



## FARM LEASE AGREEMENT

THIS FARM LEASE AGREEMENT ("Lease") is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between \_\_\_\_\_, a \_\_\_\_\_ (the "Lessor"), and Sierra Properties Development, Inc., a California corporation (the "Lessee"). Lessor and Lessee are sometimes collectively referred to as the "Parties" and individually referred to as a "Party."

NOW, THEREFORE, in consideration of their mutual promises set forth in this Lease, the Parties agree as follows:

1. Lease of the Premises. For and in consideration of the covenants and agreements to be paid, kept and performed by the Lessee under this Lease, the Lessor hereby leases to Lessee, and Lessee hereby leases and takes from Lessor, all that certain real property (the "Premises") situated in the County of \_\_\_\_\_, State of \_\_\_\_\_, more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.
2. Term of the Lease. The Premises shall be leased by Lessee for a term of \_\_\_\_\_ years (the "Term"). The first "Lease Year" of the Term shall commence on \_\_\_\_\_, 20\_\_ (the "Commencement Date") and continue through \_\_\_\_\_, 20\_\_.
3. Use of the Premises.
  - 3.1. The Premises are leased to Lessee for the following purposes:
    - A. The planting, growing, and harvesting of agricultural crops, specifically consisting of \_\_\_\_\_ acres of \_\_\_\_\_, having a tree count of \_\_\_\_\_ trees on the Premises at Lease inception. Lessee shall own the crops and all proceeds from the sale of the crops. In farming the Premises, Lessee is responsible for:
      - (1) irrigation labor;

- (2) weed control labor;
- (3) basic rodent control labor;
- (4) sucker control labor;
- (5) liquid fertilizer labor;
- (6) normal irrigation system repair parts;
- (7) all herbicides to perform weed abatement;
- (8) all required liquid fertilizer;
- (9) materials for rodent control;
- (10) utilities, including water;
- (11) coverage for liability insurance;
- (12) basic entomology;
- (13) picking and shipping; and
- (14) provision for the use of any and all equipment necessary to perform farming duties under this Lease.

B. The residing, in any residential structure on the Premises, of any employees or agents of Lessee engaged in farming activities on the Premises during the term of the lease.

3.2. Lessee shall carry on all the activities specified under subparagraph 3.1.A. above in accordance with good husbandry and the prevailing practice and customs of the farming community in which the Premises are located.

#### 4. Split of Profit.

4.1. Net Profit from the sale of crops grown on the premises shall be paid according to the following split schedule: \_\_\_\_ to Lessee and \_\_\_\_50% to Lessor.

4.2. "Net Profit" is defined as all cash funds received from sales by Lessee of crops grown on the Premises less any costs related to the planting, cultivating, growing, harvesting, picking, packing or selling of these crops, including, without limitation, a management fee, cultural costs, water costs, insurance cost, costs of tools and labor. Lessee shall account to Lessor for these expenses and revenues as of the end of each Lease Year in accordance with

generally accepted accounting principals as customarily utilized in the farming community in which the Premises are located. A negative from any one year can be moved into the next year expenses (negative from 2009 – short crop to expenses of 2010).

