



**Recording requested by
and when recorded mail to:**

LAND TRUST FOR SANTA BARBARA COUNTY
Post Office Box 91830
Santa Barbara, California 93190-1830
Telephone: 805/966-4520

**[INSERT NAME OF PROPERTY]
DEED OF AGRICULTURAL CONSERVATION EASEMENT**

This Deed of Agricultural Conservation Easement (“Conservation Easement” or “Easement”) is granted on this _____ day of _____, 200_, by _____ (“LANDOWNER”), to **THE LAND TRUST FOR SANTA BARBARA COUNTY**, a California nonprofit public benefit corporation (“LAND TRUST”), each a “party” and together the “parties” to this Easement,, for the purpose of establishing in perpetuity the Agricultural Conservation Easement and associated rights described below.

Recitals

A. LANDOWNER is the sole owner in fee simple of certain real property identified as Assessor’s Parcel(s) No. _____, consisting of approximately _____ acres, located in the unincorporated portion of the County of Santa Barbara, State of California, described in “Exhibit A” attached hereto and incorporated herein by this reference (“Property”). LANDOWNER intends to grant a conservation easement over the Property which is described and illustrated on the map attached as “Exhibit B” (“Easement Area”). The Easement Area consists of approximately _____ acres of land, together with any improvements located within the Easement Area. *[NOTE: Where conservation easement applies to the entire property, substitute “Property” for “Easement Area” throughout document.]*

B. LAND TRUST is a publicly supported, tax-exempt “qualified conservation organization” as defined by Sections 501(c)(3) and 170(h) of the Internal Revenue Code and Section 23701(d) of the California Revenue & Taxation Code and is eligible to hold this Conservation Easement pursuant to Section 815.3 of the California Civil Code. As certified by resolution of its governing body, LAND TRUST accepts the responsibility of monitoring and enforcing the terms of this Conservation Easement and upholding its conservation purposes forever.

C. The Easement Area consists primarily of productive agricultural land with a long history of agricultural operations. The majority of the soils on the Easement Area have been classified as *[prime / unique / farmland of statewide or local importance]* by the Natural

Resources Conservation Service, U.S. Department of Agriculture. The primary purpose of this Easement is to protect the agricultural soils, agricultural viability, and agricultural productivity of the Easement Area in perpetuity.

D. The Easement Area also possesses *[specific description of areas of scenic open space visible from public view points, fish and wildlife habitat by acreage and type, historic structures]*, the preservation and protective management of which is consistent with the present and continued use of the Easement Area for agricultural production and open space purposes in accordance with this Easement. The agricultural utility and the *[open space, scenic, natural habitat and historic]* resources of the Easement Area are collectively referred to herein as the “Conservation Values” of the Property.

E. LANDOWNER intends to *[convey for valuable consideration] [make a charitable gift of]* the Easement Area interest conveyed by this Conservation Easement to LAND TRUST to assure that the agricultural productivity, scenic open space created by working landscapes, and wildlife habitat provided by the Easement Area will be conserved and sustained forever as provided herein, and that uses of the land that are inconsistent with these Conservation Values will be prevented or corrected. The parties agree that the current agricultural use of, and improvements to, the Easement Area are consistent with the conservation purposes of this Conservation Easement, and LANDOWNER intends that the Easement Area will be maintained in agricultural production and the Conservation Values of the Easement Area will be preserved by the continuation of the agricultural uses that have proven historically compatible with such values.

F. LANDOWNER further intends, as owner of the Easement Area, to convey to LAND TRUST the right to preserve and protect the Conservation Values of the Easement Area in perpetuity.

G. The grant of this Conservation Easement will further the policy purposes of the following clearly delineated governmental conservation policies:

Section 815 of the California Civil Code, in which the California Legislature has declared: (1) that “the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California”; and (2) that it is “in the public interest of this state to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations”; and

Section 51220 of the California Government Code, in which the California Legislature has declared that “in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands . . . constitutes an important physical, social, esthetic and economic asset to existing or pending urban or metropolitan developments; and

The Santa Barbara County Comprehensive Plan, as amended in 1992, which includes as one of its goals to protect all viable agricultural lands designated as

prime, of statewide importance, unique, or of local importance from conversion to and encroachment of non-agricultural uses. *[Cite any other specific adopted general/community plan conservation policies, studies, findings applicable to project area.]*

The Agricultural Element of the Santa Barbara County Comprehensive, the County Right to Farm Ordinance and other policies and zoning ordinances to preserve Santa Barbara County's productive agricultural lands.

H. All holders of liens or other encumbrances upon, and mineral rights on or beneath the Easement Area, have agreed to subordinate their interests in the Easement Area to this Conservation Easement and to refrain forever from any action that would be inconsistent with its conservation purposes *[except any encumbrances specifically agreed to in advance and listed in "Exhibit C"]*.

I. The current physical and biological conditions of the resources of the Easement Area, as well as its current uses and state of improvement, are described in a "Baseline Inventory Report," prepared by the LAND TRUST with the cooperation of the LANDOWNER, consisting of maps, photographs, and other documents, and acknowledged by both to be complete and accurate as of the date of this Conservation Easement. Both LANDOWNER and LAND TRUST have received copies of this report, which will be used by LAND TRUST to assist in its monitoring and enforcement of LANDOWNER's compliance with the Easement. This report, however, is not intended to preclude the use of other evidence to establish the baseline condition of the Easement Area if there is a controversy over some aspect of that condition.

