

FARM SHARE AGREEMENT

INTRODUCTION

This Agreement is entered into this first day of December, 2008, between _____ (“Landlord”), of _____ (address), and _____ (collectively, “Tenants”) of _____ (address). It is the intent of the Tenant and the Landlord to enter into this for the express purpose of producing, marketing, distribution and sale of sustainably raised, organic produce, eggs, value-added farm products and livestock for profit herein referred to as “Farming”

I. PROPERTY DESCRIPTION OF THE “PREMISES”

Landlord hereby Agreements to Tenant, and Tenant hereby Agreements from Landlord, under the terms and conditions set forth below, the following described property situated in Monterey County, California:

- A. Field.** A certain portion of Assessor’s Parcel Number XXX-XXX-XXX (consisting of an approximately 8 acre field), as shown on the map attached hereto and incorporated herein as Exhibit “A” (“Field”) and
- B. Community Site.** A certain portion of Assessor’s Parcel Number XXX-XXX-XXX, (the Adjacent Property), as shown on the map attached hereto and incorporated herein as Exhibit “A” (the “Community Site”). The Adjacent Parcel is developed with garage, pole barn, brooder barn, accessory barns, various out buildings, parking area and other infrastructure and appurtenances.
- C. Premises.** Collectively, the Field and Community Site shall be referred to herein as the “Premises”.

II. DURATION OF AGREEMENT

- A. Term.** The term of this Agreement shall be one (1) year, commencing on January 1, 2009, and terminating on December 31, 2009, inclusive. The agreement may be continued in full force and effect on a year-to-year basis if written notice of continuation is given and agreed upon at least ninety (90) days prior to the expiration of each Agreement term.
- B. Review of Agreement.** Six months after execution of the Agreement, Tenant and Landlord shall meet to review the crop-share arrangement, and discuss if any changes are necessary in the agreed upon rates, working, or distribution arrangements as set forth in this Agreement. Any amendment to this Agreement shall be in writing and shall be signed by all parties.

III. DEFINITIONS OF GROSS REVENUE AND EXPENSES

A. Gross Revenue. Income received from sales of items or products produced from farming operations, including cash receipts, services traded for barter, subscriptions, rebates, interest, dividends or royalties.

B. Operating Expenses. Operating expenses are defined as those expenses used or expended in the course of farming operations and items having less than a three year service life such as:

- Seeds or Plant Starts
- Purchase price of Farm Animals, purchased after January 1, 2009
- Animal Feed, supplements and medications
- Veterinarian or Medical expenses
- Fuel and/or Utility charges
- Fertilizers, soil amendments, purchased compost
- Animal Bedding Materials
- Licenses, Dues, Taxes, and Fees
- Insurances, insurance deductibles
- Legal or Third Party Accounting Costs
- Office supplies
- Internet and Phone Expenses
- Web hosting and related expenses
- Advertising costs
- Maintenance Expenses (sharpening, oil & lubrication etc)
- Electric or other Temporary Fencing
- Temporary “Hoop” Houses or Grow Houses
- Feeders and Watering devices
- Drip irrigation supplies and hoses
- Packaging and Labeling supplies
- Mail or Delivery expenses

Note: Items with an expected service life of three years or less will be allocated using straight-line depreciation. Example: Electric fencing is expected to last for three years. One third of the expense will be allocated to each of its service years as an operating expense.

C. Capital Expenses. The cost of constructing new fixed structures or infrastructure; or major upgrades to existing fixed structures or infrastructure shall be considered a “capital expense” not be considered an “operating expense.” Similarly, capital investment in equipment or tools with an expected service life of more than three years will not be considered an “operating expense.” Capital expenses and improvements will be the sole responsibility of the Landlord. [\(can be purchased only with permission of landlord...\)](#)

D. Reconciliation of Expenses. Reconciliation of the expenses shall be completed on a monthly basis by the Landlord and Tenant, and shall be completed no later than the 5th of the following month. Distribution of Net Profit will be as indicated in Paragraph IV.

IV. DISTRIBUTION OF EXPENSES AND NET PROFIT

A. Percentages of Net Profit: Net Profit is defined as Gross Revenue minus Operating Expenses realized during the term of this agreement. Cost of Capital and Capital Expenses & Improvements remain the sole responsibility of the Landlord. Tenant and Landlord agree to a farm-share arrangement for distribution of net profits. Any *Net Profit* from this crop-share arrangement will be divided between Tenant and Landlord based on a 75%:25% split, respectively. An accounting of all business income and expenses will be maintained by Landlord who will keep a record of contributions and expenses made by both Tenant and Landlord. Accounting records will be reasonably accessible to Tenant for review. Tenant and Landlord agree to work to the best of their abilities to keep the expenses as low as possible while maintaining the Premises in the same, or better, condition as existed upon the commencement of this Agreement, reasonable wear and tear excepted.

