

**LEASE AGREEMENT**

THIS LEASE AGREEMENT ("Lease") is made by Thomas Bros. Grass, LLC, a Texas limited liability company, P.O. Box 2337, Granbury, Texas 76048, ("Lessor") and Buy Sod USA LLC, a North Carolina limited liability company, 130 Applecross Road, Pinehurst, North Carolina 28374, ("Lessee").

**Article 1.**

**Premises, Term and Use**

1. Leased Property. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, in consideration of the rents to be paid and the covenants and agreements to be performed and observed by Lessee, the real property described on Exhibit A-1 ("Maples Corner") and Exhibit A-2 ("Ashland City") attached hereto (Maples Corner and Ashland City, collectively, the "Premises") as well as all personal property described on Exhibit B-1 and Exhibit B-2 attached hereto (collectively, the "Personal Property") (the Premises and the Personal Property, collectively, the "Property").

2. Term. The initial term of this Lease (the "Term") shall be five (5) years commencing on September 21, 2016 (being the Closing Date as defined in the Asset Purchase Agreement among Thomas Bros. Grass, LLC and Buy Sod USA LLC dated as of September 23, 2016 (the "Asset Purchase Agreement")) (the "Commencement Date") and ending on September 30, 2021, unless extended or sooner terminated as provided herein. Provided that Lessee is not then in default hereunder, Lessee may extend the Term of this Lease for an additional period of five (5) years (the "First Extension") by delivering written notice of such extension to Lessor at least sixty (60) days, but not more than ninety (90) days, prior to the expiration of Term (as the same may be extended). If Lessee has exercised the First Extension, and provided that Lessee is not then in default hereunder, Lessee may further extend the Term of this Lease for an additional period of five (5) years (the "Second Extension") by delivering written notice of such extension to Lessor at least sixty (60) days, but not more than ninety (90) days, prior to the expiration of Term (as extended by the First Extension). Any extension shall be on the same terms as set forth herein, including the rent increase as set forth in Article 2 below. After exercising the Second Extension, Lessee shall have no further right to extend the Term of this Lease.

3. Permitted Use. The Premises shall be used for agriculture production and ancillary practices.

4. Early Occupancy. If Lessee shall occupy the Premises prior to the beginning of the Term of this Lease, with or without Lessor's consent, all of the provisions of this Lease shall be in full force and effect commencing on the date of such occupancy, and such occupancy shall be on the basis of a tenancy at will until the beginning of the Term hereof, and Lessee shall pay for any partial month on a per diem basis (calculated on the basis of a thirty day month) from the date of commencement or occupancy, whichever is earlier, to the last day of such month at the rate stated in Section 1 of Article 2 and thereafter at the monthly rate.

**Article 2.**

**Rent**

1. Minimum Rent. During the Term of this Lease, Lessee covenants and agrees to pay Lessor a fixed rent in the amounts hereinafter set forth with the first payment due on the Commencement Date, and each subsequent payment due on the first calendar day of each calendar month thereafter; provided, however, that the rental amount shall be prorated for any partial calendar month.

<u>Farm</u>	<u>Period</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
Maples Corner	Commencement Date-	\$2,600.00	\$216.67



	September 30, 2021		
Maples Corner	October 1, 2021- September 30, 2026	\$2,925.00	\$243.75
Maples Corner	October 1, 2026- September 30, 2031	\$3,250.00	\$270.83
Ashland City	Commencement Date- September 30, 2021	\$21,400.00	\$1,783.33
Ashland City	October 1, 2021- September 30, 2026	\$24,075.00	\$2,006.25
Ashland City	October 1, 2026- September 30, 2031	\$26,750.00	\$2,219.17

2. Prompt Payment Without Demand. Time is of the essence of this Lease and Lessee shall pay the rent herein reserved at the time so specified.

3. Service Charge; Default Interest. If any installment of rent or other sums due from Lessee hereunder is not paid on or before the tenth (10th) day after same become due, there shall be a late fee and service charge assessed against Lessee, without waiver of any rights of Lessor to declare a default hereunder, equal to ten percent (10%) of such amount due, which charge will be payable immediately by Lessee as further additional rent. Additionally, if any installment of rent or other sums due from Lessee hereunder is not paid on or before the thirtieth (30th) day after same becomes due, interest at the rate of the lesser of (i) ten percent (10%) per annum or (ii) the highest lawful rate per applicable law shall accrue on such past due amount until paid, which interest shall be payable immediately by Lessee as further additional rent.

**Article 3.  
Taxes and Insurance**

1. Real Estate Taxes. Lessor shall pay all real estate taxes and assessments (collectively, "Real Estate Taxes") imposed upon the Premises and buildings thereon before same become delinquent and shall provide Lessee with written evidence of payment. Any penalties and interest that might accrue as a result of not paying such taxes when due shall be borne by Lessor.

2. Personal Property Taxes. Lessee shall pay and be liable for all taxes levied against personal property and trade fixtures placed by Lessee on the Premises and for any Real Estate Taxes assessed as a result of Lessee's improvements, alterations or installations. Lessee's obligations under this paragraph shall survive the termination of this Lease.

3. Payment of Taxes or Insurance by Lessee. The amount of insurance premiums due from Lessee to Lessor hereunder, if any, shall be treated as rent for all purposes of this Lease and shall be payable by Lessee to Lessor within thirty (30) calendar days after Lessor bills Lessee for such amounts.

4. Liability and All Risk Insurance. Lessee, at Lessee's expense, shall procure and maintain throughout the Term of this Lease general commercial liability insurance covering the Premises, and the use and occupancy of same by a company or companies reasonably acceptable to Lessor and licensed to do business in Tennessee under a policy satisfactory in form to Lessor, naming Lessor as an additional insured, with not less than a \$1,000,000.00 combined single limit. In addition, Lessee, at Lessee's expense, shall procure and maintain throughout the Term of this Lease fire and extended coverage insurance covering the buildings on the Premises. The policies required above shall contain the provision that they may not be canceled without first giving Lessor not less than fifteen (15) days prior written

notice. Duplicate policies or certificates of all such insurance shall be delivered to Lessor not less than five (5) days prior to each effective date. Lessee shall provide written evidence of the procurement and maintenance of such insurance, including insurance certificates, to Lessor prior to the effective date of this Lease and thereafter on an annual basis or otherwise upon request from Lessor. Lessee's obligations under this paragraph shall survive the termination of this Lease.

5. Personal Property Insurance. It shall be Lessee's sole responsibility to insure and keep insured, at Lessee's expense, all personal property which is owned by Lessee, or any other authorized occupant of the Premises, and which is placed or stored in the Premises; and it is agreed that Lessor shall have no responsibility to effect such insurance.

#### **Article 4. Uses Prohibited**

The Premises and all buildings and improvements thereon shall, during the Term of this Lease, be used only and exclusively for the purposes set forth in Section 3 of Article 1 and no part of the Premises or improvements thereon shall be used in any manner whatsoever for any purposes in violation of the laws, ordinances, regulations or orders of the United States, or of the State, County and/or City where the Premises are located, or of any duly constituted subdivision, department or board thereof.

#### **Article 5. Condition and Care of Premises**

1. AS IS Condition of Premises. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE OR IN ANY EXHIBIT ATTACHED HERETO, IT IS UNDERSTOOD AND AGREED THAT THE PREMISES ARE BEING LEASED UNDER THIS LEASE "AS IS, WHERE IS, WITH ANY AND ALL FAULTS" AND LATENT AND PATENT DEFECTS WITHOUT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY BY LESSOR. LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE AND HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES, THEIR CONDITION (INCLUDING WITHOUT LIMITATION ANY REPRESENTATION OR WARRANTY REGARDING QUALITY OF CONSTRUCTION, STATE OF REPAIR, WORKMANSHIP, MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE), THEIR COMPLIANCE WITH ENVIRONMENTAL LAWS OR OTHER LAWS, OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE PREMISES. LESSEE ACKNOWLEDGES AND AGREES THAT LESSEE ACCEPTS THE PREMISES WITHOUT RELYING UPON ANY SUCH REPRESENTATION, WARRANTY, STATEMENT OR OTHER ASSERTION, ORAL OR WRITTEN, MADE BY LESSOR OR ANY REPRESENTATIVE OF LESSOR OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT FOR OR ON BEHALF OF LESSOR WITH RESPECT TO THE PREMISES BUT RATHER IS RELYING UPON ITS OWN EXAMINATION AND INSPECTION OF THE PREMISES.

2. Lessee's Obligations. Lessee, at its own expense, shall keep the Premises in a manner appropriate for the permitted use set forth in Section 3 of Article 1, and shall not commit, or permit others to commit any waste, damage, or injury to the Premises.

#### **Article 6. Maintenance, Repairs and Alterations**

1. Obligations of Lessee. Lessee shall repair and maintain the Premises, including any

improvements inside and out, in good order, condition, and repair. Lessee shall repair and maintain in good order and condition and replace when necessary the roof and structural portions of the improvements located within the Premises, if any, including, but not limited to, load-bearing walls, foundation and roof.

2. Alterations and Additions. Lessee shall not make any alterations or additions to the Premises, other than in the ordinary course of the permitted use set forth in Section 3 of Article 1, without Lessor's prior written consent. Lessor shall not be liable for the cost of any alterations or additions, all of which are hereinafter referred to in this paragraph as "alterations" made by Lessee, and Lessee shall indemnify and save Lessor harmless on account of claims for mechanics', materialmen's or other liens in connection with any alterations made by Lessee, and any such liens shall exist only against Lessee's leasehold interest, and not against Lessor's interest, whether in fee or otherwise. Upon Lessor's request, Lessee shall provide Lessor a waiver of lien from any contractor performing work to the Premises. All alterations made by Lessee shall be in full compliance with all applicable building laws, ordinances and regulations. Except for Lessee's trade fixtures, all alterations that may be made by either of the parties shall inure to Lessor's benefit and shall become a part of the Premises and shall belong to Lessor absolutely as soon as made.

#### **Article 7. Indemnification of Lessor.**

1. By Lessee. Lessor shall not be liable for any loss, damage or injury to person or property occurring, regardless of cause, in or about the Premises, and Lessee shall indemnify and hold Lessor harmless from any and all such injuries and damages, and shall defend any claims or legal action arising therefrom, and pay all judgments resulting therefrom and shall reimburse Lessor for all costs and expenses, including attorney's fees, paid or incurred by Lessor as a result thereof, in each case except to the extent arising from or related to the gross negligence or willful misconduct of, or breach of this Lease by, Lessor, its affiliates or their respective employees, agents, invitees, licensees, servants and representatives. Without in any way limiting the general language of the sentence immediately preceding, Lessor shall not be liable for loss of or damage to any property at any time located in or about the Premises, whether or not Lessee is the owner thereof, including but not limited to, any loss, damage or input resulting from steam, gas or electricity, or from water, rain, snow, ice or other substance which may leak into, or issue or flow from any part of the Premises or from the pipes or plumbing work of the Premises, or from or into any other place or quarter. Lessor shall be under no liability to Lessee on account of any discontinuance of heat, electricity, sewer, water, air conditioning, sprinkler, gas and/or other utility, convenience service or facility, however such discontinuance may be caused, and shall be under no obligation to see that such discontinuance is rectified, and no such discontinuance shall constitute constructive eviction or any ground for termination of this Lease by Lessee, in each case except to the extent arising from or related to the gross negligence or willful misconduct of, or breach of this Lease by, Lessor, its affiliates or their respective employees, agents, invitees, licensees, servants and representatives. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL LESSEE BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.

