

BRIGHTFARMS GREENHOUSE 2 LEASE

THIS LEASE, made on February 20, 2015 by and between the **City of Kansas City, Missouri**, party of the first part, hereinafter called the “**Lessor**” or “**City**”, and **KCM Greenhouse LLC**, party of the second part, hereinafter called “**Lessee**”.

WITNESSETH: That said Lessor hereby grants to said Lessee a Lease to occupy and use, subject to terms and conditions hereinafter stated, the following described premises, more particularly described on Exhibit “A” attached hereto and made a part hereof, (“**Premises**”) located on real property owned by Lessor and more particularly described on Exhibit “A-1” (“**Land**”). The premises for this second greenhouse project is generally located at 8100 Ozark Road Kansas City 64129, Jackson County.

IT IS AGREED AS FOLLOWS

1. **PROJECT.** Facility(ies) planned to be constructed, owned and operated as a commercial greenhouse by the Lessee on the Premises, together with all appurtenant facilities necessary or desirable to allow the growing, harvesting, washing, processing, packing, refrigeration and shipping of produce, including without limitation (i) control buildings, control boxes and computer monitoring hardware; (ii) safety protection facilities, fences, gates and signage; and (iii) related improvements (including a “head house”), utility interconnections, fixtures and equipment.
2. **AGREEMENT TO LEASE.** Lessor hereby leases the Premises to Lessee for the Term, on an exclusive basis, for the purpose of constructing, installing, operating and maintaining the Project and no other use unless specifically authorized by the Lessor through its Director of City Planning and Development and in accordance with all codes and regulations of the City of Kansas City, Missouri. The aforementioned grant shall be an exclusive grant of a leasehold interest in the Premises for the Term of this Lease.
 - (a) Delegation of Activities. Without limiting the provisions of this Section 2, Lessor acknowledges and agrees that the activities contemplated by this Lease may be accomplished by Lessee or one or more third parties authorized by Lessee.
 - (b) General Access. Lessor shall provide Lessee with access to the Premises as reasonably necessary to allow Lessee to design, construct, operate and maintain the Project, including ingress and egress rights to the Premises for Lessee and its employees, contractors and subcontractors and access to conduits to interconnect the Project with the Premises’ electrical wiring. Lessor shall use commercially reasonable efforts to provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities as reasonably necessary. Lessor shall also provide Lessee with a reasonable area for construction laydown and installation work and Lessor shall not interfere with such installation work or handle any Lessee equipment or the Project without written authorization from Lessee.
 - (c) Ingress and Egress Easement. If and to the extent the Land does not have direct access to an existing public right of way, Lessor grants to Lessee an easement for ingress and egress over a portion of the Land, for vehicular and pedestrian ingress and egress from the Premises to the public

right of way identified thereon, together with the right to install above and underground pipes and conduits to interconnect the Project to the public utility's closest interconnection point along said right of way.

3. **TERM.** The term of this Agreement shall be for a period of five years (5) beginning **March 1, 2015 and ending April 30, 2020**, subject to the provisions of this Lease Agreement (the "Term").

4. **LEASE RENEWAL.** Lessee shall have the right to renew the Term for three (3) renewal terms of five (5) years each ("**Renewal Term**") by irrevocable notice delivered to Lessor not less than six (6) months prior to the last day of the then-current Term, as applicable, time being of the essence; provided, however, that no Default shall have occurred and be continuing either on the date the applicable renewal notice is given or on the applicable **Renewable Term Commencement Date** (as hereinafter defined). Any termination, cancellation or surrender of any interest of Lessee under this Lease at any time during the Term shall terminate any right of renewal of Lessee hereunder.

5. **EARLY TERMINATION.** Notwithstanding anything herein to the contrary, in the event that despite Lessee's commercially reasonable efforts (a) Lessee has not received all necessary approvals for the construction of Project, (b) Lessee does not secure commitments for the long term purchase of produce grown at the Project, or (c) Lessee does not secure commitments for the long term financing of the Project at the Premises, each on or before February 20, 2016, Lessee shall have the option to terminate this Lease upon thirty (30) days prior written notice to Lessor.

6. **RENT.** Lessor agrees to pay Lessee rents according to the following schedule;

For the period of October 1, 2015 through September 30, 2020, the rent shall be One Thousand dollars and 00/100 (\$1,000) for each year OR Eighty Three dollars and 33/100 (\$83.33) per month. Upon issuance of a Certificate of Occupancy or commencement of growing operations, rent shall increase to Thirty Six Thousand dollars and 00/100 (\$36,000) for the entire year OR Three Thousand dollars and 00/100 (\$3000.00) per month.

