

CONFIDENTIALITY AGREEMENT

The undersigned, as Receiving Party, does hereby agree that all negotiations, both written and verbal, are to be held in the strictest of confidence. Any descriptive materials furnished by Disclosing Party to the Receiving Party constitute acknowledgement and agreement that: (1) all of the information contained therein is of a highly confidential nature and the Receiving Party will keep all of such information - and all other information made available to the Receiving Party in connection with any further investigation of farm property of Disclosing Party permanently confidential; (2) none of such information will be used by the Receiving Party or any of its employees or representatives in any manner whatsoever, in whole or in part, other than in connection with its evaluation of farm property of Disclosing Party for the purpose of considering its investment in farm property of Disclosing Party on the specific basis proposed herein; (3) the Receiving Party will not reproduce these Materials, in whole or in part, and will not distribute all or any portion of these Materials to any person other than a limited number of the Receiving Party's employees or representatives who have a clear need to know such information for the purpose set forth in (2) who are informed by the Receiving Party of the confidential nature of such information and who have executed written covenants to maintain all such information in the strictest confidence; (4) if the Receiving Party does not wish to pursue this matter, it will immediately return these Materials to Disclosing Party together with any other material related to Kelley Orchards which the Receiving Party may have received from Disclosing Party and will destroy all memoranda, analyses, compilations, studies and other documents containing or reflecting such information set forth in these Materials or otherwise received from Disclosing Party that related to farm property of Kelley Orchards and will confirm such destruction in writing to Disclosing Party and (5) any proposed actions by the Receiving Party which are inconsistent in any manner with the foregoing agreement will require the prior written consent of Disclosing Party.

Notwithstanding anything to the contrary set forth previously in this Agreement, this Agreement shall not of itself operate as to limit any rights of the parties as to confidential information which:

- a. At the time of disclosure by the other Responding Party is a matter of public knowledge or is generally known in the trade;
- b. After the time of disclosure by Disclosing Party becomes a matter of public knowledge or is generally known in the trade without fault of either party hereto; or
- c. Is required to be disclosed by law (i.e., subpoena, deposition, court order, governmental agency or other legal proceeding).

