

Recording requested by and when recorded please return to:

[*Steward's name & address*]

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DEED OF AGRICULTURAL CONSERVATION EASEMENT

This Deed of Agricultural Conservation Easement is granted on this ____ of _____ 2006, by [*Landowner's name*], [*Ownership status*], having an address at [*Landowner's address*] ("Landowner"), to [*Steward's name*], a California nonprofit public benefit corporation, having an address at [*Steward's address*] ("Steward"), for the purpose of forever conserving the agricultural productive capacity and open space character of the subject property.

RECITALS

A. The Landowner is the sole owner in fee simple of the farm property ("Property") legally described in Exhibit A ("Legal Description"), attached to and made a part of this Agricultural Conservation Easement ("Easement"). The Property consists of approximately [*acres*] acres of land and is commonly known as the "[*Farm/Ranch name*]," together with buildings and other improvements, is located in [*County name*] County, California, and is identified by assessor's parcel number(s) [*parcel numbers*]. The existing buildings and improvements on the Property are shown within the Building Envelope as depicted in Exhibit B ("Building Envelope and Existing Improvements"), also attached to and made a part of this Easement. Except as shown in Exhibit B, the Property is open farmland, whose soils have been classified as [*prime farmland, farmland of statewide importance, etc.*] by the U.S. Department of Agriculture's Natural Resources Conservation Service, and by the California Department of Conservation's Farmland Mapping and Monitoring Program, because this land has the soil quality, growing season, and water supply needed for sustained agricultural production.

B. The agricultural and other characteristics of the Property, its current use and state of improvement, are documented and described in a Baseline Documentation Report ("Baseline Report"), prepared by the Steward with the cooperation of the Landowner and incorporated herein by reference. The Landowner and the Steward acknowledge that it is complete and accurate as of the date of this Easement. Both the Landowner and the Steward shall retain duplicate originals of the Baseline Report. The Baseline Report may be used to establish whether or not a change in the use or condition of the Property has occurred, but its existence shall not preclude the use of other evidence to establish the condition of the Property as of the date of this Easement.

C. The Department of Conservation's California Farmland Conservancy

40 Program (hereinafter alternatively referred to as the “Department” or “Department of
41 Conservation”) has made a grant of funds to the Steward to support the acquisition of this
42 Agricultural Conservation Easement. The Department’s funds represent a substantial
43 investment by the people of the State of California in the long-term conservation of
44 valuable agricultural land and the retention of agricultural land in perpetuity. The
45 Property and this Easement have met the California Farmland Conservancy Program’s
46 mandatory eligibility criteria and certain selection criteria and have multiple natural
47 resource conservation objectives. The rights vested herein in the State of California arise
48 out of the State’s statutory role in fostering the conservation of agricultural land in
49 California and its role as fiduciary for the public investment represented here.

50
51 D. The Landowner grants this Easement for valuable consideration to the
52 Steward for the purpose of assuring that, under the Steward’s perpetual stewardship, the
53 agricultural productive capacity and open space character of the Property will be
54 conserved and maintained forever, and that uses of the land that are inconsistent with
55 these conservation purposes will be prevented or corrected. The parties agree, however,
56 that the current agricultural use of, and improvements to, the Property are consistent with
57 the conservation purposes of this Easement.

58
59 E. The conservation purposes of this Easement are recognized by, and the
60 grant of this Easement will serve, the following clearly delineated governmental
61 conservation policies:

62
63 The Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. section 4201 et seq.,
64 whose purpose is “to minimize the extent to which Federal programs and policies
65 contribute to the unnecessary and irreversible conversion of farmland to
66 nonagricultural uses, and to assure that Federal programs are administered in a
67 manner that, to the extent practicable, will be compatible with State, unit of local
68 government and private programs and policies to protect farmland;”

69
70 Section 815 of the California Civil Code, which defines perpetual conservation
71 easements;

72
73 California Constitution Article XIII, section 8, California Revenue and Taxation
74 Code sections 421.5 and 422.5, and California Civil Code section 815.1, under
75 which this Agricultural Conservation Easement is an enforceable restriction,
76 requiring that the Property’s tax valuation be consistent with restriction of its use
77 for purposes of food and fiber production and conservation of natural resources.

78
79 Section 10200 et seq. of the California Public Resources Code, which creates the
80 California Farmland Conservancy Program within the Department;

81
82 Section 51220 of the California Government Code, which declares a public
83 interest in the preservation of agricultural lands;

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85 The California General Plan law section 65300 et seq. and Section 65400 et seq.
86 of the California Government Code, and the [County name] County General Plan,
87 as updated on [Update date], which includes as one of its goals to protect all
88 viable farmlands designated as prime, of statewide importance, unique, or of local
89 importance from conversion to and encroachment of non-agricultural uses;

90
91 Resolution No. [Resolution number], approved by the Board of Supervisors of
92 [County name] County on the [day] of [month], [year], which expresses support
93 for the acquisition of this Easement and that the acquisition is consistent with the
94 County’s General Plan. (NOTE: If the Property lies within the Sphere of
95 Influence of an incorporated city, both the city and county must pass resolutions
96 of support.)
97