Otherwise rent should be:

Rent for any Renewal Term shall be Thirty Six Thousand dollars and 00/100 (\$36,000) for the entire year OR Three Thousand dollars and 00/100 (\$3,000) per month.

a. For any subsequent Renewal Term, Rent shall be calculated by using the preceding year's Rent rate and adjusting it by the Consumer Price Index (all items/all urban consumers/Kansas City, Missouri/Kansas) published by the United States Department of Labor, Bureau of Labor Statistics. If not paid in advance as a yearly rate, Lessee may pay Rent by the first of the month in an amount equal to the annual Rent rate divided evenly by twelve payments.

b. Checks must be made payable to "City Treasurer" and sent to the following listed address or at such other place as Lessor shall designate in writing:

General Services – Real Estate Services
Attention: Property Leasing Manager
City Hall – 17thth Floor

414 East 12th Street
Kansas City, Missouri 64106

7. **RENT COMMENCEMENT DATE.** The Rent Commencement Date shall be October 1, 2015.

9. **USE OF PREMISES.** Lessee may use and occupy the Premises for the development, construction, alteration, installation, operation and maintenance of the Project (the “**Permitted Uses**”), which Permitted Uses shall include the following activities (collectively, the “**Operations**”): (a) use of such portions of the Land that are outside the Premises for the purpose of connecting the Project to the public utility system serving the Premises and/or the Premises including the Premises’ electrical and water systems (Lessor hereby also grants to Lessee, for a period co-terminus with the Lease, a non-exclusive easement for access and use of any utility, transmission or other easements, rights of way or licenses held by Lessor with respect to the Premises or use of occupancy thereof, for purposes related to or associated with the Project); (b) a non-exclusive right to conduct tests, inspections and analysis of the Premises, as Lessee deems necessary or appropriate; and (c) undertaking any other lawful activities that Lessee determines are necessary or appropriate in connection with the foregoing purposes.

10. **EXCLUSIVE USE.** Lessee shall have the sole and exclusive right to conduct Operations at the Premises. Lessor shall not (a) materially interfere with the solar resource or otherwise construct or permit to be constructed any structure that blocks, inhibits or impairs the solar resource over the Premises (as the same may be expanded), or (b) engage in any activity at, on or around the Premises that might cause a material decrease in the output or efficiency of the Project, as reasonably determined by Lessee, including, without limitation, the construction of structures or planting of trees that would interfere with the free and unobstructed access to the solar resource, or (c) waive any right available to the Lessor or grant any right or privilege subject to the consent of Lessor by law or contract, including without limitation any environmental regulation, land use ordinance or zoning regulation, with respect to noise or light limitations or other restrictions and conditions respecting the placement of the Project and other equipment ancillary to the Project operations on parcels adjacent to or in the vicinity of the Premises, or (d) otherwise grant, confirm, acknowledge, recognize or acquiesce in any right claimed by any other person to conduct Operations on the Premises whether arising in judicial proceedings or otherwise and Lessor agrees to give Lessee prompt notice of any such claims or proceeding with respect to such claims and to cooperate with Lessee in resisting and disputing such claims.

11. **ACCEPTANCE, MAINTENANCE AND REPAIR.** Lessee has inspected and knows the condition of the Premises and accepts the same in their present condition (subject to ordinary wear, tear and deterioration in the event the Term commences after the date hereof and to the rights of present or former occupant or occupants, if any, to remove reasonable movable property), including the interior walls. Lessee will return the Premises to the City, undamaged except for reasonable wear and tear. All maintenance and repair of the parking surface(s) located on the Premises during the Term or Renewal Term, if any, of the Lease shall be the responsibility of Lessee.

12. **HAZARDOUS SUBSTANCES AND WASTES.**

- (a) Lessor represents and warrants to Lessee that there exists no Hazardous Materials on the Land or the Premises.
- (b) Lessee agrees that it shall not use, store, dispose of or release on the Premises or cause or permit to exist or be used, stored, disposed of or released on the Premises any Hazardous Material in violation of applicable law. "Hazardous Material, shall mean (i) "Hazardous Substances" as defined by the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) s42 U.S.C. s9601 et seq.; (ii) "Hazardous Wastes." As defined by the Resource Conservation and Recovery Act (RCRA), s42 U.S.C. s6902 et seq.; (iii) "Hazardous Waste," as that term is defined by the Missouri Hazardous Waste Management Law, RSMO Section 260.350 et seq.; (iv) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any other applicable federal, state or local law, regulation, ordinance or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as amended or hereafter amended, (v) more than 100 gallons of crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60) degrees Fahrenheit and 14.7 pounds per square inch absolute, except for 2000 gallons of recycled oil used for the purpose of heating the premises, (vi) any radioactive material, including any source, special nuclear or by-product material as defined at 42 U.S.C S 2011 et seq., as amended or hereafter amended; and (vii) asbestos in any form or condition. Should any claim or action be brought against Lessor or in connection with the Premises with respect to any of the foregoing, Lessor shall immediately notify Lessee. Lessee shall indemnify, defend and hold harmless Lessor from all any and all claims and costs associated with Lessee's use of any Hazardous Waste at or upon the Premises.

13. POSSESSION AT BEGINNING OF TERM. Lessor shall give possession of the Premises to Lessee or Lessee shall have the right to terminate the Lease at the beginning of the Term of this Lease.

