

1 **TOLLING AGREEMENT**

2 This Tolling Agreement ("Agreement") is between Lajhbir S. Gill Farms, ("Lessee"), and
3 the County of Fresno, a political subdivision of the State of California ("County").

4 **Recitals**

5 A. On November 4, 2014, the Lessee and the County entered into a lease agreement,
6 which was County agreement number 14-675, which was amended on March 15, 2016, and
7 which may occasionally be amended by the parties, by which the County leased to the Lessee
8 certain agricultural land ("Lease").

9 B. A dispute has arisen between the parties regarding payment of rent by the Lessee under
10 the Lease ("Dispute"). On or around April 6, 2022, the County delivered to the Lessee a "Notice
11 of Material Breach of Lease Agreement, Demand for Payment of Past Rent Due, and
12 Termination of Lease if Past Rent Due is Not Paid" ("Notice"). On or around May 6, 2022, the
13 County delivered to the Lessee a notice extending the period of the Notice until June 30, 2022
14 ("Extension").

15 C. The parties hope to resolve the Dispute without engaging in litigation.

16 D. Under Code of Civil Procedure section 337, any action upon a written contract, such as
17 the Lease, must be brought within four years.

18 E. The parties agree that they would benefit from additional time, beyond the statute of
19 limitations for breach of contract, to resolve the Dispute without engaging in litigation.

20 **The parties therefore agree as follows:**

21 **Article 1**

22 **Tolling Provisions**

23 1.1 The statute of limitation for any action by the County against the Lessee for breach of
24 the Lease, including but not limited for any action for unpaid rent, is tolled for a period ("Tolling
25 Period") that lasts until the earliest of the following:

26 (A) 30 days after the County gives written notice to the Lessee that all rent due under
27 the Lease, including but not limited to all amounts that are the subject of the Dispute,
28 has been paid as of the date of the notice;

1 (B) 30 days after the County gives written notice of a breach by the Lessee of any
2 payment plan that may be established for payment of the amounts that are the subject of
3 the Dispute;

4 (C) 30 days after written notice by the County to the Lessee of the termination of this
5 Agreement; or

6 (D) 30 days after the expiration or termination of the Lease.

7 1.2 During the Tolling Period, the Lessee waives and agrees not to assert any defense
8 that a statute of limitation bars or limits any claim by the County against the Lessee for unpaid
9 rent under the Lease.

10 1.3 The County agrees not to commence any action against the Lessee for unpaid rent
11 under the Lease until the earliest of the following:

12 (A) The date of the County's written notice as provided in paragraph (A), (B), or (C)
13 of section 1.1 of this agreement; or

14 (B) The date of the expiration or termination of the Lease.

15 1.4 Upon the effective cancellation or upon expiration of the Tolling Period, the statute of
16 limitation for any action for unpaid rent shall resume running, and any remaining periods of time
17 within which the County may assert a claim against the Lessee for unpaid rent under the Lease
18 is preserved until after the Tolling Period.

19 1.5 Nothing in this Agreement is intended, nor may it be construed, to waive or modify
20 any provision of the Lease. Nothing in this Agreement limits the right of the County to terminate
21 the Lease as provided in the Lease. Nothing in this Agreement waives any provision of the
22 Notice or the Extension.

23 1.6 Each party has carefully read this Agreement and understands it. Each party has
24 received independent legal advice from an attorney of their choice regarding the preparation,
25 review, and advisability of executing this Agreement. Before signing, each party's attorney has
26 reviewed this Agreement, and each party acknowledges that it signs this Agreement after
27 independent investigation and without fraud, duress, or undue influence.

1 **Article 2**

2 **Notices**

3 2.1 **Contact Information.** The persons and their addresses having authority to give and
4 receive notices provided for or permitted under this Agreement include the following:

5 **For the County:**

6 Director of Internal Services/Chief Information Officer
7 County of Fresno
8 333 West Pontiac Avenue
9 Clovis, CA 93612
10 isdcontracts@fresnocountyca.gov

11 **For the Lessee:**

12 Gill Farms
13 Attn: Amarinder Gill
14 12911 S. Fruit
15 Caruthers, CA 93609
16 amarinderpaulgill@yahoo.com

17 2.2 **Change of Contact Information.** Either party may change the information in section
18 5.1 by giving notice as provided in section 5.3.

19 2.3 **Method of Delivery.** Each notice between the County and the Lessee provided for
20 or permitted under this Agreement must be in writing, state that it is a notice provided under this
21 Agreement, and be delivered either by personal service, by first-class United States mail, by an
22 overnight commercial courier service, or by Portable Document Format (PDF) document
23 attached to an email.

24 (A) A notice delivered by personal service is effective upon service to the recipient.

25 (B) A notice delivered by first-class United States mail is effective three County
26 business days after deposit in the United States mail, postage prepaid, addressed to the
27 recipient.

