

**ORCHARD/VINEYARD LEASE**  
**WITH TREES/VINES PRE-EXISTING**

THIS INDENTURE made this \_\_\_\_\_ day of \_\_\_\_\_ (month),  
\_\_\_\_\_ (year), by and between \_\_\_\_\_  
of \_\_\_\_\_, Michigan, hereinafter referred to as LESSOR,  
and \_\_\_\_\_ of \_\_\_\_\_,  
Michigan, hereinafter referred to as LESSEE.

**WITNESSETH:**

WHEREAS: \_\_\_\_\_,

As LESSOR(s) for and in consideration of the covenants and  
agreements hereinafter mentioned to be performed by \_\_\_\_\_,  
as LESSEE(s), do hereby demise and lease to said LESSEE the premises in the  
County of \_\_\_\_\_, State of Michigan, described as follows:

TO HAVE AND TO HOLD the above demised premises by the LESSEE,  
commencing on the \_\_\_\_\_ (day) of \_\_\_\_\_ (month), \_\_\_\_\_ (year),  
and to remain in full effect for a minimum of three growing crop years  
(defined herein as up to, and including, January 1 of the subsequent year).

THIS LEASE SHALL remain in full effect beyond the minimum  
described above, and through each subsequent crop year UNLESS either LESSOR

or LESSEE, at their respective options, notifies the other party in writing by signed receipt of certified mail, of their intention to terminate, or modify terms between November 1 and December 1 of the year preceeding that crop year.

**SECTION I**

(1) THE LESSOR AGREES herein to provide the following on subject premises:

- A) All real estate as described above;
- B) All fruit trees and/or vines;
- C) Well (or access to water);
- D) Cooling Pad;
- E) Irrigation and irrigation improvements;
- F) Farm Buildings, as identified specifically below:
  - 1.
  - 2.
- G) Fruit tree/vine replants and new orchard/vineyard establishment.

(2) Any insurance desired for the above items will be \_\_\_\_\_ responsibility.

- (3) THE LESSOR SHALL bear the entire cost of all property taxes assessed on the above-described premises for the duration of this lease. In the event that LESSOR has subject property taxes in arrears, LESSEE has the option to pay such taxes and deduct those from subject lease payments.
- (4) THE LESSOR SHALL permit LESSEE ingress and egress to subject premises whenever it is necessary and consistent with good farming practices.
- (5) THE LESSOR SHALL provide any other farm assets (such as cooperative stock, farm equipment or other farm personal property) only as itemized specifically below:

## SECTION II

THE LESSEE AGREES to perform all the following functions on subject premises:

- (1) THE LESSEE SHALL provide all labor, management, equipment and all operating expenses necessary for maintenance,

harvesting and trucking of all crops on subject premises,  
except as otherwise provided for in Section I above, in  
accordance with acceptable and reasonable farming practices.

- (2) EXCEPT AS OTHERWISE PROVIDED for by mutual consent of both LESSOR and LESSEE, LESSEE shall provide to LESSOR the actual quantities marketed by crop type on all subject crops harvested, on or before December 15<sup>th</sup> of that crop year. If possible, processor receipts or other third-party documentation should be submitted in support of this report.
- (3) LESSEE SHALL maintain any and all portions of these subject premises in a condition consistent with generally acceptable farming practices, allowing for normal wear and tear and natural aging of subject orchards/vineyards.
- (4) LESSEE SHALL hold LESSOR harmless from any liability based upon LESSEE'S operations on subject premises.
- (5) LESSEE SHALL make no claim and LESSEE expressly waives all claims against LESSOR due to any personal injuries sustained or damage to property incurred on subject premises unless

such injury or damages is attributable to LESSOR'S conduct or omissions.

- (6) LESSEE, at their sole discretion, shall be responsible for all marketing and sales decisions on subject crops, unless as specified hereinunder, in this document. This shall include, but not be limited to, any diversion requirements under any enforceable marketing order. LESSOR, however, reserves the right to obtain reasonable compensation for any diversion exceeding statutory requirements as specified in Section IV hereinunder.
- (7) LESSEE SHALL BE responsible for all income distribution of subject crops as specified hereinunder in this document.
- (8) LESSOR, if subject to exclusive delivery contracts, is solely responsible to either cancel this obligation or mutually resolve this obligation with LESSEE.
- (9) LESSEE shall provide liability insurance on leased orchards/vineyards, and a copy of such liability insurance shall be provided for LESSOR at LESSOR'S request.

SECTION III: LEASE PRICING OPTIONS DESCRIPTION AND DEFINITION OF "SUBJECT CROP INCOME".