J. The Parties intend that the conservation purposes of this Easement will be achieved through continued farming and ranching activities, using sound, generally accepted agricultural practices, to sustain and protect the agricultural value of the Easement Area; through the open space value created by the working landscape; and through the natural plant, *[fish]* and wildlife habitat provided by the agricultural land use and natural environment of the Easement Area. *[If applicable]*

K. LAND TRUST recognizes that the Conservation Values associated with the physical environment of the Easement Area exist because of the past stewardship of the LANDOWNER(s) and depend on the future good stewardship decisions of LANDOWNER and its successors. LANDOWNER is entrusted with those future management decisions. The parties recognize that LANDOWNER's changes in the agricultural uses of the land, including intensification and vegetation management, may occur in concert with maintaining the natural plant and wildlife habitat on the Property, provided that such changes do not significantly impair the Conservation Values LAND TRUST is entrusted with determining that the Conservation Values have been protected. *[If applicable]*

Deed and Agreement

In consideration of the recitals set forth above, and in consideration of their mutual promises and covenants, LANDOWNER hereby grants and conveys to LAND TRUST, its

successors and assigns, and LAND TRUST hereby accepts, a perpetual Conservation Easement as defined by Section 815.1 of the Conservation Easement Act of 1979 (California Civil Code, Section 815 et seq.), of the nature and character described in this Deed of Agricultural Conservation Easement.

1. **PURPOSE.** The purpose of this Conservation Easement is to identify, preserve and protect forever the Conservation Values of the Easement Area, including agricultural productivity, open space created by working landscapes, soil and water quality, and natural plant, *[fish]* and wildlife habitat provided by the agricultural land use and the natural environment (“Easement Purpose”). The parties intend that the Easement Purpose be achieved through continued agricultural uses, to assure that the Easement Area will forever remain available for agricultural use for the production of food and fiber in a manner consistent with preservation of the Conservation Values.

2. **AFFIRMATIVE RIGHTS CONVEYED TO LAND TRUST.** To accomplish the Easement Purpose, the following rights and interests are conveyed to LAND TRUST by this Easement:

(a) **Identify Resources and Values.** To identify, preserve and protect in perpetuity the character, use, utility, soil and water quality and the Conservation Values of the Easement Area.

(b) **Monitor Uses and Practices.** To enter upon, inspect, observe, and study the Easement Area for the purposes of identifying the current uses and practices thereon and the baseline condition thereof, and to monitor the uses and practices regarding the Easement Area to determine whether they are consistent with this Easement. Such entry shall be permitted upon prior notice to LANDOWNER, and shall be made in a manner that will not unreasonably interfere with LANDOWNER's use and quiet enjoyment of the Property.

(c) **Prevent Inconsistent Uses.** To prevent any activity on or use of the Easement Area that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Easement Area that may be damaged by any inconsistent activity or use. However, it is the intention of this Easement not to limit LANDOWNER's discretion to implement various agricultural, farming and ranching uses and management practices within the Easement Area, so long as those uses and practices are consistent with the Easement Purpose and the terms of this Easement.

(d) **Provide Signage.** To erect and maintain a sign or signs or other appropriate markers in prominent locations on the Easement Area, visible from a public road, bearing information indicating that the Easement Area is protected by LANDOWNER, any funders, and LAND TRUST. The wording of the information shall be determined by LANDOWNER and LAND TRUST, but may include logos and shall clearly indicate that the Easement Area is privately owned and not open to the public. LAND TRUST shall be responsible for the costs of erecting and maintaining such signs or markers.

(e) **Implement Conservation Improvements.** To work with the LANDOWNER, in the LANDOWNER'S sole discretion, to develop joint projects for the purpose of identifying and promoting ecological improvements or enhanced management techniques which may restore or enhance the Easement Area. Such improvements and/or techniques shall not impose involuntary costs on any party hereto and will not unduly interfere with agricultural production, farming or ranching uses, including orchards, cattle ranching or horse breeding, or LANDOWNER's quiet enjoyment of the Property as described herein. **[Optional]**

(f) **Provide Educational Access to Easement Area.** The right to conduct one field trip or similar event on the Easement Area each calendar year for the educational benefit of the LAND TRUST members and its invited guests. Such events shall be scheduled with LANDOWNER a minimum of thirty (30) days in advance. The number of guests, timing of the event, mode of travel on the Property, and areas of the Easement Area to be visited may be set forth in the reasonable discretion of LANDOWNER, and shall respect LANDOWNER's agricultural and pest management practices then in effect. **[Optional]**

3. PERMITTED USES AND PRACTICES. LANDOWNER and LAND TRUST intend that this Easement shall confine the uses of the Easement Area to agricultural, ranching, farming and residential uses associated with the permitted uses of the Easement Area, and such other related uses as are described herein. The following uses and practices, if in accordance with federal, state and county laws and ordinances, and to the extent not inconsistent with the Easement Purpose, are specifically permitted:

(a) **Residential Use.** To allow LANDOWNER and/or its caretaker and/or lessee/sublessee to reside on the Property in structures approved for residential use, as specified herein:

(i) Existing single-family residences and residential accessory structures may be repaired, reasonably enlarged and replaced within the development envelope(s) shown on Exhibit _____. **[Identify each existing residential building and/or envelope on exhibit map.]**

(ii) No more than ____ additional single-family residences may be developed on the Property within the development envelope(s) shown on Exhibit _____. [Insert any location, size or other restrictions.]

(iii) Accessory structures allowed for each single family residence permitted herein shall be located within the development envelope, and are limited to a single, separate guest house or artist studio; and such incidental residential accessory structures as are permitted for a single agricultural parcel by the County's Land Use and Development Code in effect at the time such structures are proposed.

