

Cuyahoga Valley

Countryside Initiative Program

National Park Service
U.S. Department of the Interior



XXXX Farm **XXXX, Ohio**

Lessee Name



Lease #: CUVA

Cuyahoga Valley National Park
15610 Vaughn Road
Brecksville, Ohio 44141

**Countryside Initiative Program
Lease Agreement No. CUVA 200**

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Countryside Initiative Program Lease Agreement No. CUVA 200

THIS LEASE is made and entered into by and between the United States Department of the Interior, acting through the National Park Service, an agency of the United States of America (Lessor), and **XXXXX** (Lessee).

WITNESSETH THAT:

WHEREAS, Congress designated Cuyahoga Valley National Park (Park Area) as a unit of the national park system; and

WHEREAS, the Park Area contains property that has been determined suitable for leasing under 36 Code of Federal Regulations Part 18; and

WHEREAS, the Lessor has determined that the use and occupancy of the property that is made available under this Lease is consistent with the Park Area's General Management Plan and the requirements of Part 18 of Title 36 of the Code of Federal Regulations; and

WHEREAS, the Lessee desires to lease the property on the terms and conditions set forth in this Lease;

NOW THEREFORE, in consideration of their mutual promises, the Lessor and Lessee hereby agree as follows:

LEASE ARTICLES

SECTION 1. DEFINITIONS

As used in this Lease, the following terms and meanings apply to both singular and plural forms.

Agriculture (al) – All activities of the Lessee related to cultivating the soil, producing crops, and raising livestock.

Alterations – Any construction, physical modification, rehabilitation, reconstruction, and/or restoration of the Premises.

Annual Farm Report (AFR) – A report submitted by the Lessee no later than November 20th of each year which summarizes the prior year's activity (Year-end Review) and identifies proposed activities for the coming year (Proposed Operations and Development Plan). For more information, see Exhibit E.

Annual Financial Statement (AFS) – An annual financial statement, prepared by the Lessee and submitted for review/approval no later than April 20th, summarizing the Lessee's Gross Revenue, and including Agricultural revenue as reported to the Internal Revenue Service for the preceding tax year, and supported by attaching the following IRS forms, as applicable, including; Schedules F, C, E, Form 1099 Miscellaneous, Form 1120S (page 1) Form 1120 (page 1) and Form 1065 (page 1). For more information, see Exhibit E.

Applicable Laws – All present and future applicable laws, ordinances, orders, rules, regulations, guidelines, statutes, covenants, restrictions, conditions, and requirements of all federal, state, and municipal governments and the agencies, or any governmental body exercising regulatory functions relating to or affecting the Premises, including, but not limited to, the improvements, use, operation, maintenance, and occupancy of the Premises for the purposes permitted in this lease, even if compliance therewith results in interference with the Lessee’s use or enjoyment of the Premises.

Assignment – The transfer, whether it is direct or indirect, voluntary or by operation of law, assignment, sale, or conveyance, of the Lessee’s leasehold estate, or the Lessee’s rights under this Lease in whole or part. Such transfer may be designated as a sale, a conveyance, or an assignment. An Assignment includes the sale, conveyance, or assignment (including by consolidation, merger or reorganization) of a controlling interest in the Lessee, whether a corporation, limited liability company, joint venture, partnership, limited partnership, limited liability partnership, or other legal entity. For a corporate entity, the term “controlling interest” means an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the Lessee so as to permit exercise of managerial authority over the actions and operations of the Lessee. For a partnership, limited partnership, limited liability partnership, joint venture, limited liability company, or individual entrepreneur, “controlling interest” means the beneficial ownership of the capital assets of the Lessee so as to permit exercise of managerial authority over the actions and operations of the Lessee.

Commercial Activities – The sale of all Agricultural and non-Agricultural products and services, including On-Premises Product and Service Sales, and Off-Premises Product and Service Sales.

Commencement Date – The beginning date for this Lease as set out in Section 4.

Consumer Price Index (CPI) – The United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for ALL Urban Consumers, U.S. City Average. If such index no longer is published, a successor or substitute index designated by the Lessor, published by an agency reflecting changes in consumer prices in the Northeast Ohio area.

Countryside Initiative – A program of Cuyahoga Valley National Park designed to help preserve rural landscape values through long-term lease of park-owned farmsteads to private individuals. Countryside Initiative farmers pursue modern, sustainable Agricultural practices in harmony with the cultural and natural resource stewardship values of the National Park Service, in partnership with CVNP and the Cuyahoga Valley Countryside Conservancy.

Cultural Resource Management – The range of activities aimed at understanding, preserving, and providing for the enjoyment of cultural resources, specifically those buildings, structures, sites, objects, and districts listed in or determined eligible for listing in the National Register of Historic Places. It includes research related to cultural resources, planning for actions affecting them, and stewardship of them in the context of overall park operation. It also includes support for the appreciation and perpetuation of related cultural practices, as appropriate.

Cuyahoga Valley Countryside Conservancy (CVCC) – A nonprofit corporation established in accordance with Chapter 1702 of the Ohio Revised Code, organized solely for educational and charitable purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code. Under the terms of a Cooperative Agreement, CVCC acts as a cooperating partner of CVNP, coordinating efforts to rehabilitate a working agricultural landscape within the park. CVCC provides technical advice, on-going assessments of the park’s agricultural resources, helps coordinate rehabilitation of park farms, recommends Agricultural and marketing strategies, recruits potential farmers, helps evaluate farm Lessees, advises farm Lessees and monitors their annual operations, and serves as a liaison between CVNP and farm Lessees. In the event that CVCC ceases operation during the term of this Lease, CVCC’s functions will be assumed by CVNP or its designee.

Cuyahoga Valley National Park (CVNP) – An operating unit of the National Park Service, the United States Department of the Interior, an agency of the United States of America, referred to in this Lease as the Park Area.

Default – The Lessee’s failure to keep and perform any of the covenants, agreements, or conditions of this Lease.

Environmental Requirements – All applicable present and future statutes, regulations, requirements, rules, guidelines, ordinances, codes, licenses, permits, policies, orders, approvals, plans, authorizations, and similar items, and all amendments thereto, relating to the protection of human health or the environment, including but not limited to:

All applicable judicial, administrative and regulatory decrees, judgments, and orders of all agencies;

All requirements pertaining to reporting, licensing, permitting, investigation and correction of emissions, discharges, releases, or threatened releases of hazardous materials, whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of hazardous materials;

All requirements pertaining to the health and safety of employees or the public; and

Any and all documents, guidelines, regulations, guidance, and orders of the Secretary of the Interior or Director of the National Park Service pertaining to farm practices and pest management in the National Park System.

Encumbrance – The direct or indirect, voluntary or by operation of law, encumbrance, pledge, mortgage, or other hypothecation of the Lessee’s interest or rights under this Lease and/or the Premises or Lessee’s leasehold estate.

Expiration Date – The ending date of this Lease having gone full term, as defined in Section 4.

Fixtures, Furniture, & Equipment (FF&E) – All fixtures, furniture, equipment, appliances, machinery, and apparatus attached to and forming a part of the buildings and other structures on the Premises.

Gross Revenue – The entire amount of receipts for the tax year derived by the Lessee from all Agricultural and non-Agricultural Commercial Activities. Gross Revenue includes, without limitation, On-Premises Product and Service Sales, and Off-Premises Product and Service Sales.

Hazardous Materials – Any material or other substance:

That requires investigation or correction under any Environmental Requirement;

That is or becomes defined as a hazardous waste, hazardous substance, pollutant, or contaminant, under any Environmental Requirement;

That is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, and is or becomes regulated under any Environmental Requirement;

That, without limitation of the foregoing, contains gasoline, diesel fuel, or other petroleum hydrocarbons;

That, without limitation of the foregoing, contains polychlorinated biphenyls (PCBs), asbestos, or urea formaldehyde foam insulation;

That, without limitation of the foregoing, contains radon gas; or

That, without limitation of the foregoing, includes agricultural fertilizers, herbicides, insecticides, and fungicides containing any of the foregoing categories of material or other substance.

Hazardous Materials Occurrence – Any use, treatment, keeping, storage, sale, release, disposal, migration, transport, or discharge of any Hazardous Materials from, on, under, or into the Premises or other CVNP property that occurs during the Lease Term; or

The exacerbation of any pre-existing Hazardous Materials condition on the Premises or other CVNP property.

Historic Property – A building or buildings located within the boundaries of the Park Area that are part of a pre-historic or historic district or site included in, or eligible for inclusion on, the National Register of Historic Places. For the purposes of this lease, Historic Property also includes the Associated Property of the farm fields and other structures related to the Historic Property and the functional use and occupancy of the Historic Property, which also are included in the Premises.

