

**LEASE AGREEMENT  
MERCHANTS GARDEN - TUSD  
555 S. Tucson BOULEVARD**

1. **PARTIES.** This Lease, dated for reference only this 1st day of January, 2016 is made by and between Tucson Unified School District (TUSD) as the "Landlord" and Merchant's Garden AgroTech Inc., as the ("Tenant").
2. **LEASE OF PREMISES.**
  - (a) Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises shown on Exhibit A and further described in Paragraph 3(e).
  - (b) This Lease is subject to the terms, covenants and conditions herein set forth and each party covenants as a material part of the consideration for this Lease to keep and perform each and all of its terms, covenants and conditions.
3. **DEFINITIONS.** As used in this Lease, the following terms have the following meanings:
  - (a) **Broker:** Tango Commercial Real Estate, LLC (Bob Davis, Partner) represents the Tenant.
  - (b) **Lease Term:** Twenty Four (24) months, firm terms, thereafter month to month. Tenant will have the option to renew after year 2, year after year for 8 additional years and by mutual agreement of both parties.
  - (c) **Lease Term Commencement Date:** January 01, 2016 or upon Tenant obtaining all permits, to include occupancy, zoning, etc., necessary for operating Tenant's intended business, completion of the premises' construction or Tenant's improvements the later of which shall be the determining date.
  - (d) **Minimum Annual Rent (Section 4):** Minimum rent shall be as follows:

Year	School Year	Rent/ SQFT	SQFT	Rent/ Yr	Rent/ Month	Modular Buildings Rent (1 office & Bathrooms)	Total Rent
1	2016-2017	\$ 0.50	10,000	\$ 5,000	\$ 416.67	\$250	\$5,250
2	2017-2018	\$ 0.50	10,000	\$ 5,000	\$ 416.67	\$250	\$5,250
3	2018-2019	\$ 0.50	30,000	\$ 15,000	\$ 1,250.00	\$250	\$15,250
4	2019-2020	\$ 0.50	30,000	\$ 15,000	\$ 1,250.00	\$250	\$15,250
5	2020-2021	\$ 0.50	30,000	\$ 15,000	\$ 1,250.00	\$250	\$15,250
6	2021-2022	\$ 0.50	30,000	\$ 15,000	\$ 1,250.00	\$250	\$15,250
7	2022-2023	\$ 0.50	30,000	\$ 15,000	\$ 1,250.00	\$250	\$15,250
8	2023-2024	\$ 0.50	30,000	\$ 15,000	\$ 1,250.00	\$250	\$15,250
9	2024-2025	\$ 0.50	30,000	\$ 15,000	\$ 1,250.00	\$250	\$15,250
10	2025-2026	\$ 0.50	30,000	\$ 15,000	\$ 1,250.00	\$250	\$15,250

- (e) **Premises:** A portion of the grounds located at **555 South Tucson Boulevard, Tucson**, and one modular building as reflected on **Exhibit A**.
- (f) **Property:** All other portions of the grounds and all other buildings located at **555 South Tucson Boulevard, Tucson** as reflected on **Exhibit A**.

- (g) **Use:** Tenant shall use the Premises for an urban farm.
- (h) **Landlord's Mailing Address:** Planning Services Department, 606 S Plumer, Tucson, Arizona 85719
- (i) **Tenant's Mailing Address:** 1303 E University BLVD #20735, Tucson, Arizona 85719

**4. ADJUSTMENTS TO MINIMUM RENT.**

- (a) Tenant agrees to pay to Landlord 1/12 of the Minimum annual rent MONTHLY, without notice or demand, in advance, on or before the first day of each and every successive calendar month during the Lease Term, commencing on the Lease Term Commencement Date.
- (b) Rent for any period which is for less than one (1) month shall be a prorated portion of the monthly installment herein based upon a thirty (30) day month. All rent shall be paid to Landlord, without deduction or offset, in lawful money of the United States of America and at the Landlord mailing address or at such place as designated by the landlord in writing.
- (c) Tenant shall pay, as additional rent all sums required to be paid pursuant to the terms of this Lease. All amounts required to be paid by Tenant hereunder are sometimes collectively referred to as "rent" or "rental."