5. Taxes and Assessments. The Lessor shall pay and discharge all taxes, assessments and other charges of every description which may be levied, assessed or imposed during the Term upon or against the Premises, or any improvements or other property on the Premises, by the County of \_\_\_\_\_, or State of \_\_\_\_\_, including any additional taxes, assessments or other charges of every description levied or assessed based on the valuation of the Premises or any improvements or other property on the Premises.
6. Maintenance and Repairs.
  - 6.1 Pre-Term Maintenance. Lessor shall be responsible to farm (or cause to be farmed) the Premises, which includes, without limitation, providing water and other utilities, fertilizer, pest control and maintaining the Premises in good farming condition and repair until the Commencement Date. Lessor agrees that water supplied to a residence or landscaping on the property will be responsibility of Lessor at \$ \_\_\_\_\_ per month. This allotment may include water for a pool, family fruit trees, garden or fountain and is calculated on a mutually agreed-upon formula each Lease year. Payment of the allocation will be made as a reimbursement to Sierra Properties Development, Inc. in a timely manner \_\_\_ monthly or \_\_\_ at lease year end out of profit (check preference). If there is no profit at lease year end, Lessor will be invoiced the total allocation by Sierra Properties Development, Inc. and due upon receipt.
  - 6.2 Replacement of Capital Improvements. At all times during the Term, Lessor shall, at its sole cost and expense, replace (or cause to be replaced) any and all Capital Improvements located on the Premises, or which services the Premises, immediately upon any failure of such Capital Improvement, or material portion thereof. For the purposes of this Lease, the term “Capital Improvement(s)” shall mean any improvement located on the Premises, or which services the Premises, that can be capitalized or depreciated by Lessor for income tax purposes.
  - 6.3 Maintenance and Repairs of Improvements. At all times during the Term, Lessee shall, at its sole cost and expense, repair and maintain (or cause to be repaired and maintained) any and all improvements (including Capital Improvements) located on the Premises, or which service the Premises, in a good and farm-like manner. Notwithstanding the foregoing, Lessee shall have no obligation to perform any repair or maintenance of Capital Improvements that would exceed \$2,500 in aggregate cost, unless Lessor agrees in writing to

reimburse Lessee for such costs or expenses that are in excess of \$2,500 immediately upon Lessee's repair or maintenance.

6.4 Surrender of the Premises. At the end of the Term (including any written extension thereof), or on the sooner termination of this Lease, Lessee will quit and surrender the Premises to Lessor in at least as good order, condition and repair as of the date that Lessee takes possession of the Premises (reasonable use and wear and harvested crops excepted) and as free from noxious weeds or grasses as good farming practices allow.

7. Insurance.

7.1. Insurance by Lessee. Throughout the Term, Lessee shall, at its sole cost and expense, obtain and keep in full force and effect, workers' compensation and public liability insurance to protect against any liability for personal injury or property damage to the public, incident to Lessee's use of or resulting from any accident occurring on or about the Premises. The liability under such insurance policies is to be not less than One Million Dollars (\$1,000,000.00) for any one person injured and One Million Dollars (\$1,000,000.00) for property damage.

7.2. Insurance by Lessor. Throughout the Term, Lessor shall, at its sole cost and expense, obtain and keep in full force and effect on the Premises, commercial general liability insurance as well as fire insurance covering any Structures. Upon Lessee's written request, Lessor shall provide Lessee with written certificates of such insurance. The liability under such insurance policies is to be not less than One Million Dollars (\$1,000,000.00) for any one person injured and One Million Dollars (\$1,000,000.00) for property damage.

8. Lessor's Inspection. During normal business hours and after five (5) days written notice to Lessee, Lessor, its agents or attorneys, shall have the right to enter upon the Premises to inspect the Premises, and to determine if Lessee is then complying with the terms of this Lease. Lessor shall have the right to post and maintain on the Premises all notices of non-responsibility that Lessor may deem necessary or proper to protect Lessor's title in and to the Premises against any liens of mechanics or others on the Premises.

9. Lessor Release and Indemnification. Lessor hereby releases, indemnifies, defends, and holds harmless and agrees to reimburse Lessee from any liability, costs (including reasonable attorney's fees and costs including expert fees), expenses, payments or claims resulting from or arising out of any of the following:

9.1. the lack of adequate supply of water to the Premises; **if water allocation goes to 50% or more, the lease can be terminated or renegotiated at date of this increase at the sole discretion of the Lessee.**

9.2. the failure of any irrigation or other farming system on the Premises;

