

**HARDIN COUNTY FISCAL COURT
RESOLUTION NO. 2013-058**

BE IT RESOLVED, upon recommendation of Judge/Executive Harry L. Berry, with the concurrence of the Solid Waste Committee, to approve the renewal of an agricultural lease agreement with David L. Ratliff. This lease agreement extends the prior lease from January 1, 2014 to December 31, 2015, but may be extended beyond December 31, 2015 upon mutual written agreement.

BE IT FURTHER RESOLVED, to authorize the Judge/Executive to sign all documents concerning the lease agreement.

ADOPTED, by the Hardin County Fiscal Court in its regular meeting on 23 April 2013.



Harry L. Berry
Hardin County Judge/Executive

ATTEST:



Kenneth L. Tabb
Hardin County Clerk

LEASE

This indenture of lease, hereinafter referred to as "Lease," made and entered into this ____ day of _____, 2013, by and between COUNTY OF HARDIN, a political subdivision of the COMMONWEALTH OF KENTUCKY, c/o Hardin County Judge/Executive, Harry L. Berry, #100 Public Square, Elizabethtown, Kentucky 42701, hereinafter referred to as "Lessor"; and DAVID L. RATLIFF, 588 Western School Lane, Eastview, Kentucky 42732, hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, the Lessor is the sole owner of certain real property described below and which the Lessee desires to lease, for agricultural purposes, and;

WHEREAS, the parties hereto desire to enter into a lease agreement defining their respective rights, duties and liabilities relating to any subsequent lease,

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereto agree as follows:

1. PREMISES. The Lessor, in consideration of the rent to be paid and the covenants to be performed by the Lessee, does hereby demise and lease unto the Lessee, and the Lessee hereby rents from the Lessor, certain real property located off Ash Lane, Elizabethtown, Kentucky 42701, and more particularly describe as follows:

DESCRIPTION:

BEGINNING at an iron pin being the corner of George H. Stewart (D.B. 263, page 236) and R. E. Peterson/C.C. McConnell (D.B. 214, page 143) (Note: next seven courses are along the line of said Peterson/McConnell); thence North 24 degrees 54' 51" West 397.16 feet to an iron pin (Note: all courses terminate at an iron pin unless otherwise designated); Thence North 51 degrees 50' 51" West 413.30 feet; thence North 72 degrees 49' 05" West 189.91 feet; thence South 86 degrees 41' 15" West 383.51 feet; thence North 28 degrees 24' 15" West 967.97 feet; thence North 57 degrees 50' 12" West 371.86 feet; thence North 35 degrees 23' 07" West 1331.72 feet to a corner of said Peterson/McConnell and Kenyon Investment Co. (D.B. 217, page 192), said corner being in the old J. H. Hart line (Note: next six courses are along the

line of said Kenyon Investment Co.); thence North 57 degrees 50' 38" East 454.57 feet; thence North 07 degrees 43' 52" East 278.11 feet; thence North 14 degrees 57' 28" East 198.63 feet to a stone; thence North 84 degrees 48' 47" East 561.23 feet; thence North 42 degrees 52' 36" East 661.64 feet; thence North 89 degrees 47' 12" East 203.47 feet to the corner of said Kenyon Investment Co. and Carl Milby being the adjoined to the Northeast (Note: next ten courses are along the line of said Milby); thence South 26 degrees 05' 19" East 904.86 feet; thence North 74 degrees 49' 11" East 178.37 feet; thence North 60 degrees 35' 21" East 181.81 feet; thence South 29 degrees 35' 55" East 233.64 feet; thence South 36 degrees 06' 20" West 419.60 feet; thence South 22 degrees 04' 37" East 881.74 feet; thence South 27 degrees 53' 45" East 346.23 feet to a stone pile; thence South 54 degrees 18' 29" East 186.02 feet; thence North 65 degrees 49' 51" East 611.38 feet; thence North 59 degrees 20' 28" East 595.05 feet to the corner of said Milby and Lincoln Miller (D.B. 147, page 492) (Note: next two courses are along the line of said Miller); thence South 50 degrees 08' 56" East 461.07 feet; thence South 30 degrees 35' 24" West 1842.65 feet to the corner of said Miller and said Stewart (Note: next two courses are along the line of said Stewart); thence South 72 degrees 10' 38" West 782.87 feet; thence South 79 degrees 11' 02" West 65.95 feet to the point of beginning, containing 177.0 acres as per survey by Raymond Leigh, Jr., Registered Kentucky Land Surveyor #1776, dated July 24, 1978.

