(1) On the Commencement Date and until the LESSEE has assigned all of its interest under this LEASE pursuant to an Assignment permitted hereunder, the Security Deposit Fund and the Escrow Agreement (as defined below) shall refer to, respectively, the "General Escrow Fund" and the "General Escrow Agreement" (as such terms are defined in the Agreement for Sale and Purchase). Upon an Assignment permitted hereunder, LESSEE shall fund an escrow as a security deposit in the amount of Four Million and No/100 Dollars (\$4,000,000.00) to secure the performance of all of LESSEE's obligations under this LEASE

(the "Security Deposit Fund") which, at **LESSEE's** option, shall be in the form of cash (a "Cash Escrow") held by an escrow agent mutually acceptable to **LESSEE** and **LESSOR** ("Escrow Agent") pursuant to an escrow agreement in form attached hereto as **Schedule "5"** ("Escrow Agreement"), or a Letter of Credit (as defined in **subparagraph 33.B.(2)**, below). Upon the funding of such Security Deposit Fund by the assignee, **LESSOR** shall have no further rights or claims upon or with respect to the General Escrow Fund or General Escrow Agreement for matters related to the **LEASE**.

(2) Letter of Credit. In the event **LESSEE** elects to post a letter of credit pursuant to **subparagraph 33.B.(1)**, above for the Security Deposit Fund ("Letter of Credit"), it shall: (a) be in the form of an irrevocable commercial letter of credit in form attached hereto as **Schedule "6"** with a term of at least twelve (12) months, (b) be issued by **LESSEE's** lender under **LESSEE's** revolving credit facility (subject to **LESSOR's** approval of such lender at the time of Closing), naming Escrow Agent as beneficiary, pursuant to the Escrow Agreement; (c) provide for Draws (as defined and set forth below) by Escrow Agent; and (d) have an "evergreen" clause and be renewed automatically each year by the issuing bank, unless the bank gives written notice to the beneficiary at least thirty (30) days prior to the expiration date of the then existing Letter of Credit that the bank elects that it not be renewed. In the event the Letter of Credit is not timely renewed and **LESSEE** has not replaced the same within ten (10) business days prior to the expiration thereof, then Escrow Agent may draw upon the same and hold the proceeds pursuant to the terms of the Escrow Agreement. Each Letter of Credit shall be assignable or transferable to any **LESSOR** Credit Provider (in connection with any collateral assignment thereof) or any transferees, successors or assigns of **LESSOR** that becomes landlord under this **LEASE**. For the purposes of this **LEASE**, the term "Credit Provider" shall be deemed to mean **LESSOR's** lender/financing trustee/credit enhancer/underwriter.

(3) Draws Upon Cash Escrow and Letter of Credit. The Escrow Agreement shall provide that the Escrow Agent may only draw upon a Letter of Credit or Cash Escrow in favor of **LESSOR** (a "Draw") in the event: (a) an agreement has been executed by **LESSEE** and **LESSOR** agreeing upon the reason for, and amount of, the Draw; or (b) **LESSOR** delivers written notice to Escrow Agent of any monetary Default by **LESSEE** under the **LEASE**; or (c) all appeal periods have expired following a final order by a court of law rendering a monetary judgment against **LESSEE** in favor of **LESSOR**. Upon each such Draw request, Escrow Agent shall promptly release the Draw to **LESSOR**.

(4) Replenishing of Cash Escrow or Letter of Credit during the Term. **LESSEE** shall be required to replenish the Security Deposit Fund during the Lease Term in the event any Draws are made against the Security Deposit Fund in accordance with this **Paragraph 33.B.** within fifteen (15) days of such depletion. Any failure by **LESSEE** to replenish the Security Deposit Fund within fifteen (15) days of such depletion shall constitute a Default under this **LEASE**.

(5) Release of Cash Escrow and Letter of Credit Following Expiration Date. The Escrow Agreement for the Security Deposit Fund shall provide that Escrow Agent shall continue to hold the Security Deposit Fund until three (3) years after the later of (i) the final Expiration Date of this **LEASE** or (ii) the final expiration date of any other lease to which the Escrow Agreement is applicable (the "Scheduled Release Date"), provided that any claims must

be made within the applicable survival period as provided under this **LEASE**, provided, however, that if there are any pending claims relating to any portion of such deposit on such Scheduled Release Date, then Escrow Agent shall continue to hold a portion of such deposit in accordance with the Escrow Agreement in the reasonably estimated amount necessary to satisfy such claim(s) until such claim(s) is resolved, and shall release the remaining amount of such deposit to **LESSEE**.

