

APPENDICES

APPENDIX A – LAND LEASE AGREEMENT

THIS INDENTURE is made under the Provisions of the Provinces Land Act, Chapter 122 of the Laws of Sierra Leone on the..... day of..... in the year of Our Lord Two Thousand and Nine BETWEEN

Paramount Chief ...(Name of Chief).....,
Regent Chief of the (Name of Chiefdom).....
Chiefdom, together with Chiefdom Speaker, CHIEF
Chiefdom Counsellor,
Principal men of the said Chiefdom, acting as the Chiefdom Council of the said Chiefdom (hereinafter called "the Chiefdom Council" which expression shall include their successors in office and in title) of the one part AND Addax Bioenergy Sierra Leone Limited, a company incorporated under the Companies Act (Cap.249) of the Laws of Sierra Leone) and having its registered office at Street, in Freetown (hereinafter called the Company which expression where the context so admits shall include their successors and assigns) of the other part.

WITNESSETH as follows:

1.1. The Chiefdom Council hereby demises unto the Company ALL THAT piece or parcel of land situate and being at No....., in the Northern Province of the Republic of Sierra Leone more particularly described in Schedule 1 (hereinafter referred to as the "Demised Premises" which expression includes all matters on or attached to the land other than Permitted Third Parties (as hereinafter defined) and any such matters belonging to Permitted Third Parties together with the rights set out in Schedule 2 over the adjoining and neighbouring land of the Chiefdom Council (the "Adjoining Land") TO HOLD the same unto the Company for a term of Fifty (50) years from the day of 2009 CERTAIN YIELDING AND PAYING therefore during the said term from the commencement of the Lease the yearly rent of US\$3.60 per acre of the Demised Premises from the commencement of the Lease unless and until such acre is surrendered in accordance with this Lease, from which instant no further yearly rent payable for such acre; and the Chiefdom Council hereby acknowledges receipt of the sum of being rent for the period, 200... to, 200....

1.2. The area of the Demised Premises and the annual rent payable as at the date of this Lease are set out in Schedule 1. Upon the exercise of the right to surrender under Clause 3.5 or a review of the rent under Clause 4.2 the Chiefdom Council and the Company shall if requested by the other sign a memorandum recording the area of the Demised Premises and the annual rent.

1.3. If for any reason the Company is not permitted to pay the rent in a foreign currency, it shall be obliged to pay on the stipulated date for the relevant payment, instead such amount of local currency that it was able to obtain for the amount of US Dollars required to be paid as rent either at any official rate or other rate of exchange as was available from a commercial bank for the purchasing of the local currency with US Dollars.

2. The Company hereby covenants with the Chiefdom Council as follows:

2.1. TO PAY the rent reserved at the time and in manner hereinafter set forth.

2.2. NOT TO USE the Demised Premises other than for the uses set out below (the "Permitted Uses") without the consent of the Chiefdom Council such consent not to be unreasonably withheld or delayed. The Permitted Uses are for:

- (a) the plantation, cultivation, harvesting of sugar cane or other crop or crops and vegetation of whatever nature and ancillary agricultural activities including relating to the preparation, fertilisation, and irrigation of soil, as in each case determined by the Company;
- (b) the design, construction, commissioning and operation of an ethanol plant and ancillary facilities, as in each case determined by the Company;
- (c) the design, construction, commissioning and operation of a power plant and ancillary facilities, as in each case determined by the Company;
- (d) the construction of accommodation and ancillary facilities which may include any medical, educational, religious, social, and recreational facilities, as in each case determined by the Company;
- (e) in relation to any of the above or otherwise, the connection of any utility supply, the storage or disposal of any waste products, as in each case determined by the Company;
the construction, installation, use, maintenance and replacement of any road, railway or other method of transportation, communications equipment and electricity and other utilities and in each case ancillary facilities for any of the same;
- (f) residential and other activities of persons who may reside on or otherwise occupy any part of the Demised Premises (whether or not employees or otherwise under the control or influence of the Company); and
- (g) for any purpose ancillary to any of the above purposes.