5. **SECURITY DEPOSIT.** Tenant shall pay one month's rent upon the execution hereof as a deposit for the term of the lease.

**6. ADDITIONAL CHARGES — ADJUSTMENTS.**

In addition to the Minimum Rent hereinabove, and commencing at the same time as any rental commences under this Lease, Tenant shall also be responsible for the full cost of:

- (a) All real estate taxes and insurance premiums relating to the Premises IF ANY, including land, building, and improvements thereon. Said real estate taxes shall include all real estate taxes and assessments that are levied OR MAY BE LEVIED upon and/or assessed against the Premises, including any taxes which may be levied on rents. Insurance shall include all insurance premiums for fire, extended coverage, liability, and any other insurance that Landlord reasonably deems necessary on the Premises.
- (b) All costs to supervise and administer the Premises.
- (c) Any utilities surcharges, or any other costs levied, assessed or imposed by, or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by any governmental authority in connection with the use or occupancy of the Premises.
- (e) Tenant shall pay for all water, gas, heat, light, power, sewer charges, telephone service and all other services and utilities supplied to the Premises, together with any taxes thereon.

7. **USES PROHIBITED.** Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which is not within the permitted use of the Premises which will in any way increase the existing rate of or affect any fire or other insurance upon the Property or any of its contents or cause a cancellation of any insurance policy covering the Property or any part thereof of any of its contents. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of any existing "USE AGREEMENTS" or injure or annoy it or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose; nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or allow to be committed any waste in or upon the Premises.

8. **COMPLIANCE WITH LAW.** Tenant shall not use the Premises, or permit anything to be done in or about the Premises, which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters or other similar bodies now or hereafter constituted relating to or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by Tenant's improvements or acts. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord is a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant.

9. **ALTERATIONS AND ADDITIONS.**

(a) Tenant shall not make or allow to be made any alterations, additions or improvements to or of the Premises or any part thereof without first obtaining the written consent of Landlord, which shall not be unreasonably withheld. Any alterations, additions or improvements to or of said Premises, including, but not limited to wall covering, paneling and built-in cabinet work, but excepting movable furniture and trade fixtures and any greenhouses and related equipment, shall at once become a part of the realty and belong to Landlord and shall be surrendered with the Premises. In the event Landlord consents to the making of any alterations, additions or improvements to the Premises by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense, in a good and workmanlike manner in accordance with TUSD standards and all applicable laws (including laws relating to the use of hazardous materials such as asbestos-containing materials, all applicable building codes and the Americans with Disabilities Act) and shall be diligently completed. Upon the expiration or sooner termination of the Lease Term, Tenant shall, upon written demand by Landlord at Landlord's sole discretion, given at least thirty (30) days prior to the end of the Lease Term, at Tenant's sole cost and expense, forthwith and with all due diligence, remove any alterations, additions, or improvements made by Tenant, designated by Landlord to be removed, and Tenant shall forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Premises caused by such removal.

(b) Tenant to have full and complete access to the Property (90) days prior to Lease Commencement date in order for Tenant to initiate and complete Tenant improvements necessary for the intended use of the premises.

10. **REPAIRS AND MAINTENANCE.**

(a) Tenant shall be deemed to have accepted the Premises as being in good, sanitary order, condition and repair by executing an "acceptance of the premises" letter, which shall be executed prior to possession, as attached hereto as **Exhibit D**. Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof in good condition and repair, including without limitation, the maintenance, replacement and repair of any doors, window casements, glazing, heating and air conditioning systems, plumbing, pipes, electrical wiring and conduits, lighting fixtures and security and fire alarm systems to current local governing body building codes and TUSD standards. Tenant shall, upon the expiration or sooner termination of this

Lease, surrender the Premises to Landlord in good condition, broom clean, ordinary wear and tear and damage from causes beyond the reasonable control of Tenant excepted. Any damage to the premises or adjacent premises caused by Tenant's use of the Premises shall be repaired at the sole cost and expense of Tenant. Tenant will provide for maintenance as specified in **Exhibit B**.

