FARM LEASE

This Farm Lease (the "Lease") is entered into by and between the Arizona Board of Regents for and on behalf of the University of Arizona ("Lessor") and ____________________________, ("Lessee").

RECITALS

A. Lessor owns the real property known as the Maricopa Agricultural Center ("MAC" or the "Property"), located at 37860 W. Smith-Enke Road, Maricopa, Arizona and shown on Exhibit A-1, together with all and singular, the rights and appurtenances pertaining to such real property, including any water rights, improvements, buildings, structures, and fixtures existing on the land.

B. Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, the aforementioned real property on the terms and conditions stated herein.

AGREEMENTS

The parties hereto hereby mutually covenant, promise, and agree as follows:

1. Leased Property. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor approximately _____ acres located at MAC (the "Land") as shown on Exhibit A-2 as well as the right to access existing roads on the Property.

2. Term. The term of this Lease shall commence on October 1, 20__ through September 30, 20__ (the "Term"). Either party may terminate this Lease on January 1 during the Term, so long as that party provides written notice to the other party by no later than the immediately preceding December 1.

3. Rent. Rent shall be $________ for the Term and payable to Lessor on October 1, 20__. Rent shall be made to the "University of Arizona" with payments mailed to the College of Agricultural and Life Sciences, The University of Arizona, PO Box 210036, Tucson AZ 85721 or such other person as Lessor shall provide to Lessee by written notice. Failure to pay rent on or before the due date shall constitute a default by Lessee subject to all legal remedies of the Lessor.

4. Use of Land. The Land shall be used exclusively for purposes of planting, growing, maintaining and harvesting of _____________________________. Lessee’s methods and materials for utilizing the Land, including a list of all chemicals applied to the Land to comply with regulatory requirements, and as approved by the Farm Manager of MAC, or some other employee of the Lessor as designated by the University of Arizona Director of Experiment Stations, is attached as Exhibit B. Subject to Lessee’s satisfaction of all terms and conditions of the Lease, Lessor covenants that Lessee shall have the peaceful and quiet enjoyment of the Land consistent with the provisions of this Lease. Lessee will maintain infrastructure such as roads,
ditches, jack gates, and repair as needed on the Land and return the Land to its original condition upon termination of the Lease. Lessee’s use of the Land will be in accordance with all applicable laws and ordinances pertaining to Lessee's permitted use. Lessee agrees to obtain all necessary permits and licenses from the appropriate jurisdiction to lawfully conduct its permitted use on the Land.

5. **Condition of Land.** Lessee accepts the Land, after thoroughly examining said Land, “AS IS” and without any representation by or on behalf of the Lessor, without any warranties, expressed or implied, and agrees that Lessor shall in no way be liable for any defects in Lessor’s ownership of the Land or the fitness of the Property for Lessee’s permitted use of the Land. This Lease is subject to all applicable restrictions and all limitations of record, MAC policies, and is subject to any and all easements of record.

6. **Lessee Obligations for Farm Practices, Payment of Fines and Assessment of Property Taxes.** Lessee shall furnish all labor, seed, fertilizer and chemicals and will pay all farm operation costs, including seeding, cultivation of the Land, and harvesting. Lessee shall be responsible for payment of any fines or penalties resulting from violation or non-compliance with government farm programs that result from Lessee’s farming practices and management during the Term. Lessee must ensure compliance with Pinal County Department of Environmental Quality dust control regulations as indicated at [http://pinalcountyaz.gov/AirQuality/Dust/Pages/home.aspx](http://pinalcountyaz.gov/AirQuality/Dust/Pages/home.aspx). Lessee shall be responsible for any lawful assessment against Lessee’s personal property and the Land.

Lessee will work closely with Lessor to insure that irrigation water is split between Lessor and Lessee (when sharing irrigation ditches). The Lessor will require sending 5cfs of water west of the Santa Cruz wash at any time to irrigate fields managed by Lessor. Lessee will order water and purchase water directly from Maricopa Stanfield Irrigation and Drainage District.

