

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Animal Husbandry

- * Appropriate antiseptic/analgesic treatment shall be administered topically to pigs in connection with castration and tail docking to reduce any discomfort and to prevent infection.
- * Seller agrees to implement and enforce a zero-tolerance policy for improper animal handling practices, which includes disciplinary action for violations of animal handling practices.
- * No manual blunt force trauma is allowed to euthanize pigs as the primary method of euthanasia.
- * Seller/Buyer represents and warrants to buyer/seller that it is a corporation duly organized, validly existing and in good standing under the laws of the specified state, with full power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted. Seller has the power to enter into and perform this agreement, and the execution, delivery and performance hereof have been duly authorized and approved by the Board of Directors of seller. This agreement is a valid and binding obligation of seller and is enforceable in accordance with its terms.
- * Each of the parties to this agreement represents that it has full authority to enter into this agreement. Except where otherwise provided by law, this agreement shall be kept confidential and shall be known only to the parties hereto.
- * Federal law requires disclosure that additional large capital investments may be required of you during the term of the agreement.
- * Buyer will not require any additional capital investments by seller during the term of this agreement.
- * Seller represents to buyer that all hogs sold under this agreement are free and clear of all security interests and liens of any kind whatsoever, except as specifically provided in a written notice received by buyer at least specified number of days prior to delivery of the hogs to buyer. If hogs sold under this agreement are subject to any security interest or lien, buyer may make payments jointly to seller and the secured party or lien holder.
- * Seller will have, and will transfer to buyer, good and marketable title to the hogs, free and clear of all liens, claims and encumbrances.
- * Seller hereby represents and warrants at the time of delivery of any hogs to buyer, seller shall deliver to buyer good and marketable title to all hogs and any non-qualifying hogs and any other hogs sold to buyer, free and clear of any liens or encumbrances.
- * Seller represents to buyer that all hogs sold under this agreement are free and clear of all security interests and liens of any kind whatsoever, except primary lien holder or as specifically provided in a written notice received by buyer at least thirty (30) days prior to delivery of the hogs to us. If hogs sold under this agreement are subject to any security interest or lien, we may make payments jointly to seller and the secured party or lien holder.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Confidentiality

* All information provided by either party to the other under this agreement, as well as the terms of this agreement and all information learned or acquired by either party concerning the other party under this agreement, before or during the term of this agreement, shall be deemed confidential information. Seller and buyer agree that they will not disclose, without the prior written consent of the other party, any of such confidential information to any third parties other than for purposes of furthering performance hereunder, and that they will use such confidential information only for the consummation of the transactions contemplated by this agreement. In the event of termination of this agreement, all confidential information shall, upon request, be returned to the owner thereof and the other party hereto shall keep confidential all confidential information otherwise furnished to it unless such information is otherwise ascertainable from public or published information or trade sources.

* Seller acknowledges and agrees that, in order to receive information about and participate in this agreement, seller will be required to sign a confidentiality agreement in the form set forth in specified exhibit.

* This agreement is an exclusive agreement by buyer and sellers and shall remain strictly confidential. This written agreement, and the terms and conditions thereof, shall not be disclosed to any other parties other than the owners and potential owners of the sow units. Buyer and sellers agree that they shall take any and all necessary actions to require that their officers, directors, employees, and other personnel keep this written agreement and the terms and conditions thereof confidential. Buyer hereby acknowledges that seller may present this information to professional advisors, bankers, and other owners who will be likewise bound to the terms of this confidentiality agreement. Seller hereby acknowledges that buyer may present this information to professional advisors, bankers, and other owners who will be likewise bound to the terms of this confidentiality agreement. Furthermore and likewise, any and all information exchanged between buyer and seller shall be considered strictly confidential unless written permission has been received permitting otherwise.

* Seller agrees to treat information about the purchase price of hogs found in this agreement as confidential and will only reveal such information (1) after receiving written permission from buyer, (2) as ordered by a court, or (3) at the request of a governmental agency.

* All information provided by seller to buyer on the production forms shall be considered seller's confidential and proprietary information that should be subject to the confidentiality obligation of specified paragraph.

* Except as may be required by law, the parties shall keep this agreement confidential and will not share information regarding the same except with those lenders, employees, agents and representatives who have reasonable need to know of or have access to this agreement or information related thereto.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Confidentiality

* Unless otherwise prohibited by applicable state laws, each of the parties will maintain in confidence this agreement and the terms of this agreement and all written or other confidential information obtained in confidence from another party. As used herein, the term "confidential information" shall include all information furnished by the disclosing party to the recipient or the recipient's employees, agents or representatives including, without limitation, pricing, specifications, formulas, processes, designs, trade secrets, methods of operating, devices, equipment, financial information, forecasts, business plans, market analyses, contracts, customer lists, suppliers, and all other proprietary information. Confidential information shall not include information that (i) was in the public domain prior to receipt thereof by the recipient or its employees, agents or representatives; (ii) was supplied to the recipient or its employees, agents or representatives without restriction by a third party; or (iii) becomes publicly known after receipt thereof by the recipient through no fault of the recipient or its employees, agents or representatives. Notwithstanding the foregoing, facilitator may disclose the terms of this agreement with the sellers and prospective sellers. The provisions of this section shall survive the expiration or termination of this agreement. In no way limiting anything else in this agreement, the parties acknowledge and agree that a breach of the provisions of this section hereof will cause irreparable injury and damage for which the non-breaching party would have no adequate remedy at law, and the parties further agree that in the event of a breach of this section, the non-breaching party without having to prove damages, shall be entitled to seek a restraining order and injunction to prevent such violation or continued violation.

* By signing this agreement, all parties agree not to disclose the terms and/or the conditions of this agreement with any other party unless written consent is given by the other party.

* The (i) location, owner and other particulars of each production facility, including the names and location of any contract growers and independent contractors, (ii) seller's nutrition and feed recipes, (iii) the names and positions of seller's employees, if obtained by buyer in the course of performance of this agreement, is agreed by buyer to be the confidential, proprietary information of seller, which information (i) shall be held and treated as confidential and proprietary information of seller, (ii) shall not be disclosed to any person other than an employee of buyer, and (iii) shall not be used by buyer for any purpose other than to verify seller's compliance with this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Confidentiality

* The parties acknowledge and agree that in connection with the negotiations of this agreement and during the performance of this agreement (including, without limitation, the twelve month period after the term), each party has or may be furnishing the other party with certain financial, production and other information which is either non-public, confidential or proprietary in nature. Each party's confidential information will be kept confidential by the other party and shall not, without prior written consent, be disclosed by the other party to any other person or entity or be used by the other party for any purpose other than in connection with this agreement. Notwithstanding the above, nothing in this agreement shall be intended to prohibit a party from (i) reporting the volumes and the prices paid or received for hogs delivered under this agreement, (ii) providing a copy of this agreement to such party's attorneys, auditors, consultants, lenders; or to appropriate governmental agencies and third parties, or (iii) providing confidential information to such party's attorneys, auditors, consultants, lenders; or any appropriate governmental agency (as required by law) as long as the non-disclosing party receives advance notice of such disclosure and such third party is aware of the 'proprietary nature of the confidential information and appropriate steps are taken to protect such confidential information from inappropriate disclosure. Seller acknowledges buyer has certain obligations under the federal Mandatory Price Reporting Act ("MPR"), which include the reporting of certain information to AMS and providing the format of this agreement to GIPSA. Buyer will have no obligation to notify seller under this section for the reporting requirements required under MPR. If any provision of this section is determined to be illegal, invalid or unenforceable, this provision shall be replaced by a mutually acceptable valid, legal and enforceable provision that is closest to the original intention of the parties. The parties agree that this provision will survive any termination of this agreement.

* Each party's obligations to maintain the confidentiality, restrictions on use, disclosure, duplication, protection and security of the other party's confidential information as described in this article will survive the rescission, termination or expiration of this agreement perpetually for trade secrets and personally identifiable information and for a period of five years from the date of disclosure for all other confidential information.

* The parties hereto agree that all of the terms and provisions of this agreement are confidential and the parties hereto agree not to disclose any such terms or provisions to any person, firm or non-affiliated corporation other than professionals engaged by either party (including attorneys or accountants); provided, however, the parties are authorized to make disclosure of such portion of this agreement as may be required by any state or federal agency, regulatory authority, or as may otherwise be required by law or American Stock Exchange Rules. Provided, further, that the parties are authorized to make such disclosure as may be required by either party's lenders or others with a financial interest or prospective financial interest in either party. The parties agree that any such disclosure may be made only after the party to whom such disclosure is made has been advised of this confidentiality provision and has agreed to abide thereby, except as required by law. Each party hereto shall retain as confidential and proprietary any and all information and data relating to the other party's business and operations acquired or learned during the term hereof. The parties hereto agree to use reasonable efforts to keep all such information and data strictly confidential, and will not purposely divulge or permit their respective employees to purposely divulge any information or data so acquired to any third party. This provision shall not apply to information which is now available to the public, or which hereafter comes into the public domain.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Confidentiality

* The parties hereto agree that all of the terms and provisions of this agreement are confidential and the parties hereto agree not to disclose any such terms or provisions to any person, firm or nonaffiliated corporation other than any professionals engaged by either party (including attorneys or accountants); provided, however, the parties are authorized to make disclosure of such portion of this agreement as may be required by any state or federal agency, regulatory authority, or as may otherwise be required by law or American Stock Exchange Rules. Provided, further, that the parties are authorized to make such disclosure as may be required by either party's lenders or prospective lenders. Provided, further, that seller is authorized to make such disclosure to any of seller's affiliates, as may be necessary to effectuate the terms of this agreement. The parties agree that any such disclosure may be made only after the party to whom such disclosure is made has been advised of this confidentiality provision and has agreed to abide thereby, except as required by law. Each party hereto shall retain as confidential and proprietary any and all information and data relating to the other party's business and operations acquired or learned during the term hereof. The parties hereto agree to use reasonable efforts to keep all such information and data strictly confidential and will not purposely divulge or permit their respective employees to purposely divulge any information or data so acquired to any third party. This provision shall not apply to information which is now available to the public, or which hereafter comes into the public domain.

* The parties acknowledge and agree that in connection with, or as a result of, this agreement, each party may be furnishing the other party with certain information which is either non-public, confidential or proprietary in nature. Each party's non-public, confidential or proprietary information will be kept confidential by the other party and shall not, without prior written consent, be disclosed by the other party to any other person or entity or be used by the other party for any purpose other than in connection with this agreement. For purposes of this section, the term "non- public, confidential or proprietary information" shall not include information which (a) is or becomes generally available to the public other than as a result of a breach of these conditions, (b) is or becomes known or available to the other party on a non-confidential basis and not in contravention of applicable law from any third party source, or (c) the other party is ordered or required to disclose by any applicable law or competent judicial, governmental or other authority. This section shall survive the expiration of the term or any renewed or extended term hereof or earlier termination of this agreement.

* Seller and buyer each agree not to disclose the terms of this agreement to any person or entity without the consent of each party hereto, except for any disclosure required by applicable law or regulation.

* Seller, buyer and facilitator each agrees not to disclose the terms of this agreement to any person or entity without the consent of each party hereto, except for any disclosure required by applicable law or regulation.

* Each party hereby acknowledges and agrees that, as between the parties, the confidential information, and all Intellectual Property Rights arising from or related to the confidential information, of the disclosing party is the sole and exclusive property of the disclosing party: and that no right or license, implied or otherwise, is granted to the receiving party with respect to any of the disclosing party's confidential information. Each party agrees to maintain all of the disclosing party's confidential information free from any legal or equitable claim of title or other encumbrance by it or any third party.

* Buyer, seller, or facilitator, nor their respective agents, professional advisors, employees, officers, directors, owners, shareholders shall not disclose the terms or conditions of this agreement to any other person or entity unless a written waiver permitting the release of information is signed in advance by each of the parties hereto. Should a breach in confidentiality occur, the claiming party may execute termination upon the other party with written notice.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Confidentiality

* Each party's obligations to maintain the confidentiality, restrictions on use, disclosure, duplication, protection and security of the other party's confidential information as described in this article will survive the rescission, termination or expiration of this agreement perpetually for trade secrets and personally identifiable information and for a period of five years from the date of disclosure for all other confidential information.

* Each party has made and will continue to make available to the other party information that is not generally known to the public and at the time of disclosure is identified as, or would reasonably be understood by the receiving party to be, proprietary or confidential information of the disclosing party. Information will be deemed confidential information of a party, whether disclosed in written, electronic, oral, visual or other form, if at the time of disclosure the receiving party is informed, or should reasonably understand, it to be proprietary or confidential, or it is marked or designated as "confidential" or with similar language. In addition, buyer's confidential information includes information regarding its: (i) business plans, strategies, forecasts, projects and analyses, (ii) finances and pricing structures, (iii) business processes, methods and models, (iv) employees, customers and suppliers (including information of third parties that buyer or any of its affiliates is obligated to maintain in confidence), (v) hardware and system designs, architectures, structure and protocols, (vi) product and service formulae and specifications, and (vii) manufacturing, purchasing, logistics, sales and marketing activities.

* If buyer and seller have signed a separate agreement protecting any confidential information, then both the other agreement and this article will be effective, but if there is a direct conflict between them, then the provision that is more protective of such confidential information will control.

* The receiving party will use the same care and discretion to avoid disclosure, publication or dissemination of the disclosing party's confidential information as the receiving party uses with its own confidential information that it does not wish to disclose, publish or disseminate (but in no event less than a reasonable degree of care). The receiving party will use the disclosing party's confidential information only for the purposes reasonably contemplated by the disclosing party at the time of disclosure of such confidential information. The receiving party will promptly report to the disclosing party any breaches in security that may materially affect the disclosing party and will specify the corrective action to be taken. Each party will ensure that any third parties who are given access to any of the disclosing party's confidential information have been informed of the provisions of this agreement and have agreed to comply with all of its provisions. Each party will be responsible for any breach of this agreement by its agents.

* By signing this agreement, the seller agrees not to disclose the terms and/or the conditions of this scheduling agreement with any other party unless under court order.

* The obligations set forth in the immediately preceding section do not apply to any confidential information that the receiving party can demonstrate: (i) the receiving party possessed prior to disclosure by the disclosing party, without an obligation of confidentiality, (ii) is or becomes publicly available without breach of this agreement by the receiving party, other than nonpublic customer or employee information, (iii) is or was independently developed by the receiving party without the use of any confidential information of the disclosing party other than in connection with seller's performance of its obligations under this agreement, or (iv) is or was received by the receiving party from a third party that does not have an obligation of confidentiality to the disclosing party or its affiliates.

* The parties hereto agree that the existence and terms and conditions of this agreement are confidential and neither party shall disclose to any entity or person not a party to this agreement, the existence of the terms and conditions of this agreement, provided that nothing herein shall prohibit buyer from disclosing such Information to its parent company, subsidiaries, or other affiliated companies.

Swine Packer Marketing Contract Summary - National

Other Provisions

Business Practices- Force Majeure

* If either party is unable to perform any of its obligations under this agreement, other than an obligation for the payment of money, by reason of any cause beyond its control, including, but not limited to, Act of God, Governmental action, war, fire, road or air disasters, disease, strikes or other labor disputes, then, unless alternative provisions are set out in this agreement, the time for performance of such obligation shall be extended by a period equal to the period during which that party is unable to perform its said obligations, provided that the party gives written notice of such cause to the other party promptly after it has knowledge of the occurrence thereof. In the event of force majeure occurs and continues for a period of longer than one (1) year, the party not claiming the event of force majeure may terminate this agreement upon notice to the other party.

* Any party to this agreement shall be relieved of its responsibility and obligations hereunder when performance becomes commercially impossible because of reasons beyond its reasonable control such as, but not limited to, fire, explosion, strike, accident, governmental regulation or intervention, and acts of God. Swine health or management problems that may impact the productivity of seller's operations, however, are not an excuse for non-delivery of qualifying hogs under this agreement. Notwithstanding the above, should performance be prevented or delayed by a cause under this provision, buyer may, but shall not be obligated to, accept such portion of the hogs as it deems, in its sole discretion, it can economically process. Any of the hogs not accepted by buyer shall automatically be released to the seller for sale or disposal elsewhere. Damage or destruction of the seller's facilities or the buyer's facilities causing the excuse or delay of seller's or buyer's performance under this provision shall be repaired or replaced as soon as is reasonably possible. Seller and buyer shall carry insurance in an amount at least equal to the replacement value of their respective facilities and shall provide proof of such insurance to the other parties each year this agreement is in effect. In the event either seller's or buyer's performance is excused hereunder, then buyer's or seller's performance shall likewise be excused.

* Seller and buyer shall immediately notify and consult with each other concerning any temporary inability to take or deliver hogs.

* Either party to this agreement shall be relieved of its responsibilities and obligations hereunder when performance becomes commercially impossible because of reasons beyond the party's reasonable control including, but not limited to, fire, explosion, strike, riot, accident, governmental regulations, catastrophic or unique disease challenges, intervention, or acts of God, and with respect to buyer, when performance is not commercially reasonable due to reduction of buyer's slaughter capacity. In the event industry-wide developments occur that are beyond the control of the parties, the parties agree to negotiate in good faith a mutually acceptable strategy to address such developments. Changes or fluctuations in the cost of materials or related operational costs shall not be deemed force majeure or an industry-wide development under this provision. Health and/or production issues shall not be considered Force Majeure events. Communication of health and/or production breaks at earliest knowledge by seller is critical in order for buyer to evaluate the potential impact on its operations. Seller shall be obligated to minimize damages by sourcing additional weaner or feeder pigs in order to maintain the volume of committed pigs. After all options of procuring replacements have been exhausted then the seller may choose to: (i) Pay the \$5.00 per head deficiency fee pursuant to the provision on delivery failure, or (ii) At buyer's discretion, they may extend the agreement timeline end date to make up for the deficiency provided seller can demonstrate its ability to fulfill future delivery schedules.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Force Majeure

* Either party to this agreement shall be relieved of Its responsibilities and obligations hereunder when performance becomes commercially impossible because of reasons beyond the party's reasonable control, including, but not limited to, fire, explosion, strike, riot, accident, governmental regulations, intervention, or acts of God, and with respect to buyer, when performance is not commercially reasonable due to reduction of buyer's slaughter capacity. In the event Industry-wide developments occur that are beyond the control of the parties, the parties agree to negotiate in good faith a mutually acceptable strategy to address such developments. Changes or fluctuations in the cost of materials or related operational costs shall not be deemed force majeure or an industry-wide development under this provision.

* In the event seller is unable to deliver hogs to buyer as a result of any of the causes identified in specified paragraph Force Majeure of this agreement; the term of this agreement shall automatically be extended for a period of time equal to the period in which the delivery of hogs was not possible. This provision shall be further limited as set forth in specified paragraph for termination of this agreement attributable to an event of force majeure for periods longer than one (1) year.

* If buyer, seller or affiliated seller is unable to perform any of its obligations under this agreement, other than an obligation for the payment of money, by reason of any cause beyond its control, including, but not limited to, Act of God, Governmental action, war, fire, road or air disasters, disease, strikes or other labor disputes, then, unless alternative provisions are set out in this agreement, the time for performance of such obligation shall be extended by a period equal to the period during which that party is unable to perform its said obligations, provided that the party gives written notice of such cause to the other party promptly after it has knowledge of the occurrence thereof. In the event of force majeure occurs and continues for a period of longer than one (1) year, the party not claiming the event of force majeure may terminate this agreement upon notice to the other party.

* If either party is unable to perform any of its obligations under this agreement, other than an obligation for the payment of money, by reason of any cause beyond its control, including, but not limited to, Act of God, Governmental action, war, fire, road or air disasters, disease, strikes or other labor disputes, then, unless alternative provisions are set out herein, the time for performance of such obligation shall be reviewed and maybe extended by a period equal to the period during which that party is unable to perform its said obligations, provided that the party gives written notice of such cause to the other party promptly after it has knowledge of the occurrence thereof. In the event of force majeure occurs and continues for a period of longer than one (1) year, the party not claiming the event or force majeure may terminate this agreement upon notice to the other party.

* Unforeseen circumstances beyond your control will not amount to a breach of this agreement if you notify us as soon as possible. This agreement shall continue in force for a period of specified years from the start date written above with an 8 month evergreen thereafter. It shall renew every 8 months after the first 2 years unless notification to terminate is provided by either party. Once notification has been made in writing, the agreement shall remain in force for a period of 8 calendar months.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Force Majeure

* Except as otherwise provided herein, neither buyer nor seller shall be responsible or liable for any failure or lack of performance under this agreement or inability to slaughter hogs and thus perform hereunder, if directly or indirectly such performance is rendered impossible or commercially impracticable by an event such as an act of God, flood, fire, explosion, storm, strike, lockout, work stoppage, slowdown, boycott, picketing, labor shortage or other industrial disturbance, war, or the imposition of any law, regulation, rule or action of any court or instrumentality of the federal or any state government, or any event which impairs or prohibits the production or processing of hogs, plant slaughter operations or the marketing of pork and pork products, or any other cause beyond their reasonable control, whether or not the kind herein enumerated or otherwise, provided that the event could not have been reasonably avoided by the exercise of due diligence or reasonable care, prevention or remedial steps by the party. Force Majeure shall not include normal disease or any event attributable to gross negligence or willful default by either buyer or seller or market conditions. In the event of being rendered unable to perform, in whole or in part, in accordance with this section, the affected party shall give notice in writing of the full particulars of such force majeure, as defined in this section, to the other party as soon as possible after the occurrence of such cause relied upon, and the obligations of the affected party pursuant hereto shall be suspended during the continuance of any inability so caused until such time as the cause shall be remedied or otherwise removed. Market prices and other market conditions are specifically excluded from this provision. Any such suspension for a specified period shall extend the term of this agreement by the duration of the suspension.

* Seller shall, either wholly or partially, be relieved of its obligations hereunder during any period of time when performance becomes commercially impossible because of reasons beyond its control involving fire, explosion, strike, war, riot, final governmental regulations or intervention (specifically including any governmental intervention which mandates herd liquidation due to pseudorabies), and acts of God (each a "Force Majeure Event"). Similarly, buyer shall, either wholly or partially, be relieved of its obligations hereunder during any period of time when performance becomes commercially impossible because of a Force Majeure Event involving its specified facilities. Market conditions are specifically excluded from this provision. Also, hogs health (e.g., PRRS, pneumonia, pseudorabies where herd liquidation is not government mandated, etc.) or management problems that may impact the production of the hogs are specifically excluded from this provision. Once performance becomes commercially possible, the responsibilities and obligations of the parties shall resume again with full force and effect. Where either party claims an excuse for nonperformance under this section, it must give prompt telephonic notice, promptly confirmed by written notice, of the occurrence and estimated duration of the Force Majeure Event to the other party; and shall give prompt written notice when the Force Majeure Event has been remedied and performance can recommence hereunder.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Force Majeure

* Force Majeure Event shall mean the occurrence of any event that makes the performance of a party's responsibilities or obligations hereunder impossible or commercially impracticable directly or indirectly because of reasons beyond such party's reasonable control including, but not limited to, such as an act of God, flood, fire, explosion, storm, accident, strike, lockout, work stoppage, slowdown, boycott, picketing or other industrial disturbance, war, or the imposition of any law, regulation, rule or action of any court or instrumentality of the Federal or any state government, abnormally significant disease outbreaks, or any event which impairs or prohibits the production of hogs or production and/or marketing of pork and pork products, or any other cause beyond its reasonable control, whether or not the kind herein enumerated or otherwise, provided that the event could not have been reasonably avoided by the exercise of due diligence or reasonable care, prevention or remedial steps by the party. Force Majeure Event shall not include: (i) normal disease outbreaks; or (ii) any event attributable to willful default by the party asserting a Force Majeure Event (either buyer or seller); or (iii) market conditions; or (iv) market prices. In addition to the foregoing, Force Majeure Event shall also include any labor shortage of whatever cause (including without limitation any action or threatened action by any governmental authority or agency) unless and only unless such labor shortage is caused by the willful misconduct of the party asserting a Force Majeure Event.

* Neither party shall be liable for failures or delay in performance under this agreement due in whole or in part to causes, natural or man-made, beyond the party's control, including, but not limited to, such causes as disease outbreaks, fires, acts of god, declared or undeclared war, strikes or other labor difficulties, interruption of fuel, power, transportation, raw materials, or supplies, production breakdowns, or requirements or requests of any governmental authority.

