

**VILLAGE OF NEW LEBANON
MONTGOMERY COUNTY, OHIO**

**RESOLUTION NO: 2025-03
BY
MAYOR DAVID NICKERSON**

A RESOLUTION AUTHORIZING THE ACTING VILLAGE MANAGER TO EXECUTE A LEASE WITH TUKENS LLC., FRANK J. HORA SR., PRESIDENT TO FARM APPROXIMATELY FORTY-SIX (46) ACRES, MORE OR LESS, FOR A PERIOD OF THREE (3) YEARS COMMENCING JANUARY 1, 2025 AND ENDING DECEMBER 31, 2027, IN THE AMOUNT OF \$311.00 AN ACRE, FOR A TOTAL OF \$14,306.00 PER YEAR.

WHEREAS, the Village of New Lebanon owns 118+ acres of land formerly known as the Hounshell farm; and

WHEREAS, the Village of New Lebanon owns approximately forty-six (46) acres to lease for farming; and

WHEREAS, it is in the Village's best interest to lease the forty-six (46) acres for farming.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF NEW LEBANON, MONTGOMERY COUNTY, OHIO, AS FOLLOWS:

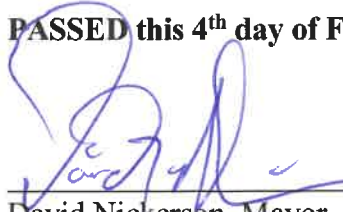
SECTION I The Acting Village Manager is authorized to execute a lease agreement with Frank J. Hora Sr to farm approximately forty-six (46) acres, more or less, for a period of three (3) years commencing January 1, 2025 and ending December 31, 2027, in the amount of \$311.00 an acre, for a total of \$14,306.00 per year.

SECTION II It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION III That this Resolution shall take effect immediately upon adoption.

**NEW LEBANON, OHIO
RECORD COPY
DO NOT REMOVE FROM FILE**

PASSED this 4th day of February 2025.



David Nickerson, Mayor

2/18/25

Attest:



Robert Anderson II
Acting Clerk of Council

2/4/25
Date:

LEASE AGREEMENT

This agreement, entered into this 5th day of February, 2025, by and between the Municipality of New Lebanon (Lessor), and Frank J. Hora Sr.(Lessee), respectively.

ARTICLE 1: DEMISE, DESCRIPTION, USE, TERM AND RENT

Lessor hereby leases to Lessee, and Lessee hereby leases form Lessor, that certain property, hereinafter called the lease lands, situated in New Lebanon, Montgomery County, Ohio, and described as follows: approximately 46 acres on the North part of the former Emille Hounsell property at 10525 Eaton Pike for a period of three (3) years January 1, 2025 through December 31, 2027.

ARTICLE 2: RENT

Lessee shall pay Lessor at 198 S. Clayton Road, New Lebanon, Ohio 45345 or such other place as the Lessor shall designate from time to time in writing, as rent for the leased lands, the sum equal of \$311.00 per acre per year. This amount shall be payable without demand and without set off or deduction as expressly provided herein.

Lessee shall, no later than November 1, of each of the three (3) years, pay to Lessor the sum of \$14,306.00 as payment of the rental due hereunder.

If lessee defaults in the payment of the rent hereunder, such installment shall bear interest at the rate of 10 percent per annum from the day it is due until actually paid. In like manner, all other obligations, benefits, and moneys which may become due to Lessor from Lessee under the terms hereof, or which shall bear interest at the rate of 10 percent per annum from the due date until paid, or, in the case of sums paid by Lessor, because of Lessee's default hereunder, from the date such payments are made by Lessor until the date Lessor is reimbursed by Lessee therefor.

ARTICLE 3: TAXES AND ASSESSMENTS

The Lessor shall assume all taxes and general and special assessments of every description and kind during the term of the lease which may be levied or assessed against the leased lands and all interests therein and all improvements and other property thereon, whether belonging to Lessor or to Lessee, or to which either of them may become liable in relation thereto.

Lessee shall be responsible for any and all payroll tax deductions for any employees or paid volunteers of Lessee working on said lands. Furthermore, the Lessee shall be responsible for the payment of all Worker's Compensation premiums, Unemployment premiums, Social Security/FICA withholding and any other obligation imposed upon the Lessee as an employer under the laws of the County of Montgomery, State of Ohio, and the United States of America.

Furthermore, Lessee shall be responsible to obtain all necessary licenses and permits to operate said premises, and shall conspicuously post said licensing as required by law.

ARTICLE 4: SYSTEM OF FARMING AND SOIL MAINTENANCE

It is agreed by the Lessor and Lessee that the lands herein shall be devoted to the production of crops in the following rotation and manner: soybeans – corn – no till method, as much as possible. Any change in this rotation and/or the method of production of the crops shall be by mutual consent of the Lessor and Lessee only. Provisions for soil maintenance shall be good conservation practices, including maintenance of appropriate PH levels.