7. **Indemnification and Insurance.** Lessee shall indemnify, defend and hold the state of Arizona, and Lessor and its governing board, employees, agents, and assigns harmless from and against any and all claims, losses, damages, injuries, liabilities and all costs, including attorneys’ fees, court costs and expenses and liabilities incurred in or from any such claim, arising from any breach or default in the performance of any obligation on Lessee’s part to be performed under the terms of this Lease, or arising from any act, negligence or the failure to act of Lessee or any of its agents, contractors, employees, invitees or guests. Lessee shall require any of its contractors or subcontractors to provide indemnification to Lessor as provided above.

Lessee is required to carry the types and limits of insurance shown in this Section 7, and to provide Lessor with a Certificate of Insurance. At any time, Lessor reserves the right to amend insurance requirements or require a security bond if circumstances warrant such action. Additionally, and at its option, Lessor may request certified copies of required policies and endorsements. Such copies shall be provided within (10) ten days of Lessor’s request. All insurers shall have a Best’s rating of AV or better and be licensed and admitted in Arizona. Lessee shall furnish Lessor with a certificate of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth
below. All policies required shall be written as primary policies and not contributing to nor in excess of any coverage Lessor may choose to maintain. All certificates shall provide for thirty (30) days’ written notice to Lessor prior to cancellation or material change of any insurance referred to therein. All policies shall name State of Arizona and the Regents of the University of Arizona as an additional insured. Certificates shall be mailed to the University of Arizona, Planning, Design & Construction-Real Estate, P.O. Box 210300, Tucson, AZ 85721. All policies shall contain waiver of subrogation coverage or endorsements.

Failure of Lessor to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Lessor to identify a deficiency from evidence that is provided shall not be construed as a waiver of Lessee’s obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this Lease at Lessor’s option. By requiring insurance herein, Lessor does not represent that coverage and limits will necessarily be adequate to protect Lessee, and such coverage and limits shall not be deemed as a limitation on Lessee’s liability under the indemnities granted to Lessor in this Lease. Lessee shall require any contractors and subcontractors to comply with the insurance provisions of this Lease.

Lessee shall obtain or require contractors and subcontractors to obtain insurance of the types and in the amounts described below.

A) Commercial General and Umbrella Liability Insurance. Maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than $2,000,000 each occurrence and in the aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately to the Land and shall not be less than $2,000,000. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from the Land, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract.

B) Commercial Auto Insurance. Maintain a Commercial Auto policy with a Combined Single Limit of $1,000,000; Underinsured and Uninsured Motorists limit of $1,000,000; Comprehensive; Collision; and a Medical Payments limit of $10,000. Coverage shall include Non-Owned and Hired Car coverage.

C) Personal property. Purchase insurance to cover personal property. In no event shall Lessor be liable for any damage to or loss of personal property sustained by Lessee (or contractor or subcontractor), whether or not insured, even if such loss is caused by the negligence of Lessor, its employees, officers or agents.

D) Crop insurance. Insure the crops grown on Land with all-risk crop insurance. In no event shall Lessor be liable for any crop damages or failures sustained by Lessee on the Land.
E) Workers’ Compensation. Maintain all statutorily required coverages including Employer’s Liability.


(a) As used herein, the term "Hazardous Materials" shall mean any substance or material that has been determined by any state, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property, including all of those materials and substances designated as hazardous or toxic by the U.S. Environmental Protection Agency, the Consumer Product Safety Commission, the U.S. Food and Drug Administration, the department of environmental quality or similar government agencies of the state, county, or municipality where the Land is located, or any other governmental agency now or hereafter authorized to regulate materials and substances in the environment.

(b) Except for materials reasonably and customarily required in connection with the permitted use which are used, stored and disposed of in compliance with all applicable federal, state and local laws, rules and regulations and in quantities not in excess of those reasonably necessary to conduct the Permitted Use, Lessee agrees not to introduce any Hazardous Materials in, on or adjacent to the Land without (i) obtaining Lessor’s prior written approval, (ii) providing Lessor with 30 days prior written notice of the exact amount, nature, and manner of intended use of such Hazardous Materials, and (iii) complying with all applicable federal, state and local laws, rules, regulations, policies and authorities relating to the storage, use, disposal and clean-up of Hazardous Materials, including, but not limited to, the obtaining of all proper permits. Notwithstanding, Lessee shall not apply 2-4D herbicide or any other herbicides that are high risk for drift. Lessee will provide notice to the Lessor of any aerial pesticide application and complete 1080 form.