* No party will be liable for damages due to delay or failure to perform any obligation under this agreement or any seller agreement during any period of time when performance is commercially impossible because of a Force Majeure Event. Force Majeure Event means strike or other labor difficulties, breakdown or damage to facilities, acts of war, acts of terrorism, pandemic human diseases, civil commotions, acts of any governmental authority, interference in telephone or electronic communications, fire, flood, windstorms, and similar causes beyond the reasonable control of the affected party. "Force Majeure Event" does not include hogs health or diseases that affect the production of hogs unless they are the subject of a mandate by any governmental authority. Force Majeure Event also does not include financial or market conditions. A party claiming it is excused from performance by a Force Majeure Event must promptly provide the other party written notice of such Force Majeure Event and its estimated duration.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Force Majeure

* Except as otherwise provided herein, neither buyer nor seller shall be responsible or liable for any failure or lack of performance under this agreement or inability to slaughter hogs and thus perform hereunder, if directly or indirectly such performance is rendered impossible or commercially impracticable by an event such as an act of God, flood, fire, explosion, storm, strike, lockout, work stoppage, slowdown, boycott, picketing, labor shortage or other industrial disturbance, war or the imposition of any law, regulation, rule or action of any court or instrumentality of the federal or any state government, or any event which impairs or prohibits the production of hogs, plant slaughter operations or the marketing of pork and pork products, or any shortage in the availability of water or inability to properly dispose of hogs waste utilizing prudent land application practices without a buildup in phosphorous, such that seller is not able to finish its hogs in specified states, or any other cause beyond their reasonable control, whether or not the kind herein enumerated or otherwise, provided that the event could not have been reasonably avoided by the exercise of due diligence or reasonable care, prevention or remedial steps by the party. Force majeure shall not include disease or any event attributable to gross negligence or willful default by either buyer or seller or market conditions. Provided, however, in the event the buyer requests a reduction in hogs supplied by seller to buyer based upon the terms of this specified section, such reduction shall not exceed the seller's pro-rata share of the total reduction in all hogs processed by buyer. The seller's share shall be based upon seller's pro-rata share of all hogs being supplied to buyer from all sources, including, but not limited to, the buyer's own production operations as of the effective date of this agreement. For example, if the seller, as of the effective date of this agreement, is agreeing to provide 10 percent of the hogs being processed by buyer, and if the buyer becomes required to reduce the number of hogs it processes by 20 percent or is required to purchase 20 percent of its hogs on the spot market, then if specified section applies, the buyer may request the seller to reduce the number of hogs supplied under this agreement by 2 percent. In the event of being rendered unable to perform, in whole or in part, in accordance with this section, the affected party shall give notice in writing of the full particulars of such force majeure, as defined in this Section, to the other party as soon as possible after the occurrence of such cause relied upon, and the obligations of the affected party pursuant hereto shall be suspended during the continuance of any inability so caused until such time as the cause shall be remedied or otherwise removed. Market prices and other market conditions are specifically excluded from this provision. Any such suspension for a period of ninety (90) days or more shall extend the term of this agreement by the duration of the suspension.

* In the event either party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this agreement, then the obligations of such party, so far as they are affected by such force majeure, shall be suspended during the continuance of any such event of force majeure. However, the party claiming the existence of force majeure shall use all reasonable efforts to remedy any situation that may interfere with the performance of its obligations hereunder. The term "force majeure" as used herein, and as applied to either party hereto, shall mean acts of the law, including the order and/or judgment of any federal, state or local court, administrative agency or authority or governmental body, acts of God, strikes, lockouts, or other labor disturbances, epidemics, fires, floods, civil disturbances, breakage or accidents to machinery, or any other cause, whether of the kind herein enumerated, or otherwise, not reasonably within the control of the party claiming suspension.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Force Majeure

* Neither party shall have any liability pursuant to specified paragraph or otherwise for default or failure of its performance hereunder to the extent that such default or failure of performance results from a strike, lockout or other labor dispute. Neither party shall be liable for failure to perform or for delay in performing any act under this agreement if prevented by any cause beyond the reasonable control of such party, including, but not limited to, acts of God, wars, epidemics, storms, tornados, or explosions. A party claiming it is excused from performance under this paragraph must promptly provide the other party written notice of the circumstances giving rise to the excuse from performance and their estimated duration.

* In the event of strikes, labor disputes, riot, war, rebellion, fire, earthquake or act of government authorities, or other causes beyond the control of either party hereto shall render it impossible for such party to comply with the terms of this agreement, no liability shall exist or arise for such party for non-compliance caused thereby during the continuance thereof.

* Notwithstanding the above, if seller (i) experiences a disease problem with respect to hogs that is outside seller's control and results in an inability of seller to deliver those hogs to buyer in accordance with the terms of this agreement (a disease event) and (ii) is also providing hogs to a processor other than buyer then the seller will be obligated to deliver the same percentage of seller's hogs (taking into account all of seller's facilities) to buyer as were delivered to buyer immediately prior to the disease event. (For example, if hogs delivered to buyer accounts for 50% of seller's available hogs immediately prior to a disease event, seller will continue to deliver 50% of the available hogs not impacted by the disease event for the duration of the disease event.)

* Neither party shall be liable for failure to perform or delay in performing any act hereunder if such performance is rendered impossible by reason or matters beyond the reasonable control of the party, including but not limited to acts of God, governmental action, strikes, lockouts, picketing, wars, blockades, riots, fire, storms, floods, explosion or seller's death or permanent disability (if an individual) (in any instance, a "Force Majeure Event"). A failure to settle or prevent any strike or controversy with employees or with anyone purporting or seeking to represent employees shall be considered a Force Majeure Event, provided such strike affects said party's performance of the requirements of this agreement. Once performance becomes commercially possible, the responsibilities and obligations of the parties shall resume again with full force and effect. Buyer agrees that in the event of a Force Majeure Event affecting a plant specified for delivery, buyer will use reasonable efforts to assist seller in rescheduling the hogs at other buyer plants. If a Force Majeure Event shall continue for a period longer than six months, the party not claiming such Force Majeure Event may terminate this agreement by giving the other party written notice.

* Unforeseen circumstances beyond your control will not amount to a breach of this agreement if you notify us as soon as possible. This agreement shall continue in force for a period of specified years from the date first written above. Expiring on specified date. By signing this agreement, the seller agrees not to disclose the terms and/or the conditions of this scheduling agreement with any other party.

* In the event of a natural disaster, work stoppage or labor dispute on behalf of either party, this agreement would be temporarily suspended until problem is resolved. Agreement would resume and continue after problem has been resolved.

* Unforeseen circumstances beyond your control will not amount to a breach of this agreement you notify us as soon as possible. All hogs shall be delivered fit for slaughter and human consumption any preexisting health related issues may result in termination of this contract if not resolved in 60 days from written notice.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Force Majeure

- * Unforeseen circumstances beyond your control will not amount to a breach of this agreement if you notify buyer as soon as possible. Either party has the right to cancel this agreement by giving a six (6) months written notice.
- * Notwithstanding the above, if seller experiences a disease problem that is outside seller's control the seller will be obligated to deliver, under this agreement, a prorated percent of hogs it has under production at any facility, equal to the percent of total production committed to buyer.
- * Except as otherwise provided herein, neither buyer nor seller shall be responsible or liable for any failure or lack of performance under this agreement if such performance is rendered impossible or commercially impracticable, directly or indirectly, by a Force Majeure Event. In the event of being rendered unable to perform, in whole or in part, due to a Force Majeure Event, the affected party shall give notice in writing of the full particulars of such event to the other party as soon as possible after the occurrence. The obligations of the affected party under this agreement shall be suspended during the continuance of any inability to perform caused by the Force Majeure Event until such time as the cause shall be remedied or otherwise removed.
- * Unforeseen circumstances beyond your control will not amount to a breach of this agreement if you notify buyer as soon as possible.
- * Notwithstanding the above, if seller experiences a disease problem that is outside seller's control the seller will be obligated to deliver under this agreement any hogs it has under production at any facility, and seller cannot claim a Force Majeure event unless the seller is marketing fewer hogs from its overall operations that is lower than the volume requirements under this agreement.
- * Neither party to this agreement shall be liable to the other for any loss, cost, or damages arising out of or resulting from any default, failure or delay of performance under this agreement where such failure arises from a cause or causes beyond the reasonable control of such party, which causes shall include but shall not be limited to, acts of God; strikes, lockouts, or other industrial disturbances; wars, whether declared or undeclared; blockades; insurrections; riots; government action; human or hogs disease; epidemics; explosions; fires; floods; or any other cause not within the reasonable control of either party. Any breakdown caused by failure to maintain equipment is not force majeure. Inclement weather shall not be deemed force majeure unless seller and its trucking contractor that hauls to buyer mutually agree to suspend shipments as a result thereof.
- * Notwithstanding the above, if buyer has claimed an event of Force Majeure but has been able to schedule deliveries of market wine under this agreement to other buyer facilities, and buyer has paid any incremental shipping charges, seller will not have the option to terminate this agreement. Similarly, if seller has claimed an event of Force Majeure but has been able to schedule deliveries of hogs by the purchase of substitute hogs from other sources, which substitute hogs meet the quality criteria specified in specified section, buyer will not have the option to terminate this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Force Majeure

* Neither party shall be liable for failure to perform or delay in performing any act hereunder if such performance is rendered impossible by reason of matters beyond the reasonable control of the party, including but not limited to acts of God, strikes, lockouts, picketing, wars, blockades, riots, disease, epidemics, fire, storms, floods or explosion. These actions shall include but not be limited to (i) A failure to settle or prevent any strike or controversy with employees or with anyone purporting or seeking to represent employees shall be considered a matter beyond the reasonable control of the party affected under this subsection, provided such strike affects such party's performance of the requirements of this agreement; or (ii) Any inability of seller to supply hogs due to an outbreak of disease; (iii) A market disruption due to a contagious disease such as Foot and Mouth; (iv) governmental action limiting or stopping production. Once performance becomes commercially possible, the responsibilities and obligations of the parties shall resume again with full force and effect. Where either party claims an excuse for non-performance under this specified section, it shall give prompt telephonic notice, promptly thereafter confirmed by written notice of the occurrence and estimated duration of the event giving rise to such excuse to the other party; and it shall give prompt written notice when such event has been remedied and performance can recommence hereunder.

* The parties hereto agree that in the event of a default by a party in its performance hereunder, the defaulting party shall indemnify and hold harmless the non-defaulting party from and against any and all costs and expenses, including attorney fees, incurred by the non-defaulting party as a consequence of the default.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Indemnity

* Each party will indemnify and hold the other party harmless for any and all liabilities, damages, claims, judgments, costs and expenses incurred by the other party in connection with such party's breach of this agreement. Such expenses will include without limitation reasonable attorneys' fees.

* The indemnity obligations of seller and buyer under this specified paragraph shall survive the termination of this agreement.

* All claims by any party to this agreement for indemnification under this specified paragraph for third-party claims shall be asserted and resolved in accordance with this subparagraph. In the event either party seeks indemnification (the "Claimant") from the other party (the "Indemnitor") for any claim or demand asserted against the Claimant, the Claimant shall with reasonable promptness give notice (the "Claim Notice") to the Indemnitor of such claim or demand, specifying the nature of and specific basis for such claim or demand and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim or demand). Indemnitor shall not be obligated to indemnify Claimant under this agreement with respect to any such claim or demand if Claimant fails to notify Indemnitor in accordance with the terms of this agreement and, as a result of such failure, Indemnitor's ability to defend against the claim or demand is materially prejudiced. Indemnitor shall have ten (10) days from the day of delivery or mailing of the Claim Notice (the "Notice Period") to notify Claimant (i) whether or not it disputes the liability of Indemnitor to Claimant hereunder with respect to such claim or demand; and (ii) whether or not it desires, at the cost and expense of Indemnitor, to defend Claimant against such claim or demand; provided, however, that Indemnitor is hereby authorized, but is not obligated, prior to and during the Notice Period, to file any motion, answer or other pleading that it shall deem necessary or appropriate to protect its interests or those of Claimant. If Indemnitor notifies Claimant within the Notice Period that it desires to defend Claimant against such claim or demand, Indemnitor shall have the right to control the defense against the claim by all appropriate proceedings and any settlement negotiations, provided that to the satisfaction of Claimant, Indemnitor shall secure Claimant against such contested claims by providing adequate security. If Claimant desires to participate in, but not control, any such defense or settlement, it may do so at its sole cost and expense. If Indemnitor fails to respond to Claimant within the Notice Period, elects not to defend Claimant, or after electing to defend fails to commence or reasonably pursue such defense, then Claimant shall have the right, but not the obligation, to undertake or continue the defense of, and to compromise or settle (exercising reasonable business judgment), the claim or other matters all on behalf of, for the account and at the risk of Indemnitor. If requested by Indemnitor, Claimant agrees, at Indemnitor's expense and upon presentation of adequate security for the payment of such expenses, to cooperate with Indemnitor and its counsel in contesting any claim or demand which Indemnitor elects to contest, or, if appropriate and related to the matter in question, in making any counterclaim against the person asserting the third party claim or demand, or any cross-complaint against any person. Notwithstanding the foregoing, no claim as to which indemnification is sought under this agreement may be settled without the consent of Indemnitor and Claimant.

* Seller/Buyer agrees to indemnify and hold buyer/seller, any entities that are parent, subsidiary and/or affiliated entities as to buyer, and each of their respective directors, officers, employees, and agents harmless from and against any and all losses, costs, expenses, damages, liabilities, claims, actions, suits and judgments (including, without limitation, reasonable attorneys' fees, court costs and other costs of defense), which are suffered or incurred by any of the aforesaid indemnified parties as a result of (i) the negligence or willful misconduct of seller or any of its officers, directors, managers, employees, agents or representatives relating to the production and delivery of hogs under this agreement or (ii) any breach by seller of any of its obligations under this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Insurance

- * Seller will procure and maintain in effect, at its own expense, general liability insurance with a limit of not less than one million dollars (\$1,000,000.00) and will, upon request by buyer, furnish buyer with a certificate of insurance issued by an insurance company acceptable to buyer having an A.M. Best financial rating of "A" or better as evidence of the required insurance, naming buyer as an additional insured where applicable.
- * Seller agrees during the term hereof to maintain adequate public liability and other insurance with reputable insurance companies as hereinafter set forth and, upon request, to furnish buyer with certificates of insurance properly executed by its insurers evidencing such a fact, and requiring the insurers to give at least thirty (30) day notice to buyer in the event of cancellation or material alteration of such coverage. The minimum insurance coverage to be maintained by Seller shall be as follows: Liability insurance covering personal injury and property damage sustained by other third parties, from accidents arising out of the seller's premises, products, completed operations, contractual liability, or the use of owned or non-owned automobiles. Such coverage to be written on an occurrence form, affording minimum single limit protection of no less than two million dollars (\$2,000,000) per occurrence and with deductibles no greater than one hundred thousand dollars (\$100,000) per occurrence. Buyer shall be named as an additional insured. An umbrella or excess liability policy may be utilized to attain the required limits of insurance. The insurance required above shall reflect that such coverage is primary with respect to other insurance carried by buyer. Worker's compensation and employer's liability insurance in accordance with the statutory requirements of the state where seller conducts its operation.
- * Producer will be enrolled in buyer's insurance program.
- * The term of this agreement shall commence for all hogs delivered after specified date and shall end three (3) years after one party delivers to the other party a written notice of termination. The parties have agreed that the minimum term of this agreement will be for a period of three (3) years, unless terminated earlier pursuant to specified sections of this agreement. Upon the execution date of this agreement, this agreement will supersede and replace the original hog procurement agreement dated the specified date between buyer and seller.
- * Term shall mean the period between specified date and the termination date specified in a termination notice.
- * This agreement will be effective on specified date and shall continue for a period of one year (the initial term). This agreement will automatically renew for additional one year periods (each a renewal term) unless terminated by either party one hundred eighty (180) days prior to the conclusion of the initial term or any renewal term. Notwithstanding the foregoing, nothing in this section is intended to limit in any manner any rights of a party to terminate this agreement, whether such rights are provided expressly by this agreement or by operation of law.
- * This agreement shall be deemed to have commenced on specified date and will continue for a period of four years. Thereafter the term of this agreement shall be automatically extended at the end of the second (2) year of the initial term, and on each and every day thereafter, for an additional two (2) year period until such time as one party hereto gives notice to the other party hereto of its intent not to extend the term of this agreement. Notice of intent to not extend the term of this agreement must be given at least two years prior to the intended expiration date.
- * The initial term of this agreement commences on the effective date set forth above and expires on specified date (the initial term). This agreement is subject to termination pursuant to specified section. At the end of the initial term, this agreement shall automatically renew for successive two (2) year terms (each, a renewal term) unless terminated by either party by giving written notice of such a termination at least two (2) years prior to the end of the initial term or then current renewal term.

Swine Packer Marketing Contract Summary - National

Other Provisions

Business Practices- Length/Term of Agreement

- * Specified date is the date that seller will first deliver to buyer hogs under this agreement. The earliest initial term of this agreement shall start specified date and be effective for five years maximum from the first delivery of hogs to buyer under this agreement. This agreement may be terminated by either party with a written one year notice to the other party after four years. If notice is not given by either party, the agreement will extend to six years.
- * This agreement shall be in effect for specified years beginning on specified date through specified date (the initial term). This agreement shall automatically renew for additional specified year terms and continue until terminated by either party upon giving written notice, not less than specified years prior to the desired termination date (the notice). Notice to terminate this agreement may not be given prior to the expiration of the initial term, and termination of this agreement shall not be effective prior to specified date.
- * Ongoing subject to verbal notification by either party
- * The initial term of the agreement commences on the effective date set forth above and expires on specified date. This agreement is subject to termination pursuant to the sections titled Default, Changed Circumstances, and Legal Compliance. If there is a balance owing under the Loan Purchase Agreement at the end of the initial term of this agreement, and subject to the provisions of the section of this agreement titled Changed Circumstances, seller may not terminate this agreement and buyer may elect to extend the agreement until such time as the Loan Purchase Agreement balance reaches zero, with such extension becoming effective by buyer providing written notice to seller. During any such extended term of this agreement, seller may terminate this agreement at any time by providing 2 years' written notice to buyer.
- * Seller's obligation to deliver hogs to buyer shall begin on or about specified date and continue for a period of specified years after the date of the first sale (the initial term)
- * The term of this agreement commences on the effective date and expires on specified date, unless terminated earlier as allowed in this section. The parties agree that this agreement must continue for a minimum of specified months (the minimum term). After the minimum term, either party may terminate this agreement by providing at least specified months prior written notice to the other party, with such termination being effective on the anniversary of the effective date that is at least specified months later. Under no circumstances may this agreement be terminated without cause prior to the completion of the minimum term. Regardless of whether the minimum term has been completed, this agreement remains at all times subject to termination pursuant to the section titled Default.
- * The term of this agreement commences on the effective date and expires on specified date. Notwithstanding the preceding, this agreement remains at all times subject to termination pursuant to the section titled default; or otherwise provided herein, or as may be permitted by operation of law.
- * Beginning specified date and ending specified date. Delivery would be targeted for alignment with seller's production scheduling at sellers Production Facilities.
- * This contract is a specified length agreement with an automatic (6) month evergreen meaning that it automatically renews after the first year until terminated. Either party may terminate this agreement at any time for any reason with a six (6) month notice of termination after the first year is complete.
- * This agreement shall continue and remain in full force and effect for a period of specified period from specified date through specified date unless otherwise extended by the parties hereto or unless terminated in accordance with the terms hereof.
- * Both parties agree to meet annually to discuss future marketing's and market conditions.

Swine Packer Marketing Contract Summary - National

Other Provisions

Business Practices- Length/Term of Agreement

- * one month to twelve months
- * This agreement shall continue in force for a period of specified number of years from the date first written above. Expiring on specified date.
- * The term of this agreement commences on the effective date and expires on specified date, unless terminated earlier as allowed in this section. Either party may terminate this agreement early by providing at least specified months prior written notice to the other party. This agreement remains at all times subject to termination pursuant to the section titled Default.
- * This agreement shall be in effect for a period of specified weeks/years from specified date through specified date (initial term). This Agreement shall automatically renew for subsequent 52 week terms (each a renewal term) unless one of the parties provides the other party written notice of their desire not to renew this agreement at least 52 weeks prior to the expiration of the initial term or the then current renewal term. In the event that this agreement is renewed for a subsequent term(s), seller shall produce hogs in the quantity set forth in specified exhibit for the subsequent term(s). The parties agree that specified section requiring a written amendment will not be required to extend the initial term or a renewal term in accordance with the automatic renewal provisions of this specified section.
- * The term of this agreement shall commence on specified date and end specified days after either party give written notification of termination unless earlier terminated in accordance with the provision hereof.
- * The term of this agreement shall be for a period of specified years, and shall begin on specified date and will end specified years from the specified date. This agreement will thereafter automatically renew for successive one year periods following the original term termination date unless and until either party provides written notice to the other of termination no less than six (6) months prior to the expiration date of the then current term.
- * The term of this agreement shall be for the specified period and shall begin on the date specified. Specified attachment is incorporated by reference. This agreement shall automatically renew for successive one (1) year terms, subject to termination by either party by written notice to the other party at least one hundred twenty (120) days prior to the end of the then current term.
- * Seller's obligation to deliver hogs to buyer shall begin on or about specified date and continue for a period of one (1) years after the date of the first sale. Thereafter the term of this agreement shall be automatically extended for successive 6-month extensions, subject to termination by either party by written notice to the other party at least 6- months prior to the end of the then current term.
- * This agreement shall commence on specified date and shall continue indefinitely thereafter until either party gives written notice of their intent to terminate. The first date such termination notice may be given by either party is specified date. The agreement shall expire specified weeks after written receipt of such acknowledged notice by the non-terminating party.
- * Agreement year means the fifty-two (52) week period commencing on the commencement date and on each anniversary of the commencement date thereafter.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Length/Term of Agreement

- * This agreement shall continue and remain in full force and effect for a period of 3 years from specified date through specified date. This agreement shall automatically renew for subsequent one year terms unless one of the parties provides the other party written notice of their desire not to renew this agreement at least 12 months prior to the expiration of the initial term or any subsequent term. In the event that the agreement is renewed for a subsequent term(s), the quantity and delivery dates for the subsequent term(s) shall be mutually agreed to by the parties by updating the production schedule set-forth in specified exhibit attached hereto. The seller will give a draft specified exhibit to buyer for any subsequent term specified months prior to the end of the current term. The parties agree that specified section required a written amendment will not be required for such updates to specified exhibit in accordance with the automatic renewal provisions of this specified section.
- * This agreement shall continue and remain in full force and effect for a period of 1 year from specified date through specified date. After specified date either party may give notice to terminate, with such termination being effective 26 weeks after receipt of such notice by the non-terminating party.
- * Quarter means each of the four, three month periods in each calendar year commencing on January 1, April 1, July 1, and October 1.
- * Specified number of days/years
- * This agreement shall commence on the date first above written shall continue for three (3) years from such date (the initial term). Notwithstanding the foregoing, buyer and seller may terminate the agreement by giving written notice to the other party no earlier than 6 months prior to the termination of the Initial (the termination notice), it being understood and agreed that the termination notice shall be effective six (6) months from the date of the termination notice.
- * The term of this agreement commences on the effective date and continues for a minimum of specified years (the initial term). Following the initial term, this agreement will automatically renew for specified renewal terms at midnight on specified date of each year (each such period will be a renewal term) until terminated.
- * This agreement shall commence on the date first above written shall continue for specified period from such date (the initial term). After the initial term, this agreement shall be automatically extended for specified period (each a renewal term). Notwithstanding the foregoing, buyer or seller may terminate the agreement by giving written notice to the other party within a specified period prior to expiration of the initial term or renewal term (the termination notice), it being understood and agreed that the termination notice shall be effective at the expiration of the subsequent renewal term. For avoidance of doubt, the parties desire at least specified months notice before the agreement is terminated. Seller shall have the right to terminate this agreement until 12:00 midnight on the third business day after the day on which seller signs this agreement by providing written notice of termination to buyer.
- * The term of this amendment shall commence on specified date and shall end specified period after one party delivers to the other a written notice of termination (which shall also have the effect of terminating the agreement), however in no event may either party send a written notice of termination that would be effective within specified period of the commencement date (e.g. a party can send a notice prior to the specified year, but the notice cannot end the agreement prior to the specified year).
- * The initial term of this agreement shall be specified years, commencing on the date this agreement is signed and continuing until specified date. Either party can extend the term of this agreement subject to the provisions of specified section below.

Swine Packer Marketing Contract Summary - National

Other Provisions

Business Practices- Length/Term of Agreement

- * Unless otherwise mutually agreed in writing by the parties, seller will continue to sell and deliver to buyer, and buyer will continue to purchase from seller, hogs for a period of time following the termination date (the wind down period), as set forth in the delivery schedule attached as specified exhibit.
- * This agreement shall be deemed to have commenced on specified date and continue for a period of specified period with an expiration date of specified date.
- * This term of this schedule will commence on schedule effective date and will continue in effect for a period of specified years, or until earlier terminated by a party pursuant to the terms of this schedule and the agreement, but will be automatically extended on the same terms and conditions for an additional one year period at the end of each calendar year of the term, unless one of the parties elects to opt-out of the automatic one-year extension by sending written notice thereof to the other party, in which case, the term of this schedule will be for a period of three years from the first day of the calendar month following the date of such notice.
- * This agreement will be in effect for a period of specified years. Within the specified years this agreement will be up for review on an annual negotiated renewal basis.
- * This agreement will commence on and be in force until specified date.
- * This agreement shall commence on the date first above written shall remain in force until terminated through written notice served by either party to the other party. Notice of termination cannot be served until specified date. The termination date shall become effective specified months after notice of termination is received. At that time specified percent of the supply will be terminated, with the remaining percentage terminated in a specified schedule.
- * This agreement shall be in effect for the term. The term shall continue until the termination date specified in a termination notice that is provided by either buyer or seller to the other; provided however, that a termination notice (i) may not be given by either seller or buyer until on or after specified date and (ii) shall specify a date upon which this agreement shall terminate, which date must be specified months after the date such notice is received by the recipient
- * This agreement shall be in effect for a period of specified weeks from specified date through specified date with exception of the amendment to be made in regard to the specified sow unit as set for in specified exhibit (initial term). Upon completion of the initial term, buyer and seller agree they will negotiate in good faith to execute a new agreement with a similar quantity of hogs as set forth in specified exhibit.
- * The agreement shall be effective for an initial term of specified period commencing on specified date and concluding on specified date (the initial term). Following the conclusion of the initial term, this agreement shall automatically continue, on the same terms and conditions set forth herein, unless and until one of the parties provides the other party written notice of its desire to terminate the agreement, with termination to be effective 24 months from and after the date of such notice (the extension term). (The initial term and the extension term are hereinafter collectively referred to as the term.)