98 F. The Steward is a California nonprofit organization within the meaning of
99 California Public Resources Code section 10221 and California Civil Code section 815.3
100 and is a tax exempt and “qualified conservation organization” within the meaning of
101 Sections 501(c)(3) and 170(b)(1)(A)(iv) as defined by the United States Internal Revenue
102 Code.
103

104 GRANT OF AGRICULTURAL CONSERVATION EASEMENT
105

106 Now, therefore, for the reasons given, and in consideration of their mutual
107 promises and covenants, terms, conditions and restrictions contained herein, and other
108 good and valuable consideration, the receipt and adequacy of which are hereby
109 acknowledged, the Landowner voluntarily grants and conveys to the Steward, and the
110 Steward voluntarily accepts, a perpetual conservation easement, as defined by Section
111 815.1 of the California Civil Code and California Public Resources Code section 10211,
112 and of the nature and character described in this Easement for the purpose described
113 below, and agree as follows:
114

115 1. *Purpose.*
116

117 The conservation purposes (“Purpose”) of this Easement is to enable the Property to
118 remain in productive agricultural use by preventing uses of the Property that will impair
119 or interfere with the Property’s agricultural productive capacity, its soils, and its
120 agricultural character, values, and utility. To the extent that the preservation of the open
121 space character and [scenic, habitat, natural, or historic, etc.] values of the Property are
122 consistent with such use, it is within the Purpose of this Easement to protect those values.
123

124 2. *Right to Use Property for Agricultural Purposes.*
125

126 The Landowner retains the right to use the Property for agricultural purposes, or to permit
127 others to use the Property for agricultural purposes, in accordance with applicable law as
128 long as the agricultural productive capacity and open space character of the Property are not
129 thereby significantly impaired.
130

131 3. *Prohibited Uses.*

132
133 The Landowner shall not perform, nor knowingly allow others to perform, any act on or
134 affecting the Property that is inconsistent with this Easement. Any use or activity that
135 would diminish or impair the agricultural productive capacity and open space character
136 (or scenic, habitat, natural, historic etc. values) of the Property or that would cause
137 significant soil degradation or erosion is prohibited. This Easement authorizes the
138 Steward to enforce these covenants in the manner described herein. However, unless
139 otherwise specified, nothing in this Easement shall require the Landowner to take any
140 action to restore the condition of the Property after any Act of God or other event over
141 which it had no control. The Landowner understands that nothing in this Easement
142 relieves it of any obligation or restriction on the use of the Property imposed by law.

143
144 4. *Permission of the Steward.*

145
146 Where the Landowner is required to obtain the Steward's permission or approval for a
147 proposed action hereunder, said permission or approval (a) shall not be unreasonably
148 delayed or withheld by the Steward, (b) shall be sought and given in writing, with copies
149 of all documents to be provided to the Department, and (c) shall in all cases be obtained
150 by the Landowner prior to the Landowner's taking the proposed action. The Steward
151 shall grant permission or approval to the Landowner only where the Steward, acting in
152 the Steward's sole reasonable discretion and in good faith, determines that the proposed
153 action will not significantly diminish or impair the agricultural productive capacity and open
154 space character of the Property and would not cause significant soil degradation or erosion.

155
156 5. *Construction or Placement of Buildings and Other Structures.*

157
158 The Landowner may undertake construction, erection, installation, or placement of
159 buildings, structures, or other improvements on the Property only as provided in
160 subsections (a) through (d) below. All other construction, erection, installation, or
161 placement of buildings, structures, or other improvements on the Property is prohibited.
162 Before undertaking any construction, erection, installation or placement that requires
163 advance permission, the Landowner shall notify the Steward and obtain prior written
164 permission from the Steward.

165
166 For purposes of this Section 5, "improvements" shall not refer to trees, vines, or other
167 living improvements planted for agricultural purposes, nor shall it refer to irrigation
168 improvements necessary or desirable to irrigate the Property for agricultural purposes, all
169 of which may be made without the permission of the Steward.

170
171 (a) Fences – Existing fences may be repaired and replaced, and new fences may
172 be built anywhere on the Property for purposes of reasonable and customary
173 agricultural management, and for security of farm produce, livestock, equipment,
174 and improvements on the Property, without any further permission of the
175 Steward.

177 (b) Agricultural Structures and Improvements – Existing agricultural structures
178 and improvements as shown in Exhibit B may be repaired, reasonably enlarged,
179 and replaced at their current locations for agricultural purposes without further
180 permission from the Steward. New buildings and other structures and
181 improvements to be used solely for agricultural production on the Property or sale
182 of farm products predominantly grown or raised on the Property, including barns
183 and equipment sheds, but not including any dwelling or farm labor housing, may
184 be built on the Property within the Building Envelope depicted in Exhibit B,
185 without further permission of the Steward. Any other agricultural production or
186 marketing-related structures may be constructed only with the written permission
187 of the Steward pursuant to Section 4.