2. By Lessor. Lessor shall indemnify and hold Lessee harmless from any and all loss, damage or injury to person or property occurring in or about the Premises, and shall defend any claims or legal action arising therefrom, and pay all judgments resulting therefrom and shall reimburse Lessee for all reasonable costs and expenses, including reasonable attorney's fees, paid or incurred by Lessor as a result thereof, to the extent arising from or related to the gross negligence or willful misconduct of, or breach of this Lease by, Lessor, its affiliates or their respective employees, agents, invitees, licensees, servants and representatives. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL LESSOR BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.

3. Survival. The terms and provisions of this Article 7 shall survive the termination of this Lease.

**Article 8.**

**Damage or Destruction by Fire of Other Casualty**

If at any time the Premises become totally unleaseable by reason of damage or loss by fire or other casualty and such fire or other casualty shall not have been caused by the negligence or violation of this Lease by Lessee, Lessee's servants, agents, licensees, or invitees, the rent shall abate until the Premises shall have been restored to leaseable condition, but nothing hereto is to be construed as requiring Lessor to restore or rebuild the Premises. If the Premises are so damaged, but not to the extent that they are reasonably unleaseable, Lessee shall continue to occupy same, or leaseable portion thereof, and the rent shall abate proportionately in the ratio that the portion unusable for the purposes permitted herein bears to the entire Premises. In the event of a loss from fire or other casualty, Lessor shall have the election not to rebuild or recondition the Premises, which such election may be exercised by written notice thereof to Lessee, given within thirty (30) days from date of said loss. If Lessor exercises such election, this Lease shall cease and terminate, effective on the date of such loss, and Lessee shall pay the accrued rent up to the date of such loss, or Lessor, if the rent has been paid beyond such date, will refund to Lessee the proportionate part of any such rent prepaid, and thereupon this Lease shall become null and void, without further obligations on the part of either party hereto, even though the Premises may at a later date be rebuilt, restored or reconditioned. No damage or destruction shall allow Lessee to surrender possession of the Premises, nor affect Lessee's liability for the payment of rent, except as may be specifically provided in this Lease.

**Article 9.**

**Lessor's Right to Enter Premises**

Upon at least twenty-four (24) hours' prior written notice, Lessee shall permit Lessor and/or Lessor's agents or employees to enter the Premises at all reasonable hours to examine the Premises or to show the Premises to persons wishing to rent or purchase the same, or to make repairs, alterations, or other work, thereto, taking any space needed therefore, and no compensation shall be asked or claim made by Lessee by reason of any inconvenience or annoyance arising from anything that may be done in repairing, altering, working on or protecting the Premises or improvements thereon, however, the necessity may arise, but this paragraph shall not be construed as imposing any duty on Lessor to make any repairs, alterations or additions. Lessee shall also permit Lessor and/or Lessor's agents, but only during the six months preceding the expiration of this Lease, to place upon the window, walls or doors of the Premises "FOR SALE" and/or "FOR RENT" signs, and allow the same to remain there without molestation and without any claim being made by Lessee for compensation on account thereof.

**Article 11.**

**Utilities and Services**

Lessee shall pay for all gas, electricity, heat and sewer charges, and all other utilities used on or about the Premises.

**Article 12.**

**No Assignment or Subletting & Removal of Fixtures**

Neither Lessee nor any court or officer thereof, nor any receiver or trustee in bankruptcy shall assign or transfer this Lease or any part thereof, nor shall the Premises be sublet in whole or in part, without Lessor's prior written consent; provided, however, so long as Lessee is not then in default hereunder and

such proposed assignee expressly assumes all obligations of the "Lessee" hereunder and Lessor is given a copy of such assignment and assumption document and such other information about the proposed assignee as Lessor may request at least ten (10) days prior to the effective date of such assignment, Lessee shall have the right to assign this Lease (a) to any purchaser of its business assets related to the Property or (b) to wholly-owned subsidiary or affiliate of Lessee. Upon any such assignment, the original Lessee hereunder shall not be released but shall remain jointly and severally liable, with the assignee, for all obligations of the "Lessee" under this Lease. Further, provided Lessee is not in default hereunder, Lessee shall have the right, on or before the termination of this Lease, to remove any trade fixtures that were purchased and provided by Lessee, and which are susceptible of being removed without damage to the building or the Premises, provided Lessee exercises such right before this Lease is terminated, and provided Lessee furnishes Lessor in advance adequate security reasonably satisfactory to Lessor that the building and Premises will be restored to their original condition at Lessee's expense immediately after such removal. This right of removal shall not include any right to remove any heating, air conditioning, plumbing, wiring, linoleum or carpeting, and shall not, as a matter of course, include any fixtures that were furnished or paid for by Lessor. Any such items remaining on the Premises or in the building after such date of termination shall, at Lessor's option, be deemed the property of Lessor for such disposition as Lessor sees fit or Lessor may require Lessee to remove all of Lessee's property. Lessor may freely assign (whether directly or indirectly, by operation of law or otherwise) this Lease or any obligations hereunder without the prior written consent of Lessee, and upon any such assignment Lessor shall be unconditionally released from any further obligations hereunder. Notwithstanding any provision of this Lease, Lessee shall be entitled to remove all irrigation and other farming equipment from the Premises prior to the expiration or termination of the Term of this Lease.

**Article 13.**  
**Attorneys' Fees**

In the event it becomes necessary for either party to file a suit to enforce this Lease or any provisions contained herein, the prevailing party shall be entitled to recover, in addition to all other remedies or damages permitted herein, reasonable attorneys' fees and costs of court incurred in such suit.

**Article 14.**  
**Return of Property**

At the end of the Term of this Lease, Lessee agrees to return the Property in same condition as the Property were in at the beginning of the lease, normal wear and tear excepted, subject to the harvest of crops in the ordinary course of Lessee's business.

**Article 15.**  
**Waiver Provision**

The failure of Lessor to insist on strict performance of any of the terms, conditions and covenants herein shall not be deemed to be a waiver of any rights or remedies that Lessor may have and shall not be deemed a waiver of any subsequent breach in the terms, conditions and covenants herein contained except as may be expressly waived. The failure of Lessee to insist on strict performance of any of the terms, conditions and covenants herein shall not be deemed to be a waiver of any rights or remedies that Lessee may have and shall not be deemed a waiver of any subsequent breach in the terms, conditions and covenants herein contained except as may be expressly waived.

**Article 16.**  
**Default Provisions**

1. Default by Lessee. If (i) Lessee fails to pay any payment of the rent due hereunder and such failure continues for a period of ten (10) days after written notice thereof from Lessor, (ii) the Premises become deserted or stands vacant or is used for a purpose other than that stated in Article 1, and such condition is not cured within thirty (30) days after written notice thereof from Lessor, (iii) Lessee fails to comply with any other covenant, agreement, obligation or condition of this Lease and fails to cure such noncompliance within ninety (90) days after written notice thereof from Lessor (or if such noncompliance shall be of such a nature that it cannot be cured completely within such ninety (90) day period, and Lessee has not commenced within such ninety (90) day period thereafter proceeded with reasonable diligence and good faith to remedy such noncompliance), (iv) Lessee files a voluntary petition in bankruptcy, reorganization or receivership, becomes insolvent, is adjudicated bankrupt, or makes an assignment for the benefit of creditors, or if any involuntary petition in bankruptcy, reorganization or receivership is filed against Lessee and not dismissed within one hundred eighty (180) days, any such event shall, at Lessor's option, constitute a default of Lessee hereunder, and Lessor, at Lessor's option and upon written notice to Lessee, may at any time declare this Lease terminated and this Lease shall expire as fully and completely as if that day were the date herein originally fixed for the expiration of the Term of this Lease, and Lessee shall quit and surrender the Premises to Lessor, but Lessee shall nevertheless continue to remain liable hereunder. Lessor may at any time thereafter re-enter the Premises and remove all persons and property therefrom by any suitable action or proceeding at law or in equity, without being liable for any prosecution thereof or any damages arising therefrom and repossess and enjoy the Premises. Such re-entry shall not relieve Lessee of the obligation to make the rental payments required by this Lease at the time and in the manner provided herein. Upon such re-entry Lessor may, but shall not be required to, repair, alter, remodel and/or change the character of the Premises as Lessor may see fit and/or at any time relet the Premises in whole or in part for any period of time that Lessor elects, whether longer or shorter than the unexpired portion of the Term of this Lease, as agent of Lessee, or otherwise, in the name of Lessor or of Lessee, as Lessor shall see fit, and Lessor may receive the rents thereof, applying the same first to the payment of such reasonable expenses as Lessor may have incurred in entering, dispossessing, reletting, repairing or altering the Premises, and then to the fulfillment of the covenants of Lessee therein, including but not limited to the rental payments required hereunder, retaining any balances until the date the Term of this Lease would otherwise have expired as security for the payment of all obligations of Lessee which may arise and be unpaid during such period. In attempting to relet the Premises, Lessor shall be the sole judge as to whether or not a proposed Lessee is suitable and acceptable. Lessor shall not, by receiving partial payments of rents in arrears, be deemed to have waived any rights herein for nonpayment of rent or for any other default on the part of Lessee.

2. Default by Lessor. If Lessor fails to comply with any other covenant, agreement, obligation or condition of this Lease and fails to cure such noncompliance within ninety (90) days after written notice thereof from Lessee (or if such noncompliance shall be of such a nature that it cannot be cured completely within such ninety (90) day period, and Lessor has not commenced within such ninety (90) day period thereafter proceeded with reasonable diligence and good faith to remedy such noncompliance), such event shall, at Lessee's option, constitute a default of Lessor hereunder and Lessee, at Lessee's option and upon written notice to Lessor, may at any time prosecute an action, at Lessor's sole cost, to require Lessor to satisfy its obligations hereunder or declare this Lease terminated and this Lease shall expire as fully and completely as if that day were the date herein originally fixed for the expiration of the Term of this Lease, but Lessor shall nevertheless continue to remain liable hereunder.

#### **Article 17. Notice Requirements**

All notices , requests , consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt), (b) when received by the addressee if sent by a nationally recognized overnight courier

(confirmation requested) or (c) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses hereinabove set forth (or at such other address for a party as shall be specified in a notice given pursuant to this Article 17).

**Article 18.  
Surrender**

Lessee, and Lessee's assignees and/or sub-lessees, if any, shall surrender the Premises to Lessor at the expiration of the Term hereof, or any extension hereof, or upon termination of this Lease by virtue of Lessee's default and as otherwise set forth in this Lease. If Lessee shall default in so surrendering the Premises, then Lessee's occupancy subsequent to such expiration shall be deemed to be that of a lessee at will, and in no event from month to month, or from year to year, subject to all of the terms, covenants and conditions of this Lease applicable thereto, and no extension or renewal of this Lease shall be deemed to have occurred be such holding over.