Impositions – All taxes, assessments, rates, charges, license fees, municipal liens, levies, excises, or imposts (general or specific), ordinary or extraordinary, of every name, nature and kind whatsoever, if any, lawfully imposed by any agency or other authority or entity, that may be levied, assessed, charged or imposed or may be or become a lien or charge upon the Premises or any part thereof; or upon the rent or income of the Lessee; or upon the use or occupancy of the Premises; or upon this transaction or any document creating or transferring an estate or interest of the Lessee in the Premises; or upon any improvements or FF&E; or upon the leasehold of the Lessee or upon the estate hereby created; or upon the Lessor by reason of its ownership of the fee underlying this Lease. Impositions include, but are not limited to, the payment of any bonds or charges imposed or required by any agency, authority, or entity, by reason of the proposed or actual use, treatment, storage, discharge or disposal of hazardous materials on or from the Premises by the Lessee, or any sub-tenant, tenant or licensee claiming through the Lessee; provided, however, that this provision shall not, and shall not be deemed to, permit the Lessee to use, treat, store or dispose of any such substances on the Premises.

Interest Rate –The percentage of interest charged based on the current value of funds to the United States Treasury that is published annually in the Federal Register or successor publication.

Joint Inventory and Condition Report – A document enumerating and describing the Premises' individual land parcels (including conditions such as wetland, endangered species, access roads, etc.) and individual buildings (including their floor plans, associated FF&E, and other improvements). The Joint Inventory and Condition Report, follows the joint property inspection (Lessor and Lessee), and documents the condition of the property at the commencement of this Lease. Prepared by the Lessor and concurred on by the Lessee and CVCC Executive Director, the Report appears as Exhibit B.

Lease Term – The entire period or duration of the Lease from Commencement Date to Expiration Date, as defined in Section 4.

Lease Year – The period commencing on the Commencement Date and ending on the expiration of the 12th full calendar month following thereafter, and then annually on that same date thereafter until the last day of the Lease Term.

Lessee Improvements – The rehabilitation, restoration, and reconstruction performed by the Lessee on historic and non-historic buildings or land, and any other additions or alterations (such as new buildings), made to the Premises.

Natural Resource Management – The study, monitoring, protection, interpretation, and administration of natural resources such as native plants and animals, water, air, soils, topography, geology, and the like.

Notice of Default – An instrument in writing from the Lessor to the Lessee providing notice of the failure of the Lessee to comply with any term, condition, obligation or provision of this Lease, as more specifically set out in Section 16.2.

On-Premises Product Sales – Any product sold on the Premises, including, but not limited to: livestock, poultry, bees, all other animals, crops, all other plants, and the byproducts therefrom; arts and crafts;

value added products; food and beverage products; manufactured products; and resale products; regardless of whether such products are related to Agricultural activity.

On-Premises Service Sales – Any service sold on the Premises, including, but not limited to: farm-related services; animal husbandry; visitor-related events and services; entertainment services; professional services; and facility or equipment rental services; regardless of whether such services are related to Agricultural activity.

Off-Premises Product Sales – Any product produced or modified on the Premises, but sold off the Premises, including, but not limited to livestock; poultry; bees, all other animals, crops, all other plants, and the byproducts therefrom; arts and crafts; value added products; food and beverage products; manufactured products; and resale products; regardless of whether such products are related to Agricultural activity. Also, any product produced or modified off the Premises which identifies the Premises in labeling or branding, regardless of whether such products are related to Agricultural activity. “Intellectual property” such as Lessee-authored books, articles, software programs, and like materials are not included in this definition.

Off-Premises Service Sales – Any service sold off the Premises which uses the Premises as a business or promotional address, telephone number, or internet web site location, regardless of whether such services are related to Agricultural activity.

Operating Expenses – The expenses arising in the normal course of running operations of the type approved in the Lessee’s Proposed Operations and Development Plan.

Premises – The entire property being leased under this Lease contract, as depicted in Exhibit A.

Preservation Maintenance – An action to mitigate wear and deterioration of a historic property without altering its historic fabric by protecting its condition, repairing when its condition warrants with the least degree of intervention including replacement in-kind, replacing an entire feature in-kind when the level of deterioration or damage of materials precludes repair, and stabilization to protect damaged materials or features from additional damage. For archeological sites it includes work to moderate, prevent, or arrest erosion. Types of preservation maintenance are:

Housekeeping – The removal of undesirable deposits of soil in ways that minimize harm to the surfaces treated, repeated at short intervals so that the gentlest and least radical methods can be used.

Routine maintenance – Usually consists of service activities such as tightening, adjusting, oiling, pruning, etc.

Cyclic maintenance – Maintenance performed less frequently than annually; usually involves replacement or at least mending of material.

Stabilization – Action to render an unsafe, damaged, or deteriorated property stable while retaining its existing character.

Productive Component – Is a subset of the Fair Market Value Rent for use of the farmstead. Based on the Lessee’s Gross Farm Revenue, the Productive Component is the rent that stems from the agricultural / commercial use of the property (see Section 5.4).

Proposed Operations and Development Plan (POD) – [See also Exhibit E.] An annual proposal, for the upcoming year, prepared by the Lessee which is included as part of the Annual Farm Report and includes, but is not limited to:

- A narrative description of the Lessee’s proposed Agricultural activities;
- A description of the Lessee’s proposed alterations, including capital improvements and expected preservation maintenance activities;

- A marketing plan for all Commercial Activities;
- A general list of all Commercial products and services to be sold by the Lessee; and
- A description of the Lessee's plans for promoting public access and educational activities on the Premises.

Rent - The money to be paid to the Lessor by Lessee described in Section 5 of this Lease and any additional money this Lease may require.

Secretary's Treatment Standards – The Secretary of the Interior's Treatment Standards for Historic Property as they exist, Exhibit G, or may hereafter be amended.

Sublease – An agreement under which the Lessee grants a person or entity (a Sub-Lessee) the right to use, occupy, or possess the Premises or a portion thereof, also commonly referred to as sublet.

Tax Year – For the purposes of the Countryside Initiative and its associated farm Leases, a twelve-month period coinciding with the standard calendar year extending from January 1 through December 31.

Termination Date – The expiration date, or such earlier date as this Lease may be terminated pursuant to any provision hereof.

Year-end Report (YER) – An annual report prepared by the Lessee which is included as part of the Annual Farm Report and is submitted to Lessor by November 20th of each year that includes, but is not limited to a narrative clearly explaining what was attempted, and actually accomplished during the year being reviewed. For more information, see Exhibit E.

Section 2. LEASE OF PREMISES

2.1 Lessor and Lessee Commitment to Lease – The Lessor, for and in consideration of the rents, covenants, and agreements herein contained on the part of the Lessee, hereby leases and demises to the Lessee, and the Lessee hereby hires, upon and subject to the covenants and agreements contained herein, from the Lessor, the Premises (described in Exhibit A). The Lessee expressly takes the Premises subject to all applicable laws, and all liens, encumbrances, restrictions, rights and conditions of law or of record or otherwise actually known to the Lessee or reasonably ascertainable by inspection or a survey.

2.2 Reservation of Lessor's Rights – The Lessor reserves the right to enter upon the Premises at anytime for the purposes of law enforcement or enforcement of public health and safety standards and to make follow up inspections to ensure compliance. The Lessor retains the right to close the Premises if it discovers an immediate danger to life or property.

The Lessor reserves the right to enter upon the Premises at any reasonable time for the purposes of natural or cultural resource management. This includes, but is not limited to, plant and wildlife monitoring, pest management, removal of exotic species, and archeological study. To the extent feasible, the Lessor will provide reasonable notice of entry for such purposes to the Lessee.

The Lessor reserves the right of access to the Premises for the purposes of repair or rehabilitation of buildings, structures, or other improvements specified as the responsibility of the Lessor in Section 11.2, or to correct a condition for which the Lessee is in default as described in Section 16. The rights reserved under this article are understood to apply to all manner of utilities, including but not limited to water, power, gas, telephone, and sewage. The Lessor's right to entry for such purposes is understood to include any agency, public or private utilities, or other persons necessary to properly execute such repair or rehabilitation. To the extent feasible, the Lessor will provide reasonable notice of entry for such purposes to the Lessee.

During the final two (2) years of the term of this Lease, the Lessor, upon providing prior notice to the Lessee, shall have the right to enter the Premises at all reasonable times during normal business hours for the purposes of exhibiting the same to prospective Lessees. For the purposes of this Section, "normal

business hours” means between the hours of 8 a.m. and 6 p.m., Monday through Friday, excluding federal holidays. For the purposes of this section “reasonable prior notice” means providing written notice not less than 24 hours prior to the intended time of entry.

The Lessor reserves the right of access to the Premises to conduct annual safety inspections of the Premises by NPS staff. The purpose of the inspections is informational in nature and is for the purposes of protecting property and occupants.

2.3 Mineral Rights – The Lessor retains exclusive rights to all oil, gas, hydrocarbons and other minerals in, under, or from the Premises.