14. QUIET ENJOYMENT. Lessor covenants and agrees that so long as Lessee pays the Rent and observes and keeps its covenants, agreements and stipulations of this Lease, on its part to be kept, Lessee shall lawfully, peacefully and quietly hold, occupy and enjoy said demised Premises during the Term, and Renewal Term, if any, without hindrance, objection or molestation caused by any party claiming by, through or under Lessor. Lessor shall defend title to the Premises, and the use and occupancy of the same, against the claims of all others, except those claiming by or through Lessee. Lessor shall not enter into or modify any documents, including any declarations, easements, restrictions or other similar instruments, which may materially affect the Premises, or the rights and/or obligations of Lessee hereunder, without first obtaining the prior written consent of the Lessee, which consent shall not be unreasonably withheld.

15. LESSOR'S RIGHT OF ENTRY. Lessor or Lessor's agents may obtain access to the Premises for the purpose of inspection of activities thereupon five (5) business Days prior written notice to Lessee (unless in the event of any emergency), provided that such access shall not unreasonably interfere with Lessee's Project(s) or Operations. Lessor shall be accompanied by a representative of Lessee at all times while on the Premises and shall abide by any and all safety precautions imposed by Lessee.

16. UTILITIES AND SERVICES. Lessee is responsible for all costs related to Lessee's use of all electricity, water or any utilities Lessee uses in connection with its use of the Premises.

17. ALTERATIONS. Lessee shall not make any alterations or additions in or to the Premises requiring a permit without the prior written consent of Lessor, such consent not be unreasonably withheld, conditioned or delayed; provided, however, that Lessee may make without Lessor's consent any non-structural, non-mechanical, non-electrical and non-plumbing alterations. All such plans for alterations requiring Lessor's consent must be approved in writing by the Director General Services prior to submittal for permits from the City of Kansas City, Missouri. Lessor shall have fourteen (14) Business Days to review and approve such plans for alterations or additions in or to the Premises. In the event that Lessor has not responded to Lessee with respect to the plan submittal within such fourteen (14) day period, then Lessor will be deemed to have approved such plans.

18. SIGNS AND ADVERTISEMENTS. Lessee shall not put upon nor permit to be put upon any part of the Premises, any signs, billboards or advertising whatsoever, without written consent of Lessor, City's Director of General Services.

19. RECYCLING. It is the established policy of the City to promote environmentally sound business practices. The Lessee agrees, where reasonable and practicable, to incorporate similar practices in its operation on the Premises including, but not limited to, encouraging recycling.

20. AMERICANS WITH DISABILITIES ACT. The Lessee agrees to comply with all provisions, where applicable, of Public Law 101-336 as it appears in CFR part 35 and 298 CFR part 1630 as applicable (Americans with Disabilities Act), as amended from time to time during the course of this contract.

21. INSURANCE.

- a) Lessee's Insurance. At all times during which Lessee is conducting any activities on the Premises, and at all times during the Term of this Lease, Lessee shall, at its own cost and expense, obtain and maintain in effect (a) Commercial General Liability insurance, including bodily injury and property damage coverage with minimum limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate; (b) Umbrella Liability Insurance with minimum limits of five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) aggregate; and (c) commercial all risk property insurance on the Project in sufficient amounts to cover the reasonable replacement cost thereof. Lessee shall furnish a Certificate of Insurance to Lessor prior to commencement of the Lease.

At all times during the Term of this Lease, Lessee shall obtain, pay all premiums for and furnish certificates to the Lessor for insurance as specified herein. **Delivery of such certificates to Lessor shall be a condition precedent to Lessee's right to go upon the Premises.**

All such insurance contracts shall name Lessor and Lessee as their interests appear and shall name as additional insured Lessor and Lessor's officers, agents, elected officials, representatives and employees. Such insurance contracts shall be with companies

reasonably acceptable to the Lessor and shall require ten (10 days) prior written notice to both parties hereto of any reduction in coverage or cancellation.

- b) Subrogation. As part of the consideration for this Lease, each of the parties hereto does hereby release the other party hereto from all liability for damage due to any act or neglect of the other party (except as hereinafter provided), occasioned to property owned by said parties which is or might be incident to or the result of a fire or any other casualty against which loss either of the parties is carrying insurance at the time of the loss; provided however that the releases herein contained shall not apply to any loss or damage occasioned by the willful, wanton, or premeditated negligence of either of the parties hereto, and the parties hereto further covenant that any insurance that they obtain on their respective properties shall contain appropriate provision whereby the insurance company, or companies, consent to the mutual release of liability contained in this paragraph

22. FORCE MAJEURE. "*Force Majeure*" means an event or circumstance that prevents a Party from performing its obligations, (a) which event or circumstance is not within the reasonable control of, and not the result of the fault or negligence or imprudent practice of, the Party affected thereby, and (b) which event or circumstance the affected Party, by the exercise of reasonable diligence, is unable to overcome, avoid or cause to be avoided, including, without limitation, acts of God, strike, lockout or other labor dispute, sabotage, fire, storm, freeze, wind, flood, drought, war, riot or insurrection, explosion, accident, embargo, blockade, inability to secure supplies, breakdown of or damage to machinery, plants or equipment not the fault or resulting from the negligence of the Party claiming the same, interruption or unavailability of transportation arrangements or equipment, regulation, rule, law, order, act or restraint of any civil or military authority, or any other cause whether of the kind herein enumerated or otherwise to the extent that such cause meets the requirements of an event of Force Majeure set forth above. As used herein, Force Majeure shall not include: (i) economic conditions that render a Party's performance of this Agreement unprofitable or otherwise uneconomic or (ii) a Party's inability to make payment when due under this Agreement, unless the cause of such inability would otherwise constitute an event of Force Majeure as set forth herein.

