

**LEASE**

THIS INDENTURE OF LEASE, made this \_\_ day of \_\_\_\_\_, 2020, by and between The Nature Conservancy, a nonprofit corporation organized under the laws of the District of Columbia, having its principal office at 4245 North Fairfax Drive, Suite 100, Arlington, Virginia 22203, and the Central & Western New York Chapter Office at 274 Goodman St N Suite B261, Rochester, NY 14607 (hereinafter referred to as "Lessor" which term shall include agents, permittees, licensees and successors or assigns) and **Brandy Brook Sports Club**, a member of **August Hunt Clubs**, c/o Steve Cinquanti, 923 Alfred Lane, Homer, New York 13077 (hereinafter referred to as "Lessee," which term shall include all club members, invitees, agents, permittees, licensees and successors or assigns only as the same may be authorized under the terms of this Lease).

WITNESSETH

WHEREAS, Lessor desires to lease property located in the Town of West Turin, County of Lewis, State of New York (the "Premises") to Lessee;

WHEREAS, Lessee desires to lease the Premises from Lessor; and

WHEREAS, Lessor desires to protect its assets and the environment, yet provide recreational opportunity to the Lessee;

NOW THEREFORE, in consideration for the mutual promises, covenants and premises herein contained, the parties agree as follows:

1. Premises. The Premises are located in the Town of West Turin, County of Lewis, State of New York, and are more particularly described as follows:

Those particular areas of land owned by Lessor and situated in Lots # 285.00-01-05.000; 285.00-01-04.000; and the portion east and south of the East Branch of Fish Creek in lots # 285.00-01-07.000; 285.00-01-06.000; 285.00-01-03.000; 285.00-01-08.000; 301.00-01-01.000; and the portion North of the G&W Road in lots # 301.00-01-03.000; 301.00-01-04.000; and 302.00-01-01.000 in the Town of West Turin, County of Lewis, containing 1,645 acres more or less, excluding, however, roads extending along or through those areas, and log landings

2. Term. The term of this Lease shall be for 10 years, beginning on the date hereof and continuing until September 15, 2030, unless sooner terminated under the terms and conditions of this Lease, and contingent on the official adoption of the amendment to the conservation easement allowing the camp to remain where it is.

3. Rent. Lessee agrees to pay to the Lessor, on or before October 15<sup>th</sup> of each year, an annual rent of the following (includes a standard 1% annual increase):

Year 1 (2020-21):	\$5,525
Year 2 (2021-22):	\$5,580
Year 3 (2022-23):	\$5,636
Year 4 (2023-24):	\$5,692
Year 5 (2024-25):	\$5,749
Year 6 (2025-26):	\$5,806
Year 7 (2026-27):	\$5,864
Year 8 (2027-28):	\$5,923
Year 9 (2028-29):	\$5,982
Year 10 (2029-30):	\$6,042

4. Seasonal Use. Subject to qualifications and limitations expressed elsewhere in this Agreement, Lessee may have exclusive use of the Premises during periods of Seasonal Use as defined below through the Term only for hunting, fishing, and similar lawful, recreational purposes. Seasonal Use or the “Season” is defined as the period of time during the Term which begins on opening day of the New York State northern tier big game season and ending on the last day of New York State northern tier big game season for each year of the lease. Notwithstanding the foregoing, Lessee may have exclusive use of the existing structure and a 5-acre building envelope surrounding all structures on a year-round basis until September 15, 2030, unless sooner terminated under the terms and conditions of this Lease. Big Game Season to be defined in this lease as the term of deer and bear seasons by any legal means.

ATV and snowmobile use, per the conservation easement, is restricted to access and egress (year round) and for hunting purposes (during big game season). Lessee has the right to trim and maintain existing trails.

5. Use of Premises. The Lessee will not erect any buildings or other improvements on the Premises without first notifying the Lessor and receiving the Lessor’s written permission. No tents or temporary camps shall be permitted without Lessor’s prior written consent. No additional camp structure may be constructed.