2.4 Public Access to the Premises – The Lessor and Lessee expressly agree that the Lessee will encourage various forms of public access as set out in Lessee’s Farming Enterprise Proposal and current POD. However, they further agree that this Lease limits public access to the Premises and that the public shall not have the same freedom of access it enjoys in other areas of the Park Area. The Lessor will assist the Lessee as necessary to assure the Lessee’s privacy and the Lessee’s intended use of the Premises, through, among other things, approving appropriate signs informing the public about the limited access privileges.

2.5 Waiver of Lessee Claims – The Lessee hereby waives any claims for damages for any injury or inconvenience to or interference with its use and occupancy of the Premises, any loss of occupancy or quiet enjoyment thereof, or any other loss occasioned by the Lessor’s exercise of its rights under this Lease. Additionally, the Lessee hereby waives claims for loss of quiet enjoyment of the Premises, caused by or as a result of public visitation to the Park Area.

2.6 Easements – Nothing contained herein shall give or be deemed to give the Lessee an independent right to grant easements or other right-of-ways over, under, on, or through the Premises.

2.7 Ownership of the Premises – This Lease does not vest in the Lessee any fee interest in the Premises. Title to the Premises at all times is with and shall remain solely with the Lessor.

2.8 Ownership of Improvements – This Lease will vest in the Lessee no property interest in the Premises or in the Lessee’s improvements. Title to real property and improvements thereon, including Lessee improvements or alterations, shall be and remain the property of the Lessor. No right for compensation of any nature shall exist for such property at the expiration or termination of this Lease.

2.9 Historic Property – The Premises (or portions of the Premises) are Historic Property.

Section 3. ACCEPTANCE OF PREMISES

3.1 “As-Is” Condition of the Premises – The Lessee agrees to take the Premises and all improvements thereon in their existing “as-is” condition. The Lessee acknowledges that in entering into this Lease, it does not rely on, and the Lessor does not make, any express or implied representations or warranties as to any matters including, without limitation:

- a. The suitability of the soil or sub-soil;
- b. Any characteristics of the Premises or improvements thereon;
- c. The suitability of the Premises for the intended use;
- d. The likelihood of deriving trade from or other characteristics of the Park Area;
- e. The economic or programmatic feasibility of the Lessee’s use and occupancy of the Premises;

- f. Title to the Premises;
- g. Hazardous materials on or in the vicinity of the Premises; or
- h. Any other matter.

The Lessee has satisfied itself as to such suitability and other pertinent matters by the Lessee's own inquiries and tests into all matters relevant in determining whether to enter into this Lease. The Lessee accepts the Premises in their existing condition, and hereby expressly agrees that if any remedial repair, alterations, or rehabilitation is required in order to conform the Premises to the requirements of applicable laws, or for the Lessee's use, it shall assume sole responsibility for any such work except as expressly set forth here:

3.2 Lessee's Due Diligence – Prior to entering into this Lease, the Lessee has made a thorough, independent examination of the Premises and all matters relevant to the Lessee's decision to enter into this Lease. The Lessee is thoroughly familiar with all aspects of the Premises and is satisfied that they are in an acceptable condition and meet the Lessee's needs.

3.3 Joint Inventory and Condition Report – The Lessor has prepared a Joint Inventory and Condition Report for the Premises, contained in Exhibit B, which sets forth the condition of the Lessor's FF&E, and improvements as of the commencement date. Through their signature on the report, the Lessee acknowledges and accepts the completeness and accuracy of the Report.

3.4 Lead Based Paint – The Park Area has evaluated buildings on the Premises and determined the presence of lead based paint (LBP). The Lessor will provide a copy of the Lead Risk Hazard Assessment to the Lessee and initiate an annual inspection process to ensure the LBP remains in good condition.

- a. The tenant is responsible for maintaining lead based painted building component in good condition. Tenant can only perform painting activities on building components and cannot perform any other activities which may create lead dust.
- b. In accordance with State of Ohio lead testing standards (ORC 3742), children six (6) years and younger who will reside in a building containing LBP must be tested for lead levels, and results of these tests must be provided to the Lessor, prior to occupancy.
- c. Lessee or resident is required to sign a Lead Hazard Warning certifying receipt of information on lead paint hazards, ways to protect against the hazards of lead paint and information on the presence of lead paint in the structure(s). A form of the Lead Hazard Warning appear in Exhibit H.

Section 4. TERM OF LEASE

4.1 Intended Term of Lease – The Term of this Lease is for a period of 60 years, commencing on November __, 2008 and expiring on November __, 2068 or on such earlier date as this Lease may be terminated as provided by its terms.

4.2 Early Termination of Lease

- a. **Option of Lessor to Terminate** – If this Lease is terminated by the Lessor prior to the expiration of the term provided in Section 4.1, all of the rights of the Lessee under this Lease and in the Premises shall terminate. If the Lease is terminated for default, the Lessee is entitled to no compensation for any losses or injury resulting therefrom. The Lessee hereby acknowledges the sovereign right of the Lessor to cancel this Lease at any time to the extent otherwise provided by law.

- b. **Option of Lessee to Terminate** – The Lessee may terminate this Lease, without penalty, on giving a written notice to the Lessor of the intent to terminate at least 90 days prior to the date of intended termination. This period of notice may be reduced to 30 days should either signatory Lessee experience permanent disability or death. The notice of termination shall contain the date for the intended termination of the Lease. The intended termination date shall operate as if that date were the time originally fixed for the termination of this Lease, and all provisions of this Lease that are to become effective on termination shall become operative or effective on that date.

The giving of notice required in this section shall not release the Lessee from the full and faithful performance of all terms and conditions of this Lease during the continued occupancy of the Premises by the Lessee after such notice and until the Lessee actually vacates and surrenders the Premises, whether on the date of the intended termination or at the conclusion of any period during which the Lessee holds over after the date contained in the notice.

- c. **Refund of Prepaid Rent** – If the Lease is terminated before the end of the term as set out in Section 4.1, the Lessee may be entitled to a proportional refund of any prepaid rent authorized by Section 5.6.
- d. **Abandonment** – The Lessor may reenter and repossess the Premises, and declare the term of this Lease forfeited, if the Lessee deserts or vacates the Premises for 7 or more consecutive days. The Lessor may pursue all remedies available under this Lease or as provided by law.
- e. **Ownership of Growing Crops** – Upon early termination for default, at the Lessor's election, the Lessor shall have the right to own and possess all crops both harvested and unharvested. Upon an early termination for convenience of the Lessor or at the option of the Lessee as provided in Section 4.2.b, the Lessee shall have the right to own and possess all harvested and unharvested crops for the Lease Year during which this Lease is terminated.

Section 5. FAIR MARKET VALUE RENT

5.1 Components of Rent – Fair Market Value Rent for the Premises is comprised of two factors: a Residential Component based on an adjusted appraisal and a Productive Component based on the Gross Revenue derived from Commercial Activities.

5.2 Residential Component – The Residential Component of rent for the Premises shall be computed by first attaining a raw residential appraisal (RRA) prepared by a licensed professional appraiser. The Lessor will adjust the RRA to reflect several factors including, but not limited to:

- a. A requirement to actively, affirmatively farm the Premises according to the requirements and covenants described in Section 6;
- b. A requirement to comply with all National Park Service archeological and other resource guidelines, the National Historic Preservation Act, and the National Environmental Policy Act, as directed and guided by the Lessor;
- c. The Lessee's loss of privacy due to the residence's location in the park;
- d. The Lessee's affirmative requirement to interact positively with park visitors as described in the Lessee's Agricultural Enterprise Proposal and as refined in the approved Annual Operating Proposal.

The initial residential rent for the property, as published in the Request for Proposals, is **\$XXX** per month.

The Lessor will discount the RRA value by 50% for non-historic residences and 60% for historic residences. The Lessor will base annual increases or decrease for this adjusted appraisal on changes in the Consumer Price Index. Rent adjustments will be made annually in the original lease-commencement month and will be preceded by a 30-day written notice by the Lessor.