ARTICLE 5: USE AND CARE OF LANDS

Lessee shall use the lands described herein solely for agricultural purposes as contemplated by this lease. Lessee agrees to take good care of the lands, to cultivate, fertilize, maintain and manage the property and the soil in a careful and prudent manner, to control soil erosion as completely as practicable and to comply with all applicable laws pertaining to the protection of the environment. Lessee shall keep the weeds cut or controlled by other means to prevent seeding or spreading. No livestock shall be permitted on the lands for any purpose whatsoever. Lessee shall not commit waste on or damage to the lands, and will not store or leave automobiles, trucks, tractors or other farm equipment on the lands, except in the normal course of farming. Lessee shall use insecticides or herbicides only when approved by Lessor and only in a manner consistent with other actual or potential use of the lands and the adjacent lands.

ARTICLE 6: INSURANCE

Lessor agrees to maintain good and responsible insurance for fire and extended coverage during the entire term of this lease, pursuant to its statutory obligation as a municipal corporation.

Lessee agrees to obtain and maintain good and responsible insurance during the entire term of this lease as follows:

a. Public liability insurance in the minimal amount of \$1,000,000 from the loss from an accident resulting in bodily injury or death to persons, and in the amount of \$500,000 for loss from an accident resulting in damage to or destruction of property.

b. Lessee shall cause to have Lessor named as a loss payee on all policies of insurance coverage.

c. Lessor and Lessee agree that, in the event of loss due to any of the perils for which they have agreed to provide insurance, each party shall look solely to its insurance for recovery. Lessor and Lessee hereby grant to each other, on behalf of any insurer providing insurance to either of them with respect to the demised premises, a waiver of any right of subrogation that any insurer of one party may acquire against the other by virtue of payment of any loss under such insurance.

d. On securing the foregoing coverages, the Lessee shall give to the Lessor, written notice thereof together with a certified copy of the appropriate policy.

e. Proof must also be given by the Lessee to the Lessor that each of the policies

provided for in this article expressly provides that the policy shall not be canceled or altered without 60 days' prior written notice to the Lessor.

f. If the Lessee, at any time during the term hereof, should fail to secure or maintain the foregoing insurance, the Lessor shall be permitted to obtain such insurance in the Lessee's name or as the agent of the Lessee and shall be compensated by the Lessee for the cost of the insurance premiums. The Lessee shall pay the Lessor interest on paid insurance premiums at the rate of 10% per annum computed from the date written notice is received that the premiums have been paid.

g. Proceeds from any such policy or policies shall be payable to Lessor, who shall use such proceeds to make repairs as provided for below.

h. If the lands or improvements on the leased property should be damaged or destroyed by fire, flood, or other casualty, Lessee shall give immediate written notice thereof to Lessor.

i. If the leased property should be totally destroyed by fire, flood, or other casualty, or if it should be so damaged that rebuilding or repairs cannot reasonably be completed within 60 working days from the date of written notification by Lessee to Lessor of the occurrence of the damage, this lease shall terminate and rent shall be abated for the unexpired portion of this lease, effective as of the date of said written notification.

j. If the lands or improvements on the leased property should be damaged by fire, flood, or other casualty, but not to such an extent that rebuilding or repairs cannot reasonably be completed within 60 working days from the date of written notification by Lessee to Lessor of the occurrence of the damage, this Lease shall not terminate. If the leased property are to be rebuilt or repaired and are unfarmable in whole or in part following such damage, the rent payments hereunder during the period in which they are untenable shall be adjusted equitably. In the event that Lessor shall fail to complete such rebuilding or repairs within 60 working days from the date of written notification by Lessee to Lessor of the occurrence of the damage, Lessee may at its option terminate this lease by written notification at such time to Lessor, whereon all rights and obligations hereunder shall cease.

ARTICLE 7: UTILITIES

Lessee shall during the term hereof pay all charges for telephone, gas, electricity, sewage, and water used in or on the leased property immediately on becoming due and shall hold Lessor harmless from any liability therefor.

ARTICLE 8: WASTE AND NUISANCE

Lessee shall not commit, or suffer to be committed, any waste on the lands, nor shall he maintain, commit, or permit the maintenance or commission of any nuisance on the leased property or use the leased property for any unlawful purpose.

ARTICLE 9: ALTERATIONS, IMPROVEMENTS AND FIXTURES

Lessee shall not alter or improve the lands without the prior written consent of Lessor to do so, and any and all alterations, additions, improvements, and structures, made or placed in or on said premises shall on expiration, or sooner termination of this lease, belong to Lessor without compensation to Lessee; provided, however, that Lessor shall have the option, to be exercised on expiration or sooner termination of this lease, to require Lessee to remove any or all of such additions, improvements, or structures. Before creating any structures on the lands, Lessee shall submit plans and designs therefor to Lessor for his approval, and in the event that the plans and designs are disapproved by Lessor, such structures shall not be built until any changes required by Lessor are made.

ARTICLE 10: SUBORDINATION

This lease and any extensions of the terms hereof shall be subordinate, at the option of Lessor, to any and all encumbrances given by Lessor to secure funds for the lands herein.