(a) Events of Force Majeure. If because of Force Majeure a Party is unable, in whole or in part, to carry out any of its obligations under this Agreement, and if such Party promptly gives notice to the other Party of such Force Majeure event, then the obligations of the Party claiming such Force Majeure event (other than obligations to pay money accruing prior to such event) are suspended to the extent and for the period reasonably necessary for the claiming Party to remedy or overcome such Force Majeure event; provided the claiming Party proceeds using commercially reasonable efforts, diligently pursued, to overcome such Force Majeure event and when such claiming Party is able to resume performance, provides written notice to the other Party to such effect.

(b) Termination under Force Majeure. Should a condition of Force continue for a period of six (6) months or longer following notice by the claiming Party of the event, then the non-affected Party may terminate this Agreement upon written notice to the claiming Party, without further obligation by the terminating Party, except as to payment of any costs or liabilities incurred prior to the effective date of such termination. Notwithstanding the foregoing, if the cause of the Force Majeure event is one that can be corrected through repair work or other if the actions taken by the claiming Party, and the claiming Party delivers to the non-affected Party a good-faith plan to complete such repair work or other cure within twelve (12) months from the initial notice of the

Force Majeure condition, then the non-affected Party will not have the right to terminate this Agreement prior to the last day of such twelve (12) month period so long as the claiming Party is using commercially reasonable efforts to complete such repair work or other such actions. Any such notice of termination must be given, if at all, during the period the performance continues to be delayed or prevented by the Force Majeure event.

23. DAMAGE BY CASUALTY. In the event of any fire, casualty, physical calamity or physical damage to the Premises or Project, which makes it impossible or impractical for Lessee to carry out the purposes of its installation, maintenance, and operation of the Project at the Premises, in Lessee's reasonable opinion, Lessee may terminate this Lease by delivering written notice to Lessor within sixty (60) Days of the date of such casualty. All Rent shall prorate as of the date of termination. Notwithstanding the foregoing, following any such casualty event which either (i) does not render the operation of the Project impossible or impractical in Lessee's reasonable opinion or (ii) Lessee elects not to terminate this Leases in accordance with the foregoing sentence, then Lessor shall use commercially reasonable efforts to promptly restore any damage to the Premises caused by such casualty as soon as reasonably practical. Lessee shall have no obligation to pay Rent during the period that the Premises and/or Project is rendered unfit for Lessee's use due to such casualty. Notwithstanding anything contained herein to the contrary, Lessee may, but shall have no obligation to, rebuild the Project following a casualty event.

24. INDEMNITY AND PUBLIC LIABILITY.

a) Lessee agrees to indemnify, defend and hold harmless Lessor and its affiliates, directors, officers, employees and agents from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) for personal injury or death to persons and damage to the Lessor's property to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Lessee, its affiliates, its directors, officers, employees, or agents.

b) Nothing in this Section 24 shall enlarge or relieve Lessee of any liability to Lessor for any breach of this Lease. Lessor shall not be indemnified for damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

25. DAMAGE TO PROPERTY ON PREMISES. Lessee agrees that all property of every kind and description kept, stored or placed in or on the Premises shall be at Lessee's sole risk and hazard and that Lessor shall not be responsible for any loss or damage to any of such property resulting from fire, explosion, water, steam, gas, electricity or the elements, whether or not originating on the Premises.

26. EMINENT DOMAIN. Should title or possession of all of the premises be taken in condemnation proceedings by a government agency, governmental body or private party under the exercise of the right of eminent domain, or should a partial taking of the Premises render the remaining portion of the Premises wholly unsuitable for Lessee's use, then this Lease shall terminate upon such vesting of title or taking of possession. All payments made on account of any taking of the fee estate by eminent domain shall be made to Lessor, and Lessee shall be entitled to any portions of such awards relating to the Project taken, and Lessee shall, at its sole discretion also be entitled to seek a separate award for any damages allowable by law, including but not

limited to: (i) the removal and relocation of Lessee's business, (ii) for the loss of goodwill, (iii) lost profits, (iv) for the loss and/or damage to any property that Lessee elects or is required not to remove, and (v) for the loss of use of the Premises by Lessee and Lessor shall have no right, title or interest in or to any separate award made therefore. It is agreed that Lessee shall have the right to participate in any settlement proceedings and that Lessor shall not enter into any binding settlement agreement without the prior written consent of Lessee, which consent shall not be unreasonably withheld. In the event of a partial taking that does not render the remaining portion of the Premises unsuitable for Lessee's use, as determined by Lessee in its sole discretion, this Lease shall continue in full force and effect. The Parties shall enter into an amendment of the Lease to reflect such partial taking.