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Length/Term of Agreement

* Either party may cancel this Agreement by delivering a written notice of cancellation to the other party within three business days of the date seller receives a fully executed copy of this agreement via e-mail, by facsimile, or hardcopy. If a written notice of cancellation is not mailed within three business days of the date seller receives a fully executed copy of this agreement, the term of this agreement shall begin on specified date and shall end specified months after either party to this agreement has given the other party a written notice of termination, unless terminated earlier pursuant to the provisions of this agreement. Notwithstanding, in no event may either party send a written notice of termination that would be effective within specified period of the commencement date (e.g. a party can send a notice prior to the specified period, but the notice cannot end the agreement prior to the specified period), unless terminated earlier pursuant to specified sections of this agreement. This agreement will supersede and replace the specified dated (collectively, the prior agreements). The parties intend that the prior agreements and all amendments will continue only through midnight, specified date and will forever terminate as of that date and time.

* This agreement shall be binding when signed by both parties. The term of the agreement is specified period from the date of the first delivery of hogs under the agreement or specified date whichever is earlier.

* The term of this agreement shall begin on specified date and end at either party's option, six (6) months after written notice by one party to the other party, provided that such written notice may not be given until on or after specified date.

* This agreement will supersede and replace the specified agreement dated specified date. The parties intend that the prior agreement and all amendments will continue only through midnight, specified date and will forever terminate as of that date and time. The parties have resolved the notice of termination dated specified date, delivered to by seller by entering this agreement, which shall be effective as of specified date.

* The term of this agreement shall be for specified years and shall begin on the first day of delivery of the first hogs farrowed from seller's sows listed on specified schedule, which first date of delivery is estimated to be on or about specified date and ending on or about specified date.

* The term of this agreement shall begin on specified date and end specified date.

* As used in this amendment, the term effective date means the first day a hog is delivered under a separate agreement (to be entered into between buyer and seller) to a new facility by seller under a new agreement to be entered into between buyer and seller.

* The term of this agreement shall commence on specified date and shall end (check one of the following based on the maximum annual production listed in specified section: if 10,000 head annually or less, 12 months; if 10,001 to 25,000 head annually, 18 months; if 25,001 to 50,000 head annually, 24 months; if 50,001 to 100,000 head annually, 30 months; if 100,001 to 250,000 head annually, 36 months; if 250,001 to 500,000 head annually, 48 months; if greater than 500,000 head annually, 60 months; or (insert number) months as mutually agreed by buyer and seller (period cannot be shorter than the period that would be required immediately above based on the seller's maximum annual production as listed after one party delivers to the other a written notice of termination. In no event may either party send a written notice of termination that would be effective within three (3) years of the commencement date (e.g. a party can send a notice prior to the third year, but the notice cannot end the agreement prior to the third year), unless terminated earlier pursuant to specified sections of this agreement.

* This amendment shall be effective on the specified date. In accordance with specified section of the agreement, the term is hereby extended through specified date.

Swine Packer Marketing Contract Summary - National

Other Provisions

Business Practices- Length/Term of Agreement

- * Through specified date
- * The term of this agreement commences on the effective date and expires on specified date unless terminated pursuant to the section titled default. The parties understand and agree that this agreement cannot be terminated for any reason except default. Notwithstanding the above, the parties may mutually agree to terminate this agreement.
- * The term of this agreement shall be specified months commencing specified date. The parties agree that on or before the end of the first 6 months of this agreement, the parties will meet to review the terms herein. At such meeting, if a party is not satisfied with a term or terms of this agreement and the parties cannot in good faith agree to mutually acceptable terms, then either party shall have the right to terminate this agreement upon thirty (30) days written notice to the other.
- * If the delivery period of any forward priced hogs extends beyond expiration of this addendum and the agreement (including any extension hereof or thereof), the parties agree that the term of this addendum and the agreement will be extended as to such forward priced hogs through delivery of such forward priced hogs. If the delivery period of any forward priced hogs extends beyond termination of this addendum or the agreement (except for termination due to seller's default), the parties agree that the term of this addendum and the agreement will be extended as to such forward priced hogs through delivery of such forward priced hogs. If buyer terminates the agreement for seller's default, the agreement will not be extended as to any forward priced hogs.
- * No fixed date. Hogs purchased as needed.
- * Verbal 6 month notice to exit
- * The term of this agreement shall commence on specified date, and end specified days after either party gives written notification of termination, as set forth in specified paragraph below, subject to the termination provisions in specified section below, or unless earlier terminated in accordance with the provisions hereof.
- * The Term of this Agreement shall be a period of specified years commencing on specified date and ending on specified date subject to the renewal provisions set forth in specified sections below, or unless earlier terminated in accordance with the provisions hereof.
- * The term of this agreement shall commence on specified date and shall end specified period after one party delivers to the other written notice of termination. In no event may either party send a written notice of termination that would be effective within specified period of the commencement date (e.g. a party can send a notice prior to the specified year, but the notice cannot end the agreement prior to the specified year unless terminated earlier pursuant to specified sections of this agreement.
- * The term of this agreement is specified years. The agreement may be reopened biannually, at the request of either party, with 60 days written notice, to negotiate the market price base of specified price and/or if the market price base exceeds specified price.
- * Effective date shall mean the first business day following execution of this agreement.
- * The term of this agreement shall commence on the effective date hereof and shall continue and exist through and until midnight on the date that is six (6) years following the date of notice of termination of this agreement given by either seller or buyer to the other party hereto. In the event either party desires to terminate this agreement pursuant to the foregoing sentence, it shall send written notice of such termination in accordance with this agreement, and such termination shall become effective on the sixth (6th) anniversary date of the effective date of such notice.

Swine Packer Marketing Contract Summary - National

Other Provisions

Business Practices- Length/Term of Agreement

* This agreement shall commence on the date first above written shall continue thereafter until buyer or seller terminates the agreement upon written notice to the other, with termination to be effective specified period from the date of such notice; provided however that such notice may not be given prior to specified date. Seller shall have the right to terminate this agreement until 12:00 midnight on the third business day after the day on which producer signs this agreement by providing written notice of termination to buyer.

* This agreement shall commence on the date first above written shall continue thereafter until buyer or seller terminates the agreement upon written notice to the other, with termination to be effective specified period from the date of such notice; provided however that such notice may not be given prior to specified date. Termination of this agreement shall occur no less than specified period from the termination date of previous agreement between buyer and seller.

* This agreement shall be deemed to have commenced on specified date and will continue until specified date. Thereafter the term of this agreement shall be automatically extended specified period agreeable to both parties in writing or maybe terminated should either party notify in writing of their intent to terminate specified period prior to specified date.

* This agreement shall become effective specified date. This agreement shall thereafter renew on a daily basis so that it continues in effect until midnight on the date that is specified period from the effective date of notice of termination by either party (the notice date), or until otherwise terminated as provided herein for inability of a party to perform as set out in specified paragraph, whichever occurs first. Except as provided in specified paragraph, a notice of termination of this agreement cannot be given by either party until specified period has passed from the effective date of this agreement. Once a notice of termination has been given, seller shall be entitled to phase out delivery of hogs according to the following schedule.

* 1 month to 24 months

* This agreement is for one full year beginning specified date through specified date.

* The term of this agreement begins on specified date and then continues in increments of twelve (12) months, unless either party notifies the other party in writing at least three (3) months prior to the anniversary date prior to the start of an additional twelve month period.

* Agreement automatically renews for an additional year unless written notice of termination is given by one of the parties sixty days in advance of the anniversary date of the agreement.

* This agreement shall commence on specified date and expire on specified date. This agreement may be extended for specified years if mutually agreed upon by both parties and memorialized in a signed writing.

* Terminates on specified date and auto renews without notice

* No termination date

* Annual Renewal

* Seller agrees that the minimum term for delivery on this agreement is specified period for options 1, 2, 3, 4, or 5; the minimum term for option 6 is specified period. The term of this agreement is determined by start date designated in specified section below. Seller must give buyer and facilitator at least a specified period prior written notice, if seller intends to terminate this agreement after the minimum term.

* Effective immediately, the ending date of the agreement as found in specified paragraph, term shall be amended from specified date to specified date.

* At buyers discretion

Swine Packer Marketing Contract Summary - National

Other Provisions

Business Practices- Length/Term of Agreement

- * Start Date: Specified Date; Length of agreement: Specified number of years; Expiration: Specified Date
- * This addendum is effective beginning specified date and expires on specified date. Seller must deliver in full-year time frames. If the expiration date of this addendum is later than that of the agreement, the expiration date of the agreement is hereby amended to equal the expiration date of this addendum. During the period of time covered by this addendum, the parties agree the provision to terminate this agreement granted in specified section of the agreement is limited to becoming effective on the anniversary of the effective date of this addendum, and then only if: (i) the minimum term is completed, (ii) at least 6 months prior written notice is delivered to the other party, and (iii) the parties have not established a forward price for hogs beyond the anniversary of the effective date of this addendum. Seller acknowledges that it must deliver in full-year time frames, and establishing a forward price for hogs beyond the anniversary of the effective date of a multi-year Addendum will require seller to deliver hogs for the entire following year in accordance with the terms of this addendum. Seller cannot forward price beyond the expiration date of this addendum.
- * The obligations of this agreement shall commence on the effective date and shall continue thereafter until terminated in accordance with the provisions of this agreement. The effective date shall be specified date.
- * Effective date shall mean the date on which seller gives written notice to buyer stating the first delivery date for hogs by seller to buyer in accordance with this agreement, and which shall not occur prior to specified date.
- * This agreement shall commence on the date first above written and shall continue for specified years from such date, unless sooner terminated in accordance with the terms hereof. Seller shall have the right to terminate this agreement until 12:00 midnight on the third business day after the day on which seller signs this agreement by providing written notice of termination to buyer.
- * Pursuant to specified state law, this agreement may be terminated during a three (3) day review period which commences on the execution date (date first written above), and the parties agree either party can provide a written notice of termination to the other during such review period. If neither party terminates the agreement during such three (3) day review period, the term of this agreement shall commence on specified date and, subject to earlier termination otherwise explicitly provided for in this agreement, extend through specified date. At the end of the term, seller shall continue to deliver hogs to buyer, in accordance with the terms and conditions hereof, for 12 additional months, with deliveries being reduced each month as provided in specified section below. At the conclusion of such 12 month period, neither party shall have any further obligations to the other party under this agreement or otherwise unless otherwise contained in a subsequent written agreement signed by the parties.
- * Delivery year shall mean the period commencing on the effective date of this agreement and ending on December 31 of that same year, and each successive 12 month period commencing on January 1 and ending on December 31 until this agreement is terminated in accordance with its terms.
- * The length of this agreement is through specified date which will serve as the termination date.
- * From the date hereof, this agreement shall continue and remain in full force and effect from and after specified date through specified date (unless otherwise extended by the parties hereto or unless terminated in accordance with the terms hereof).

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Length/Term of Agreement

- * Seller agrees during the term hereof to maintain adequate public liability and other insurance with reputable insurance companies as hereinafter set forth and, upon request, to furnish buyer with certificates of insurance properly executed by its insurers evidencing such a fact, and requiring the insurers to give at least thirty (30) days' notice to Buyer in the event of cancellation or material alteration of such coverage. The minimum insurance coverage to be maintained by seller shall be as follows: (a) Liability insurance covering personal injury and property damage sustained by other third parties, from accidents arising out of the seller's premises, products, completed operations, contractual liability, or the use of owned or non-owned automobiles. Such coverage to be written on an occurrence form, affording minimum single limit protection of no less than two million dollars (\$2,000,000) per occurrence and with deductibles no greater than one hundred thousand dollars (\$100,000) per occurrence. Buyer shall be named as an additional insured. An umbrella or excess liability policy may be utilized to attain the required limits of insurance. The insurance required above shall reflect that such coverage is primary with respect to other insurance carried by buyer. (b) Worker's compensation and employer's liability insurance in accordance with the statutory requirements of the state where Seller conducts is operation.
- * Facilitator shall cause seller to represent and warrant that they will, at their own expense, maintain and carry in full force and effect general liability insurance in a sum no less than one million dollars (\$1,000,000).
- * Each of party is jointly and severally liable for all seller obligations arising under this agreement.
- * If the seller consists of more than one person or entity, such persons/entities shall be jointly and severally liable hereunder.
- * Seller will, at its own expense, maintain and carry in full force and effect general liability insurance, or such other form of insurance as facilitator shall require, in a sum no less than one million dollars (\$1,000,000), and facilitator shall be named as an additional insured on all such insurance policies.
- * Seller shall, at its own expense, maintain and carry in full force and effect commercial general liability insurance in a sum no less than one million dollars (\$1,000,000). Upon buyer's request, seller shall provide buyer with a certificate of insurance evidencing the insurance coverage specified in this section. Seller shall provide buyer with thirty (30) days' advance written notice in the event of a cancellation or material change in such insurance policy.
- * Seller shall maintain adequate insurance with reputable insurance companies as hereinafter set forth for the term of this agreement. The minimum insurance coverage to be maintained by Seller shall be no less than one million dollars (\$1,000,000) per occurrence of liability insurance covering personal injury and property damage resulting from or relating to accidents arising out of the acts or omissions of seller. Seller shall also carry worker's compensation and employer's liability insurance in accordance with the statutory requirements of the state where seller conducts is operation.
- * All notices, requests, demands and other communications which are required or may be given pursuant to the terms of this agreement shall be in writing and shall be deemed given when delivered by hand, by mail, if mailed postage- prepaid (registered, certified, Priority or Express mail, return receipt requested), or by Federal Express or comparable courier, addressed as follows, until such time as some other address shall have been given in writing to the other party in a manner complying with the requirements of this paragraph.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Notice

- * All notices required or permitted to be given hereunder shall be in writing and shall be deemed properly given when delivered in person to the party to be notified, or when sent by courier service, costs prepaid, or when sent by fax, to the party to be notified, at its address set forth below, or such other address within the continental United States of America as the party to be notified may have designated prior thereto by written notice to the other.
- * Any notices required pursuant to the terms of this agreement shall be in writing, and shall be either delivered personally, delivered to a reputable overnight delivery service providing a receipt, or deposited in the United States mail, postage prepaid and registered or certified with return receipt requested, to the parties at the following addresses or at such other address as shall be specified by notice given pursuant to this paragraph. The effective date of notice given as aforesaid shall be the date of personal service, one business day after delivery to such overnight delivery service, or three business days after being deposited in the United States mail, whichever is applicable.
- * Seller could find a buyer willing to pay a higher price for the seller's hogs, however, the seller will be legally bound to deliver the required number of hogs committed under this agreement for the term of the agreement.
- * Each party has the sole right to conduct his operation as it sees fit, provided only that such conduct is not to be in conflict with any of the provisions of this agreement
- * Seller must allow buyer to review and approve the following aspects of its hog production operation at the commencement of this agreement and any changes seller makes to these aspects: (1) A genetic program capable of producing lean, uniform sorted hogs that consistently meet Packer's requirements; (2) facilities to farrow and finish hogs year round and/or sources of weanling and/or feeder pigs; (3) A balanced nutritional hogs diet where the hogs' minimum requirements are met. All feed ingredients in the hogs ration must contain only ingredients or products that are USDA/Food and Drug Administration ("FDA") approved for use in food animals. The feeding program must also follow Packer's written recommendation on feeding of dried distiller's grains with solubles ("DDGS"). Buyer may in its sole discretion change the DDGS policy by providing written notice to seller; (4) A cost and recordkeeping system; and (5) A tracking system to comply with COOL.
- * Seller agrees to certify to buyer once each year or upon request by buyer that seller is in compliance with the terms and conditions of this agreement. Such seller certification shall be in writing and documented on a form supplied by buyer.
- * Seller assumes all risk for any hedged positions.
- * These representations and warranties are contractual, they are material terms of the agreement, and they are not mere recitals.
- * Agrees to maintain the ability to send and receive all information electronically, including, but not limited to harvest data, production data, projected and scheduled deliveries, through a computer system with e-mail and Internet access.
- * Certifies that all animals presented to buyer for slaughter are not clones derived via somatic cell nuclear transfer.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Notice

* Seller covenants that during the term hereof, specified person shall act as the chief executive of seller, and his duties shall include overall responsibility for the management and operation of the designated Production Facilities subject to this contract from time to time in accordance with this contract. It is agreed that specified person's personal involvement is essential to this contract; therefore, seller shall ensure that specified person will devote the time necessary to ensure proper management of seller. Should specified person die or become permanently disabled, a qualified replacement shall be promptly designated by seller. Seller shall also designate an assistant to the chief executive, whose duties shall include assisting the chief executive in fulfilling his obligations described above, and serving as his replacement in the event of a temporary absence.

Business Practices- Other Business Conditions

* The following is a partial list of some of the material risks of the contract for the Producer. You may encounter other or different risks because of circumstances that are unique to you or your business: This agreement requires a long-term commitment by the seller to deliver a specific number of hogs; the seller is legally required to provide the number of hogs meeting the specifications in the agreement. Buyer can terminate this contract with specified notice, after specified time, and upon termination the seller will have to find another buyer for his/her hogs; Seller could find a buyer willing to pay a higher price for the seller's hogs, however, the seller will be legally bound to deliver the required number of hogs committed under this agreement for the term of the agreement. Performance under the terms of the agreement does not ensure that seller will make a profit; the agreement requires that you deliver a specific quantity of pigs for the entire term of the agreement. This may turn out not to be the most beneficial way for you to hogs; Seller bears all the risks of production of hogs; Seller is responsible for compliance with all applicable federal, state and local laws and regulations; Buyer may change the carcass buying program from time to time. Such changes may mean that you are paid less for the same types of hogs you delivered prior to the change; You agree to incur all freight costs to deliver hogs to our plant as marked in the agreement; If you are in default or amounts you owe us are past due, we may pay you less than amounts you are otherwise due; We may terminate the agreement prior to expiration of the term of the agreement if you are in default; We may terminate the agreement prior to expiration of the term of the agreement if we stop harvesting hogs at the plant(s) designated for delivery of your hogs; If you are in default, we have the right to pursue any and all remedies available If you default, you must pay us damages set forth in the agreement.

* Seller acknowledges it has entered into this agreement on its own accord and has adequate time to consult with its attorney, accountant and/or other advisors as seller has deemed necessary. Seller further acknowledges that buyer has not required seller to make any investment in buildings or equipment under this agreement. If seller has made any such investments it has been at seller's choosing and is not a requirement of in order for to enter this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Other Business Conditions

- * Buyer is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.S(a) and 41 CFR 60- 741.S(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws
- * Facilitator will provide seller access to a portion of facilitator's hog market by allocating seller a portion of facilitator's limited and valuable shackle spaces with buyer.
- * This agreement shall not be exclusive to seller, but instead may be offered by buyer to other sellers.
- * Seller shall be solely responsible to pay all costs and expenses necessary to produce the hogs as required by this agreement, including without limitation all costs and expenses to house, feed and care for the hogs.
- * Seller agrees to negotiate in good faith to make up to 140,000 tons of feed per year for buyer at seller's actual cost assuming that seller has the milling capacity available. Seller and buyer shall periodically review the costs being charged for the hog feed, and shall in good faith discuss any suggested revisions by one party or the other.

Business Practices- Records/Documentation

- * Buyer will keep all necessary records with respect to receipt, weighing and payment for all carcasses in accordance with buyer's regular record retention and destruction schedule. Buyer currently retains all profit and loss statements and checks for two years. Upon giving buyer reasonable notice, seller may inspect such records relating to its hogs during normal business hours at locations designated by buyer. Buyer will supply at seller's expense copies of such records as seller reasonably request.
- * Seller will maintain books and records to document and verify the performance of its obligations hereunder, and such books and records shall be in a format reasonably specified by Buyer. Such books and records shall include, but not be limited to, "Pig Champ" production records and such records as reasonably requested by buyer. In addition seller will maintain annual cash flow statements, annual balance sheets and its annual income tax return. Seller will allow buyer, during seller's regular business hours, to review and copy such books and records. Further, seller will provide buyer with an annual cash flow statement and an annual balance sheet, on or before June 1st of each year, and with a copy of its annual tax return, within 30 days after the filing of such return. In addition, seller shall provide to buyer, within 30 days of buyer's request, a cash flow statement and balance sheet. Such financial statements shall be current through the date of buyer's request. Seller warrants that all such books and records shall be accurate, true and correct. Seller shall maintain, at all times, its financial condition so that it meets or exceeds seller's financial condition as set forth in seller's application for this agreement.
- * Seller agrees to allow the common hog industry audit to be conducted by a third party auditor. Seller agrees to provide the third party auditor with access to the necessary records, documents, relevant information, buildings, facilities, caretakers, and animals to conduct the audit, provided that the third party auditor complies with seller's biosecurity requirements. The cost for the third party auditor to conduct the common hog industry audit shall be paid by buyer.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Records/Documentation

* This agreement shall not be construed as creating any joint venture, partnership, or any other such relationship or association between buyer and seller. This agreement has been entered into at arm's length between buyer and seller for the sole purpose set forth herein. Seller's sole relationship to buyer under the terms of this agreement shall be that of an independent contractor. Seller shall not be subject to the control or direction of buyer, including, but not limited to, the details and means by which the results of seller are to be accomplished, including any operational, financial, environmental or legal requirements associated therewith. Neither party hereto may represent that this agreement creates any partnership, agency relationship or representation of the other. Nothing contained herein shall authorize or permit either party to create or incur any liability or responsibility on the part of the other party for any debt, engagement, or default. Neither seller, its agents, employees nor subcontractors shall be deemed or considered for any purpose to be an employee or agent of buyer. Neither buyer, its agents, employees nor subcontractors shall be deemed or considered for any purpose to be an employee or agent of seller.

* The parties are independent contractors, with neither party in any way the legal representative or agent of the other party. Neither party has any right or authority to act for or bind the other party in any manner.

* Buyer and seller agree that the relationship between them is that of independent contractors. Nothing in this agreement shall constitute either seller or buyer as agent, representative, partner, joint venturer or employee of the other party. Neither seller nor buyer shall have, nor shall either represent itself as having, any right, power or authority to create any contract or obligations, either express or implied, on behalf of, in the name of, or binding upon the other party, or to pledge the other's credit or to extend credit in the other's name unless the other party shall provide advance written consent thereto.

* No change, modification or amendment of this agreement shall be valid or binding upon the parties hereto unless such change or modification shall be in writing and executed by both of the parties.

Business Practices- Review or Renewal

* You may cancel the agreement by mailing a written cancellation notice to us at the address set forth above by the later of (i) three business days following your receipt of the signed agreement or (ii) ten business days after the effective date of the signed agreement. The written notice of cancellation will be deemed mailed on the date of the postmark on the envelope.

* Except as specifically provided in this agreement, any amendment or modification of this agreement shall be in writing and signed by or on behalf of the parties hereto.

* Seller is bound by and must comply with all terms and conditions of the agreement, which is incorporated herein by reference. Seller is required to deliver the type and quality of hogs as required by the agreement, including without limitation the specific requirements and obligations contained in specified section of the agreement. Seller covenants and represents that it will perform all duties and obligations under the agreement with respect to seller's hogs.

* Seller agrees and understands that buyer's payment of the contract price as set forth in specified section is made in reliance upon seller's promise to perform under this agreement for the entire term of the agreement.

* Facilitator will remain liable to buyer for full performance of all obligations under this agreement, including delivery of the entire quantity of hogs called for under this agreement by facilitator's sellers.

* Buyer agrees and understands that seller's acceptance of the agreement price as set forth in specified section of this agreement is made in reliance on buyer's promise to perform under this agreement for the entire term of this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Business Practices- Review or Renewal

- * The parties hereby acknowledge and agree that they are obligated to and shall act in good faith in performing and enforcing the rights under this Agreement.
- * This agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this agreement.
- * This agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this agreement. Notwithstanding the foregoing or anything else in this agreement, the parties acknowledge and agree that buyer shall be an intended third-party beneficiary of all the rights and benefits of any agreement between facilitator and seller arising from or relating to facilitator's obligations under this agreement. Further, buyer shall have the right to enforce such agreements between seller and facilitator to the same extent as facilitator.
- * Seller acknowledges and agrees that buyer is an intended third party beneficiary of this addendum.
- * The rights of facilitator under this agreement, including the rights of indemnification and warranty, are for the benefit of buyer, and buyer will be deemed an intended third party beneficiary under this agreement, regardless of whether buyer has signed this agreement. Unless otherwise expressly stated in this agreement, with facilitator prior written consent, buyer may enforce the rights provided to it or facilitator under this agreement. The parties specifically agree that they intend that buyer be able to enforce its rights as to this agreement even if the agreement is terminated due to facilitator default of the agreement.
- * Risk of Loss Passes at Packer's Plant. The hogs supplied under this agreement will be sold F.O.B. destination, and title to hogs and risk of loss of hogs pass from Producer to Packer at Packer's plant as specified in Packer's Carcass Buying Program.