(iv) One or more employee dwellings are permitted to the extent allowed by the County's Land Use and Development Code in effect at the time such structures are proposed. Occupancy of employee dwellings is limited to bona fide

ranch employees and their direct family members, and may not be rented to or otherwise occupied by other persons.

(v) Development envelopes may be modified or relocated with prior approval of the LAND TRUST, provided that development shall be designed, located and constructed so as not substantially to interfere with, impair or otherwise burden the Conservation Values.

(b) Engage in Agricultural Uses. To engage in any and all agricultural uses of the Easement Area in accordance with sound, generally accepted agricultural management practices. The term "agricultural uses" shall be defined as breeding, raising, pasturing, and grazing livestock of every nature and description for the production of food and fiber; breeding, raising and boarding horses, bees, poultry and other fowl; planting, raising, harvesting and producing agricultural, aquacultural, horticultural and forestry crops and products of every nature and description; and the processing, storage, and sale, including direct retail sale to the public, of crops and products harvested and produced on the Easement Area. Such agricultural uses shall not result in significant soil degradation, significant pollution or degradation of any surface or subsurface waters or significant impairment of open space vistas, and shall be consistent with the purpose of this Easement.

(c) Additional Agricultural Structures, Grading and Improvements. To allow additional structures accessory to the agricultural uses of the Easement Area, including the enlargement of existing structures that are reasonably necessary for the agricultural uses of the Easement Area, and new buildings or other structures and improvements, including water wells, pump houses, barns, animal shelters, service sheds, vehicle and equipment repair facilities and loading docks, to be used solely for agricultural purposes, including the processing or sale of farm products predominantly grown or raised on the Easement Area or on other land owned or leased by LANDOWNER in the vicinity of the Property. Agricultural structures shall not be used for human habitation except as specifically permitted by Paragraph 3.(a) above. Agricultural grading to prepare land for planting of crops and to control erosion, in accordance with sound, generally accepted agricultural management practices, is permitted without prior approval, provided such grading does not alter the general topography or natural drainage of the Property. However, structures visible from a public road, or over ten thousand (10,000) square feet may be built only with the advance written permission of the LAND TRUST, which permission shall be conditioned upon LANDOWNER's showing that the proposed structure shall be designed, located and constructed so as not substantially to interfere with, impair or otherwise burden public views and the Conservation Values.

Prior Approval of Agricultural Structures. Any single agricultural structure over ten thousand (10,000) square feet, or the addition of any structure resulting in a cumulative total exceeding (20,000) square feet, may be built only with the advance written permission of the LAND TRUST, which permission shall be conditioned upon LANDOWNER's showing that the proposed structure shall be designed, located and constructed so as not substantially to interfere with, impair or otherwise burden public views and the Conservation Values. For purposes of this Conservation Easement, a "structure" shall be defined as anything constructed or

erected on the ground or attached to something located on the ground, including without limitation, storage tanks and associated uncovered, paved areas.

(d) Existing Structures. To use structures identified in the Baseline Conditions Report as existing at the time that report is prepared. Existing structures on the Easement Area may be repaired, reasonably enlarged and replaced at their current location without further permission of the LAND TRUST, provided that such repair, enlargement, or replacement does not substantially interfere with, impair or otherwise burden the Conservation Values.

(e) Fences. To repair and replace at their existing locations in the Easement Area existing fences, scales and corrals for purposes of reasonable and customary management of livestock and wildlife, without further permission from LAND TRUST. New fences, scales and corrals at new locations may be constructed for such purposes without further permission from LAND TRUST, provided that any new fence shall be sited and designed to protect the Conservation Values of the Easement Area, including but not limited to wildlife corridors.

(f) Road Construction and Paving. Landowner, in Landowner's sole discretion and without further permission of the Land Trust, may maintain, repave and rebuild roads in the Easement Area that are existing and paved as of the effective date of this Easement Agreement. Landowner shall not pave any existing unpaved road or construct any new paved road within the Easement Area, whether for access or for another purpose, without prior notice to and approval of Land Trust. Land Trust approval of additional road paving or construction shall be based upon Landowner's demonstration that the proposed improvements and location of any such road will not substantially diminish or impair the Conservation Values or, if this finding cannot be made, that the road improvements and location are necessary to provide access to structures or improvements permitted by this Easement Agreement or are necessary to meet governmental requirements. Landowner may relocate existing unpaved agricultural roads within the Easement Area as unpaved agricultural roads, provided that abandoned roads shall be allowed to return to a natural condition or shall be converted to agriculture as may be permitted under this Easement Agreement. For purposes of this paragraph, "paving" shall include the covering of the soil surface with concrete, asphalt or other impervious surface, but shall not include the application of a reasonable amount of gravel to stabilize unpaved roads.

(g) Water Resources. To develop and maintain such water resources and water-related improvements on the Easement Area as are necessary or convenient for agricultural, conservation and residential uses in a manner consistent with the purpose of this Easement, including reservoirs, ponds, waterlines, and irrigation ditches, provided such activities will ensure preservation and protection of the Conservation Values of the Easement Area.

(h) Use of Agrichemicals. To use agrichemicals, including, but not limited to, fertilizers, pesticides, herbicides and fungicides in those amounts and with such frequency of application necessary to accomplish reasonable agricultural purposes; provided that such use shall be in accordance with county, state and federal laws and regulations, and such use shall be carefully circumscribed near surface water and seasonal water courses.

(i) **Control of Plants and Animals.** To control predatory and problem rodents and other animals, and non-native plants by the use of selective control techniques.

(j) **Utility Easements.** To provide for utility easements to public and quasi-public utilities in furtherance of the purposes allowed by this Easement, and for existing agricultural and residential uses of the Easement Area.