28 (C) A notice delivered by an overnight commercial courier service is effective one
County business day after deposit with the overnight commercial courier service,
delivery fees prepaid, with delivery instructions given for next day delivery, addressed to
the recipient.

(D) A notice delivered by PDF document attached to an email is effective when
transmission to the recipient is completed (but, if such transmission is completed outside

1 of County business hours, then such delivery is deemed to be effective at the next
2 beginning of a County business day), provided that the sender maintains a machine
3 record of the completed transmission.

4 **2.4 Claims Presentation.** For all claims arising from or related to this Agreement,
5 nothing in this Agreement establishes, waives, or modifies any claims presentation
6 requirements or procedures provided by law, including the Government Claims Act (Division 3.6
7 of Title 1 of the Government Code, beginning with section 810).

8 **Article 3**

9 **General Provisions**

10 **3.1 Modification.** This Agreement may not be modified, and no waiver is effective,
11 except by written agreement signed by both parties. The Lessee acknowledges that County
12 employees have no authority to modify this Agreement except as expressly provided in this
13 Agreement.

14 **3.2 Non-Assignment.** Neither party may assign its rights or delegate its obligations
15 under this Agreement without the prior written consent of the other party.

16 **3.3 Governing Law.** The laws of the State of California govern all matters arising from
17 or related to this Agreement.

18 **3.4 Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
19 County, California. The Lessee consents to California jurisdiction for actions arising from or
20 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
21 brought and maintained in Fresno County.

22 **3.5 Construction.** The final form of this Agreement is the result of the parties' combined
23 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
24 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
25 against either party.

26 **3.6 Days.** Unless otherwise specified, "days" means calendar days.

27 **3.7 Headings.** The headings and section titles in this Agreement are for convenience
28 only and are not part of this Agreement.

1 3.8 **Severability.** If anything in this Agreement is found by a court of competent
2 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
3 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
4 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
5 intent.

6 3.9 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
7 of the Lessee under this Agreement on any one or more occasions is not a waiver of
8 performance of any continuing or other obligation of the Lessee and does not prohibit
9 enforcement by the County of any obligation on any other occasion.

10 3.10 **Entire Agreement.** This Agreement is the entire agreement between the Lessee and
11 the County with respect to the subject matter of this Agreement, and it supersedes all previous
12 negotiations, proposals, commitments, writings, advertisements, publications, and
13 understandings of any nature unless those things are expressly included in this Agreement.

14 3.11 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to
15 create any rights or obligations for any person or entity except for the parties.

16 3.12 **Authorized Signature.** The Lessee represents and warrants to the County that:

17 (A) The Lessee is duly authorized and empowered to sign and perform its obligations
18 under this Agreement.

19 (B) The individual signing this Agreement on behalf of the Lessee is duly authorized
20 to do so and his or her signature on this Agreement legally binds the Lessee to the terms
21 of this Agreement.

22 3.13 **Electronic Signatures.** The parties agree that this Agreement may be executed by
23 electronic signature as provided in this section.

24 (A) An "electronic signature" means any symbol or process intended by an individual
25 signing this Agreement to represent their signature, including but not limited to (1) a
26 digital signature; (2) a faxed version of an original handwritten signature; or (3) an
27 electronically scanned and transmitted (for example by PDF document) version of an
28 original handwritten signature.

1 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed
2 equivalent to a valid original handwritten signature of the person signing this Agreement
3 for all purposes, including but not limited to evidentiary proof in any administrative or
4 judicial proceeding, and (2) has the same force and effect as the valid original
5 handwritten signature of that person.

6 (C) The provisions of this section satisfy the requirements of Civil Code section
7 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
8 Part 2, Title 2.5, beginning with section 1633.1).

9 (D) Each party using a digital signature represents that it has undertaken and
10 satisfied the requirements of Government Code section 16.5, subdivision (a),
11 paragraphs (1) through (5), and agrees that each other party may rely upon that
12 representation.

13 (E) This Agreement is not conditioned upon the parties conducting the transactions
14 under it by electronic means and either party may sign this Agreement with an original
15 handwritten signature.

16 3.14 **Counterparts.** This Agreement may be signed in counterparts, each of which is an
17 original, and all of which together constitute this Agreement.

18 [SIGNATURE PAGE FOLLOWS]
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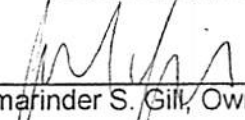
The parties are signing this Agreement on the date stated in the introductory clause.

LAJHBIR S. GILL FARMS

COUNTY OF FRESNO

Date: 5-18-2022

Date: 5/18/22


Amarinder S. Gill, Owner


Daniel C. Cederborg, County Counsel

12911 S. Fruit
Caruthers, CA 93609

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