(A) OPTION "A": If chosen, this pricing option is designed to reimburse LESSEE their operating expenses attributable to subject crops FIRST. Residual returns thereafter are typically shared between LESSOR and LESSEE.

(For example, LESSEE receives the first 14 cents/lb. or the first \$1100.00 per bearing acre of tart cherries; LESSEE and LESSOR then each receive 50% of remaining residual income as it is received. Per acre, per bushel, or per ton may be other pricing units.)

(B) OPTION "B": If chosen, subject crop income is allocated by a defined percentage of each payment received to LESSOR and to LESSEE.

(For example, LESSEE retains 85% of crop income subject to lease; LESSOR receives 15% of each subject

payment. An alternative frequently allows LESSEE TO "hold" LESSOR'S share until a specified date.)

(C) OPTION "C": An annual fixed rate or amount is paid by LESSEE to LESSOR on or before specified date(s).

(For example, LESSEE pays LESSOR \$150 per acre of bearing subject crop, on or before January 10 immediately following that crop year.)

(D) OPTION "D": (You define this option)

For purposes of this Lease, "Subject Crop Income" to be allocated and distributed is defined as:

Actual income received from buyer(s) for subject crop plus any allocable withholdings not directly related to sales of that subject crop.

For example, deductions such as marketing taxes, assessments, storage, packing, or box rental allocated to subject crop are herein considered to be directly related

to sales of that crop. Net payment received after these deductions would, therefore, be "subject crop income". However, deductions for stock purchases, liens to creditors, trucking (LESSEE'S obligation from prior Section herein) or for expenses deducted against non-subject crops must be added back to net payment in determining "subject crop income", since they are not directly related to sales of that subject crop.

Other identified deductions relating to "subject crop income" shall be defined as follows:

**SECTION IV: LEASE FORMULAS DEFINED BY CROP:**

(A) CROP #1: \_\_\_\_\_

1) UNRESTRICTED OR "FREE-MARKET" PORTION

(a) OPTION TYPE (FROM SECTION III): \_\_\_\_\_

(b) TERMS:



(c) SCHEDULE OF PAYMENTS TO LESSOR:

2) RESTRICTED OR DIVERSION CROP PORTION UP TO STATUTORY  
REQUIREMENT

3) EXCESS DIVERSION PORTION OVER STATUTORY REQUIREMENT (IF  
ANY)

(B) CROP #2: \_\_\_\_\_

1) UNRESTRICTED OR "FREE-MARKET" PORTION

(a) OPTION TYPE (FROM SECTION III): \_\_\_\_\_

(b) TERMS:

(c) SCHEDULE OF PAYMENTS TO LESSOR:

(C) CROP #3: \_\_\_\_\_

1) UNRESTRICTED OR "FREE-MARKET" PORTION

(a) OPTION TYPE (FROM SECTION III): \_\_\_\_\_

(b) TERMS:

(c) SCHEDULE OF PAYMENTS TO LESSOR:

**SECTION V**

- (1) COOPERATIVE PATRONAGE IS considered herein to be a return from cooperative activity, not from crops. Unless otherwise specified herein, all patronage distributions remain with the stockholder.
- (2) Crop insurances received remain with whomever pays the insurance premiums, unless otherwise specified in the crop insurance policy document.
- (3) Unless otherwise specified herein, all Government Program payments allocated to leased land or subject crops remain with LESSEE.

- (4) THIS LEASE SHALL in no way be deemed to give rise to a partnership relation; neither LESSOR nor LESSEE shall have authority to obligate the other without written consent, except as otherwise specifically provided for in this document.
- (5) IT IS EXPRESSLY UNDERSTOOD that LESSEE maintains exclusively and entirely, at their option, all rights herein provided regardless of subsequent land ownership for the minimum specified term of this lease. In the event that LESSEE wishes to discontinue this lease during this time, a mutually agreeable settlement by LESSOR and LESSEE will terminate this lease.
- (6) THIS ORCHARD/VINEYARD LEASE CONTRACT SHALL BE binding on the heirs, successors, and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

LESSOR: \_\_\_\_\_

LESSEE: \_\_\_\_\_

WITNESS: \_\_\_\_\_

WITNESS: \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me, a Notary Public in and for said County personally appeared \_\_\_\_\_ and \_\_\_\_\_

to me personally known to be the same persons described in and who executed the within instrument, who acknowledged the same to be their free act and deed.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County  
Michigan  
My Commission Expires: \_\_\_\_\_

MSU-Extension, North Region  
Proofed 5/14/2001  
J.N./J.B./G.K.