**Article 19.  
Condemnation**

Condemnation. In the event that during the Term of this Lease or any extension or renewal thereof either the entire Premises, or such substantial thereof as to render the remaining Premises unleaseable, as acquired by governmental or quasi-governmental authority by exercise of the power of eminent domain, this Lease shall terminate at the time possession must be surrendered to such authority for all purposes, and prepaid or unpaid rent shall be adjusted between the parties as of such date. In the event that only such portion of the Premises is acquired by such authority by the exercise of such power as will leave the remaining Premises in a condition suitable for use by Lessee in its business, the monthly rental payments from the date of such acquisition to the end of the original or any extended Term hereof shall be reduced in proportion to the resulting loss of use of said Premises by Lessee. In the event such partial acquisition and reduction in rent, Lessor agrees to make promptly, at Lessor's expense, all necessary alterations and repairs which shall be required because of such partial acquisition by eminent domain, to restore the Premises to a safe and leaseable condition, but only to the extent of proceeds of condemnation made available to Lessor. Lessee shall have no claim against Lessor or the condemning authority for any acquisition of the leasehold interest, provided that nothing herein contained shall in any way prejudice or interfere with any claim which Lessee may have against the authority exercising the power of eminent domain for damages or otherwise for destruction of or interference with the business of Lessee in the Premises so long as such claim does not diminish Lessor's claim. For purposes of this section, acquisition of all or a part of the Premises by governmental or quasi-governmental authority by means of voluntary negotiations and contract shall be deemed to be acquisition by exercise of the power of eminent domain.

**Article 20.  
Waiver of Subrogation**

Each of the parties hereto waives any and all rights of recovery against the other or against the officers, shareholders, directors, managers, members, employees, agents, representatives of such other party for loss of or damage to such waiving party or its property or the property of others under its control, arising from any cause insured against under the standard form of fire insurance policy with all permissible extension endorsements covering additional perils or under any other policy of insurance carried by such waiving party in lieu thereof, provided said waiver does not adversely affect such insurance.

**Article 21.  
Lease Subordination**

Lessee agrees that Lessee's interest in the Premises shall be and remain subject and subordinate to the lien of any existing mortgage, deed of trust, security instrument, or other lien applicable to the Premises, the property of which the Premises are a part and/or its contents, and any extensions or renewals thereof, and to all advances made or hereafter to be made on the security thereof, irrespective of the date of execution or recordation, and upon request of Lessor, Lessee will enter into a written agreement subordinating the lease to the lien of any such mortgage conditioned upon the receipt by Lessee from such mortgagee of a commercially reasonable nondisturbance agreement in recordable form.

**Article 22.  
Attornment**

If, by reason of any default by Lessor as mortgagor or grantor under any present and/or future mortgage, deed of trust, security instrument, or other lien, Lessor's equitable title or fee simple title is terminated through foreclosure or trustee sale or otherwise at the instance of the holder of such mortgage, deed of trust, security instrument, or other lien, Lessee hereby agrees to attorn to the purchaser at the foreclosure or trustee sale and will recognize such purchaser as Lessor under this Lease.

**Article 23.  
Estoppel Certificate**

Lessee agrees, within seven (7) days after written request by Lessor, to execute, acknowledge and deliver to and in favor of any proposed mortgagee or purchaser of the Premises, an estoppel certificate, in the form customarily used by such proposed mortgagee or purchaser, stating, among other things (a) whether this Lease is in full force and effect, (b) whether this Lease has been modified or amended and, if so, identifying and describing any such modification or amendment, (c) the date to which rent and other charges have been paid, and (d) whether the party furnishing such certificate knows of any default on the part of Lessor or has any claim against such Lessor and, if so, specifying the nature of such default or claim.

**Article 24.  
Miscellaneous**

1. Gender. Whenever Lessor and Lessee are herein referred to, such reference shall be construed as applying to their respective successors in interest, and in the singular or plural number, and in the masculine, feminine or neuter gender, whichever is properly applicable.
2. Captions. The captions of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.
3. Entire Agreement. This Lease, together with that certain Asset Purchase Agreement of even or approximate date herewith, contains all of the agreements between the parties hereto with respect to the subject matter hereof and may not be modified in any manner unless by agreement in writing signed by all parties hereto or their successors in interest.
4. Successors. This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
5. Amendment. This Lease may only be amended, modified or supplemented by an agreement in writing signed by each party hereto.

6. Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Lease delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Lease.
7. Memorandum of Lease. This Lease shall be recorded in the real property records of Rutherford County, Tennessee by a memorandum of lease (the "Memorandum") in form and substance set forth on Exhibit C. The Memorandum will be signed concurrently with the execution of this Agreement and shall be immediately recorded by Lessee at its cost.
8. Limitation on Lessor Liability. Notwithstanding anything to the contrary contained in this Lease, the liability of Lessor (and of any successor Lessor) to Lessee (or any person or entity claiming by, through or under Lessee) shall be limited to the interest of Lessor in the Property. Lessee shall look solely to Lessor's interest in the Property for the recovery of any judgment or award against Lessor. Lessor shall not be personally liable for any judgment or deficiency. Lessee hereby waives all claims against all Lessor for consequential, special or punitive damages allegedly suffered by Lessee, including lost profits and business interruption.

**Article 25.**  
**Purchase Option**

1. Grant of Purchase Option. Lessor does hereby give and grant unto Lessee the exclusive right and option to purchase the Property pursuant to the terms and conditions of this Article 25 (the "Purchase Option") and for the duration of the initial 5-year Term of this Lease, expiring on September 30, 2021 (the "Option Period") unless sooner terminated as provided herein.
2. Exercise of Purchase Option. Lessee may, at any time and from time to time during the Option Period, so long as Lessee is not in default under this Lease, exercise the Option by written notice to Lessor unconditionally stating that it is exercising the Purchase Option to purchase the Property pursuant to this Article 25. Upon Lessee's exercise of the Purchase Option, Lessee shall be obligated to purchase the Property upon the Purchase Option Sale Terms (as defined below). Any such exercise shall be irrevocable. Lessee may only purchase the entire Property; it may not purchase a portion of the Property.
3. Failure to Close. If Lessee exercises the Purchase Option and then fails to timely consummate the purchase of the Property for any reason (other than Lessor's failure to perform its obligations hereunder), then both the Purchase Option and the ROFR (defined below) shall be deemed null and void and of no further force or effect and Lessee shall immediately reimburse Lessor for its costs and expenses, including reasonable attorneys' fees, incurred in connection with Lessee's exercise of the Purchase Option, which reimbursement obligation shall be considered additional rent under this Lease. If Lessee exercises the Purchase Option and then Lessor fails to consummate the purchase of the Property for any reason (other than Lessee's failure to perform its obligations hereunder), Lessee may, as its sole remedy for such failure, either rescind the exercise of its Purchase Option and obtain a refund of its earnest money payment, or enforce specific performance against Lessor within sixty (60) days of such failure. If Lessee does not commence an action for enforcement of specific performance within such 60 day period, Lessee shall have waived the right to specific performance. Time is of the essence with respect to the terms of this Article 25.
4. Purchase Option Sale Terms. The "Purchase Option Sale Terms" shall be as follows:

- a. Within ten (10) days after Lessee's exercise of the Purchase Option, Lessee shall deposit with Lessor a non-refundable earnest money payment equal to six percent (6%) of the gross Purchase Price for the Property. The earnest money deposit shall be applied to the Purchase Price at the Purchase Option Closing (defined below) or retained by Lessor in the event the Purchase Option Closing does not occur for any reason other than Lessor's default and failure to close.
- b. The closing of the purchase of the Property (the "Purchase Option Closing") shall occur on the thirtieth (30<sup>th</sup>) day after Lessee's exercise of the Purchase Option (or such earlier date as the parties may mutually agree upon). The Purchase Option Closing shall occur in the offices of a title company reasonably acceptable to both Lessor and Lessee (the "Title Company"), or in such other place that is mutually acceptable to Lessee and Lessor.
- c. The Purchase Price for the Property, as set forth in Section 5 below, shall be paid to Lessor in good funds at the Purchase Option Closing.
- d. At the Purchase Option Closing, Lessor shall take the following actions: (a) duly execute and deliver to Lessee a special warranty deed that conveys good and indefeasible title, in fee simple, free and clear of any liens, encumbrances, tenancies, covenants, conditions, and restrictions except (i) zoning and other applicable ordinances in effect as of the Lease Commencement Date, (ii) the lien for ad valorem property taxes for the year of Closing and prior years, and (iii) all matters encumbering or affecting any portion of the Property as of the Lease Commencement Date, (b) satisfy and discharge of record any and all mortgages, deeds of trust, and liens that encumber the Property, other than any liens caused by Lessee (and, in no event shall any mortgage, deed of trust or lien be considered to be a permitted exception to title hereunder, unless caused by Lessee), and (c) duly execute and deliver to the Title Company (i) an owner's affidavit, in customary and standard form acceptable to and for the benefit of the Title Company, and reasonably acceptable to Lessor, regarding contractors' and materialmen's liens on the Property and (ii) Form 1099 in the form promulgated by the Internal Revenue Service. At the Purchase Option Closing, each party will execute a customary closing settlement statement.
- e. All ad valorem taxes and assessments relating to the Property for the year of the Purchase Option Closing shall be prorated between Lessor and Lessee as of the Purchase Option Closing. Should any so called "rollback taxes" or other taxes or assessments for any prior years become due as a result of the change of ownership or change in land usage or for any other reason, Lessee shall have sole responsibility for such taxes or assessments, including any assessments or reimbursements relating to any tax increment financing district or similar program, and shall indemnify, defend and hold Lessor harmless from and against same.
- f. Any rent prepaid for the month in which the Purchase Option Closing occurs shall be refunded to Lessee as of the Purchase Option Closing, and any security deposit then held by Lessor shall be refunded to Lessee to the extent provided under, and in accordance with, the terms of this Lease.
- g. Lessor agrees to pay the cost of recording any releases of lien necessary to convey the Property in accordance herewith, except for any lien caused by Lessee (which Lessee shall pay). Lessee agrees to pay all closing costs customarily paid by a buyer of real property in the county where the Property is located. Lessor agrees to pay all closing costs customarily paid by a seller of real property in the county where the Property is located.

- h. Except as otherwise expressly provided in the special warranty deed, Lessor and Lessee acknowledge and agree that Lessor is not making and specifically disclaims any warranties or representations of any kind or character, express or implied, with respect to the Property, including, but not limited to, warranties or representations as to matters of title, zoning, tax consequences, physical or environmental conditions, availability of access, ingress or egress, operating history or projections, valuation, governmental approvals, governmental regulations or any other matter or thing relating to or affecting the Property including, without limitation: (a) the value, condition, merchantability, marketability, profitability, suitability or fitness for a particular use or purpose of the Property, (b) the manner or quality of any materials incorporated into any of the Property, (c) soil, drainage and other physical conditions of the Property and the suitability thereof for the purposes described in this Lease, and (d) the manner, quality, state of repair or lack of repair of the Property. Lessee agrees that with respect to the Property, Lessee has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of Lessor or any agent of Lessor. Lessee represents that it is a knowledgeable purchaser of real estate and that it is relying solely on its own expertise and that of Lessee's consultants, and that Lessee has conducted or will conduct such inspections and investigations of the Property, including, but not limited to, the physical and environmental conditions thereof, and shall rely upon same, and, upon closing shall assume the risk that adverse matters, including, but not limited to, adverse physical and environmental conditions, may not have been revealed by Lessee's inspections and investigations. Lessee acknowledges and agrees that upon the Purchase Option Closing, Lessor shall sell and convey to Lessee and Lessee shall accept the Property "As Is, Where Is, With All Faults," and there are no oral agreements, warranties or representations, collateral to or affecting the Property by Lessor, any agent of Lessor or any third party. The terms and conditions of this paragraph shall expressly survive the closing and not merge therein and shall be incorporated into the special warranty deed.
- i. Lessor shall have no obligation to pay a commission to any broker in connection with the closing of the sale of the Property.
5. Purchase Price. The purchase price for the purchase of the Property (the "Purchase Price") shall be as hereinafter set forth.