C. **Site Investigation:** **LESSEE** is responsible for examining the Premises and satisfying itself as to the general and local conditions, particularly water level conditions that are likely to impact **LESSEE**'s operation and those conditions bearing upon the availability of water, electric power, communication and road and access facilities. Failure on the part of **LESSEE** to acquaint itself with all available information pertaining to the Premises will not relieve **LESSEE** from the responsibility of furnishing the required facilities and services and for compliance with the terms and conditions of this **LEASE**. **LESSOR** assumes no responsibility or obligation to provide any roads or other facilities of whatever nature or for any understanding or representation made by any of its officers or agents during or prior to final execution of this **LEASE** unless these provisions expressly provide for the furnishing of such facilities and such understanding or representation is specifically stated in this **LEASE**.

D. **Prohibited Activities:** **LESSEE** may perform maintenance of personal property, including but not limited to changing oil or fluids and servicing filters, on the Premises and store any fuel, or store or utilize any fuel tanks (whether empty or containing fuel or other hazardous substances), fuel trailers, hoses or any other fueling mechanisms on the Premises as reasonably necessary for normal business operations; provided, however, that any maintenance and fuel storage or handling on the Premises shall comply with Environmental Law and the applicable Best Management Practices and **LESSEE** shall remove all fuel trailers, hoses, tanks or other fueling mechanisms from the Premises that are owned by **LESSEE** prior to the expiration or termination of this **LEASE**.

E. **Water Levels:** **LESSEE** hereby waives any and all claims on the part of the **LESSEE**, which may arise or be incident to regulation of water levels associated with the Premises by the **LESSOR** and/or the U.S. Army Corps of Engineers, so long as such regulation is in accordance with the rules and regulations applicable thereto.

F. **Navigation:** **LESSEE** shall not do or cause to be done anything whereby the full and free use by the public of the water areas of and surrounding the Premises will suffer unreasonable interference. This condition does not apply to temporary dockage and/or mooring facilities that may be provided by **LESSEE** pursuant to and in accordance with the provisions of this **LEASE**.

G. **Compliance with Minimum Wage Law:** The **LESSEE** shall comply with the Fair Labor Standards Act, 29 USCS 201, et seq. The Act is the minimum wage law. Its requirement that the **LESSEE** pay "not less" than the rates so determined presupposes the possibility that the **LESSEE** may have to pay higher rates.

H. **Additional Requirements:**



(1) **LESSEE** shall not install or permit to be installed pit or vault latrines.

(2) **LESSEE** will allow the discharge of firearms on the Premises only as permitted by Florida law and consistent with the exercise of reasonable care and prudence, and **LESSEE** will not display or permit others to display firearms in a reckless manner.

(3) **LESSEE** shall not discharge nor permit others to discharge sewage effluent into the water areas of and surrounding the Premises provided, however, that **LESSOR** acknowledges and accepts the presence of currently existing septic systems on the Premises to the extent such systems are in compliance with applicable law.

(4) **LESSEE** shall not engage in any business activity on the Premises not expressly authorized in this **LEASE** unless otherwise authorized in writing by **LESSOR**.

(5) Except for the Permitted Uses (as to which no consent of **LESSOR** is required), **LESSEE**: shall not permit or suffer any nuisance on the Premises or the commission of waste thereon; shall not conduct mining operations or drill for oil or gas upon the Premises; shall not remove sand, gravel, or kindred substance from the ground; or shall not, in any manner, substantially change the contour or condition of the Premises unless prior approval is granted in writing by **LESSOR**, which approval may be withheld in **LESSOR**'s sole discretion.

(6) **LESSEE** will use the Premises and all rights and privileges herein granted to the extent needed in carrying out the true intent and purpose of this **LEASE**.

(7) **LESSEE** shall cooperate with **LESSOR**, its employees, agents, and assigns in carrying out the intent and purposes of this **LEASE**.