(b) Notwithstanding the stated provisions above in paragraph a, should Tenant replace certain items, which are capital improvements in nature, as part of their maintenance of the facility, the costs of these replacements shall inure to the benefit of Landlord.

11. **LIENS.** Tenant shall keep the Premises and the property in which the Premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant. Where the aggregate dollar value of the work to be performed will not exceed \$25,000.00, the tenant and Contractor shall sign a "Contractors Hold Harmless Agreement" in the form attached hereto as **Exhibit C** to be provided to Lessor prior to commencement of such work. Contractor(s)/sub-Contractor(s) who do not currently have a certificate of insurance on file with Lessor shall provide Lessor with a certificate of insurance in which the commercial general liability coverage shall not be less than \$1,000,000, combined single limit, naming Lessor and its member(s), manager(s), and partner(s) as additional insureds.

In projects exceeding an aggregate value of more than \$25,000.00, Landlord may require, at Landlord's sole option, to have tenant provide to Landlord, at Tenant's sole cost and expense a lien and completion bond in an amount equal to one and one-half (1 ½) times the estimated cost of any improvements, additions, repairs or alterations in the Premises which the Tenant desires to make, to insure Landlord against any liability for mechanics' and material men's liens and to insure completion of the work.

12. **ASSIGNMENT AND SUBLETTING.** Tenant shall not either voluntarily, or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, except as provided in , or allow any other person (the employees, agents, servants and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld. Consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be consent to any other assignment, subletting, occupation or use by another person. Consent to any such assignment or subletting shall in no way relieve Tenant of any liability under this Lease. Any such assignment or subletting without such consent shall be void, and shall, at the option of Landlord, constitute a default under the terms of this Lease. In the event that Landlord shall consent to a sublease or assignment hereunder, Tenant shall pay Landlord reasonable legal fees, incurred in connection with the processing of documents necessary to giving of such consent.

13. **HOLD HARMLESS.**

(a) Tenant shall indemnify and hold harmless Landlord against and from any and all claims arising from Tenant's use of the Premises or from the conduct of its business or from any activity, work, or other things done, permitted or suffered by Tenant in or about the Premises, and shall further indemnify and hold harmless Landlord against and from any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease or arising from any act or negligence of Tenant, or any officer, agent, employee, guest, or invitee of Tenant, and from all costs, attorneys' fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding be brought against Landlord by reason of such claim, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises, from any cause other than Landlord's negligence; and Tenant hereby waives all claims in respect thereof against

Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents in the Premises.

(b) Landlord or its agents shall not be liable for any loss or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Property or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other place resulting from dampness or any other cause whatsoever, unless caused by or due to the negligence of Landlord, its agents, servants or employees. Landlord or its agents shall not be liable for interference with the light, air, or for any latent defect in the Premises.

14. **SUBROGATION.** As long as their respective insurers so permit, Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage and other property insurance policies existing for the benefit of the respective parties. Each party shall apply to their insurers to obtain said waivers. Each party shall obtain any special endorsements, if required by their insurer to evidence compliance with the aforementioned waiver.

15. **LIABILITY INSURANCE.** Tenant shall, at Tenant's expense, obtain and keep in force during the Lease Term a policy of commercial general liability insurance (sometimes known as comprehensive public liability insurance) insuring Landlord and Tenant against any liability for bodily injury, property damage (including loss of use of property) and personal injury arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than \$2,000,000 per occurrence. The limit of any such insurance shall not, however, limit the liability of Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to, procure and maintain same, but at the expense of Tenant. Insurance required hereunder shall be in companies rated A: XII or better as set forth in the most current "Best's Key Rating Guide". Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein or certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to Landlord. No policy shall be cancellable or subject to reduction of coverage. All such policies shall be written as primary policies not contributing with and not in excess of coverage which Landlord may carry.

16. **PERSONAL PROPERTY TAXES.** Tenant shall pay, or cause to be paid, before delinquency any and all taxes if any, that are or may be levied or assessed and which become payable during the Lease Term upon all of Tenant's leasehold improvements, equipment, furniture, fixtures and any other personal property located in the Premises. In the event any or all of Tenant's leasehold improvements, equipment, furniture, fixtures and other personal property shall be assessed and taxed with the real property, Tenant shall pay to Landlord its share of such taxes within ten (10) days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's property.