- 9.3. any failure or damages resulting from any difference in the actual tree count or any trees on the Premises that are identified by Lessee during Lessee's physical inspection of the Premises, to have root rot, or any other similar disease, as of the Commencement Date;
- 9.4. any extraordinary or otherwise unanticipated insect infestation; and,
- 9.5. any quarantine by any governmental or quasi governmental entity that has jurisdiction over the Premises of any crop grown on the Premises.
10. Lessee's Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Lessee:
- 10.1. The vacating or abandonment of the Premises by Lessee for a period of at least thirty (30) consecutive days;
- 10.2. The failure by Lessee to make any undisputed payment required to be made by Lessee under this Lease as and when due, where such-failure shall continue for a period of thirty (30) days after written notice of such failure from Lessor to Lessee;
- 10.3. The failure by Lessee to observe any of the covenants, conditions or provisions of this Lease, other than the payment of money, where such failure shall continue for a period of thirty (30) days after written notice of such failure from Lessor to Lessee, except, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure within the thirty (30) day period and Lessee thereafter diligently prosecutes such cure to completion.
11. Lessor's Default. If Lessor commits any breach of this Lease, in addition to all other remedies provided by law, Lessee shall be entitled to recover from Lessor all amounts necessary to compensate Lessee for all the detriment proximately caused by Lessor's failure to perform Lessor's obligations under this Lease or which, in the ordinary course of events, would be likely to result from Lessor's breach, including damages for lost profits.
12. Dispute Resolution.
- 12.1. Arbitration. Any dispute, claim or controversy arising out of or relating to this Lease or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Lease to arbitrate, shall be determined by arbitration and shall be resolved by arbitration in accordance with the rules for commercial arbitration of the American Arbitration Association in effect at the time such arbitration is initiated. A list of arbitrators shall be presented to the Lessor and to Lessee from which one will be chosen using the applicable American Arbitration

Association's rules. The hearing shall be conducted in the American Arbitration Association office in Riverside County, closest to the City of Temecula, California, unless both Parties consent to a different location or there is no American Arbitration Association office in Riverside County, which latter case the arbitration will take place at the American Arbitration Association office closest to the City of Temecula, California. The decision of the arbitrator shall be final and binding upon all Parties without any rights of appeal. The prevailing Party shall be awarded all reasonable attorney fees, filing fees, expert fees, and related administrative costs for the arbitration. Administrative and other costs of enforcing an arbitration award, including fees and costs to obtain a Superior Court judgment for the award, the costs of subpoenas, depositions, transcripts and the like, witness fees, payment of reasonable attorney's fees, expert fees, and similar fees and costs related to collecting an arbitrator's award, will be added to, and become a part of, the amount due pursuant to this Lease and any arbitration award and judgment. Except, Lessee reserves the right to file a Superior Court case in the County of Riverside to enforce Lessee's interest in the crops and proceeds therefrom and any lis pendens and other real and personal property interests set forth herein.

- 12.2. Waiver of Jury Trial. Each Party hereby waives any right to a trial by jury in any action seeking to enforce any provision of this Lease, for damages for any breach under this Lease, or otherwise for enforcement of any right or remedy hereunder.
- 12.3. Attorneys' Fees. In the event of any legal action by any Party as against the other Party by reason of the breach of any covenant or condition in any way arising out of or connected with this Lease, then and in that event the Party in whose favor award or final judgment shall be entered shall be entitled to have and recover from the other Party reasonable attorney's fees together with the costs and expenses, including expert fees, to be fixed by the arbitrators or court where said award or judgment shall be made or entered.
13. Residence. If (i) the Premises includes any residential structure and (ii) any such structure is utilized by the Lessee for housing of Lessee's employees or agents, as authorized in Section 3.1(B) above, then Lessor hereby covenants as follows:
- 13.1. Residence Condition. Lessor represents and warrants that any residential structures on the Premises, including the foundation, floor/ceiling slabs, roof, curtain wall, exterior glass, columns, beams, stairs, parking areas, curbs, entrances, landscaping, (collectively, "Structures") and the mechanical, electrical, and plumbing systems (collectively, "Systems") are in good working condition and repair. Notwithstanding anything in this Lease to the contrary, Lessee shall not be required to make any repair to, modification of, or addition to the Structures or the Systems or the Premises except and to the extent required because of Lessee's use of all or a portion of the Premises for Lessee's normal and customary business operations. Lessor will maintain any insurance

on the Structures as required by Section 7.2 herein and as required by any lender of Lessor.