<u>Farm</u>	<u>Price</u>
Maples Corner	\$10,000.00/acre plus Costs
Ashland City	\$15,000.00/acre plus Costs

"Costs" means and includes all documented closing costs and interest carry costs incurred by Lessor in the purchase and ownership of the Property and on any loans therefor.

6. Cooperation. Lessor and Lessee agree to execute such other documents as may be reasonably necessary for the consummation of the Purchase Option Closing.

#### **Article 26. Right of First Refusal**

1. Grant of ROFR. Lessor does hereby give and grant unto Lessee a right of first refusal to purchase the Property pursuant to the terms and conditions of this Article 26 (the "ROFR") and for the duration of the Option Period (defined in Article 25 above) unless sooner terminated as provided herein. The ROFR shall not apply to (a) a transaction where Lessor (i) merges with, acquires or is acquired by another entity,

or (ii) sells all or any portion of the stock, membership interests, partnerships interests or other ownership interests of Lessor, or (iii) sells all or substantially all of the assets of Lessor, or (b) a transaction with related or affiliated persons or entities.

2. First Refusal Notice. If, during the Option Period, and provided that Lessee is not in default under this Lease, Lessor receives a bona fide offer from a third party (the "Offerer") to purchase (whether directly or indirectly, by operation of law or otherwise) all or any part of the Property that Lessor has determined, in its sole and absolute discretion, it intends to accept (the "Offer"), Lessor shall give written notice (the "First Refusal Notice") to Lessee specifying the price and terms of Offer including, without limitation, the description of the portion of the Property covered by the Offer (the "Offered Property"), the amount of earnest money to be deposited and conditions to its refundability, the terms and conditions of any inspection period, the timing and date of closing, the type of deed and/or bill of sale to be delivered, the exceptions to which the Offered Property will be subject, whether or not title insurance will be provided, the allocation of responsibility for closing costs and such other terms and conditions as may be pertinent (the "Offer Terms"). The First Refusal Notice shall constitute an offer by Lessor to sell its interest in the Offered Property to Lessee on the ROFR Sale Terms (defined below) and otherwise in accordance with this Article 26.

3. Exercise of ROFR. Lessee may, at any time and from time to time during the Option Period, upon receipt of a First Refusal Notice, so long as Lessee is not in default under this Lease, exercise the ROFR by written notice to Lessor unconditionally stating its intention to purchase the Offered Property pursuant to this Article 26. If it desires to exercise the ROFR, Lessee shall, within thirty (30) days after receiving the First Refusal Notice, give Lessor written notice stating unconditionally that it is exercising the ROFR in accordance with this Article 26 (the "Acceptance Notice"). Upon Lessee's exercise of the ROFR, Lessee shall be obligated to purchase the Offered Property upon the ROFR Sale Terms (as defined below). Any such exercise shall be irrevocable. If Lessee shall fail to give the Acceptance Notice within the time period provided, Lessee shall be deemed to have consented to the proposed sale, and Lessor may sell its interest in the Offered Property to the Offerer or to any other party upon substantially the same price and terms and conditions set forth in the First Refusal Notice for a period of twelve (12) months thereafter; provided, however, that during such period Lessor may only sell the Offered Property at a sales price no less than ninety-eight percent (98%) the sales price stated in the First Refusal Notice and on terms not materially more favorable to the purchaser than the terms included in the First Refusal Notice. If the sales price is less than ninety-eight percent (98%) of the sales price stated in the First Refusal Notice or on terms materially more favorable to the purchaser than the terms included in the First Refusal Notice, then Lessor shall re-submit the First Refusal Notice (the "Revised First Refusal Notice") to Lessee which shall include the new sales price and/or more favorable terms, whereupon Lessee shall have an additional fifteen (15) days after receiving the Revised First Refusal Notice to give Lessor written notice that Lessee desires to accept such new Offer. If Lessee shall fail to give the Acceptance Notice within the time period provided, Lessee shall be deemed to have consented to the proposed sale as stated in the Revised First Refusal Notice, and Lessor may sell its interest in the Offered Property upon the price and terms and conditions set forth in the Revised First Refusal Notice at any time thereafter, free of the Purchase Option and the ROFR.

4. Failure to Close. If Lessee exercises the ROFR and then fails to timely consummate the purchase of the Property for any reason (other than Lessor's failure to perform its obligations hereunder), then both the ROFR and the Purchase Option shall be deemed null and void and of no further force or effect and Lessee shall immediately reimburse Lessor for its costs and expenses, including reasonable attorneys' fees, incurred in connection with Lessee's exercise of the ROFR, which reimbursement obligation shall be considered additional rent under this Lease. If Lessee exercises the ROFR and then Lessor fails to consummate the purchase of the Property for any reason (other than Lessee's failure to perform its obligations hereunder), Lessee may, as its sole remedy for such failure, either rescind the exercise of its

ROFR and obtain a refund of its earnest money payment (if any), or enforce specific performance against Lessor within sixty (60) days of such failure. If Lessee does not commence an action for enforcement of specific performance within such 60 day period. Lessee shall have waived the right to specific performance. Time is of the essence with respect to the terms of this Article 26.

5. ROFR Sale Terms. The "ROFR Sale Terms" shall be the Offer Terms as defined above, plus the following:

a. The closing of the purchase of the Offered Property (the "ROFR Closing") shall occur in the offices of the Title Company or in such other place that is mutually acceptable to Lessee and Lessor.

d. To the extent not otherwise addressed in, or not inconsistent with, the Offer Terms, the provisions of the Purchase Option Sale Terms in Article 25 above shall apply to the ROFR and be included within the ROFR Sale Terms.

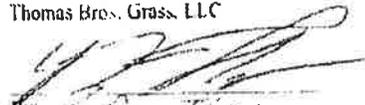
6. Cooperation. Lessor and Lessee agree to execute such other documents as may be reasonably necessary for the consummation of the ROFR Closing.

[SIGNATURE PAGE FOLLOWS]

IN TESTIMONY WHEREOF, the parties hereto have hereunto caused their names to be signed to multiple copies of this lease as of the day and date last written below, all copies constituting, however, but one lease

LESSOR

Thomas Bros. Grass, LLC

  
By: Ryan Thomas  
Its: Manager

LESSEE

Buy Sod USA LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

IN TESTIMONY WHEREOF, the parties hereto have hereunto caused their names to be signed to multiple copies of this Lease as of the day and date last written below, all copies constituting, however, but one Lease.

LESSOR

Thomas Bros. Grass, LLC

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

LESSEE

Buy Sod USA LLC

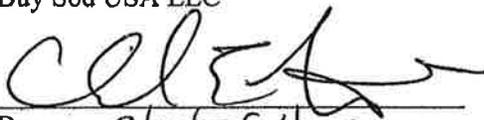
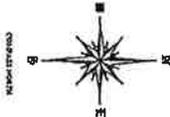
  
\_\_\_\_\_  
By: Charles E Harris  
Its: Manager

Exhibit A-1

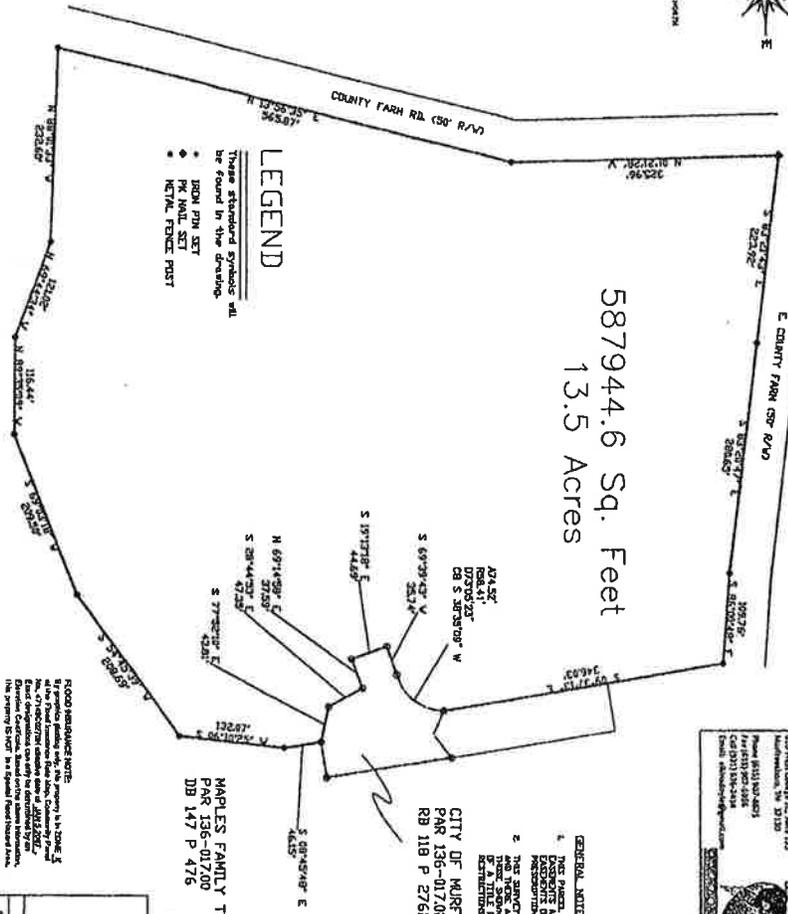
LEGAL DESCRIPTION  
THOMAS BROS. GRASS  
COUNTY FARM RD.

BEGINNING AT THE SOUTHWEST CORNER OF THE PROPERTY HEREIN DESCRIBED WHICH IS ON THE EAST MARGIN OF COUNTY FARM ROAD (50' R/W) TRAVEL THENCE FOLLOWING THE EAST MARGIN N 13-56-35 E 565.87' TO AN IRON PIN, THENCE N 01-21-28 W 325.96' TO THE INTERSECTION OF THE EAST MARGIN COUNTY FARM ROAD AND THE SOUTH MARGIN OF EAST COUNTY FARM ROAD, THENCE FOLLOWING THE SOUTH MARGIN S 83-21-43 E 223.92' TO AN IRON PIN, THENCE S 83-20-47 E 280.65' TO AN IRON PIN, THENCE S 86-00-48 E 109.76' TO AN IRON PIN, THENCE LEAVING THE MARGIN S 9-37-13 E 346.03' TO A METAL FENCE POST AT THE CITY OF MURFREESBORO, THENCE ALONG AN ARC WITH A CHORD BEARING S 38-35-09 W AN ARC DISTANCE OF 74.52' TO AN METAL FENCE POST, THENCE S 69-39-43 W 35.74' TO A METAL FENCE POST, THENCE S 19-13-18 E 44.69' TO A METAL POST, THENCE N 69-14-58 E 37.59' TO A METAL FENCE POST, THENCE S 28-44-53 E 47.35' TO A METAL FENCE POST, THENCE S 77-52-10 E 43.81' TO A METAL FENCE POST, THENCE LEAVING THE CITY PROPERTY S 8-45-48 E 46.15' TO AN IRON PIN SET, THENCE S 6-10-25 W 132.07' TO AN IRON PIN, THENCE S 54-45-39 W 208.69' TO AN IRON PIN, THENCE S 69-03-18 W 209.50' TO AN IRON PIN, THENCE N 89-35-09 W 116.44' TO AN IRON PIN, THENCE N 69-44-34 W 121.02' TO AN IRON PIN, THENCE N 88-01-33 W 232.60' TO AN IRON PIN AT THE POINT OF BEGINNING, CONTAINING 13.5 ACRES, MORE OR LESS, ACCORDING TO A SURVEY PERFORMED BY ELKINS SURVEYING COMPANY DATED April 11, 2016.

