

HAY CUTTING AGREEMENT

This HAY CUTTING AGREEMENT, hereinafter referred to as the "Agreement," is entered into this _____ day of _____, 2019, by and between the Jasper County Airport Authority, hereinafter referred to as the "Landlord," and _____, hereinafter referred to as the "Tenant." Under the terms and conditions that follow, the Landlord hereby leases to the Tenant farmland to use for agricultural purposes. The parcel, consisting of twenty-seven and forty-five hundredths acres more or less (27.45 +/- acres) at Jasper County Airport located in Jasper County, Indiana. The Agreement acreage area is indicated in Exhibit 'A' attached hereto and made a part hereof. The Landlord and Tenant do hereby agree as follows:

ARTICLE 1: TERM OF AGREEMENT

The term of this Agreement shall be for a period of one (1) year commencing on the date executed above until the 29th day of February, 2020; Tenant has the option to extend the term of the Agreement for an additional two (2) terms for a grand total of three (3) years. Agreement extensions must be placed in writing delivered to the Landlord at least three (3) months before the end of the current term. Tenant's failure to request an extension at least three (3) months before the end of the current term shall be constructive notice of intent to allow the Agreement to expire.

Amendments and alterations to this Agreement may be made in writing at any time by mutual agreement of both parties. In the event of the failure to agree on any proposed alteration, the existing provisions of the Agreement shall control operations.

ARTICLE 2: RENTAL RATE

The Tenant agrees to pay the total sum of _____ (\$0.00) per year, payable to the Jasper County Airport Authority, as follows: One-half thereof shall be paid on or before May 1st of each year, and one-half thereof shall be paid on or before December 1st of each year. The Landlord does not guarantee the amount of farmable area contained within the Agreement acreage shown on the Exhibit 'A' drawing, and the Tenant has determined the amount of farmable area prior to determining their Bid Price for the acreage shown on the Exhibit 'A' drawing.

ARTICLE 3: ALLOWABLE USES

The Tenant shall use the Leased Premises solely for the purpose of fertilizing and the improvement of certain land and the cutting and baling of hay thereon; further, no part thereof shall be used for the purpose of feeding or harboring livestock, poultry, or other animals or birds of any type. The Tenant agrees that only the crops specified on the Exhibit 'A' attachment shall be planted within the boundaries shown. Further, the Tenant specifically agrees to seed for hay both parcels that lie east of runway 18/36 at Jasper County Airport, hereinafter referred to as the "Airport."

ARTICLE 4: FARM EQUIPMENT

The Tenant may store farm equipment temporarily within the Agreement area and under prior approval from the Landlord, or the Jasper County Airport Manager, hereinafter referred to as “Manager”, on the exact storage locations. Such permission shall not unreasonably be withheld. If the Tenant fails to store equipment in the Landlord-approved area, or if such equipment is inoperable while located at the Airport, such that it interferes with the Airport’s safe operation, the equipment shall be towed away at the Tenant’s expense. If the Tenant needs to store farm equipment overnight within the Agreement area, the Tenant shall inform the Manager of the need for the storage. The Tenant and the Manager shall mutually designate a storage area.

ARTICLE 5: ACTIVITIES RESTRICTED

The Tenant further agrees, unless the written consent of the Landlord has been obtained:

1. Not to erect or permit to be erected any structure or building or to incur any expense to the Landlord for such purposes.
2. Not to permit, encourage, or invite other persons to use any part or all of this property for any purpose or activity not directly related to its use for agricultural production.
3. Not to plow permanent pasture or meadowland.
4. Not to burn cornstalks, straw, or other crop residues grown upon the land.
5. Not to cut live trees for sale purposes or personal uses.
6. Not to allow contractors, subcontractors, or vendors on the property without an escort employed by the Tenant.
7. Any and all activities that would adversely affect the Airport’s operations.

ARTICLE 6: INSURANCE AND RISK OF LOSS

For the term of the Agreement, all persons and property of every kind which may be on the said Agreement area during the term hereof shall be the sole risk of the Tenant. The Tenant shall maintain insurance with a carrier acceptable to the Landlord, insuring the Tenant while performing on this property hereunder for the following types of insurance:

- A. **Worker’s Compensation**- Policy and limits as required under the Indiana State Statutes
- B. **General Liability**- Tenant shall maintain a general liability insurance policy having a limit of no less than one million dollars (\$1,000,000) per occurrence/aggregate covering Bodily Injury and Property Damage.

The Tenant shall provide the Landlord with certificate(s) of insurance at the time of signing the Agreement and then annually thereafter with the submission of May 1st's rent.

Insurance certificates must name as additional insured: **Jasper County Airport Authority, its officers, agents, employees, and assigns**. If the Tenant fails to provide certificate(s) of insurance, the Agreement shall be terminated immediately, and access to the property will be denied. If the Agreement is terminated due to the failure to provide certificate(s) of insurance, the Tenant shall pay the remaining balance of the Agreement for the year of termination.