- 13.2. Release and Indemnification. Lessee shall not be liable for, and Lessor hereby releases Lessee from, any damage or injury to Lessee's employees or agents or any other person, or to any residential Structure, Structures or Systems, occurring on the Premises, unless the damage is the proximate result of the gross negligence or willful misconduct of Lessee's employees or agents. Lessor agrees to indemnify, defend, and hold harmless Lessee from any liability, costs (including reasonable attorney's fees), or claims for personal injuries or property damage caused by the negligent, willful, or intentional act or omission to act of Lessor with respect to any residential Structure, Structures or Systems on the Premises.
14. Damage or Destruction. If the Premises is damaged or destroyed by fire, water, unusual insect infestation or if the Premises is quarantined, such that the crops on the Premises cannot be harvested in a timely manner despite Lessee's diligent, good faith efforts, then Lessee may elect to terminate the Lease effective as of the date of such damage or destruction by delivering thirty (30) day written notice to Lessor of Lessee's election.
15. Condemnation.
- 15.1. General. If any part of the Premises shall be taken or condemned for a public or quasi-public use and a part of the Premises remains which is susceptible of occupation by Lessee, this Lease, as to the part so taken, terminates as of the date title shall vest in the condemnor. If such part of the Premises is taken or condemned so that there does not remain a portion susceptible of occupation or which can be farmed profitably by Lessee, in the sole and absolute discretion of Lessee, Lessee may terminate the Lease.
- 15.2. Award. Lessor and Lessee may each pursue any condemnation award to which it is entitled by applicable law. Lessee may recover from the condemning authority or from Lessor (if Lessee can show that such amount was included in Lessor's award) (i) that portion of any net award or payment attributable to Lessee's work, farming or installations in the Premises, if any, including without limitation, the unamortized value of improvements installed in the Premises by Lessee at Lessee's expense based on straight-line depreciation over the Term without regard to the condemnation; or, (ii) that portion of any damages or compensation which may be awarded attributable to growing crops including the crops on the trees.
16. Representations and Warranties of Lessor. Lessor warrants and represents the following to Lessee, as a material inducement to enter into this Lease, and agrees that Lessee may rely on such warranties and representations, without the necessity of any independent review or inspection of any kind:

- 16.1. that Lessor is the Owner in fee of the Premises, and has the right to enter into this Lease;
- 16.2. that there are no mechanic's liens, judgment liens, tax liens or other such liens or encumbrances existing or threatened against the Premises including the trees and crops thereon;
- 16.3. that all irrigation and other farming systems, including, without limitation any Capital Improvements are in good working condition and repair;
- 16.4. that, as of the Effective Date, the total number of trees on the Premises is as follows:

Type of Tree	Number of Trees
_____	_____
_____	_____
TOTAL:	_____

- 16.5. that, except for the trees identified by Lessee during Lessee's physical inspection of the Premises to have root rot or any other similar disease, the trees on the Premises are in good farming condition and free of root rot or any other similar disease.
- 17. Bankruptcy. If Lessee shall be adjudged a bankrupt or debtor, by either voluntary or involuntary proceedings under the Bankruptcy Code of the United States of America, then:
  - 17.1. The interest of the Lessee in this Lease shall not be assignable by any process of law or for the benefit of any creditor or creditors of Lessee;
  - 17.2. The interest of Lessee in this Lease shall not pass under the control of any assignee, receiver or trustee, or any other official by any process of law; and

18. Notices.

18.1. Any and all notices shall be given by either of the Parties to the other Party in writing by delivery of such notice to such Party personally or by certified or registered mail addressed to the Party at the Party's respective post office address, with return receipt requested. For the purpose of such notice, the respective addressees of the Parties are as follows:

LESSOR

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LESSEE

Sierra Properties Development, Inc.  
P.O. Box 1537  
Temecula, CA 92593

18.2. Such changes as may occur in said address are to be made by the Party concerned notifying the other Party in writing of such change either personally or by certified or registered mail. In the case of notices given by mail, notice shall be deemed to have been received forty-eight (48) hours after the date of deposit in the United States mail.