2.3. Subject to Clause 4.5, NOT TO ASSIGN or sublet the Demised Premises or any part thereof without the consent of the Chiefdom Council and the approval in writing of the Chief Administrative Officer PROVIDED that neither such consent nor such approval shall be unreasonably withheld, save that the Chiefdom Council and the Chief Administrative Officer hereby unconditionally consent to:

- (a) the Company granting security over this Lease and any or all of its rights hereunder by way of sub-demise or such other method recognised by law in favour of its lenders or other persons who may grant finance or any hedging facility to the Company or for their benefit at any time, or any of them, or any person who may hold such security as agent or trustee for the benefit of all or any of them, either alone or among others; and
- (b) the Company sharing occupation of the Demised Premises or any part thereof with any company that is in the same group of companies as the Company and with any person or company retained by the Company for the provision operation and maintenance of the activities comprised within the Permitted Use.

2.4. TO PAY annually in advance the rent hereby reserved into the office of the Chief Administrative Officer on the (insert date rent is due) and apportioned on a daily basis for any part of a year save that there shall be no adjustment for any period during which any part of the Demised Premises which is surrendered during the course of a year until the next such rent due date. The Chiefdom Council shall arrange with the Chief Administrative Officer that the proceeds of each payment of rent shall be distributed by the Chief Administrative Officer as follows:

one-third to be retained by the Chief Administrative Officer; and

- (b) one-third to the Chiefdom Council; and
- (c) one-third amongst those adults treated as landowners of part of the Demised Premises not surrendered.

The Company shall inform the Chiefdom Council from time to time details of those adults treated as landowners with whom it shall have agreed to make a separate annual payment.

2.5. ON THE DETERMINATION of the Lease to yield up the Demised Premises in such a state of repair and cultivation as shall be in strict accordance with the covenants on the part of the Company herein contained subject however to Clause 4.5.

PROVIDED ALWAYS that if at least US\$15,000 of the rent hereby reserved shall be in arrears for twenty-one (21) days (whether demanded or not) or if there is any material breach of any covenant or stipulation on the part of the Company herein contained and a written statement to that effect has been deposited with the Chief Administrative Officer by the Chiefdom Council and the Company, then (subject to compliance with the next following proviso) and in any of the said cases it shall be lawful for the Chiefdom Council at any time thereafter to re-enter upon any part of the Demised Premises in the name of the whole and thereupon this demise shall determine.

PROVIDED ALSO and it is hereby agreed that no breach of any of the covenants and conditions herein contained (including the covenant for payment of the rent hereby reserved) shall occasion any forfeiture of the term hereby granted or give any right of re-entry unless and until the Chiefdom Council shall have given to the Company a notice in writing of the specific breach or breaches of covenant or condition complained of and within three calendar months following the giving of such notice either (at the option of the Company):

- (a) the Company continues to be in default thereof; or
- (b) the Company does not make full compensation in money to the Chiefdom Council for its direct losses arising from any such breach or breaches which is not otherwise remedied or made good.

In the event the Company notifies the Chiefdom Council it is willing to pay compensation on such basis but the Chiefdom Council cannot demonstrate that it has suffered any such losses then this Lease shall not be subject to forfeiture and the Chiefdom Council shall not be entitled to re-enter any or all of the Demised Premises.

3. The Chiefdom Council hereby covenants with the Company:

3.1. THAT during the period of this Lease the Company shall and may peaceably and quietly hold and enjoy the Demised Premises during the term hereby created without any interruption by the Chiefdom Council or any person rightfully claiming under or in trust for the Chiefdom Council or acting for any of them or as the representative of any of them.

3.2. THAT the Chiefdom Council has full power and title to grant this Lease and that this Lease is granted to the Company free from any right or interest of any third party provided that the Company shall permit those persons in occupation of the villages on the Demised Premises as at the date of this Lease (the "Permitted Third Parties") to continue in occupation thereon as licensees subject to the remaining provisions of this Lease.