188
189 (c) Residential Dwellings – The single-family dwelling shown in Exhibit B may
190 be repaired, reasonably enlarged or replaced at the current location entirely within
191 the Building Envelope shown in Exhibit B without further permission of the
192 Steward. No other residential structures may be constructed or placed on the
193 Property except for agricultural employee housing per Section 5(d).

194
195 (NOTE: This section may need to be modified depending on the existing
196 dwellings and Landowner’s development rights retained in the Easement.
197 Depending on the size of the Property and other circumstances, it may be
198 appropriate to establish a maximum size of the single-family dwelling.)

199
200 (d) Agricultural Employee Housing – No agricultural employee housing may be
201 constructed or placed on the Property without advance written permission of the
202 Steward. Steward may only grant permission pursuant to Section 4 and only if
203 the Landowner can demonstrate to the Steward’s satisfaction that such
204 agricultural employee housing is reasonable and necessary for the agricultural
205 operation of the Property. Any agricultural employee housing must be located
206 entirely within the Building Envelope shown in Exhibit B.

207
208 6. *Subdivision.*

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210 The division, subdivision, defacto subdivision, or partition of the Property, including
211 transfer of development rights, whether by physical, legal, or any other process, is
212 prohibited.

213
214 The Landowner agrees the Property has [*number*] existing legal parcel(s), and that no
215 additional, separate legal parcels currently exist within the Property that may be
216 recognized by a certificate of compliance pursuant to California Government Code
217 section 66499.35 based on previous patent or deed conveyances, subdivisions, or surveys.
218 The Landowner will not apply for or otherwise seek recognition of additional legal
219 parcels within the Property based on certificates of compliance or any other authority.
220 The Landowner shall continue to maintain the legal parcels comprising the Property, and
221 all interests therein, under common ownership, as though a single legal parcel.

223 Lot line adjustment may be permitted solely with the written approval of the Steward
224 pursuant to Section 4, and for purposes of maintaining, enhancing or expanding
225 agricultural practices or productivity on the Property. The Landowner shall take no other
226 steps towards lot line adjustment unless and until the Steward approves the request.

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228 *7. Development Rights.*

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230 The Landowner hereby grants to the Steward all development rights except as
231 specifically reserved in this Easement, that were previously, are now or hereafter
232 allocated to, implied, reserved, appurtenant to, or inherent in the Property, and the parties
233 agree that such rights are released, terminated, and extinguished, and may not be used on
234 or transferred by either party to any portion of the Property as it now or later may be
235 bounded or described, or to any other property adjacent or otherwise, or used for the
236 purpose of calculating permissible lot yield of the Property or any other property. This
237 Easement shall not create any development rights.

238

239 *8. Mining.*

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241 The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other
242 mineral substance, using any method that disturbs the surface of the land, is prohibited.

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244 (NOTE: This section can be customized depending on the unique characteristics of the
245 property and the landowner's mineral interest therein.)

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247

248 *9. Paving and Road Construction.*

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250 No portion of the Property presently unpaved shall be paved or otherwise be covered with
251 concrete, asphalt, or any other paving material, nor shall any paved or unpaved road for
252 access or other purposes be constructed without the advance written permission of the
253 Steward pursuant to Section 4. Unpaved farm roads as required by agricultural operations
254 are permitted without further permission from the Steward. The Landowner shall notify
255 the Steward of any relocation or addition of unpaved farm roads.

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257 *10. Trash.*

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259 The dumping or accumulation of any kind of trash, refuse, vehicle bodies or parts, or
260 hazardous waste on the Property, other than farm-related trash and refuse produced on the
261 Property, is prohibited. However, this shall not prevent the storage of agricultural
262 products and byproducts on the Property, so long as it is done in accordance with all
263 applicable government laws and regulations.

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265 *11. Commercial Signs.*

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267 Commercial signs (including billboards) unrelated to permitted activities conducted on
268 the Property are prohibited.

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12. *Recreational Uses.*

Resort structures, golf courses, non-residential swimming pools, public or commercial airstrips, commercial equestrian facilities, public or commercial helicopter pads, and any other non-agricultural recreational structures or facilities are prohibited on the Property. Other buildings and facilities for any other private recreational use may not be built on the Property without the advance written permission of the Steward pursuant to Section 4. The use of motorized vehicles off roadways and outside of the building envelope is prohibited except where used for agricultural production, property maintenance and security, or for the purpose of monitoring this Easement.

13. *Water Rights.*

The Landowner shall retain and reserve all ground water, and all appropriative, prescriptive, contractual or other water rights appurtenant to the Property at the time this Easement becomes effective. The Landowner shall not permanently transfer, encumber, lease, sell, or otherwise separate such quantity of water or water rights from title to the Property itself. No permanent separation of water or water rights shall be permitted. All water shall be retained in [County name] County for agricultural production only. Water may be distributed to a contiguous property or other property owned or leased by the Landowner on an annual basis for agricultural production only. Any temporary distribution of water shall not impair the long-term agricultural productive capacity or open space character of the Property.