19. Termination. If Lessor determines to sell the Premises, Lessor shall give lessee written notice of such intention immediately upon the execution of an agreement for such purpose or the opening of an escrow therefor, whichever occurs first. Once Lessor gives such written notice to Lessee, the Lessor shall have the following options:

(a) To terminate this Lease. As of the date of close of escrow the accounting by Lessee under Paragraph 4.2 above shall be brought to a close. If there is a Net Profit at that date, the Lessee shall receive \$200.00 an acre for terminating the Lease (payable by way of demand in escrow and as a precondition to Lessor's right to terminate this Lease) plus 50% of the Net Profit. If there is a loss at that date, the Lessee shall receive from the Lessor all expenses incurred by Lessee to that date plus \$200.00 per acre to terminate the Lease (again payable by way of a demand in escrow and as a precondition to Lessor's right to terminate this Lease).

(b) The Lessor and its purchaser may continue the Lease to the end of the Lease Year. At that date, Net Profits, if any, shall be split fifty percent (50%) to lessee and fifty percent (50%) to Lessor and it's purchaser, and a \$200.00 an acre fee shall be paid to Lessee by the Lessor and it's purchaser as a precondition to Lessor's right to terminate the Lease.

(c) If the purchaser from Lessor agrees to the Lease terms and conditions,

this Lease shall be assumed by the purchaser. In such event, no termination fee shall be required from Lessor hereby agrees to provide any and all documentation reasonably requested by Lessee to verify that an agreement for sale of the Premises has been entered into or that an escrow for such purpose has been opened.

20. Option to Renew. Lessee shall have an option to renew this Lease, on the same terms and conditions as set forth in this Lease for an additional \_\_\_\_ months upon the giving of written notice by Lessee to Lessor at least twenty (20) days before the expiration of the original Term.
21. No Waiver. No waiver of any breach of any of the covenants, agreements, restrictions and conditions of this Lease shall be construed to be a waiver of any succeeding breach of the same or other covenants agreements, restrictions or conditions. It is mutually covenanted and agreed that the various rights, powers, options, elections and remedies of the Lessor contained in this Lease shall be construed as cumulative, and no one of them is exclusive of the other or exclusive of any rights or priorities now or hereafter allowed to the Lessor by law.
22. Time is of the Essence. Time is declared to be of the essence of this Lease and of each and every stipulation, covenant and condition to be paid, kept and performed by Lessor and Lessee under this Lease.
23. Binding Effect. This Lease shall inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the Parties.
24. Recordation. Lessee may, at any time after the Effective Date, record a memorandum of this Lease but shall, upon termination of the Lease, at the request of Lessor, execute and deliver to Lessor such quitclaim deed or other instruments as are reasonable necessary to clear the title to the Premises from any cloud of this Lease.
25. Future Acts. Each Party agrees to cooperate in the performance of this Lease and to execute and deliver any and all documents and perform any and all acts necessary or convenient to carry out its purpose and intent.
26. No Partnership. Nothing contained in this Lease shall create a partnership, joint venture, or employment relationship between Lessor and Lessee. Neither Lessor nor Lessee shall be liable, except as otherwise expressly provided for in this Lease, for any obligations or liabilities incurred by the other.
27. Assignment. Lessor shall not assign any of its rights under this Lease without the prior written consent of Lessee. Any assignment made in violation of this Section 26 shall be void.
28. Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument. Signature

and acknowledgment pages may be detached from individual counterparts and attached to a single or multiple original(s) in order to form a single or multiple original(s) of this Lease. Further, this Lease may be executed by scanned copy, telecopy or other facsimile transmission, and such facsimile transmission shall be valid and binding to the same extent as if it were an original.

In witness whereof, the Parties have executed this Lease on the date first written above.

LESSOR \_\_\_\_\_, a \_\_\_\_\_, a  
\_\_\_\_\_ Sierra Properties Development, Inc., a  
\_\_\_\_\_ California

LESSEE  
\_\_\_\_\_  
By: \_\_\_\_\_  
Name: Scott A. McIntyre  
Its: President

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PREMISES

(ATTACHED)