Facilities - Processing Facilities

- * Seller agrees to deliver and unload all hogs under this agreement to the designated facility. Buyer agrees to accept deliveries of hogs at the designated facility, subject to the terms and conditions of this agreement.
- * Hogs will be scheduled by seller to the buyer plant located closest to the hog finishing site where the specific loads originate (scheduled plant) no later than Wednesday 11:59 a.m. preceding the next delivery week. Delivery date and time will be mutually agreed upon between buyer and seller.
- * Seller agrees to make all deliveries of hogs under this agreement to the designated facility. Buyer to accept deliveries of hogs at the designated facility, subject to the terms and conditions of this agreement.
- * Seller shall make all deliveries to the slaughter facility requested by buyer and as provided in specified section of this agreement at any time as requested by buyer. Seller is obligated to deliver qualifying hogs in the amounts set forth below.

Swine Packer Marketing Contract Summary - National Other Provisions

Facilities - Processing Facilities

- * Seller agrees to make all deliveries of hogs under this agreement to the designated facility. Buyer agrees to accept deliveries of hogs at the designated facility, subject to the terms and conditions of this agreement. Buyer agrees to cooperate with seller in developing a schedule for the delivery by seller of hogs taking into account the processing capacities and requirements of the designated facility. Buyer and seller shall agree on a date and time for delivery of each lot that is not more than fourteen (14) days before the hogs will be slaughtered and not later than the Wednesday of the week before the hogs will be slaughtered. Seller agrees to use its best efforts to comply with such schedule. Seller shall use its best efforts to deliver each week approximately 1.92% of seller's annual quantity of hogs. Seller hereby acknowledges that buyer may adjust the delivery schedule of hogs to the designated facility or change the number of hogs to be delivered in any given week to accommodate downtime, decreased capacities, or Saturday operations at the designated facility.
- * Seller agrees to deliver the hogs to the delivery plant(s) designated: Specified locations. The parties may agree, from time to time, to change the quantities and delivery dates contained in this delivery schedule. In this event, seller and buyer will complete and sign a new delivery schedule and attach it to the original agreement.
- * Facilities shall mean the land, buildings, and equipment owned, leased, or contracted by seller in connection with the housing, care, and feeding of the hogs raised by seller.
- * In addition to the delivery requirements listed in this exhibit, buyer and seller agree to include the production from the specified production facility for a period of three years when it first becomes commercially available. Buyer and seller agree to revise this exhibit by executing an amendment as required by specified section of the agreement.
- * Seller will have, and will transfer to buyer, good and marketable title to the hogs, free and clear of all liens, claims and encumbrances.
- * Designated Facility shall mean and refer to buyer's hogs processing facility in specified location.

Swine Packer Marketing Contract Summary - National Other Provisions

Facilities - Production Facilities

* Seller will use its best commercially reasonable efforts to notify buyer of any production issues that would be likely to materially reduce seller's ability supply hogs to buyer under this agreement. If such a notice is provided and if seller reasonably determines that such issues would prevent seller from meeting the minimum delivery requirements set forth above, then seller may, with buyer's consent, which consent shall not be unreasonably withheld, purchase weanling or feeder pigs of substantially equivalent genetics to seller's own herds from third parties (third party pigs). In such event, seller shall provide buyer written notice of (a) when the third party pigs were purchased; (b) where, and in what facilities, the third party pigs were purchased; (c) the Production Facilities where the third party pigs are sourced; (d) the estimated marketing period dates of the third party pigs and (e) the positive identification of each third party pig sufficient to allow the buyer to track the replacement hogs throughout processing. Other than the fact such third party pig will not be farrowed at designated Production Facilities, and may be of substantially equivalent genetics, the third party pigs shall be hogs as defined by this agreement and shall be subject to all the other provisions and requirements related to hogs set forth in this agreement. In the event that seller has satisfied its hogs delivery requirement, seller may use third party pigs for excess hogs, provided seller does not exceed the maximum delivery numbers as specified in this agreement.

* All hogs or excess hogs delivered under this agreement shall be from the designated Production Facilities owned or operated by seller. In the event that hogs or excess hogs are delivered from designated Production Facilities not owned or operated by seller, then such facilities shall be subject to a written agreement with seller obligating that facility to substantially comply with the production management practices of those designated Production Facilities that are owned or operated by Seller. No material change shall be made in respect to the location, management practices, or operation of the designated Production Facilities without the prior written consent of Buyer, such consent not to be unreasonably withheld. All designated Production Facilities shall be materially consistent with all the production practices required by buyer. If necessary to meet the delivery requirements of specified section of this agreement, seller may, from time to time, add facilities to the list of designated Production Facilities ("additional designated Production Facilities"). Seller shall notify buyer on an annual basis of their desire to add any additional designated Production Facilities. At such time, buyer shall have the option to approve or deny the proposed additional designated Production Facilities, such approval not to be unreasonably withheld. Furthermore, seller shall promptly provide Buyer any information requested regarding the additional designated Production Facilities prior to such approval or denial. Upon approval, the additional designated Production Facilities shall be considered designated Production Facilities for the purposes of this agreement. Nothing in this article shall relieve or waive seller's obligation to deliver the specified number of hogs identified in specified section of this agreement.

* Seller agrees to the following: (1) To allow buyer to inspect seller's hogs and facilities during normal business hours on reasonable notice; (2) To demonstrate to buyer at all times the ability to produce hogs in the quantity and of the quality required during the term of this agreement; (3) To demonstrate seller's financial soundness to buyer at all times and provide evidence thereof to buyer upon request, including providing financial statements, production information, and written notice to buyer of any default by seller under any loan agreement with its lender(s), regardless of whether such default is declared by the lender(s).

Swine Packer Marketing Contract Summary - National Other Provisions

Facilities - Right to Inspect

* Seller will periodically allow buyer's employee(s) in the designated Production Facilities to observe the production of hogs, and to verify seller's performance of its obligations hereunder, so long as prior notice is given to seller and provided that such operations do not unnecessarily interfere with the operation of the designated Production Facilities. Buyer will periodically allow seller's employee(s) in buyer's plant(s) to facilitate and observe the handling and processing of the Market Hogs delivered under this agreement so long as prior notice is given to buyer and provided that such inspections do not interfere with the operations of such facilities.

* If buyer closes one or more locations, either temporarily or permanently, the following conditions shall apply; i) if buyer temporarily closes one (1) location, this agreement shall continue. During the period that one location is temporarily closed, seller shall deliver hogs to any open buyer location as directed by buyer. In such event, buyer shall reimburse seller for any incremental transportation costs between the original location and the new location. ii) If buyer temporarily closes all locations, the agreement shall continue. If all locations are closed for more than 3 consecutive business days, seller shall be entitled, after written notice to buyer, to market its hogs elsewhere until one location is reopened. If seller suffers seller losses as a result of such sale, buyer shall pay seller such seller losses. iii) If buyer permanently closes or sells one (1) location, buyer shall use its best efforts to provide seller with four (4) months advance notice of such sale or closure. Upon such notice, seller shall have the right to terminate this agreement, in whole or in part, by delivering written notice to buyer within sixty (60) days after receipt of notice from buyer regarding the closure or sale. A partial termination by seller shall be defined as the termination of the percentage of seller's production that was shipped to the closed or sold location during the twelve (12) months prior to the date of closure or sale. Buyer agrees to take all or part of seller's hogs that seller elects to sell to buyer pursuant to this paragraph. If buyer is unable to provide four (4) months notice of the sale or closure of one (1) location, buyer shall reimburse seller for incremental transportation costs between the original location and the buyer locations that remain for a time period that reflects the difference between four (4) months and the actual notice period given to seller. iv) if buyer permanently closes all locations, buyer shall use its best efforts to provide seller with four (4) months advance notice of such closure, and such notice shall also serve as notice for termination of the agreement on the closing date. If buyer is unable to provide four (4) months advance notice, buyer shall reimburse seller's incremental transportation costs between the original buyer location and the next closest market for seller for a time period that reflects the difference between four (4) months and the actual notice period give to seller. v). If buyer sells all locations, buyer shall use its best efforts to provide seller with four (4) months advance notice of such sale. In the event that the locations are all being sold by buyer, seller or buyer shall have the right to terminate this agreement upon sixty (60) days advance notice. vi). Beyond the reimbursements specifically identified in specified sections, seller shall not be entitled to any compensation or indemnification from buyer or its successors for losses or damages incurred by seller as a result of the temporary or permanent closure of one of the locations.

* If buyer closes or sells one or all of its locations, buyer shall have the right to terminate this agreement upon sixty (60) days' notice. In the event of the temporary or permanent closure of one location, buyer may request seller to deliver hogs to another buyer location. In such event, buyer shall reimburse seller for any incremental transportation costs between the original location and the new location. If closure is permanent, seller shall have the option of delivering under this agreement or terminating the agreement by delivering written notice to buyer within sixty (60) days of such permanent closure. In no event shall seller be entitled to any compensation or indemnification from buyer or its successors for losses or damages incurred by seller as a result of the temporary or permanent closure of one or all of the locations.

Swine Packer Marketing Contract Summary - National Other Provisions

Facilities - Sale of Facilities/Operation

* If buyer closes one or more of the plants, either temporarily or permanently, the following conditions shall apply: (a) Closure of a plant. In the event buyer temporarily or permanently closes one or more of the plants, this agreement shall continue without change. Buyer shall use its best efforts to provide seller with four (4) months advance notice of such closure. In the event of the temporary or permanent closure of one of the designated plants, buyer shall direct shipment of seller's hogs to other plants. (b) Sale of a plant. In the event buyer sells or otherwise transfers all of the plants, buyer agrees that this agreement shall be assigned to the transferee of the plants. In the event buyer sells or otherwise transfers one or more of the plants but not all of the designated plants, buyer agrees that this agreement shall be retained by buyer. In the event buyer sells or otherwise transfers all of the designated plants, this agreement shall be assigned to the transferee of the designated plants. In the event buyer sells or otherwise transfers one of the designated plants, this agreement shall be retained by buyer or, subject to the prior consent of seller, which consent shall not be unreasonably withheld, partially assigned to the transferee of a designated plant that is sold or otherwise transferred. (c) Delivery to other than a designated plant. In the event seller is directed to deliver hogs to a plant that is not a designated plant, buyer shall reimburse seller for any incremental transportation costs in the manner specified in specified subparagraph. (d) Damages. In addition to the obligation of buyer to reimburse seller for any incremental transportation costs in the manner specified in specified subparagraph, in the event buyer fails to perform its obligations under this agreement during the term, seller shall be entitled compensation or indemnification from buyer or its successors for losses or damages incurred by seller as a result of the breach of buyer's obligations under this agreement, subject to the limitations stated in specified paragraph.

* If buyer (which includes its subsidiaries or its parent company) sells or assigns its hog processing business, shall assign this agreement to the party that purchases or is the assignee of such hog processing business, with seller consenting to such assignment by its execution of this agreement.

* During the term of this agreement, seller shall not sell, abandon or otherwise dispose of any of the designated Production Facilities, except that seller may pledge or mortgage the designated Production Facilities to a bona fide third party lender.

* In the event seller sells or agrees to sell any of its facilities being used to produce or house hogs to be sold hereunder, or sells or agrees to sell a material part of its breeding stock, or agrees to terminate any contractual arrangement with a sow unit providing pigs to seller, seller shall notify buyer, in writing, as soon as it contemplates such sale or termination, but in no event less than thirty (30) days prior to the consummation of such sale, of the name, address and principals of the intended property buyer. In the event that buyer does not exercise its right to terminate this agreement pursuant to specified paragraph, seller shall require, if requested by buyer, that the buyer of such facilities assume, in writing, all of seller's obligations and duties under this agreement prior to consummation of such sale. The rights of buyer hereunder are in addition to, and not in lieu of, any other rights buyer may have, from time to time, hereunder, under any other agreement, at law and/or in equity.

* If buyer discontinues harvesting hogs at the delivery plant(s) designated in the delivery schedule, then buyer will at its option (1) terminate this agreement by written notice to seller, or (2) notify seller of the new designated delivery plant(s) to which seller must deliver contracted hogs. Buyer will pay seller for any additional freight costs incurred by such delivery pursuant to buyer's then current standard livestock freight schedule.

Swine Packer Marketing Contract Summary - National Other Provisions

Facilities - Sale of Facilities/Operation

* Seller shall disclose to buyer, upon demand, the identity of the owners of and interested parties in its facility or facilities and of its outstanding shares of corporate stock. In the event seller sells or agrees to sell (i) any of its facilities being used to produce or house hogs to be sold hereunder, (ii) a material part of its breeding stock or (iii) fifty (50) percent or more of its outstanding shares of corporate stock (whether in a single transaction or cumulatively during the term of this agreement), seller shall notify buyer in writing as soon as it contemplates such sale, but in no event less than thirty (30) days prior to the consummation of such sale, of the name, address and principals of the intended buyer and the terms of the proposed sale. Buyer shall have the right of first refusal to purchase the offering by seller. Seller may offer, if agreed in writing by buyer, that the buyer of such facilities, breeding stock or shares of corporate stock assume in writing all of seller's rights, obligations and duties under this Agreement. The rights of buyer hereunder are in addition to and not in lieu of any other rights buyer may have from time-to-time hereunder, under any other agreement, at law and/or in equity.

* During the term of this agreement, seller shall, within thirty (30) days of any change, provide buyer with written notice of any change in ownership or management of any of the designated Production Facilities.

* If buyer (which includes its subsidiaries or its parent company) exits the hog processing business it may terminate this agreement. Upon such termination any amounts in the deficiency account will be repaid by seller within 60 days, any amounts in the reserve account will be repaid by in 10 days, and there will be no further obligations by either party under this agreement. If decides to close the plant identified in specified section but not otherwise exit the hog processing business, then the parties shall negotiate in good faith an alternative plant or plants for delivery. If the parties are unable to agree on an alternative plant or plants for delivery, then seller may terminate this agreement with six months' notice. For deliveries occurring after the closure of the plant but within the six-month notice period, then seller shall deliver hogs to the plant identified by which shall be either of the two closest plants to the feeding location of the hogs delivered.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Arbitration Choice

- * Producer may, at any time before entering this agreement, decline to be bound by specified paragraph which requires that binding arbitration be the only method used to resolve disputes or controversies that arise under this agreement. Even if seller decides before entering this agreement not to be bound by specified paragraph, seller will still have the right to utilize binding arbitration to resolve disputes or controversies at a later time if the buyer and seller both consent in writing to use binding arbitration as the method to settle the dispute or controversy. Seller shall complete specified schedule to indicate seller's choice regarding whether seller will be bound by specified paragraph.
- * This agreement may not be assigned in whole or in part by seller without the prior written consent of buyer, provided, however, that such consent may not be unreasonably withheld. Buyer may assign all or a portion of its rights hereunder. Any assignment will not relieve the assignor from any of its obligations created hereunder; and any assignee shall become liable for all the terms and conditions of this agreement as if such party was signatory to the agreement.
- * Neither party hereto may assign all or any portion of this agreement without the prior written consent of the other party, which consent shall not unreasonably be withheld; provided, however, that buyer shall have the right to assign all or any portion of this agreement to any affiliate, in which event buyer shall remain liable for all obligations hereunder. This agreement, and every provision hereof, shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.
- * This agreement may be assigned by either party with prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.
- * Notwithstanding any other provision of this agreement, this agreement may be collaterally assigned to any lender of buyer without seller's approval or execution of any assignments or acknowledgments of such collateral assignments by seller; however, seller will execute and deliver any assignments or acknowledgments of such collateral assignments reasonably requested by buyer or any lender of buyer.
- * With respect to the production and purchase of hogs hereunder, each party agrees to perform under this agreement in material compliance with all applicable laws and regulations. Based on global presence, products must be produced in accordance with applicable anti-corruption standards, and seller further agrees that in the production and sale of hogs under this agreement, seller will not make any unlawful payments to government officials or make or receive any illegal bribe, illegal kickback or other similar illegal payments or gifts. If buyer has a reasonable basis to believe that seller has violated the foregoing, buyer shall have the right to request adequate and reasonable assurances of seller that ensure compliance with the terms of this provision.
- * The execution, delivery and performance of this agreement and the consummation of the transactions contemplated hereby will not (a) violate any provision of law, statute, rule or regulation; or (b) violate any judgment, order, writ or decree of any court applicable to seller.
- * The parties intend that this agreement comply with the provisions of the specified law. Buyer intends to submit this agreement for certification of compliance with the specified law. The parties determined to proceed with this agreement prior to obtaining such certification and seller agrees to such amendments of this agreement as may be reasonably requested by buyer in order to obtain such certification.
- * During the term of this agreement, buyer/seller shall comply in all respects with all laws (including, but not limited to, regulations, rules, codes and ordinances, whether existing or hereinafter created), whether federal, state, local or otherwise, applicable to buyer's/seller's duties under this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Arbitration Choice

* Seller shall dispose of all waste and dead animals promptly and in a manner consistent with accepted management practices and in compliance with all applicable local, county, state and federal laws and regulations.

General Contract Terms - Compliance with Applicable Laws

* This agreement shall in all respects be construed in accordance with and governed by the laws of the specified state. This agreement shall inure to the benefit of and be binding upon seller and buyer and their respective successors and permitted assigns.

* This agreement shall be construed in accordance with the laws of the state where the principal production by producer occurs, without reference to the conflict of laws principles of such state.

* This agreement shall be governed by the laws of the specified state without giving effect to those principles of conflicts of law which might otherwise require the application of the laws of another jurisdiction. The parties agree that the state and district courts of specified state shall have exclusive jurisdiction and venue to determine any disputes under this agreement.

* This agreement shall be governed and construed in accordance with the laws of the specified state without regard to conflict of laws principles.

* This agreement is entered into in the specified state. The validity, construction and effect of this agreement shall be governed, enforced and interpreted under the laws of this specified state applicable to agreements to be performed therein.

* During the term of this agreement, seller shall comply in all [material] respects with all laws (including, but not limited to, regulations, rules, codes and ordinances), whether federal, state, local or otherwise, applicable to the production of hogs, the construction, operation and maintenance of the designated Production Facilities, and the performance of seller's obligations hereunder, such laws to include, without limitation, those relating to protection of the environment, waste management, health or safety of persons, construction and site location of the designated Production Facilities, and livestock production.

* The execution, delivery and performance of this agreement and the consummation of the transactions contemplated hereby will not (a) violate any provision of law, statute, rule or regulation; or (b) violate any judgment, order, writ or decree of any court applicable to Seller.

* Seller is solely responsible for the operation and management of its hog production operation, including but not limited to proper animal care and handling. Seller is solely responsible for compliance of its hog production operation with all applicable federal, state and local laws and regulations, including criminal laws relating to mistreatment of animals. Examples include laws and regulations relating to permits to operate facilities, handling and disposal of manure, and disposal of dead hogs.

* This agreement has been executed and shall be performed in a state where the parties agree, and the parties hereto agree, notwithstanding the principles of conflicts of laws, that the internal laws of the said control the validity, interpretation, performance and enforcement of this agreement. The parties further agree that any action relating to this agreement shall be instituted and prosecuted in the courts of said state, and each party hereto hereby consents to the jurisdiction of said courts and waives any right or defense relating to such jurisdiction and venue.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Compliance with Applicable Laws

* Seller shall conduct and manage the operations of seller's facilities in a manner consistent with accepted environmental safety management practices and in compliance with all applicable local, county, state and federal laws and regulations.

* Buyer will not accept any hogs delivered to the designated facility by seller that are not born and raised exclusively in the United States. If any hogs are delivered to the designated facility by seller that are not born and raised in the United States, seller agrees that there will be deducted from the purchase amount an amount equal to any reductions in revenue and increases in costs, fees and expenses attributable to the processing of hogs not born or raised in the United States. Upon request by buyer, seller agrees to provide to buyer a signed affidavit verifying that all of seller's hogs delivered to the designated facility are born and raised in the United States.

General Contract Terms - Country of Origin

* Seller will maintain a verifiable record-keeping system that will permit the verification of the location of the birth of each hogs and the location(s) in which each hogs was raised. Seller will retain all such records for a period of two years or for such longer period as may be specified in regulations issued by the United States Department of Agriculture, and will make such records available to buyer upon request. Each hog's country of origin, within the meaning of the Farm Security and Rural Investment Act of 2002 (the "Act") will be the United States and any regulations adopted thereunder, and each hogs was born and raised (as defined in the Act) exclusively in the United States.

* The occurrence of any of the following, shall constitute a default hereunder by buyer, which shall give seller the rights set forth in specified paragraph: (i) the failure to pay any amounts owing by buyer to seller hereunder, and if, and only if, such failure to pay is not cured by buyer within one (1) business day following its receipt of written notice from seller of such failure to pay; (ii.) the failure of buyer to perform any term, condition, covenant, obligation or material provision to be performed, kept and/or observed under this agreement in the manner and within the times set forth hereunder and, except with respect to any default relating to payment, the expiration of thirty (30) days written notice and failure to cure such default during the same thirty- (30) day period; or (iii.) a Force Majeure Event which suspends performance by buyer under this Agreement for a consecutive period of more than one hundred twenty (120) days.

* For purposes of this agreement, a party is in "Default" if such party: (1) Breaches this agreement and such breach remains uncured specified number of days after receipt from the non-defaulting party of a written notice specifying the breach; (2) Manifests an intention not to perform any material obligation under this agreement (for example, delivering hogs or accepting hogs) or manifests an intention not to cure a material breach of this agreement; or (3) Becomes insolvent, suspends or discontinues business operations, makes an assignment for the benefit of creditors, commences voluntary or has commenced against them involuntary bankruptcy proceedings, or voluntarily appoints or involuntarily has appointed a receiver or trustee of all or any part of their property.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Country of Origin

* For purposes of this agreement, either party shall be deemed to be in default if a) a party defaults in the performance of a material obligation under this agreement and fails to cure such default within fourteen (14) days following receipt of written notification of such default from the other party, or such longer period as reasonable required to cure such default, but in no event more than thirty (30) days after receipt of the notice of default; or (b) a party is adjudged bankrupt, is insolvent, makes an assignment for the benefit of creditors, or takes other similar action. The notice of default shall include a description of the act or omission constituting the default (including identification of any applicable section(s) of the agreement), the date of the default, and the means by which the default should be remedied. In the event of a default by either party, the other party, in addition to its other rights and remedies under applicable law, may terminate this agreement by providing written notice to the defaulting party. Termination of this agreement shall not relieve any party of any liability arising prior to such termination or affect the continued operation or enforcement of any provision of this agreement which by its terms is to survive termination. Nothing herein shall prevent any party from seeking specific performance or damages for breach in respect of any right or obligation contained in this agreement. In no event shall a termination of this agreement relieve either party from paying the other party for any amounts due. The rights and remedies set forth in this subsection are non-exclusive and shall be in addition to any other rights or remedies that may otherwise be available at law or equity.

General Contract Terms - Default

* For the purposes of this agreement, either party shall be deemed to be in default if: (a) a party defaults in the performance of a material obligation under this agreement and fails to cure such default within thirty (30) days following receipt of written notification of such default from the other party, or such longer period as reasonable required to cure such default, but in no event more than sixty (60) days after receipt of the notice of default; or (b) a party is adjudged bankrupt, is insolvent, makes an assignment for the benefit of creditors, or takes other similar action. Notwithstanding any other provision herein, in no event may declare a violation of the average meat quality provisions of specified section and/or a violation of the average carcass characteristics of specified section to be an event of default. The notice of default shall include a description of the act or omission constituting the default (including identification of any applicable section(s) of the agreement), the date of the default, and the means by which the default should be remedied.

* For purposes of this agreement, either party shall be deemed to be in default if a) a party defaults in the performance of a material obligation under this agreement and fails to cure such default within fourteen (14) days following receipt of written notification of such default from the other party, or such longer period as reasonable required to cure such default, but in no event more than thirty (30) days after receipt of the notice of default; or (b) a party is adjudged bankrupt, is insolvent, makes an assignment for the benefit of creditors, or takes other similar action.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Default

* For the purposes of this agreement, either party shall be deemed to be in default if: (1) a party defaults in the performance of a material obligation under this agreement and fails to cure such default within fourteen (14) days following receipt of written notification of such default from the other party; or such longer period as reasonable required to cure such default, but in no event more than thirty (30) days after receipt of the written notice; or (2) a party is adjudged bankrupt, is insolvent, makes an assignment for the benefit of creditors, or takes other similar action. In the event of a default by either party, the other party, in addition to its other rights and remedies under applicable law, may terminate this Agreement by providing written notice to the defaulting party. Termination of this agreement shall not relieve any party of any liability accrued for, nor effect the continued operation or enforcement of any provision of this agreement which by its terms is to survive termination. Nothing herein shall prevent any party from seeking specific performance or damages for breach in respect of any right or obligation contained in this agreement. In no event shall a termination of this agreement relieve either party from paying the other party for any amounts due. The rights and remedies set forth in this subsection are non-exclusive and shall be in addition to any other rights or remedies that may otherwise be available at law or equity.