Access to the leased premises by the Lessee for agricultural purposes shall be by private easement from Ash Lane and shall be reasonably maintained by Lessor.

SOURCE OF TITLE:

Being a portion of the same property conveyed to Sellers by virtue of a deed dated December 23, 1993, and of record in Deed Book 776, page 455, in the Office of the Hardin County Court Clerk, Elizabethtown, Kentucky 42701.

2. TERM. This lease agreement extends the prior lease agreement ending December 31, 2013 and will terminate December 31, 2015 but may be extended beyond December 31, 2015 upon mutual written agreement 60 days prior to December 31, 2015.

3. RENT. During the initial term and any renewal term of this lease agreement, the Lessee shall pay to the Lessor as rental for the use of said leased premises sum of Eighty Five Dollars (\$85.00) per planted acre per year as determined by GPS mapping provided by Lessee (\$7,480.00 total based on FSA acreage of 88.00 acres) due and payable at harvest or on or before December 15th of each year of said lease agreement. Said rent shall be made payable to Hardin County, H. B.

Fife Courthouse, #100 Public Square, Elizabethtown, Kentucky 42701. The Lessee shall during the term of this lease agreement received all eligible agricultural government subsidies directly related to the leased premises.

4. TAXES, UTILITIES AND INSURANCE.

(a) The Lessor shall, during the term of this lease, pay or reimburse the Lessee for all real property taxes and assessments by any city, state, county, school district or other governmental entity assessed against the leased premises including all building and improvements presently thereon, and all additions, fixtures, improvements and repairs made upon the leased premises.

(b) The Lessee shall be financially responsible, during the term hereof for all charges for gas, electricity, light, heat or power, water rents, sewer service, and any other utilities which are used or charged against the leased premises, and to indemnify the Lessor and save them harmless against any liability or damages on such account.

(c) The Lessor shall, at its own cost and expense, carry "all risk coverage", including the standard fire and extended coverage and vandalism and malicious mischief perils or other casualty in an amount that the Lessor determines is reasonably sufficient in the event of damages normally covered by this type of insurance and shall have the Lessor identified as an additional named payee on said insurance.

5. MAINTENANCE. The Lessee accepts the buildings, structures, improvements, fixtures and equipment located at the leased premises "as is."

6. IMPROVEMENTS. The Lessee shall have the right to make further interior improvements, including, but not limited to, the construction of partitions and installation of floor covering, subject to the prior written approval of the Lessor, which shall not be unreasonably withheld, and further provided that such improvement shall be done in a first-class workmanship

manner. The Lessee shall pay for and provide all materials necessary to accomplish the interior improvements of which the Lessor has agreed to. The Lessee shall be solely responsible for any and all material and labor cost necessary to make such interior improvements. All such improvements or alterations shall be in accordance with the building code and zoning laws of all governmental entities. All additions, fixtures, improvements and repairs made upon said leased premises by Lessee are thereafter the property of the Lessor upon the termination of this lease, except any additions, fixtures, improvements or repairs necessary to the conduct of the Lessee's business which the Lessee shall have attached to or installed in the leased premises without the intention of making the same a permanent installation, and which can be detached and removed without material damage to said building.

7. MECHANIC'S LIEN. In the event that the Lessee erects any alterations or improvements to the leased premises as hereinabove provided, Lessee agrees to and does indemnify Lessor against any mechanic's liens that may be filed against the leased premises for labor furnished, and in the event any such lien is filed, the Lessee will immediately pay same or post a sufficient bond, and cause it to be satisfied and discharged of record.

8. CONDEMNATION. If during any term of this lease the leased premises or any part thereof shall be taken or condemned by competent authority for public or quasi-public use, this lease shall terminate as of the date of taking (the "taking date").

9. INJURY TO LEASED PREMISES. (a) If the leased premises are injured by fire or other casualty, within ten (10) days after the date on which the injury occurs (the "injury date") the Lessor shall ascertain and advise the Lessee in writing whether the damaged by the injury (the "damage") could reasonably be repaired within one hundred and twenty (120) days after the "injury date" (the "repair period").