27. PUBLIC REQUIREMENTS. Lessee shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Premises or the use thereof, and save Lessor harmless from expense or damage resulting from failure to do so.

28. ASSIGNMENT AND SUBLEASE. This Lease shall inure to the benefit of, and be binding upon, Lessor and Lessee, and their respective heirs, successors and assigns. Lessor may sell, mortgage, transfer or lease portions of the Land outside the Premises to others. However, any such sale, mortgage, lease or transfer by Lessor shall be subject to this Lease and any modifications or amendments thereof executed by the Parties from time to time. Lessee may not assign or sublet all or any portion of its interests under this Lease without the prior consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that Lessee may freely assign its interests under the Lease without the consent of Lessor to any (a) Affiliate of Lessee, (b) purchaser of all or substantially all of the assets of the Project and (c) lender or other financing party, and may sell, assign, lease, sublease or transfer any improvements (including Project) that it may install at the Premises, without obtaining the consent of Lessor. Lessee shall still provide written notice to Lessor of any assignment in those instances where consent by Lessor is not required. "**Affiliate**" shall mean any entity or person directly or indirectly controlling, controlled by or under common control with such specified person or entity. In the event of an assignment of Lessee's entire interest in this Lease, Lessee (including a successor Lessee by assignment) shall be released of all further liability under this Lease. If Lessee shall have assigned an interest or granted a sublease with respect to all or a portion of the Premises or the Project, no such assignment or sublease shall be affected by a cancellation or termination of this Lease, and Lessor shall recognize the rights of the assignee or holder of the sublease hereunder, provided only that such assignee or sublease holder attorn to Lessor upon its request. Lessor shall enter into a nondisturbance and attornment agreement, in form and substance reasonably acceptable to Lessee, upon the request of the assignee or sublease holder under any assignment or sublease. Lessee also shall have the right to grant subleases, licenses, easements or similar rights (however denominated) to one or more persons or entities with respect to any portion of its interests under this Lease, without obtaining the consent of Lessor.

29. LEASEHOLD FINANCING.

(a) Right to Encumber. Notwithstanding any provisions of Section 28 to the contrary, Lessee, any assignee or any holder of a sublease or license (each, an "Obligor") may at any time assign, encumber, hypothecate, mortgage or pledge (including by mortgage, deed of trust or personal property security instrument) all or any portion of its right, title or interest under this Lease and/or in the Project (which collectively shall hereinafter be referred to as the "Project Estate") to any

Lender without the consent of Lessor. As used herein "Lender" shall mean (i) any person or entity providing senior or subordinated construction, interim or long-term debt or equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Project, whether that financing or refinancing takes the form of private debt, public debt or any other form (including debt financing or refinancing provided to a member or other direct or indirect owner of Lessee), including any equity and tax investor directly or indirectly providing financing or refinancing for the Project or purchasing equity ownership interests of Lessee and/or its affiliates, and any trustee or agent acting on their behalf, (ii) any person or entity providing interest rate protection agreements to hedge any of the foregoing obligations, and/or (iii) any person or entity entering into a sale leaseback or leveraged lease structure with respect to the Project. Moreover, Lessor shall enter into any reasonable consent and non-disturbance agreement with any Lender within ten (10) Days following a request therefor, stating that Lessor shall recognize the rights of the Lender and not disturb its possession of the Premises so long as no Event of Default exists under this Lease, and stating such other things as such Lender may reasonably request. Lessor agrees to execute or cause its mortgagee to execute any further documentation that may be requested by Lessee or a Lender of any of the foregoing to evidence any non-disturbance as provided for in Section 34. From time to time, Lessor, within ten (10) Days after written request from Lessee or any Lender, shall execute and deliver an estoppel certificate certifying the status of this Lease, Lessee's and Lessor's performance hereunder, and any other matter reasonably requested by Lessee or such Lender.

(b) Covenants for Lenders' Benefit. Should an Obligor mortgage any of its interest as provided in Section 29(a) above, Lessor expressly agrees for the benefit of Lessee and any Lenders as follows:

(i) Lessor will not amend or modify, or take any action causing, consenting to or accepting the amendment or modification of this Lease, if such amendment or modification would reduce the rights or remedies of any Lender hereunder or impair or reduce the security for any lien held by such Lender.

(ii) Lender shall have the right to do any act or thing required to be performed by Obligor under this Lease, and any such act or thing performed by a Lender shall be as effective to prevent a default under this Lease and/or a forfeiture of any of Obligor's rights under this Lease as if done by Obligor itself.