---



587944.6 Sq. Feet  
13.5 Acres



**LEGEND**

- These standard symbols will be found in the drawing.
- IRON PIN SET
  - ◆ IRON NAIL SET
  - ◆ METAL FENCE POST

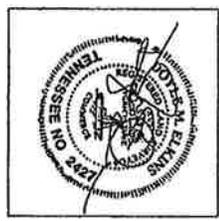
IN GOOD REMEDIAL STATE. THE PROPERTY IS TO BE USED AS A RESIDENTIAL LOT. THE PROPERTY IS TO BE USED AS A RESIDENTIAL LOT. THE PROPERTY IS TO BE USED AS A RESIDENTIAL LOT.

MAPLES FAMILY TRUST  
PAR 136-01700  
DB 147 P 476

CITY OF MURFREESBORO  
PAR 136-01702  
RB 118 P 2762

**Doyne Atkins**  
Professional Land Surveyor  
Registered in TN & AL  
152 West College St., Suite 105  
Murfreesboro, TN 37135  
Phone 615.833.2465  
Fax 615.833.2466  
Email: d[at]atkinsurvey.com

- GENERAL NOTES:**
- THIS PARCEL IS SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY AND ENCUMBRANCES AS SHOWN ON ANY OTHER SURVEY, MAP AND RECORDATION THAT A TITLE SEARCH MAY REVEAL.
  - THIS SURVEY AND AREA WERE OBTAIN THE LATEST RECORDED RECORD FROM THE COUNTY RECORDS OFFICE OF MURFREESBORO, TENNESSEE. THE TITLE REPORT THIS PARCEL IS SUBJECT TO ALL ENCUMBRANCES, EASEMENTS, AND RIGHTS-OF-WAY.



**BOUNDARY SURVEY**

**THOMAS BROTHERS PROPERTY**  
COUNTY FARM ROAD  
MURFREESBORO, RUTHERFORD CO., TN  
PREPARED FOR: THOMAS BROS. GRASS

DATE	SCALE	SHEET	DRAWN BY	PROJECT
APRIL 11, 2008	1" = 50'	1 OF 1	DAVE	1008

IN GREAT COUNTY THE S.W. CORNER 1 QUARTY AND THE EAST OF SECTION 10 IN THE UNINCORPORATED SURVEY OF SECTION 10 AND 11, 1000 AS SHOWN HEREON.

Exhibit A-2

EXHIBIT A

Legal Description

Land in the 13<sup>th</sup>, formerly the 23<sup>rd</sup> Civil District of Davidson County, Tennessee, described according to a survey made by George W. Watkins, Surveyor, March 9, 1950, as follows:

Beginning at a point in the center of Old Hickory Boulevard, formerly Bell Bend Road, at the intersection of the center line of said boulevard and the low water mark of the Cumberland River, said point called Clees' Ferry; thence with the low water mark of said Cumberland River south 20 degrees west 556 feet to a point, south 26 degrees 15 minutes west 610 feet to a point, south 39 degrees 45 minutes west 428 feet to a point and south 42 degrees 30 minutes west 1130 feet to a fence; thence with said fence north 40 degrees 15 minutes west 1472 feet to a point, north 39 degrees 15 minutes east 237 feet to a point, north 39 degrees 15 minutes east 237 feet to a point, north 33 degrees 50 minutes east 400 feet to a gate post, north 53 degrees 20 minutes west, 541 feet to a point north 63 degrees 30 minutes west 404 feet to a point and north 12 degrees 45 minutes east 784.5 feet to a point in the center of Old Hickory Boulevard; thence with the center of Old Hickory Boulevard south 85 degrees 15 minutes east 530 feet to a point, north 81 degrees 45 minutes east, 179 feet to a point and south 71 degrees 30 minutes east 2061 feet to the point of beginning, containing 106.8 acres, more or less.

Being the same property convey to Grantor by deed of record as Instrument No. 20040617-0072051, Register of Deed's Office for Davidson County, Tennessee.

Exhibit B-1

Exhibit B-2

## Personal Property

Located at 3999 Old Hickory Blvd., Nashville, TN 37218

- Office building
- Shop built of wood materials
- Shed built of wood materials
- House
- Various Irrigation equipment below and above ground

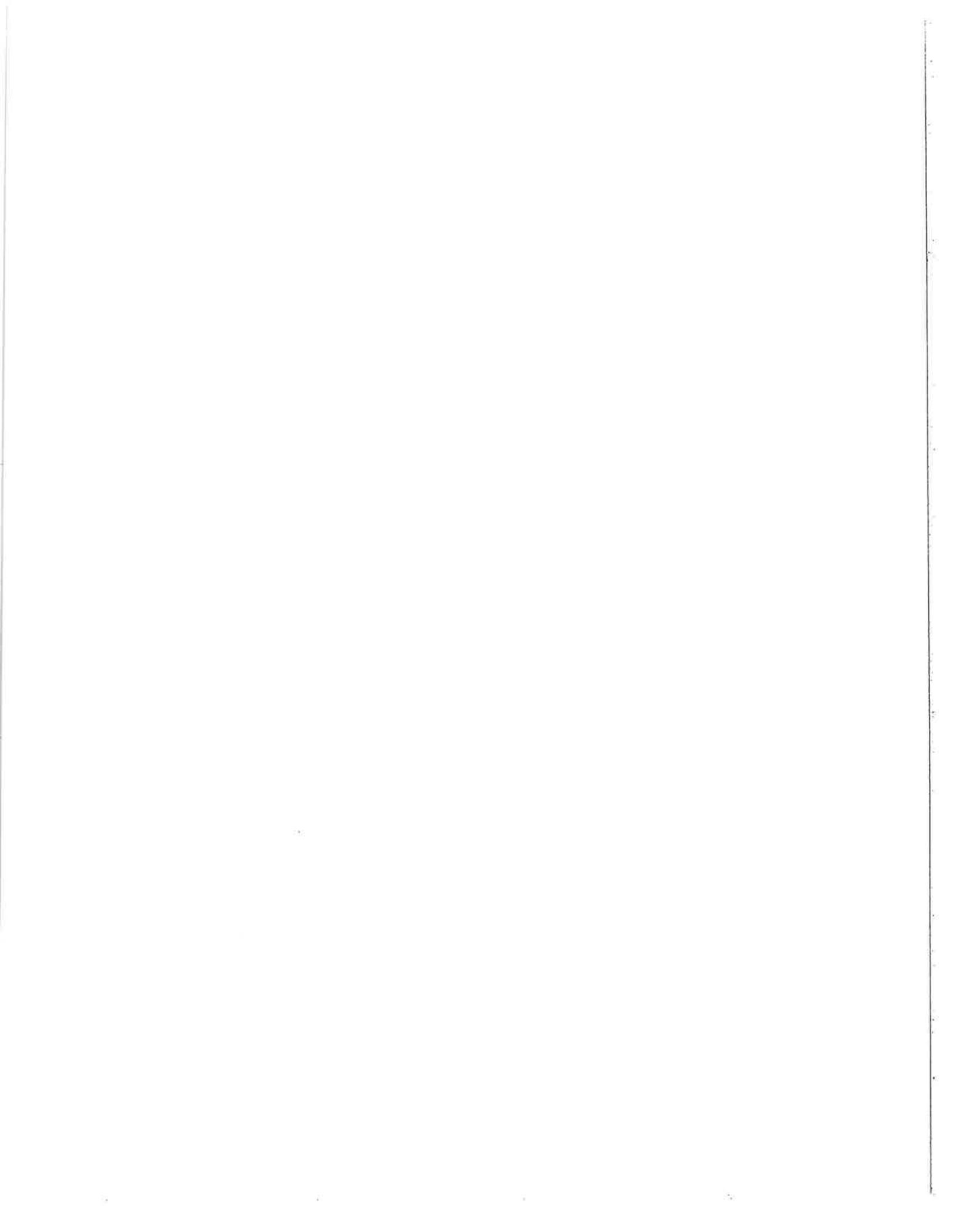


Exhibit C

RECORDING REQUESTED BY:  
AND WHEN RECORDED MAIL TO:

Robbins May & Rich LLP  
Attention: Stephen F. Later  
120 Applecross Road  
Pinehurst, North Carolina 28374

Space Above for Recorder's Use

THIS MEMORANDUM OF LEASE (this "Memorandum") is effective upon recordation and is entered into as of September \_\_\_\_\_, 2016 by and between Thomas Bros. Grass, LLC, a Texas limited liability company, P.O. Box 2337, Granbury, Texas 76048, ("Grantor") and Buy Sod USA LLC, a North Carolina limited liability company, 130 Applecross Road, Pinehurst, North Carolina 28374, ("Grantee") which agree as follows:

1. Property. Grantor is the owner of certain real property located in Rutherford County, Tennessee, as more particularly described on Exhibit A attached hereto and incorporated herein (the "Property").
2. Lease. Grantee is the tenant under the Lease Agreement between Thomas Bros. Grass, LLC and Grantor dated September \_\_\_\_\_, 2016 (the "Lease"). The term of the Lease shall be for five (5) years and is to terminate on September 30, 2021 subject to the terms of the Lease and the right of Grantee to extend the term of the Lease for up to two additional periods of five (5) years each. Grantee has an option to purchase the Property in accordance with the terms and conditions set forth in the Lease for the initial five (5) year term until September 30, 2021, after which time said option to purchase, if not previously exercised, shall expire and be of no further force or effect.
3. Inquiries. Any inquiries concerning the Lease shall be sent to Grantor or Grantee at the addresses hereinabove set forth therefor.
4. Successors. The purpose of this Memorandum is to provide constructive notice of the Lease to the world. Reference is hereby made to the Lease for a complete description of all rights, duties and obligations of the parties.
5. Incorporation and Conflicts. All of the terms and conditions of the Lease are incorporated herein by reference as though set forth fully herein. All capitalized words or terms not defined in this Memorandum shall have the same meanings as ascribed to them in the Lease. In the event of any conflict between the terms hereof and of the Lease, the Lease shall prevail.

[the remainder of this page intentionally left blank]

IN WITNESS WHEREOF, this Memorandum is executed (a), if by an individual, by hereunto setting his or her hand under seal by adoption of the word "SEAL" appearing next to his or her signature, (b), if by a corporation, by the duly authorized officer, director or shareholder of the corporation on its behalf under seal, if an impression seal appears hereon, by affixing such impression seal or by adoption of the word "SEAL" appearing next to the signature of the officer, director or shareholder, (c), if by a partnership, by the duly authorized partner of the partnership on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the partner or (d), if by a limited liability company, by the duly authorized member or manager on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the member or manager, on the day and year first above written.