* The occurrence of any of the following shall constitute a default hereunder by seller, which shall give buyer the rights set forth in specified paragraph: (i) the failure to pay any amounts owing by seller to buyer hereunder, and if, and only if, such failure to pay is not cured by seller within one (1) business day following seller's receipt of written notice from buyer of such failure to pay; (ii) the failure of seller to perform any term, covenant, condition, obligation or material provision to be performed, kept and/or observed under this agreement in the manner and within the times set forth hereunder and, except with respect to any default relating to a payment obligation due from seller to buyer or any obligation of seller under the Nutrition Standards or Antibiotic Withdrawal Program, the expiration of thirty (30) days written notice and failure to cure such default during the same thirty- (30) day period; or (iii) a Force Majeure Event which suspends performance by seller under this agreement for a consecutive period of more than one hundred twenty (120) days.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Default

* The occurrence of any of the following shall constitute a default hereunder by seller, which shall give buyer the rights set forth in paragraph 11 below: (i) the failure to pay any amounts owing by seller to buyer hereunder, and if, and only if, such failure to pay is not cured by seller within one (1) business day following seller's receipt of written notice from buyer of such failure to pay; (ii) any representation or warranty made herein by seller proves to have been materially false or misleading; (iii) the failure of seller to perform any term, covenant, condition, obligation or material provision to be performed, kept and/or observed under this agreement in the manner and within the times set forth hereunder and, except with respect to any default relating to a payment obligation due from seller to buyer or any obligation of seller under the Nutrition Standards or Antibiotic Withdrawal Program, the expiration of thirty (30) days written notice and failure to cure such default during the same thirty (30) day period; (iv) a Force Majeure Event which suspends performance by seller under this agreement for a consecutive period of more than one hundred twenty (120) days; (v) actual or attempted foreclosure, levy, seizure, attachment or deed in lieu of foreclosure of any of seller's facilities or herd; (vi) actual or attempted levy, seizure or attachment of any hogs arising out of or resulting from an action or claim against seller; (vii) in the event of a transfer of all or substantially all of seller's assets in fraud of creditors, or generally failing to pay its debts as such debts become due, or admitting in writing its inability to pay debts generally or a general assignment for the benefit of creditors; or if any proceeding shall be instituted by or against seller seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of debt under any law relating to bankruptcy, insolvency, reorganization or relief which proceeding, if filed against seller, remains pending and is not otherwise dismissed or terminated within sixty (60) calendar days from its commencement; or if seller shall suffer the appointment of a receiver, trustee or other similar official or for any substantial part of seller's property, which appointment is not terminated or discharged within sixty (60) calendar days; or (viii.) the hogs fail to meet the Annual Lean Requirement in any rolling 12 month period, pursuant to specified paragraph.

* The occurrence of any one or more of the following shall constitute an event of default by seller under this agreement: a. A breach by seller of any term, provision, obligation, covenant, representation or warranty under this agreement or failure to pay or make payment when due of any obligation owed under this agreement or by seller under any other agreement or arrangement between seller or buyer, or any of buyer's affiliates, as hereinafter defined. The term affiliates' shall mean buyer, any subsidiary of buyer and all entities controlling, controlled by or under common control with any of the foregoing or any of their subsidiaries or principals; b. Seller commences any bankruptcy, whether voluntary or involuntary, reorganization, debt arrangement, or other case or proceeding under the United States Bankruptcy code or any similar foreign, federal, state or local statute, or any dissolution or liquidation proceeding, or makes a general assignment for the benefit of creditors, or takes any action for the purpose of effecting any of the foregoing; or the appointment or the filing of a petition seeking the appointment of a custodian, receiver, trustee or liquidator for seller or any of its property or the taking of possession of any part of the property of purchaser at the instance of any governmental authority; c. Seller is or becomes unable to pay any of its debts and/or operating expenses as they mature or become due, has become insolvent, or has suspended transaction of its usual business; d. The dissolution, merger, consolidation reorganization, change in control or majority ownership, or sale of material assets of seller; or e. The occurrence of an adverse change in the financial condition of seller, or the occurrence of any event, which in the sole opinion of buyer, impairs the financial responsibility of seller, including, without limitation, a change in the management or ownership of seller.

* Should buyer fail to make payments for a period of seven (7) days, seller may suspend deliveries of hogs hereunder, but the exercise of such right shall be in addition to any and all other remedies to seller.

Swine Packer Marketing Contract Summary - National

Other Provisions

General Contract Terms - Default

* As set forth in specified section, seller shall not be relieved of its obligation to deliver and sell hogs to buyer, in the quantity set forth above, for any reason that does not constitute a Force Majeure Event. If any event occurs, which may possibly affect seller's obligation to deliver and sell hogs in the quantity set forth above and which is not a Force Majeure Event, then seller shall give buyer prompt written notice describing such event and seller's plan to remedy such event. In addition, any failure of seller to deliver and sell hogs to buyer, in the fiscal year quantity set forth above, shall be a material default under this agreement.

* The occurrence of any of the following, shall constitute a default hereunder by buyer, which shall give seller the rights set forth in specified paragraph: (i) the failure to pay any amounts owing by buyer to seller hereunder, and if, and only if, such failure to pay is not cured by buyer within one (1) business day following its receipt of written notice from seller of such failure to pay; (ii) any representation or warranty made herein by buyer proves to have been materially false or misleading; (iii) the failure of buyer to perform any term, condition, covenant, obligation or material provision to be performed, kept and/or observed under this agreement in the manner and within the times set forth hereunder and, except with respect to any default relating to payment, the expiration of thirty (30) days written notice and failure to cure such default during the same thirty (30) day period; or (iv) a Force Majeure Event which suspends performance by buyer under this agreement for a consecutive period of more than one hundred twenty (120) days. (v) in the event of a transfer of all or substantially all of buyer's assets in fraud of creditors, or generally failing to pay its debts as such debts become due, or admitting in writing its inability to pay debts generally or a general assignment for the benefit of creditors; or if any proceeding shall be instituted by or against buyer seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of debt under any law relating to bankruptcy, insolvency, reorganization or relief which proceeding, if filed against buyer, remains pending and is not otherwise dismissed or terminated within sixty (60) calendar days from its commencement; or if buyer shall suffer the appointment of a receiver, trustee or other similar official or for any substantial part of buyer's property, which appointment is not terminated or discharged within sixty (60) calendar days.

* If a dispute arises from or relates to this contract or the breach thereof (other than a dispute concerning specified section) and if the dispute cannot be settled through direct discussions the parties agree to endeavor first to settle the dispute in an amicable manner by mediation with the mediator, mediation date and location, as the parties may agree. All fees and expenses of any mediation proceedings shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence. Thereafter, any unresolved controversy or claim arising from or relating to this agreement or breach thereof shall be resolved by appropriate litigation.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Dispute Resolution

* Upon the request of either party for arbitration pursuant to specified paragraph, the dispute shall be referred to an arbitration committee whose decision shall be binding on all of the parties hereto without further action or recourse. The arbitration committee shall be comprised of three persons. Buyer and seller each shall name one person to serve on the arbitration committee, and the two persons so chosen shall choose a third person. The decision of two members of the arbitration committee shall be the decision of the arbitration committee. In the event that the members of the arbitration committee are not chosen within thirty (30) days from the date a party hereto gives notice of a request for arbitration, either buyer or Grower thereafter shall have the right to apply to an appropriate court for the appointment by the court pursuant to specified statutes of specified state to the arbitration committee of three qualified and disinterested arbitrators. To assist the arbitration committee in its function as arbitrator, the committee may employ an attorney, certified public accountant, and any other person(s) to be of assistance in the arbitration of any matter before the committee. Buyer and seller each shall be responsible for compensating the arbitrator chosen by it with the other expenses of the arbitration committee, including those of the third arbitrator and the persons employed to be of assistance to the committee, to be borne by Buyer and/or seller in such proportion as shall be determined by the arbitration committee. Except as is herein otherwise provided, the provisions of specified statute of specified state shall apply in arbitration proceedings.

* The forum for resolving any dispute among the parties that arises out of this agreement shall be located in the Federal judicial district in which the principal part of the performance takes place under this agreement. The parties agree to apply the laws of the specified state, except to the extent that doing so is prohibited by the law of the specified state in which the principal part of the performance takes place under the agreement.

* The parties waive any right to a jury in any action or proceeding to enforce or defend any rights under this agreement, or under any related document or agreement, and agree that any such action or proceeding shall be tried before a court and not before a jury.

* Seller hereby consents, and waives any objection, to jurisdiction and venue in federal and state courts in specified state in any action by buyer to enforce this agreement or an arbitration decision related to this agreement.

* The parties will use good faith efforts to resolve disputes, claims or controversies that arise out of or are in connection with, this agreement. If the parties cannot resolve any dispute, claim, controversy or other matter relating in any way to the interpretation or enforcement of this agreement, the sole remedy of the parties will be to submit the dispute or controversy to binding arbitration. If a party wishes to submit a matter to binding arbitration they must notify the other party by written notice. The written notice shall specify the issues the notifying party is submitting to binding arbitration. Within 10 days of the delivery of the notice of arbitration, each party will appoint an arbitrator from the American Arbitration Association's National Roster of Arbitrators and Mediators. The two arbitrators appointed by the parties shall select and appoint a third arbitrator from the American Arbitration Association's National Roster of Arbitrators and Mediators within 20 days of the delivery the notice of arbitration. Within 45 days of the appointment of the arbitrator, an arbitration hearing will be heard in specified location. The arbitration rules of the American Arbitration Association will be applied, the laws of the specified state shall be applied as necessary, and the rules of evidence of the specified state shall govern the presentation evidence therein. The arbitration hearing shall be concluded within five days of its commencement unless otherwise ordered by the arbitrators. The arbitrators shall render a decision within 14 days after the close of the submission of evidence. An award rendered by a majority of the arbitrators shall be final and binding on the parties, and a judgment on such award may be entered by either party in a state or federal court having jurisdiction

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Dispute Resolution

* The parties agree to the use of mediation to attempt to resolve any dispute between the parties arising out of or relating to this agreement. The mediator will have no authority to impose a settlement of any such dispute. Mediation will be conducted pursuant to the specified authority.

* Claims, disputes or other matters in question between the parties to this agreement arising out of or relating to this agreement or breach thereof and not resolved through the foregoing mediation process shall be subject to and decided by arbitration in accordance with the rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise. Demand for arbitration shall be filed in writing with the other party to this agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim; dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations. Any arbitration arising out of or relating to this agreement shall include, by consolidation or joining of any additional person or entity not a party to this agreement who is substantially involved in a common question of fact or law, and whose presence is required if complete relief is to be afforded in the arbitration. The foregoing agreement to arbitrate shall be specifically enforceable in accordance with specified state law in the courts of the specified state in and for the specified count, unless another location is mutually agreed upon.

* Any disputes under this agreement that are not resolved shall be resolved in a nonjury legal proceeding brought in a court of competent jurisdiction located in the federal judicial district in which the principle part of the performance takes place under this agreement. All parties to this agreement expressly waive any right to a trial by jury.

* Notwithstanding anything to the contrary in this agreement, any dispute arising under this agreement shall be resolved in the federal judicial district where the principal part of performance of this agreement takes place.

* Seller and buyer shall use their best efforts to settle any dispute, claim, question or disagreement arising out of or relating to this agreement or any alleged breach of this agreement. The parties agree in the event of a dispute or controversy arising out of or in connection with the meaning, application or performance of a term hereof, the parties shall meet and negotiate in good faith to resolve such dispute or controversy with such negotiations continuing until a party in good faith withdraws from the same. If a dispute is not resolved under this Article within a period of thirty (30) days, then neither party shall have any further obligation under this article with respect to such dispute.

* The parties will use good faith efforts to resolve disputes, claims or controversies that arise out of, or are in connection with, this agreement. In the event that a dispute, claim or controversy that relates to, arises out of, or in connection with, this agreement, or the parties' relationship pursuant to this agreement, cannot be resolved by agreement between seller and buyer. The parties may seek relief in a suit at common law subject to the provisions of this agreement. For purposes of disputes arising under this agreement, the forum for resolving any such dispute, claim or controversy shall be located in the federal judicial district in which the principal part of the performance of the agreement takes place. Notwithstanding the above, if the laws of the state in which seller is located require certain disputes, claims, or controversies to be submitted to mediation and/or arbitration, the seller will have the option to resolve the dispute, claim or controversy through a mediation and/or arbitration process in compliance with the laws of such state. Seller and buyer each expressly waive any and all claims to special, punitive, exemplary and consequential damages in relation to any claim arising out of this agreement

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Dispute Resolution

- * Except as provided herein, any dispute, controversy, or claim arising out of or relating to this agreement, or the breach thereof, shall be settled by arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Any award made by the arbitration panel shall be binding on the parties and judgment thereon may be entered in any court having jurisdiction over the non-prevailing party or parties. The costs of the arbitration shall be borne equally by the parties, provided that each party shall pay for and bear the costs of its own experts, evidence, and legal counsel unless otherwise agreed in writing.
- * Seller and buyer shall use [their best/commercially reasonable] efforts to settle any dispute, claim, question or disagreement arising out of or relating to this agreement or any alleged breach of this agreement. This agreement and the legal relations among the parties hereto shall be governed by and construed in accordance with the laws of the specified state (without regard to specified state's choice of law rules). Any and all actions arising between the parties in respect of this agreement shall be brought in the specified state. The parties submit to the jurisdiction of, and do hereby agree to voluntarily appear in such courts.
- * The decision of the arbitrator(s) in all disputes which are subject to this sub-article shall be final and binding upon the parties; provided, however, that upon the application of either party, an award of the arbitrators may be vacated in accordance with the specified provisions of specified Arbitration Act or because the award of the arbitrators does not comply with the terms and conditions of this agreement interpreted in accordance with specified law. Jurisdiction and venue for any such appeal arising in connection with this agreement shall be solely with the courts of the specified state and county. Buyer and seller hereby submit themselves to the exclusive jurisdiction of said courts, specifically waive their right to sue in any other court which might otherwise have jurisdiction and agree to accept service of any court process, order or other document by certified mail in lieu of personal service.
- * Seller and buyer each expressly waive any and all claims to special, punitive, exemplary and consequential damages in relation to any claim arising out of this agreement.
- * In the event of any dispute between the parties hereto with respect to this agreement, which is arbitrated, the prevailing party shall be entitled to reimbursement from the other party for its costs in conjunction with such arbitration or enforcement of the panel's decision, including reasonable attorney's fees and reasonable costs of arbitration (including, without limitation expert witness fees, mileage, witness fees and copying costs), which fees and costs shall also be determined by the arbitrators in the arbitration process specified in section.
- * No action, regardless of form, arising out of this agreement may be brought by any party more than one (1) year after the cause of action has accrued.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Dispute Resolution

* This agreement is being delivered and is intended to be performed in the specified state and shall be enforced and construed according to the laws of that state. Jurisdiction and venue for any disputes arising in connection with this agreement shall lie solely with the courts of the specified state in and for the specified county. Buyer and seller hereby submit themselves to the exclusive jurisdiction of said courts, specifically waive their right to sue in any other court which might otherwise have jurisdiction, and agree to accept service of any court process, order or other document by certified mail in lieu of personal service. In the event of any litigation or legal action arising out of this agreement, the prevailing party will be entitled to recover its legal fees and costs from the non-prevailing party. Notwithstanding any contrary provisions of subsection (a) hereof the buyer and seller acknowledge and agree that, if the principal part of the seller's performance under this agreement takes place in a state other than specified state, and under the laws of the specified state the application of state law to the agreement is prohibited, then this agreement shall be enforced and construed according to the laws of the specified state. Seller and buyer also agree, notwithstanding anything to the contrary in this agreement, that any dispute arising under this agreement shall be resolved in the federal judicial district where the principal part of performance of this agreement takes place.

* This agreement shall be construed in accordance with the laws of the state where the principal production by seller occurs, without reference to the conflict of laws principles of such state.

* Any disputes under this agreement that are not resolved shall be resolved in a nonjury legal proceeding brought in a court of competent jurisdiction located in the federal judicial district in which the principle part of the performance takes place under this agreement. All parties to this agreement expressly waive any right to a trial by jury.

General Contract Terms - Jurisdiction

* Notwithstanding anything to the contrary in this agreement, any dispute arising under this agreement shall be resolved in the federal judicial district where the principal part of performance of this agreement takes place.

* Any legal suit, action or proceeding arising out of or based upon this agreement or the transactions contemplated hereby may be instituted in federal or state court in the federal judicial district in which the principal part of the performance takes place under the agreement, and each party irrevocably submits tot the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or any proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action or proceeding brought in any such has been brought in an inconvenient forum.

* All judicial proceedings and actions arising out of or relating to this agreement shall be located in the federal judicial district in which the principal part of the performance takes place under this agreement.

* Any disputes under this agreement other than disputes under specified paragraphs above that are not resolved shall be resolved in a nonjury legal proceeding brought in the federal judicial district in which the principle part of the performance takes place under this agreement. All parties to this agreement expressly waive any right to a trial by jury. Seller and buyer hereby consent, and waive any objection, to an arbitration decision pursuant to specified paragraph.

* This agreement and the rights of the parties hereunder will be governed by and interpreted in accordance with the laws of the specified state without regard to conflict of laws principles.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Jurisdiction

- * All judicial proceedings and actions arising out of or relating to this agreement will be located in the federal judicial district in which the principal part of the performance takes place under this agreement.
- * With respect to the production and purchase of hogs hereunder, each party agrees to perform under this agreement in material compliance with all applicable laws and regulations. Based on buyer's global presence, buyer's products must be produced in accordance with applicable anti-corruption standards, and seller further agrees that in the production and sale of hogs under this agreement, seller will not make any unlawful payments to government officials or make or receive any illegal bribe, illegal kickback or other similar illegal payments or gifts. If buyer has a reasonable basis to believe that seller has violated the foregoing, buyer shall have the right to request adequate and reasonable assurances of seller that ensure compliance with the terms of this provision.
- * This agreement is being delivered and is intended to be performed in the specified state and shall be enforced and construed according to the laws of that state. Jurisdiction and venue for any disputes arising in connection with this agreement shall be solely with the courts of the specified state in and for the specified county. Seller and buyer hereby submit themselves to the exclusive jurisdiction of said courts, specifically waive their right to sue in any other court which might otherwise have jurisdiction and agree to accept service of any court process, order or other document by certified mail in lieu of personal service.
- * This agreement shall be governed and construed by the provisions hereof and in accordance with the laws of the specified state applicable to the agreements to be performed in the specified state.
- * Buyer and seller shall comply with the regulations of the Packers and Stockyard Act, 1921 as amended (7 U.S.C. §§ 181 et seq.) and the regulations of the Packers and Stockyards Act as contained in the Code of Federal Regulations, Title 9, Chapter II and any amendments or supplements thereto.
- * This agreement shall be governed by and construed in accordance with the law of the [specified state / state where the principal production by seller occurs] without regard to the conflict of laws principals.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Laws and Regulations

* If either party believes that any provision(s) of this agreement potentially violates applicable law (including any federal, state or local statute or regulation, any amendment thereof, or any interpretation of applicable law by a court of competent jurisdiction), and that the potential violation(s) exposes that party to a risk of significant damage claims or fines, then that party may give written notice thereof to the other party. If the party giving such notice is made a defendant in any civil or criminal action that alleges performance of this agreement violates any law, then that party may for the next 30 days, at its option, either (1) suspend performance of this agreement, or (2) modify those provisions of this agreement relating to the alleged violations of law, to the extent that modifications are reasonably believed necessary to remedy the alleged violations of law. Within 30 days after the notice is given, the parties will negotiate in good faith to amend this agreement in order to bring it in compliance with applicable law. If the parties are unable to negotiate a satisfactory amendment within that 30 day period, then the party giving such notice will be entitled to (i) suspend performance of this agreement for the duration of any continued negotiations by the parties or pending completion of any civil or criminal action relating to this agreement, and/or (ii) terminate this agreement by written notice after either the end of the 30 day period, the termination of negotiations by the parties, or the completion of any civil or criminal action relating to this agreement.

* This agreement shall be governed by, and construed and enforced in accordance with, the laws of the specified state without regard to the conflict of laws and rules of the specified state or any other jurisdiction that would call for the application of the laws of any jurisdiction other than the specified state. Each party hereto hereby irrevocably consents, for itself and its legal representatives, partners, successors and assigns, to the exclusive jurisdiction of the courts of the specified state for all purposes in connection with any action or proceeding that arises from or relates to this agreement, and further agrees that any action arising from or relating to this agreement shall be instituted and prosecuted only in the courts of the specified state, and hereby waives any rights it may have to personal service of summons, complaint, or other process in connection therewith, and agrees that service may be made by registered or certified mail addressed to such party and sent in accordance with the provisions of specified paragraph.

* All judicial proceedings and actions arising out of or relating to this agreement shall be venued in the federal courts of the specified state, except that if federal jurisdiction is not legally applicable to the dispute, then the judicial proceedings or actions shall be venued in the state courts of specified counties. The parties consent to the personal jurisdiction of said courts and waive any argument that such forums are not convenient.

* This agreement, the relationship of the parties, and all of their respective rights and obligations shall be construed and interpreted in accordance with the laws of the specified state, without giving effect to the principles of conflict of laws thereof.

* The parties intend that this agreement comply with the provisions of the specified state agricultural contracts law. Buyer intends to submit this agreement for certification of compliance with the law. The parties determined to proceed with this agreement prior to obtaining such certification and seller agrees to such amendments of this agreement as may be reasonably requested by buyer in order to obtain such certification.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Laws and Regulations

* In addition, seller shall not (i) use any funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to any political activity or to influence official action; (ii) make any direct or indirect unlawful payment to any foreign or domestic government official or employee (whether full-time or contract); (iii) make or receive any bribe, payoff, influence payment, kickback or other improper payment; or (iv) make any other similar type payments or gifts or give anything of value to any government official or employee that could be deemed a bribe or unlawful. If buyer has a reasonable basis to believe that seller has violated the foregoing, buyer shall have the right to request and audit all records of seller to ensure compliance with the terms of this provision.

* The laws of the specified state shall be applied except to the extent that application of such laws is prohibited by the laws of the state in which the principal part of the performance takes place under this agreement. The provisions of this agreement are to be deemed severable, and the invalidity or unenforceability of any provision shall not affect or impair the remaining provisions which shall continue in full force and effect.

* This agreement shall in all respects be construed in accordance with and governed by the laws of the specified state. This agreement shall inure to the benefit of and be binding upon seller and buyer and their respective successors and permitted assigns.

* Unless prohibited by federal law or the law of the state in which the principal part of performance of this agreement takes place, this agreement, and any dispute arising from or related in any way to this agreement, shall be subject to and interpreted in accordance with the substantive laws of the specified state without reference to specified state rules or laws regarding conflicts of laws. Each party irrevocably agrees that any legal action, suit or proceeding brought by it in any way arising out of this agreement must be brought solely and exclusively in, and will be subject to the service of process and other applicable procedural rules of, the state or federal courts located in the specified district of specified state, and each party irrevocably submits to the sole and exclusive personal jurisdiction of the state and federal courts located in the specified district of specified state, generally and unconditionally, with respect to any action, suit or proceeding brought by it or against it by the other party. Notwithstanding the foregoing, claims for equitable relief may be brought in any court with proper jurisdiction within the United States.

* This agreement and the rights of the parties hereunder will be governed by and interpreted in accordance with the laws of the specified state without regard to conflict of laws principles, except to the extent that doing so is prohibited by the law of the state in which the principal part of the performance takes place under this agreement, in which case this agreement and the rights of the parties hereunder will be governed by the state in which the principal part of the performance takes place under this agreement.

* The parties waive any right to a trial by jury in any action or proceeding to enforce or defend any rights under this agreement, or under any related document or agreement, and agree that any such action or proceeding will be tried before a court and not before a jury.

* The execution, delivery and performance of this agreement and the consummation of the transactions contemplated hereby will not (a) violate any provision of law, statute, rule or regulation; or (b) violate any judgment, order, writ or decree of any court applicable to seller.

* USDA shall mean the United States Department of Agriculture.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Laws and Regulations

- * The language in all parts of this contract shall in all cases be construed as a whole according to its fair meaning, neither for nor against any party hereto, and without implying a presumption that the terms thereof shall be strict construed against one party by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agent prepared the same, it being agreed that representatives of both parties have participated in the preparation hereof.
- * Producer or Producers means the Individual livestock producers contracted with facilitator to deliver hogs pursuant to this agreement as set forth on specified exhibit. All producers are subject to the prior approval of buyer as suppliers.
- * This agreement may be executed in any number of counterparts, each of which will be an original but all of which constitute one instrument. Even if buyer does not execute this agreement, it will be enforceable between facilitator and seller.
- * This agreement is to be deemed to have been prepared jointly by the parties hereto and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against either party, but shall be interpreted according to the application of the rules of interpretation for arms length agreements.
- * The headings used in this agreement are for convenience only and shall not constitute a part of this agreement.