3.3 THAT the Chiefdom Council will give all assistance requested by the company to enable the Company to register this Lease in the office of the Registrar-General, in Freetown.

3.4 THAT if the Company shall be desirous of taking a new lease of the Demised Premises or any part or parts thereof after the expiration of the term hereby granted it shall at least three months before the expiration of this present Lease signify such desire by a notice in writing to the Chiefdom Council stating where relevant the part or parts of the Demised Premises that the Company so desires then the Chiefdom Council will at or before the expiration of the term hereby granted make and execute to the Company a new and effectual lease of the Demised Premises (or the relevant part or parts thereof) hereby demised for a term of ...twenty – one (.....21.....) years to commence from and after the expiration of the term hereby granted and with and subject to the like provisions and covenants including rent as are herein contained other than this option, and where the new lease is of part or parts of the Demised Premises the rent shall be apportioned on an area basis and the lease shall grant to the Company such rights over the remaining parts of the Demised Premises as the Company reasonably request.

3.5 The Company may surrender any part of the Demised Premises at any time before the fifth anniversary of this Lease by giving the Chiefdom Council one month's written notice of its intention to surrender such land (which said notice should be copied to the Chief Administrative Officer) any liability for rent would automatically cease once such land is surrendered to the Chiefdom Council but without any apportionment for any rent paid in advance. Upon such surrender the Company shall have such rights as set out in Schedule 2 over the parts surrendered for the benefit of the remainder of the Demised Premises .

4. IT IS MUTUALLY AGREED between the parties hereto as follows:

4.1. The receipt of the Chief Administrative Officer shall be a good discharge to the Company for all rents and other monies payable under this Lease. No action may be taken by or on behalf of the Chiefdom Council or otherwise in respect of the failure of any payment due if the relevant amount shall have been offered to the Chief Administrative Officer and they shall have refused such payment for whatever reason. Payment of an amount due under this Lease to an account which the Chief Administrative Officer or such otherwise authorised person shall have designated in writing for the payment of such sum or amounts shall be a good discharge to the Company for the payment of such sum whether or not a receipt is issued to the Company.

4.2. The rent reserved by these presents shall be subject to revision by the Chief Administrative Officer at the end of every seven (7) years from the commencement of the term hereby granted subject to the right of appeal as provided for under the Provinces Land Act, section 5. Provided that no increase of rent shall be sanctioned by the Chief Administrative Office by reason only of improvements made by the Company or its predecessors in title. So far as possible the Chief Administrative Officer shall in considering any increase in the rent take into account any payments which the Company is obliged to make in addition directly to adults treated as landowners.

4.3. If this indenture is not registered within three (3) months of its execution in the office of the Registrar-General, in Freetown then the said deed shall be voidable at the option of either party to the same.

4.4. The Company is entitled to:

- (a) erect or remove any buildings, fixtures or structures;
- (b) install or alter any roads, conduits or other services;

- (c) alter the level of the land;
- (d) carry out earthworks;
- (d) stop up or alter the course of any watercourse;
- (e) reduce or remove vegetation,

in each case on, under or over the Demised Premises at any time during the lease period.

4.5 (a) If requested to do so by the Company, the Chiefdom Council shall elect to purchase from the Company all or any vegetation, buildings, fixtures, structures, conduits or other services erected, installed or brought on to the Demised Premises during the course of the lease and remaining on the Demised Premises on the expiration or determination of this Lease (the "Purchase Items"). The Purchase Items shall be sold for their fair value to an incoming tenant. The price shall be as agreed between the Chiefdom Council and the Company and in the absence of agreement within 30 days of the date specified for the commencement of the negotiations, as determined by a person nominated for such purpose by the President for the time being of the Bar of Sierra Leone, or, if any person is required by statute to determine the same, that person, in each case acting as an expert. The costs of such determination shall be borne equally by the Chiefdom Council and the Company.