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The Lessee shall maintain in good condition, reasonable wear and tear excepted, the existing camp structure and any existing buildings or other improvements on the Premises or any buildings or other improvements hereinafter erected on the Premises. Upon the expiration or termination of this Lease, Lessee shall surrender not only said buildings and improvements, but the entire Premises in as good condition as now exists, reasonable wear and tear excepted. The Lessee shall not dam any streams on the Premises unless the Lessor consents thereto in writing and a joint permit is issued by the New York State Department of Environmental Conservation. The Lessee shall allow no trash, glass, cans, refuse or garbage to accumulate on the Premises but the same shall be hauled away by the Lessee, at its sole expense, as often as is necessary or if requested by Lessor. No rubbish or garbage shall be burned nor any human waste discharged into any stream or water body on the Premises. The Lessee shall be bound by and comply with the New York State Sanitary Code requirements, the contents of the New York State Health Law and all other laws, orders and regulations, whether federal, state or local, all laws of the State of New York and the laws of the United States, pertaining to the use or possession of the Premises and activities thereon.

The Lessee is hereby granted, subject to the rights of the Lessor, the exclusive privilege to post the Premises and to protect the same.

The Lessee is hereby granted, subject to the rights of the Lessor, the exclusive deer and bear hunting privileges on the Premises.

The Lessee shall fully cooperate with the Lessor and the duly authorized federal, state or local authorities in the compliance with and enforcement of all laws and regulations now in effect or hereafter enacted or promulgated pertaining to the protection of the forest, wetlands, fish, birds, and game, and the use of the Premises for non-motorized recreation, hunting and fishing purposes. The Lessee shall indemnify and save harmless the Lessor for any violation by it or its members of said laws or regulations. The Lessee shall restrict the usage of the Premises to its members and non-commercial guests only.

The Lessee shall keep an accurate record of the total number of buck deer and party permit deer taken during each hunting season on the Premises and to make a report of the same at the conclusion of each hunting season to Lessor.

The Lessee, within fifteen (15) days of the execution of this Lease, will deliver to the Lessor a list of the names and resident addresses of its officers, officials and caretakers. The Lessee shall at least annually, at the time the rent is paid, deliver to the Lessor a list of any changes in its membership.

The Lessee covenants to have either a caretaker or a watchman (either of whom may be a member of the Lessee who lives in the immediate area) patrol the Premises during the hunting and fishing seasons and at all other times that the conditions are such as to create fire hazards. The Lessee, its members and guests at all times will use reasonable caution in order to prevent forest fires on the Premises.

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The Lessee may post the boundary lines of the Premises with signs approved by the Lessor and compatible with the applicable provisions of the laws and regulations of the State of New York for such posting. However, the Lessee shall not paint or otherwise mark the exterior boundary lines of the Premises, except at the request of and under the direction and supervision of the Lessor. The five acre envelope may be posted year round, but posted signs for the rest of the property must specify the exclusive use period.

The Lessee shall not use nails or any other metal in or around any of the standing timber except that Lessee may use aluminum nails for the purpose of posting property in order to comply with the New York State law.

The Lessee may gather firewood from only dead and downed trees for on-site use to build fires for cooking, warmth, or smudge. Open fires will be regulated in the same manner as on other State Forest lands.

No merchantable timber shall be taken or used by the Lessee for the building of camps, buildings or for any other purpose without the prior written approval of the Lessor who will mark the timber that may be so taken.

The Lessee shall report promptly to the Lessor any incidents or accidents on the Premises and any trespass on the Premises including but not limited to the cutting or removal of logs, timber, stove wood, gravel or other natural resources, and also any damage or probability of damage that might result from the construction of any dams by beavers or other animals and to report immediately to the Lessor any unusual circumstances involving or affecting the Premises.

#### 6. Standards for Structures

a. The following standards & conditions as agreed to by The Nature Conservancy and The Department of Environmental Conservation must be adopted/implemented:

- i. If/when the camp structure needs to be replaced, as determined by TNC in consultation with NYSDEC, it and all accessory structures, must be moved outside of the 200-foot buffer around Page Swamp (Pond) to an upland area or if moved to another part of the eased property, the camp structure will need to comply with the requirements for placement and size in the 2006 EBFCN conservation easement.
- ii. The camp structure cannot be expanded beyond its current building footprint, including porches, decks etc.
- iii. Accessory camp structures that exist outside a 100-foot buffer around Page Swamp may remain, **except for the cooler truck box and accompanying accessory structure**, but no more may be constructed.
- iv. With the exception of the Page Pond dam and the area immediately adjacent to dam structure, a 50-foot natural/un-mowed area must be maintained between the Brandy Brook camp and the waters/wetlands of Page Pond.
- v. Either the existing outhouse must be **moved to be at least 100 feet** from any wetland, or a concrete containment system must be constructed under the existing structure.