(k) **Hunting and Fishing Uses.** To engage in and permit others to engage in hunting and/or fishing uses of the Easement Area; provided that such activities require no surface alteration or other development of the land and do not significantly impair the Conservation Values. *[If applicable]*

(l) **Equestrian Uses.** Equine events and uses including riding trails and jumps, for the personal use of residents and guests on the Property, are permitted without further permission from Land Trust, provided that no such use or associated facility shall be allowed to interfere with, impair or otherwise burden the Conservation Values. *[If applicable]*

4. PROHIBITED AND LIMITED USES. Unless otherwise permitted, any activity on or use of the Easement Area that is inconsistent with the purpose of this Easement is prohibited. LANDOWNER promises that it will not perform, or knowingly allow others to perform, any act or use on or affecting the Easement Area described above in conflict with the covenants set out in this Conservation Easement. LANDOWNER authorizes LAND TRUST to enforce these covenants, including restoration where reasonably appropriate. Without limiting the generality of the foregoing, the following activities and uses are deemed inconsistent with the Conservation Values of this Easement and are expressly prohibited:

(a) **Subdivision.** The subdivision of the Easement Area, whether by physical, legal or any other process, is prohibited except as specifically permitted herein.

(b) **Development Rights.** LANDOWNER hereby grants to LAND TRUST all development rights, except as specifically reserved to LANDOWNER herein, that are now or hereafter allocated to, implied, reserved or inherent in the Easement Area, and the parties agree that such rights are terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded and described, or to any other property adjacent or otherwise. The Easement Area may not be used for the purpose of calculating permissible development or lot yield of any other property, provided, however, that lease of a portion or all of the Easement Area for agricultural use shall not be prohibited by this paragraph. LANDOWNER and LAND TRUST agree that the Easement Area consists of *[Insert number]* legal parcels and that no additional separate legal parcels currently exist within the Easement Area that may be recognized by a certificate of compliance pursuant to Government Code Section 66499.35, based upon previous patent or deed conveyances, subdivisions or surveys. LANDOWNER will not apply for or otherwise seek recognition of additional legal parcels within the Easement Area based on certificates of compliance or any other authority.

(c) **Construction of Buildings, Facilities and Other Structures.** The construction or reconstruction of any building, facility or structure of any type, except those existing on the date of this Conservation Easement is prohibited, except as specifically permitted herein.

(d) **Signs.** No billboards shall be erected on the Easement Area. Signs denoting the names and addresses of residents on the Easement Area, denoting allowable business uses, or describing other permitted activities on the Easement Area or to post the property to control unauthorized entry or use, are permitted, insofar as such signs do not significantly impair the Conservation Values of the Easement Area.

(f) **Motorized Vehicles.** The use of motorized vehicles off of roads, except by LANDOWNER or others under LANDOWNER's control for agricultural, residential or related uses of the Easement Area; provided that other uses of motorized and/or off-road vehicles may be permitted within the Easement Area when necessary for maintenance of utilities, retrieval of large game, or for emergency purposes. Motorized vehicle races and the construction of motorized off-road vehicle courses are specifically prohibited.

(g) **Erosion.** Any use or activity that causes significant degradation of topsoil quality, significant pollution or a significant increase in the risk of erosion in the Easement Area is prohibited.

(h) **Mining.**

(i) **Surface Mining.** The mining, extraction, or removal of soil, sand, gravel, oil, natural gas, fuel, or any other mineral substance, using any surface mining method, is prohibited. Notwithstanding the foregoing, soil, sand, gravel or rock may be extracted without further permission from LAND TRUST provided that such extraction is: of material solely for use on the Property, is in conjunction with and in furtherance of activities permitted herein, is accomplished in a manner which is consistent with, does not interfere with, impair or otherwise burden the Conservation Values, and does not disturb more than two percent of the Easement Area, not to exceed one acre. Notwithstanding any other provision herein, this section shall be interpreted in a manner consistent with section 170(h) of the Internal Revenue Code, the Treasury regulations adopted pursuant thereto, and any other successor provisions addressing the same subject.

[WARNING TO LANDOWNER: It is unclear whether the extraction or removal of sand and gravel would jeopardize a charitable contribution deduction under Internal Revenue Code section 170. See, e.g., Great Northern Nekoosa Corporation vs. U.S., 1998 Stand. Fed. Tax Rep. (CCH) P 49,811, 97-2 USTC ¶50,591 (1997). Your tax counsel should review this and any other tax issues with you carefully.]

(ii) **Mineral Rights.** Any right, title, and interest in subsurface oil, gas, and minerals shall not be sold separately from the surface property, and the manner of exploration for, and extraction of any oil, gas or minerals shall be only by a subsurface method, and shall not damage, impair or endanger the protected Conservation Values of the Property, and shall be limited to such activities as are permitted under Internal Revenue Code Section 170(h)(5) and applicable Treasury Regulations. *[Note: Verify that pre-existing oil, gas or mineral interests or leases not held by landowner do not allow right of surface entry, or modify this provision if appropriate.]*

(i) **Watercourses.** The alteration or manipulation of watercourses located on the Easement Area is prohibited, except that the creation of new water impoundments or watercourses for purposes related to permitted agricultural uses of the Easement Area and/or enhancement of Natural Resource Areas is allowed with the prior consent of LAND TRUST and where such new impoundments or watercourses will not significantly impair the Conservation Values.