General Contract Terms - Misc. Definitions

- * FDA shall mean the U.S. Food and Drug Administration.
- * Affiliate means, with respect to any specified person, any person that directly or indirectly controls, is controlled by, or is under common control with such specified person.
- * This agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but the several counterparts shall constitute but one and the same agreement.
- * Person means any individual, corporation, limited liability company, limited or general partnership, trust, estate, unincorporated association, governmental entity or any other organization or entity.
- * Term shall mean and refer to the time period set forth in specified paragraph of this agreement.
- * All of the exhibits attached to this agreement are incorporated herein and made a part of this agreement.
- * Where the context requires, words in the singular include the plural, and words in the plural include the singular.
- * The headings used in this agreement are intended for reference purposes only and do not in any manner affect the meaning of this agreement.
- * The headings of the paragraphs and subparagraphs of this agreement are inserted for convenience of reference only and shall not be considered a part hereof.
- * Titles or captions of paragraphs contained in this agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this agreement or the intent of any provision hereof.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Misc. Definitions

- * Affiliate shall refer to (i) any person or entity directly or indirectly controlling, controlled by or under common control with a party to this agreement, (ii) any person or entity owning or controlling (legally or beneficially) 10% or more of the outstanding securities of a party to this agreement, (iii) any entity in which 10% or more of its outstanding securities are owned (legally or beneficially) by a party to this agreement, (iv) any person related by blood or marriage to any owner (legally or beneficially) of 10% or more of the outstanding securities in a party to this agreement and any entity in which 10% or more of its outstanding securities are owned by or for the benefit of any such related person, (v) any officer, director or partner of a person or entity defined herein as an Affiliate, (vi) specified persons or entities and (vii) if any person defined herein as an Affiliate is an officer, director or partner, any entity for which such person acts in any such capacity.
- * AMDUCA shall mean the Animal Medicinal Drug Usage Clarification Act of 1994, as amended, which regulates extra-label drug use in food producing animals.
- * This addendum will be interpreted and construed as though it is a part of the agreement. The terms and conditions of the agreement are hereby incorporated by this reference and govern this addendum and the parties.
- * Each and every provision of this agreement has been mutually negotiated, prepared and drafted; and, in connection with the construction of any provision hereof, no consideration shall be given to the issue of which party actually prepared, drafted, requested or negotiated any provision of this agreement or its deletion.
- * Each provision of this agreement has been mutually negotiated, prepared and drafted, and in connection with the construction of any provision hereof, no consideration shall be given to the issue of which party actually prepared, drafted, requested or negotiated any provision of this agreement or its deletion. The headings of the paragraphs and subparagraphs of this agreement are inserted for convenience of reference only and shall not be considered a part hereof. All schedules attached hereto are incorporated herein by reference and hereby made a part of this agreement.
- * The language in all parts of this agreement shall in all cases be construed as a whole according to its fair meaning, strictly neither for nor against any party hereto, and without implying a presumption that the terms thereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agent prepared the same, it being agreed that representatives of both parties have participated in the preparation hereof.
- * The language of this agreement shall not be construed for nor against any party hereto regardless of which party drafted this agreement.
- * The exhibits referred to herein and attached hereto shall be incorporated into this agreement as if they were set forth in full in the body of this agreement.
- * This agreement may be executed in multiple counterparts each of which shall be deemed an original but all of which together shall constitute but one and the same instrument. Facsimile and electronic signatures shall constitute original signatures for all purposes of this agreement.
- * This agreement may be executed in one or more counterparts, all of which taken shall be construed as one document.
- * Control (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person through the ownership of more than 50% of the voting securities or equity of an entity.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Misc. Definitions

- * Agreement means this agreement, as the same may be modified, supplemented or otherwise amended in writing.
- * The headings in this agreement are for convenience only, and shall not be considered a part of or used in the interpretation of this agreement.
- * The headings in this agreement are for the purposes of convenience and ready reference only and shall not be deemed to expand or limit the particular sections to which they pertain.
- * All attachments attached hereto are incorporated herein by reference and hereby made a part of this agreement.
- * Capitalized terms used in this agreement shall have the meanings as defined and set forth on specified exhibit attached hereto.
- * This agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.
- * This agreement may be executed in any number of counterparts, all which shall constitute one and the same instrument, and any party hereto may execute this agreement by signing one or more counterparts.
- * This agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one agreement that is binding upon both of the parties hereto, notwithstanding that both parties are not signatories to the same counterpart.
- * The headings used in this amendment are for convenience of reference only and shall not be deemed to define, limit or interpret the provisions or scope of the agreement.
- * This amendment may be executed in counterparts, and each counterpart taken together shall be deemed to constitute one and the same document. Electronic or facsimile copies shall be deemed to be originals for purposes of evidencing a party's execution hereof.
- * The parties hereto acknowledge and agree that each week, after the seller has sold buyer the minimum quantity of hogs as further identified on specified schedule, that seller at its sole discretion may enter into a similar arrangement with any other party including buyer during the term of this agreement to sell hogs farrowed to seller's sows in excess of the quantities provided in specified schedule.

General Contract Terms - Other Agreements Between Parties

- * The provisions contained herein, and in any addendum hereto executed by the parties hereto, constitute all of the terms and conditions of this agreement and supersede any and all prior agreements and understandings, written or oral. No changes or additions hereto shall be binding upon either party unless in writing and signed by an authorized representative of each party.
- * This agreement contains the entire agreement between the parties and there are no oral promises, agreements, warranties, obligations, assurances, or conditions, expressed or implied, precedent or otherwise, affecting it.
- * This agreement will supersede and replace the previous agreement dated specified date. The parties intend that the previous agreement and all amendments will continue only through midnight specified date and will forever terminate as of that date and time. The parties have resolved the notice of termination dated specified date delivered to seller by entering this agreement, which shall be effective as of specified date.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Other Agreements Between Parties

- * Seller acknowledges that facilitator may not have yet executed and entered into the final agreement. Seller acknowledges that if facilitator and buyer do not enter into the agreement, this seller contract is null and void. Seller will have no further claims against facilitator or buyer if the agreement is not entered into as contemplated herein.
- * This agreement (including the documents, exhibits and instruments referred to herein and hereby incorporated by reference) constitutes the entire agreement between the parties with respect to the subject matter of this agreement. This agreement supersedes any prior or contemporaneous oral or written agreement between the parties relating to the hog production operation supplying hogs under this agreement. This agreement may be amended or supplemented only in writing by the parties, and not by any course of dealing or prior performance.
- * This agreement shall constitute the entire agreement and understanding between the parties hereto with regard to the subject of this agreement, and there are no other agreements or understandings, oral or written, between the parties hereto with respect to this agreement. This agreement may be amended or modified by a writing executed by buyer and seller, or by any person authorized to act on their respective behalves. This agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but the several counterparts shall constitute but one and the same agreement.
- * This agreement represents the entire agreement of the parties on the subject hereof and shall supersede all prior representations and agreements whether oral or in writing between the parties and/or any predecessor in interest with respect to any of the matters mentioned in this agreement effective the date first above written.
- * This agreement represents the entire agreement of the parties on the subject hereof and shall supersede all prior representations and agreements whether oral or in writing between the parties with respect to any of the matters mentioned in this agreement.
- * This agreement constitutes the entire agreement between the parties and can be modified only in writing signed by all parties hereto.
- * This agreement contains the entire understanding of buyer and seller with respect to the subject matter hereof and supersedes and cancels any and all prior negotiations, undertakings and agreements between buyer and seller with respect thereof.
- * This contract contains the entire agreement between the parties, cannot be varied except by written agreement, and shall be binding upon the heirs, successors and assigns of the parties.
- * The parties represent to each other that no promise or agreement not expressed herein has been made to any other party, that this agreement constitutes the entire agreement between the parties for the purposes set forth herein, and that the terms of this agreement are contractual and not mere recitals. The parties also acknowledge that they have read this agreement, have been advised to and have had the opportunity to consult with legal counsel prior to executing this agreement, and they fully understand the terms of this agreement.
- * This agreement shall constitute the entire agreement and understanding between the parties hereto with regard to the subject of this agreement, and there are no other agreements or understandings, oral or written, between the parties hereto with respect to this agreement.
- * This agreement constitutes the entire agreement between the parties relating to the subject matter hereof. No promises or understandings, either expressed or implied, exist between the parties with respect to the subject matter hereof unless contained in this agreement. This agreement supersedes all representations, warranties, commitments, offers, promises or contracts, of any kind or nature, whether oral or written, made prior to or contemporaneous with the execution of this agreement with respect to the subject matter hereof.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Other Agreements Between Parties

- * The parties agree to execute any additional documents and to take any additional action necessary to carry out this agreement.
- * This agreement constitutes the full and complete agreement of the parties.
- * This agreement constitutes the entire agreement between the parties as it relates to the supply referenced in specified exhibit, and supersedes prior agreements related to such supply. This agreement does not modify any arrangement between the parties or their affiliates for hogs supplied to other locations. This agreement can be modified only in writing signed by all parties hereto.
- * The remedies of the parties under this agreement are cumulative and shall not exclude any other remedies to which any party lawfully may be entitled.
- * In addition to all other rights and remedies available under the law, seller and buyer shall be entitled to all rights and remedies afforded buyers and sellers under the applicable Uniform Commercial Code.
- * Buyer shall also have the right to offset against current and future amounts owed to seller under this agreement, any and all damages sustained by buyer as a result of seller's breach of this agreement, including without limitation seller's failure to deliver the quantity of hogs required under this agreement. In the event that buyer has reasonable grounds to believe that seller's ability to perform under this agreement is impaired then buyer may in writing demand from seller adequate assurance of due performance, and buyer may suspend its performance under this agreement, if commercially reasonable to do so, until such adequate assurance is provided by seller. If seller fails to provide such adequate assurance within a reasonable time, not to exceed 30 days, then buyer may terminate this agreement. The rights and remedies set forth in this article are non-exclusive and shall be in addition to any other rights or remedies that may be available to buyer at law or in equity.
- * The rights and remedies set forth in this subparagraph are non-exclusive and shall be in addition to any other rights or remedies that may be available to either party at law or in equity.
- * No action, regardless of form, arising out of this agreement may be brought by any party more than one (1) year after the cause of action has accrued.
- * The rights and remedies created by this agreement shall be cumulative, nonexclusive and in addition to any rights now or hereafter granted under applicable law or otherwise and to which a party may be entitled at law or in equity. The right to exercise any or all of such rights and remedies is hereby expressly reserved. The existence and pursuit of any one or more of the remedies available to a party shall not be taken to exclude or waive the right to the use of another.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Remedies for Default

* If seller is in default or buyer terminates this agreement for seller's default, then buyer will be entitled to recover from seller damages pursuant to this section. (a) Non-Delivery of contracted hogs. For a default consisting solely of seller's failure or refusal to deliver the number of hogs required by either the delivery schedule or other agreement between the parties, buyer's liquidated damages will be capped at an amount equal to the total number of contracted hogs to be delivered for the remaining term of this agreement multiplied by specified amount. Upon buyer's demand, seller will pay buyer cash in the amount of such damages within specified days of the date of buyer's demand or as otherwise agreed to by buyer, in writing, at buyer's discretion. If seller makes a timely payment of such damages, seller will no longer have any obligation to deliver hogs that are included in the calculation of such damages, and buyer will waive any additional claim for indirect, incidental or consequential damages. The parties agree that the above measure of buyer's damages is a reasonable estimation of buyer's costs to procure replacement hogs for the remaining term of this agreement. However, if seller does not timely pay the damages as set forth in this subsection, then buyer reserves the right to seek these damages plus other damages and remedies that it may have available to it at law or in equity. Examples of such other damages are indirect, incidental and consequential damages. Other Default by seller. If seller is in default for any reason except non-delivery, or buyer terminates this agreement for seller's default for any reason except non-delivery, then buyer will be entitled to recover from seller the amount of losses and damages that buyer incurs as a result of seller's default. These losses and damages may include but are not limited to direct, indirect, incidental and consequential damages

* Upon any buyer default, seller may, at its option: (i) with respect to any failure by buyer to accept delivery of hogs in accordance with this agreement, in addition to pursuing other rights and remedies set forth in specified paragraph, seller may resell the hogs in a commercially reasonable manner and recover from buyer the difference, if negative, between the sale amount (plus any additional expenses incurred and less expenses saved) and the amount to be paid under this agreement, together with incidental and consequential damages, including attorneys' fees and expenses and any other expenses incurred in collection of such damages; (ii) with respect to any failure by buyer to pay for hogs in accordance with this agreement, in addition to pursuing other rights and remedies set forth in specified paragraph, seller may withhold delivery of hogs, and/or sell the hogs in a commercially reasonable manner and recover from buyer the difference, if negative, between the sale amount (plus any additional expenses incurred and less expenses saved) and the amount to be paid under this agreement, together with incidental and consequential damages, including attorneys' fees and expenses and any other expenses incurred in collection of such damages; (iii) elect in writing to terminate this agreement and all rights and duties of the parties hereunder; (iv.) exercise any and all other rights or remedies which seller may have, at law or in equity, under this agreement by reason of buyer's default; or (v) waive, in a writing signed by seller, any buyer default that occurs and any of the consequences of such buyer default. Any buyer default so waived shall for all purposes of this agreement be deemed to have been cured and not to be continuing; but no such waiver shall extend to any subsequent or other buyer default or impair any consequence of such subsequent buyer default.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Remedies for Default

* Upon any seller default, buyer may, at its option: (i) with respect to any failure by seller to deliver hogs in accordance with this agreement, in addition to pursuing other rights and remedies set forth in specified paragraph, recover replacement damages from seller, together with incidental and consequential damages, including, but not limited to an amount equal to the difference in the net margin to buyer if buyer purchases replacement hogs that are lighter than the hogs required hereunder or if such replacement hogs are of a lower percentage lean than the hogs required herein, attorneys' fees and expenses and any other expenses incurred in collection of such damages. If buyer elects to purchase replacement hogs, buyer shall attempt to purchase hogs that are of similar weight and percent lean as the hogs required herein; (ii) with respect to any failure by seller to pay amounts owing buyer, exercise buyer's right of setoff, without presentment, demand, protest or other notice of any kind to seller, any such notice being hereby expressly waived by seller; (iii) elect in writing to terminate this agreement and all rights and duties of the parties hereunder; (iv) exercise any and all other rights and remedies which buyer may have, at law or in equity, under the agreement; (v) without limiting any other remedies under specified paragraph, with respect to any failure by seller to comply with the annual average weight provision of the average weight requirement during any delivery year require seller to pay to buyer an amount equal to \$0.40 per head for each pound or fraction thereof that seller's hogs average carcass weight is less than 205 pounds or more than 224 pounds during the delivery year, times the number of hogs delivered by seller during the delivery year; or (vi) without limiting any other remedies under specified paragraph, with respect to any failure by seller to maintain a composite carcass belly fat iodine value at 72.0 or lower, seller shall pay buyer the amount per carcass cwt. as indicated in the table below times the total carcass weight for all hogs purchased from seller beginning on the kill date of the second consecutive composite iodine value test result greater than or equal to 72.1 is recorded until the kill date preceding a composite iodine value test result less than 72.1 is recorded. After the second consecutive composite iodine value test result greater than or equal to 72.1 is recorded, seller can instruct buyer to conduct up to two (2) additional composite iodine value tests during each subsequent thirty (30) day period until a composite iodine value test result less than 72.1 has been recorded; or second consecutive default composite iodine value test results, composite iodine value noncompliance penalty (\$/Carcass Cwt.) 72.1 thru 74.9 \$0.50 equal to or greater than 75.0 \$1.25 (vi) waive, in writing signed by buyer, any seller default that occurs and any of the consequences of such seller default. Any seller default so waived shall for all purposes of this agreement be deemed to have been cured and not to be continuing; but no such waiver shall extend to any subsequent or other seller default or impair any consequence of such subsequent seller default.

* This agreement shall inure to the benefit of and be binding on each party's successors and assigns, including, without limitation, any successor-in-interest to the essential operating assets for purposes of this agreement of the assigning party. Any assignment, sale or other transfer of such party's interests in its respective operations must include notice to the assignee that the assignment, sale or other transfer is subject to the terms and conditions of this agreement, and a copy of this agreement shall be provided to the assignee.

* The provisions of this agreement shall extend to the parties hereto and to their successors and permitted assigns.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Remedies for Default

* Any provision of this agreement which is prohibited by law or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. The parties to this agreement shall negotiate in good faith appropriate modifications to this agreement in order to eliminate any illegal or unenforceable provisions. In any such negotiations, the parties shall attempt, as nearly as possible, to produce the same economic, financial and tax effects as the provision that is prohibited or unenforceable. Any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Producer and Processor hereby waive any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

General Contract Terms - Severability

* If any term or provision of this agreement is held to be illegal or in conflict with any federal, state or local law or regulation, the validity of the remainder of this agreement will not be affected. The rights and obligations of the parties will be construed and enforced as if this agreement did not contain the particular term or provision held to be invalid.

* In the event that any part, term, or provision of this agreement is unenforceable, illegal or in conflict with any federal, state or local laws, such part, term or provision shall be considered severable from the rest of the agreement, and the remaining portion of the agreement shall not be thereby affected and this agreement shall be construed and enforced as if the agreement did not contain such part, term or provision.

* Any provisions of this agreement that by their terms have or may have application after the expiration or termination of this agreement will be deemed to the extent of such application to survive the expiration or termination of this agreement. Examples of such provisions are the sections titled "Remedies," "Damages," "Indemnity," "Right of Offset," "Entire Agreement; Amendment," "Governing Law," "Jurisdiction and Venue," "Mediation," and if applicable, "Personal Guaranty."

* All covenants, agreements, representations and warranties made in the agreement by either party shall be deemed to be material and to have been relied upon by seller or buyer, as the case may be, and shall survive the making and termination of this agreement.

* Either party may terminate this agreement by delivering a notice to the other party pursuant to the notice provisions of specified section. The term of the agreement shall end specified days after receipt of the termination notice.

* In addition to its right to terminate as provided in specified subparagraph, buyer may immediately terminate this agreement if buyer violates specified subparagraphs. Further, buyer may immediately terminate this agreement in the event buyer terminates and/or materially curtails its hog slaughtering operations. Either party may in its sole discretion terminate this agreement, provided that the other party is notified in writing 15 months or more in advance of the date of termination.

* In addition to its right to terminate as provided in specified subparagraph, buyer may immediately terminate this agreement in the event buyer terminates and/or materially curtails its hog slaughtering operations upon specified months prior written notice. In the event that it becomes mandatory for buyer, due to a change in any law or regulation, to purchase a portion or all hogs on the open market or a formula other than the pricing formula in this agreement, buyer may terminate this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Severability

* In addition to its right to terminate as provided in specified subparagraph, buyer may immediately terminate this agreement with specified days notice in the event buyer terminates and/or materially curtails its hog slaughtering operations.

* In no event may either party send a written notice of termination that would be effective within specified years of the commencement date (e.g. a party can send a notice prior to the specified year, but the notice cannot end the agreement prior to the specified year), unless terminated earlier pursuant to specified sections of this agreement. Upon the effective date of the term of this agreement, this agreement will supersede and replace the original hogs procurement agreement dated specified date between buyer and seller referred to herein as prior agreement), subject to the terms and conditions of this provision. If there is a deficiency account balance or a reserve account balance under the prior agreement, such deficiency account balance or reserve account balance shall transfer to this agreement and will become the initial balance of the deficiency account or reserve account under this agreement. All other terms and conditions of the prior agreement will terminate, and the delivery and purchase of hogs after the effective date of the term of this agreement will be made pursuant to the terms of this agreement.

General Contract Terms - Termination

* This agreement may be terminated prior to the expiration of the term (i) pursuant to specified sections; or (ii) pursuant to specified schedule; or (iii) by either part, without cause, by providing the other party with at least specified months written notice of termination; however, a written notice of termination under this specified section cannot be delivered by either party prior to specified date. Notwithstanding the above, at the conclusion of the specified month notice period described above, seller shall continue to deliver hogs to buyer, in accordance with the terms and conditions hereof, for specified additional months, with deliveries being reduced each month as provided in specified section. At the conclusion of such specified month period, neither party shall have any further obligations to the other party under this agreement or otherwise unless otherwise contained in a subsequent written agreement signed by the parties.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Termination

* This contract shall commence, continue and remain in full force and effect from and after specified date range unless earlier terminated as provided in this section. This agreement may be terminated By buyer, in the event of a seller default; By seller, in the event of a buyer default; By buyer or seller, at any time, with or without cause, by giving the other party specified months' written notice, provided, however, that such notice may not be given prior to specified date; By seller, upon giving specified days' written notice (or specified months' written notice if the provisions of specified subparagraph apply), in the event that buyer changes the carcass merit buying matrix pursuant to specified section; By buyer or seller, upon giving specified days' written notice (or specified months' written notice if the provisions of specified subparagraph apply), in the event that a dispute is not resolved pursuant to the provisions of specified article. A dispute for purposes of this subparagraph shall include only (1) a disagreement between the parties concerning proposed changes to the genetic carcass attributes under specified section or (2) a disagreement between the parties, relating to the first sentence of specified Section and concerning a change in the USDA's methodology for calculating the estimated pork carcass cutout value, or if USDA discontinues or replaces the USDA national carlot pork report; In the event of termination under specified subparagraphs hereof, the required notice of termination shall be increased from specified days to specified months if, on the date notice of termination is given, the daily close for Chicago Mercantile Exchange Futures Price for lean hogs, averaged over the two lean hog futures quotations for the futures months immediately following the time that notice of termination is given, is under \$55 cwt. or over \$75 cwt. For example: if termination notification is given in May, then the applicable CME futures months will be June and July. If the June and July lean hog futures on the CME average less than \$55/cwt. or over \$75/cwt., then the Contract will continue for 18 months. If the average of the two futures contracts is between \$55/cwt. and \$75/cwt. then the Contract will continue for specified days. By buyer or seller, by giving the other party specified days written notice as provided at specified section. Termination of this agreement shall become effective: (i) immediately, in the event of termination under specified paragraph; and (ii) following the end of the applicable notice period in the event of termination under specified paragraphs (hereinafter the effective date of termination). From and after the effective date of termination, this agreement shall be of no further force and effect, except with respect to enforcement of the parties' respective rights and obligations arising prior to the effective date of termination. In the event that the agreement is terminated pursuant to paragraph, then the termination shall constitute a waiver of all claims, by each party, regarding the change (with respect to specified subparagraph or regarding the dispute (with respect to specified subparagraph that was the basis for termination.

* The parties now desire to terminate the agreement and settle all disputes and claims among the parties in connection with the agreement and their business dealings.

* Upon seller's execution of this agreement, and execution of the new agreement, the agreement shall be considered terminated by the parties. Unless otherwise intended to survive the termination of the agreement, the mutual obligations made thereunder shall be considered satisfied by the parties in all respects.

* In addition to any rights to terminate this agreement, which are expressly set forth elsewhere herein, either party shall have the right to terminate this agreement immediately by written notice to the other party if such other party (a) is in breach of the agreement, (b) commits an act of intentional fraud relating to this agreement which is materially harmful to the first party, or (c) is insolvent, declares bankruptcy, or is forced into involuntary bankruptcy.

* Initial term of the agreement shall be specified year(s). Written notification with desire to terminate may be given by either party three months prior to contract expiration. If notification to terminate is not received an automatic year renewal will apply.

Swine Packer Marketing Contract Summary - National

Other Provisions

General Contract Terms - Termination

* Any party may terminate this agreement by giving not less than one (1) month written notice to the other in any of the following events: (a) If the other party commits a breach of any obligation assumed or implied under this agreement and, if capable of remedy, such party fails to remedy the same within one (1) month after being required to do so with written notice; if such breach is not capable of remedy, then the termination shall be effective upon the receipt of such notice; (b) If the other party ceases to pay its debts in the ordinary course of business or cannot pay its debts as they become due; (c) If a receiver is appointed to take possession and control the other party's property or assets; or (d) If the other party ceases or proposes to cease carrying on the business of hog production or hogs slaughtering, as the case may be, or makes arrangements or composition with its creditors. Seller agrees that if seller invokes the provisions of this subsection (d) then the otherwise applicable obligations of buyer will terminate with respect to the purchase of hogs associated with the seller's ceased operations.

* If there are changes in the definition of the Process Verified Program, the Carcass Premium Program, or changes in Mandatory Price Reporting (including competitor price reporting) and either buyer or seller believes such change(s) will cause significant adverse economic change, seller and buyer agree to work together in good faith to adopt a mutually acceptable method of reducing the impact of such change. If after 90 days, seller and buyer in good faith fail to agree on an acceptable method, either buyer or seller may terminate the agreement effective specified months after providing written notice of termination.

* Buyer shall have the right to terminate this agreement upon specified months' written notice in the event buyer ceases hog slaughtering operations at buyer' plant.

* This agreement may be terminated as follows: (i) Seller may cancel this agreement by mailing a cancellation notice to Processor not later than three (3) business days after the date first written above; or (ii) The date the appropriate party hereto terminates this agreement following an event of default in accordance with either specified paragraphs; or (iii) At either party's option, six (6) months after written notice by one party to the other party, provided that such written notice may not be given until after specified time following the effective date.

* Seller may cancel this agreement by mailing a written cancellation notice to buyer at the address set forth below by the later of (i) three business days after seller's receipt of the signed agreement or (ii) specified business days after the effective date. The written notice of cancellation will be deemed mailed on the date of the postmark on the envelope. The written notice of cancellation should reference the agreement number and seller number referenced in this agreement. If seller cancels this agreement according to the terms of this section, seller understands and agrees that any prior agreement between the parties or commitment by seller will continue in full force and effect and seller's obligations under such prior commitments and agreements will remain fully enforceable.

* This agreement may be terminated as follows: (i) Seller may cancel this agreement by mailing a cancellation notice to buyer not later than three (3) business days after the date first written above; or (ii) The date the appropriate party hereto terminates this agreement following an event of default in accordance with either specified paragraphs. At either party's option, twelve (12) months after written notice by one party to the other party, provided that such written notice may not be given until on or after specified date.