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b. Structure locations must be pre-approved by Lessor and also meet the following standards:

- 1. Minimum setback of 100 feet from primary and secondary haul roads.
- 2. Minimum setback of 150 feet from major classified streams.
- 3. Privy or outhouse minimum setback of 200 feet from any stream or tributary.
- 4. Minimum setback of 200 feet from classified wetlands.
- 5. Utilizing old log landings and/or open non-productive site to erect camp(s) may or may not be acceptable.
- 6. Must be located within the 5 acre building envelope.

c. All camp/privy/woodshed structures shall be pre-approved by Lessor and also meet the following standards:

- 1. Stick built/framed design using rough cut or dimension wood.
- 2. **Floor plan showing general appearance, size and listing of material used must be approved by Lessor prior to construction.**
- 3. Exterior wood siding left natural or painted with an earth tone color or stain (brown, green) and/or painted metal siding.
- 4. Lessee shall acquire all required building permits.
- 5. Must be located within the 5 acre building envelope.

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c. All camps will **display a sign near camp entrance denoting the following: 1) club/camp name, and 2) camp representative name and phone number.**

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d. Mobile homes and/or trailers do not constitute a camp and will not be allowed on the Premises.

7. Insurance. During the term of this Lease, the Lessee shall maintain in full force and effect the following insurances:

a. Public Liability Insurance, including Contractual Liability to cover the indemnity agreement set forth in Paragraph 8, in the following minimum limits:

Bodily Injury Liability	\$500,000/person
including Contractual	\$1,000,000/occurrence

Property Damage Liability	\$500,000/occurrence
including Contractual	\$1,000,000/aggregate

The Public Liability Policy shall be written by a company acceptable to the Lessor. Said policy shall name the Lessor as holder, the Lessee and Lessee’s members as insureds. A certified copy of the policy and evidence of premium payment shall both be delivered to the Lessor for approval before the Lessee enters upon the Premises.

b. Fire insurance on any buildings on the Premises shall be at least eighty percent (80%) of the replacement cost of said buildings written by a company acceptable to the Lessor and naming the Lessor, the Lessee and Lessee’s members as insureds. A certified copy of the policy and evidence of premium payment shall both be delivered to the Lessor for approval before the Lessee enters upon the Premises. Lessor will be provided with annual renewal certificates of insurance.

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8. Liability. The Lessee hereby shall indemnify, defend and hold harmless the Lessor from and against all claims for damages for bodily injury, including death at any time resulting therefrom, and for damage to property, including loss of use thereof, arising out of, incidental to or in any way connected with the use of the Premises by Lessee, including any such claim, loss or liability which may be caused or contributed to in whole or in part by Lessor’s own negligence.

9. Lease Assignment. This Lease, or the term hereby demised, or the Premises, or any part thereof, shall not be assigned, let or underlet by the Lessee, nor used or permitted to be used by the Lessee for any purpose other than the above specified, without the written consent of the Lessor, first endorsed in writing hereon, and if so assigned, let or underlet, used or permitted to be used by the Lessee without such written consent, the Lessor may re-enter and re-let the Premises, this Lease, by such unauthorized act, becoming void, if the Lessor shall so determine and elect. Without objections or defense by the Lessee, the Lessor, at its option, may also apply for and obtain an injunction to prevent the use of the demised Premises by the Lessee for any purposes other than hunting, trapping and fishing, and the Lessor shall not be precluded from any legal remedy which it would otherwise have by reason of the specification herein of any particular remedy for any specified breach of the terms or conditions of this Lease, and in case of the assignment of this Lease, or any part of the term hereby demised, or any subletting or underletting, the Lessor shall have a lien upon and shall be hereby empowered to collect any rent accruing from the sub-tenant or assignee, and apply the net amount collected to the rent herein reserved.