(j) **Native Tree and Vegetation Management.** Cutting or clearing of native trees and vegetation is prohibited in areas outside of the Agricultural Use Area, the approved residential development envelopes, and existing or approved trail and utility easements, except as provided below. Selective control and removal of non-native invasive vegetation is permitted and encouraged. LANDOWNER may only clear and trim native trees and vegetation only:

(i) To maintain defensible space, pursuant to the requirements of the *[INSERT COUNTY/CITY/DISTRICT]* fire department, around existing structures, roads and utilities.

(ii) In an emergency when necessary to prevent personal injury or property damage such as flood or fire. LANDOWNER shall notify LAND TRUST prior to or as soon as possible after beginning any emergency clearing.

(iii) To control insects and disease or promote the ecological health of the trees or vegetative community, including thinning of undergrowth and removal of senescent, dead and decadent plant material, under the direction of a qualified arborist or biologist, only with prior notice to and approval of LAND TRUST pursuant to Paragraph 6.

(k) **Trash.** The dumping or accumulation of any kind of trash, refuse or derelict equipment on the Easement Area is prohibited. However, this prohibition shall not be interpreted to prevent (a) the storage or accumulation of agricultural products and byproducts on the Easement Area, provided that such storage or accumulation is done in accordance with all applicable laws and regulations and in a manner so as to avoid any impairment of the Conservation Values, or (b) the application of organic material, other than biosolids, which is generated by permitted agricultural uses on the Easement Area; provided that such application of organic materials shall be limited to the area designated on the map attached hereto as “Exhibit

B” and incorporated herein by reference and in accordance with applicable federal, state and county laws and generally accepted agricultural management practices.

(m) **Other Incompatible Uses.** The use of the Easement Area for construction or operation of a golf course, commercial recreational facility, commercial poultry or hog facility, or similar high intensity activity.

(n) **Industrial, Recreational and Non Agricultural Commercial Uses.** All industrial uses of the Easement Area not expressly authorized herein are prohibited. All other recreational and non-agricultural commercial uses, including structures and facilities associated therewith, are prohibited on the Easement Area except with the advance written permission of LAND TRUST. LAND TRUST shall not give such permission unless the LANDOWNER demonstrates to LAND TRUST that the proposed use, structures or facilities are directly related to allowed agricultural, ecological, or recreational uses and will not interfere with, impair or otherwise burden the Conservation Values. Low-intensity recreational uses (such as wildlife viewing, hiking and photography), commercial hunting, film location rentals and fishing uses, as well as noncommercial recreational uses and associated facilities for the personal use of residents and guests on the Easement Area, are permitted, without further approval of LAND TRUST; *provided*, that no such use or associated facility shall be allowed to interfere with, impair or otherwise burden the Conservation Values.

(o) **Animal Feedlots or Greenhouses.** The construction, maintenance or use of any commercial animal feedlot or greenhouse structures on the Easement Area; provided, however, that locations which total less than one percent (1%) of the Easement Area may be used for animal feedlots that are restricted to animals raised on the Property and/or greenhouse structures which are used for the growing of seedlings or plants which will be transplanted to areas within the Property. Greenhouses shall be sited to avoid impacting scenic public views to the extent feasible.

5. **RESERVED RIGHTS.** LANDOWNER reserves to itself, and to its heirs, successors and assigns, all rights accruing from the ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Easement Area that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

(a) **Water Rights.** LANDOWNER shall retain, maintain and preserve the right to use all water rights associated with the Easement Area, which LANDOWNER represents are sufficient to sustain present and future agricultural productivity and other Conservation Values on the Easement Area. LANDOWNER shall not transfer, encumber, lease, sell, or otherwise separate such water rights from the Easement Area.

(b) **Mineral Rights.** All right, title, and interest in subsurface oil, gas, and minerals; provided, however, that the manner of exploration for, and extraction of any oil, gas or minerals shall be only by a subsurface method, shall not damage, impair or endanger the protected Conservation Values of the Property, and shall be limited to such activities as are permitted under Internal Revenue Code Section 170(h)(5) and applicable Treasury Regulations.

(c) **Responsibilities of LANDOWNER and LAND TRUST Not Affected.**

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

(i) Taxes. LANDOWNER shall pay before delinquency all taxes, assessments, fees and charges of whatever description levied on or assessed against the Easement Area or the property underlying the Easement Area by competent authority. If the LAND TRUST is ever required to pay any taxes or assessments on the Easement Area or underlying property, LANDOWNER will promptly reimburse LAND TRUST for the same.

(ii) Upkeep and Maintenance. LANDOWNER shall continue to be solely responsible for the upkeep and maintenance of the Easement Area. LAND TRUST shall have no obligation for the upkeep or maintenance of the Easement Area.

(iii) Liability and Indemnification. In view of LAND TRUST's negative rights, limited access to the land, and lack of active involvement in the day-to-day management activities on the Easement Area, LANDOWNER shall and hereby agrees to indemnify, protect, defend and hold LAND TRUST, its officers, directors, members, employees, contractors, legal representatives, agents, successors and assigns harmless from and against all liabilities, costs, losses, orders, liens, penalties, damages, expenses, or causes of action, claims, demands, or judgments, including without limitation reasonable attorney's fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, or any other costs or liabilities resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area, regardless of cause, unless solely due to the gross negligence or willful misconduct of the LAND TRUST. If LAND TRUST is required to indemnify a funding entity in order to secure funds to acquire this Conservation Easement, LANDOWNER shall indemnify LAND TRUST for that indemnification to the same extent as stated immediately above. LAND TRUST shall be named as an additional insured on all of LANDOWNER's insurance policies related to the Easement Area.