<u>Residential Component Calculation Formula</u>	
Non-historic Property Calculator	Residential Component = $.5(RRA \times \frac{CPI1Jan'xx}{CPI1Jan'08})$
Historic Property Calculator:	Residential Component = $.4(RRA \times \frac{CPI1Jan'xx}{CPI1Jan'08})$
RRA means Raw Residential Appraisal; CPI means Consumer Price Index; 'xx' means succeeding years after 2008;	

5.3 Rent Reconsideration

- a. The Rent otherwise required by this Lease shall be subject to reconsideration at the request of the Lessor or the Lessee after the end of the XXXX, XXXX, and XXXX Lease Years of this Lease in order to maintain the Rent under this Lease in an amount and structure consistent with "fair market value rent." "Fair market value rent" for the purpose of this section means the most probable rent, as of a specific date, in cash or in terms equivalent to cash, for which the Premises, under the terms and conditions of this Lease, should rent for their highest and best permitted use after reasonable exposure in a competitive market under all conditions requisite to a fair leasing opportunity, with the Lessor and the Lessee each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- b. To request a Rent reconsideration, the Lessor or Lessee (or both) must notify the other party in writing of its request within sixty (60) days after the end of the applicable Lease year. Upon receipt of such notice, the Lessor and Lessee must negotiate in good faith a Rent adjustment. If, after the end of such sixty (60) day negotiation period, agreement as to a possible Rent adjustment has not been reached, either party may request that the matter be resolved by binding arbitration conducted by an arbitration panel. Such request must be made by written notice to the other party within thirty (30) days of the end of the negotiation period.
- c. One member of the arbitration panel is to be selected by the Lessor, one member is to be selected by the Lessee, and the two party-appointed members are to select the third (neutral) member. The neutral arbiter must be a licensed real estate appraiser. The expenses of the neutral arbiter and other associated common costs of the arbitration will be borne equally by the Lessor and the Lessee. The arbitration panel will adopt procedures that treat each party equally, give each party the opportunity to be heard, and give each party a fair opportunity to present its case. A Rent Adjustment determination must be made by a majority of the members of the panel and will be binding on the Lessor and the Lessee. The arbitration panel will determine an appropriate adjustment to Rent, if any, to reflect "fair market value rent" effective at the beginning of the XXXX, XXXX, or XXXX Lease Year, as applicable.

5.4 Destruction of Residence and Abatement of Residential Rent – In the event the residential building(s) is totally destroyed by any cause not resulting from the Lessee's neglect or fault, or so nearly destroyed as to require rebuilding, then the Lessee shall pay the residential rent up to the time of the destruction. The Lessee, thereafter, shall not be obligated to pay any residential rent until the residential building(s) is (are) reconstructed and suitable for habitation. If the destruction or partial destruction is due to the neglect or other fault of the Lessee, there will be no abatement of rent during reconstruction.

5.5 Productive Component – The Productive Component of fair market value rent shall be computed as a percentage of Gross Revenue. Computing the Productive Component as a percentage of Gross Revenue allows Lessor and Lessee to share both risks and opportunities associated with production and marketing. The factors determining the Lessee's share of Gross Revenue include, but are not limited to: the Lessee's stewardship requirements for the land, as described in Section 6 and Exhibit D; the Lessee's need to develop new markets; the requirement to forgo conventional agricultural fertilizers and chemicals; the Lessee's costs related to wildlife predation; and the Lessor's expectation that the Lessee will encourage park visitors to visit and enjoy the agricultural activities occurring on the Premises. For these and other considerations the Lessee shall retain no less than 90% of Gross Revenue for all Commercial Activity, Agricultural and non-Agricultural.

Recognizing the time required to achieve desired production levels while simultaneously enhancing the environment, by using the production methods required in Section 6 and Exhibit D, and recognizing the time required to establish new retail markets, the Lessee's Productive Component of rent will be prorated for a period of ten years as follows: Lessee shall pay 5% of Gross Revenue for the first Lease Year, and will increase payments by .5% per Lease Year until a full 10% rental rate is achieved by Lease Year eleven.

The Lessee is encouraged to become a certified organic producer at the commencement of this Lease, or as soon thereafter as practicable. At such time as the Lessee obtains certification for agricultural operations, the productive value component of rent, for only those activities that are certified organic and directly Agricultural in nature, shall be reduced by 1%, and will remain reduced so long as the Lessee retains such certification.

Productive Component Calculation Formula

Productive Component = .05(GR) + GR(.005 x [CY – 2008*]) – .01 (Agricultural portion of GR for CO)

GR means Gross Revenue; CY means current year; and CO means certified organic.

* Amount used for [CY-2008] shall not exceed 10.

In the event of a natural disaster that destroys growing crops or prevents the Lessee from Agricultural part of the Premises as contemplated by this Lease, the Lessor may, but need not, reduce the Lessee's obligation under the Productive Component for the Lease Year in which the natural disaster occurred.

(See additional information on the submission requirements for the Productive Component administration and reporting in Sections 1, 6.4 and 10.)

5.6 Rent Payment Schedule – The Residential Component of Fair Market Value Rent is payable in twelve equal monthly installments due the first day of each month, and the Lessee may prepay this amount up to one year in advance. The Productive Component payment is payable upon billing from the Lessor; the bill will follow the Lessor's review of the Annual Financial Statement (provide by Lessee no later than April 20th) and the verification of the calculated Productive Value Component.

5.7 Methods of Payment – Checks or money orders (no cash payments) must be payable to the National Park Service and mailed to: Cuyahoga Valley National Park, 15610 Vaughn Road, Brecksville, OH 44141-3097. The options and/or required methods of payment may be amended over the term of this Lease based on changes in technology and/or NPS policies governing such payments (ie. electronic funds transfer). Unless other arrangements are made, failure to make monthly, residential rent payments or the annual Productive Component payment within 30 days of their due date will result in a \$ 100/month late charge for every month not paid beyond the 30 days. This late payment charge will be in addition to interest and penalties

- 5.8 Late IRS Filing** - in the event that an IRS extension has been filed, the Lessee can request an extension on the April 20th submission deadline. To be eligible for an extension, the Lessee shall provide documentation of such filing as well as an estimated calculation of the Productive Component.

Section 6. AGRICULTURAL USE COVENANTS

6.1 Agricultural Purposes of the Lease – The Lessor enters into this Lease to implement the particular and unique proposal contained in Exhibit C: Lessee Farming Enterprise Proposal. The Lessee acknowledges that the overall success of the Countryside Initiative depends on the Lessee and the Lessees of other farms implementing their respective agricultural enterprises for the full term of their leases. The Lessee therefore acknowledges a responsibility to actively and affirmatively implement its proposal for the entire term of the Lease, excepting such modifications as may be approved in writing by the Lessor in the course of approving the Lessee's Proposed Operations and Development Plan, or otherwise.

6.2 Agricultural Practices – All Agricultural practices on the Premises must conform with applicable local and state laws and regulations, except as those laws and regulations may be superseded by Agricultural guidelines of the Lessor. The Lessor will not allow any agricultural use or activity that would cause unacceptable adverse impacts on a park's resources, values, or purposes. The Lessee must comply with applicable public health and safety regulations regarding food service and distribution. Furthermore, all agricultural activities and livestock operations that take place in national parks are to be conducted in accordance with accepted best management practices that protect vegetation and wildlife and its habitat, safeguard sensitive species, control proliferation of exotic species, conserve soil, protect riparian areas and ground water, avoid toxic contamination, and preserve cultural sites. Specific required Agricultural management practices follow:

- a. **Pest Management/Pesticide Use** – The Lessee must comply with the NPS Standard Integrated Pest Management (IPM) practices and NPS-approved pesticide applications for all pesticide uses in the park. NPS IPM guidelines promote cultural and biological means of pest control over chemical means. Cultural control measures include such practices as crop rotation, companion planting, manual removal of pests. Biological pesticides, control agents such as predators or parasites, and bioengineered/genetically-modified products or crops are subject to the same IPM review process as pesticides. Some agents may require additional NEPA compliance before approval.
- b. **Use of Water Resources** – The Lessee's use of surface waters and groundwater will comply with NPS Management Policies, applicable Ohio water rights laws, and applicable Ohio EPA guidelines. The Lessee will follow a reasonable use doctrine to ensure that farm uses of water do not adversely affect downstream uses.
- c. **Farming of Woodlands** –The farming of woodlands (e.g., syrup production, mushrooms, medicinal plants) is not an approved activity under any Countryside Initiative Leases and would require additional NEPA compliance before such approval. The foregoing notwithstanding, the Lessee may tap trees that are clearly within leased yards and fields upon the prior written approval of the Lessor.
- d. **Composting** - All plans for composting must be approved by the Lessor through Proposed Operations and Development Plan, or special requests, before the Lessee may implement such plans. The preferred method for disposal of dead livestock is on-farm composting. Lessees must be certified to conduct on-site livestock composting through completion of the Ohio State University Extension program "Livestock Mortality Composting Educational Training" as outlined by Ohio Department of Agriculture guidelines before undertaking such composting.

6.3 Annual Farm Report (AFR) – The Lessee will prepare an AFR for Lessor approval including the Year End Review for the year ending, and the Proposed Operations and Development Plan for the coming year. The Lessee will submit the AFR to the Lessor by November 20th of each year. The Lessor will review the AFR within thirty days following receipt, if practicable. If the information provided in the AFR and subsections do not meet the Lessor's expectations, the Lessor will meet with the Lessee to resolve those concerns. Approval of the POD subsection/s will constitute an amendment/s to the Lessee's Farming Enterprise Proposal (Exhibit C).

6.4 Annual Financial Statement (AFS) – The Lessee will prepare an AFS for Lessor approval as set forth in Section 1 and further described in Exhibit F. The Lessee will submit the AFS to the Lessor on or before April 20 of the year following the tax year covered by the AFS (see also Section 5.6 and Exhibit F). The Lessor will review and approve the AFS within 30 days after the receipt, if practicable. If the Lessor is not satisfied with the information provided in the AFS, the Lessor and Lessee will meet within 60 days following the Lessor's receipt of the AFS to resolve the Lessor's concerns. The approved AFS will form the basis of the Lessee's Productive Component obligation.