I. **Safety:**

(1) It is the **LESSEE**'s sole duty to provide safe and healthful working conditions to its employees on and about the Premises. The **LESSOR** assumes no duty for supervision of the **LESSEE**.

(2) The **LESSEE** shall provide first aid services and medical care to its employees. The **LESSOR** assumes no duty with regard to the supervision of the **LESSEE**.

(3) The **LESSEE** shall develop and maintain an effective fire protection and prevention program and good housekeeping practices on the Premises throughout the Lease Term.

(4) The **LESSOR** may order that the **LESSEE** halt operations under this **LEASE** if a condition of immediate danger to the public and/or **LESSOR**'s employees, equipment or property exists. This provision shall not shift responsibility or risk of loss for injuries or damage sustained from the **LESSEE** to the **LESSOR**, and the **LESSEE** shall remain solely responsible for compliance with all safety requirements and for the safety of all persons and property on the Premises.



(5) The **LESSEE** shall instruct employees required to handle or use toxic materials or other harmful substances regarding their safe handling and use, including instruction on the potential hazards, personal hygiene and required personal protective measures.

(6) The **LESSEE** shall comply with the standards and regulations set forth by the Occupational Safety and Health Administration (OSHA), the Florida Department of Labor and Employment Security and all other appropriate federal, state, local or District safety and health standards.

(7) The **LESSEE** shall take the necessary precautions to protect customers and other members of the public that may be on or near the Premises from harm due to the operations of the **LESSEE**.

J. **Advertising and Commercial Activity:** There shall be absolutely no advertising, either visual or audio, placed on or conducted on the Premises except for names and logos appearing on **LESSEE'S** vehicles, gates or as otherwise may be existing on the date of this **LEASE**.

K. **Lead Based Paint Disclosure:** See Lead Based Paint Disclosure attached hereto and made a part hereof as **Schedule "7"**, if applicable.

L. **Inspection Rights:** The **LESSEE** shall maintain records and the **LESSOR** shall have inspection and audit rights as follows:

(1) **Maintenance of Records:** Subject to confidentiality agreements with third parties and the designation of certain records as "trade secret" documents under Florida law, **LESSEE** shall maintain all financial and non-financial records and reports related to the Premises or this **LEASE**, including but not limited to, records related to the application of pesticides and fertilizers. Such records shall be maintained and made available for inspection for a period of five (5) years from completing performance and receiving final payment under this **LEASE**.

(2) **Examination of Records:** Subject to confidentiality agreements with third parties and the designation of certain records as "trade secret" documents under Florida law, **LESSOR** or its designated agent shall have the right to examine in accordance with generally accepted governmental auditing standards all records related to the Premises or directly or indirectly related to this **LEASE**. Such examination may be made at any time during the Lease Term and through and including five (5) years from the date of final payment under this **LEASE** and upon reasonable notice, time and place.

(3) Records that pertain to the Premises or this **LEASE**: Notwithstanding the provisions of **subparagraph (1)** and **subparagraph (2)** above, in no event shall **LESSEE** be obligated to maintain or provide any financial or accounting information (e.g., pro-formas, tax returns, production reports, financial statements, appraisals, etc) or other information that pertains to **LESSEE'S** business operations or assets other than the Premises, **[**SUGAR LEASE - provided that LESSEE agrees to maintain and, upon request, provide reports showing the acreage of sugar cane planted, the tons of sugar cane harvested from such planted acreage, and the "sucrose % cane" of such harvested acreage**]** **[**CITRUS LEASE -**

provided that **LESSEE** agrees to maintain and, upon request, provide reports showing the acreage of citrus trees and the boxes of citrus harvested from such acreage**, in order to facilitate land exchanges or dispositions related to surplus portions of the Premises by **LESSOR**, subject to the trade secret protocol established by **LESSEE**.

(4) With respect to any such information made available to **LESSOR** pursuant to this **subparagraph L**, that is proprietary or "Trade Secret" (as defined under Section 812.081, Florida Statutes), **LESSOR** shall follow the trade secret protocol established by **LESSOR** and **LESSEE**.

(5) **Extended Availability of Records for Legal Disputes:** In the event that the **LESSOR** should become involved in a legal dispute with a third party arising from performance under this **LEASE**, the **LESSEE** shall extend the period of maintenance for all records relating to the **LEASE** until the final disposition of the legal dispute, and all such records shall be made readily available to the **LESSOR**.