6. NOTICE AND APPROVAL. The purpose of requiring LANDOWNER to notify LAND TRUST prior to undertaking certain permitted activities is to afford LAND TRUST an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is not inconsistent with the purpose of this Easement. Whenever notice is required as set forth in Paragraphs [*cross-reference and insert paragraph numbers*], LANDOWNER shall notify LAND TRUST in writing not less than thirty (30) days prior to the date LANDOWNER intends to undertake the activity in question. The notice shall describe the nature, scope, design, location and any other material aspect of the proposed activity in sufficient detail to permit LAND TRUST to make an informed judgment as to its consistency

with the purpose of this Easement. LAND TRUST shall respond in writing within twenty (20) days of receipt of LANDOWNER's written request. LAND TRUST's approval may be withheld only upon a reasonable determination by LAND TRUST that the action as proposed would be inconsistent with the purpose of this Easement.

7. EASEMENT AREA MANAGEMENT AND ISSUE RESOLUTION.

(a) Management Practices. LANDOWNER recognizes that the Conservation Values are best protected if LANDOWNER conducts all ranching and farming operations in accordance with generally accepted, agricultural practices that address soil and water conservation, erosion control, pest management, nutrient management, and habitat protection. LAND TRUST believes that, in most cases, the existing stewardship on the ranches and farms it selects for conservation easement projects has supported and enhanced the conservation values these ranches and farms provide, and, consistent with that premise, LAND TRUST agrees with LANDOWNER to take wherever possible a cooperative approach to monitoring and management of the Conservation Values. The parties will conduct joint qualitative monitoring to ensure that the Conservation Values are being protected. This monitoring will be supported through the Baseline Inventory Report and subsequent reviews, using photographs and narrative descriptions, among other evaluation tools. Monitoring will also consider issues such as site potential, weather conditions, unusual economic circumstances, vegetative variety and quality and trends in resource conditions.

(b) Management Plan. As a general matter, LAND TRUST believes that a written management plan is a useful tool for guiding resource stewardship; however, LAND TRUST will not require a written management plan except if LAND TRUST identifies specific circumstances requiring improvement to protect the Conservation Values. LANDOWNER, upon written notice from LAND TRUST, shall develop a written management plan that addresses the particular resource management concern(s) identified by LAND TRUST. LANDOWNER shall be encouraged but not required to engage the services of a District Conservationist, Certified Rangeland Manager, or other qualified professional to assist LANDOWNER in the development of such a management plan. The required scope of the plan and the time allowed for its development shall depend on the nature and severity of the identified problems. The management plan shall be subject to LAND TRUST approval. LANDOWNER shall implement an approved plan for so long as is necessary to resolve the particular resource management problem(s) addressed by the plan. LAND TRUST shall monitor implementation of the plan, and results thereof, during its periodic monitoring, and may require modifications of the plan as the resource conditions warrant.

(c) Mediation and Arbitration. If a dispute arises between the parties concerning the consistency of any existing or proposed use, structure or activity with the language and purpose of this Easement, and if the parties agree, the dispute may be mediated by one to three persons long familiar with agricultural and conservation practices and conservation easements in Santa Barbara County. If the parties agree, they may next request arbitration, supervised by the Santa Barbara County Superior Court, unless extraordinary relief or injunction is necessary to protect against irreparable injury as provided in herein.

(d) Judicial Enforcement. If, in LAND TRUST's judgment, substantial resource damage is threatened or is occurring, or if LAND TRUST finds what it considers to be a violation of any provision of the Conservation Easement that, in LAND TRUST's judgment, cannot be satisfactorily addressed through the processes set forth in the preceding subsection, LAND TRUST has the right to bypass those processes and to instead pursue appropriate legal action; provided, that except when an ongoing or imminent violation could substantially diminish or impair the Conservation Values of the Easement Area, or the parties have already met and discussed the violation, LAND TRUST shall give LANDOWNER written notice of the violation and, not later than fourteen (14) days after the delivery of such written notice, the parties shall meet to discuss the circumstances of the violation and to attempt to agree on appropriate corrective action. If the parties are unable to agree to corrective action, LAND TRUST may demand corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose of this Easement, to restore that portion of the Easement Area so injured.

(e) Injunctive Relief. If LANDOWNER fails to cure the violation within a thirty (30) day period after receipt of notice thereof from LAND TRUST, or fails to continue diligently to cure such violation until finally cured, LAND TRUST may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any Conservation Values, including damages for any loss thereof, and to require the restoration of the Easement Area to the condition that existed prior to any such injury.

(f) Damages. LAND TRUST shall be entitled to recover damages for violation of the terms of this Easement or injury to any of the Conservation Values protected by this Easement, including, without limitation, damages for the loss of Conservation Values. Without limiting LANDOWNER's liability therefor, LAND TRUST, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Easement Area.

(g) Emergency Enforcement. If LAND TRUST, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the protected values of the Easement Area, LAND TRUST may pursue its remedies under this Paragraph without waiting for the period provided for correction to expire.

(h) Scope of Relief. LAND TRUST's rights under this Paragraph shall apply equally to threatened as well as actual violations of the terms of this Easement, and LANDOWNER agrees that LAND TRUST's remedies at law for any violation of the terms of this Easement are inadequate and that LAND TRUST shall be entitled to the injunctive relief described in this Paragraph, both prohibitive and mandatory, in addition to such other relief to which LAND TRUST may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. LAND TRUST's remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Furthermore, the provisions of California Civil Code Section 815, et seq., are incorporated herein

by this reference and this Conservation Easement is made subject to all of the rights and remedies set forth therein. LAND TRUST retains the discretion to choose the appropriate method to enforce the provisions of this Easement, and shall not be required to exhaust the provisions of one subsection hereof in order to be entitled to the benefits of another.

