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FICTITIOUS AGRICULTURAL PRESERVE CONTRACT<sup>1</sup>

WHEREAS, OWNER owns land within Madera County which is devoted to agricultural uses, and uses compatible therewith; and

WHEREAS, both OWNER and COUNTY recognize that the restriction of the use of the land to such uses is necessary to conserve the economic resources of the State, to maintain the agricultural economy of the State, to assure adequate, healthful and nutritious food for all people, to discourage discontinuous urban development patterns, and to preserve the open space and natural scenic beauty of the property.

NOW, THEREFORE, in consideration of the mutual promises and covenants to be observed and performed by the parties hereto, it is agreed as follows:

Article 1: Term of Contract

1.01. The term of this contract shall begin on March 1 in the year of the execution of the contract and shall end ten (10) years thereafter.

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<sup>1</sup>NOTE: Recorded on July 24, 1991, at Document #9118494

1.02. On each March 1 anniversary of this contract, a year shall be automatically added to the initial ten-year term, unless notice of nonrenewal is given pursuant to Government Code Section 51245 and recorded according to the County of Madera's "Rules and Procedures for Agricultural Preserves" (hereinafter referred to as "County's Ag Preserve Rules"). A notice of renewal shall not be required to be given by either party to effectuate the automatic renewal of this contract.

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Article 2: Restrictions on Use of Land

2.01. OWNER agrees that the land will be used exclusively for agricultural uses, open space use, or a wildlife habitat area, and those uses compatible therewith.

2.02. OWNER shall not divide the property if it will defeat the intent of the Williamson Act (Government Code Sections 51200, et seq.) to preserve land in agricultural, open space, or wildlife habitat uses. It is the expressed intent of the COUNTY to prevent division of property that would create rural subdivision type ranchettes or that would increase the population density within agricultural preserves thereby destroying the favorable climate for agricultural production, animal husbandry, and wildlife propagation. Division of property under this contract shall be allowed only when the following conditions are fulfilled:

a. Proposed division will not impair the production of food, fiber, livestock, or wildlife habitat.

b. Each parcel created by the division shall be a commercial agricultural unit as defined below, provided that the contract was issued for commercial agricultural purposes. (For purposes of this contract, the term "Commercial Agricultural Unit" means a quantity of land utilized in combination with investments in land, improvements, and specialized agricultural equipment, sufficient to produce, or which is capable of

producing for the sale of agricultural products, a minimum gross annual income of \$2,000.)

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c. Each parcel created by the division shall be of a size so as to conform to at least the minimum acreage sizes permitted by the County's then current Ag Preserve Rules for new preserves.

d. The division conforms to Madera County Code Titles 17 and 18, the County General Plan, and State laws.

Any application for a division of property subject to this contract shall be deemed an application for a new contract. A division of property under this contract which would create a parcel or parcels not meeting the conditions specified above may be approved, but a notice of nonrenewal of this contract will be filed by COUNTY under those circumstances. OWNER will have the option of withdrawing the requested land division application.

2.03. The use of rental units upon the land shall be permitted in connection with the rental units in existence as of the date of this contract; provided, however, if OWNER proposes to build new rental units, such uses may be permitted with the approval of the Board of Supervisors, but in no event shall the use be more extensive than that permitted by Exhibit A of this contract.

Article 3: Valuation of Land

3.01. The land shall be valued as enforceable restricted open space land, as set forth in Revenue and Taxation Code Sections 421 and 430.5. Nothing in this section shall be construed to require that non-living improvements be valued for tax assessment purposes by use of an income approach to value.

Article 4: Rights and Obligations of Owner

4.01. Whenever land under this contract is divided, the owner of any parcel may exercise, independent of any other portion of the divided land, any of the rights of this contract. The effect of any such action by the owner of a parcel created by the division of land under this contract shall not be imputed to the owners of the remaining parcels and shall have no effect on the contract as it applies to the remaining parcels of the divided land, except as otherwise provided herein.

4.02. OWNER may transfer ownership of land, or a portion thereof, provided that the transfer complies with the Madera County Zoning Ordinance and the land division ordinances found in Title 17 of the Madera County Code. The land, or portion thereof, transferred shall remain subject to this contract.