M. Public Access: The **LESSEE** shall allow public access to all **LEASE** related documents in accordance with the provisions of Chapter 119, Florida Statutes, subject to all applicable exemptions and only as and to the extent Chapter 119 is actually applicable to **LESSEE** (it being agreed that this **subparagraph M**, is not an admission or agreement by **LESSEE** that Chapter 119 is applicable thereto). Should the **LESSEE** assert any exemptions to the requirements of Chapter 119 and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the **LESSEE**.

N. Cooperation: From the Commencement Date hereof through the Expiration Date, **LESSEE** shall cooperate in good faith with **LESSOR's** Credit Providers to provide information related to the Premises (and not the **LESSEE's** business or other assets) and necessary for the original issuance or refinancing of the Certificates of Participation, so long as such Credit Providers execute and deliver to **LESSEE** a confidentiality agreement reasonably acceptable to **LESSEE**. **LESSOR** shall be responsible for any and all actual, out-of-pocket costs and expenses incurred by **LESSEE** in providing the information pursuant to this subparagraph (e.g., copying fees, but not including attorneys' fees incurred by **LESSEE** in connection with such requests).

O. [SUGAR LEASE – Intentionally Deleted**]**

[CITRUS LEASE - Loss of Trees Due to Canker:**

(1) If the citrus trees on the Premises are destroyed by or infected with Canker or other diseases or parasites, or are destroyed by civil authorities in connection with programs to control the spread of Canker or other diseases or parasites, **LESSOR** shall be entitled to receive all tree replacement payments or awards from the federal, state or local authorities made for, or with respect to, the destroyed trees. **LESSOR** will decide, in its sole and absolute discretion, how such payments or awards will be used. **LESSOR** may assign this right or transfer the payments or awards received, if it so elects, to **LESSEE**; provided, however, that **LESSEE** shall use any funds received or awards made as the **LESSOR** directs. **LESSEE** will support and assist **LESSOR** in connection with any applications by **LESSOR** for such payments



or awards. **LESSEE** shall retain all Casualty insurance proceeds from policies carried by **LESSEE** insuring against the loss of citrus trees as a result of canker or other diseases or parasites.

(2) **LESSEE** shall be entitled to payments or awards from the federal, state or local authorities made for, or with respect to, lost future production, reduced by any insurance that **LESSEE** may have for lost future production.**]

P. **Operations Contracts:** To the extent that **LESSEE** may, at any time, desire to enter into any contract, license, sublease or other agreement in connection with **LESSEE**'s operations which is not terminable without penalty upon thirty (30) days notice and is binding on the Premises or **LESSOR** after the Expiration Date, then **LESSEE** shall give a copy of such agreement to **LESSOR**. If **LESSOR** consents at its sole and absolute discretion to **LESSEE**'s execution of such contract, license, sublease or other agreement, then, to the extent that the term thereof extends beyond the Expiration Date, **LESSOR** shall be deemed to have agreed to assume the provisions of such contract, license, sublease or other agreement from and after the date thereof (each, a "New Agreement"). Even though the foregoing assumption shall be automatic and self-effective without the necessity to execute any further documentation evidencing the same, **LESSOR** agrees to promptly execute any additional documents reasonably required by **LESSEE** to evidence **LESSOR**'s assumption of such contract, license, sublease or other agreement described in this Paragraph. In the event that **LESSEE** submits a contract, license, sublease or other agreement to **LESSOR** for its approval pursuant to this Paragraph and, unless **LESSOR** advises **LESSEE** in writing within forty-five (45) days after receipt thereof that **LESSOR** has not approved such contract, license, sublease or other agreement, then the same shall be deemed to be approved thereby.

34. **Covenant of Quiet Enjoyment.** Provided that **LESSEE** faithfully performs all duties of **LESSEE** hereunder and complies with all term and conditions of this **LEASE**, **LESSEE** shall not be disturbed by **LESSOR** in its quiet enjoyment of the Premises, subject to the terms, conditions and provisions of this **LEASE**.