6.5 Default of Agricultural Use Covenants – Lessor and Lessee expressly agree that Lessee must implement its proposal in full accord, harmony, and compliance with the Agricultural Use Covenants herein, and with the Lessor's Sustainable Agriculture Guidelines set forth in Exhibit D. Moreover, the Lessor and Lessee expressly acknowledge that the Lessee must have the prior written approval of the Lessor for any agricultural activity or practice occurring on the Premises or otherwise associated with the approved enterprise. The Lessee's failure to observe, keep, perform, or fulfill the requirements of the Lessee's POD and the requirements of this Section, will constitute a default causing this Lease to become null and void at the option of the Lessor.

Section 7. NON-AGRICULTURAL USE COVENANTS

7.1 General Uses – As directed by Lessor, the Lessee must discontinue any activity or use of the premises inconsistent with NPS natural and cultural resource management objectives or that is determined by Lessor to be inappropriate in a national park setting.

7.2 Commercial Activities – All Commercial Activities of Lessee must be approved by the Lessor in the Lessee's POD or by other written form, including approval of On-Premises Product and Service Sales and Off-Premises Product and Service Sales.

7.3 Commercial Products and Services Review – The Lessee may not offer any products or services for sale without the prior written approval of the Lessor regarding the nature, type, quantity and quality of such products and services.

7.4 Promotional Material – The Lessee must submit all promotional material, regardless of media format (i.e., printed, electronic, broadcast media), in connection with the services provided under this Lease to the Park Area for review and approval prior to use. All such material will identify the Lessee as a farm in the Countryside Initiative of the Cuyahoga Valley National Park, United States Department of the Interior.

7.5 Advertisements and Other Signs – The Lessee may not post on the Premises signs, including those advertising the Lessee's activities, without the Lessor's prior express written approval of the size and content of the signs and the time period during which the signs may be posted.

7.6 Special Events – Any events, activities, or other public uses which have not been otherwise approved in the Lessee's POD require the Lessor's written approval.

7.7 Provision for Public Parking – In the event the Lessee desires to provide, within the Premises, parking for public or customer visitation to the Premises, the Lessee must first secure the prior written approval of the Lessor regarding the location, design, construction materials, and traffic pattern and control related to such parking.

7.8 Site and Ground Disturbance – The Lessee may not alter the landscape of the Premises in any way that does not correspond to the uses set forth in this Lease. The Lessee must submit a written request for site and/or ground changes, and may not proceed to make such changes until the Lessor approves the request in writing. The Lessor shall respond to written requests in a timely manner and will not unreasonably withhold approval of such proposed changes.

Topography – The Lessee will maintain the general topography of the landscape in its present condition and will undertake no excavation or topographic changes until the Lessor expressly has approved the same in writing.

Dumping and Material Storage – The Lessee may not dispose or dump ashes, trash, or other materials. The Lessee may not place or store unsightly foreign material upon the Premises. This prohibition shall not be construed as prohibiting the temporary, short-term storage of construction or agricultural supplies necessary to the operation of the agricultural enterprise described in the Annual Operating Proposal.

Tree and Vegetation Removal – The Lessee shall provide specific plans to the Lessor for desired tree and tree limb removal larger than 1” and the removal of other vegetation in the Lessee’s POD, or in another written form. The Lessee may not remove any tree, tree limb or vegetation until the Lessor expressly has approved the same in writing. Due to the potential impact to endangered Indiana Bats, permission will not be granted for the cutting of trees or tree limbs between April 15 and September 15. For circumstances where there is an immediate threat to safety or property, a waiver to this policy may be requested, on a case-by-case basis.

Fire Prevention and Suppression – The Lessee may not burn brush, construction debris or similar materials within the Premises. The Lessee must take all reasonable precautions to prevent forest, brush, grass, and structural fires and assist the Lessor in extinguishing any fires on the Premises.

7.9 Harvesting Wood – Collecting wood on park property is generally prohibited. The Superintendent may give written permission to the Lessee to collect downed firewood for personal use within the Premises, but not for commercial purposes. Under no circumstances does this Lease allow the Lessee to collect wood outside leased properties.

7.10 Wildlife – Small-scale artificial wildlife housing and feeding is allowed near occupied buildings (e.g., bird feeders, birdhouses), as approved by the Lessor. No other feeding of wildlife will be permitted.

Section 8. COMPLIANCE WITH APPLICABLE LAWS

The Lessee, at its sole expense, shall comply with all applicable laws, ordinances, rules, and regulations of the United States. The Lessee also shall comply with the lawful requirement of all applicable State, County, and local governmental entities wherein the Premises are located with regard to construction, sanitation, licenses, or permits to do business, and all other matters. Lessee must consult with Lessor regarding applicability of such laws and regulations prior to making application to any governmental entity. The Lessee shall provide to the Lessor copies of all licenses, certifications, use and occupancy permits, or other permits prior to engaging in activities requiring a permit. The Lessee shall give the Lessor immediate written notice of any notice of violation of applicable laws, ordinances, rules, and regulations received by or on the behalf of the Lessee. At the Lessee’s sole expense, it shall rectify any such violation promptly.

Section 9. IMPOSITIONS

The Lessee shall pay to the proper authority, when due and payable, all impositions that may be imposed upon the Lessee with respect to or upon the Premises at any time during the term of this Lease.

Section 10. RECORDS AND AUDITS

The Lessee shall provide the Lessor and its agents and affiliates, including without limitation, the Comptroller General of the United States, access to all books and records relating to the Premises and the Lessee's use of the Premises under this Lease for the purpose of conducting audits to verify the Lessee's compliance with the terms and conditions of this Lease for any of the five (5) preceding Lease Years. The Lessee shall keep and make available to the Lessor these books and records at a location in the Premises or within the locale of the Park Area upon request.

Section 11. REHABILITATION AND MAINTENANCE OF PREMISES

11.1 Lessor's Pre-Lease Rehabilitation – The Lessor has undertaken significant and sufficient repair and rehabilitation of the Premises to:

- a. Make it readily habitable by the Lessee;
- b. Make it readily useable by the Lessee for the agricultural and related purposes set out in Section 6 of this Lease; and
- c. **Degrees of rehabilitation:** The Lessor notes that differing treatment levels between the residence and outbuildings have been applied. **Residence:** the Lessor has undertaken all structural and cosmetic treatments necessary for immediate and satisfactory occupancy. **Barn/Outbuildings:** the Lessor has only undertaken structural treatments necessary for the usefulness of the structures; cosmetic and proposal-specific alterations are the responsibility of the Lessee.
- d. To establish the baseline conditions and standards that the Lessor expects the Lessee to observe and maintain during the Lease Term. These baseline conditions include, but are not limited to the "as-is" conditions and expectations specified in Sections 3.1, 3.2, and 3.3.

11.2 Lessor's Rehabilitation and Replacement Responsibilities – The Lessor will be responsible for rehabilitation, repair, or replacement of the structural components and operating systems of those historic and non-historic buildings on the Premises that are assets of the Lessor as of the Commencement Date and that are not short-term or cyclical consumables. The Lessor will not be responsible for maintenance or routine repairs or replacements requested for the purposes of cosmetic changes. The Lessor's responsibilities include maintaining the following in good and functional condition:

- a. Structural components – Repair/replacement of foundations, floors, walls, and roof systems. Removal of insect infestations that could undermine the structural integrity of the building, such as termites or carpenter ants.
- b. Electrical – Repair/replacement of wiring, switches, fixtures, breakers, outlets and all other electrical components up to standards in the Ohio Basic Building Code.
- c. Heating, ventilating, and air conditioning (if applicable) – Replacement or repair of furnace, ductwork, A/C condenser, and thermostat.
- d. Water supply systems (household) – Replacement or repair to wells, cisterns, sump pumps, pipes due to functional failure; faucets, tubs, toilets, and sinks due to functional failure.
- e. Sewer/Waste treatment – Replacement or repair of pipes, septic lines, holding tanks, leach/evapotranspiration fields, sand filters, including necessary root removal.

- f. Exterior fabric –Replacement of siding, trim, porches, steps, windows, and doors.
- g. Interior fabric – no additional responsibilities after the initial rehabilitation unless structural in nature.
- h. Roofing – Replacement of shingles, flashing, gutters, downspouts.
- i. Farm roads and drives – Initial rehabilitation of grade, surface, and material with assistance in major flood events.

11.3 Lessee’s Routine and Cyclical Maintenance Responsibilities – The Lessee will be responsible for all general maintenance of the historic and non-historic buildings Premises and their operating systems. The Lessee will perform all repair, rehabilitation, and maintenance of historic properties in a manner that meets the Secretary of the Interior’s Standards for Historic Rehabilitation. See Exhibit G for the version of those standards in effect as of the Commencement Date.

