# CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement (this "Agreement") is made and effective as of \_\_\_\_\_\_\_\_\_\_\_ (the "Effective Date") by and among Imperial Produce, LLC, a Washington limited liability company and Imperial’s Garden Inc., a Washington Corporation (“Disclosing Party"), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (together with its successors and assigns, the "Recipient").

# Confidential Information.

* 1. Confidential Information Made Available. Disclosing Party are prepared to make certain confidential information (as further defined below, the "Confidential Information") available to Recipient to pursue a possible transaction (the “Project”) with Disclosing Party. In connection with such discussions, Disclosing Party may elect to make available and disclose to Recipient certain of its Confidential Information solely for the Project’s purpose.
	2. Preservation of Confidential Information. Recipient acknowledges that Recipient will have access to or otherwise learn Confidential Information, which is confidential and constitutes valuable, special, and unique property of Disclosing Party, and that Disclosing Party has a legitimate interest in and is entitled to protect the confidentiality of such information. Recipient agrees that all Confidential Information is and shall at all times remain the exclusive property of Disclosing Party. Furthermore, Recipient shall not at any time, either during or after the term of this Agreement:
		1. disclose any Confidential Information to any person or entity who is not authorized to have such Confidential Information; provided, however, Recipient may disclose Confidential Information to its employees, agents, consultants, or any other person authorized by Disclosing Party, to the extent such persons reasonably require such Confidential Information for purposes of evaluating the Project;
		2. permit any person or entity, other than those described in Section 1(b)(i), to use, examine or copy any Confidential Information without Disclosing Party' prior written consent; or
		3. remove or permit the removal of any Confidential Information or any copy, scan, or electronic version thereof from Recipient's premises or files without Disclosing Party' prior written consent.
	3. Confidential Information Definition and Use. The term "Confidential Information" as used herein shall mean all non-public financial or other information (written or oral) pertaining to the Disclosing Party or their affiliates and provided by the Disclosing Party to Recipient. Notwithstanding the foregoing, "Confidential Information" shall not mean any information that is in the public domain when Recipient learns of it; becomes public knowledge after Recipient learns of it without Recipient having disclosed it; Recipient learns from a source outside of Disclosing Party or Disclosing Party’ consultants and other independent Party or others with which Disclosing Party have a prior relationship; and was independently developed by Recipient without use of any Confidential Information. Recipient at all times shall hold in confidence and shall at no time advise, use or disclose to any person, except those having a specific need to know in performance of obligations under this Agreement, the terms of this Agreement and any proprietary or Confidential Information.
	4. Third Party Information. During and after the duration of this Agreement, Recipient will not use any confidential and proprietary information of Disclosing Party or their investors, partners, consultants, and other Party with whom Disclosing Party or their investors or partners, do business (collectively, "Third Party Information") without Disclosing Party' prior written consent.
	5. Non-Disclosure of Personal Information. Recipient understands and agrees that Disclosing Party may need to disclose to Recipient certain non-public personal information. Recipient agrees to maintain the confidentiality of all such information to the same extent that Disclosing Party are required to maintain it. Recipient further agrees not to disclose or use any such information except to carry out the purposes for which Disclosing Party provided such information to Recipient. Recipient will maintain and monitor its policies and procedures by addressing administrative, technical and physical safeguards designed to ensure the security and confidentiality of non-public personal information; (2) protect against any anticipated threats or hazards to the security or integrity of such information; and (3) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to Disclosing Party or other third Party.
	6. Terms to Survive Termination. The terms and provisions of this Section shall survive termination of any contractual or other business relationship between Disclosing Party and Recipient for a period of two (2) years. Additionally, Recipient's confidentiality obligations as set forth herein shall remain in full force and effect for as long as Recipient possesses or has access to such confidential and/or proprietary information.
