



Activity Number: 1252066

## FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (this "**Amendment**") is made as of the 12<sup>th</sup> day of October, 2017 by and between **NORFOLK SOUTHERN RAILWAY COMPANY**, a Virginia corporation (the "**Landlord**") and **LEGACY FARMERS COOPERATIVE** (formerly **DESHLER FARMS ELEVATOR COMPANY**), an Ohio corporation (the "**Tenant**").

### WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain Lease Agreement dated January 23, 2007, (as amended, the "**Lease**"), for real property located at Milepost 28.00 in **McClure, Henry County, Ohio**, having an area of 1.41 acres, more or less (the "**Premises**");

WHEREAS, Landlord and Tenant desire to modify the rental payable by Tenant under the Lease and to make certain other changes to the Lease as hereinafter stated.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lease is hereby amended, and the parties hereto do agree as follows:

1. **Change of Name.** Deshler Farms Elevator Company hereby has changed its name to Legacy Farmers Cooperative.

2. **Adjustment of Base Rental.** Commencing on **October 15, 2017** (the "**Commencement Date**"), Tenant shall pay unto Landlord, without offset, abatement or demand, base rental in the amount of **FOUR THOUSAND TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$4,250.00) per annum, payable in advance.** Commencing on the first anniversary of the Commencement Date and thereafter on each anniversary thereof during the term of the Lease, the amount of the base rental shall be increased (and not decreased) on an annual basis by the percentage of increase, if any, in the United States, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U)(1982-1984 = 100) U.S. City Average, All Items (the "**Index**") as set forth below. If the Index has changed so that the base year differs from that used in this Paragraph, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics, to the 1982-84 base. If the Index is discontinued or revised during the term of the Lease, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised. The "**Adjustment Date**" shall mean the first anniversary of the Commencement Date and each anniversary thereof during the term of the Lease. The Index published nearest to the Commencement Date shall be the "**Base Index**". The Index published nearest to the date three (3) months prior to the then current Adjustment Date shall be the "**Adjustment Index**". On each Adjustment Date, the base rental shall be adjusted by multiplying the base rental payable under the Lease at the Commencement Date by a fraction, the numerator of which fraction is the applicable Adjustment Index and the denominator of which fraction is the Base Index. The amount so determined shall be the base rental payable under the Lease beginning on the applicable Adjustment Date and until the next Adjustment Date (if any).

3. **Insurance.** Tenant shall procure and maintain, at all times and at its expense, in a form and with an insurance company acceptable to Landlord, Commercial General Liability Insurance for the Premises. Such coverage shall (a) have a single limit of not less than \$2,000,000.00 for each occurrence (or such greater amount over time so as to be commercially reasonable) and shall provide for a deductible of not more than \$5,000.00, (b) cover Tenant's contractual liability hereunder, (c) cover Tenant and Landlord for liability arising out of work performed by any third parties for Tenant in or about the Premises, (d) name the Landlord Entities as additional insureds, and (e) be considered primary and noncontributory, regardless of any insurance carried by Landlord. Any property insurance maintained by Tenant on its furniture, fixtures, equipment and personal property shall include a waiver of subrogation in favor of Landlord. Tenant shall deliver certificates of insurance evidencing the insurance required hereinabove to Landlord simultaneously with the execution of this Lease by Tenant, which certificates shall reflect that the policies shall not be canceled without at least thirty (30) days prior notice to Landlord. If Tenant fails to obtain the necessary coverages, Landlord may do so at Tenant's expense and the same shall constitute additional rental. All insurance certificates should be delivered to Landlord's Risk Management Department, Three Commercial Place, Norfolk, Virginia 23510, simultaneously with the execution of this Lease by Tenant. The minimum limits of insurance provided for hereunder are not intended to be a limitation on the liability of Tenant hereunder and shall not waive Landlord's right to seek a full recovery from Tenant.

4. **Notice.** Any notice given pursuant to the Lease shall be in writing and sent by certified mail, return receipt requested, by hand delivery or by reputable overnight courier to:

(a) **Landlord:** c/o Director Real Estate, Norfolk Southern Corporation, 1200 Peachtree Street, NE – 12<sup>th</sup> Floor, Atlanta, Georgia 30309-3579 or at such other address as Landlord may designate in writing to Tenant.

(b) **Tenant:** Legacy Farmers Cooperative, 6566 C.R. 236, Findlay, Ohio 45840, or at such other address as Tenant may designate in writing to Landlord.

Any notice sent in the manner set forth above shall be deemed delivered three (3) days after said notice is deposited in the mail if sent by certified mail (return receipt requested), or upon receipt if sent by hand delivery or reputable overnight courier. Any change of notice address by either party shall be delivered to the other party by the manner of notice required hereby.

5. **Ratification; Successors and Assigns.** Landlord and Tenant acknowledge and agree that the Lease, as amended by this Amendment, is hereby ratified and confirmed and in full force and effect. This Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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