

# UNOFFICIAL COPY

**This Document Prepared By and  
After Recording Return to:**

Polsinelli PC  
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Suite 3000  
Chicago, Illinois 60606  
Attn: David N. Tanner, Esq.



Doc# 1805844103 Fee \$54.00

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KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 02/27/2018 04:14 PM PG: 1 OF 9

**Near North National Title**  
222 N. LaSalle  
Chicago, IL 60601



## ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "Assignment") is made as of February 16, 2018, and FOR VALUE RECEIVED, 3264 CLARK LLC, an Illinois limited liability company (hereinafter called the "Assignor"), hereby grants, assigns, transfers, sells, conveys, delivers and sets over to LAKESIDE BANK, a national banking association, and its successors and assigns (hereinafter called the "Assignee"), all right, title and interest of Assignor in and to all present and future leases, subleases, licenses, occupancy agreements and any other agreements creating the right of possession or right of use without transfer of title, together with all modifications, extensions, replacements and renewals thereof (collectively, the "Leases") demising and leasing all or portions of the premises legally described on Exhibit A attached hereto and made a part hereof ("Premises") together with all rents, amounts payable to Assignor on account of maintenance, repairs, taxes, insurance, common area expenses or similar charges and security deposits payable under the Leases, all tenant security deposit accounts, if any, relating to the Leases and the Premises, and all benefits and advantages to be derived therefrom to hold and receive them unto the Assignee, and together with all rights against guarantors, if any, of the obligations of the lessees (each, a "Lessee" and collectively, the "Lessees") under the Leases. This assignment is an absolute assignment to Assignee and not an assignment as security for the performance of the obligations under the Loan Documents. All initially capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Loan Agreement (as hereinafter defined).

1. Subject to the terms of Section 7 hereto the Assignor does hereby empower the Assignee, its agents or attorneys, to collect, sue for, settle, compromise and give acquittances for all of the rents and security deposits that may become due under the Leases and avail itself of and pursue all remedies for the enforcement of the Leases and Assignor's rights in and under the Leases as the Assignor might have pursued but for this Assignment.

2. The Assignor represents and warrants that to Borrower's actual knowledge: (i) that as of the date hereof, the Leases are in full force and effect; (ii) that, except as provided in the Mortgage (as hereinafter defined) Assignor has not heretofore assigned or pledged the same or any interest therein, and no material default exists on the part of the Assignor, as lessor, in the

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performance of the terms, covenants, provisions or agreements in the Leases contained; and (iii) that no rent has been paid by any Lessee for more than one installment in advance, and that the payment of none of the rents to accrue under the Leases has been or, except in the ordinary course of business, will be waived, released, reduced, discounted or otherwise discharged or compromised by the Assignor.

3. The Assignor covenants and agrees:

(a) not to collect any of the rent, income and profits arising or accruing under any of the Leases more than thirty (30) days in advance of the time when the same become due under the terms thereof excluding bona fide security deposits and prepayments which are expressly required by the Leases for reserves for operating expenses or taxes, except as permitted by the Mortgage (as hereinafter defined);

(b) not to discount any future accruing rents, except in Assignor's good faith business judgment;

(c) not to execute any other assignments of any of the Leases or any interest therein or any of the rents thereunder;

(d) to perform all of Assignor's material covenants and agreements as lessor under the Leases and not to suffer or permit to occur, except in Assignor's good faith business judgment, (i) any release of liability of any of the Lessees, or (ii) any right of the Lessees to withhold payment of rent;

(e) to give prompt notices to the Assignee of any notices of material default on the part of Assignor with respect to the Leases received from the Lessees thereunder, and to furnish Assignee with complete copies of said notices;

(f) to enforce the Leases and all remedies available to the Assignor against the Lessees in Assignor's good faith business judgment, in case of material default under any of the Leases by any of the Lessees;

(g) that none of the rights or remedies of the Assignee under the Mortgage (as defined in Paragraph 4 below) shall be delayed or in any way prejudiced by this Assignment except as may be provided by law;

(h) that notwithstanding any variation of the terms of the Mortgage or any extension of time for payment thereunder, the Leases and benefits hereby assigned shall continue as additional security in accordance with the terms hereof until Assignee releases the lien of the Mortgage in accordance with the terms of the Loan Agreement (as defined below); and

(i) not to request, consent to, agree to or accept a subordination of any of the Leases to any mortgage or other encumbrance now or hereafter affecting the Premises except mortgages in favor of Assignee.

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4. This Assignment is given as additional security for the payment of (i) that certain Promissory Note in the principal amount of \$1,316,500.00, made in favor of the Assignee (the promissory note together with any amendments or allonges thereto, or restatements or replacements thereof, and/or new promissory notes to Lender (collectively referred to herein as the "Note") under the Term Loan and Security Agreement dated of even date herewith between Assignor and the Assignee (as the same may be amended, modified, supplemented or restated from time to time, the "Loan Agreement"), and all other sums secured by, among other things, the Mortgage, Security Agreement, Assignment of Leases and Rents, and Fixture Filing, which encumbers Assignor's interest in the Premises (the "Mortgage") bearing even date herewith from Assignor, as grantor for the benefit of Assignee, as beneficiary. This Assignment is being delivered pursuant to the Loan Agreement. The security of this Assignment is and shall be primary and on a parity with the real estate covered by the Mortgage and not secondary. All amounts collected hereunder, after deducting the expenses of collection and, at Assignee's option, the expenses of operation of the Premises, shall be applied on account of the indebtedness secured by the Mortgage, or in such other manner as may be provided for in the Mortgage, or herein, or by law. Nothing herein contained shall be construed as constituting Assignee a trustee or mortgagee in possession.