(iii) If Lessor shall become entitled to terminate this Lease due to an uncured Event of Default by Obligor, Lessor will not terminate this Lease unless it has first given written notice of such uncured Event of Default and of its intent to terminate this Lease to each Lender and has given each Lender at least thirty (30) Days after the expiration of the cure period which this Lease provides to Obligor for curing such Event of Default, to cure the Event of Default to prevent such termination of this Lease. Furthermore, if within such thirty (30) Day period a Lender notifies Lessor that it must foreclose on Obligor's interest or otherwise take possession of Obligor's interest under this Lease in order to cure the Event of Default, Lessor shall not terminate this Lease and shall permit such Lender a sufficient period of time as may be necessary for such Lender, with the exercise of due diligence, to foreclose or acquire Obligor's interest under this Lease and to perform or cause to be performed all of the covenants and agreements to be performed and observed by Obligor. In the event a Lender shall elect to exercise its rights hereunder, such Lender shall have no personal liability to Lessor and the sole recourse of the Lessor in seeking enforcement of its obligations under this Lease or any new lease entered into pursuant to Section 29(b)(iv) shall be to such Lender's interest in this Lease and the Premises. Upon the sale or other

transfer of any interest in the rights granted hereunder by any Lender, such Lender shall have no further duties or obligations hereunder.

(iv) In case of the termination of this Lease as a result of any Event of Default or the bankruptcy, insolvency or appointment of a receiver in bankruptcy for Obligor, Lessor shall give prompt notice to the Lenders. Lessor shall, upon written request of the first priority Lender, made within forty (40) Days after notice to such Lender, enter into a new lease agreement with such Lender, or its designee, within twenty (20) Days after the receipt of such request. Such new lease agreement shall be effective as of the date of the termination of this Lease by reason of Event of Default by Obligor, upon the same terms, covenants, conditions and agreements as contained in this Lease. Upon the execution of any such new lease agreement, the Lender shall (i) pay Lessor any amounts which are due Lessor from Obligor, (ii) pay Lessor any and all amounts which would have been due under this Lease (had this Lease not been terminated) from the date of the termination of this Lease to the date of the new lease agreement, and (iii) agree in writing to perform or cause to be performed all of the other covenants and agreements set forth in this Lease to be performed by Obligor to the extent that Obligor failed to perform the same prior to the execution and delivery of the new lease agreement.

(v) As long as there is a Project Estate, neither the bankruptcy nor the insolvency of Lessee shall operate to terminate, nor permit Lessor to terminate, this Lease as long as all rent and other charges payable by Lessee continue to be paid in accordance with the terms of this Lease.

(vi) The time available to a Lender to initiate foreclosure proceedings as aforesaid shall be extended by the number of Days of delay occasioned by judicial restriction against such initiation or occasioned by other circumstances beyond such Lender's reasonable control.

(vii) Upon the request of any Lender, Lessor and Lessee shall amend this Lease to include any reasonable provision requested by such Lender to implement the protective provisions contained in this Lease for the benefit of such Lender or to allow such Lender reasonable means to protect or preserve the Project Estate granted hereby or the lien of its leasehold mortgage on the occurrence of an Event of Default under this Lease; provided, however, that Lessor shall not be required to amend this Lease in any way which would affect the Term or rental hereunder or otherwise in any material respect adversely affect any rights of Lessor under this Lease.

30. MEMORANDUM. Lessor and Lessee shall execute in recordable form and Lessee shall record, a memorandum of this Lease substantially in form satisfactory for recording in the land registry or title records of the county where the Premises is located or other applicable government office that shall be recorded on or promptly following the Effective Date. Lessor consents to the recordation of the interest of any Lender or assignee of Lessee's interest in this Lease.

31. OWNERSHIP OF IMPROVEMENTS; FIXTURES. [DISCUSS: During the Term and any Renewal Term, all present and future alterations, additions, renovations, improvements and installations located on or hereinafter made to the Premises shall be deemed to be the property of Lessee and shall be removable or replaceable at Lessee's sole discretion. The commercial greenhouse structure, regardless of whether or by what means it may become attached to the Premises, as well as all movable goods, inventory, office furniture, equipment, trade fixtures (including, without limitation, exterior Signs, white boards, and curtains) and any other movable personal property belonging to Lessee that are not permanently affixed to the Premises shall remain Lessee's property ("**Lessee's Property**") and shall be removable by Lessee at any time, provided that Lessee shall repair any damage to the Premises caused by the removal of any of Lessee's Property.

32. SURRENDER AT END OF TERM. Lessee shall use commercially reasonable efforts to remove the Project and restore the Premises to substantially the same condition it was in as of the Effective Date (except for reasonable wear and tear, condemnation, casualty damage and acts of God) within ninety (90) Days following the expiration or termination of this Lease. Further, upon the request of Lessor, Lessee shall execute and record a quitclaim deed of Lessee's right, title and interest in the Premises following such expiration or termination. Lessee may ask Lessor if Lessor is willing to accept property (greenhouses, etc) on the Premises upon termination of the Lease. Lessor's election to retain all or any portion of the Project as its property shall relieve Lessee from any liability for its failure to remove such portions.