* Buyer/seller may terminate this agreement any time after specified date by giving seller a one (1) year written notice. For purposes of clarity, one year written notice may be given any time on or after specified date. In the event of a seller/buyer default, buyer may terminate this agreement immediately or effective upon a future date by providing written notice to seller/buyer.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Termination

* Either party may cancel this agreement by delivering a written notice of cancellation to the other party within three business days of the date seller receives a fully executed copy of this agreement via e-mail, by facsimile, or hardcopy. If a written notice of cancellation is not mailed within three business days of the date seller receives a fully executed copy of this agreement, the term of this agreement shall begin on specified date and shall end specified months after either party to this agreement has given the other party a written notice of termination, unless terminated earlier pursuant to the provisions of this agreement. Notwithstanding, in no event may either party send a written notice of termination that would be effective within specified years of the commencement date (e.g. a party can send a notice prior to the specified year, but the notice cannot end the agreement prior to the specified year), unless terminated earlier pursuant to specified sections of this agreement.

* Either party may terminate this agreement for cause, in whole or in part, as of the date specified in a termination notice, if the other party materially breaches its obligations under this agreement and does not cure the material breach giving rise to the right to terminate within a reasonable period after receipt of such notice. The provisions of this agreement that expressly or by their nature contemplate performance or observance after the purchase document terminates or expires will survive and continue in full force and effect.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Termination

* If a seller is in default, either buyer or facilitator may terminate such seller's agreement upon written notice to the other two parties. Upon delivery of a written notice of termination to a defaulting seller and the other party, such seller agreement will immediately terminate. Such termination will not terminate this agreement or any other seller agreement hereof. Facilitator will have specified days to replace the terminated seller and cure with respect to any damages incurred by buyer. Notwithstanding any provision in this agreement to the contrary, buyer may immediately terminate any seller agreement related to this agreement if: (i) any hogs grown by the seller (whether sold to buyer hereunder or not) become endangered, as determined by buyer in its sole discretion, (ii) such seller violates any local, state, or federal laws, regulations, permits, or orders pertaining to environmental safety, or (iii) such seller violates any local, state, or federal laws, regulations, permits, or orders pertaining to food safety. The parties' obligations under this agreement will survive termination as provided in the section titled Survival of Provisions; If buyer or facilitator is in default, the seller may terminate its seller agreement by written notice to buyer and facilitator. Upon delivery of a written notice of termination such seller agreement will immediately terminate. The parties' obligations under this agreement will survive termination as provided in the section titled Survival of Provisions; If buyer or facilitator is in default, the non-defaulting party (only buyer or facilitator and not any seller) may terminate this agreement by written notice to the defaulting party. Facilitator must immediately send or forward such notice to each seller. Upon delivery of a written notice of termination this agreement will immediately terminate. The parties' obligations under this agreement will survive termination as provided in the section titled Survival of Provisions; Discontinuance of Harvest Operations at Plant. If buyer discontinues harvesting hogs at the delivery plant(s) designated in the Overall Delivery Schedule or Delivery Schedules, then buyer will at its option (1) terminate this agreement and all seller agreements by written notice to facilitator, which notice facilitator will immediately forward to each seller, or (2) notify facilitator of the new designated delivery plant(s) to which sellers must deliver contracted hogs, which notice facilitator will immediately forward to each seller. Buyer will pay sellers for any additional freight costs incurred by such delivery pursuant to buyer's then current standard livestock freight schedule; Any seller may cancel its seller agreement by mailing a written cancellation notice to buyer at the address set forth below by the later of (i) three business days after seller's receipt of the signed seller agreement or (ii) ten business days after the effective date of such seller agreement. The written notice of cancellation will be deemed mailed on the date of the postmark on the envelope. The written notice of cancellation should reference the agreement number and seller number referenced in this agreement; If a seller cancels its seller agreement according to the terms of this section, such seller understands and agrees that any prior agreement or commitment between buyer and such seller will continue in full force and effect and such seller's obligations under such prior commitments and agreements will remain fully enforceable. Any cancellation of a seller agreement by a seller will not cancel this agreement or any other partial assignment of this agreement.

* Notwithstanding any provision in this agreement to the contrary, buyer may immediately terminate any seller agreement related to the agreement if: (i) the hogs subject to this agreement become endangered, as determined by buyer in its sole discretion, (ii) seller violates any local, state, or federal laws, regulations, permits, or orders pertaining to environmental safety, or (iii) seller violates any local, state, or federal laws, regulations, permits, or orders pertaining to food safety.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Termination

* If the other party is in default, the non-defaulting party may terminate this agreement by written notice to the defaulting party. Upon delivery of such a written notice of termination this agreement will immediately terminate. Notwithstanding any provision in this agreement to the contrary, buyer may immediately terminate this agreement if: (i) the hogs subject to this agreement become endangered, as determined by buyer in its sole discretion, (ii) seller violates any local, state, or federal laws, regulations, permits or orders pertaining to environmental safety, or (iii) seller violates any local, state, or federal laws, regulations, permits, or orders pertaining to food safety. The parties' obligations under this agreement will survive termination as provided in the section titled Survival of Provisions. If buyer discontinues harvesting hogs at the delivery plant(s) designated in the delivery schedule, then buyer will at its option (1) terminate this agreement by written notice to seller, or (2) notify seller of the new designated delivery plant(s) to which seller must deliver contracted hogs. Buyer will pay seller for any additional freight costs incurred by such delivery pursuant to buyer's then current standard livestock freight schedule. Seller may cancel this agreement by mailing a written cancellation notice to buyer at the address set forth below by the earlier of (i) three business days after seller's receipt of the signed agreement or (ii) ten business days after the effective date. The written notice of cancellation will be deemed mailed on the date of the postmark on the envelope. The written notice of cancellation should reference the agreement number and seller number referenced in this agreement. If seller cancels this agreement according to the terms of this section, seller understands and agrees that any prior agreement between the parties or commitment by seller will continue in full force and effect and seller's obligations under such prior commitments and agreements will remain fully enforceable.

* Either party may cancel this agreement by delivering a written notice of cancellation to the other party within three business days of the date seller receives a fully executed copy of this hardcopy. If a written notice of cancellation is not mailed within three business days of the date seller receives a fully executed copy of this agreement, the term of this agreement shall begin on specified date, and shall end three months thereafter.

* Upon the start date, either party may terminate this amendment upon delivery of notice indicating the same to the other party to be effective for the then current amount of seller hogs provided weekly, provided that such termination shall not be deemed effective the later of (a) six months or (b) such termination date indicated in the notice that is at least six months from the non-terminating party's receipt of such notice. Following such termination, the agreement shall continue at specified loads per week under the specified date amendment to the agreement, and the obligation to supply seller hogs shall cease and facilitator shall replace those hogs with other hogs.

* If any hogs that are subject of this agreement have health-related issues that result in such hogs being unfit for human consumption, buyer shall give seller and facilitator notice of such issues. Seller shall have 60 days after receipt of such notice to resolve such issues to buyer's satisfaction. If seller fails to do so within such time frame then buyer may terminate this agreement. This agreement shall terminate at the end of the initial term unless each of the parties has agreed to renew the agreement at least 60 days prior to the end of the initial term.

* In the event of a buyer/seller default, seller/buyer may terminate this agreement by providing written notice to buyer/seller.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Termination

* A party may at its option terminate this agreement immediately if the other party fails in any obligation undertaken hereunder and if such a failure continues for a period of ninety (90) days after receipt by the defaulting party of written notice of such failure, except that with the failure of any obligation to pay money, such failure shall continue for only three (3) days after such receipt. Any termination of the agreement shall not affect the obligation of a party to remit payment to another party for amounts due and payable at the time of such termination. If for any reason not acceptable in the scope of this agreement seller fails to deliver the requisite number of hogs required under this agreement, buyer damages for such failure shall be limited to buyer's cost to replace such deficit number of hogs which exceed those that buyer would have incurred had it purchased such deficit number of hogs from seller under this agreement.

* If the other party is in default, the non-defaulting party may terminate this agreement by written notice to the defaulting party. Upon delivery of such a written notice of termination this agreement will immediately terminate. Notwithstanding any provision in this agreement to the contrary, buyer may immediately terminate this agreement if: (i) the hogs subject to this agreement become endangered, as determined by buyer in its sole discretion, (ii) seller violates any local, state, or federal laws, regulations, permits or orders pertaining to environmental safety, or (iii) seller violates any local, state, or federal laws, regulations, permits, or orders pertaining to food safety. The parties' obligations under this agreement will survive termination as provided in the section titled Survival of Provisions.

* In addition to its right to terminate as provided in specified subparagraph, buyer may, at its option, immediately terminate this agreement, without protest, presentment, demand or further notice of any kind to seller, all of which are expressly waived, in addition to any and all other rights and remedies buyer may have hereunder and/or under applicable law or in equity, without prior notice to seller, and buyer shall have no further liability to seller, and it shall not constitute a default by buyer, if: a. seller fails to maintain sufficient facilities, whether owned or contracted, and sufficient funds, in order to produce hogs in such quantities as to fulfill the terms of the agreement; b. Buyer shall sell substantially all of its assets or there shall occur a change in control of buyer or its parent company, whether by stock sale, merger, consolidation or otherwise; c. Buyer terminates and/or materially curtails its hog slaughtering operations; d. Either party hereto determines that the health of the seller's sows has deteriorated such that seller is unable to fulfill the requirements of this agreement; or e. Buyer is advised by the Grain Inspection, Packers and Stockyards Administration of the U.S. Department of Agriculture ("GIPSA") that the provisions of this agreement do not meet GIPSA requirements, whether now existing or hereafter adopted or enacted.

* If the other party is in default, the non-defaulting party may terminate this agreement by written notice to the defaulting party. Upon delivery of such a written notice of termination this agreement will immediately terminate. Notwithstanding any provision in this agreement to the contrary, buyer may immediately terminate this agreement if: (i) the hogs subject to this agreement become endangered, as determined by buyer in its sole discretion, (ii) seller violates any local, state, or federal laws, regulations, permits or orders pertaining to environmental safety, or (iii) seller violates any local, state, or federal laws, regulations, permits, or orders pertaining to food safety. The parties' obligations under this agreement will survive termination as provided in the section titled Survival of Provisions. If buyer discontinues harvesting hogs at the delivery plant(s) designated in the delivery schedule, then buyer will at its option (1) terminate this agreement by written notice to seller, or (2) notify seller of the new designated delivery plant(s) to which seller must deliver contracted hogs. Buyer will pay seller for any additional freight costs incurred by such delivery pursuant to buyer's then current standard livestock freight schedule.

Swine Packer Marketing Contract Summary - National

Other Provisions

General Contract Terms - Termination

- * This agreement may be terminated as follows: (i) The date the appropriate party hereto terminates this agreement following an event of default in accordance with either specified paragraph; or (ii) At either party's option, specified months after written notice by one party to the other party, provided that such written notice may not be given until on or after specified date.
- * Buyer may terminate this agreement effective the date any law or regulation requires buyer to purchase a minimum quantity of hogs in the spot market.
- * If any money due under this agreement from either party to the other party is outstanding at the date of termination, the money shall remain due and payable notwithstanding such termination.
- * If buyer discontinues harvesting hogs at the delivery plant(s) designated in the delivery schedule, then buyer will at its option (1) terminate this agreement by written notice to seller, or (2) notify seller of the new designated delivery plant(s) to which seller must deliver contracted hogs. Buyer will pay seller for any additional freight costs incurred by such delivery pursuant to buyer's then current standard livestock freight schedule.
- * Seller may terminate this agreement by mailing a written termination notice to buyer within three (3) business days after seller receives a copy of the fully signed agreement. The written notice of termination will be deemed mailed on the date of the postmark on the envelope.
- * In the event that either party hereto determines that the health of the agreement sows has deteriorated such that the seller is unable to fulfill the requirements of this agreement, seller shall have the right, upon providing written notice to buyer, to depopulate and cull the agreement sows. Seller shall use its best effort to repopulate the agreement sows in a timely manner, whereupon the repopulated sows shall constitute the agreement sows hereunder. In the event of the repopulation of the sows the original termination date of the agreement will not be adjusted unless mutually agreed to by buyer and seller.
- * The seller shall notify the buyer immediately in the event of adverse developments such as disease or inability to feed hogs, and the buyer shall have the right to terminate the contract and the specified paragraph hereof shall apply. Notifications should be sent to specified address.
- * Seller's specified date written notice of termination of agreement, delivered to buyer pursuant to the terms of specified section of the agreement, is hereby rescinded at the request of the seller. Specified section of the agreement is further amended to specify that the term of the agreement as defined in specified section shall end specified months after either party to this agreement has given the other party a written notice of termination, unless terminated earlier pursuant to the provisions of this agreement. All other provisions of specified section not rescinded herein or otherwise amended herein remain in full force and effect.
- * Termination of this agreement shall not relieve any party of any liability accrued for, nor affect the continued operation or enforcement of any provision of this agreement which by its terms is to survive termination. Nothing herein shall prevent any party from seeking specific performance or damages for breach in respect of any right or obligation contained in this agreement. In no event shall a termination of this agreement relieve either party from paying the other party for any amounts due. In addition, in the absence of wonton or reckless conduct, neither party shall be liable to the other for special, consequential, or punitive damages. The rights and remedies set forth in this subsection are nonexclusive and shall be in addition to any other rights or remedies that may otherwise be available at law or equity.
- * If buyer exits the hogs processing business it may terminate this agreement. Upon such termination any amounts in the deficiency account will be repaid by seller within 60 days, any amounts in the reserve account will be repaid by buyer in 10 days, and there will be no further obligations by either party under this agreement

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Termination

- * In addition, the term of this agreement may end sooner if: (i) material changes are made to the law related to the category under which pork products from the hogs must be labeled and/or sold; and (ii) seller and buyer cannot agree to a pricing method in response to the change to the law. In this event, either party may give the other 10 months advance written notice to exit and terminate the agreement by following the provisions of specified section.
- * Either party may rescind and cancel this agreement by delivering a written notice of rescission or cancellation to the other party within three business days of the date seller signs this agreement. If a written notice of rescission or cancellation is not delivered within three business days of the date seller signs this agreement, the term of this agreement shall begin on specified date and shall end specified months after either party to this agreement has given the other party a written notice of termination, unless terminated earlier pursuant to the provisions of this agreement.
- * 1 day notice to terminate by seller or buyer
- * Termination of this agreement shall not relieve any party of any liability accrued or for any breach hereunder, nor affect the continued operation or enforcement of any provision of this agreement which by its terms is to survive termination. Nothing herein shall prevent any party from seeking specific performance or damages for breach in respect of any right or obligation contained in this agreement.
- * To induce buyer to enter into this agreement, specified persons who hold all the membership interest of seller, has executed contemporaneously with this agreement, a continuing unconditional guaranty which is attached hereto as specified exhibit and fully incorporated herein.
- * Failure of buyer or seller to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any right or remedies provided herein, or by law, or the acceptance of payment for any goods hereunder, shall not release either party from any of the warranties or obligations of this Contract, and shall not be deemed a waiver of any right by either party to insist upon strict performance hereof, or any of its rights or remedies as to any such goods regardless when shipped, received or accepted, or as to any prior or subsequent default hereunder, nor shall any purported oral modification operate as a waiver of any of the agreement terms.
- * The failure of any party to insist upon strict performance of any obligation hereunder shall not be deemed a waiver of such party's right to demand strict compliance therewith in the future.
- * Any of the terms or conditions of this agreement may be waived in writing at any time by the party to which is entitled to the benefits thereof. No waiver of any of the provisions of this agreement shall be deemed or shall constitute a waiver of such provision at any time in the future or a waiver of any other provision hereof.

Swine Packer Marketing Contract Summary - National Other Provisions

General Contract Terms - Termination

* Seller agrees during the term hereof to maintain adequate public liability and other insurance with reputable insurance companies as hereinafter set forth and, upon request, to furnish buyer with certificates of insurance properly executed by its insurers evidencing such a fact, and requiring the insurers to give at least thirty (30) days notice to buyer in the event of cancellation or material alteration of such coverage. The minimum insurance coverage to be maintained by seller shall be as follows: (a) Liability insurance covering personal injury and property damage sustained by other third parties, from accidents arising out of the seller's premises, products, completed operations, contractual liability, or the use of owned or non-owned automobiles. Such coverage to be written on an occurrence form, affording minimum single limit protection of no less than Two Million Dollars (\$2,000,000) per occurrence and with deductibles no greater than One Hundred Thousand Dollars (\$100,000) per occurrence. Buyer shall be named as an additional insured. An umbrella or excess liability policy may be utilized to attain the required limits of insurance. The insurance required above shall reflect that such coverages are primary with respect to other insurance carried by buyer. (b) Worker's compensation and employer's liability insurance in accordance with the statutory requirements of the state where seller conducts its operation.

General Contract Terms - Warranties/Guarantees

* Seller covenants that it will indemnify, hold and save buyer harmless from and against any and all loss, cost, liability, damage or expense, including, without limitation, reasonable attorneys' fees and disbursements, caused by or arising from or in connection with seller's construction or operation of the designated Production Facilities, or any misrepresentation, act, breach or omission of seller in connection herewith, including, without limitation, any injury or death of persons or damage to property caused by or arising therefrom. Buyer covenants that it will indemnify, hold and save seller harmless from and against any and all loss, cost, liability, damage or expense, including, without limitation, reasonable attorney's fees and disbursements, caused by or arising from, or in connection with, any misrepresentation, act, breach or omission of buyer in connection herewith including any injury or death of persons or damage to property caused by or arising therefrom.

* Processor makes no warranties, either express or implied, as to the nature of profitability of the hog production business or the transactions resulting from this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Alternate Pricing

- * Following the date hereof, if the CME Group changes settlement procedures or adds or deletes trading months (having the effect of modifying the basis), buyer and seller may determine to modify the formula for the calculation of the base price in a manner consistent with the assumptions used by the parties in calculating the base price as of the date hereof.
- * If the Nearby CME Lean Hog Futures Settlement Price for the appropriate Futures Month is not published for a day to be used in determining pricing, then the most recent Nearby CME Lean Hog Futures Settlement Price published for that Futures Month prior to that day will be used. If the Nearby CME Lean Hog Futures Settlement Price is discontinued by the reporting source, then Packer will redefine the Base Price, based on a hog price reported by a third party industry source(s). If the categories or any of the data in the categories reported in the Nearby CME Lean Hog Futures Settlement Price are changed by the reporting source, then Packer may redefine the Base Price, based on a hog price reported by a third party industry source(s). Packer will provide written notice to Producer identifying any change in definition of the Base Price.
- * If the CME announces a change in the methodology used to calculate the CME Lean Hog Index, or discontinues the reporting of the CME Lean Hog Index, buyer and seller may choose to change the formula used to calculate the base price from the specified price per hundred weight carcass to a new price formula, or buyer and seller may choose to use another series of reported numbers published by a third party. Selection of a new report will be intended to produce a similar base price.
- * In the event the specified price series is no longer reported or ceases to retain the same economic value as an index price due to changes in the collection, calculations and/or reporting methodology used by USDA, either party may request that the specified price series be replaced as the index price for purposes of this agreement such that the economic value of using the replacement index is the same as the economic value achieved by using the specified price series in effect prior to the change. In such event, the party requesting a change in the index price shall notify the other party in writing of its request to change the index price and provide sufficient evidence to support the basis for the requested change. The parties agree to negotiate in good faith to resolve the requested change in a mutually agreed manner.
- * In the event the United States Department of Agriculture ceases to report any or all of the daily hog reports, the parties shall, for the continuation of this agreement, jointly decide and agree as to a replacement method that will be historically comparable to the current market for this agreement.
- * Market hogs shall refer to all barrows and gilts produced for slaughter within the specified geographic regions by specified entities and any affiliates which have attained a weight between one hundred fifty (150) and three hundred (325) pounds.
- * Non-qualifying Market Swine shall mean all barrows and gilts that are not hogs. Included in non-qualifying hogs are those hogs sorted off on a live weight basis weighing less than 215 pounds or more than 350 pounds.
- * Miscellaneous hogs shall refer to all hogs produced within the specified geographic regions by specified entities and any affiliates other than the Market Swine, specifically including boars, sows and hogs weighing at the date of sale less than one hundred fifty (150) pounds or more than three hundred (325) pounds.
- * Live hogs shall refer in a generic sense to barrows and gilts produced for market by producers other than specified entities.
- * For purposes of this agreement, the term hogs shall mean hogs meeting the specifications in this agreement, including, without limitation, those set forth on specified exhibit.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Alternate Pricing

* Market Swine shall mean and refer to live barrows and gilts born and raised in the United States of America that weigh between 161 pounds and 269.9 pounds, each on a carcass weight basis, which (i) meet buyer's and USDA's inspection standards, (ii) are fit for human consumption, (iii) are free of defects, and (iv) do not include off-grade animals, animals used for breeding stock, or cull breeding stock.

* Lot shall mean each individual truck delivery of hogs from seller to the designated facility.

Purchase Conditions and Payment - Changes in Payment Calculation

* The premium will increase as a higher percent of pork processed is sold into the market as value added program pork. The window has been selected to create a mechanism allowing the market risk/exposure to be spread between the seller, the buyer, and the customer. It is based on an estimated historic variable cost breakeven for production and the historic ability of the buyer and customer to increase marginal return at lower dressed meat prices and the need to reduce margins at higher prices.

* The formulation of the actual grid price will not change, except for the following reasons as determined by buyer in its discretion: 1) Changes in production practices such ~ the use of feed additives and supplements, the use of new production systems and facilities, or any other change occurs that significantly impacts the cost of production. 2) Grain market quotations are no longer considered accurate. 3) The use of feedstuffs other than corn and soybean meal becomes standard in the industry or required by buyer. 4) The relationship of the specified price to a reasonable cost of production has changed significantly due to costs other than feed; 5) A review of industry production cost databases indicates that the specified price is materially different from reported costs of production. Seller hereby agrees to be bound to any changes in the specified made by buyer as authorized by specified subsection.

* Seller agrees that buyer may, at buyer discretion, make additional adjustments in the method used to calculate price to take into account any law, rule or regulation approved by a governmental agency after the date of this agreement that affects the markets for live hogs or pork products (e.g., labeling laws). These adjustments may result in either increases or decreases in price. Buyer shall provide written notice to seller in advance of any such adjustment.

* Buyer may unilaterally amend or replace the floor price matrix for reasons that include, but are not limited to the following: (1) the markets quoted for corn and soybean prices are no longer true and reliable indicators of such markets; (2) corn and soybean meal are no longer considered to be the major ingredients of high quality feed rations; (3) any changes in production management or other unforeseen circumstances which affect the matrix; or (4) upon a review conducted by determines that the matrix no longer accurately measures hog production costs and efficiencies.

* If buyer changes or revises the carcass merit program currently offered by buyer, then buyer shall adjust the price for the hogs supplied under this agreement, excluding the excess hogs. The adjustment shall be for an amount such that the price for the hogs, based upon the changed or revised carcass merit program, is economically equivalent to the price for the hogs, based upon the carcass merit program as currently offered by buyer. Any such adjustment shall be determined in respect to each load of hogs delivered pursuant to this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Changes in Payment Calculation

* In the event more than twenty percent (20%) (excluding dead and condemned hogs) of the carcass weights are missing, the lot shall be paid off of the live weight of the lot and will use the dressed yield and sort premium from the three most recent representative lots delivered to the plant. In the event that both live and carcass weights are missing, the seller shall be asked for proof of live weight from a certified scale. In the event that seller cannot produce proof of live weight from a certified scale, the average dressed weight from the three most- recent representative lots delivered to the plant shall be used for payment purposes.

* For each identified carcass, buyer will use reasonable parameters to validate the data as specified in specified paragraph of the agreement. These data validation parameters may be changed from time to time by buyer.

* With respect to any lot, in the event buyer's records reflect any discrepancies in the number of carcasses identified in the lot, the lot will be paid based on the preferences and provisions as specified in specified paragraph of the agreement.

Purchase Conditions and Payment - Data Validation

* With respect to any lot, in the event buyer's records reflect more than 105% carcass identification, the entire affected lot will be paid based on seller's historical averages of carcass weight and meat value factor in the following order of preference: (A) the averages for the prior two (2) weeks' deliveries if data exists on at least 600 head; or if (A) is not applicable, then (B) if data exists, the averages for the prior four (4) weeks deliveries; or if (A) and (B) are not applicable, then (C) the averages for the last lot delivered by seller if seller has not delivered any hogs to buyer during the last four (4) weeks. By way of illustration, the payment for carcasses that are based on historical averages will be calculated as follows: (Base Price + the applicable average meat value factor) x (the applicable average carcass weight). With respect to any lot when the percent of carcass identification is less than 75%, only the number of carcasses that equal the number of unidentified carcasses will be added at the historical averages in the order of preference as described above. With respect to any lot when the percent of carcass identification is equal to or greater than 75% and less than or equal to 105%, carcass data will be added or deducted at the average value of the affected lot to pay for the appropriate number of head.

* For each identified carcass, buyer will use reasonable parameters to validate the data for four (4) specific carcass data elements. As of the effective date, the parameters for these four (4) carcass data elements are: (i) carcass weight – 120 thru 310 pounds; (ii) fat depth – 0.1" thru 1.7"; (iii) loin depth – 1.3" thru 3.2"; and (iv.) lean percentage – 43.0% thru 63.9%. If a value for any of these data elements for an identified carcass is not within the range of its data validation parameters, then buyer will exclude all the data for that identified carcass. These data validation parameters may be changed from time to time by buyer.