(c) Lessee shall immediately notify Lessor of any inquiry, test, investigation, or enforcement proceeding by, against or directed against Lessee or the Land concerning Hazardous Materials. Lessee acknowledges that Lessor, as the owner of the Land, shall have the right, at its election, in its own name or as Lessee’s agent, after due notice to Lessee to initiate a cure within a commercially reasonable period of time, to negotiate, defend, approve, and appeal, at Lessee’s expense, any action taken or order issued by any applicable governmental authority with regard to Hazardous Materials used, stored, disposed of or released on or from the Land by Lessee or its agents, employees, contractors or invitees.

(d) If Lessee’s storage, use, disposal or release of any Hazardous Materials in, on or adjacent to the Land results in any contamination of the Land, the soil, surface or groundwater thereunder or the air above and around the Land (i) requiring remediation under federal, state or local statutes, ordinances, regulations or policies, or (ii) at levels that are unacceptable to Lessor, in Lessor’s sole and absolute discretion, Lessee agrees to clean-up the contamination immediately, at Lessee’s sole cost and expense. Lessee further agrees to indemnify, defend and hold Lessor harmless from and against any claims, suits, causes of action, costs, damages, loss and fees, including reasonable attorneys’ fees and costs, arising out of or in connection with (i) any clean-up work, inquiry or enforcement proceeding relating to Hazardous Materials currently or hereafter used, stored, disposed of or released by Lessee or its agents, employees, contractors, sub-Lessees
or invitees on or about the Land, and (ii) the use, storage, disposal or release by Lessee or its agents, employees, contractors, sub-lessees or invitees of any Hazardous Materials on or about the Land.

(e) Notwithstanding any other right of entry granted to Lessor under this Lease, Lessor shall have the right to enter the Land or to have consultants enter the Land throughout the Term at reasonable times for the purpose of determining: (1) whether the Land are in conformity with federal, state and local statutes, regulations, ordinances and policies, including those pertaining to the environmental condition of the Land; (2) whether Lessee has complied with this Section 8; and (3) the corrective measures, if any, required of Lessee to ensure the safe use, storage and disposal of Hazardous Materials. Lessee agrees to provide access and reasonable assistance for such inspections. Such inspections may include, but are not limited to, entering the Land with machinery for the purpose of obtaining laboratory samples. Lessor shall not be limited in the number of such inspections during the Term. If, during such inspections, it is found that Lessee’s use, storage, disposal or release of Hazardous Materials constitutes a violation of this Lease, in addition to any other remedies available to Lessor by reason of such violation, Lessee shall reimburse Lessor for the reasonable cost of such inspections within 10 days of receipt of a written statement therefor. If such consultants determine that the Land are contaminated with Hazardous Materials or in violation of any applicable environmental law by reason of the use, storage, disposal or release of such by Lessee or its agents, employees, contractors or invitees, Lessee shall, in a timely manner, at its expense, remove such Hazardous Materials or otherwise comply with the recommendations of such consultants to the reasonable satisfaction of Lessor and any applicable governmental agencies. If Lessee fails to do so, Lessor, at its sole discretion, may, in addition to all other remedies available to Lessor under this Lease and at law and in equity, cause the violation and/or contamination to be remedied at Lessee’s sole cost and expense. The right granted to Lessor herein to inspect the Land shall not create a duty on Lessor’s part to inspect the Land, or liability of Lessor for Lessee’s use, storage or disposal of Hazardous Materials, it being understood that Lessee shall be solely responsible for all liability in connection therewith.

(f) Lessee shall surrender the Land to Lessor upon the expiration or earlier termination of this Lease free of Hazardous Materials used, stored, disposed of or released on or from the Land by Lessee or its agents, employees, contractors, sub-lessees or invitees and in a condition which complies with all governmental statutes, ordinances, regulations and policies, recommendations of consultants hired by Lessor, and such other reasonable requirements as may be imposed by Lessor.