34. COVENANTS OF TITLE.

(a) Without limiting the obligations set forth in Section 26, Lessor represents and warrants to Lessee that it owns the Land in fee simple, subject to no liens or encumbrances except as disclosed in writing to Lessee prior to the execution of this Lease and attached hereto as Exhibit B. Lessee may obtain a current preliminary title report for the Land at its expense showing all liens and other exceptions to title to the Land. At the request of Lessee, Lessor shall obtain executed and acknowledged instruments and such other documents as the title company or Lessee may require to confirm Lessor's ownership of the Land or to complete or evidence the full granting of the leasehold interest in the Premises as intended by this Lease. Further, Lessor shall obtain a subordination, non-disturbance and attornment agreement from each existing and future lienholder (recorded or unrecorded) which provides on terms reasonably acceptable to Lessee that Lessee's possession of the Premises shall not be disturbed so long as Lessee is not in default of this Lease beyond any applicable notice and cure periods.

(b) Upon the financing of any of Lessee's Project, Lessor shall, promptly upon request from Lessee, execute, deliver and acknowledge, without charge, a waiver, in form and substance reasonably satisfactory to Lessee, of any statutory lien or right of distraint in favor of Lessor in such Project and/or equipment, machinery or other personal property.

35. HOLDING OVER. Any holding over by Lessee after the expiration of the Term or any lawful extension thereof shall be construed to be a tenancy from month to month at a monthly rental equal to one hundred fifty percent (150%) of the rent payable during the last month immediately prior to the expiration of the Term and shall otherwise be on the terms and conditions herein specified. Nothing herein set out shall be construed to authorize any such holding over.

36. DEFAULT. If default is made in the payment of any installment of Rent by Lessee on the due date thereof and such default shall continue for 10 days, or if Lessee shall default in the performance of any other agreement (other than payment of rent) in this Lease and such default (other than payment of rent), continues for thirty days after written notice thereof or sixty days if Lessee is unable to cure within such 30 day period and is diligently prosecuting the cure, or if the Premises be vacated or abandoned, then in any such event this Lease shall terminate, at the option of the Lessor, and Lessor may re-enter the Premises and take possession thereof, with or without force or legal process and without notice or demand, the service of notice, demand or legal process being hereby expressly waived, and upon such entry, as aforesaid, this Lease shall terminate and the Lessor may exclude Lessee from the Premises, changing the lock on the door or doors if deemed necessary, if applicable, without being liable to Lessee for any damages or for prosecution

therefor; Lessor's rights in such event may be enforced by action in unlawful detainer or other proper legal action, and the Lessee expressly agrees, notwithstanding termination of this Lease and re-entry by the Lessor that the Lessee shall remain liable for a sum equal to the entire rent payable to the end of the term hereof and shall pay any loss or deficiency sustained by the Lessor on account of the Premises being let for the remainder of the original term for a less sum than before. Lessor, as agent for Lessee without notice may re-let the leased Premises or any part thereof for the remainder of the term or for any longer or shorter period as opportunity may offer, and at such rental as may be obtained, and Lessee agrees to pay the difference between sum equal to the amount of rent payable during the residue of the term and net rent actually received by the Lessor during the term after deducting all expenses of every kind for repairs, recovering possession and reletting the same, which differences shall accrue and be payable monthly.

37. WAIVER. The rights and remedies of the Lessor under this Lease, as well as those provided or accorded by law, shall be cumulative, and none shall be exclusive of any other rights or remedies hereunder or allowed by law. A waiver by Lessor of any breach or breaches, default or defaults, of this Lease hereunder shall not be deemed or construed to be a continuing waiver of such breach or default not as a waiver of or permission, expressed or implied, for any subsequent breach or default, and it is agreed that the acceptance by Lessor of any installment of rent subsequently to the date the same should have been paid hereunder, shall in no manner alter or affect the covenant and obligation of Lessee to pay subsequent installments of rent promptly upon the due date thereof. No receipt of money by Lessor after the termination in any way of this Lease shall reinstate, continue or extend the term above demised.

38. BANKRUPTCY. Neither this Lease nor any interest therein nor in any estate hereby created shall pass to any trustee receiver in bankruptcy or to any other receiver or assignee for the benefit of creditors or otherwise by operation of law during the term of this lease or any renewal thereof.

39. NOTICE. Any notice hereunder to Lessee shall be sufficient if sent by U.S. Mail, postage prepaid, addressed to Lessee:

**Attn: President
KCM Greenhouse LLC
716 Newman Spring Road #294
Lincroft, NJ 07738**

Addressed to Lessor:

**Property Leasing Manager
GS – Real Estate Services
17th Floor, City Hall
414 E. 12th Street
Kansas City, MO 64106**

40. COVENANTS TO RUN WITH THE PREMISES. The covenants herein contained shall run with the Premises hereby let and bind the heirs, executors, administrators, assigns and successors of the Lessor and Lessee respectively and consent of Lessor to assignment, and acceptance of rent from assignee of the Lessee shall not release the Lessee from his obligation to pay rent and comply with the other conditions of this Lease.

41. GOVERNING LAW. This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

42. ENTIRE AGREEMENT. This Lease Agreement contains the entire agreement between the parties, and no modification of this Lease Agreement shall be binding upon the parties unless evidence by an agreement in writing signed by the Lessor and the Lessee after the date hereof.