17. **HOLDING OVER.** If Tenant remains in possession of the Premises or any part thereof after the expiration of the Lease Term with the express written consent of Landlord, such occupancy shall be a tenancy from month to month at a rental in the amount of 125% of the last monthly Minimum Rent, plus all other charges payable hereunder, and upon all the terms hereof applicable to a month-to-month tenancy.

18. **ENTRY BY LANDLORD.** Landlord reserves, and shall at any and all times during business hours have, the right to enter the Premises to inspect the same, to submit said Premises to prospective purchasers or tenants, to post notices of non-responsibility, to repair the Premises and any portion of the Property of which the Premises are a part that Landlord may deem necessary or desirable, without abatement of rent, and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing that the

entrance to the Premises shall not be unreasonably blocked thereby, and further providing that the business of Tenant shall not be interfered with unreasonably. Tenant hereby waives any claim for damages or for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. Landlord at any and all times shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, in order to obtain entry to the Premises without liability to Tenant except for any failure to exercise due care for Tenant's property and any entry to the Premises obtained by Landlord by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof.

19. **TENANT'S DEFAULT.** The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant.

- (a) The vacating or abandonment of the Premises by Tenant.
- (b) The failure by Tenant to make any payment of rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of ten (10) days after written notice thereof by Landlord to Tenant.
- (c) The failure by Tenant to observe or perform any of the covenants, conditions or provision of this Lease to be observed or performed by Tenant, other than described in (b), above, where such failure shall continue for a period of thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- (d) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; or the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); or the appointment of trustee or a receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this lease, where such seizure is not discharged within thirty (30) days.

20. **REMEDIES UPON TENANT'S DEFAULT.** In the event of any such default or breach by Tenant, Landlord may, at any time thereafter, in its sole discretion, with or without notice or demand and without limiting Landlord in the exercise of a right or remedy, which Landlord may have by reason of such default or breach:

- (a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises; expenses of re-letting, including necessary renovation and alteration of the Premises; reasonable attorneys' fees; the worth at the time of award, by the court having jurisdiction thereof, of the amount by which the unpaid rent and other charges and Adjustments called for herein for the balance of the Lease Term after the time of such award exceeds the amount of such loss for the same period that Tenant proves could be reasonably avoided; and that portion of any leasing commission paid by Landlord and applicable to the unexpired term of this Lease. Unpaid installments of rent or other sums shall bear interest from the date due at the maximum legal rate; or

- (b) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent and any other charges and Adjustments as may become due hereunder; or
- (c) Pursue any other remedy or combination of remedies now or hereafter available to Landlord under the laws or judicial decisions of the State of Arizona.

21. **DEFAULT BY LANDLORD.** Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord. If the nature of Landlord's obligation is such that more than thirty (30) days are required for performance then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion. In no event shall Tenant have the right to terminate this lease as a result of Landlord's default and Tenant's remedies shall be limited to damages and/or an injunction.

22. **RECONSTRUCTION.**

- (a) In the event the Premises are damaged by fire or other perils covered by extended coverage insurance, TENANT agrees to forthwith repair same, and this Lease shall remain in full force and effect. Tenant shall look to their Insurance carrier for costs to repair the premises and for business interruption.
- (b) In the event the Premises are damaged to any extent as a result of any cause other than the perils covered by fire and extended coverage insurance, Landlord shall have the option: (1) to repair, reconstruct or restore the Premises, in which event this Lease shall continue in full force and effect but the Minimum Rent shall be proportionately reduced as hereinabove provided in this Section during the period of such repair, reconstruction or restoration; or (2) to give notice to Tenant at any time within sixty (60) days after such damage, terminating this Lease as of the date specified in such notice, which date shall be no more than thirty (30) days after the giving of such notice. In the event of giving such notice, this Lease shall expire and all interest of Tenant in the Premises shall terminate on the date so specified in such notice and the Minimum Rent, reduced by a proportionate reduction, based upon the extent, if any, to which such damage interfered with the business carried on by Tenant in the Premises, shall be paid up to date of such termination. In the event that more than 25% of the premises are damaged and the Landlord elects to not repair the premises, then the Tenant shall have the right to terminate this lease.
- (c) Anything to the contrary contained in this Section notwithstanding, Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this Section occurs during the last twelve months of the Lease Term or any extension thereof.
- (d) Landlord shall not be required to repair any injury or damage by fire or other causes, or to make any repairs or replacement of any leasehold improvements, fixtures, or other personal property of Tenant.