4.03. OWNER shall have the right to not renew this contract by serving a notice of nonrenewal pursuant to the procedure set forth in Government Code Section 51245 and recording the notice pursuant to the County's Ag Preserve Rules. Such nonrenewal may be rescinded only by written agreement of both parties and simultaneous entry into a new agricultural preserve contract pursuant the County's Ag Preserve Rules.

4.04. OWNER shall have the right to petition COUNTY's

Board of Supervisors for cancellation of this contract pursuant to the procedure and subject to the conditions set forth in Government Code Sections 51280 through 51286.

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4.05. When one of the following conditions exists, OWNER may petition COUNTY's Board of Supervisors to have this contract declared null and void:

a. The California Legislature fails to provide benefits and restrictions substantially similar to those embodied in Revenue and Taxation Code Sections 421 through 430.5. To be substantially similar, it is hereby agreed that the implementing measures must include provisions for a land use valuation system which bases value of the land on those uses legally available to OWNER as the basis for assessment, and must not require that OWNER permit entry of the public onto the land.

b. The Williamson Act (Government Code Sections 51200 et seq.) is repealed.

c. The real property tax is abolished as a source of revenue.

4.06. OWNER may bring action in court to enforce this contract by seeking specific performance, injunction, or any other available remedy. OWNER may also bring an action in court to enforce a contract on land located within the unincorporated area of Madera County.

4.07. OWNER agrees that during the second year following the year in which this contract was executed and every two years thereafter during the term of this contract, OWNER shall report to COUNTY the gross income from agricultural production, income from rental of the land, and any changes in the investment in improvements to the land or equipment utilized on the land which is the subject of this contract. OWNER agrees to submit this report

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by March 30th of the applicable year on a form furnished by COUNTY.

OWNER acknowledges that under the County's Ag Preserve Rules, if at any time after the execution of this contract it appears that the subject land is not being properly maintained in agricultural production, COUNTY may conduct an investigation and may issue a notice of nonrenewal of the contract if it so finds. OWNER acknowledges that this provision is not a limitation on COUNTY's right not to renew this contract under paragraph 5.04 of this contract.

Article 5: Rights and Obligations of County

5.01. COUNTY shall not redefine what constitutes an agricultural or compatible use without prior notice to OWNER and all other interested persons, and public hearing before COUNTY's Board of Supervisors. Any changes in the uses permitted shall be attached to this contract and be effective from the date of the adoption thereof.

5.02. If any proposal to disestablish or to alter the boundary of the agricultural preserve will remove land under this contract from the preserve, then COUNTY shall give notice of the proposed alteration or disestablishment and the date of the hearing to OWNER by certified mail, as provided by Government Code Section 51232.

5.03. The effect of removal of land under this contract from the agricultural preserve shall be the equivalent of notice of nonrenewal by COUNTY, which shall serve a notice of nonrenewal pursuant to Government Code Section 51245.

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5.04. COUNTY shall have the right not to renew this contract by serving a notice of nonrenewal pursuant to the procedure set forth in Government Code Section 51245, and subject to the conditions set forth in Government Code Section 51246, and recording the notice pursuant to the County's Ag Preserve Rules.

5.05.

a. When any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to this contract is filed or when that land is acquired in lieu of eminent domain for a public improvement by a public agency or person or whenever there is any action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government, this contract shall be deemed null and void as to the land actually being condemned or so acquired as of the date the action is filed and for the purposes of establishing the value of the land, the contract shall be deemed never to have existed.

b. Upon the termination of the proceeding, the contract shall be null and void for all land actually taken or so acquired.

c. When an action to condemn (or acquire in lieu of condemnation) less than all of a parcel of land subject to this contract is commenced, this contract shall be deemed null and void as to the land actually condemned or so acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to this contract will be adversely affected by the condemnation, in which case the

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value of that damage shall be computed without regard to this contract.

d. When an action to condemn (or acquire in lieu of condemnation) an interest which is less than the fee title of an entire parcel or any portion thereof, of land subject to this contract is commenced, this contract shall be deemed null and void as to that interest and for the purpose of establishing the value of that interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to this contract will be adversely affected, in which case, the value of that damage shall be computed without regard to this contract.

e. The land actually taken shall be removed from the contract. Under no circumstances shall land be removed that is not actually taken, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be cancelled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Government Code Sections 51280 et seq.

5.06. COUNTY may bring an action in court to enforce this contract by seeking specific performance, injunction, or any other available remedy.