14. *Rights Retained by the Landowner.*

Subject to Section 7 and to interpretation under Section 22, as owner of the Property, the Landowner reserves all interests in the Property not transferred, conveyed, restricted or prohibited by this Easement. These ownership rights include, but are not limited to, the right to sell, lease, or otherwise transfer the Property to anyone the Landowner chooses, as well as the right to privacy, the right to exclude any member of the public from trespassing on the Property, and any other rights consistent with the Purpose of this Easement. Nothing contained herein shall be construed as a grant to the general public of any right to enter upon any part of the Property.

Nothing in this Easement relieves the Landowner of any obligation or restriction on the use of the Property imposed by law.

15. *Responsibilities of the Landowner and the Steward Not Affected.*

Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on the Steward, or in any way to affect any existing obligation of the Landowner as owner of the Property. Among other things, this shall apply to:

- (a) Taxes – The Landowner shall be solely responsible for payment of all taxes

315 and assessments levied against the Property. If the Steward ever pays any taxes
316 or assessments on the Property, or if the Steward pays levies on the Landowner's
317 interest in order to protect Steward's interests in the Property, the Landowner will
318 reimburse the Steward for the same.

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320 (b) Upkeep and Maintenance – The Landowner shall be solely responsible for the
321 upkeep and maintenance of the Property, to the extent it may be required by law.
322 The Steward shall have no obligation for the upkeep or maintenance of the
323 Property. If the Steward acts to maintain the Property in order to protect the
324 Steward's interest in the Property, the Landowner will reimburse the Steward for
325 any such costs.

326
327 (c) Liability and Indemnification – In view of the Steward's and the Department
328 of Conservation's negative rights, limited access to the land, and lack of active
329 involvement in the day-to-day management activities on the Property, the
330 Landowner shall indemnify, protect, defend and holds harmless the Steward, the
331 Department of Conservation, their officers, directors, members, employees,
332 contractors, legal representatives, agents, successors and assigns (collectively,
333 "Agents and Assigns") from and against all liabilities, costs, losses, orders, liens,
334 penalties, claims, demands, damages, expenses, or causes of action or cases,
335 including without limitation reasonable attorneys' fees, arising out of or in any
336 way connected with or relating to the Property or the Easement. The Landowner
337 shall be solely liable for injury or the death of any person, or physical damage to
338 any property, or any other costs or liabilities resulting from any act, omission,
339 condition, or other matter related to or occurring on or about the Property,
340 regardless of cause, unless due to the negligence or willful misconduct of the
341 Steward, the Department of Conservation, and/or their respective Agents and
342 Assigns. The Steward shall be named as an additional insured on Landowner's
343 general liability insurance policy.

344
345 Neither the Steward, the Department of Conservation, nor their Agents and
346 Assigns shall have responsibility for the operation of the Property, monitoring of
347 hazardous conditions on it, or the protection of the Landowner, the public or any
348 third parties from risks relating to conditions on the Property. Without limiting
349 the foregoing, neither the Steward, the Department, nor their respective Agents
350 and Assigns shall be liable to the Landowner or other person or entity in
351 connection with consents given or withheld, or in connection with any entry upon
352 the Property occurring pursuant to this Easement, or on account of any claim,
353 liability, damage or expense suffered or incurred by or threatened against the
354 Landowner or any other person or entity, except as the claim, liability, damage, or
355 expense is the result of the gross negligence or intentional misconduct of the
356 Steward, the Department, and/or their respective Agents and Assigns.

357
358 16. *Monitoring.*

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360 The Steward shall manage its responsibilities as holder of this Easement in order to

361 uphold the Purpose of this Easement. The Steward's responsibilities include, but are not
362 limited to, annual monitoring, such additional monitoring as circumstances may require,
363 record keeping, and enforcement, for the purpose of preserving the Property's
364 agricultural productive capacity and open space character in perpetuity. Failure of the
365 Steward to carry out these responsibilities shall not impair the validity of this Easement
366 or limit its enforceability in any way. With reasonable advance notice (except in the
367 event of an emergency circumstance or prevention of a threatened breach), Steward shall
368 have the right to enter upon, inspect, observe, monitor and evaluate the Property to
369 identify the current condition of, and uses and practices on the Property and to determine
370 whether the condition, uses and practices are consistent with this Easement, subject to the
371 following conditions:

372
373 Steward shall indemnify, defend with counsel of Landowner's choice, and hold
374 Landowner harmless from, all expense, loss, liability, damages and claims, including
375 Landowner's attorneys' fees, if necessary, arising out of Steward's entry on the Property,
376 unless caused by a violation of this Easement by Landowner or by Landowner's
377 negligence or willful misconduct.

378
379 The Steward shall report to the Department of Conservation by June 30 of each year after
380 the annual monitoring visit, describing method of monitoring, condition of the Property,
381 stating whether any violations were found during the period, describing any corrective
382 actions taken, the resolution of any violation, and any transfer of interest in the Property.
383 Failure to do so shall not impair the validity of this Easement or limit its enforceability in
384 any way.