The Landlord shall not be responsible for crop damage due to acts of God. The Tenant is encouraged to obtain Crop Insurance, but it is not required by the Agreement. The Landlord shall not be responsible for damage due to aircraft traffic, pilots, vandalism, utility companies accessing the property, or all other acts not caused by the Landlord or its agents.

The Tenant shall follow the Rules and Policies of the Landlord regarding the Tenant's use of the Agreement area of the Airport.

ARTICLE 7: PROPERTY ACCESS

The Tenant shall have the right of ingress to and egress from the Agreement area. This right shall include its officers, employees, agents, customers, vendors, suppliers, patrons, and invitees over the roadways designated by the Landlord.

Access to the Airport property shall be exclusively from County Road West 400 South, County Road South 700 West, and State Road 114, and unless otherwise authorized by the Manager, access shall not be on or across any of the Airport's paved areas. The Tenant must provide the Manager with her/his/its farming operation schedule a minimum of twenty-four (24) hours in advance in order to publish the appropriate Notices to Airmen (NOTAM).

ARTICLE 8: REAL ESTATE AND PERSONAL PROPERTY TAXES

The Landlord agrees to pay all real estate taxes or other assessments levied against the Agreement area, including but not limited to ditch taxes and real estate taxes, unless the taxes and assessments are attributable to any improvements placed or caused to be placed thereon by the Tenant, in contravention of this Agreement.

ARTICLE 9: CONSERVATION PRACTICES

The Tenant agrees to keep in good repair any terraces, open ditches, inlets and outlets of tile drains; preserve any established watercourses or ditches including grassed waterways; and refrain from any operations or practice that will injure such structures.

The Tenant agrees to cultivate the Leased Premises in a thorough, careful, and husband-like manner, keep the same free from all noxious weeds, and comply with all laws governing the time and manner of destroying the same.

The Tenant agrees to pay for and provide the Landlord with a written soil sample report for the crops specified on the Exhibit 'A' drawing. If 2.5 acres grid variable rate soil tests are taken they will be taken at least every three years. If conventional tests are taken they will be done every two years.

The Tenant agrees to pay for and apply fertilizer applications based on removal of the crop that was harvested the previous year and according to soil tests. Tenant must notify the landlord if fertilizer other than the above will be applied. Over or under fertilization is not the objective, but adequate fertility is the objective.

Copies of fertilizer and lime application invoices will be furnished to the Landlord each time applications are made.

ARTICLE 10: PROPERTY RIGHTS

Right of Entry: The Landlord reserves the right for them, their agents, their employees, or their assigns to enter the farmland at any reasonable time for the purpose of maintaining the Airport property. The Tenant is aware that this is a public-use airport, and that it is possible that aircraft may overrun into the farm area.

The Tenant's rights hereunder shall not be exercised in such manner as to interfere with or adversely affect the use, operation, maintenance, or development of the Airport.

Transfer of Farmland: If the Landlord should sell or otherwise transfer title to the farmland, it will do so subject to the provisions of this Agreement.

No Right to Sublease: The Landlord does not convey to the Tenant the right to lease or sublease the Agreement area or any portion thereof.

Heirs and Successors: The terms of this Agreement shall be binding upon the heirs, executors, administrators, and successors of both the Landlord and Tenant in like manner as upon the original parties. However, in the event that the Agreement is for more than one year, the heirs or successors of the Tenant shall have the option to give written notice of termination effective at the end of the Agreement year in which the death of the original Tenant occurs.

ARTICLE 11: NON-PARTNERSHIP

This Agreement does not give rise to a partnership. Neither party shall have the authority to bind the other without written consent. Neither party shall be liable for debts or obligations incurred by the other without written consent.

ARTICLE 12: ARBITRATION

If the parties to this Agreement cannot reach an agreement on any matter or problem, the questions shall be submitted to an Arbitration Committee for decision. This committee shall be

composed of three (3) disinterested persons: one (1) selected by each party hereto, and the third chosen by the two (2) thus selected. The decision of the Arbitration Committee shall be accepted by both parties.

ARTICLE 13: LIVESTOCK & ANIMALS

At no time shall the Tenant pasture livestock within the Agreement area or bring any domestic animal within the limits of Airport property. The Tenant shall not hunt, herd, or train animals or livestock at the Airport, or any portion thereof, nor shall the Tenant undertake any act that encourages wild animals or birds to come into the Agreement area.

ARTICLE 14: COMPLY WITH GOVERNING REGULATION

The Tenant shall comply with all local, state, and federal laws and regulations governing all activities related to the application of pesticides and commercial fertilizers, the cultivation of crops, and the compliance thereof. The Tenant shall follow label directions in the handling and application of all chemicals used on the property and follow all applicator's licensing requirements. The Tenant shall comply with local, state, and federal laws and regulations pertaining to groundwater contamination, manure disposal, and hazardous waste storage or disposal.

ARTICLE 15: OPERATING HOURS

The Tenant shall only perform farming operations between dawn and dusk. Night operations and operations when there is less than one (1) mile visibility as identified by calling the Airport's Automated Weather Observation System (AWOS) at 219.866.7167 are not allowed.