ARTICLE 11: REMOVAL OF PROPERTY

Lessee shall, without demand therefor and at his own cost and expense within 30 days after expiration or sooner termination of the term hereof or of any extended term hereof remove all property belonging to him and all alterations, additions, improvements and structures which by the terms hereof he is permitted to remove, repair all damages to the lands caused by such removal, and restore the lands to the condition they were in prior to the commencement of this

lease. Any property not so removed shall be deemed to have been abandoned by Lessee and may be retained or disposed of by Lessor.

ARTICLE 12: CONDEMNATION

If during the term of this lease or any extension or renewal thereof, all or any portion of the lands should be taken for any public or quasi-public use under any law, ordinance, or regulation or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, this lease shall terminate and the rent shall be abated during the unexpired portion of this lease, effective as of the date of the taking of said lands by the condemning authority.

ARTICLE 13: DEFAULTS AND REMEDIES

If Lessee shall allow the rent to be in arrears more than 30 days after written notice of such delinquency, or shall remain in default under any other condition of this lease for a period of 30 days after written notice from Lessor, or should any other person than Lessee secure possession of the premises, or any part thereof, by reason of any receivership, bankruptcy proceedings, or other operation of law in any manner whatsoever, Lessor may at its option, without notice to Lessee, terminate this lease.

It is expressly agreed that in the event of default by Lessee hereunder, Lessor shall

have a lien upon all crops, goods, chattels, or personal property of any description belonging to Lessee which are placed in, or become part of, the leased property, as security for rent due and to become due for the remainder of the current lease term, which lien shall not be in lieu of or in any way affect any statutory Lessor's lien given by law, but shall be cumulative thereto; and Lessee hereby grants to Lessor a security interest in all such personal property placed on said lands for such purposes. This shall not prevent the sale by Lessee of any crops in the ordinary course of business free of such lien to Lessor. In the event Lessor exercises the option to terminate the leasehold, reenter and relet the lands as provided for in the preceding paragraph, then Lessor may take possession of all of Lessee's property on the lands and sell same at public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, or for such prices and terms as Lessor deems best, with or without having the property present at such sale. The proceeds of such sale shall be applied first to the necessary and proper expense of removing, storing, and selling such property, then to the payment of any rent due or to become due under this lease, with the balance, if any, to be paid to Lessee.

All rights and remedies of Lessor under this lease shall be cumulative, and none shall exclude any other right or remedy at law. Such rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefor arises.

If Lessor defaults in the performance of any term, convenient, or condition required to be performed by him under this agreement, Lessee may elect to terminate this agreement on giving at least 30 days notice to Lessor of such intention, thereby terminating this agreement on the date designated in such notice, unless Lessor shall have cured such default prior to the expiration of the 30 day period.

ARTICLE 14: INSPECTION BY LESSOR

Lessee shall permit Lessor and his agents to enter into and upon the leased property at all reasonable times for the purpose of inspecting the same or for the purpose of maintaining the lands, making repairs or alterations to the lands or to adjacent lands.

ARTICLE 15: ASSIGNMENT AND SUBLEASE

Lessee shall not assign this lease nor sublet or relet all or any portion of the leased premises without the prior written consent of Lessor.

ARTICLE 16: MISCELLANEOUS

All notices provided to be given under this agreement shall be given by certified mail or registered mail, addressed to the proper party, at the following address:

LESSOR
Municipality of New Lebanon
198 S. Clayton Road
New Lebanon, OH 45345

LESSEE
Frank J. Hora Sr., Tukens LLC.
15725 Eaton Pike
West Alexandria, Ohio 45381-9614

This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this agreement.

This agreement shall be construed under and in accordance with the laws of the State of Ohio, and all obligations of the parties created hereunder are performable in Montgomery County, Ohio.

In case any one or more of the provisions contained in this lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this lease shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

This lease constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.

The rights and remedies provided by this lease are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

No waiver by the parties hereto of any default of breach of any term, condition, or convenient of this lease shall be deemed to be a waiver of any other breach of the same or any other term, condition, or convenient contained herein.

In the event Lessor or Lessee breaches any of the terms of this agreement whereby the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable attorneys' fees so incurred by such other party.

Neither Lessor nor Lessee shall be required to perform any term, condition, or convenient in this lease so long as such performance is delayed or prevented by any acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the control of the Lessor or Lessee and which by the exercise of due diligence Lessor or Lessee is unable, wholly or in party, to prevent or overcome.

Time is of the essence of this agreement.

IN WITNESS WHEREOF, the undersigned Lessor and Lessee hereto execute this agreement as of the date and year first above written.

Lacey S. Fetter

Witness

Beth Bicknell

Witness

Rob Anderson

Village of New Lebanon
Rob Anderson, Acting Village Manager
198 S. Clayton Road
New Lebanon, OH 45345

Lacey S. Fetter

Witness

Beth Bicknell

Witness

Frank J. Hora Sr.

Frank J. Hora Sr., Tukens LLC.,
15725 Eaton Pike
West Alexandria, Ohio 45381-9614