1. Disclosure or Appropriation of Confidential Information. Recipient agrees that it shall use the Confidential Information solely for evaluating its possible interest in the Project under terms and conditions agreeable to Disclosing Party and for no other purpose. Without limiting the generality of the foregoing, Recipient shall not use Confidential Information for its own use, business, or investment independent of Disclosing Party. Recipient shall not distribute, copy, or otherwise communicate any of the Confidential Information to any other person or entity except as permitted under this Agreement. Recipient may disclose Confidential Information to Recipient's directors, officers, employees, agents, advisors, investors, and partners (collectively, "Representatives") who in Recipient's reasonable judgment have the need to know such information in connection with the Project. Recipient will inform all persons to whom Confidential Information is distributed to treat such information in accordance with this Agreement and will exercise such precautions or measures as may be reasonable in the circumstances to prevent improper use of Confidential Information by them. Recipient and its Representatives shall not disclose to any person the fact that the Confidential Information has been made available to them, that discussions or negotiations are taking place concerning the Project, or any of the terms, conditions, or other facts with respect thereto, except as provided herein. Confidential Information may be disclosed to the extent required in the course of inspections or inquiries by federal or state regulatory agencies to whose jurisdiction Recipient is subject and that have the legal right to inspect the files that contain the Confidential Information and Recipient will advise Disclosing Party promptly upon the request for such disclosure. Disclosing Party makes no express or implied representation or warranty as to the accuracy or completeness of the Confidential Information.
2. Remedies. Recipient acknowledges that the restrictions contained in this Agreement are necessary for the protection of the business opportunity and expectations of Disclosing Party and are considered by Recipient to be reasonable for such purpose. Recipient acknowledges that any breach of this Agreement or threatened breach will result in irreparable injury to Disclosing Party and that Disclosing Party will be entitled to all remedies available at law and equity. In addition to any other such remedies, Disclosing Party may (i) enjoin Recipient or it's Representatives from any breach of this Agreement without the need to post a bond or other security and/or (ii) obtain from Recipient any sums, consideration or other value received by Recipient or any of its Representatives arising from a breach of this Agreement. In connection with any action by Disclosing Party or its designees to enforce its rights under this Agreement or in collection actions arising therefrom, Disclosing Party shall be entitled to recover its attorneys' fees and costs from Recipient.
3. No Waiver. It is understood and agreed that no failure or delay by any party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege hereunder.
4. Binding Agreement. This Agreement shall be binding upon Recipient, its officers, directors, partners, principals, shareholders, agents, affiliates, representatives, subsidiaries, any persons or entities owned or controlled, directly or indirectly, thereby and their respective successors and assigns, including, without limitation, any successor, assign, or affiliate of Recipient that participates in any manner in connection with the acquisition, management, and development of the Project. This Agreement shall inure to the benefit of Disclosing Party and their successors and assigns, including, without limitation, any successor or assign to which Disclosing Party may transfer all or any of its interest in the Project. This is the entire agreement between the Party with respect to the subject matters described herein and this Agreement shall not be amended except in writing and signed by all Party.
5. Governing Law. This Agreement shall be construed under the laws of the State of Washington without adherence to its choice of law rules. If any provision of this Agreement is prohibited or unenforceable the remaining provisions hereof shall be enforceable to the maximum extent permitted at law. Venue for any action under this Agreement shall be in the federal and state courts located in Yakima County, Washington.
6. Warranty of Authority. Each person signing this Agreement represents and warrants that the entity for which he/she is signing has duly authorized this Agreement, that he/she has the authority to sign on behalf of such entity, and that upon full execution of this Agreement, this Agreement shall be valid, binding, and enforceable against the entity for which he/she is signing in accordance with its terms.
7. Counterparts. This Agreement may be executed in counterparts, each of which taken together shall constitute one and the same agreement.

**[*Signature page intentionally on following page]***

**RECIPIENT**

By:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Its:

**DISCLOSING PARTY**

Imperial Produce, LLC and Imperial’s Garden Inc.

By:

Name: Skye Root, Root Realty LLC\_\_\_\_

(representing Matt McKinlay, General Receiver)