

No. \_\_\_\_\_

**MEMBERSHIP AGREEMENT OF  
CALIFORNIA TOMATO GROWERS ASSOCIATION, INC.**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between CALIFORNIA TOMATO GROWERS ASSOCIATION, INC., a nonprofit cooperative association organized under the Agricultural Code of the State of California ("the Association"), and \_\_\_\_\_, a producer of processing tomatoes (Member), establishes the following terms and conditions for Association membership:

**1. Term and Termination of Membership Agreement.** This Agreement shall be effective for the \_\_\_\_ calendar year and each subsequent calendar year thereafter unless terminated by written notice of either party given to the other party. Any written notice of termination given on or before November 1 of any year will be effective to terminate the Agreement as to all subsequent years.

**2. Association Approval or Release of Contracts.** It is mutually agreed that Member shall not sell or enter into any agreement to sell any processing tomatoes during the term of this Agreement except pursuant to a written contract which contains the minimum terms and conditions approved by the Association; provided, however, that in the event the Association has not negotiated and approved the minimum price or other terms for the sale of processing tomatoes to a processor; and further provided that the Association does not have Membership Agreements similar to this Agreement with growers who produced fifty percent or more of the processing tomatoes which were sold to proprietary processors during the preceding year as described by the Board of Directors of the Association, then the Member may submit to the Association a written contract or agreement that the member desires to accept for the sale of Member's processing tomatoes to such processor, and the Member shall thereafter be released to sign the contract or agreement so submitted without further approval of the Association.

**3. Services of Association.** Subject to Member's rights as provided in Paragraph 2 above, Association, as the exclusive bargaining Agent for Member, shall have the exclusive authority, right and power during the term of this Agreement, without taking title, to establish and fix (including the authority to change and amend) and to approve the minimum terms and conditions of sale or of the contract of sale of all the processing tomatoes produced by or for Member and other members who have executed Membership Agreements similar to this Agreement, and the minimum terms and conditions of sale of the contract of sale shall be fixed and established and approved by Association in such form and manner and at such price as Association deems for the best advantage of all members who have signed such similar contracts. Association shall during the term of this Agreement perform its services for Member to the best of its ability under economic and marketing conditions from time to time existing.

**4. Association Dues.** Member hereby advises the processor to whom he sells his tomatoes for processing that he has assigned to the Association from money due to him by processor as payment for his processing tomatoes the amount of such membership dues as the Association may establish. Pursuant to Section 58451 of the California Food and Agricultural Code, processor is hereby directed to deduct a sum for such dues per ton from the money to be paid by processor for processing tomatoes sold by grower to processor and to pay the same promptly over to the Association as assignee. Grower hereby represents that this assignment and direction to processors shall remain in effect and processor may rely upon it and upon the written representation of the Association with respect to the amount of dues which grower is obligated to pay to it for each harvest season unless and until grower notifies processor in writing that this assignment and direction is no longer in effect.

**5. Standard Terms and Conditions.** Member acknowledges that the attached Standard Terms and Conditions are also a part of this Membership Agreement.

**ASSOCIATION**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**MEMBER**

Name of Member: \_\_\_\_\_

Address: \_\_\_\_\_

Organized as: Individual \_\_\_\_\_

Partnership \_\_\_\_\_ Corporation \_\_\_\_\_

By: \_\_\_\_\_

# STANDARD TERMS AND CONDITIONS TO MEMBERSHIP AGREEMENT OF CALIFORNIA TOMATO GROWERS ASSOCIATION, INC.

**1. Consideration.** This Agreement is made by Member in consideration of the execution of similar membership agreements by other producers of tomatoes situated throughout the State of California, and in consideration of the services to be performed by the Association as hereinafter set forth.

**2. Other Services.** Association shall, to the best of its ability, furnish to its members such other services in the nature of information, data and statistics pertaining to production, marketing and utilization of tomato crops as may from time to time be currently available. Association shall represent Member and other members in matters relating to the improvement of conditions respecting the production, marketing, utilization and grading of canning or processing tomatoes.

**3. Grade Tag Information.** Member hereby authorizes the Association to have access to grade tag information in the possession of the Processing Tomato Advisory Board relating to inspection of Member's tomatoes by the Board for each harvest season for the duration of this Membership Agreement and does hereby request the Board to make such information available to the Association.