385
386 *17. Enforcement.*

387
388 The Steward may take all actions that it deems necessary to ensure compliance with the
389 terms, conditions, covenants, and purposes of this Easement. The Steward shall have the
390 right to prevent and correct violations of the terms, conditions, covenants, and purposes
391 of this Easement. If the Steward finds what it believes is a violation or potential
392 violation, it may at its discretion take appropriate legal action to ensure compliance with
393 the terms, conditions, covenants, and purposes of this Easement and shall have the right
394 to correct violations and prevent the threat of violations. Except when an ongoing or
395 imminent violation could irreversibly diminish or impair the agricultural productive
396 capacity and open space character of the Property, the Steward shall give the Landowner
397 written notice of the violation or potential violation, and thirty (30) days to correct it,
398 before filing any legal action.

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400 If a court with jurisdiction determines that a violation may exist, has occurred, or is about
401 to occur, the Steward may obtain an injunction, specific performance, or any other
402 appropriate equitable or legal remedy, including (i) money damages, including damages
403 for the loss of the agricultural conservation values protected by this Easement, (ii)
404 restoration of the Property to its condition existing prior to such violation, and (iii) an
405 award for all of the Steward's expenses incurred in stopping and correcting the violation,
406 including but not limited to reasonable attorney's fees. The failure of the Steward to

407 discover a violation or potential violation, or to take immediate legal action to prevent or
408 correct a violation or potential violation known to the Steward, shall not bar the Steward
409 from taking subsequent legal action. The Steward's remedies under this section shall be
410 cumulative and shall be in addition to all remedies now or hereafter existing at law or in
411 equity.

412

413 Without limiting the Landowner's liability therefor, the Steward shall apply damages
414 recovered to the cost of undertaking any corrective action on the Property. Should the
415 restoration of lost values be impossible or impractical for whatever reason, the Steward
416 shall apply any and all damages recovered to furthering its mission, with primary
417 emphasis on agricultural conservation easement acquisition and enforcement.

418

419 In the event the Steward fails to enforce any term, condition, covenant or purpose of this
420 Easement, as determined by the Director of the Department of Conservation, the Director
421 of the Department and his or her successors and assigns shall have the right to enforce the
422 Easement after giving notice to the Steward and the Landowner and providing a
423 reasonable opportunity under the circumstances for the Steward to enforce any term,
424 condition, covenant, or purpose of the Easement. In the event that the Director of the
425 Department determines that the Steward has failed to enforce any of the terms,
426 conditions, covenants, or purposes of the Easement, the Director of the Department and
427 his or her successors and assigns shall be entitled to exercise the right to enter the
428 Property granted to the Steward, including right of immediate entry where the Director of
429 the Department or his or her successor or assign determines that immediate entry is
430 required in the event of an emergency circumstance or prevention of a threatened breach
431 of this Easement.

432

433 Failure or refusal to exercise any rights under the terms of this Easement by the Steward
434 in the event of a breach by the Landowner of any term herein shall not constitute a waiver
435 or forfeiture of the Steward's right to enforce any term, condition, covenant, or purpose
436 of this Easement.

437

438 18. *Transfer of Easement.*

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440 This Easement may only be assigned or transferred to a private nonprofit organization
441 that, at the time of transfer, is a "qualified organization" under Section 170(h) of the
442 United States Internal Revenue Code and under Section 815.3(a) of the California Civil
443 Code and has similar purposes to preserve agricultural lands and open space. If no such
444 private nonprofit organization exists or is willing to assume the responsibilities imposed
445 by this Easement, then this Easement may be transferred to any public agency authorized
446 to hold interests in real property as provided in Section 815.3(b) of the California Civil
447 Code. Such an assignment or transfer may proceed only if the organization or agency
448 expressly agrees to assume the responsibility imposed on the Steward by the terms of this
449 Easement and is expressly willing and able to hold this Easement for the Purpose for
450 which it was created. All transfers shall be duly recorded.

451

452 If the Steward should desire to assign or transfer this Easement, the Steward must obtain

453 written permission from the Landowner and the Department of Conservation, which
454 permission shall not be unreasonably withheld.

455
456 If the Steward or its successors ever ceases to exist or no longer qualifies under Section
457 170(h) of the U.S. Internal Revenue Code, or applicable state law, the Department of
458 Conservation, in consultation with the Landowner, shall identify and select an
459 appropriate private or public entity to whom this Easement shall be transferred.

460
461 *19. Transfer of Property Interest.*

462
463 Any time the Property itself, or any interest in it, is transferred by the Landowner to any
464 third party, the Landowner shall notify the Steward in writing at least thirty (30) days
465 prior to the transfer of the Property or interest, and the document of conveyance shall
466 expressly incorporate by reference this Easement. Any document conveying a lease of
467 the Property shall expressly incorporate by reference this Easement. Failure of the
468 Landowner to do so shall not impair the validity of this Easement or limit its
469 enforceability in any way.