23. **EMINENT DOMAIN.** If more than twenty-five percent (25%) of the Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, either party hereto shall have the right, at its option, within sixty (60) days after said taking, to terminate this lease upon thirty (30) days written notice. If either less than or more than 25% of the Premises are taken (and neither party elects to terminate as herein provided), the Minimum Rent thereafter to be paid shall be equitably reduced. If any part of the Property other than the Premises may be so taken or appropriated, Landlord shall within sixty (60) days of said taking have the right at its option to terminate this lease upon written notice to Tenant. In the event of any taking or appropriation whatsoever, Landlord shall be entitled to any and all awards and/or settlements which may be given on account of the reduction in the value of the leasehold, the taking of the fee or otherwise and

Tenant shall have no claim against Landlord for the value of any unexpired portion of the Lease Term.

#### 24. GENERAL PROVISIONS.

- (a) **Plats and Riders.** Clauses, exhibits, schedules, plats, riders and addenda, if any, affixed to this Lease are a part hereof.
- (b) **Waiver.** The waiver by Landlord of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding default by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted regardless of Landlord's knowledge of such preceding default at the time of the acceptance of such rent.
- (c) **Joint Obligation.** If there be more than one Tenant the obligations hereunder imposed shall be joint and several.
- (d) **Marginal Headings.** The marginal headings and section titles to the sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.
- (e) **Time.** Time is of the essence of this Lease and each and all of its provisions in which performance is a factor.
- (f) **Successors and Assigns.** The covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.
- (g) **Recordation.** Neither Landlord nor Tenant shall record this Lease, but a short form memorandum hereof may be recorded at the request of, or with the permission of, Landlord.
- (h) **Quiet Possession.** Upon Tenant's paying the rent reserved hereunder and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire Lease Term, subject to all the provisions of this lease.
- (i) **Late Charges.** Tenant hereby acknowledges that late payment by Tenant to Landlord of rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any sum due from Tenant shall not be received by Landlord's designee within ten (10) days after written notice that said amount is past due, then Tenant shall pay to Landlord a late charge equal to the maximum amount permitted by law (and in the absence of any governing law, ten percent (10%) of such overdue amount), plus any attorneys' fees incurred by Landlord by reason of Tenant's failure to pay rent and/or other charges when due hereunder. The parties hereby agree that such late charges represent a fair and reasonable estimate of the costs that Landlord will incur by reason of the late payment by Tenant. Acceptance of such late charges by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.
- (j) **Prior Agreements.** This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understanding



pertaining to any such matters shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. This Lease shall not be effective or binding on any party until fully executed by both parties hereto.

- (k) **Inability to Perform.** This Lease and the obligations of Tenant hereunder shall not be affected or impaired because Landlord is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, labor trouble, acts of God, or any other cause beyond the reasonable control of Landlord.
- (l) **Partial Invalidity.** Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provision shall remain in full force and effect.
- (m) **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.
- (n) **Choice of Law.** This Lease shall be governed by the laws of Arizona.
- (o) **Attorneys' Fees.** In the event of any action or proceeding brought by either party against the other under this Lease the prevailing party shall be entitled to recover its expenses and costs, including its attorneys' fees and expert witness fees in such action or proceeding, including costs of appeal, if any, in such amount as the court may adjudge reasonable.
- (p) **Sale of Premises by Landlord.** In the event of any sale of the Premises by Landlord, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; and the purchaser, at such sale or any subsequent sale of the Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of Landlord under this Lease.
- (q) **Subordination; Attornment.** Upon request of Landlord, Tenant will in writing subordinate its rights hereunder to the lien of any mortgage or deed of trust, to any bank, insurance company or other lending institution, now or hereafter in force against the Premises, and to all advances made or hereafter to be made upon the security thereof. In the event any proceedings are brought for foreclosure or in the event of the exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises, Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as Landlord under this Lease. The provisions of this Section to the contrary notwithstanding, and so long as Tenant is not in default hereunder, this Lease shall remain in full force and effect for the full term hereof.
- (r) **Notices.** Wherever this Lease requires or permits notice or demand to be given by either party to the other, such notice or demand shall be in writing and given or served either personally or in writing forwarded by certified mail, return receipt requested, addressed to the parties at the addresses specified in Sections 3(h) and (i) hereof. Either party may change such address by written notice to the other as herein provided.
- (s) **Tenant's Statement (Estoppel Certificate).** Tenant shall at any time and from time to time, upon not less than seven days prior written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect), and the date to which the rental and other charges are paid in advance, if any, and (b) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and (c)