5. Upon issuance of a deed or deeds pursuant to foreclosure of the Mortgage, all right, title, interest and powers of the Assignor in and to the Leases under the license granted in Paragraph 7 hereof shall, by virtue of this instrument, thereupon vest in and become the absolute property of the grantee or grantees in such deed or deeds without any further act or assignment by the Assignor.

6. In the exercise of the powers herein granted the Assignee, no liability shall be asserted or enforced by Assignor against the Assignee, all such liability being hereby expressly waived and released by the Assignor, except liability arising from Assignee's gross negligence or willful misconduct. Except in the event that Assignee elects to exercise the powers herein granted, the Assignee shall not be obligated to perform or discharge any obligation, duty or liability under any of the Leases, or under or by reason of this Assignment, and the Assignor does hereby indemnify the Assignee for, and agrees to defend and hold it harmless of and from any and all liability, loss or damage which it may or might incur under any of the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Leases, except for any and all liability, loss or damage resulting from Assignee's gross negligence or willful misconduct. Should the Assignee incur any such liability, loss or damage under any of the Leases or under or by reason of this Assignment, or in the defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, to the fullest extent not prohibited by applicable law, shall be secured hereby, and the Assignor shall reimburse the Assignee therefor immediately upon demand.

7. Although it is the intention of the parties that this instrument shall be an absolute, effective, irrevocable, completed and present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Assignor shall have the right under a license granted hereby to collect, use and enjoy the rents payable under the Leases from time to time and take any of the other actions referenced in Section 1 above, and the Assignee

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shall not exercise any of the rights or powers herein conferred upon it until an Event of Default (as defined below) shall occur under the terms and provisions of this Assignment, but upon the occurrence of any such Event of Default, Assignee shall be entitled, upon notice to the Lessees, and without regard for the adequacy of the security for the indebtedness secured hereby, the commission of waste or the solvency of the Assignor, and with or without the appointment of a receiver by a court, to all rents and other amounts then due under the Leases and thereafter accruing, and this Assignment shall constitute a direction to and full authority to the Lessees to pay all such amounts to the Assignee without proof of the Event of Default relied upon. The Lessees are hereby irrevocably authorized to rely upon and comply with (and shall be fully protected in so doing) any notice or demand by the Assignee for the payment to the Assignee of any rental or other sums which may be or thereafter become due under the Leases, or any of them, or for the performance of any of Lessees' undertakings under the Leases and shall have no right or duty to inquire as to whether any default under the Mortgage has actually occurred or is then existing.

This Assignment is given as security in addition to the security of the Mortgage, and not as a part of the security of the Mortgage, for the purpose of securing: (i) payment of all indebtedness evidenced by the Note (including any amendments, extensions, renewals or replacements thereof), of all other sums secured by the Mortgage and of all sums payable by the Assignor hereunder; and (ii) performance and discharge of each and every obligation, covenant and agreement of the Assignor contained herein, in the Note, in the Mortgage and in any other instrument which secures the Note.

The provisions of this Section 7 shall control and take precedence over any contrary provisions contained in this Assignment.

8. The occurrence of Default (as defined in the Loan Agreement) shall constitute an "Event of Default" hereunder.

9. Any amounts received by Assignor or its agents for performance of any actions prohibited by the terms of this Assignment, including any amounts received in connection with any cancellation, modification, or amendment of any of the Leases prohibited by the terms of this Assignment, and any amounts received by Assignor as rents, income, issues, or profits from the Premises from and after the date of any Event of Default under the Loan Agreement or under any of the Loan Documents (as defined in the Loan Agreement), which shall be held by Assignor as trustee for Assignee and all such amounts shall be accounted for to Assignee and shall not be commingled with other funds of the Assignor. Any person acquiring or receiving all or any portion of such trust funds shall acquire or receive the same in trust for Assignee as if such person had actual or constructive notice that such funds were impressed with a trust in accordance herewith; by way of example and not of limitation, such notice may be given by an instrument recorded with the Recorder of Deeds, County Recorder or Registrar of Titles, as the case may be, of the county in which the Premises are located stating that Assignor has received or will receive such amounts in trust for Assignee, or stating that a proceeding has been commenced to foreclose the Mortgage.