(b) To the extent that the Company does not wish the Chiefdom Council to purchase any of the Purchase Items it shall be entitled to remove them within three months after the expiration or determination of the lease subject to and in accordance with the provisions of section 11 of the said Land Act, Cap 122 (as the same may have been amended from time to time).

4.6 The Company as against the Chiefdom Council shall be entitled to have exclusive possession over all that forms part Demised Premises including villages, rivers, forests and all other forms of environment. The Company shall be entitled to designate such areas as it wishes within the Demised Premises as areas for its exclusive use and occupation and such other areas as it wishes within the Demised Premises as areas of shared use and occupation with others as it shall permit subject to such conditions, rights and obligations as it shall determine, save that the Company shall not be entitled to require a Permitted Third Party to cease to reside on any part of the Demised Premises except in exceptional circumstances and then it shall not be done without agreeing to pay to the affected party compensation agreed by the Chiefdom Council, the affected person and the Company each acting reasonably and in the absence of agreement within 30 days of the date specified for the commencement of the negotiations, as determined by a person nominated for such purpose by the President for the time being of the Bar of Sierra Leone, acting as an expert. The costs of such determination shall be borne equally by the Chiefdom Council and the Company. Subject thereto, the Chiefdom Council shall take all reasonable steps to exclude or ensure the exclusion from the Demised Premises all those persons and their possessions, including livestock, who do not have permission from the Company to be in occupation in the Demised Premises.

4.7 Any notice to be served on the Company under this Lease must be in writing and sent time [by hand or post or fax] to [] or such other address as may be notified by the Company to the Chiefdom Council from time to time.

4.8 Any notice to be served on the Chiefdom Council under this Lease must be in writing and sent time [by hand or post or fax] to [.....] or such other address as may be notified by the Chiefdom Council to the Company from time to time.

5.1 This Lease shall be governed by Sierra Leone law.

5.2 This Clause applies to any claim, dispute or difference of any kind between the Parties arising out of or in connection with this Lease (a "Dispute"). That includes, without limitation, any question about this Lease's existence, validity or termination.

(a) All Disputes shall be referred to and finally resolved by arbitration in [London] before [three] arbitrators under the [Rules of Arbitration of the International Chamber of Commerce] from time to time in force. This Clause incorporates those Rules except where they conflict with its express terms.

(b) Each party shall nominate an arbitrator in the Request for Arbitration or Answer as the case may be not later than 14 days after service of a written request by either party to do so. The parties must then seek to agree on and nominate a third arbitrator to act as Chairman within [14] days after confirmation of the second arbitrator's appointment. Failing agreement between the parties the two arbitrators already appointed must within [14] days nominate the third arbitrator. If any of the parties fail to nominate an arbitrator or the two arbitrators already appointed fail to nominate the Chairman, the appointments shall be made by [the ICC Court of Arbitration].

(c) The proceedings shall be conducted in the English language. All documents submitted in the arbitration shall be in the English language or, if in another language, be accompanied by a certified English translation.

(d) None of the parties may appeal to any court on a question of law arising out of an award made in the arbitration. The parties irrevocably waive any rights of appeal they might otherwise have had.

(e) The award shall be final and binding on the parties or anyone claiming through or under them and judgment rendered on the award may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be.

SCHEDULE 1

ALL THAT PIECE OR PARCEL OF LAND, HEREDITAMENTS AND PREMISES SITUATE LYING AND BEING AND KNOWN AS NO..... CHIEFDOM, DISTRICT, IN THE PROVINCE OF THE REPUBLIC OF SIERRA LEONE AND BOUNDED AS FOLLOWS:

STARTING from property beacon marked which is the point of commencement thus enclosing an area of Acres or thereabout the same as delineated in the survey plan numbered L.S. drawn and attached hereto and thereon verged RED or howsoever otherwise the same may be bounded known defined described or distinguished. Area at the date of this Lease (in acres): Rent at the date of this Lease (US\$):

SCHEDULE 2

Rights granted

- 1 The right of way over the Adjoining Land to and from the Demised Premises.
- 2 The right of passage of services through any conduits upon the Adjoining Land to and from the Demised Premises.
- 3 The right to construct lay retain maintain repair and renew facilities conduits services equipment and other items upon the Adjoining Land for any proper purpose in connection with the Permitted Use.
- 4 The right to enter and remain upon the Adjoining Land for any reasonable purpose in connection with the use and occupation of the Demised Premises and compliance with the Company's covenants under this Lease.