setting forth the date of commencement of rents and expiration of the Lease Term. Any such statement may be relied upon by the prospective purchaser or encumbrancer of all or any portion of the real property of which the Premises are a part.

- (t) **Authority of Tenant.** If Tenant is a corporation, each individual executing this Lease on behalf of Tenant represents and warrants that he or she has full authority to do so and that this Lease binds the corporation. If Tenant is a partnership, each individual executing this Lease for Tenant represents and warrants that he, she or it is a general partner of the partnership, that he, she or it has full authority to sign for the partnership and that this Lease binds the partnership and all general partners of the partnership.
25. **BROKERS.** Tenant warrants that it knows of no real estate broker or agent who is entitled to a commission in connection with this Lease.
26. **COMPLIANCE.** The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment In Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and The Americans with Disabilities Act.
27. **TERMINATION FOR CONVENIENCE.** Both Landlord and Tenant shall have the right upon the 90 days advance written notice, to terminate this Lease for any reason or no reason.
28. **WARRANTY PERIOD:** NONE.
29. **RIGHT OF FIRST OFFER:** If at any time during the lease term, Landlord intends to offer the Property for sale to third parties or to accept an offer of a third party to purchase the Property, Landlord shall first give written notice to Tenant of Landlord's intent to sell. ("Landlord's Sale Notice"). Tenant shall have thirty (30) days after receipt of Landlord's Sale Notice by certified letter within which to notify Landlord of its intent to purchase the Property, whereupon Landlord and Tenant will endeavor in good faith to conclude a purchase agreement. If a purchase agreement is not concluded within ninety (90) days of Landlord's Sale Notice, Landlord shall be free to sell the Property to any third party.
30. **LEASE RENEWAL:** Tenant will have the option to renew after year 2, year after year for 8 additional years and by mutual agreement of both parties..
31. **SIGNS.** Tenant shall have the right to install signage. Such signs are subject to Landlord's approval, and such approval will not be unreasonably withheld. Signs shall be compatible with the building design and shall conform to all applicable local government codes and will take neighborhood concerns into account.