10. Lessor’s Access to Premises. Lessor shall at all times have undisputed right of access to and use of all or any part of the Premises for any purpose other than hunting thereon. Lessee agrees that there shall be no interference with any logging or woodland operations being conducted by or for Lessor, and to refrain from any hunting in or in close proximity to areas in which logging operations are being conducted.

11. Lessor’s Sale of Premises. In the event the Lessor determines in whole or in part either to sell the Premises or to devote or use the Premises for commercial purposes inconsistent with the use of the Premises by the Lessee under the terms of this Lease, then this Lease may be terminated in whole or in part by the Lessor, at its option, on thirty (30, 120) days prior written notice to the Lessee. However, any such notice given in the months of September, October or November shall permit the Lessee to retain the possession and use of the Premises until the end of the deer and bear hunting season in that particular calendar year. In the event of termination under this

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Paragraph, the Lessor shall return to the Lessee the unearned portion of the rental paid by the Lessee in the event of a complete termination and a portion thereof reflecting the proportionate land area of part of the Premises to which the termination applies in the event of a partial termination.

12. Eminent Domain. If, under the power of eminent domain, there should be a taking or condemnation of the whole or any portion of the Premises, all compensation and damages awarded for any such taking or condemnation shall be the property of the Lessor, and the Lessee hereby assigns to Lessor all of Lessee's right, title and interest in and to any and all such compensation and damages. The Lessee shall execute such instruments of assignment as may be required by the Lessor in connection with such taking or condemnation and to prosecute, at the Lessor's expense and request, or sign its name thereto by power of attorney hereby granted, either singly or jointly, in any proceedings to recover such compensation and damages.

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13. Termination. Lessor shall have the right to terminate this lease by giving written notice to Lessee by certified mail at least ninety (90) days prior to the date when Lessor desires to terminate this lease agreement. Upon receipt of notification, and at the expiration of ninety (90) days, this lease agreement will immediately cease and come to an end. The Lessee remains responsible for payment of the lease through the ninety (90) day expiration period. Rental payments made in advance will be refunded on a pro-rated basis.

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Lessee shall have the right to terminate this lease by giving written notice to Lessor by certified mail at least ninety (90) days prior to the date when Lessee desires release from this contract. Upon receipt of notification, and at the expiration of ninety (90) days, this lease agreement will immediately cease and come to an end. The Lessee remains responsible for payment of the lease through the ninety (90) day expiration period. Rental payments made in advance will be refunded on a pro-rated basis.

The full term of this lease agreement is contingent upon the amendment of the conservation easement being officially adopted.

14. Legal Costs. If Lessor takes any steps based upon Lessee's breach of this Lease or to seek indemnity as provided above, the Lessee agrees to pay all costs, charges and expenses, including attorneys' fees, incurred by the Lessor. This provision applies to any lawsuit, negotiation or any other claim, and includes retaining counsel by Lessor to enforce the Lease in any way even if no suit is filed.

15. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee governing the Premises. There are no covenants, promises, agreements, conditions and understandings, either oral or written, between them other than those herein set forth. Except as herein provided, no subsequent alterations, amendments, changes or additions to this Lease shall be binding upon the Lessor or Lessee unless and until reduced to writing and signed by both parties.

16. Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of New York.

17. Savings Clause. The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision.

18. Paragraph Headings. The paragraph titles herein are for convenience only and do not define, limit or construe the contents of such paragraph.

19. Notices. All notices required or permitted to be given under this Lease shall be addressed, if to Lessor, to The Nature Conservancy, Northern New York Project Office, 269 Ouderkirk Road, Pulaski, NY 13142, and if to Lessee, to Brandy Brook Sports Club, c/o Steve Cinquanti, 923 Alfred Lane, Homer, New York 13077. All notices to Lessor or Lessee shall be effectively given and made when mailed by U.S. Mail, postage prepaid, addressed to the party as provided in this paragraph or to any other address for such party that is provided to all other parties in accordance with this paragraph.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

LESSOR:

The Nature Conservancy, Inc.:  
c/o \_\_\_\_\_  
274 Goodman St, North  
Suite B261  
Rochester, NY 14607

By: \_\_\_\_\_  
Its:  
Hereunto Duly Authorized

LESSEE:

Brandy Brook Sports Club

By: \_\_\_\_\_  
Its:  
Hereunto Duly Authorized