(g) Lessee’s obligations under this Section 8 and all indemnification obligations of Lessee under this Lease shall survive the expiration or earlier termination of this Lease.

9. Notice. Any notice under this Lease shall be in writing and be delivered in person or by public or private courier service (including US Postal Service Express Mail and Federal Express) or registered or certified mail or by facsimile. Any notice given by registered or certified mail shall be sent with return receipt requested. Any notice given by facsimile shall be verified by a facsimile confirmation. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing.
Either party hereto may, by proper notice to the other, designate any other address for the giving of notice. Any notice shall be deemed to have been given on (a) actual delivery or refusal, (b) the day of mailing by registered or certified mail, or (c) the day facsimile delivery is verified.

10. Default.

10.1 Lessee Events of Default. In addition to any other default provision contained in this Lease, the occurrence of any of the following events shall constitute an Event of Default on the part of the Lessee:

(a) Failure to pay any monies due and payable hereunder within (5) days of the due date.

(b) Default in the performance of any of Lessee's covenants, agreements or obligations hereunder;

(c) (i) The making by Lessee of any general assignment or general arrangement for the benefit of creditors; (ii) the filing by or against Lessee of a petition to have Lessee adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of
substantially all of Lessee’s assets located on the Land or of Lessee’s interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution, or other judicial seizure of substantially all of Lessee’s assets located at the Land or of Lessee’s interest in this Lease, where such seizure is not discharged within 30 days.

10.2 Lessee’s Right to Cure. Except for Section 10.1(a), Lessee shall have a period of thirty (30) days from the date of receipt of written notice from Lessor to Lessee within which to cure any default hereunder.

10.3 Lessor’s Re-entry Upon Default. Upon any uncured default of this Lease by Lessee, Lessor, besides all other rights or remedies it may have, at its sole option, may enter the Land, in compliance with applicable law, and expel, remove or put out Lessee or any other persons who may terminate this Lease. Upon re-entry for uncured default, Lessor may plant, cultivate, harvest or otherwise utilize the Land at Lessor’s sole discretion. However, Lessee remains liable for any deficiency payable or due to Lessor at the time of default. In the case of any default, all delinquent expenses as Lessor may incur for attorneys’ fees, expenses, and/or putting the Land in good order and repair shall be immediately due and payable by Lessee. Lessor may undertake repairs in an emergency or to prevent further damage to the Land without delivery of notice. In addition, Lessor shall have all rights and remedies available at law and in equity for any default under this Lease.

11. Vacating the Land. Lessee specifically agrees to vacate the Land and return the possession of the same, in the condition required herein, to Lessor, on or before termination of this Lease. On or before the expiration of Term, Lessee shall remove all equipment and personal property on the Land. If Lessee fails to remove any equipment and personal property, the same shall be deemed abandoned and Lessor will be reimbursed for the cost of removal.

12. Damage by Fire or Other Casualty. Lessor will not carry insurance of any kind on equipment owned by Lessee, and Lessor shall not be obligated to repair any damage thereto or replace the same.

13. Condemnation. If any material portion of the Land is taken by eminent domain or action in lieu thereof, this Lease shall expire on the date when the Land shall be so taken and possession thereof delivered over to the condemning authority and any condemnation proceeds shall first be used to pay off any and all encumbrances on the Land with any remaining proceeds to be payable to Lessor.

14. Animals. Lessee promises not to keep or have any animals on or about the Land without the prior written consent of Lessor, in Lessor’s absolute discretion.

15. Liens. Lessee shall indemnify and hold Lessor Harmless from and against any liens filed against the Property which liens are attributable to Lessee’s use or occupancy. Further, Lessee shall indemnify and hold Lessor harmless from and against any actions brought to
endorse any such liens and for any attorneys' fees, costs, judgment, appeals or any other expenses incurred by Lessor relevant to the defense of any such liens or actions.