470
471 *20. Amendment of Easement.*

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473 This Easement may be amended only with the written consent of the Landowner, the
474 Steward, and the Director of the Department of Conservation. Any such amendment
475 shall be consistent with the Purpose of this Easement and with the Steward's easement
476 amendment policies, and shall comply with all applicable laws, including Section 170(h)
477 of the Internal Revenue Code, or any regulations promulgated in accordance with that
478 section, and with Section 815 et seq. of the California Civil Code, and the California
479 Farmland Conservancy Program Act as codified in Section 10200 et seq. of the California
480 Public Resources Code, and any regulations promulgated thereunder. No amendment
481 shall diminish or affect the perpetual duration or the Purpose of this Easement, nor the
482 status or rights of the Steward under the terms of this Easement.

483
484 This Easement and any amendment to it shall be recorded in [*County name*] County.
485 Copies of any amendments to this Easement shall be provided to the Department of
486 Conservation.

487
488 *21. Termination of Easement.*

489 (NOTE: Landowners may waive the administrative termination provision defined in
490 Public Resources Code sections 10270-77, in which case potential easement termination
491 shall be governed solely by judicial termination proceedings. Under such cases, Section
492 21(a) shall be removed and Section 21(c) updated to remove the following language from
493 the second sentence "at the time of a voluntary termination pursuant to Sections 10270-
494 10277 of the Public Resources Code or...".)

495
496 (a) Termination of the Easement shall be governed by Sections 10270-10277 of
497 the Public Resources Code of California. This Easement shall not be terminated
498 unless it meets the criteria for termination of this Easement including, California

499 Constitution, Article XIII, section 8; California Public Resources Code sections
500 10273 - 10275, Revenue and Taxation Code sections 421.5 and 422.5; and other
501 applicable laws, rules and regulations. The Steward and the Department of
502 Conservation shall be notified at least thirty (30) days prior to any initiation of
503 any proceedings to terminate this Easement. No inaction or silence by the
504 Steward shall be construed as abandonment of the Easement. The fact that the
505 land is not in agricultural use is not reason for termination of this Easement.
506

507 (b) Other than pursuant to eminent domain or purchase in lieu of eminent domain,
508 no other voluntary or involuntary sale, exchange, conversion, or conveyance of
509 any kind of all or part of the Property, or of any interest in it, shall limit or
510 terminate the provisions of this Easement. Termination of the Easement through
511 condemnation is subject to the requirements of Section 10261 of the Public
512 Resources Code, the eminent domain laws of the State of California, federal law,
513 and this Easement. The Property may not be taken by eminent domain or in lieu
514 of eminent domain if the planned use is more than seven years in the future
515 (California Code of Civil Procedure section 1240.220). Steward shall be paid by
516 the condemnor the value of the Easement at the time of condemnation (Public
517 Resources Code section 10261(a)(2)). Purchase in lieu of condemnation, or
518 settlement of an eminent domain proceeding, shall occur pursuant to applicable
519 laws and procedures, including but not limited to California Government Code
520 sections 7267.1 and 7267.2, and shall require approval of Steward and the
521 Director of the Department of Conservation. Steward shall have an opportunity to
522 accompany the appraiser for the condemning agency when the appraiser goes on
523 the Property with Landowner. Should this Easement be condemned or otherwise
524 terminated on any portion of the Property, the balance of the Property shall
525 remain subject to this Easement. In this event, all relevant related documents
526 shall be updated and re-recorded by the Steward to reflect the modified easement
527 area and encumbrances junior to this Easement shall remain subordinate to the
528 Easement as amended.
529

530 (c) The grant of this Easement gives rise to a property right immediately vested in
531 the Steward. For the purpose of determining the amount to be paid by the
532 Landowner in a repurchase of the Easement at the time of a voluntary termination
533 pursuant to Sections 10270-10277 of the Public Resources Code or pursuant to
534 judicial proceedings, and for the purpose of allocating proceeds from a sale or
535 other disposition of the Property at the time of termination, the Easement and the
536 Steward's property right therein shall have a value equal to the difference between
537 the current fair market value of the Property as if unencumbered by this Easement
538 and the current fair market value of the Property encumbered by this Easement,
539 each as determined on or about the date of termination. The values shall be
540 determined by an appraisal performed by an appraiser jointly selected by the
541 Landowner and the Steward. The Landowner shall pay the cost of the appraisal,
542 and it is subject to approval by the Department. Nothing herein shall prevent the
543 Landowner, the Steward, or the Department from having an appraisal prepared at
544 its own expense.

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Upon approval of termination of this Easement or any portion thereof, the Landowner shall reimburse the State of California, Department of Conservation California Farmland Conservancy Program Fund and [Other funders] the amount equal to the value of the Easement that is terminated pursuant to Section 10276 of the Public Resources Code. The amount required to be paid in connection with the Landowner’s repurchase shall be distributed as follows: (i) to the State of California, Department of Conservation, California Farmland Conservancy Program Fund, [percentage] (%); and (ii) to the [Other funder], [percentage] (%), representing the proportion of easement value originally contributed by these agencies for the purchase of this Easement. This Easement shall not be deemed terminated until such payment is received by all parties. The Steward, in using any funds received from the termination of this Easement, shall use the funds in a manner consistent with the Purpose of this Easement.