GRANTOR

Thomas Bros. Grass, LLC

\_\_\_\_\_  
By: \_\_\_\_\_ (SEAL)  
Its: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I certify that the following person personally appeared before me this day and acknowledged to me that the following person voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Name	Capacity
_____ [name]	_____ [title], Thomas Bros. Grass, LLC

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal

Witness my hand and official stamp or seal on this the \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public

Print notary name: \_\_\_\_\_  
(notary name must be exactly as on notary seal)

My commission expires: \_\_\_\_\_

[affix notary seal, which must be fully legible, below]



IN WITNESS WHEREOF, this Memorandum is executed (a), if by an individual, by hereunto setting his or her hand under seal by adoption of the word "SEAL" appearing next to his or her signature, (b), if by a corporation, by the duly authorized officer, director or shareholder of the corporation on its behalf under seal, if an impression seal appears hereon, by affixing such impression seal or by adoption of the word "SEAL" appearing next to the signature of the officer, director or shareholder, (c), if by a partnership, by the duly authorized partner of the partnership on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the partner or (d), if by a limited liability company, by the duly authorized member or manager on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the member or manager, on the day and year first above written.

GRANTEE

Buy Sod USA LLC

\_\_\_\_\_(SEAL)  
By: Charles E. Harris  
Its: Manager

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I certify that the following person personally appeared before me this day and acknowledged to me that the following person voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Name	Capacity
Charles E. Harris	Manager, Buy Sod USA LLC

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal

Witness my hand and official stamp or seal on this the \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public

Print notary name: \_\_\_\_\_  
(notary name must be exactly as on notary seal)

My commission expires: \_\_\_\_\_

[affix notary seal, which must be fully legible, below]

Exhibit C

RECORDING REQUESTED BY:  
AND WHEN RECORDED MAIL TO:

Robbins May & Rich LLP  
Attention: Stephen F. Later  
120 Applecross Road  
Pinehurst, North Carolina 28374

Space Above for Recorder's Use

THIS MEMORANDUM OF LEASE (this "Memorandum") is effective upon recordation and is entered into as of September 21, 2016 by and between Thomas Bros. Grass, LLC, a Texas limited liability company, P.O. Box 2337, Granbury, Texas 76048, ("Grantor") and Buy Sod USA LLC, a North Carolina limited liability company, 130 Applecross Road, Pinehurst, North Carolina 28374, ("Grantee") which agree as follows:

1. Property. Grantor is the owner of certain real property located in Rutherford County, Tennessee, as more particularly described on Exhibit A attached hereto and incorporated herein (the "Property").
2. Lease. Grantee is the tenant under the Lease Agreement between Thomas Bros. Grass, LLC and Grantor dated September 21, 2016 (the "Lease"). The term of the Lease shall be for five (5) years and is to terminate on September 30, 2021 subject to the terms of the Lease and the right of Grantee to extend the term of the Lease for up to two additional periods of five (5) years each. Grantee has an option to purchase the Property in accordance with the terms and conditions set forth in the Lease for the initial five (5) year term until September 30, 2021, after which time said option to purchase, if not previously exercised, shall expire and be of no further force or effect.
3. Inquiries. Any inquiries concerning the Lease shall be sent to Grantor or Grantee at the addresses hereinabove set forth therefor.
4. Successors. The purpose of this Memorandum is to provide constructive notice of the Lease to the world. Reference is hereby made to the Lease for a complete description of all rights, duties and obligations of the parties.
5. Incorporation and Conflicts. All of the terms and conditions of the Lease are incorporated herein by reference as though set forth fully herein. All capitalized words or terms not defined in this Memorandum shall have the same meanings as ascribed to them in the Lease. In the event of any conflict between the terms hereof and of the Lease, the Lease shall prevail.

[the remainder of this page intentionally left blank]

IN WITNESS WHEREOF, this Memorandum is executed (a), if by an individual, by hereunto setting his or her hand under seal by adoption of the word "SEAL" appearing next to his or her signature, (b), if by a corporation, by the duly authorized officer, director or shareholder of the corporation on its behalf under seal, if an impression seal appears hereon, by affixing such impression seal or by adoption of the word "SEAL" appearing next to the signature of the officer, director or shareholder, (c), if by a partnership, by the duly authorized partner of the partnership on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the partner or (d), if by a limited liability company, by the duly authorized member or manager on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the member or manager, on the day and year first above written.

GRANTEE

Buy Sod USA LLC

[Handwritten Signature] (SEAL)

By: Charles E. Harris  
Its: Manager

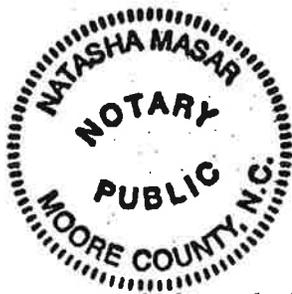
STATE OF NORTH CAROLINA  
COUNTY OF MOORE

I certify that the following person personally appeared before me this day and acknowledged to me that the following person voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Name	Capacity
Charles E. Harris	Manager, Buy Sod USA LLC

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal

Witness my hand and official stamp or seal on this the 23<sup>rd</sup> day of September, 2016.



Natasha Masar

Notary Public

Print notary name: Natasha Masar  
(notary name must be exactly as on notary seal)

My commission expires: 8/28/2020

[affix notary seal, which must be fully legible, below]

IN WITNESS WHEREOF, this Memorandum is executed (a) if by an individual, by hereunto setting his or her hand under seal by adoption of the word "SEAL" appearing next to his or her signature, (b) if by a corporation, by the duly authorized officer, director or shareholder of the corporation on its behalf under seal, if an impression seal appears hereon, by affixing such impression seal or by adoption of the word "SEAL" appearing next to the signature of the officer, director or shareholder, (c) if by a partnership, by the duly authorized partner of the partnership on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the partner or (d) if by a limited liability company, by the duly authorized member or manager on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the member or manager, on the day and year first above written.

GRANTOR

Thomas Bros. Grass, LLC

*[Signature]* (SEAL)  
By: *[Signature]*  
Its: *[Signature]*

STATE OF Tennessee  
COUNTY OF Rutherford

I certify that the following person personally appeared before me this day and acknowledged to me that the following person voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Name	Capacity
<u>Ryan Thomas</u> [name]	<u>Manager</u> [title], Thomas Bros. Grass, LLC

- I have personal knowledge of the identity of the principal;
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a \_\_\_\_\_; or
- A credible witness has sworn to the identity of the principal

Witness my hand and official stamp or seal on this the 22 day of September, 2016.

*Debra Somers*  
Notary Public

Print notary name: Debra Somers  
*(notary name must be exactly as on notary seal)*

My commission expires. 4-20-19

*[affix notary seal, which must be fully legible, below]*



Exhibit A-1

LEGAL DESCRIPTION  
THOMAS BROS. GRASS  
COUNTY FARM RD.

BEGINNING AT THE SOUTHWEST CORNER OF THE PROPERTY HEREIN DESCRIBED WHICH IS ON THE EAST MARGIN OF COUNTY FARM ROAD (50' R/W) TRAVEL THENCE FOLLOWING THE EAST MARGIN N 13-56-35 E 565.87' TO AN IRON PIN, THENCE N 01-21-28 W 325.96' TO THE INTERSECTION OF THE EAST MARGIN COUNTY FARM ROAD AND THE SOUTH MARGIN OF EAST COUNTY FARM ROAD, THENCE FOLLOWING THE SOUTH MARGIN S 83-21-43 E 223.92' TO AN IRON PIN, THENCE S 83-20-47 E 280.65' TO AN IRON PIN, THENCE S 86-00-48 E 109.76' TO AN IRON PIN, THENCE LEAVING THE MARGIN S 9-37-13 E 346.03' TO A METAL FENCE POST AT THE CITY OF MURFREESBORO, THENCE ALONG AN ARC WITH A CHORD BEARING S 38-35-09 W AN ARC DISTANCE OF 74.52' TO AN METAL FENCE POST, THENCE S 69-39-43 W 35.74' TO A METAL FENCE POST, THENCE S 19-13-18 E 44.69' TO A METAL POST, THENCE N 69-14-58 E 37.59' TO A METAL FENCE POST, THENCE S 28-44-53 E 47.35' TO A METAL FENCE POST, THENCE S 77-52-10 E 43.81' TO A METAL FENCE POST, THENCE LEAVING THE CITY PROPERTY S 8-45-48 E 46.15' TO AN IRON PIN SET, THENCE S 6-10-25 W 132.07' TO AN IRON PIN, THENCE S 54-45-39 W 208.69' TO AN IRON PIN, THENCE S 69-03-18 W 209.50' TO AN IRON PIN, THENCE N 89-35-09 W 116.44' TO AN IRON PIN, THENCE N 69-44-34 W 121.02' TO AN IRON PIN, THENCE N 88-01-33 W 232.60' TO AN IRON PIN AT THE POINT OF BEGINNING, CONTAINING 13.5 ACRES, MORE OR LESS, ACCORDING TO A SURVEY PERFORMED BY ELKINS SURVEYING COMPANY DATED April 11, 2016.

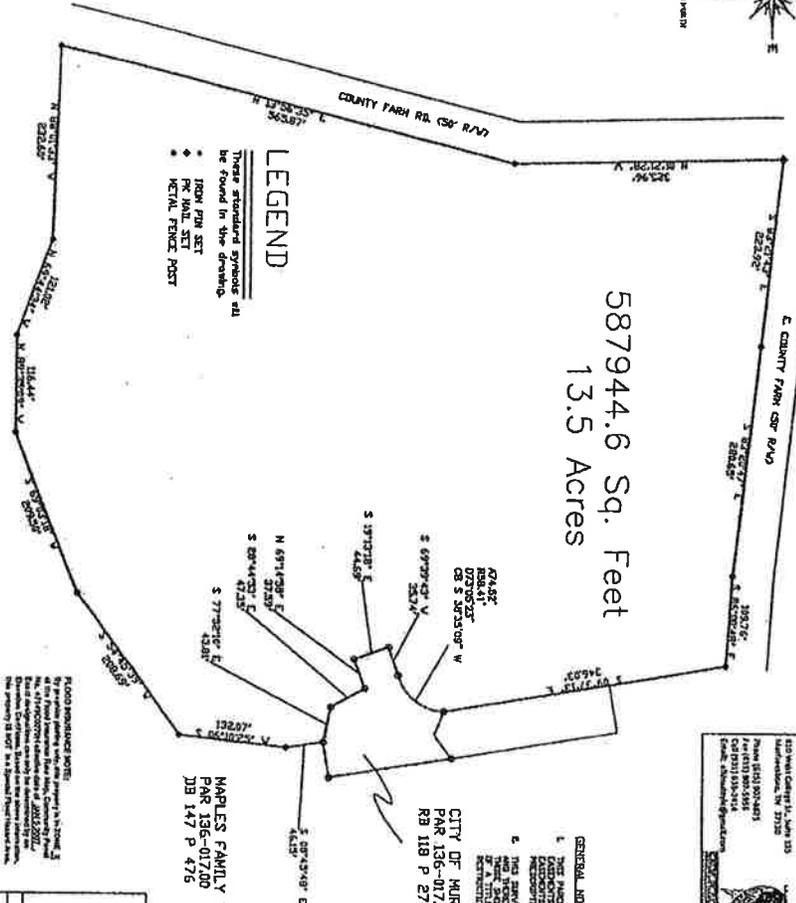
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587944.6 Sq. Feet  
13.5 Acres