35. **Act of God.** In the event that the citrus trees or sugar cane crops, citrus crops or any other crops located on the Premises are damaged or destroyed due to any hailstorm, tornado, hurricane, flood, fire, or other act of god or any strike, civil disturbance or act of war or terrorism or due to citrus canker or other diseases or parasites, neither **LESSOR** nor **LESSEE** shall have any responsibility or obligation to repair or replace such citrus trees, sugar or citrus crops or to compensate each other or any other Party for the loss thereof.

36. **Condemnation:** Notwithstanding anything to the contrary contained in this **LEASE**, the following shall apply in the event of a taking, condemnation, or transfer in lieu thereof, of the whole or part of the Premises.

A. **Total Taking.** In the event the entire Premises is taken or condemned, or transferred or purchased in lieu thereof, by any governmental authority or other entity with the power of condemnation, this **LEASE** shall automatically terminate upon transfer of title. Rent payments shall then be apportioned to the date of such taking or transfer of title. Except for any separate award applicable solely to **LESSEE**'s business, **LESSEE** shall not be entitled to an



apportionment of any award or payment applicable to the Premises, all of which shall be paid to **LESSOR**. Notwithstanding the foregoing, in the event that **LESSOR** is entitled to possession of the Premises after transfer of title, this **LEASE** shall continue during such extended possession pursuant to the terms hereof.

B. **Partial Taking.** In the event of a taking or condemnation of only a portion of the Premises or any other portion of the Premises is taken or condemned, or transferred or purchased in lieu thereof, by any governmental authority or other entity with the power of condemnation and such taking (i) in **LESSOR's** reasonable determination reduces the value of the Premises by fifty percent (50%) or more, (ii) in **LESSEE's** reasonable determination, renders the Premises uneconomically feasible to operate or (iii) prevents, and would prevent after reasonable repair and reconstruction efforts by **LESSEE**, use of the Premises for its Permitted Uses under applicable law or regulations (including without limitation with respect to required access), then either **LESSOR** or **LESSEE** may terminate this **LEASE** effective upon the date of such taking or transfer of title. If neither **LESSOR** or **LESSEE** terminate this **LEASE** in such event, or in the event of a lesser taking or condemnation, then this **LEASE** shall continue with respect to all portions of the Premises or personalty not taken, condemned, sold, or transferred and, as applicable, the Rent due under this **LEASE** shall be equitably adjusted, if applicable, to account for the loss of the portion of the Premises taken. **LESSEE** shall not be entitled to an apportionment of any award or payment applicable to the Premises, all of which shall be paid to **LESSOR**.

C. **Condemnation Awards; Damages.** The Parties hereto agree to cooperate in applying for and in prosecuting any claim for any taking regarding the Premises or any portion thereof and further agree that condemnation awards or damages shall be allocated as follows:

(1) **LESSOR** shall be entitled to the entire award for the condemned Premises or any portion thereof and **LESSEE** shall have no rights to an apportionment of such an award or payment, provided, that, if applicable, **LESSOR** shall make portions of the award available for restoration purposes.

(2) **LESSEE** shall be entitled to make any available separate claim and recover any award thereon for any damages to **LESSEE's** business operations under any available legal remedy, including but not limited to a claim for business damages, that may be allowable under applicable law. **LESSOR** shall have no rights to an apportionment of such an award or payment.

D. **Non-Affected Premises.** Notwithstanding any other provision of this **Paragraph 36**, any compensation for a temporary taking shall be payable to **LESSEE** without participation by **LESSOR**, except to the proportionate extent such temporary taking extends beyond the end of the Lease Term, and there shall be no abatement of Rent as a result of any temporary taking affecting any of the Premises.

37. **Joint and Several Liability:** The entities constituting **LESSEE** shall be jointly and severally liable for all obligations of **LESSEE** under this **LEASE**. A failure or default by any of the entities constituting **LESSEE** shall be deemed a failure or default by all of such **LESSEE** entities. Without limiting the foregoing, **LESSEE** agrees that Parent may act as the

representative of each other **LESSEE** and that **LESSOR** may deliver any notice to **LESSEE** to Parent on behalf of each **LESSEE** and rely on any notice given or other action or taken by Parent on behalf of **LESSEE**.