(NOTE: Additional language IRS language may need to be used for landowners seeking IRS recognition of a charitable donation)

(d) If the Steward obtains payment on a claim under a title insurance policy insuring this Easement, payment shall be distributed as set forth in Section 21(c).

22. *Interpretation.*

(a) This Easement shall be interpreted under the laws of the State of California, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

(b) References to authorities in this Easement shall be to the statute, rule, regulation, ordinance, or other legal provision that is in effect at the time this Easement becomes effective.

(c) No provision of this Easement shall constitute governmental approval of any improvements, construction or other activities that may be permitted under this Easement.

23. *Perpetual Duration.*

Pursuant to California Civil Code section 815.1, this Easement shall run with the land in perpetuity. Every provision of this Easement that applies to the Landowner or the Steward shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear.

No merger of title, estate or interest shall be deemed effected by any previous, contemporaneous, or subsequent deed, grant, or assignment of an interest or estate in the Property, or any portion thereof, to the Steward, or its successors or assigns. It is the express intent of the parties that this Easement not be extinguished by, merged into,

591 modified, or otherwise deemed affected by any other interest or estate in the Property
592 now or hereafter held by the Steward or its successors or assigns.

593

594 24. *Notices.*

595

596 Any notices to the Landowner and the Steward required by this Easement shall be in
597 writing and shall be personally delivered or sent by first class mail to the following
598 addresses, unless a party has been notified by the other of a change of address:

599

600 To the Landowner:

601

602 _____

603 _____

604 _____

605

606 To the Steward:

607

608 _____

609 _____

610 _____

611

612 Any notices required by this Easement to be sent to the Department shall be in writing
613 and shall be personally delivered or sent by first class mail, at the following address,
614 unless a party has been notified by the Department of a change of address:

615

616 To the Department of Conservation:

617

618 Department of Conservation

619 801 K Street, MS 18-01

620 Sacramento, CA 95814

621 Attn: California Farmland Conservancy Program

622

623 25. *The Landowner's Environmental Warranty.*

624

625 (a) Nothing in this Easement shall be construed as giving rise to any right or
626 ability in the Steward or the Department of Conservation to exercise physical or
627 management control over the day-to-day operations of the Property, or any of the
628 Landowner's activities on the Property, or otherwise to become an "owner" or
629 "operator" with respect to the Property as those words are defined and used in
630 environmental laws, including the Comprehensive Environmental Response,
631 Compensation, and Liability Act of 1980 ("CERCLA"), as amended or any
632 corresponding state and local statute or ordinance.

633

634 (b) The Landowner warrants that it has no actual knowledge of a release or
635 threatened release of any Hazardous Materials on, at, beneath or from the
636 Property. Moreover the Landowner hereby promises to defend and indemnify the

637 Steward and the Department of Conservation against all litigation, claims,
638 demands, penalties and damages, including reasonable attorneys' fees, arising
639 from or connected with the release or threatened release of any Hazardous
640 Materials on, at, beneath or from the Property, or arising from or connected with a
641 violation of any Environmental Laws. The Landowner's indemnification
642 obligation shall not be affected by any authorizations provided by the Steward to
643 the Landowner with respect to the Property or any restoration activities carried
644 out by the Steward at the Property; provided, however, that the Steward shall be
645 responsible for any Hazardous Materials contributed after this date to the Property
646 by the Steward.

647
648 (c) The Landowner warrants that it shall remain in compliance with, all applicable
649 Environmental Laws. The Landowner warrants that there are no notices by any
650 governmental authority of any violation or alleged violation of, non-compliance
651 or alleged non-compliance with or any liability under any Environmental Law
652 relating to the operations or conditions of the Property.

653
654 (d) "Environmental Law" or "Environmental Laws" means any and all Federal,
655 state, local or municipal laws, rules, orders, regulations, statutes, ordinances,
656 codes, guidelines, policies or requirements of any governmental authority
657 regulating or imposing standards of liability or standards of conduct (including
658 common law) concerning air, water, solid waste, Hazardous Materials, worker
659 and community right-to-know, hazard communication, noise, radioactive
660 material, resource protection, subdivision, inland wetlands and watercourses,
661 health protection and similar environmental health, safety, building and land use
662 as may now or at any time hereafter be in effect.

663
664 (e) "Hazardous Materials" means any petroleum, petroleum products, fuel oil,
665 waste oils, explosives, reactive materials, ignitable materials, corrosive materials,
666 hazardous chemicals, hazardous wastes, hazardous substances, extremely
667 hazardous substances, toxic substances, toxic chemicals, radioactive materials,
668 infectious materials and any other element, compound, mixture, solution or
669 substance which may pose a present or potential hazard to human health or the
670 environment or any other material defined and regulated by Environmental Laws.

671
672 (f) If at any time after the effective date of this Easement there occurs a release,
673 discharge or other incident in, on, or about the Property of any substance now or
674 hereafter defined, listed, or otherwise classified pursuant to any federal, state, or
675 local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise
676 contaminating to the air, water, or soil, or in any way harmful or threatening to
677 human health or the environment, the Landowner agrees to take any steps that are
678 required of the Landowner with respect thereto under federal, state, or local law
679 necessary to ensure its containment and remediation, including any cleanup.