**LEGEND**

- These standard symbols will be found in the drawing.
- ◆ IRON PIN SET
- ◆ REBAR SET
- ◆ METAL FENCE POST



Doyle Estes  
Professional Land Surveyor  
Registered in TN & AL  
Professional License No. 333  
Harrisburg, TN 37055  
Phone: (615) 203-0205  
Fax: (615) 203-1144  
Cell: (615) 203-1144  
Email: doyle@doyleestates.com

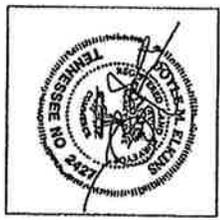
**GENERAL NOTES:**

1. THIS MAP IS SUBJECT TO ANY AND ALL RIGHTS-OF-WAY AND EASEMENTS OF ANY KIND, WHETHER KNOWN OR UNKNOWN, ON THE LAND DESCRIBED HEREIN.
2. THE SURVEYOR HAS NOT MADE SUFFICIENT INVESTIGATION TO DETERMINE THE EXACT LOCATION OF ANY UTILITIES, INCLUDING BUT NOT LIMITED TO, WATER, GAS, ELECTRIC, TELEPHONE, CABLE, AND OTHER SERVICES.
3. THE SURVEYOR HAS NOT MADE SUFFICIENT INVESTIGATION TO DETERMINE THE EXACT LOCATION OF ANY STRUCTURES, INCLUDING BUT NOT LIMITED TO, BUILDINGS, FENCES, AND OTHER STRUCTURES.



**MARPLES FAMILY TRUST**  
PAR 136-01700  
JB 147 P 475

**CITY OF HARRISBURG**  
PAR 136-01702  
RB 118 P 2782



**BOUNDARY SURVEY**  
**THOMAS BROTHERS PROPERTY**  
COUNTY FAIR ROAD  
HARRISBURG, RUTHERFORD CO., TN  
PREPARED FOR: THOMAS SING, OMASS

DATE	SCALE	SHEET	DRAWN BY	PROJECT
APRIL 11, 2011	1" = 100'	1 OF 1	DAVE	10013

**FLOOD HAZARD NOTE:**  
This property is located in a Flood Hazard Area as shown on the Flood Hazard Map of the State of Tennessee, Department of Transportation, Division of Highways, Bureau of Planning and Design, dated 10/15/08. The Flood Hazard Map is available at: <http://www.tn.gov>. The Flood Hazard Map is subject to change without notice.

Exhibit A-2

EXHIBIT A

Legal Description

Land in the 13<sup>th</sup>, formerly the 23<sup>rd</sup> Civil District of Davidson County, Tennessee, described according to a survey made by George W. Watkins, Surveyor, March 9, 1950, as follows:

Beginning at a point in the center of Old Hickory Boulevard, formerly Bell Bend Road, at the intersection of the center line of said boulevard and the low water mark of the Cumberland River, said point called Cleas' Ferry; thence with the low water mark of said Cumberland River south 20 degrees west 556 feet to a point, south 26 degrees 15 minutes west 610 feet to a point, south 39 degrees 45 minutes west 428 feet to a point and south 42 degrees 30 minutes west 1130 feet to a fence; thence with said fence north 40 degrees 15 minutes west 1472 feet to a point, north 39 degrees 15 minutes east 237 feet to a point, north 39 degrees 15 minutes east 237 feet to a point, north 33 degrees 50 minutes east 400 feet to a gate post, north 53 degrees 20 minutes west, 541 feet to a point north 63 degrees 30 minutes west 404 feet to a point and north 12 degrees 45 minutes east 784.5 feet to a point in the center of Old Hickory Boulevard; thence with the center of Old Hickory Boulevard south 85 degrees 15 minutes east 530 feet to a point, north 81 degrees 45 minutes east, 179 feet to a point and south 71 degrees 30 minutes east 2061 feet to the point of beginning, containing 106.8 acres, more or less.

Being the same property convey to Grantor by deed of record as Instrument No. 20040617-0072051, Register of Deed's Office for Davidson County, Tennessee.

CONDITIONAL ASSIGNMENT OF OPTION AGREEMENT

This Conditional Assignment of Option Agreement (this "Agreement") is made as of June \_\_\_\_\_, 2019 by and between Buy Sod USA LLC, a North Carolina limited liability company, ("Assignor"), the Metropolitan Government of Nashville and Davidson County ("Assignee"), and Thomas Bros. Grass, LLC, a Texas limited liability company, ("Landlord") (Assignor, Assignee, and Landlord, individually, a "Party" and, collectively, the "Parties"). This Assignment shall not be effective until approved by the Metropolitan Council and recorded with the Metropolitan Clerk.

RECITALS

WHEREAS Assignor holds, pursuant to Article 25 of the Lease, the Purchase Option applicable to the Property and is entitled to exercise the Purchase Option at any time on or prior to September 30, 2021 and, subject to the terms and conditions of Article 25 of the Lease, to purchase the Property.

WHEREAS Assignee desires to purchase the Property from Landlord, and Assignor desires to facilitate the sale of the Property by Landlord to Assignee, upon the terms and conditions set forth herein and pursuant to the Purchase Option.

NOW, THEREFORE, in consideration of the terms of the Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as hereinafter set forth.

1. Definitions.

- a. "Claim" means any demand, claim, action, investigation, legal proceeding or arbitration, whether or not ultimately determined to be valid.
- b. "Closing" means the consummation of the Purchase Option by Assignee (including, without limitation, (i) the payment of the Purchase Price (as defined in the Lease) to Landlord, (ii) the payment of the Relocation Expense Payment to Assignor, and (iii) the recordation of the deed for the Property from Landlord to Assignee).
- c. "Conditions Precedent" means, collectively, the requirements, each of which is for the exclusive benefit of Landlord and Assignor, that (i) Closing shall occur not later than July 31, 2019, time being of the essence, (ii) Assignee shall remit the Relocation Expense Payment to Assignor at Closing (pursuant to wire transfer thereof by the closing or settlement agent), (iii) Assignee shall deliver, for the benefit of Assignor and Landlord, copies of appropriate legislation authorizing the transactions contemplated by this Agreement and at Closing, and (iv) Assignee shall otherwise perform and satisfy all terms and conditions of Article 25 of the Lease, except as modified in this Agreement.
- d. "Consent" means any authorization, consent, approval, filing, waiver, exemption or other action by or notice to any Person.
- e. "Contract" means a contract, agreement, commitment or binding understanding, whether oral or written, that is in effect as of the date of this Agreement or any time after the date of this Agreement.
- f. "Governmental Entity" means any federal, state, local, foreign, international or multinational entity or authority exercising executive, legislative, judicial, regulatory, administrative or taxing functions of or pertaining to government.



- g. “Governmental Authorization” means any approval, consent, license, permit, waiver or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Entity or pursuant to any Law or Governmental Order.
  - h. “Governmental Order” means any judgment, injunction, writ, order, ruling, award or decree by any Governmental Entity or arbitrator.
  - i. “Law” means (i) all federal, state or local laws, regulations and rules (to the extent having the force of law) of any Governmental Entity, and (ii) all orders, decrees, rulings, awards, writs, judgments, statutes, ordinances, codes, rules, regulations and license of any Governmental Entity.
  - j. “Lease” means the Lease Agreement between Assignor and Landlord, a memorandum of which is recorded in Record Book 1530, Page 3159, Register of Deeds Office for Rutherford County, Tennessee, pursuant to which Landlord leases to Assignor, and Assignor leases from Landlord, the Property.
  - k. “Person” means any individual or entity (including, without limitation, any Governmental Entity).
  - l. “Property” means the ±106.8-acre tract described in the Lease as Ashland City.
  - m. “Purchase Option” means the option set forth in Article 25 of the Lease applicable to the Property.
  - n. “Relocation Expense Payment” means the payment by Assignee to Assignor of one hundred and fifty thousand dollars (\$150,000.00).
  - o. “Remedies Exception” means, when used with respect to any Person, performance of its obligations except to the extent enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other Laws affecting the enforcement of creditors’ rights generally and by general equitable principles.
2. Conditional Assignment of Purchase Option.
- a. Assignor hereby assigns the Purchase Option to Assignee subject to the Conditions Precedent pursuant to which the Parties hereby acknowledge and agree (i) that the obligations of Assignor hereunder (including, without limitation, the obligation to proceed to Closing) shall be subject to the full and unconditional satisfaction of the Conditions Precedent, (ii) that, in the event that the Closing occurs, the Lease shall (A) expire and terminate as it relates to the Property as of Closing pursuant to which all obligations and liabilities of Assignor and Landlord thereunder related to the Property shall lapse except for obligations and liabilities related to the Property under the Lease that accrued prior to Closing and except for any obligations related to the Property of Assignor that expressly survive, or by their nature would or are intended to survive, the expiration or termination of the Lease and (B) otherwise continue in full force and effect as it relates to ±13.5 acre tract described in the Lease as Maples Corner, and (iii) that, in the event that any of the Conditions Precedent are not fully and unconditionally satisfied prior to or at Closing or in the event that Closing does not occur for any other reason, in accordance with Article 25 of the Lease (A) the assignment of the Purchase Option to Assignee shall lapse and thereafter be of no force or effect and (B) the Lease shall, notwithstanding any provision of this Agreement, continue, without amendment or modification, between Landlord and Assignor in full force and effect.
  - b. Landlord hereby consents, notwithstanding Article 12 of the Lease, to the assignment of the Purchase Option to Assignee pursuant to Section 2(a). Such consent applies only to the Purchase Option. No other rights or remedies of Assignor under the Lease are being assigned to Assignee.

- c. Except as provided herein, Assignee agrees to perform all obligations of Assignor in Article 25 of the Lease including, without limitation, the Purchase Option Sale Terms. Assignee shall not be required to deposit any earnest money. The entire Purchase Price, as defined in the Lease, shall be paid at Closing. Assignee shall have the right to obtain, at Assignee's expense, a policy of title insurance covering the Property. Landlord shall provide appropriate affidavits and such other documents as may be reasonably necessary for the company issuing such policy to remove the so-called "standard exceptions" from the final title policy.
- d. Nothing in this Agreement shall in any manner lessen, limit, modify or otherwise affect Landlord's rights and remedies under the Lease.
- e. Any failure of Assignor to perform under this Agreement shall constitute a default by Assignor under the Lease.
- f. Except for the obligation to perform Landlord's express obligations under Article 25 of the Lease and the obligations specifically created in this Agreement, Landlord shall have no obligation or liability whatsoever to Assignee under the Lease or otherwise. Assignor hereby acknowledges and agrees that no provision of this Agreement shall limit or eliminate any indemnity obligation of Assignor to Landlord set forth in the Lease.