(b) If the "damage" could reasonably be repaired within the "repair period", then: (i) the Lessee shall not be entitled to terminate this lease; (ii) the Lessor shall repair the "damage" with all reasonable speed and shall complete such repair within the "repair period"; and (iii) the Lessee's rent shall be reduced, pro rata for time and space, to the extent that the Lessee is deprived of the occupancy of any portion of the leased premises for the Lessee's purposes by reason of the injury and the making of the repairs. The Lessor's obligation to restore and repair the leased premises shall be limited to the amount of any insurance proceeds received by the Lessor from the insurance carried by the Lessor in accordance with the provisions of Paragraph 4(c) of this lease and shall be further subject to any rights of the Lessor's mortgagee in and to such proceeds. If the Lessor fails to complete the repair of the "damage" within the "repair period" (as it may have been extended pursuant to the subsequent provisions of this subparagraph) the Lessee may, at the Lessee's option and in addition to any remedies that the Lessee may have against the Lessor as a result of such failure, at any time after the expiration of the "repair period" (and any extension thereof) and prior to the completion of the repair of the "damage", terminate this lease by written notice to the Lessor. If the repair of the "damage" by the Lessor is interrupted as a result of any strike or other labor disturbance, governmental restrictions on materials or physical forces beyond the control of the Lessor, the Lessor shall take all reasonable steps to minimize any delay in the completion of the repair of the "damage" by reason of any such interruption and the "repair period" shall be extended by the number of days that such interruption or interruptions persist in spite of such efforts of the Lessor.

(c) If the "damage" cannot reasonably be repaired within the "repair period", then the Lessee may terminate this lease by written notice to the Lessor within thirty (30) days after the "injury date". If the Lessee elects not to terminate this lease, the Lessor shall, subject to the foregoing

limitation as to insurance proceeds and further subject to the rights of the Lessor's mortgagee in and to such proceeds, repair the "damage" with all reasonable speed and the Lessee's rent shall be reduced, pro rata for time and space, to the extent that the Lessee is deprived of the occupancy of any portion of the leased premises for the Lessee's purposes by reason of the injury and the making of the repairs.

(d) If the Lessee elects to terminate this lease pursuant to the provisions of subparagraph (b) of this paragraph, the Lessee's liability for the payment of the rent provided for herein shall cease as of the date that notice of the termination is given by the Lessee and the Lessee shall be entitled to a refund of any rent paid with respect to any period subsequent to that date. If this lease is terminated pursuant to the provisions of subparagraph (c) of this paragraph, the Lessee's liability for the payment of the rent provided for herein shall cease as of the "injury date" and the Lessee shall be entitled to a refund of any rent paid with respect to any period subsequent to that date.

10. WASTE. Lessee shall not commit or suffer any waste or damage to any building or improvements on the leased premises.

11. RIGHT OF INSPECTION. The Lessee agrees that the Lessor or their representatives shall have the right at all reasonable times to enter upon and to inspect the leased premises to ascertain that the Lessee is carrying out the terms, conditions and provisions hereof, and to properly make any necessary repairs, improvements and alterations that are herein provided.

12. QUIET ENJOYMENT. The Lessor covenants and warrants that:

(a) Lessor is the owner of the leased premises and has the right to make this lease.

(b) Lessee, on paying the rent herein specified, and on performance of all the terms and conditions of this lease agreement, shall at all times during the term hereof, peacefully and quietly hold and enjoy the leased premises.

13. ENCUMBRANCES. The Lessee shall not allow or permit any liens or other encumbrance of any kind to be placed upon the leased premises.

14. SURRENDER. The Lessee shall surrender the leased premises to Lessor upon the termination of this lease agreement in as good condition and repair as the same shall be at the commencement of this lease and in as good condition and repair as shall be required of Lessee under the provisions of this lease agreement during the term hereof, reasonable wear and tear excepted.

15. INDEMNITY. Lessee agrees to indemnify and save Lessor harmless from all cost and expenses by reason of injury to any person or personal property on or about the leased premises, which injury results from the careless or improper conduct on the part of the Lessee, Lessee's agents or employees. At all times during this lease agreement Lessee, at their sole expense, shall carry and maintain general public liability insurance against claims for injury, wrongful death, or property damage occurring upon, in or about the leased premises, in amounts not less than \$2,000,000.00, and shall have the Lessor identified as an additional named payee on said insurance.