**4. Duty of member to comply with Articles of Incorporation and Bylaws.** Member shall comply with and abide by the provision of the Articles of Incorporation and the Bylaws of Association and all amendments thereto that may from time to time be hereafter adopted, and all rules and regulations that may from time to time be adopted by the Board of Directors of Association,

**5. Bylaws Acceptance and Approval.** Inasmuch as the signature of the original Bylaws adopted by the Association and by each and all of its members would be difficult and impracticable, Member hereby agrees with Association that by the execution of correct copy of the Bylaws of the Association and does hereby give his full assent to and approval thereof, with like force and effect as if Member's signature had been affixed to the original of said Bylaws.

**6. Information from Member.** At such times as Association may request during the term of this Contract, Member shall promptly notify Association in writing of the location of his tomato crop, the number of acres planted to tomatoes, the varieties of tomatoes planted, his estimated production, and such other information as the Association may deem necessary.

**7. Arbitration and Liquidated Damages for Breach.** It is mutually agreed that any unresolved dispute or controversy arising out of or relating to the Membership Agreement or any breach thereof, shall be submitted to and settled by arbitration in accordance with the rules of the American Arbitration Association, and that the decision and award of damages, if any, rendered by the arbitrator shall be binding and conclusive on all parties. It is further agreed that any sale or agreement to sell processing tomatoes by the Member contrary to the provisions of the Membership Agreement, would cause material damage to the Association and its members and that the actual amount of such damages would be impracticable or extremely difficult to determine. Accordingly, Member shall pay to the Association liquidated damages in the amount of twenty-five percent of gross sale proceeds from any sale or agreement to sell processing tomatoes by the member contrary to the provision of the Membership Agreement.

**8. Breach or Cancellation of Other Contracts.** The breach or cancellation of a similar bargaining contract or contracts entered into by Association with one or more other members shall in no manner impair or affect the obligations under this Agreement, or the mutuality of interests hereunder created.

**9. Successors and Assigns.** This Agreement shall bind the heirs, administrators, successors and assigns of the respective parties hereto. Therefore, no sale, transfer, lease or other conveyance of land by Member for the purpose of evading directly or indirectly his obligations hereunder shall discharge any obligations herein created.

**10. Counterpart Execution.** This Agreement and all similar agreements executed by other members shall be deemed counterparts of one and the same contract, by each member shall be severally liable for the full performance of the contract signed by him. This Agreement shall not be effective for any purpose unless and until the execution and delivery hereof by the Association shall have been authorized or ratified by the Board of Directors of the Association.

**11. Partnership Member.** If this Agreement is signed by a member or the members of a co-partnership, it shall apply to them and to each of them individually in the event of a dissolution or termination of said co-partnership.

**12. Bona fide Transfers.** In case of a bona fide transfer made by Member during the term of this Agreement of all or any portion of the land upon which the products subject to this Agreement are produced, all products produced upon the lands so transferred shall be delivered subject to this Agreement during, but not beyond, the calendar or crop year in which such transfer shall have been made, and such transferee shall be obligated to deliver said products hereunder. If the transferee shall fail to deliver said products, Member shall pay to the Association liquidated damages as herein provided with respect to all products not so delivered by such transferee, and in addition, the Association shall have any other remedy given to it by law or by this agreement.

**13. Performance Excused.** In the event the Association is prevented in any year from performing the terms of this Agreement by strikes, injunctions or the orders of any officer or regulatory body of any governmental agency having jurisdiction in the premises, it shall be excused from such performance, and Member, in such case, shall have no right of damages against the Association.

**14. Exclusive Agreement.** The parties hereto agree that there are no oral or other promises, conditions, covenants, representations or inducements in addition to or in variance with any of the terms hereof and that this Agreement represents the voluntary and full understanding of both parties.

**15. Governing Law.** The terms of this Agreement shall be construed in accordance with the laws of the State of California.

**16. Notices.** All notices herein provided for shall be deemed to have been given to the Association when mailed, first class, postage prepaid, to its office in Stockton, California, and to Member when mailed, first class, postage prepaid, to his address as noted hereon, or such other address as may from time to time be furnished in writing by either party to the other.



CALIFORNIA TOMATO GROWERS ASSOCIATION, INC.  
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