B. Prepayment of Net Profit. Landlord agrees to “pre-pay” Tenants an amount equal to \$1,200 per month (\$600 to each tenant) from future profits accrued during the term of this agreement. Distribution will be made on the first day of each month. These amounts are to be deducted from Tenant’s share of Net Profit as calculated during reconciliation. Any “over-payment” will similarly accrue to the Tenant’s account and repayment to Landlord will be waived for the first year of this agreement.

C. Definition of Tenant’s Expense of Farming Operations on the Premises.

1. Moveable farming assets purchased by the Tenant; or previously owned and/or brought to the Premises; will remain the property of the Tenant during and following the termination of the Agreement.
2. Operating expenses incurred by Tenants will be reimbursed to the Tenants by the Landlords within 15 days of submitting proof of out-of-pocket expenses. Any operating expenses in excess of \$200 should be reviewed and agreed upon prior to being incurred. Operating expenses not submitted within 30 days of being incurred will not be reimbursed.
3. Landlord’s equipment and tools shall be available for use by the Tenant for farming operations. Best industry practices should be utilized during use and maintenance of all equipment and tools. Equipment and tools should be maintained in the same condition as existed upon the commencement of this Agreement, reasonable wear and tear excepted. Negligent practices, by either the Landlord or the Tenant resulting in damage of equipment or tools will be the responsibility of the person causing the damage and will not be considered an “operating expense.” Replacement or repair shall restore the equipment or tool to the same quality or condition as existed prior to the damage.

V. LAND USE

A. Premises. The Premises shall be used for the following uses and for no other purpose without the written consent of Landlord:

1. Mixed crop organic farm with flower and vegetable row crops, greenhouse and raised beds, perennial flowers and berries, and eventual development of mixed fruit tree orchard. Broods of poultry will be raised on the Premises for egg laying, meat and as input to promote the biodiversity of the operation. Sheep will be raised for grass control and meat. Nigerian dwarf goats will be raised for poison oak control and clearing low tree growth, and potentially in milk production. Other livestock may be considered to promote rotational grazing and biodiversity. If Landlord or Tenant find that it is impractical in any year to follow the above land-use plan, appropriate adjustments may be made by mutual written [agreement](#) between the two parties.
2. All activities on the Premises, farming or otherwise, shall be in strict accordance with CCOF certification protocol, as well as National, California's State and Monterey County's Organic regulations, Farmer's Market regulations, California's Coastal Commission Conditions of Approval, and any other agency having jurisdiction. *Good Agricultural Practices* will be utilized in all aspects of farming and apply to on-farm production and post-production processes, resulting in safe and healthy food and non-food agricultural products, while taking into account economical, social and environmental sustainability.

B. Community Site. Tenant shall also have the right to reasonable use of office, all barns and outbuildings, parking area and fields. Any illegal activities will be cause for immediate termination of the Agreement and the Tenant will be expected to leave the Premises immediately.

VI. OPERATION AND MANAGEMENT OF THE PREMISES

In order to insure that the farming operations on the Premises are conducted in an efficient manner and to maintain the Premises in a high state of productivity with high standards of ecological sustainability, Landlord and Tenant agree as follows:

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- A. General Maintenance:** To provide the labor necessary to maintain the Premises and its improvements during the Term and any extension thereto in as good, or better, condition as it was at the commencement of the Agreement term, normal wear and depreciation excepted.
- B. Addition of improvements.** Not to: a) erect or permit to be erected any non-removable structure or building on the Premises; b) incur any expense to Landlord for such purposes, or c) add electrical wiring, plumbing, or heating to any building without written consent of the Landlord, which consent will not be unreasonably withheld.
- C. Damage.** Upon termination of this Agreement, Tenant shall pay Landlord reasonable compensation for damages to the Premises for which Tenant is responsible. Any damage or decreases in value due to ordinary wear and depreciation or damages beyond the Tenant's control are excluded.