680
681 26. *The Landowner's Title Warranty; No Prior Conservation Easements.*

682

683 The Landowner represents and warrants that it owns the entire fee simple interest in the
684 Property, including the entire mineral estate, and hereby promises to defend this
685 Easement against all claims that may be made against it. Any and all financial liens or
686 financial encumbrances existing as of the date of the execution of this Easement have
687 been subordinated. Exhibit C (Prior Encumbrances) sets forth all the non-financial
688 encumbrances. The Landowner represents and warrants that the Property is not subject
689 to any other conservation easement whatsoever.

690

691 *27. Granting Subsequent Easements, Interests in Land, or Use Restrictions.*

692

693 The grant of any subsequent easements, interests in land, or use restrictions that might
694 diminish or impair the agricultural productive capacity or open space character of the
695 Property is prohibited. The Landowner may grant subsequent easements, including
696 conservation easements, interests in land, or use restrictions on the Property provided that
697 they do not restrict agricultural husbandry practices or interfere with any of the terms of
698 this Easement, as determined by the Steward. "Husbandry practices" means agricultural
699 activities, such as those specified in Section 3482.5(e) of the California Civil Code,
700 conducted or maintained for commercial purposes in a manner consistent with proper and
701 accepted customs and standards, as established and followed by similar agricultural
702 operations in the same locality. The Steward's written approval shall be obtained at least
703 thirty (30) days in advance of the Landowner's execution of any proposed subsequent
704 easement, interests in land, or use restriction on the Property, and such subsequent
705 easements, interests in land, and use restrictions shall make reference to and be
706 subordinate to this Easement. The Steward shall notify the Department immediately
707 upon receipt of request by the Landowner to grant a subsequent easement, interest in
708 land, or use restriction on the Property. The Steward shall notify the Department in the
709 event that it approves the grant of any subsequent easement, interest in land, or use
710 restriction on the Property. The Steward shall disapprove the granting of any proposed
711 subsequent easement, interest in land, or use restriction that appears to restrict
712 agricultural husbandry practices, or diminishes or impairs the agricultural productive
713 capacity or open space character of the Property

714

715 *28. Severability.*

716

717 If any term, provision, covenant, condition, or restriction of this Easement is held by a
718 court of competent jurisdiction to be unlawful, invalid, void, unenforceable, or not
719 effective the remainder of the agreement shall remain in full force and effect and shall in
720 no way be affected, impaired, or invalidated.

721

722 *29. Entire Agreement.*

723

724 This Easement is the final and complete expression of the agreement between the parties
725 with respect to this subject matter. Any and all prior or contemporaneous agreements
726 with respect to this subject matter, written or oral, are merged into and superceded by this
727 written instrument.

728

729 30. *Acceptance.*

730

731 As attested by the signature of its [*Position title*] affixed hereto, in exchange for
732 consideration, the Steward hereby accepts without reservation the rights and
733 responsibilities conveyed by this Deed of Agricultural Conservation Easement.

734

735 To Have and To Hold, this Deed of Agricultural Conservation Easement unto the
736 Steward, its successors and assigns, forever.

737

738 In Witness Whereof, the Landowner and the Steward, intending to legally bind
739 themselves, have set their hands on the date first written above.

740

741 LANDOWNER

742

743 [*Landowner's Name*].

744

745 By: _____

746

747 Name: _____

748

749 Title: _____

750

751 STEWARD

752

753 [*Steward's Name*],
754 a California nonprofit public benefit corporation

755

756 By: _____

757

758 Name: _____

759

760 Title: _____

761

762 ACKNOWLEDGEMENTS

763

764

765 STATE OF CALIFORNIA } ss
766 COUNTY OF }
767

767

768 On _____ before me, _____, Notary Public of the
769 State of California, personally appeared _____,

770

771 personally known to me (or proved to me on the basis of satisfactory evidence) to be the
772 person whose name is subscribed to the within instrument and acknowledged to me that

773

774 instrument the person or the entity upon behalf of which the person acted, executed the
instrument.

775

776 WITNESS my hand and official seal.

777

778 Signature _____

779

780

781

782 STATE OF CALIFORNIA } ss

783 COUNTY OF }
784

785 On _____ before me, _____, Notary Public of the
786 State of California, personally appeared _____,
787 personally known to me (or proved to me on the basis of satisfactory evidence) to be the
788 person whose name is subscribed to the within instrument and acknowledged to me that
789 he executed the same in his authorized capacity, and that by his signature on the
790 instrument the person or the entity upon behalf of which the person acted, executed the
791 instrument.
792

793 WITNESS my hand and official seal.

794

795 Signature _____

796

797

798

799 Exhibit A (Legal Description) Attached

800 Exhibit B (Building Envelope and Existing Improvements) Attached

801 Exhibit C (Prior Encumbrances) Attached