The right of support and shelter from the Adjoining Land.

IN WITNESS WHEREOF the said CHIEF, together with Chiefdom Speaker, CHIEF, Chiefdom Counsellor,, acting as the Chiefdom Council aforesaid have hereunto set their respective hands and seals and the Common Seal of the Company was hereunto affixed the day and year first above-written.

SIGNED SEALED AND DELIVERED by

REGENT CHIEF
.....
CHIEF
and

.....
(members of the Chiefdom Council for and on behalf of the said Chiefdom Council) after the foregoing had been read over and explained to them in Language and they seemed perfectly well to have understood the same and admitted it to be true and correct before affixing their respective right hand thumb prints and making their marks thereto in the presence of:

1ST WITNESS:

NAME:

ADDRESS:

OCCUPATION:

2ND WITNESS:

NAME:

ADDRESS:

OCCUPATION:

The foregoing was explained by me, of
....., to the above-named REGENT CHIEF
....., CHIEF and and they seemed
perfectly well to have understood the same and admitted it to be true and correct before
affixing their right hand thumb prints and making their marks thereto respectively in the
presence of the said witnesses:

SIGNED:

DATED:
CHIEF ADMININSTATIVE OFFICER

The Chiefdom Council of Chiefdom having consented in open Assembly held at
..... on the day of 2009 in
customary manner to this Lease I hereby give my approval to it.

CHIEF ADMININSTATIVE OFFICER DISTRICT

THE COMMON SEAL OF THE COMPANY
WAS HEREUNTO AFFIXED IN THE
PRESENCE OF:

.....
DIRECTOR

.....
SECRETARY

ATTESTED BEFORE ME
MAGISTRATE

DATED THIS DAY OF 2009

CHIEF,

CHIEF

.....,

AND

.....

INDENTURE IN RESPECT OF ALL THAT PIECE OR PARCEL OF LAND, HEREDITAMENT AND PREMISES SITUATE LYING AND BEING AND KNOWN AS NO....., IN THE DISTRICT, IN THE PROVINCE OF THE REPUBLIC OF SIERRA LEONE.

BASMA & MACAULAY
19 SIAKA STEVENS STREET
FREETOWN
SOLICITORS
CONVEYANCERS ETC.

APPENDIX B – EXPLANATORY NOTE TO THE LAND LEASE AGREEMENT

Explanatory Note re Proposed Lease of Land in the [•] Chiefdom, Bombali District in the Northern Province of the Republic of Sierra Leone Between [•] Chiefdom Council, as lessor, and Addax Bioenergy (SL) Limited, as lessee, (the ‘Lease’)

Background

Addax Bioenergy (SL) Limited (ABSL) is a limited liability company that is incorporated and registered in Sierra Leone. ABSL would like to acquire an area of land in the Northern Province of the Republic of Sierra Leone for the principal purpose of development and operation of a new ethanol and ancillary power plant facility using sugarcane grown by ABSL on the land as its principal feedstock of a sugarcane plantation. Although incorporated and registered in Sierra Leone ABSL is for the purpose of acquiring land in the Northern Province categorised as a non-native. The holding of an interest in land in the provinces of the Republic of Sierra Leone by non-natives is governed by The Provinces Land Act, Chapter 122 of the Laws of Sierra Leone, 1960 (hereafter referred to as “the Act”).