- D. Hazardous Materials.** All farming operation will be performed in accordance with standard organic practices and therefore no use or storage of hazardous materials will be permitted on the Premises, with the exception of latex paint, equipment fuel and lubricants.
- E. Liens.** Tenant shall keep the Premises and the improvements located on the Premises free of any liens arising out of work performed, materials furnished or obligations incurred by Tenant and shall indemnify, hold harmless and defend Landlord from any claims, liens, attachments, encumbrances and litigation, including attorney's fees and costs, arising out of any work performed or materials furnished by or at the direction of Tenant relating to the Premises. Tenant shall cause any such lien imposed to be released of record by payment or posting of a proper bond acceptable to Landlord within twenty (20) days after written request by Landlord.
- F. Outside Vendors and Non-Paying Customers.** Neither party shall voluntarily or by option of law, sell, encumber, pledge or otherwise transfer all or any part of Green's Family Farm products to any vendor for trade of services, or any non-paying customer, without timely consent from the other party.
- G. Conservation.** Control soil erosion on the Premises according to best conservation practices; keep in good repair all terraces, open ditches, inlets and outlets of culverts; preserve all established watercourses or ditches including grassed waterways; and refrain from any operation or practice that will injure such structures. *Good Agricultural Practices* (as defined by the Food and Agriculture Organization (FAO) of the United Nations) are referenced as standard to be followed.
- H. Noxious Weeds.** To use diligence to prevent noxious weeds from going to seed on the Premises. Treatment of noxious weed infestation shall be handled using organic agricultural methods such as mechanical removal. Landlord and Tenant shall provide the necessary labor as part of the general maintenance, as set forth in Paragraph VI.A., above

VII. MISCELLANEOUS

- A. Amendments to Agreement.** Should either party wish to propose any change in the terms of the Agreement, such party shall submit a written request to the other party at least ninety (90) days prior to the final date for giving written notice to terminate the Agreement as specified in Paragraph II.A. Any amendments to this Agreement shall be in writing and shall be signed by both Landlord and-Tenant.
- B. Housing.** A separate agreement regarding housing of Tenant exists for Tenant's housing and is not a part of this agreement.
- C. No Partnership is Intended.** It is understood and agreed that this Agreement shall not be deemed to be, nor intended to give rise to, a partnership relation.
- D. Employer-Employee Relationship.** No employer - employee relationship is established or intended with this agreement.

- E. Right of entry.** Landlord, or their designated agents, reserves the right to enter the Premises at any reasonable time and upon reasonable notice for the purpose of inspecting the same, or the purpose of protecting the interest therein of Landlord.
- F. Assignment and Subletting.** Tenant shall not voluntarily or by operation of law, sell, encumber, pledge or otherwise transfer all or any part of Tenant's rights hereunder, or permit the Premises to be occupied by anyone, or sublet the Premises or any portion thereof, without Landlord's prior written consent. Landlord's consent shall not be unreasonably withheld. Tenant shall not voluntarily or by operation of law, sell, encumber, pledge or otherwise transfer the use of, all or any, equipment or tools owned by the Landlord.
- G. Binding on Heirs.** The provisions of this Agreement shall be binding upon the heirs, of Landlord in like manner as upon the original parties.
- H. Not to Obligate the other Party.** Neither party shall pledge the credit of the other party hereto for any purpose whatsoever. Neither party shall be responsible for debts or liabilities incurred, or for damages caused by the other party.
- I. Jurisdiction.** This shall be governed by and construed in accordance with the laws of the County of Monterey, and State of California.
- J. Time.** Time is of the essence of this Agreement.
- K. Severability.** If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
- L. "Green's Family Farm"** is the fictitious business name for all farming operations, advertisement and sales under this agreement. It is the intent of the Tenant and Landlord to be perceived by the general public as one seamless operation and to this end, no conflicting operations or outside competition in a similar industry or sales of similar products is allowed by Tenant or Landlord while this agreement is in effect. Upon the termination of this agreement, it is agreed that the Tenant may retain the operational name "*Green's Family Farm*" but will remove any reference or images from future advertising showing Landlord's property, surroundings or operations. Should the Landlord continue in similar operations, Landlord reserves the right to advertise as "formerly operated as Green's Family Farm".
- M. Customer Data Base.** After the termination of this agreement, customers acquired while doing business under this agreement will remain joint customers. Both Tenant and Landlord are free to market to customers on the "*Green's Family Farm*" customer list.
- N. Farmer's Markets.** After the termination of this agreement, Tenant and Landlord will be free to apply to all Farmer's Markets acquired while doing business under this agreement. Should the Landlord continue in similar operations, Landlord reserves the right to advertise as "formerly operated as Green's Family Farm".
- O. Entire Agreement.** This Agreement contains the sole and entire agreement of the parties, and correctly sets forth the rights, duties and obligations of each to the other, and any prior

agreements, promises, negotiations, or representations not expressly set forth in this Agreement are hereby superseded and of no force and effect. Any changes to this Agreement must be in writing, signed by both Landlord and Tenant.

P. Counterparts Clause. This and any subsequent amendments may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Facsimile signatures shall be deemed originals.

Executed in duplicate on the date first above written:

_____, Tenant (NAME) _____, Landlord (NAME)

| _____, Tenant (NAME) _____, Landlord (NAME)

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