Article 6: Hold Harmless

6.01. OWNER shall hold COUNTY harmless from any demand, claim, or action concerning OWNER's interest or right in and to the land, or to enter into this contract. Persons executing this

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contract represent that they are the owners of the land and are legally authorized to execute this contract on behalf of the person or entity owning the land.

6.02. OWNER shall hold COUNTY harmless from any claim, demand, or action created by or resulting from the description used by COUNTY as set forth in the application upon which this contract was prepared and made.

6.03. OWNER shall hold COUNTY harmless from any claim, demand, or action concerning the validity or constitutionality of this contract, the assessment of the tax pursuant to this contract or the liability therefore.

Article 7: Definitions

7.01. "Agricultural Use" means use of land for the purpose of producing an agricultural commodity for commercial purposes.

7.02. "Agricultural Commodity" means any and all plant and animal products produced in Madera County for commercial purposes.

7.03. "Compatible Use" means the erection, construction, alteration or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities, those uses set forth in Exhibit A which are allowed either outright or with a permit, and recreational and open space uses as defined in the County's Ag Preserve Rules.

7.04. "Land," as referred to in Section 3.01, means bare land and living improvements only.

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Article 8: Miscellaneous

8.01. The rights and obligations set forth in this contract are not exclusive of any additional rights and obligations set forth in the Williamson Act (Government Code Sections 51200, et seq.), which are incorporated herein by this reference. All future amendments of the Williamson Act are also incorporated herein by this reference.

8.02. If any section, subsection, sentence, clause, or phrase of this contract is held by a court of competent jurisdiction to be invalid, or in inconsistent with the Williamson Act, the validity of the remaining portions of this contract shall not be affected.

8.03. This contract runs with the land and shall be binding upon the heirs, successors, and assigns of OWNER.

8.04. The County of Madera's "Rules and Procedures for Agricultural Preserves" are incorporated herein by this reference and are fully applicable to this contract to the extent not inconsistent herewith. All future amendments of said "Rules and Procedures" are also incorporated herein by this reference to the same extent.

EXHIBIT A

The following uses are permitted if they are in conformity and compliance with the uses, conditions, and regulations set forth in Chapters 18.58, 18.585, and 18.60, inclusive, of the Madera County Code, and as amended from time to time:

**A. Uses Allowed.**

1. All kinds of agricultural uses.
2. One single-family dwelling in permanent structure or single-family manufactured home on a permanent foundation.

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**B. Uses Allowed with Zoning Permit.**

1. Additional single-family dwellings in permanent structure or single-family manufactured home for occupancy by a co-owner, indigenous agricultural worker, or a relative of the immediate family, bound by ties of consanguinity.
2. Guest house.

**C. Uses Allowed with Conditional Use Permit.**

1. Feed lots, poultry farms, fur farms, pig farms, and rabbit farms.
2. Insecticide and pesticide services.
3. Airports, land fields, and airstrips.
4. Roadside stands.
5. Animal hospitals, kennels, and laboratories using animals or animal products.
6. Cemeteries and mausoleums.
7. Laboratories for testing, experimental, or analytical purposes.
8. Private clubs and outdoor recreational facilities.
9. Churches, synagogues, and other buildings for religious assembly.
10. Public and commercial refuse disposal sites.
11. Agriculturally-oriented services.
12. Mining.

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MADERA COUNTY CONTRACT NO. \_\_\_\_\_  
(Agricultural Preserve)

THIS CONTRACT is executed in duplicate this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, by and between the COUNTY OF MADERA, a political subdivision of the State of  
California, hereinafter referred to as COUNTY and \_\_\_\_\_, hereinafter referred  
to as OWNER.

The parties hereto agree that this contract affects land described as assessor's  
parcel number(s): \_\_\_\_\_, and which is shown on a map entitled "19\_\_\_\_  
Agricultural Preserves," recorded on \_\_\_\_\_, in the office of the Madera County  
Recorder at Document Number \_\_\_\_\_.  
Preserve No. \_\_\_\_\_.

The parties hereto also agree that the "FICTITIOUS AGRICULTURAL PRESERVE CONTRACT,"  
recorded on July 24, 1991 in the office of the Madera County Recorder at Document No.  
9118494, is incorporated by this reference, as though fully set forth herein.

COUNTY OF MADERA

\_\_\_\_\_  
Chairman  
Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk, Board of Supervisors

\_\_\_\_\_  
Owner's Name/Title