The Lessee’s repair and maintenance responsibilities include, but are not limited to:

- a. Structural components – The Lessee will not have any responsibility to repair foundations, floors, walls, and roof systems.
- b. Electrical – Fuses, light bulbs, and face plates.
- c. Heating, ventilating, air conditioning – Replacement of filters, cleaning ductwork, and annual and routine maintenance of furnace and AC condenser per manufacturer recommendations.
- d. Water supply systems (household) – Replacement of washers and gaskets as needed, performing routine maintenance as per manufactures recommendations, including draining hot water tank and removing any clogs in water lines.
- e. Sewer/Waste treatment – Reoccurring scheduled maintenance of septic systems, as per “pamphlet”. Unblocking/repair of toilets or sewage lines due to neglect and cyclical and/or emergency septic pumping.
- f. Exterior fabric – Exterior painting and staining needed to maintain surfaces in good condition, including siding, trim, porches, and steps. Maintaining a positive drainage away from building(s) foundations.
- g. Interior fabric – Painting, staining, or refinishing of surfaces, including walls, floors, ceilings, trim, windows, doors, built in cabinets and countertops. (See Section 3.4 Lead Based Paint)
- h. Roofing – Cleaning gutters and maintaining downspouts in unblocked free-flowing condition ensuring positive drainage away from structure
- i. Residential roads and drives – Maintenance of grade and surface and component renewal such as culverts, water bars, washout and periodic installation of additional gravel.

11.4 Residential Grounds Maintenance – Prior to occupancy, the Lessor will evaluate and remove all or portions of dead or dying trees located near the entrances of the residence on the Premises, which trees represent a potential safety hazard to both the residential building and other buildings and persons walking or moving in the area.

The Lessee will maintain residential grounds in an aesthetically pleasing and ecologically healthy manner at the Lessee’s sole expense. The Lessee annually will evaluate and remove all or portions of dead or dying trees, located near the entrances of the residence on the Premises, which trees represent a

potential safety hazard to both the residential building and other buildings and persons walking or moving in the area, subject to approvals specified under Section 7.8. Aesthetically pleasing is understood to include, but is not limited to, regularly mowed and managed lawn and any ornamental plantings, and avoidance or removal of unsightly storage or parking of materials, equipment, and vehicles. The Lessee is responsible for all aesthetic and utilitarian snow removal. Ecologically healthy maintenance of residential grounds means application of the same general ecological/biological principles described in Exhibit D for agricultural production practices.

11.5 Maintenance and Repair of Other Site Amenities The Lessee will undertake all needed major and minor maintenance, repairs, or replacement of any and all alterations or improvements to the Premises made in the course of implementing the Lessee's agricultural and related enterprises described in Section 6 and Exhibit C. This includes, but is not limited to:

- a. Existing and/or Approved agricultural or other buildings;
- b. Existing and/or Approved fences of all sorts;
- c. Existing and/or Approved agricultural and non-household water systems – wells, ponds, pumps, lines, etc.; and
- d. Existing and/or Approved and additional farm roads and drives -- maintenance of grade and surface.

11.6 Project submittals and approvals – Lessee must submit all project submittals to the Lessor including as much detail as required by Lessor. The Lessor has established the POD process as the primary means of compiling and submitting projects. In the event that an additional project is desired outside of the POD, the Lessor will similarly review the project but discourages the submittal of individual projects and may advise that the project be held and included in the next POD. Lessor will review all projects to ensure that NEPA and Section 106 compliance are met. Thus, the Lessee shall plan accordingly and allow for a review period of no less than 30 days acknowledging that dependent on the scope and scale of the project that additional review time may be required. The Lessor will notify the Lessee in writing of the outcome of the review. The Lessee may not proceed with a project until written approval is received.

Section 12. UTILITIES

The Lessor has provided for basic household utilities including water, sewage, gas, electrical, and telephone. The Lessee must contact and select service providers for these and other utilities (cable, Internet). The Lessee is responsible for all additional alterations or installation fees, including, but not limited to all modifications, extensions, and additions of utilities to implement all Lessee improvements. The Lessee is responsible for all fees and charges for utilities provided to the Premises.

Section 13. INSURANCE AND INDEMNIFICATION

13.1 Insurance During the Lease Term – At all times during the Lease Term and at the Lessee's sole expense, it shall obtain and keep in force for the benefit of the Lessee and Lessor the following insurance coverage:

13.2 Property Insurance – An all risk or special form, including fire, vandalism and malicious mischief insurance. The amount of such insurance shall be the full insurable replacement value of the Premises. All such policies shall specify that proceeds shall be payable whether or not any improvements are actually rebuilt.

13.3 Worker's Compensation and Employer's Liability Insurance – Worker's compensation insurance in the statutory amounts and coverage required under worker's compensation, disability and

similar employee benefit laws applicable to the Premises and to the Lessee's use and occupancy of the Premises hereunder; and employer's liability insurance, with limits of not less than one hundred thousand dollars (\$100,000) for bodily injury per incident and one million dollars (\$1,000,000) aggregate, or such higher amounts as may be required by law.

13.4 General Liability – Comprehensive Farm Liability and/or Commercial General Liability through one or more primary and umbrella liability policies against claims for bodily injury and property damage occurring on the Premises, the improvements thereon, or the streets, curbs or sidewalks adjoining the Premises, with such limits as may be required by the Lessor, but in any event not less than one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate for the Premises. Such insurance shall insure the performance by the Lessee of its indemnity obligations under Section 13.10 of this Lease.

13.5 Other – All other insurance that the Lessee should maintain to adequately protect the Premises, Lessor, and Lessee. If the general liability coverage obtained in compliance with Section 13.4 does not include the Lessee's off-Premises farm related activities (such as sales at the farmers markets), the Lessee must secure additional coverage.

13.6 Conditions on Insurance – The policy or policies required under Section 13.1, 13.4, and 13.5 shall provide that in the event of loss thereunder, the proceeds of the policy or policies shall be payable to the Lessee to be used solely for the rehabilitation, repair, or maintenance of the property damaged or destroyed, as approved and directed by the Lessor, with any balance of the proceeds not required for such rehabilitation, repair, or maintenance to be paid to the Lessee; provided, however, that the insurer, after payment of any proceeds to the Lessee, will have no obligation or liability with respect to the use or disposition of the proceeds by the Lessee.

All property and general liability insurance hereunder shall name the United States of America, National Park Service, Cuyahoga Valley National Park as an additional insured.

All of the insurance required under this Lease and all renewals thereof, shall be issued by one or more companies of recognized responsibility licensed to do business in Ohio with a financial rating of at least a Class B+ (or equivalent) status, as rated in the most recent edition of Best's Insurance Reports (or equivalent) or as otherwise acceptable to the Lessor.

All policies provided for herein expressly must provide that such policies may not be cancelled, terminated, or altered without thirty (30) days prior written notice to the Lessor. The Lessee must provide to the Lessor a copy of each policy and a certificate of the policy executed by a properly qualified representative of the insurance company evidencing that the required insurance coverage is in full force and effect on or before the Commencement Date, and annually thereafter. The Lessee shall maintain all policies provided for herein throughout the term of the Lease, and the Lessee shall renew such policies before the expiration of the term of the policy.

From time to time, as conditions warrant, the Lessor may modify the types and levels of insurance required in this Lease, provided that any additional requirements must be reasonable and consistent with the types of insurance a prudent businessperson would purchase in similar circumstances.

13.7 Disposition of Insurance Proceeds – All insurance proceeds received by or payable with respect to damage or destruction of the Premises (except proceeds of insurance covering loss or damage of the Lessee's Personal Property), less actual expenses incurred in connection with their collection, shall be held by the Lessee in an interest bearing account, with all interest accrued thereon deemed proceeds of insurance for purposes of this Lease. However, if required by the Lessor, an insurance trustee acceptable to the Lessor shall hold such proceeds for application in accordance with this Lease.

13.8 Inadequate Insurance Coverage – The Lessee's responsibilities under this Lease for the repair or replacement of the Premises assumes full risk and responsibility for any inadequacy of insurance coverage or any failure of insurers. No approval by the Lessor of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a

representation by the Lessor of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible.

13.9 Continuity of Operations Insurance – If the Lessee obtains insurance that provides for the replacement of business income upon the interruption of business operations, the proceeds of such policies shall be included in Gross Revenue.

13.10 Indemnity – The Lessee, its employees, and agents shall indemnify, defend, save and hold the Lessor, its employees, successors, agents and assigns, harmless from and against, and reimburse the Lessor for: any and all claims, demands, damages, injuries, losses, penalties, fines, costs, liabilities, causes of action, judgments, and expenses, including without limitation, expenses incurred in connection with or arising in any way out of this Lease, the use, occupancy or manner of use or occupancy of the Premises by the Lessee or any other person or entity. The Lessee shall not be liable to the extent that the damages, expenses, claims or suits result from the willful misconduct or gross negligence of the Lessor, or its employees, contractors, or agents. The Lessor shall be liable for the tortious actions of government officials to the extent authorized by the Federal Tort Claims Act or as otherwise expressly authorized by law. The provisions of this Article shall survive any termination of this Lease.