16. **Signs.** Upon Lessor's written approval of Lessee's written request and description, which approval may be withheld at the sole and absolute discretion of the Lessor, Lessee may display or erect signs or other such display on the Land.

17. **No Waiver.** A waiver of any breach or default under this Lease shall not be construed to be a waiver of any succeeding breach or default.

18. **Written Modifications.** No modification, release, discharge, or waiver of any provisions hereof shall be of any force, effect or value unless in writing signed by Lessor or Lessor's duly authorized agent or attorney.

19. **No Partnership.** It is expressly understood and acknowledged that Lessor does not, in any way or for any purpose, become a partner of Lessee in the conduct of its business, or otherwise, or a joint venture or a member of a joint enterprise with Lessee, and that the relationship of Lessor and Lessee hereunder is strictly that of landlord and tenant.

20. **Successors.** This Lease and all terms and conditions hereof shall be binding upon and shall inure to the benefit of all authorized heirs, successors in interest or assignees of either party hereto.

21. **Time of Essence.** Time is hereby expressly declared to be of the essence of each and every covenant, term, condition and provision of this Lease.

22. **Governing Law.** This Lease shall be governed by, construed, and enforced in accordance with the laws of the state of Arizona, and venue for any action relating to this Lease shall be Pima County, Arizona.

23. **Additional Acts.** The parties hereto agree to execute and deliver any documents or instruments and to take any and all actions reasonably necessary to carry out any agreement, term or condition of this Lease, whenever the occasion may arise and request for such action shall be made.

24. **Attorney's Fees.** If any party brings an action to enforce the terms hereof or to declare rights hereunder, the prevailing Party in any such action, on trial and appeal, shall be entitled to recover reasonable attorney’s fees and costs from the non-prevailing party.

25. **Entire Agreement.** This Lease and its Exhibits represent all the transactions contemplated by the parties hereto. It is understood and agreed by the parties that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Land between them other than as set forth in this Lease.
27. Sublease and Assignment. Lessee may only sublease the Land or assign this Lease with the prior written consent of Lessor, which consent may be withheld for any reason or no reason.

28. Captions. The Captions inserted in this Lease are for convenience only and do not define, limit or otherwise describe the scope or intent of this Lease or any provision hereof nor affect the interpretation of this Lease.

29. Other Obligations. Lessee shall follow and comply with all applicable rules and regulations of the University and the reasonable instructions of University of Arizona personnel. Lessor reserves the right to require the removal of any worker it deems unsatisfactory for any reason.

30. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (except for financial ability), shall excuse the performance, except for the payment of money, by such party for a period equal to any such prevention, delay or stoppage.

31. Non-Use of Names and Trademarks. No party to this Lease shall, without express written consent in each case, use any name, trade name, trademark, or other designation of any other party hereto (including contraction, abbreviation, or simulation) in advertising, publicity, promotional, or similar activities or context.

32. Non-Discrimination. The parties shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non-Discrimination, and Immigration.

33. Appropriation of Funds. The Parties recognize that performance by University depends upon appropriation of funds by the State Legislature of Arizona. If the Legislature fails to appropriate the necessary funds, or if the University’s appropriation is reduced during the fiscal year, ABOR may reduce the scope of this Agreement if appropriate or cancel this Agreement without further duty or obligation. University agrees to notify Company as soon as reasonably possible after ABOR knows of the loss of funds.

34. Conflict of Interest. This Agreement is subject to the provisions of A.R.S. §38-511. The University may cancel this Agreement if any person significantly involved in negotiating, drafting, securing or obtaining this Agreement for or on behalf of the ABOR becomes an employee in any capacity of any other party or a consultant to any other party with reference to the subject matter of this Agreement while the Agreement or any extension thereof is in effect.
LESSOR: Arizona Board of Regents for and on behalf of the University of Arizona

By: ______________________________________

Bruce M. Vaughan
Director, Real Estate Planning, Design & Construction

Date: ____________________________

LESSEE:

By: ________________________________

Title: ______________________________

Date: ______________________________
EXHIBIT A-1
The Property
Maricopa Agricultural Center
EXHIBIT A-2
The Land
EXHIBIT B
Methods and Materials & List of Chemicals