38. Subordination and Nondisturbance:

A. **Subordination.** Subject to the provisions of subparagraph F. below, this **LEASE** shall be subject and subordinate to any mortgage, deed of trust, trust indenture, assignment of leases or rents or both, or other instrument evidencing a security interest, which may now or hereafter affect any portion of the Premises, or be created as security for the repayment of any loan or any advance made pursuant to such an instrument or in connection with any sale-leaseback or other form of financing transaction and all renewals, extensions, supplements, consolidations, and other amendments, modifications, and replacements of any of the foregoing instruments ("Mortgage"), and to any ground lease or underlying lease of the Premises or any portion of the Premises whether presently or hereafter existing and all renewals, extensions, supplements, amendments, modifications, and replacements of any of such leases ("Superior Lease"). **LESSEE** shall, at the request of any successor-in-interest to **LESSOR** claiming by, through, or under any Mortgage or Superior Lease, attorn to such person or entity as described below. The foregoing provisions of this subparagraph A. shall be self-operative and no further instrument of subordination shall be required to make the interest of any lessor under a Superior Lease (a "Superior Lessor") or any mortgagee, trustee or other holder of or beneficiary under a Mortgage (a "Mortgagee") superior to the interest of **LESSEE** hereunder; provided, however, **LESSEE** shall execute and deliver promptly any certificate or instrument, in recordable form, that **LESSOR**, any Superior Lessor or Mortgagee may reasonably request in confirmation of such subordination.

B. **Rights of Superior Lessor or Mortgagee.** Any Superior Lessor or Mortgagee may elect that this **LEASE** shall have priority over the Superior Lease or Mortgage that it holds and, upon notification to **LESSOR** by such Superior Lessor or Mortgagee, this **LEASE** shall be deemed to have priority over such Superior Lease or Mortgage, whether this **LEASE** is dated prior to or subsequent to the date of such Superior Lease or Mortgage.

C. **Attornment.** If at any time prior to the expiration of the term of this **LEASE**, any Superior Lease shall terminate or be terminated by reason of a default by **LESSOR** as tenant thereunder or any Mortgagee comes into possession of the Premises or the estate created by any Superior Lease by receiver or otherwise, **LESSEE** shall, at the election and upon the demand of any owner of the Premises, or of the Superior Lessor, or of any Mortgagee-in-possession of the Premises, attorn, from time to time, to any such owner, Superior Lessor or Mortgagee, or any person or entity acquiring the interest of **LESSOR** as a result of any such termination, or as a result of a foreclosure of the Mortgage or the granting of a deed in lieu of foreclosure, upon the then terms and conditions of this **LEASE**, for the remainder of the term. In addition, in no event shall any such owner, Superior Lessor or Mortgagee, or any person or entity acquiring the interest of **LESSOR** be bound by (i) any payment of Rent or Additional Rent for more than one (1) rental payment in advance, or (ii) any security deposit or the like not actually received by such successor, or (iii) any amendment or modification in this **LEASE** made without the consent of the applicable Superior Lessor or Mortgagee, or (iv) any construction obligation, free rent (other than as provided in this **LEASE**), or other **LESSOR** concession (other than as



provided in this LEASE), payment obligation or monetary allowance (other than as provided in this LEASE), or (v) any set-off, counterclaim, or the like otherwise available against any prior landlord (including LESSOR), or (vi) any act or omission of any prior landlord (including LESSOR).

D. **Rights Accruing Automatically.** The provisions of this Paragraph shall inure to the benefit of any such successor-in-interest to LESSOR, shall apply and shall be self-operative upon any such demand, and no further instrument shall be required to give effect to such provisions. LESSEE, however, upon demand of any such successor-in-interest to LESSOR, shall execute, from time to time, instruments in confirmation of the foregoing provisions of this Paragraph, reasonably satisfactory to any such successor-in-interest to LESSOR, acknowledging such attornment and setting forth the terms and conditions of its tenancy.