Section 14. LIENS

14.1 Limitation of Liens – The Lessee will have no power to do any act or to make any contract that may create or be the foundation for any lien, mortgage, or other encumbrance upon the reversion, fee interest or other estate of the Lessor, or of any interest of the Lessor in the Premises, except for such actions or contracts contemplated and taken in accordance with the Lease and as expressly approved by the Lessor prior to undertaking such action to create an encumbrance.

14.2 Assumption of Lessee Responsibilities – Any encumbrance approved by the Lessor pursuant to Section 14.1 must provide that in the event of foreclosure, the holder of the lien will assume the responsibilities of the Lessee under this Lease or to select a new Lessee subject to the approval of the Lessor. Additionally, no encumbrance may grant the holder of the lien the ability or authority to alter or amend the terms of this Lease without the express written agreement of the Lessor.

14.3 Discharge of Liens by Lessee – The Lessee shall not suffer or permit any liens known to the Lessee to stand against the Premises for any reason. If a lien is filed against the Premises, the Lessee shall cause it to be discharged of record within sixty calendar (60) days after notice to the Lessee of filing the lien. If the Lessee fails to discharge or contest the lien within this period and the failure shall continue for a period of fifteen calendar (15) days after notice by the Lessor, then, in addition to any other right or remedy of the Lessor, the Lessor may, but shall not be required, to procure the discharge of the lien either by paying the amount claimed to be due, by deposit in court, or by bonding. All amounts paid or deposited by the Lessor for any of these purposes, and all other expenses of the Lessor and all necessary disbursements in connection with them, shall become due and payable forthwith by the Lessee to the Lessor upon written demand therefore as additional Rent.

14.4 No Consent or Waiver by Lessor – Nothing in this Lease shall be deemed to be or be construed in any way as constituting the consent or request of the Lessor, expressed or implied, by inference or otherwise, to any person, firm or corporation, for performance of any labor or the furnishing of any materials in connection with the Premises.

Section 15. ASSIGNMENTS AND SUBLETTING

15.1 Transferability – The Lessor is entering into this Lease to implement the particular and unique proposal offered by the Lessee, and in reliance on the particular and unique skills and reputation of the Lessee. The Lessor would not enter into this Lease except for such particular and unique proposal, skills, and reputation. The Lessor and the Lessee, therefore, expressly agree that the Lessee shall not transfer its interest in this Lease without the prior express written approval of the Lessor. Any transfer of the right

to occupy and operate the Premises shall be contingent upon the Lessee and the potential transferee satisfactorily demonstrating to the Lessor that such transfer will result in equal or superior management of the Premises, specifically:

- a. That the potential transferee is financially and managerially capable of performing the obligations of the Lessee including, without limitation, those requirements set out in Sections 2, 6, 7, 11, Exhibit D, and the most current POD for the Premises; and
- b. That the potential transferee is financially and managerially capable of carrying out the terms of this Lease; and
- c. If the Lessee is a partnership (including a limited partnership, a limited liability partnership, or a limited liability company), this Section 15.1 applies to the transfer of a partnership interest or an interest in the limited liability company. If the Lessee is a corporation, this Section 15.1 applies to the transfer of stock by a shareholder, where such transfer effects a change in control of the corporation.

15.2 Assignment and Subletting – The Lessee shall not assign this Lease, in whole or in part, or any property on the Premises, nor sublet the Premises or any part thereof or any property thereon, nor grant any interest, privilege, or license whatsoever in connection with this Lease without the express prior written permission of the Lessor.

15.3 Rights and Responsibilities of Successors – The Lessor and Lessee agree that this Lease shall be binding upon, to the benefit of, and be enforceable by their respective assigns and/or any successors in interest.

Section 16. DEFAULTS AND LESSOR'S REMEDIES

16.1 Default – This Lease is made upon the express condition that should the Lessee fail to keep and perform any of the covenants, agreements or conditions hereof, including but not limited to the Covenants set forth in Sections 6, 7, and Exhibit D, this Lease shall become null and void at the option of the Lessor.

16.2 Notice of Default – Before the default is effective, the Lessor shall first give the Lessee written notice, as set out in Section 24, of the Lessor's intention to terminate this Lease and regain possession of the Premises. This notice shall set forth the specific default under the Lease and the Lessor's intention to re-enter the Premises and declare this Lease forfeited if such default continues.

16.3 Time to Cure – The Lessee must cure monetary defaults within 30 days after notice is given.

For non-monetary defaults that ordinarily can be corrected within 60 days, the Lessee must cure these defaults within 60 days after the notice is given.

If the non-monetary default is one that would ordinarily take more than 60 days to cure, then, within 60 days following the receipt of the notice described in Section 16.2, the Lessee must present to the Lessor a written plan to cure the default. The plan must outline the proposed cure and set reasonable goals and reporting dates toward completion of the cure. The Lessor will have 30 days to revise or approve the plan to its satisfaction following the receipt of the plan. If the Lessor does not approve the plan within this 30-day period, the Lease shall terminate.

16.4 Failure to Cure – If the Lessee does not cure the default or present a plan for the cure, as applicable, within the applicable period, then the Lessor shall be entitled to the possession of the Premises and may enter into and upon the same or any part thereof and repossess the same and expel the Lessee and those claiming through or under the Lessee and remove its effects without being guilty of

any manner of trespass and without any prejudice to any remedies that might otherwise be used for areas of rent or preceding breach of covenant.

16.5 Right to Immediate Possession – The Lessee shall neither use nor permit the use of the Premises for any improper or unlawful purpose. Any such improper or unlawful use shall work a forfeiture of this Lease agreement at the election of the Lessor, after which the Lessor shall have the right to immediately reenter and repossess the Premises without further notice to the Lessee, notwithstanding any other provision of this Lease.

16.6 Conditional Right to Transfer – In the case of non-monetary defaults, and at the sole discretion of the Lessor, should the Lessee neither cure the default nor present a satisfactory plan to cure the default within the 60 day period, upon the written request of the Lessee, the Lessor may grant to the Lessee a conditional right to attempt the transfer of the Lessee's interest according to the terms of Section 15.1. The Lessee must submit such a request to the Lessor within the 60 day cure period. Should the Lessor grant this option to the Lessee, the transfer process must be completed within twelve months from the date of the Lessor's applicable notice of default. During this period the Lessee must maintain the conditions of the Premises as set out in Sections 11.

16.7 Consequences of Bankruptcy – The parties agree that this Lease shall terminate upon the filing or execution of:

- a. A petition in bankruptcy by or against the Lessee;
- b. A petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor;
- c. An assignment for the benefit of creditors;
- d. A petition or other proceeding against the Lessee for the appointment of a trustee, receiver, liquidator; or
- e. The taking by any person of the leasehold created hereby or any part thereof upon execution, attachment, or other process of law or equity.

16.8 No Waiver of Rights by the Lessor – No failure by the Lessor to insist upon the strict performance of any term, covenant, agreement, provision, condition, or limitation of this Lease, or to exercise any right or remedy upon a default hereunder, or acceptance by the Lessor of full or partial rent during the continuance of any default, shall constitute a waiver of any such default or of such term, covenant, agreement, provision, condition, or limitation. No waiver of any default shall affect or alter this Lease, but each and every term, covenant, agreement, provision, condition, and limitation of this Lease shall continue in full force and effect with respect to any other then existing or subsequent default.

Section 17. LESSOR'S RIGHTS TO CURE DEFAULTS

If the Lessee fails or neglects to perform any act or responsibility required herein to be done or performed, and fails to cure within the applicable cure period provided in Section 16, then the Lessor may, but shall not be required to, do or perform or cause to be done or performed any other act or correction, including entering upon the Premises for such purposes. The Lessor shall not be held liable or in any way responsible for any loss, disturbance, inconvenience, annoyance, or damage resulting to the Lessee on account of exercising rights under this Section. The Lessee shall repay to the Lessor, upon demand, the entire expense of the Lessor's exercising its rights, including, without limitation, compensation to the agents, consultants and contractors of the Lessor and related expenses. The Lessor may act upon shorter notice or no notice at all if necessary in the Lessor's judgment to meet an emergency situation or governmental time limitation or to protect the Lessor's interest in the Premises. Any act or correction done by the Lessor pursuant to the provisions of this Section shall not be or be

construed as a waiver of any such default by the Lessee, or as a waiver of any term, covenant, agreement or condition herein contained or of the performance thereof.