ARTICLE 16: MINERAL RIGHTS

The title to all minerals or gravel located on the Agreement area shall remain with the Landlord, and the Tenant shall have no rights, title, or interest therein or thereto. The Tenant grants to the Landlord a security interest in all crops now or hereafter growing on the Leased Premises to secure performance of the Tenant's obligation to make the rental payments required by this Agreement, and the Tenant authorizes the Landlord for the purpose of perfecting the Landlord's security interest.

ARTICLE 17: DEFAULT

If either party willfully neglects or refuses to carry out any provision, the other party shall have the right, in addition to compensation for damages, to terminate the Agreement. He or she shall do so by written notice on the party at fault, specifying the violations of the agreement.

ARTICLE 18: FAA PROVISIONS

Both parties acknowledge that this parcel lies within an active Public Airport Facility and is subject to the rules and regulations of the Federal Aviation Administration (FAA). Therefore, the farmland shall be used for the sole purpose of planting and harvesting crops. The Tenant further agrees to limit the height of all crops and agricultural equipment to the height stated on the exhibit and Agreement.

The Tenant agrees that she/he/it will not allow any condition in the said Agreement area, nor permit the conduct of any activity in such Agreement area, which shall materially or adversely affect the development, improvement, operation, or maintenance of the Airport or its facilities; nor will the Tenant use or permit the leased area to be used in any manner which might interfere with the landing and take-off of aircraft from the Airport or otherwise constitute a hazard, specifically said Agreement area in close proximity to an active general aviation airport. The Landlord reserves to itself and their licensees free and unobstructed passage of aircraft over, through, and across the airspace above the Agreement area, together with an easement for said purposes and for all noises, disturbances, and vibrations of whatever volume, frequency, or intensity due to the use and operation of the Airport. As used in this Agreement, aircraft means all types of heavier-than-air aircraft, however powered. The Tenant shall be bound to conform to all laws, rules, and regulations applicable to the Agreement area, whether issued by the Federal government, the State of Indiana, the County of Jasper, the City of Rensselaer, or the Landlord, including, but not limited to, the following restrictions on the Tenant's use of the Agreement area:

1. The Tenant will not create or allow to be created on said lands any magnetic, electronic, electric, radar, laser, or other beams or electronic waves of any kind or frequency that might interfere with any navigational aids now or hereafter in use in connection with operations at the Airport or any operation conducted under Visual Flight Rules.
2. The Tenant will not use the Agreement area in a manner that would create smoke, dust, soot, or ashes which if discharged into the atmosphere in sufficient quantity would affect aerial visibility of the Airport, runways, or the approaches thereto.
3. The Tenant will not erect or install any building, structure, searchlight, or other lights, even temporarily, with such intensity as to constitute a hazard to persons or aircraft using or approaching the Airport.
4. The Tenant shall not test any electronic equipment or use any electronic equipment on the Agreement area.
5. The Tenant shall maintain any height limitations and restrictions imposed by the FAA or any other competent authority.

If any proscribed or prohibited condition or activity, as described above, shall be permitted to exist on the Agreement area, or any part thereof, this Agreement shall be subject to immediate termination at the sole discretion of the Landlord, without notice. The Tenant shall have no recourse under the laws of the State of Indiana or under Article 12 of this Agreement.

ARTICLE 19: TERMINATION

The Landlord shall have the right to cancel this Agreement with respect to all or any part of the Leased Premises which the Landlord determines are needed for Airport purposes or the continued farming thereof would interfere with or adversely affect the use, operation, maintenance, or development of the Airport. In the event that the Landlord shall cancel this Agreement with respect to only a part of the Leased Premises, the Tenant shall have the right to cancel this Agreement with respect to all, but not just a part of, the remainder of the Leased Premises. The Landlord shall fully and fairly compensate the Tenant for any growing crops taken or destroyed as a result of the Landlord's cancellation, but shall have no obligation to pay any compensation because of the Tenant's cancellation with respect to the remainder of the Leased Premises; provided, the Landlord shall only be obligated to compensate the Tenant for the lower of the cost or fair market value of the labor, equipment, and materials actually used by the Tenant for the purpose of growing crops during the remainder of the Agreement Term if the Tenant has received notice that the Landlord has exercised its right to cancel this Agreement as provided herein before the crops have actually been planted.

ARTICLE 20: MODIFICATION

This Agreement shall not be modified or amended unless by written agreement of the Agreement, executed by the parties.

ARTICLE 21: NON-DISCRIMINATION

In furtherance of the requirements of the Civil Rights Act of 1964, the Tenant agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, ancestry, age, or disability. The Tenant shall take affirmative action to ensure that employees are treated without regard to their race, creed, color, sex, or national origin (49 CFR Part 21, Appendix C (a) (1) (ix)).

ARTICLE 22: DETENTION PONDS

The parties agree that there are two (2) detention ponds contained within the Leased Premises. The Tenant agrees to maintain via mowing these detention ponds on a regular basis in order to keep any weeds under control.

ARTICLE 23: CHOICE OF LAW

The parties agree that the laws and statutes of the State of Indiana control this Agreement.

