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Klamath Falls OR 97601

EASEMENT AND ROAD USE AGREEMENT

This Easement and Road Use Agreement ("Agreement") is made effective on May 1, 2015, by and between Sierra-Cascade Nursery, Inc., a California corporation ("SCN"), and Paul M. Ritter and Carol S. Ritter ("Ritters").

RECITALS:

A. SCN purchased from Ritters approximately 9.8 acres of land and improvements at 28100 Ritter Road, Bonanza, Oregon, described as Parcel 3 of Klamath County Land Partition No. 55-00, located in Section 6, Township 38 South, Range 11 E., W.M.

B. SCN is exercising its option to purchase from certain agricultural real property described in the Memorandum of Commercial Farm Lease and Option to Purchase recorded as Document No. 2009-011132 of the records of Klamath County, Oregon.

C. Ritters own additional agricultural land located northerly of the parcel of land owned by SCN and the parcel of land leased by SCN from Ritters.

D. There is an existing gravel road that generally runs in an easterly direction from the northeast corner of said Parcel 3 owned by SCN to Highway 140 through a portion of the land being purchase by SCN from Ritters and under SCN's control.

E. SCN raises high-value farm crops on the land leased from Ritters and controls public access from Highway 140 to that land.

F. Ritters desire to use the said road for access to and from their agricultural land lying northerly of the land occupied by SCN for farm purposes, and SCN is willing to allow the use of said road by the Ritters on the terms and conditions set forth below.

G. The parties also desire to provide for the maintenance of the road that will be used by each party.

WITNESSETH:

1. SCN hereby grants to Ritters an Easement for pedestrian and vehicle access on and across the existing road from Highway 140 to the northeast corner of said Parcel 3, and then continuing along the northerly boundary of said parcel westerly to the easterly terminus of Ritter Road, a County road, at the northwest corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 6.

2. SCN agrees to maintain the road in as good a condition as it is in as of the date of this Agreement. The parties agree that the road is in good condition, improved with gravel, and provides all-weather access to the subject properties. SCN's maintenance may include adding a dust control additive or taking other action to control dust, snow removal, grading, the addition of gravel and repair of potholes, and other such maintenance activities as are reasonably appropriate to maintain the road as an all-weather road. SCN shall maintain a record of the actual time and expense incurred by it in maintaining the road and shall provide such accounting to the Ritters on an annual basis. Within 30 days after their receipt of said accounting, Ritters shall pay to SCN 50 percent of the actual cost incurred by SCN in maintaining the road.

3. In the event that SCN fails to perform regular and appropriate maintenance and repairs of the road as described above, then Ritters, after first providing 20 days' prior written notice to SCN, may cause such maintenance to be done with a right of reimbursement for all sums necessary and properly expended to maintain the road. Upon receipt of an accounting from Ritters, SCN shall tender to Ritters, within 30 days thereafter, a sum equal to 50 percent of the actual costs incurred by the Ritters. If SCN undertakes the necessary maintenance and repair work within 20 days after receiving said notice, then Ritters shall have no right to incur any cost in maintaining or repairing the road, and SCN shall have no liability to Ritters for such work.

4. Neither party shall have the right to park, load, or unload any vehicle on the road other than during routine maintenance of the right of way or for short periods of time as may be reasonably required to undertake farming activities on the land owned by each party.

5. SCN has installed and maintains a gate at the intersection of the road and Highway 140. SCN has installed a lock on the gate and has provided a key to Ritters so they may continue to use the road. Ritters agree that they shall honor SCN's desire to maintain secured control of the road and its land by opening and closing the gate each time Ritters enter or exit through the gate. This covenant to cooperate in the control of the use of the road and the security of the parties' respective land is a material element of this Agreement.

6. Ritters acknowledge that SCN uses the improvements on said Parcel 3 as a business office, that there is congestion of vehicles and pedestrian use in that area, and that all parties shall not exceed five miles per hour while traveling on or across said Parcel 3.

7. Time is of the essence of this Agreement. In the event any party shall fail to perform its obligations under this Agreement, the other party shall be entitled to require such performance by specific performance or, where appropriate, through injunctive relief. Such remedies shall be in addition to any other remedies afforded under Oregon law and those rights of cure and reimbursement specifically granted under this Agreement. Prior to seeking judicial enforcement of the terms of this Agreement, a party shall first provide not less than ten days' written notice to the other party describing the default and allowing the other party a reasonable period of time to cure the default. If the other party fails to commence and undertake to cure the default within said ten-day period, then the nondefaulting party may seek such judicial relief, as it deems appropriate.

8. Ritters will indemnify, defend, and hold SCN and SCN's officers, directors, partners, employees, agents, and independent contractors harmless from any and all claims and liability

for any damage or loss arising from the use of the road by the Ritters, their agents, servants, employees, contractors, lessees, invitees, or licensees.

Each Party shall procure continue to carry comprehensive public liability and property damage insurance, naming the other Party as an additional insured, with liability limits of not less than \$2,000,000 for injury to persons or property in one occurrence. All insurance policies must include only prudent deductible amounts not exceeding \$10,000 per occurrence. All insurance policies must be provided by responsible insurance companies authorized to issue insurance in the State of California with ratings no less than B + VIII by A.M. Best Insurance Rating Service. Within ten days following the execution of this Agreement, each party shall deliver to the other Party copies of all policies or certificates evidencing such insurance. All policies and certificates must bear endorsements requiring thirty (30) days' written notice to both Parties before any change or cancellation.

9. All notices required by this Agreement to be provided to a party shall be deemed completed when delivered or placed in the United States Mail, properly addressed, by certified mail, return receipt requested with postage prepaid, to the parties to the Agreement at the following addresses:

Ritters: 1757 Magnolia Avenue
Medford OR 97501

SCN: 28100 Ritter Road
Bonanza OR 97623

10. This Agreement shall inure to and bind and benefit the land owned by the parties and their successors in interest.

IN WITNESS WHEREOF, the parties have executed this Easement and Road Use Agreement as of the date first set forth herein above.

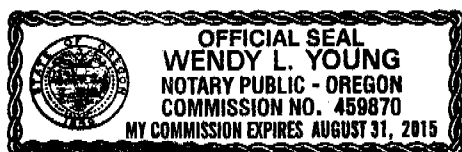
SIERRA-CASCADE NURSERY, INC.

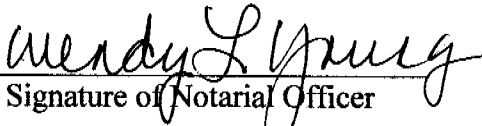
By: 
J. Randall Jertberg, President

STATE OF OREGON, County of Klamath) ss.

On April 24, 2015, the foregoing instrument was acknowledge by J. Randall Jertberg, in his capacity as President of Sierra-Cascade Nursery, Inc.

WITNESS My hand and official seal:




Signature of Notarial Officer

My commission expires: 8.31.2015

Paul Ritter

Paul Ritter

Carol Ritter

Carol Ritter

STATE OF OREGON, County of Jackson) ss.

On March 23, 2015, the foregoing instrument was acknowledged before me by Paul Ritter and Carol Ritter.

WITNESS My hand and official seal:



Jessica Torres
Signature of Notarial Officer
My commission expires: 4/10/15