E. **Limitation on Rights of Tenant.** As long as any Superior Lease or Mortgage shall exist, LESSEE shall not seek to terminate this LEASE by reason of any act or omission of LESSOR until LESSEE shall have given written notice of such act or omission to all Superior Lessors and Mortgagees at such addresses as shall have been furnished to LESSEE by such Superior Lessors and Mortgagees and, if any such Superior Lessor or Mortgagee, as the case may be, shall have notified LESSEE within ten (10) business days following receipt of such notice of its intention to remedy such act or omission, until a reasonable period of time shall have elapsed following the giving of such notice (but not to exceed sixty (60) days), during which period such Superior Lessors and Mortgagees shall have the right, but not the obligation, to remedy such act or omission. The foregoing shall not, however, be deemed to impose upon LESSOR any obligations not otherwise expressly set forth in this LEASE.

F. **SNDA.** Notwithstanding anything to the contrary contained in this Paragraph, LESSOR shall obtain on the Commencement Date and thereafter shall maintain for the benefit of LESSEE, a Subordination, Non-Disturbance and Attornment Agreement ("SNDA") from each and every Mortgagee and Superior Lessor to which this LEASE shall be subordinate, such SNDA to be in a commercially reasonable form and content for any financing or refinancing relating to the Premises, including the original issuance or refinancing of the Certificates of Participation reasonably acceptable to LESSEE and the applicable Mortgagee and Superior Lessor. The subordination of this LEASE by LESSEE provided in subparagraph A, hereof is conditioned upon and subject to the execution and delivery of the SNDA described herein, which shall allow LESSEE to remain in possession of the Premises provided that a Default has not then occurred, subject to the terms and conditions of this LEASE and the SNDA as negotiated and agreed among LESSEE, the applicable Mortgagee and Superior Lessor.

39. **Right of First Refusal:**

A. **Offer to Lease Premises.** As to any proposed or solicited agricultural leases for all or any portion of the Premises which the LESSOR intends to accept or enter into (the "Proposed Lease") that would provide for commencement within one (1) year following the Expiration Date (the "ROFR Period"), so long as no Default then exists under this LEASE, the LESSOR shall deliver a copy of such Proposed Lease to the Parent and LESSEE shall have a right of first refusal ("ROFR") to lease the Premises from LESSOR on terms and conditions not

less favorable to the **LESSOR** than those set forth in the Proposed Lease. The ROFR shall not apply to any proposed or solicited leases that are for uses other than agricultural uses.

B. Exercise of Right. If the **LESSEE** desires to lease the applicable portion of the Premises from **LESSOR** on the terms and conditions set forth in any Proposed Lease, **LESSEE** shall deliver a written notice of its election to the **LESSOR** within forty (40) Calendar Days of the date of receipt of the copy of the Proposed Lease by the Parent.

C. Termination of the Right of First Refusal. The ROFR shall expire, terminate and be of no further force and effect on the earliest of (i) the one year anniversary of the Expiration Date, (ii) the Expiration Date if the **LEASE** is terminated as a result of a Default by **LESSEE**, (iii) the date **LESSEE** fails to timely deliver its election as prescribed in **Paragraph 39.B** above or (iv) the date **LESSEE** fails to enter into a lease agreement consistent with the terms and conditions set forth in the Proposed Lease after electing to do so.

[REMAINDER OF PAGE INTENTIONALLY BLANK – SIGNATURE PAGE(S) FOLLOW]



The Parties or their duly authorized representatives hereby execute this **LEASE** on the date written below by each Party's signature.

LESSOR:	
SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD	
Witness: _____	By: _____
	Name: _____
	As its: _____
Witness _____	Date of Execution _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 200_ by _____ of the South Florida Water Management District, a public corporation of the State of Florida, on behalf of the corporation, who is personally known to me.

Notary Public
Print
My Commission Expires: _____

LESSEE:	
UNITED STATES SUGAR CORPORATION, a Delaware corporation	
Witness: _____	By: _____
	Name: _____
	As its: _____
Witness _____	Date of Execution _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 200_ by _____, the _____ of United States Sugar



Corporation, a Delaware corporation, on behalf of the corporation who is personally known to me or has produced _____ as identification.

Notary Public

Print

My Commission Expires: _____

LESSEE:

SOUTHERN GARDENS GROVES
CORPORATION, a Florida corporation

Witness: _____

By: _____

Name: _____

As its: _____

Witness _____

Date of Execution _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 200_ by _____, the _____ of Southern Gardens Groves Corporation, a Florida corporation, on behalf of the corporation who is personally known to me or has produced _____ as identification.

Notary Public

Print

My Commission Expires: _____