3. Representations and Warranties of Assignor.

- a. Assignor is a limited liability company duly organized and validly existing under the Laws of North Carolina and has all necessary power and authority to execute, deliver and perform this Agreement and the Option Agreement, to carry out its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby.
- b. The execution and delivery of this Agreement by Assignor, the performance by Assignor of its obligations hereunder, and the consummation by Assignor of the transactions contemplated hereby have been duly authorized by all requisite action on the part of Assignor. This Agreement has been duly executed and delivered by Assignor, and, assuming due authorization, execution, and delivery by Assignee, constitutes a legal, valid and binding obligation of Assignor, enforceable against Assignor in accordance with its terms, subject to the Remedies Exception.
- c. The execution, delivery and performance of this Agreement and execution and delivery the Option Agreement by Assignor will not (i) violate, conflict with or result in the breach of any provision of its articles of organization or operating agreement, (ii) conflict with or violate any Law or Governmental Order applicable to Assignor, (iii) conflict with, result in any breach of any of the provisions of, constitute a default (or any event that would, with the passage of time or the giving of notice or both, constitute a default) under, result in a violation of, increase the burdens under, result in the termination, amendment, suspension, modification, abandonment or acceleration of payment (or any right to terminate) or require a Consent, including any Consent under any Contract or Governmental Authorization that is either binding upon or enforceable against Assignor or (iv) require any Governmental Authorization.
- d. Assignor is not a party to or in any way obligated under any Contract, and there is no outstanding Claim, for the payment of any broker's or finder's fee in connection with the origin, negotiation, execution or performance of this Agreement.
- e. Except for the representations and warranties set forth in this Section 3, (i) neither Assignor nor any of its members, managers, employees, agents, contractors or affiliates makes any representation or warranty, express or implied, at Law or in equity, and hereby disclaims all other representations and warranties,

relating to the Property including, without limitation, any representation or warranty as to value, merchantability, fitness for a particular purpose or for ordinary purposes, or any other matter, whether made by Assignor or any of its members, managers, employees, agents, contractors or affiliates and (ii) the Purchase Option is assigned and conveyed to Assignee on an "as is, where is" basis, and Assignee shall rely exclusively upon its own examination of the Purchase Option and the Property.

- f. Landlord is not in default under the Lease and to Assignor's actual knowledge no fact or circumstance exists which, with the giving or notice or the passage of time, or both, could result in Landlord being in default under the Lease.

4. Representations and Warranties of Assignee.

- a. The execution and delivery of this Agreement by Assignee, the performance by Assignee of its obligations hereunder, and the consummation by Assignee of the transactions contemplated hereby have been duly authorized by all requisite action on the part of Assignee. This Agreement has been duly executed and delivered by Assignee, and, assuming due authorization, execution, and delivery by Assignor, constitutes a legal, valid and binding obligation of Assignee, enforceable against Assignee in accordance with its terms, subject to the Remedies Exception.
  - b. The execution, delivery and performance of this Agreement and the Option Agreement by Assignee will not (i) violate, conflict with or result in the breach of any provision of its articles of incorporation or bylaws, (ii) conflict with or violate any Law or Governmental Order applicable to Assignee, (iii) conflict with, result in any breach of any of the provisions of, constitute a default (or any event that would, with the passage of time or the giving of notice or both, constitute a default) under, result in a violation of, increase the burdens under, result in the termination, amendment, suspension, modification, abandonment or acceleration of payment (or any right to terminate) or require a Consent, including any Consent under any Contract or Governmental Authorization that is either binding upon or enforceable against Assignee or (iv) require any Governmental Authorization.
  - c. Assignee is not a party to or in any way obligated under any Contract, and there is no outstanding Claim, for the payment of any broker's or finder's fee in connection with the origin, negotiation, execution or performance of this Agreement.
5. Third Parties. Nothing in this Agreement shall be construed as giving any Person, other than the Parties and their respective successors, any right, remedy or claim under or in respect to this Agreement or any provision hereof.
6. Headings. The section headings throughout this Agreement are for convenience and reference only, and words contained therein shall in no way be held to explain, modify, simplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
7. Notices. All notices, requests and other communications hereunder shall be in writing and shall be deemed to have been duly given and received (a) when personally delivered or (b) one (1) business day after proper prepaid deposit for next-day delivery to a national overnight courier service providing evidence of delivery, postage prepaid, addressed to the Party to which notice is to be given at the address hereinafter set forth therefor. The rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request or communication sent. The addresses hereinabove set forth may be changed as to any Party upon at least ten (10) days prior notice thereof.

If to Assignor:

Buy Sod USA LLC  
Attention: Clark H. Wooten  
130 Applecross Road  
Pinehurst, North Carolina 28374

With copy, which shall not constitute notice, to:

Robbins May & Rich LLP  
Attention: Stephen F. Later  
120 Applecross Road  
Pinehurst, North Carolina 28374

If to Assignee:

Director, Metropolitan Department of Finance  
108 Metropolitan Courthouse  
Nashville, Tennessee 37201

With copy, which shall not constitute notice, to:

Director, Metropolitan Department of Law  
106 Metropolitan Courthouse  
Nashville, Tennessee 37201

If to Landlord:

Thomas Bros. Grass, LLC  
Physical Address:  
110 N. Crockett St., Second Floor,  
Granbury, Texas 76048

Mailing Address:  
PO Box 2337  
Granbury, Texas 76048

With copy, which shall not constitute notice, to:

Jackson Walker LLP  
Attention: Carrie Bowers Miller  
777 Main Street Suite 2100  
Fort Worth, Texas 76102

8. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement (it being understood that all Parties need not sign the same counterpart). This Agreement, to the extent signed and delivered or countersigned and returned by means of a facsimile machine or other or electronic reproductive image of a manual signature, shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

9. Interpretation. This Agreement was negotiated by the Parties and is to be deemed to have been prepared jointly by the Parties after arms-length negotiations and constitutes a free bargain between the Parties, and any uncertainty or ambiguity existing herein shall not be interpreted against any Party—and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any Party shall not apply to any construction or interpretation hereof—but according to the application of the rules of interpretation of contracts. Further, in this Agreement, unless an express contrary intention is herein set forth, (a) the singular number includes the plural number and vice versa, (b) “hereunder,” “hereof,” “hereto,” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular section or other provision hereof, (c) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term, (d) “or” is used in the inclusive sense of “and/or,” (e) references to one gender includes the other gender, (e) time is of the essence of this Agreement and of each provision hereof, and (f) the recitals hereinabove set forth are incorporated herein by reference.
10. Severability. Each of the covenants and agreements set forth in this Agreement are separate and independent covenants, each of which has been separately bargained for and the Parties intend that the provisions of each covenant shall be enforced to the fullest extent permissible; provided, however, that, if any provision of this Agreement is held to be illegal, invalid or unenforceable under any applicable present or future law, (a) the illegal, invalid or unenforceable provision shall be fully severable, (b) this Agreement shall be construed and enforced as if the illegal, invalid or unenforceable provision was not a part hereof, (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom, (d) the Parties shall substitute, in lieu of the illegal, invalid or unenforceable provision, a legal, valid and enforceable provision as similar in terms to the illegal, invalid or unenforceable provision as possible in order to accomplish the original intent and purposes of the Parties hereunder, and (e), without limitation upon the generality of the remainder of this Section 15, the Parties waive, to the maximum extent permitted by applicable law, any provision of applicable law that renders any provision hereof illegal, invalid or unenforceable in any respect.
11. Entire Agreement; Waiver; Amendment. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all other prior agreements or undertakings with respect to the subject matter hereof, both written and oral. No delay or failure on the part of any Party in the exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise by any of them of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy. No amendment, modification or waiver of, or consent with respect to, any provision of this Agreement shall in any event be effective unless the same shall be in writing and signed and delivered by the Party against which or whom enforcement is sought, and then any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
12. Governing Law. This Agreement and all other instruments referred to herein shall be governed by, and shall be construed in accordance with, the laws of the State of North Carolina.
13. Non-Exclusive Remedies. The remedies, if any, set forth in this Agreement shall be in addition to any legal or equitable remedies under applicable law or in any other agreement between or among the Parties and shall not be construed as a limitation upon, an alternative for or in lieu of any other remedies.
14. No Assignment. No Party shall be entitled to assign this Agreement (or any interest herein) or any right arising under this Agreement.
15. Incorporation by Reference. All of the documents referred to herein are by reference incorporated herein and made a part of this Agreement.

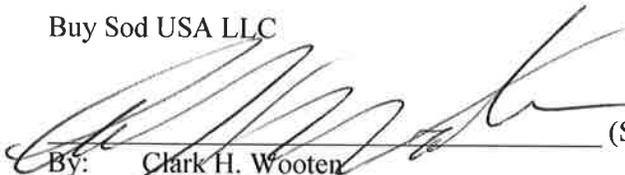
16. Survival. Those provisions of this Agreement that, by their nature, would or are intended to survive Closing or expiration or termination of this Agreement (including, without limitation, Section 2, Section 3, and Section 4) shall survive expiration or any termination of this Agreement and remain in full force and effect thereafter in accordance with their respective terms for a period equal to the applicable statute of limitations or tolling period with respect to the matter at issue.

[the remainder of this page intentionally left blank]

IN WITNESS WHEREOF, this Agreement is executed (a), if by an individual, by hereunto setting his or her hand under seal by adoption of the word "SEAL" appearing next to his or her signature, (b), if by a corporation, by the duly authorized officer, director or shareholder of the corporation on its behalf under seal, if an impression seal appears hereon, by affixing such impression seal or by adoption of the word "SEAL" appearing next to the signature of the officer, director or shareholder, (c), if by a governmental entity, by a duly authorized representative of such entity, (d), if by a partnership, by the duly authorized partner of the partnership on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the partner or (e), if by a limited liability company, by the duly authorized member or manager on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the member or manager, on the day and year first above written.

ASSIGNOR

Buy Sod USA LLC

 (SEAL)  
By: Clark H. Wooten  
Its: Manager

ASSIGNEE

Metropolitan Government of Nashville and Davidson County

\_\_\_\_\_  
By: Kim McDoniel  
Its: Acting Director of Public Property

LANDLORD

Thomas Bros. Grass, LLC

\_\_\_\_\_  
By: \_\_\_\_\_ (SEAL)  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, this Agreement is executed (a), if by an individual, by hereunto setting his or her hand under seal by adoption of the word "SEAL" appearing next to his or her signature, (b), if by a corporation, by the duly authorized officer, director or shareholder of the corporation on its behalf under seal, if an impression seal appears hereon, by affixing such impression seal or by adoption of the word "SEAL" appearing next to the signature of the officer, director or shareholder, (c), if by a governmental entity, by a duly authorized representative of such entity, (d), if by a partnership, by the duly authorized partner of the partnership on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the partner or (e), if by a limited liability company, by the duly authorized member or manager on its behalf under seal by adoption of the word "SEAL" appearing next to the signature of the member or manager, on the day and year first above written.

ASSIGNOR

Buy Sod USA LLC

\_\_\_\_\_  
(SEAL)  
By: Clark H. Wooten  
Its: Manager

ASSIGNEE

Metropolitan Government of Nashville and Davidson County

  
\_\_\_\_\_  
By: Kim McDoniel  
Its: Acting Director of Public Property

LANDLORD

Thomas Bros. Grass, LLC

  
\_\_\_\_\_  
(SEAL)  
By: Ike Thomas  
Title: manager