



ELAINE R. ALBRICH  
Direct (503) 294-9394  
elaine.albrich@stoel.com

## ORCHARD WORKSHOP

### Types of Agreements

- Purchase and Sale Agreement (purchase of land)
- Land Lease Agreement (leasing to plant an orchard - LO doesn't own orchard)
- Orchard Lease Agreement (leasing an established orchard - LO owns orchard)
- Management Agreement (contract to have someone manage orchard)
- Orchard Development and Management Agreement (contract to have someone development and then manage orchard)
- Fruit Purchase Agreement (contract between grower/buyer, one year or multi-year terms )
- Orchard Development and Fruit Purchase Agreement (combination of the above)

*\*\* Variations on the above to accommodate specific circumstances/desired outcomes*

### General Considerations for Contracting

- What's the bargain?
- Who bears the risk?
- How long do you want to be in the relationship?
- Is there an "out" provision?
- How do you get paid?
- What are your remedies if something goes wrong?

### Fruit Purchase Agreements

- Product - identify fruit, but also specific expectations as to quality of the fruit to be delivered, e.g., timing/method of harvest, specific orchard, measurable factors such as sugar content, tannin levels, acidity.
- Orchard management - specify any special requirements for orchard management (use of sprays, maintenance techniques, etc.)
- Quantity - identify quantity in measurable unit or contract for grower's entire crop

- Price - identify price/quantity with adjustment for product not meeting specifications, and specify payment schedule if not tendered in full on or before delivery.
- Transportation and Delivery - establish delivery dates, delivery windows, the point buyer assumes title of the fruit.
- Rejection of Product - what happens if product doesn't meet specifications, who determines whether specifications are met, timing for rejecting product.
- Term - annual contract, multi-year contract, annual with automatic renewal.
- Force Majeure - what happens if an event beyond grower's/buyer's control renders performance impossible.
- Defaults and Remedies - what happens if there is a dispute/non-payment, etc.
- Termination/Assignment/Successors - who can terminate the agreement, who can transfer the agreement, and who may take the agreement as an operation of law.

*\*\* Variation includes upfront investment from buyer for orchard development. Under this scenario, the price/quantity may be reduced for the term depending on the economics of the deal; numerous ways to structure the investment.*