(i) **Expert Assistance.** The opinions of any Certified Rangeland Manager, District Conservationist or other appropriate consultant or expert engaged to assist the parties in the resolution of any claim of injury to any Conservation Value shall be admissible in any judicial proceedings conducted with respect to that asserted violation.

(j) **Costs of Enforcement.** Any reasonable costs incurred by LAND TRUST in non-judicial enforcement of the terms of this Easement against LANDOWNER, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by LANDOWNER's violation of the terms of this Easement shall be borne by LANDOWNER; provided however that LANDOWNER shall not be responsible for the costs of restoration necessary to remedy damage to the Easement Area caused by the conduct of third parties acting without permission or knowledge of LANDOWNER. The prevailing party in any judicial action brought pursuant to the provisions of this Easement shall be entitled to recovery of its reasonable costs of suit, including, without limitation, attorneys' and experts' fees, from the other party.

(k) **Enforcement Discretion.** Enforcement of the terms of this Easement shall be at the discretion of LAND TRUST, and any forbearance by LAND TRUST to exercise its rights under this Easement shall not be deemed or construed to be a waiver by LAND TRUST of such rights or of any subsequent breach of the same or any other terms of this Easement, or of its rights under the Easement. No delay or omission by LAND TRUST in the exercise of any right or remedy upon any breach by LANDOWNER shall impair such right or remedy or be construed as a waiver, and LANDOWNER hereby waives any defense of laches, estoppel or prescription.

(l) **Acts Beyond Landowner's Control.** Nothing contained in this Easement shall be construed to entitle LAND TRUST to bring any action against LANDOWNER for any injury to or change in the Easement Area resulting from causes beyond LANDOWNER's control, including, without limitation, fire, flood, storm and earth movement, or actions by persons outside the control and knowledge of LANDOWNER, or from any prudent action by LANDOWNER under emergency conditions, to prevent, abate or mitigate significant injury to the Easement Area resulting from such causes.

8. NO PUBLIC DEDICATION OR PUBLIC ACCESS. Nothing contained in this Conservation Easement shall be deemed to be a gift or dedication of any portion of the Easement Area for use by the general public. This instrument does not convey a general right of access to the public.

9. LANDOWNER'S TITLE WARRANTY. LANDOWNER represents and warrants that LANDOWNER has good fee simple title to the Easement Area, free from any and all liens or encumbrances [**including without limitation, any deeds of trust or mortgage**] [or

that any lender has subordinated to this agreement] and hereby promises to defend the same against all claims that may be made against it. LANDOWNER represents and warrants that the Easement Area is not subject to any other conservation easement. LANDOWNER may grant any subsequent conservation easements on the Easement Area provided that such easements do not interfere with or reduce the Conservation Values of this easement. LAND TRUST shall be notified at least ninety days in advance, in writing, of any proposed conservation or other easement for the Easement Area, which notice shall include the proposed easement.

10. ENVIRONMENTAL PROVISIONS.

(a) **LANDOWNER's Environmental Warranty.** LANDOWNER warrants that LANDOWNER has no knowledge of a release or threatened release of hazardous substances or wastes on or that could affect the Easement Area and, as more generally set out in paragraph 15(c) above, agrees to indemnify, defend, protect and hold LAND TRUST, its directors, officers, employees, agents, and contractors, and their heirs, successors, and assigns, harmless from and against all litigation costs, demands, penalties, damages, liabilities, claims or expenses (including reasonable attorney fees) arising from or connected with any release of hazardous waste or violation of federal, state, or local environmental laws as a result of or arising out of the activities of LANDOWNER on the Easement Area or any breach of this Conservation Easement.

(b) **LAND TRUST Not an Owner, Operator, or Responsible Party.** Notwithstanding any other provision herein to the contrary, the parties do not intend this Conservation Easement to be construed such that it creates in or gives the LAND TRUST:

- (i) the obligations or liability of an "owner" or "operator" as those words are defined and used in applicable environmental laws, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC § 9601 *et seq.* and hereinafter "CERCLA");
- (ii) the obligations or liability of a person described in 42 USC § 9607(a)(3) or (4);
- (iii) the obligations of a responsible person under any applicable environmental laws;
- (iv) the right to investigate and remediate any hazardous materials, associated with the Property; or
- (v) any control over LANDOWNER's ability to investigate, remove, remediate, or otherwise clean up any hazardous materials associated with the Property.

11. LAND TRUST TRANSFER OF EASEMENT. LAND TRUST may transfer this Conservation Easement to (1) any public agency authorized to hold interests in real property as provided in Section 815.3 of the California Civil Code; or (2) any private nonprofit

organization that, at the time of transfer, is a “qualified organization” under Section 170(h) of the U.S. Internal Revenue Code and under Section 815.3(a) of the California Civil Code.

(a) Voluntary Transfer. In selecting an appropriate transferee entity, preference will be given to the other Parties to this agreement which are a qualified conservation organization, then to a qualified agency or organization with an agricultural conservation purpose, that has board, staff, or consultants with practical agricultural management experience, and which agency or organization expressly agrees to assume the responsibility imposed on the LAND TRUST by this Conservation Easement. If such agency or organization cannot be found, or is not suitable for any reason, then another qualified agency or organization that expressly agrees to assume the responsibility imposed on the LAND TRUST by this Conservation Easement may be selected. LAND TRUST shall provide to LANDOWNER notice of any proposed transfer, information about proposed transferee(s), and opportunity for input. If more than one qualified agency or organization meets the foregoing criteria and are equally capable of effecting the purposes of this Conservation Easement, LAND TRUST may select the organization that shall be the transferee.