10. In the event any of the Lessees under the Leases should be the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other

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federal, state, or local statute which provides for the possible termination or rejection of the Leases assigned hereby, the Assignor covenants and agrees that if any of the Leases is so terminated or rejected and an Event of Default has occurred, then no settlement for damages shall be made without the prior written consent of Assignee; otherwise, Assignor shall have the right to make a settlement for such damages. Any check in payment of damages for termination or rejection of any such Lease where Assignee has the right to approve the settlement for damages (as provided in the preceding sentence) will be made payable both to the Assignor and Assignee. The Assignor hereby assigns any such payment to Assignee and further covenants and agrees that upon the request of Assignee, it will duly endorse to the order of Assignee any such check, the proceeds of which will be applied to monthly debt service on the indebtedness secured by this Assignment.

11. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents to secure said indebtedness contained in the Mortgage or in any other document.

12. This Assignment shall include any extensions, replacements, modifications and renewals of the Leases, and any subleases, licenses and other tenancies, and any reference herein to the Leases shall be construed as including any such extensions, replacements, modifications and renewals of the Leases and any subleases, licenses and other tenancies.

13. This instrument shall be binding upon and inure to the benefit of (a) Assignee, its successors and assigns, including all holders, from time to time, of the Note, and (b) Assignor and its successors and permitted assigns. The words "Assignor," "Assignee" and "Lessees" wherever used herein, shall include the persons named herein and designated as such and their respective successors and assigns, and all words and phrases shall be taken to include the singular or plural and masculine, feminine or neuter gender, as may fit the case.

14. Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given if given in accordance with Section 10.01 of the Loan Agreement.

Any notice or demand delivered to the person or entity named above to accept notices and demands for Assignor shall constitute notice or demand duly delivered to Assignor, even if delivery is refused.

15. This Assignment is made for collateral purposes only and the duties and obligations of Assignor under this Assignment shall terminate when all sums due Assignee under the Loan Documents are paid in full and all obligations, covenants, conditions and agreements of Assignor contained in the Loan Agreement are performed and discharged. Notwithstanding the foregoing, the rights of Assignee and the duties and obligations of Assignor hereunder shall be deemed released and terminated automatically at such time as Assignee has released the Mortgage.

16. This Assignment shall be governed and construed by the internal laws of the state in which the Premises is located.

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17. Each party executing this Assignment as an Assignor shall be jointly and severally liable for all obligations of Assignor hereunder.

**18. ASSIGNOR AND ASSIGNEE, BY ITS ACCEPTANCE OF THIS ASSIGNMENT, EACH HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHT UNDER THIS ASSIGNMENT OR ANY OTHER LOAN DOCUMENT OR RELATING THERETO OR ARISING FROM THE LENDING RELATIONSHIP WHICH IS THE SUBJECT OF THIS ASSIGNMENT AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.**

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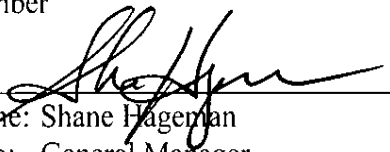
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IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day first written above.

ASSIGNOR:

3264 CLARK LLC, an Illinois limited liability company

By: Hageman Texas Farms, LLC, a Texas limited liability company, its sole member

By:   
Name: Shane Hageman  
Title: General Manager

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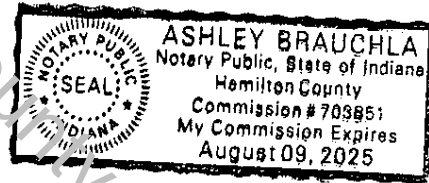
STATE OF Indiana )  
COUNTY OF Hamilton )

I, Ashley Brauchla a Notary Public in and for the County and the State aforesaid, do hereby certify that Shane Hageman, personally known to me to be the General Manager of Hageman Texas Farms, LLC, a Texas limited liability company, which is the sole member of 3264 CLARK LLC, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that as such Shane Hageman signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 14<sup>th</sup> day of February, 2018.

Notary Public A

My Commission expires: 3/9/25





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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 14, 15, 16, 17, 18, AND 19 IN THE RESUBDIVISION OF BLOCK 2 IN HAMBLETON WESTON AND DAVIS SUBDIVISION OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 40, NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### ADDRESS OF THE PROPERTY:

3264-70 Clark Street, Chicago, IL 60657

#### PERMANENT IDENTIFICATION NUMBERS:

14-20-426-056-1001, 14-20-426-056-1002, 14-20-426-056-1003, 14-20-426-056-1004, 14-20-426-056-1005, 14-20-426-056-1006, 14-20-426-056-1007, 14-20-426-056-1008, 14-20-426-056-1009, 14-20-426-056-1010, 14-20-426-056-1011, 14-20-426-056-1012, 14-20-426-056-1013, 14-20-426-056-1014, 14-20-426-056-1015, 14-20-426-056-1016, 14-20-426-056-1017, 14-20-426-056-1018, 14-20-426-056-1019, 14-20-426-056-1020, 14-20-426-056-1021, 14-20-426-056-1022, 14-20-426-056-1023, 14-20-426-056-1024, 14-20-426-056-1025, 14-20-426-056-1026, 14-20-426-056-1027, 14-20-426-056-1028, 14-20-426-056-1029, 14-20-426-056-1030, 14-20-426-056-1031, 14-20-426-056-1032, 14-20-426-056-1033, 14-20-426-056-1034, 14-20-426-056-1035, 14-20-426-056-1036