LANDLORD: **Tucson Unified School District**

TENANT: **Merchant's Garden AgroTech LLC**

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

Bryant Nodine

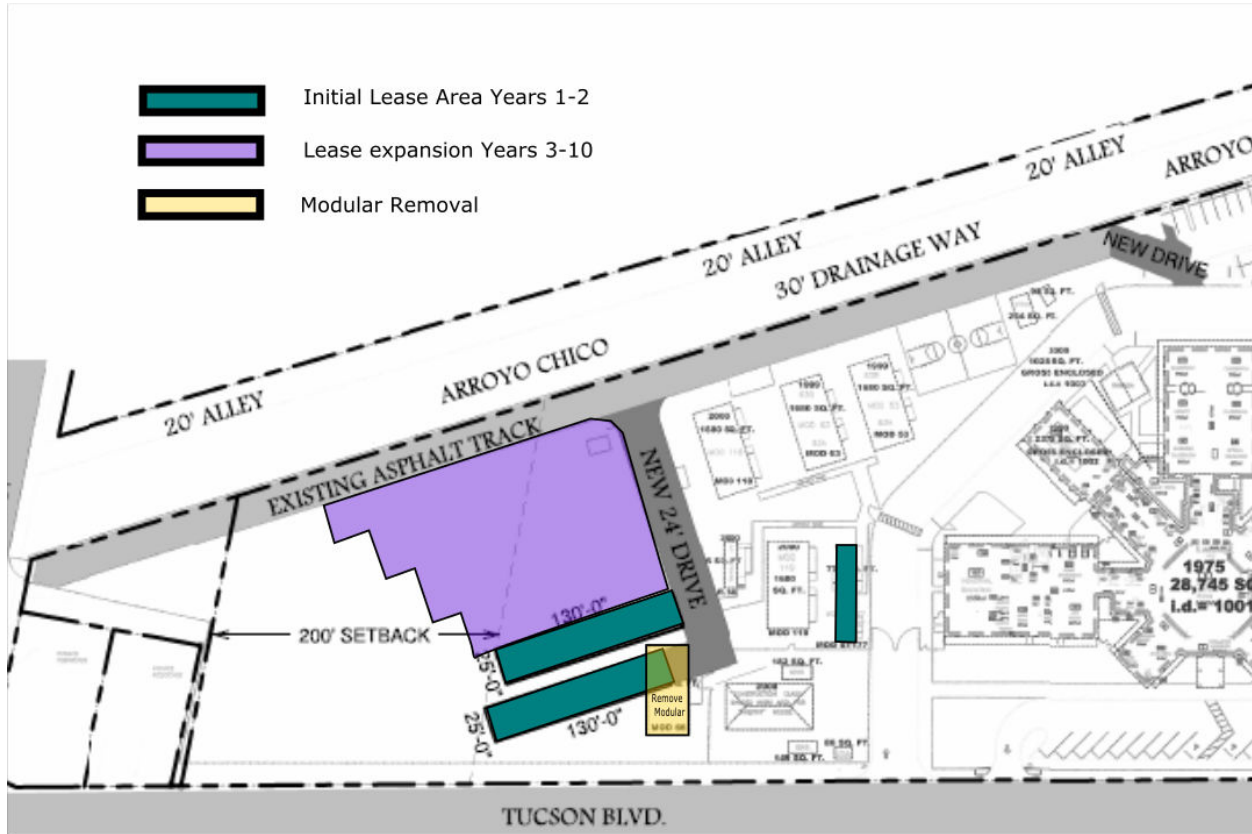
Title: Director of Planning Services

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

Chaz J. Shelton

Title: Co-Founder

**EXHIBIT A**  
**to the**  
**MERCHANTS GARDEN LLC - TUSD LEASE OF 555 S. TUCSON BLVD.**  
**PREMISES OF THE LEASE**



**EXHIBIT B**  
**to the**  
**MERCHANTS GARDEN LLC - TUSD LEASE OF 555 S. TUCSON BLVD.**

**SPECIFICS OF TENANT-LANDLORD MAINTENANCE OBLIGATIONS**

Tenant will be responsible for any costs to inspect, repair, maintain or replace, HVAC, fire protection systems and equipment (including fire sprinklers) serving the Premises, including the cost of a preventive maintenance contract providing for the regular inspection and maintenance of same. To meet these obligations, Tenant shall be responsible for obtaining an annual service contract to be approved by Landlord.

Tenant shall replace the existing telecom and security systems and shall be responsible to maintain the security system and respond in a reasonable time to all alarms. To meet these obligations, Tenant shall be responsible for obtaining an annual service contract to be approved by Landlord.

The Tenant Service Contract shall, specifically, provide that the maintenance and testing of life safety equipment to comply with all City, State and Federal Codes, and that all Preventative Maintenance expectations of the Arizona School Facilities Board, for all portions of the Property, are met. Tenant shall provide an annual report to Landlord of the same and will correct any deficiencies attributable to the occupancy of Tenant or resulting from inadequate routine maintenance during the occupancy.

Tenant shall also be responsible for maintenance of the Premises to ensure they are reasonably weed and pest free, that the landscape and grounds are trimmed and otherwise maintained, and that interiors are regularly cleaned, waxed, and otherwise maintained. To this end Tenant will follow Landlord's Elementary School Grounds Maintenance Schedule and Minimum Housekeeping Standards.