1. Features of the Lease

1.1 Section 4 of the Act provides that a non native cannot acquire a greater interest in land in the provinces than a lease for a period of fifty years. This section also provides that a clause can be inserted in a lease providing for one or more renewals of such a lease for terms each not exceeding twenty-one years. A lease is defined in the Act as “a grant of the possession of land by the tribal authority (now known as the ‘Chiefdom Council’), as lessor, to a non-native, as lessee, for a term of years or other fixed period with a reservation of a rent”. It is important to note that the Act makes no express reference to land owners; therefore a lease under the Act must be made between the chiefdom council and the non-native.

1.2 Although the area to be initially leased by ABSL (the Lease Area’) is very extensive, it is of strategic importance to it that it reserves the right to surrender portion(s) of the Lease Area that it considers to be unsuitable for its project within the 1st five years of the lease. ABSL seeks to put about 20’000 hectares (approx. 50’000 acres) under sugarcane cultivation. ABSL will also retain areas including the factory site, compound and recreation areas for its staff, roads and railroads, irrigation canals, forest restoration areas, trial plots and alternative crop plantations etc. The process of developing such a modern plantation of a size never seen before in Sierra Leone is further complicated by the lack of reliable soil data, topographic and elevation contour maps, land registry etc. and will take several years of land selection and conversion. For these reasons, ABSL cannot yet define the precise layout of the plantation as it depends on factors like soil fertility, irrigation and the individual property rights which take time to integrate. As a consequence, ABSL will initially lease an area that is larger than the final plantation size and relinquish lands which it cannot or want not include. The relinquishment has been limited to a period of five years. For these reasons it is therefore important to stress that it cannot be assumed that the Lease Area will continue to be the subject of the Lease for the duration of the lease term.

1.3.1 ABSL is aware that the Act does not make any reference to traditional landowners, nor does it expressly provide how the rent is to be distributed.

1.3.2 The rent will be US\$3.60 per acre per year. The Lease requires this to be split in accordance with the traditional approach of one-third being retained by the Chief Administrative Officer, one-third being paid over to the Chiefdom Council and one-third being paid over and to be shared between the traditional landowners on the Leased Area which has not been surrendered.

1.4 ABSL will enter into discussions with traditional landowners while at the same time assessing whether their particular area of land within the Lease Area is suitable for the project. Provided that a traditional landowner of a suitable area is agreeable to acknowledging ABSL's rights under the Lease, they will be paid directly by ABSL \$1.40 per acre per annum during the remainder of the Lease Period. Following a rent review under the Lease, the direct payment by ABSL will be increased by an equal percentage as the increase in the rent. If a traditional landowner is unwilling to acknowledge ABSL's lease rights, then no amount will be paid directly to that landowner and it is likely that ABSL will surrender that area back to the Chiefdom Council (so no rent will be payable).

1.5 As stated above, ABSL requires the right to surrender any portion of the Lease Area. This right to surrender must be exercised by ABSL within the first five years of the lease. A surrender clause is therefore contained in the lease agreement.

1.6 Upon surrender of any area of the land comprised in the Lease Area, rent would cease to be payable in respect of that area and rent paid for that area will not be refundable to ABSL.

1.7 It must also be noted that as provided for in the Act, the Lease contains a provision for the review of the rent every seven (7) years.

1.8 The Lease recognises that by virtue of the grant of the Lease by the Chiefdom Council, ABSL is entitled, as against the Chiefdom Council, to exclusive possession of the Lease Area. Consistent with this, the Lease provides that ABSL shall be entitled to designate such areas as it wishes for its exclusive use and occupation. In practice, it intends to do a detailed mapping exercise so that, for example, existing village areas are designated as having shared occupation or will be surrendered and that those other areas to be used by ABSL for land cultivation and its other purposes are protected and are for its exclusive possession.

1.9 Notwithstanding its rights as lessee, ABSL undertakes:

- Not to resettle any of the existing land owners/users, except in very exceptional circumstances where this is considered to be unavoidable, in such cases compensation would be provided agreed by the Chiefdom Council, ABSL and the affected land owner/user or an independent expert;
- That it would ensure that the land owners/users are given access to an area of land to grow their cash crops for themselves. ABSL is currently awaiting recommendations from the consultants on the area which should be made available to each family unit for this.