16. ASSIGNMENT AND SUBLETTING. It is agreed that this lease shall not be assigned, transferred, or the premises, or any part thereof, sublet without the prior written consent of Lessor and subject to the conditions as Lessor may impose in its sole discretion which shall not be reviewable by any court of competent jurisdiction.

17. DEFAULT. If default be made in any payment of said rent, or any part thereof, within ten (10) days from the date said payment is due, or in fulfillment of any of the covenants or agreements herein specified to be fulfilled by the Lessee, or if any waste be committed or unnecessary damage done upon or to said premises, Lessor may, at Lessor's election at any time while such default continues or before the replacement or repair of such waste or damage, declare the said term ended and enter into possession of said premises and sue for and recover all rent and damages accrued or

accruing under this lease or arising out of any violation thereof. All notices, demands and requests by Lessor to Lessee shall be sent to the Lessee at the leased premises or at such other place that Lessee may from time to time designate in writing. All such demands, notices and requests by Lessee to Lessor shall be sent to Lessor at the aforesaid address or such other place as Lessor may from time to time designate in writing.

18. CUMULATIVE RIGHTS. It is agreed that each and every one of the rights, remedies and benefits provided by this lease agreement shall be cumulative and shall not be exclusive of any other of said rights, remedies and benefits or of any other rights, remedies and benefits allowed by law.

19. WAIVERS. One or more waivers of any covenants or conditions by Lessor or by Lessee shall not be construed as a waiver of a further breach of the same covenant or condition.

20. ATTORNEY FEES. That if either the Lessor or the Lessee should default in the performance of any term or provision of this lease, and the nondefaulting party should deem it necessary to engage legal counsel and institute legal proceedings to effect or compel performance of any provision of this contract, then and in that case the court hearing such proceeding shall be fully empowered and authorized to order the defaulting party to pay reasonable attorney fees to such complaining party for legal services rendered to and on behalf of such complaining party in such proceeding.

21. BINDING UPON SUCCESSORS. The terms, conditions and provisions of this lease agreement shall inure to and be binding upon the Lessor and Lessee and their respective heirs, executors, administrators, successors and assigns.

22. ENTIRE AGREEMENT. It is distinctly understood between the parties hereto that all agreements and understanding of any character heretofore had between them are contained in this instrument, and no changes shall be made herein unless the same shall be in writing or duly signed by the parties hereto.

IN WITNESS WHEREOF, Lessor and Lessee have executed this lease in duplicate originals this day and year first above written.

LESSOR:
HARDIN COUNTY

LESSEE:

by: 
HARRY L. BERRY
Hardin County Judge/Executive
pursuant to a duly adopted
resolution of the Hardin County
Fiscal Court dated April 23, 2013.

DAVID L. RATLIFF
588 Western School Lane
Eastview, Kentucky 43732

STATE OF KENTUCKY
COUNTY OF HARDIN

I, the undersigned Notary Public in and for the state and county aforesaid, do hereby certify that on this date the foregoing LEASE was produced before me in said state and county and was signed, acknowledged before me and delivered by HARRY L. BERRY, Hardin County Judge/Executive, for and on behalf of HARDIN COUNTY, to be its lawful act and deed.

GIVEN under my hand this ___ day of _____, 2013.

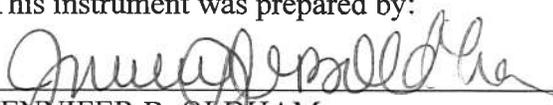
NOTARY PUBLIC
MY COMM. EXPIRES: _____

STATE OF KENTUCKY
COUNTY OF HARDIN

I, the undersigned Notary Public in and for the state and county aforesaid, do hereby certify that on this date the foregoing LEASE was produced before me in said state and county and was signed, acknowledged before me and delivered by DAVID L. RATLIFF to be his voluntary act and deed.

GIVEN under my hand this ___ day of _____, 2013.

NOTARY PUBLIC
My Commission Expires: _____

This instrument was prepared by:

JENNIFER B. OLDHAM
HARDIN COUNTY ATTORNEY
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