43. APPROVAL BY CITY COUNCIL This Lease is not effective until ten (10) days after City Council approval by ordinance.

EXHIBITS. The following Exhibit "A" and "A-1" is attached to this Lease and is a part hereof and incorporated herein by this reference:

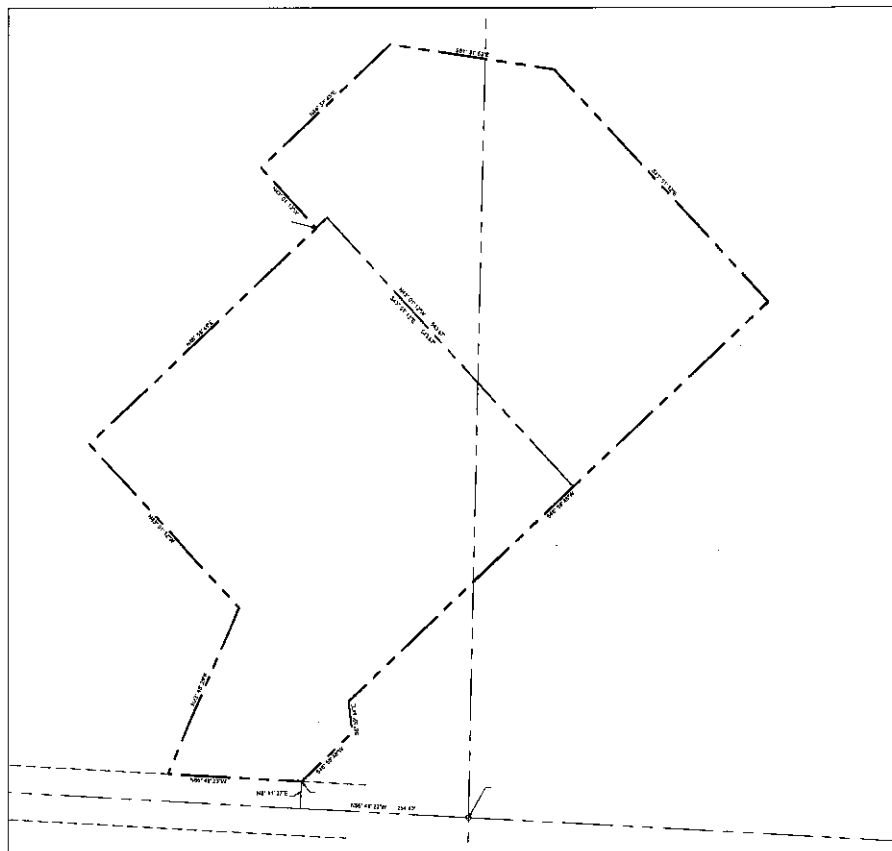
**Exhibit A-Leased Premises
Legal Description**

ALL THAT PART OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 49 NORTH, RANGE 32 WEST, KANSAS CITY, JACKSON COUNTY MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE N 86°48'23" W, ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER, 254.40 FEET; THENCE N 3°11'37" E, 40.00 FEET, TO THE NORTH RIGHT-OF -WAY LINE OF OZARK ROAD, AS NOW ESTABLISHED; THENCE N 86°48'23" W, ALONG SAID RIGHT-OF-WAY LINE, 201.86 FEET; THENCE N 23°48'35" E 266.89 FEET; THENCE N 43°01'12" W 330.15 FEET; THENCE N 46°58'48"E 466.53 FEET, TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE N 43°01'12" W 122.00 FEET; THENCE N 46°58'48" E 266.50 FEET; THENCE S 81°31'52" E 249.41 FEET; THENCE S

43°01'12" E 470.50 FEET; THENCE S 46°58'48" W 399.17 FEET; THENCE N 43°01'12" W 543.67 FEET; THENCE S 46°58'48" W 22.63 FEET, TO THE POINT OF BEGINNING, CONTAINING 253,319 SQUARE FEET OR 5.81 ACRES MORE OR LESS.

Exhibit A-1 Land

[illegible]

LEASE 1

[illegible]

LEASE 2

[illegible]

IN WITNESS WHEREOF, each party hereto has caused this Lease to be executed on behalf of such party by an authorized representative as of the date first set forth above.

LESSEE:

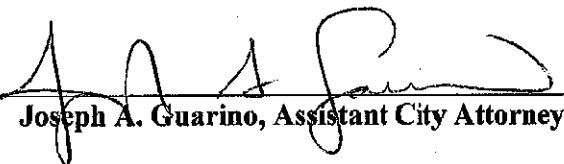
BY 
Paul Lightfoot, President
KCM Greenhouse, LLC

LESSOR:

CITY OF KANSAS CITY, MISSOURI,
A Constitutionally Chartered Municipal
Corporation of the State of Missouri

BY 
Earnest Rouse
Director, General Services City of Kansas City, MO

APPROVED AS TO FORM & LEGALITY

BY: 
Joseph A. Guarino, Assistant City Attorney