Section 18. ALTERNATIVE DISPUTE RESOLUTION

In the event of any dispute between the Lessor and Lessee relating to or arising out of the Lessee's performance of non-monetary obligations under this Lease, the Lessee and Lessor shall meet promptly with a representative of the Cuyahoga Valley Countryside Conservancy (CVCC) in an effort to resolve the dispute expeditiously. If the dispute is not resolved by this process, the matter may be presented to the CVCC's full Trustee Board for further review and recommendation. While such mediation and recommendations shall not be legally binding, the Lessor and Lessee shall give them good faith consideration.

Section 19. SURRENDER AND VACATING OF PREMISES

On or before the date of expiration, termination, or revocation of this Lease, the Lessee shall surrender and vacate the Premises, remove its personal property therefrom, and return the Premises, including the FF&E and the improvements to as good order and condition as that existing as of the commencement date of the Lease, damages due to ordinary wear and tear excepted. If the Lessee fails or neglects to remove its personal property, then, at the Lessor's option, the Lessee's personal property shall either become the property of the Lessor without compensation therefore, or the Lessor may remove the Lessee's property and store it in a public warehouse at the expense of the Lessee. In either case, the Lessee will have no claim for damages against the Lessor, its officers or agents.

At the expiration, revocation, or termination of this Lease, the Lessor and Lessee shall prepare an Inventory and Condition Report of the Premises, similar to the report prepared by the Lessor pursuant to Section 3.3. This report will constitute the basis for settlement by the Lessee to the Lessor for FF&E, or improvements shown to be lost, damaged, or destroyed during the term of the Lease. The Lessee shall either replace or return any lost, damaged, or destroyed items to the condition required pursuant to this Section, ordinary wear and tear excepted or, at the election of the Lessor, reimburse the Lessor for such items at the then current replacement value.

Section 20. HOLDING OVER

This Lease shall terminate upon the Termination Date and any holding over or failure to vacate the Premises by the Lessee after the Termination Date shall not constitute a renewal of this Lease or give the Lessee any rights hereunder or in or to the Premises. For each day the Lessee occupies the Premises, in whole or in part, following the Termination Date, the Lessee shall pay rent at a rate of two times the prorated daily rent in effect on the date of Lease termination.

Section 21. REPRESENTATION AND WARRANTIES OF THE LESSEE

The Lessee hereby represents and warrants to the Lessor as follows:

The Lessee has the right, power, legal capacity, and authority to enter into and perform its obligations under this Lease, and to operate the Premises as contemplated by Lessee Farming Enterprise Proposal, Exhibit C.

No approval or consent of any other persons or agency is required in connection with the execution and performance of this Lease.

The Lessee has taken all necessary action to authorize the execution, delivery and performance of this Lease.

This Lease constitutes the legal, valid and binding obligation of the Lessee.

Section 22. REPRESENTATION AND WARRANTIES OF THE LESSOR

The Lessor hereby represents and warrants to the Lessee as follows:

The Lessor is an Agency of the United States of America.

The Lessor has taken all necessary action to authorize the execution, delivery, and performance of this Lease.

This Lease constitutes the legal, valid, and binding obligation of the Lessor.

The Lessor has made no representations or warranties, direct or implied, written or verbal, with respect to the Premises or any other property owned by the Lessor, except as specified in this Lease.

Section 23. COMPLIANCE WITH FEDERAL EQUAL OPPORTUNITY LAWS

The Lessee shall comply with the requirements of:

- a. Title VII of the Civil Rights Act of 1964 (as amended), as well as Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967;
- b. Title V, Sections 503 and 504 of the Rehabilitation Act of September 26, 1973, Public Law 93-112 (as amended), which prohibits discrimination on the basis of disability and requires Government contractors and subcontractors to take Affirmative Action to employ and advance in employment qualified handicapped individuals;
- c. 41 C.F.R. Chapter 60, which prescribes affirmative action requirements for government contractors and subcontractors;
- d. The Age Discrimination in Employment Act of December 15, 1967 (as amended);
- e. The Americans with Disabilities Act, 42 U.S.C. Sections 12111 et seq.; and
- f. All other applicable laws relating to nondiscrimination in employment and in providing facilities and services to the public.

The Lessee shall do nothing in advertising for employees that will prevent those covered by these laws from qualifying for such employment.

Section 24. NOTICES

Any notice, consent or other communication required or permitted under this Lease shall be in writing and shall be delivered by hand, sent by courier including delivery services such as Federal Express, sent by prepaid registered or certified mail with return receipt requested, addressed as set forth below (or to such other or further addresses as the parties may designate by notice given in accordance with this Section), and shall be deemed to have been given on the earliest of:

- a. Receipt;

- b. One business day after delivery to a courier for overnight expedited delivery service; or
- c. Five business days after the date deposited in the United States mail, registered or certified, with postage prepaid and return receipt requested (provided that such return receipt must indicate receipt at the address specified).

If to the Lessor:

Superintendent
 Cuyahoga Valley National Park
 15610 Vaughn Road
 Brecksville, Ohio 44141-3097

If to the Lessee:

Section 25. ANTI-DEFICIENCY ACT

The Lessee and Lessor agree that nothing contained herein shall be construed as binding the Lessor to expend, in any fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year or administratively allocated for the subject matter of this Lease, or to involve the Lessor in any contract or other obligation for the future expenditure of money in excess of such appropriations.

Section 26. GENERAL PROVISIONS

- A. No member or delegate to Congress or Resident Commission shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Lease if made with a corporation for its general benefit.
- B. This Lease shall not, nor be deemed nor construed to, confer upon any person or entity, other than the parties hereto, any right or interest, including, without limiting the generality of the foregoing, any third party beneficiary status or any right to enforce any provision of this Lease.
- C. The Lessor may not extend this Lease. The Lessee has no rights of renewal of this Lease, or rights of any nature to an award of a new Lease upon the expiration or termination of this Lease for any reason. This Lease provides no rights entitling the Lessee, its sub-Lessees, tenants, or assigns, to claim benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as it now exists or hereafter may be amended. Further, by executing this Lease, the Lessee expressly waives any and all benefits it may have under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as it now exists or hereafter may be amended.
- D. The Lessee, at the Lessee's expense, must comply with any statutory requirements for recording the Lease.
- E. The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee.
- F. In case any one or more of the provisions of this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such holding shall not affect any other provision of this Lease. This Lease, consequently, shall be construed as if such invalid, illegal or unenforceable provision(s) had not been contained herein.
- G. Article headings in this Lease are for convenience only and are not to be construed as a part of this Lease or in any way limiting, prioritizing, or amplifying the provisions hereof.

- H.** The laws of the United States shall govern the validity, construction, and effect of this Lease.
- I.** This instrument constitutes the entire agreement between the Lessor and Lessee with respect to the subject matter hereof and supersedes all prior offers, negotiations, oral and written. This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing signed by the Lessor and Lessee.
- J.** The voluntary surrender of this Lease by the Lessee to the Lessor, or a mutual cancellation thereof, or the termination thereof by the Lessor pursuant to any provision contained herein, shall not work a merger. At the option of the Lessor, the voluntary surrender or mutual cancellation shall either terminate any or all existing subleases or sub-tenancies hereunder, or operate as an assignment to the Lessor of any or all of such subleases or sub-tenancies.
- K.** As permitted by regulation (36 C.F.R. § 7.17, as it now exists or hereafter may be amended) the possession and consumption of alcoholic beverages on the Premises is hereby authorized for private consumption for the term of the Lease. The selling of alcoholic beverages is subject to other NPS approval and all other applicable state and local permit requirements.
- L.** If more than one Lessee is named in this Lease, each Lessee shall be jointly and severally liable for performance of the obligations of this Lease.
- M.** Any and all remedies available to Lessor for the enforcement of the provisions of this Lease are cumulative and are not exclusive, and Lessor shall be entitled to pursue either the rights enumerated in this Lease or remedies authorized by law, or both. Lessee shall be liable for any costs or expenses incurred by Lessor in enforcing any term of this Lease, or in pursuing legal action for the enforcement of Lessor's rights, including, but not limited to, court costs.

Section 27. ADDENDUMS AND MODIFICATIONS

Addendums and modifications to the terms and conditions of the lease can be made with Superintendent approval, given said addendum or modification is consistent with NPS regulations and policies, subject to mutual agreement of the Lessee and Lessor.

IN WITNESS WHEREOF, the Regional Director, Midwest Region, National Park Service, acting on behalf of the United States, in the exercise of the delegated authority from the Secretary of the Interior and Director of the National Park Service as Lessor, and the Lessee have executed this Lease by proper persons thereunto duly authorized as of the dates written below.

THE UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE

LESSOR

THE UNITED STATES DEPARTMENT OF THE INTERIOR,
National Park Service

By _____ Date: _____, 2008

Ernest Quintana
Regional Director
Midwest Region

By _____ Date: _____, 2008

John P. Debo, Jr.
Superintendent
Cuyahoga Valley National Park

LESSEE

By _____ Date: _____, 2008

██████████

By _____ Date: _____, 2008

██████████