Landlord will be responsible for all repair and replacement of HVAC systems and utility services to the building unless such repair or replacement is the result of negligence of Tenant.

**EXHIBIT "C"**  
**to the**  
**MERCHANTS GARDEN LLC - TUSD LEASE OF 555 S. TUCSON BLVD.**  
**CONTRACTORS HOLD HARMLESS AGREEMENT**

The undersigned \_\_\_\_\_ (the "Contractor"), hereby agrees to protect, defend, indemnify and hold harmless \_\_\_\_\_, a(n) \_\_\_\_\_ (the "Owner") and its successors in interest and assigns (collectively, the "Indemnitees"), the Indemnitees' members, managers, partners and affiliates, and each of their respective officers, agents, servants, employees and independent contractors from and against any and all loss, cost, expense, liability, damage, claim and demand incurred in connection with, or arising from, any cause relating to the performance of ANY WORK DONE IN THE \_\_\_\_\_ BUILDING by the Contractor, or its agents, servants, or employees (collectively, the "Contractor's Agents"), including, without limiting the generality of the foregoing, any default in the observance or performance of any of the terms, covenants or conditions of the Contract (as hereinafter defined), any injury to persons, including death, or damage to property in connection with the performance of the Contract, or any acts, omissions or negligence of Contractor or Contractor's Agents or any person claiming by, through or under Contractor or Contractor's Agents. Contractor hereby agrees that Contractor shall, at Contractor's sole cost and expense, defend any and all actions brought against Indemnitees based upon any of the foregoing with attorneys reasonably acceptable to Owner and shall pay any and all costs and expenses incurred in such actions, including, without limitation, court costs and professional fees such as appraisers', accountants', and attorneys' fees, and promptly discharge any judgments arising therefrom. This covenant by Contractor shall survive the expiration or sooner termination of the Contract and the lease in connection with which Contractor performed the Contract. Indemnitees, their members, managers, partners and affiliates and each of their respective officers, agents, servants, employees and independent contractors shall not be liable for any damage either to person, including death, or property, which is sustained by Contractor or Contractor's Agents or by any other person or entity claiming through Contractor or Contractor's Agents in connection with Contractor's or Contractor's Agents' performance of the Contract or any subcontracted operations. Contractor hereby agrees to insert the provisions of the preceding sentence in any subcontract relating to the Owner's property.

Contractor hereby further agrees that Contractor will perform the work and services in connection with the Contract as an independent contractor and not as an employee or agent of Indemnitees.

As used herein, the term "Contract" shall include any agreement, whether oral or written, relating to any work performed and/or required to be performed by Contractor or Contractor's Agents with respect to the leased premises within the \_\_\_\_\_ Building known as \_\_\_\_\_.

**IN WITNESS WHEREOF, the undersigned has executed this Contractors Hold Harmless Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.**

Contractor:

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

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

**EXHIBIT D**  
**to the**  
**MERCHANTS GARDEN LLC - TUSD LEASE OF 555 S. TUCSON BLVD.**  
**TENANT'S ACCEPTANCE OF THE PREMISES**

Landlord and Tenant hereby agree that Premises is found to be in compliance with the conditions outlined in the Lease dated \_\_\_\_\_ between Landlord (TUSD) and Tenant (Merchants Garden LLC). Upon mutual execution hereto, Tenant accepts Premises according to the terms of Section 10, REPAIRS AND MAINTENANCE and the following:

- Tenant to install separate electrical meter.
- Tenant to remove locksets and provide new locksets for modular.
- Tenant to provide locks (double locked) for all access gates.
- Tenant to provide restroom fixtures in modular used by Tenant.
- Landlord to auction or remove modulares as specified in Exhibit A by May 31, 2016. If Landlord is unsuccessful in auctioning the modulares, the Premises may be adjusted.
- Landlord to insure that existing electrical system(s) and plumbing system(s) to Premises are in good working condition prior to occupancy by Tenant.

LANDLORD: **Tucson Unified School District**

TENANT: **Merchants Garden LLC**

By: \_\_\_\_\_  
Bryant Nodine, Director  
Title: of Planning Services

By: \_\_\_\_\_  
Chaz J. Shelton  
Title: Co-Founder