(b) Involuntary Transfer. If LAND TRUST ever ceases to exist or no longer qualifies under Section 170(h) of the U.S. Internal Revenue Code, or applicable state law, a court of competent jurisdiction shall transfer this Conservation Easement to another qualified organization having substantially similar purposes that agrees to assume the responsibilities imposed by LAND TRUST by this Conservation Easement, provided that LANDOWNER shall be provided notice of and an opportunity to participate in the court proceedings. As a condition of such transfer, LAND TRUST shall require that the Conservation Purpose set forth in this Easement continue to be carried out and enforced.

12. LANDOWNER TRANSFER OF PROPERTY. Any time the Property or any interest in it is transferred by LANDOWNER to any third party, LANDOWNER shall notify LAND TRUST in writing prior to the transfer of the Property, and the deed of conveyance shall expressly refer to this Conservation Easement. Failure to notify LAND TRUST or include the required reference to this Conservation Easement in the deed shall not affect the continuing validity and enforceability of this Conservation Easement.

13. AMENDMENT. This Conservation Easement may be amended only with the written consent of LAND TRUST and LANDOWNER. Any such amendment shall be consistent with the purposes of this Conservation Easement and the adopted amendment policy of LAND TRUST in effect at the time, and shall comply with Section 170(h) of the U.S. Internal Revenue Code, California Civil Code Section 815 *et seq.*, and any regulations promulgated in accordance with these statutes.. LANDOWNER shall reimburse LAND TRUST for its reasonable expenses associated with review and approval of any amendment initiated by LANDOWNER.

14. EXTINGUISHMENT. If circumstances arise in the future which render the purpose of this Easement impossible to accomplish, this Easement can be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction. The proceeds, if any, from such extinguishment to which LAND TRUST shall be

entitled, as determined by the court, shall be the stipulated fair market value of the Easement, or proportionate part thereof, and shall be used by LAND TRUST in a manner consistent with its conservation purposes, which are exemplified by this Conservation Easement.

15. CONDEMNATION. If all or any part of the Easement Area is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, LANDOWNER and LAND TRUST shall act jointly to recover the full value of the interests in the Easement Area subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by LANDOWNER and LAND TRUST in connection with the taking or in lieu purchase shall be paid out of the amount recovered. LAND TRUST's share of the balance shall be determined by the ratio of the value of the Easement to the value of the Easement Area unencumbered by the Easement. If only a portion of the Easement Area is subject to such exercise of eminent domain, this Conservation Easement shall remain in effect as to all other portions of the Easement Area.

16. VALUATION. This Easement constitutes a real property interest immediately vested in LAND TRUST. For the purpose of Paragraph 14 dealing with Extinguishment, the parties stipulate that this Easement has a fair market value determined by multiplying (a) the fair market value of the Easement Area unencumbered by the Easement (minus any increase in value attributable to improvements made after the date of this Conservation Easement) by (b) the ratio of the value of the Conservation Easement to the value of the Easement Area unencumbered by the Easement; *provided*, that LANDOWNER and LAND TRUST agree that such ratio shall not be less than _____, which is the ratio determined by an appraisal approved by the parties as of the time of the granting of this Conservation Easement. *[Note: The value of the ratio to be specified in the preceding sentence will be based on the approved appraisal of the Conservation Easement.]*

17. SUBORDINATION. If, at the time of conveyance of this Easement, the Easement Area is subject to any mortgage or deed or trust encumbering the Easement Area, LANDOWNER shall obtain from the holder of any such mortgage or deed of trust an agreement to subordinate its rights in the Easement Area to this Easement to the extent necessary for the LAND TRUST to enforce the purpose of this Easement in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of the mortgage or deed of trust holder.

18. GENERAL PROVISIONS.

(a) **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of California.

(b) **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement.

(c) **Severability.** If any provision of this Easement, or the application thereof

to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

19. PERPETUAL DURATION. The easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Conservation Easement that applies to LANDOWNER and LAND TRUST shall also apply to and be binding upon their respective agents, heirs, beneficiaries, executors, administrators, successors and assigns.

20. NOTICES. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by United States certified mail, return receipt requested, or by another common method or service where receipt is confirmed, addressed as follows or such other address as either party from time to time shall designate by written notice to the other.

To LANDOWNER:

To LAND TRUST:

Attn: Executive Director
The Land Trust for Santa Barbara County
Post Office Box 91830
Santa Barbara, CA 93190-1830
Telephone: 805/966-4520

21. LAWS CURRENTLY IN EFFECT. All references in this Conservation Easement to statutes, regulations and other laws shall be deemed to refer to those statutes, regulations and laws currently in effect, or as amended (or any successor provision then applicable).

22. ENTIRE AGREEMENT. This instrument sets forth the entire agreement of the parties with respect to the Easement Area and supersedes all prior discussions, negotiations, understandings or agreements relating to the Easement Area, all of which are herein merged.

23. COUNTERPARTS. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it.

24. EXHIBITS. The exhibits attached hereto are incorporated herein by this reference:

- Exhibit A: Property Description
- Exhibit B: Description and Map of Easement Area
- Exhibit C: Permitted Encumbrances *[if any]*

25. EFFECTIVE DATE. This Conservation Easement is effective upon recordation in the Official Records of the County of Santa Barbara, State of California.

Agreed to and executed by:

LANDOWNER:

_____ Date
[Insert name], Title

LAND TRUST FOR SANTA BARBARA COUNTY

By: _____ Date
[Insert name], President

By: _____ Date
[Insert name], Secretary

[Add notary acknowledgments.]