* Carcasses which are unidentified or carcasses with missing information, such as weight, lean result from manual skinning to remove defects, missing or unreadable tattoos, carcass scale malfunction, or other related factors. In the event that carcass weights and/or carcass quality Information cannot be identified on an Individual carcass, the carcass will be added back to the lot and paid on the basis of thief lot average for carcass weight on which information has been collected. In the event that more than 15% excluding dead and condemned hogs) of the carcass weights are missing the lot shall be paid off of the live weight of the lot and will use the dressed yield from the most recent representative lots delivered to buyer. In the event that there are both missing live and carcass weights seller shall be asked for proof of live weight from a certified scale. In the event that seller cannot produce proof of live weight from a certified scale, the average dressed weight from the previous 3 lots shall be used for payment purposes.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Data Validation

* Carcasses which are unidentified, or carcasses with missing information, such as weight, can result from manual skinning to remove defects, missing or unreadable tattoos, carcass scale malfunction, or other related factors. In the event that carcass weights and/or carcass quality information cannot be identified on an individual carcass, the carcass will be added back to the lot and paid on the basis of the lot average for carcass weight on which information has been collected.

Purchase Conditions and Payment - Forward Contracts

* Buyer shall notify facilitator of all outstanding weight to be delivered. If the required weight is not delivered on a timely basis, buyer may liquidate the position and assess a penalty for the outstanding weight to seller that buyer may deduct from the next settlement sent to facilitator. Facilitator and sellers understand that buyer, upon receipt of instructions from facilitator, will hedge the risk price of the hogs received from an individual seller and covered by this agreement on the Chicago Mercantile Exchange Lean Futures Market, which hedging shall involve financial obligation on the part of buyer. It is the obligation of that individual seller to be responsible to buyer for orders executed on behalf of that individual seller; that individual seller will be liable to buyer for damages due to inaccurate information at the time of execution. Upon the failure of an individual seller, for any reason, to deliver all or any portion of the hogs covered by this agreement at the time and place designated by buyer, that individual defaulting seller shall be liable to buyer for liquidated damages to make buyer whole for the futures positions that buyer took on behalf of that individual defaulting seller.

* Any hogs delivered by seller under a CME forward contract will be counted as part of seller's annual total production commitment in specified section, however, the seller will not have any floor price guarantee or deficiency account protection and reserve amounts will not be deducted. The seller will receive the forward contract price for hog deliveries under forward contracts unless there is a balance in the deficiency account. When there is a balance in the deficiency account, any amounts to be received under the forward contract which exceeds the amounts that would be received using the floor price at the time of delivery, will be deducted from seller's check and applied to the deficiency account until such account has a zero balance.

* Forward priced hogs mean a lot or lots for which buyer has issued a forward pricing confirmation.

* Forward pricing confirmation means a written confirmation sent by buyer to seller following the parties' agreement with respect to the forward pricing of a lot or lots.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Forward Contracts

* The seller may request to set the price of future deliveries of hogs by utilizing the pricing structure of this section. Hogs priced according to this section shall be delivered during a delivery period determined by mutual agreement of the parties. The buyer shall designate the specific day for delivery provided that such date is within the delivery period. Notwithstanding the foregoing, upon mutual agreement of the parties, the designated delivery date may be before or after the delivery period. In the event seller fails to deliver the hogs on the designated delivery date, at the election of buyer, the alternative price shall be discounted by the greater of a) the cash market depreciation from the last day of the delivery period until actual delivery, or b) \$1.00 per cwt for each week elapsed between the last day of the delivery period and actual delivery of the hogs. At least 30 days prior to the beginning of the delivery period, buyer shall notify the seller of the basis price for seller's hogs. After such notification and at any time the Chicago Mercantile Exchange ("CME") lean hog futures contract is open and trading, Seller may request that the buyer set the alternative price, provided that such request is also made at least 30 days prior to the beginning of the delivery period. Upon such request, the alternative price shall be the price of the first trade that the buyer fully executes for the futures contract plus the basis price. Similarly, in the event that the CME futures contract is locked limit down, the alternative price shall be the price of the first trade that the buyer fully executes for the futures contract plus the basis price. If seller fails to request that the buyer set the alternative price according to the terms of this section, then the alternative price shall be the price of the last CME futures contract fully executed by buyer on the last day of the applicable pricing period for the delivery period plus the Basis Price. In the event of default by seller on any basis priced hogs, buyer's remedies shall include but not be limited to payment to buyer of the difference between the prevailing price as of the actual delivery date for basis priced hogs and the alternative price as well as any other monetary losses incurred by buyer on the CME hog futures contract.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Forward Contracts

* Seller may request us to execute futures contracts. All gains buyer realize on trading such futures contracts will be included in the agreement price for seller's hogs. All losses buyer realize on trading such futures contracts will be included in the agreement price for Seller's hogs. Whether seller request trading of futures contracts is entirely up to Seller. All trades will be made by us in our account using a broker buyer choose. (1) Target CME Futures Price Per Delivery Period. If Seller desire trading of futures contracts for use in establishing the agreement price for Seller's hogs, Seller must tell us (by telephone conversation, e-mail, fax or letter) Seller's target CME futures price for such hogs. Seller's target CME futures price must be filled at least fifteen (15) days before the start of the Delivery Period. Hogs that Seller choose to price based on trading of futures contracts must be in even increments of 40,000 carcass pounds per half-monthly delivery period. Buyer will execute (sell) futures contracts in 40,000 carcass pound increments, if and when the futures market reaches the target CME futures price, and an order fills at that price. The CME futures month corresponding to each half-monthly delivery period is set forth on specified exhibit. All executed futures contracts will be offset by taking an opposite position the day prior to delivery. If buyer implement the offset and delivery is delayed, futures gain or loss will be determined as of the day the offset was implemented. (2) No Liability For Failure To Execute Futures Contracts. Futures may not reach the target CME futures price, orders may not fill at that price, or limited trading volume or other factors may prevent execution of futures contracts for all carcass pounds at the target CME futures price. Buyer are not liable for any failure to execute futures contracts. (3) Calculations of Gains and Losses. Buyer will notify Seller whenever buyer execute futures contracts at the target futures price. If buyer are able to execute futures contracts at the target CME futures price, then the gain or loss buyer realize on such futures contracts will be included in the calculation of the agreement price. See specified exhibit for examples of calculating the agreement price with gain and loss on trading of futures contracts. (4) Delivery Corresponds with Futures Position. Seller must deliver hogs corresponding to the futures position Seller request us to take. For example, on an actual basis pricing, if Seller sell June contracts, all of those June contracts must be delivered against before the June contract period expires (see specified exhibit for delivery periods; June contracts must be delivered between April 15th and June 14 111). (5) Unavailability of CME Futures Market. When the CME futures market is suspended or locked limit down, then the pricing will be established on the next permitted trade. If the Chicago Mercantile Exchange provides advanced notice that CME futures will be closed for trading due to a holiday, then the most recent CME futures market prior to that day will be used. If the CME futures are closed for trading due to unusual circumstances and/or the Chicago Mercantile Exchange does not provide advanced notice of the market closure, then the next available CME futures market will be used. (6) Timing for Calculation of Base Price. We will calculate the Base Price upon each delivery of carcass pounds covered by a futures contract. The Base Price is calculated on the price effective for each delivered load of hogs as of that load's delivery date. B. Administrative Fee. You agree to pay us an ongoing administrative fee of NUMBER REDACTED per carcass cwt. for all hogs (\$NUMBER REDACTED per CME Futures Contract) that you choose to price based on trading of futures contracts. This fee covers our expenses in administering this contract pricing program and margin calls we incur under the program. We will deduct the administrative fee from the agreement price for each payment we make to you for hogs. C. Trading Costs. You agree to pay us all out-of-pocket fees and transaction costs we incur to make the futures trades you request under this Agreement ("Trading Costs"). Our current Trading Costs are set forth on Exhibit A-3. We will provide you written notice of any change in our Trading Costs. We will deduct the Trading Costs from the agreement price for each payment we make to you for hogs.

Swine Packer Marketing Contract Summary - National

Other Provisions

Purchase Conditions and Payment - Forward Contracts

- * Seller acknowledges that it is a merchant as that term is defined by the Uniform Commercial Code with respect to all transactions entered into with buyer. Seller acknowledges that it is bound by any forward pricing confirmation issued by buyer. Seller acknowledges that it has the obligation to carefully review any forward pricing confirmation and immediately notify buyer of any concern with respect thereto. Buyer reserves the right to require that seller sign and return any forward pricing confirmation.
- * Should seller make an offer to forward price multiple Lots pursuant to Section 3(a) of this Addendum, buyer may, in its sole discretion, accept only a portion of such offer. Buyer will identify the total number of lots which it agrees to forward price in the forward pricing confirmation that buyer sends seller. Unless buyer expressly rejects the remaining portion of seller's offer or seller withdraws the remaining portion of such offer in accordance with the terms of this addendum, buyer may later accept additional portions of seller's offer. For example, seller may offer to forward price eight (8) lots. Buyer may, in its sole discretion, accept seller's offer with respect to only three (3) lots by sending seller a forward pricing confirmation. If buyer does not reject the remaining portion of seller's offer and seller does not withdraw such offer, buyer may accept the remaining portion (or any portion thereof) and if it does so, will send seller another forward pricing confirmation. For avoidance of doubt, any lots which have not been forward priced pursuant to specified section of this addendum will be automatically forward priced pursuant to specified section of this addendum.
- * Any hogs delivered by seller under a CME forward contract will be counted as part of seller's annual production commitment. The seller will receive the forward agreement price for hog deliveries under forward contracts instead of the agreement price pursuant to specified section. The basis calculation in specified schedule will be used for forward contracts at the time the forward contract is established.
- * Hogs delivered by seller under a CME forward contract will be counted as part of seller's annual total production commitment in specified section, and the price seller receives for the hogs under the contract will be deemed the market price for such hogs under specified section of this agreement.
- * Any hogs delivered by seller under a CME forward contract will be counted as part of seller's annual production commitment. The seller will receive the forward agreement price for hog deliveries under forward contracts instead of the agreement price pursuant to specified section. The basis stated in specified section will not determine the final basis used for forward contracts; however, the price paid may be used in determining basis under an actual basis contract.
- * Any hogs delivered by seller under a CME forward contract will be counted as part of seller's annual production commitment. The seller will receive the forward agreement price for hog deliveries under forward contracts instead of the agreement price pursuant to specified section. CME forward contracts will be written as actual basis contracts. Actual basis fees will apply.
- * Under certain market conditions, it may be advantageous to both parties to forward price. This opportunity provides a revenue benchmark for a specific period of time and aids in budgeting and decision making when pricing and purchasing feed and other inputs.
- * Seller agrees to forward price specified lots (which is equal to specified carcass pounds, or approximately specified market hogs) per delivery period. Seller acknowledges that this number of forward priced pounds may not constitute all of the hogs it is required to deliver under the agreement, and that seller is required to deliver all hogs called for under the agreement. If seller delivers a quantity in excess of the specified lot or lots, the excess quantity will be priced pursuant to the agreement without giving effect to this addendum.

Swine Packer Marketing Contract Summary - National

Other Provisions

Purchase Conditions and Payment - Forward Contracts

- * Any hogs delivered by seller under a CME forward contract will be counted as part of seller's annual production commitment. The seller will receive the forward agreement price for hog deliveries under forward contracts instead of the agreement price pursuant to specified section.
- * At the end of each quoted futures month seller must be in compliance with their deliveries on carcass weight. If out of compliance, a penalty will be assessed of \$(4.00) cwt carcass on the contract weight outstanding or undelivered in addition to any market loss after the closing date of the CME contract month. Penalty calculated as follows: Buyer base price from original weekending date of delivery less buyer base price on actual delivery date/ 74.5% = contract market discount (any market gain with the CME positions will be forfeited).
- * CME forward contract will not be offered as part of this agreement.
- * Seller may contact buyer and make a firm forward pricing offer to sell a lot or lots seller is to deliver to buyer during a specific delivery period at the current market price. Buyer will confirm receipt of seller's offer. Buyer may, in its sole discretion, reject seller's offer. If buyer accepts seller's offer, buyer will undertake to hedge its price risk. Buyer will issue a forward pricing confirmation, confirming the price at which the parties agree to buy and sell the lot or lots, which will be equal to the price at which buyer hedges its price risk, and the other variables associated with forward pricing the lot or lots. If, for whatever reason, buyer does not hedge its price to its satisfaction, there will be no forward price for the relevant lot or lots and buyer will so advise the seller of the failure to reach an agreement as to forward pricing of the lot or lots.
- * There shall be no delivery of hogs in settlement of this contract. All contracts open as of the termination of trading shall be cash settled based upon the CME Lean Hog Index® for the two-day period ending on the day on which trading terminates.
- * Seller may contact buyer and make a firm forward pricing offer to sell a lot or lots seller is to deliver to buyer during a specific delivery period at a specified price. Buyer will confirm receipt of seller's firm offer. Buyer may, in its sole discretion, reject seller's firm offer. Any acceptance by buyer of seller's firm offer is contingent upon buyer's ability to hedge its price risk associated with seller's firm offer. If buyer hedges its price risk to its satisfaction, buyer will issue a forward pricing confirmation, confirming the price at which the parties agree to buy and sell the lot or lots and the other variables associated with forward pricing the lot or lots. Until buyer sends seller a forward pricing confirmation with respect to a firm offer, seller may withdraw such firm offer with forty-eight hours written notice to buyer.
- * Any lot that has not been forward priced pursuant to specified section of this addendum by the day that is days prior to the beginning of the delivery period in which the lot is to be delivered will automatically be forward priced by buyer at the then current price of the Lean Hogs Futures Contract as reported by the Chicago Mercantile Exchange for the futures reference month corresponding with such delivery period as identified in specified exhibit. If the Chicago Mercantile Exchange provides advanced notice that Lean Hog Futures Contracts will be closed for trading due to a holiday, then the most recent day on which such contracts were traded prior to that day will be used. If the Chicago Mercantile Exchange closes Lean Hogs Futures Contracts trading due to unusual circumstances and does not provide advanced notice of the market closure, then the next day on which such market is traded at the Chicago Mercantile Exchange will be used. If the forward price is determined pursuant to this section of this addendum, buyer will issue a forward pricing confirmation, confirming the forward price and the other variables associated with forward pricing the lot or lots.
- * Seller shall be solely responsible for all costs and expenses incurred for transportation to deliver hogs to the designated facility.

Swine Packer Marketing Contract Summary - National

Other Provisions

Purchase Conditions and Payment - Freight

* Seller agrees to arrange with buyer weekly hog deliveries to buyer's plant located in specified location buyer may schedule delivery of hogs to other buyer plants without seller's consent if buyer does not increase the shipping distance by more than fifty (50) miles; however, buyer will be responsible for any incremental shipping costs associated with delivering the hogs to another plant. Except as provided herein, deliveries to any other buyer plants that will increase the shipping distance by more than fifty (50) miles must be mutually agreed upon by the parties in advance. If buyer is unable to schedule deliveries at the specified plant due to a Force Majeure event (as defined in specified section), or for other reasons outside of buyer's control, buyer can schedule deliveries of seller's hogs to other buyer plants without seller's consent. In such event, buyer will use good faith efforts to schedule deliveries to one of the two closest operating buyer plants (excluding the specified location) unless seller is an approved supplier for buyer customer, and buyer will be responsible for any incremental shipping costs associated with delivering hogs to another plant. Although seller will be responsible for meeting the quantity requirements specified herein, seller will solely decide when given hogs are ready for slaughter and will be eligible to be scheduled by the parties for delivery pursuant to this section.

* Seller shall provide transportation of qualifying hogs in quantities set forth in specified exhibit at seller's expense to the slaughter facility of buyer located at specified location. Buyer may request that one or more lots of qualifying hogs be delivered to a slaughter facility other than one designated in this section. In the event this occurs, buyer will pay the incremental freight to the destination plant. Seller and its trucker must abide by all USDA and buyer animal welfare policies, including buyer trucker policy for animal welfare and handling, a copy of which is in specified exhibit.

* Seller shall be responsible for and shall bear the cost of delivering to buyer all hogs sold hereunder. Delivery of hogs shall be made by seller to any buyer facility plant located in a state where buyer from time to time shall direct.

* If the deficiency account has a positive balance, deductions will be made from seller checks for hogs when the market price (converted to a live price) exceeds the floor price. All amounts which exceed the floor price shall be subtracted from seller's check and applied to the deficiency account balance until the deficiency account is reduced to zero. If there is no deficiency account balance, then the market price will be paid to seller subject to reserve amount deductions pursuant to specified section.

* Additional consideration: In addition to the other consideration set forth herein, seller shall pay Buyer the sum of One Million and no/100's Dollars (\$1,000,000.00) within ten days (10 days) after the execution of this second amendment to agreement but in no event earlier than specified date.

* Buyer's Right of Setoff shall mean the right of buyer to set off and to appropriate and apply any and all payments owing by buyer to or for the credit or the account of seller against any amounts owing by seller to buyer or against any claims asserted by buyer against seller arising out of or in connection with this agreement or any other agreement or transaction between seller and buyer.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Freight

* In the event that buyer pays the agreement price for any non-conforming hogs according to this section, buyer, at its option, may deduct any overpayment against current and future amounts owed by seller to buyer under this agreement. Buyer shall also have the right to offset against current and future amounts owed by seller under this agreement. Any and all damages sustained by buyer as a result of seller's breach of this agreement, including without limitation seller's failure to deliver the quantity of hogs required under this agreement. In the event that buyer has reasonable grounds to believe that seller's ability to perform under this agreement is impaired, then buyer may, in writing, demand from seller adequate assurance of due performance, and buyer may suspend its performance under this agreement, if commercially reasonable to do so, until such adequate assurance is provided by seller. If seller fails to provide such adequate assurance within a reasonable time, not to exceed 10 days, then buyer may terminate this agreement. The rights and remedies set forth in this article are non-exclusive and shall be in addition to any other rights or remedies that may be available to buyer at law or in equity.

Purchase Conditions and Payment - Offsets/Overpayments

- * Overpayment. If Packer overpays Producer for hogs, Producer agrees to promptly repay any overpayment upon receipt of notice of the overpayment. If Producer fails to do so, Packer may deduct the overpayment from the Contract Price for Producer's next delivery(ies) of hogs.
- * Offset. The Contract Price, as adjusted by applicable premiums and discounts, to be paid to Producer for contract hogs may be reduced by an offset as provided in this agreement.
- * All offal loses in excess of buyer's average operating results due to condemnation by USDA shall be adjusted according to prevailing market conditions at the time of slaughter.
- * Buyer agrees to pay seller for contracted hogs as set forth in specified Section for the entire term of this agreement.
- * Carcasses are individually weighed after dressing in slaughtering department. These individual carcasses are accumulated and totaled. The total carcass weight is divided by the live weight, which is equal to the carcass yield. Taking the carcass weight and dividing it by the actual yield, which will create a meat price, which will then sort carcasses.
- * Seller hereby authorizes and directs buyer to deduct from the purchase amount calculated in accordance with this agreement and pay on behalf of seller producer any mandatory or voluntary (as determined by seller) checkoff fees associated with the sale of all hogs marketed to buyer. Seller shall be solely responsible for the payment of such checkoff fees.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Offsets/Overpayments

* With respect to any lot, in the event buyer's records reflect more than 105% carcass identification, the entire affected Lot will be paid based on seller's historical averages of carcass merit program in the following order of preference: (A) the averages for the prior two (2) weeks' deliveries if data exists on at least 600 head; or if (A) is not applicable, then (B) if data exists, the averages for the prior four (4) weeks deliveries; or if (A) and (B) are not applicable, then (C) the averages for the last lot delivered by seller, if seller has not delivered any hogs to buyer during the last four (4) weeks. By way of illustration, the payment for carcasses that are based on historical averages will be calculated as follows: (Base Price + the applicable average carcass merit premium) x (the applicable average carcass weight). With respect to any lot when the percent of carcass identification is less than 75%, only the number of carcasses that equal the number of unidentified carcasses will be added at the historical averages in the order of preference as described above. With respect to any lot when the percent of carcass identification is equal to or greater than 75% and less than or equal to 105%, carcass data will be added or deducted at the average value of the affected lot to pay for the appropriate number of head.

* Purchase Amount shall mean the amount determined using the formula contained in specified paragraph of this agreement and otherwise calculated in accordance with the provisions of this agreement.

* Any purebred Berkshire hogs that fail to meet the specifications for acceptance under the agreement will be paid at the base price above adjusted by the carcass merit program. Any such hogs will not be eligible for the premium.

* Sellers that do not receive a carcass data score over 80 are not eligible for the quality premium.

Purchase Conditions and Payment - Penalties for Failure to Meet Standards

* If buyer receives a report of inappropriate animal care involving seller or a seller's employees, buyer will immediately conduct an investigation into the reported allegations. The seller must cooperate with the investigation, with buyer and with legal authorities. During the investigation, hog shipments from the suspected site will be suspended indefinitely. This suspension of shipments will not be deemed a breach of any written contract or verbal agreement by buyer. If after appropriate investigation, buyer has reasonably determined that animals were wrongfully abused or handled in an inappropriate manner (inconsistent with industry standard practices), in violation of buyer's quality assurance programs, which includes an animal care & handling program, this will be deemed a default of any agreement or verbal agreement between buyer and seller. Upon default, buyer reserves the right to take appropriate action up to and including immediate termination of any hog agreement or portion thereof from the violating seller, or immediate termination of any outstanding orders under a verbal agreement with the violating seller.

* If seller receives two consecutive quality evaluations with scores below 50, they may be eliminated from the program within 90 days.

* At any time seller is in default, buyer may adjust the agreement price to be paid to seller to be equal to the lower of (i) the agreement price calculated pursuant to specified section or (ii) buyer's 11:00 a.m. daily quoted market price for the applicable delivery plant for the day preceding delivery, as adjusted by specified section. Carcass merit program premiums and discounts will be determined on the basis of buyer's daily quoted market price whenever such price is used in determining the price to be paid to seller.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Penalties for Failure to Meet Standards

* If an adjustment to the market price is required pursuant to specified exhibit, and if such adjustment is not mutually agreed in writing within thirty (30) days, then the parties agree such issue shall be submitted by either seller or buyer to final and binding arbitration in specified location in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). The arbitration shall be conducted by a single arbitrator selected by mutual agreement of the parties within thirty (30) days after the date of submission of the dispute to binding arbitration. If the parties are unable to agree upon the arbitrator, either party may request the AAA to select the arbitrator who shall be knowledgeable and experienced in agricultural economics or swine production and marketing. The arbitrator may hear and determine any issue of law asserted by a party as dispositive, to the same extent that a court could hear and determine a motion for summary disposition. Consistent with the expedited nature of arbitration, each party will, upon the written request of the other party, promptly provide the other with copies of documents relevant to the issues raised by any claim or counterclaim. Any dispute regarding discovery, or the relevance or scope thereof, shall be determined by the arbitrator, which determination shall be conclusive. Any decision by an arbitrator or arbitration panel appointed by the AAA in accordance with such rules shall be final and binding upon the parties hereto, and judgment upon such decision or award may be entered in any judicial court of competent jurisdiction. The award of the arbitrator shall be in writing and shall include a reasoned opinion. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration.

Purchase Conditions and Payment - Pricing Disputes

* In the event one party hereto requests a new index price in accordance with the provisions of specified section above and the parties are unable to reach a mutually acceptable resolution within the specified time period, the issue shall be resolved through binding arbitration by the party seeking the change in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"). Any such arbitration shall be conducted in the specified location. The parties agree that a single arbitrator knowledgeable and experienced in agricultural economics or swine production and marketing, selected by the American Arbitration Association, shall act as the sole arbitrator to resolve the dispute. The arbitrator will hear the dispute in accordance with the Rules. Each party shall be entitled to be represented by counsel. Any decision rendered by such arbitrator shall be final and binding upon the parties hereto without any right of appeal. The expenses and fees of the arbitrator shall be divided equally between the parties. Each party shall be responsible for its own attorney's fees. All other expenses incurred in the conduct of the arbitration shall be divided equally between the parties. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

* If an adjustment to the market price is required, and if such adjustment is not mutually agreed in writing within thirty (30) days, then the parties agree such issue shall be submitted by either seller or buyer to binding arbitration in specified location, in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"). In the event a dispute arises which cannot be informally resolved by the parties, a single arbitrator knowledgeable and experienced in agricultural economics or hog production and marketing, selected by the American Arbitration Association, shall settle the dispute. The arbitrator will hear the dispute in accordance with the Rules. Each party shall be entitled to be represented by counsel. Any decision rendered by such arbitrator shall be final and binding upon the parties hereto without any right of appeal. The expenses and fees of the arbitrator shall be divided equally between the parties. Each party shall be responsible for its own attorney's fees. All other expenses incurred in the conduct of the arbitration shall be divided equally between the parties. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, this section shall only have effect with respect to this agreement if seller makes an election below to have such arbitration provision apply.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Pricing Disputes

* If buyer incorrectly pays seller for hogs, buyer will recalculate the value for such hogs and provide seller with a written recalculation of the corrected net amount due, and then either add the underpayment to, or deduct the overpayment from, seller's next delivery(ies) of hogs. If seller is not scheduled to make additional deliveries of hogs in the near future following the discovery of the error, buyer will make a separate payment to seller in the event of an underpayment, or will request seller to reimburse any overpayment.

* Buyer losses means the number of hogs that seller failed to deliver as required by this agreement multiplied by the positive difference, if any, between the highest base price used by buyer to procure open market hogs during the delivery periods in which seller is in default and the price at which buyer could have purchased hogs pursuant to this agreement plus any incidental or consequential damages that buyer may incur as a result of seller's failure to deliver the hogs.

* Except in the case of a Force Majeure Event or in the event that this agreement is terminated pursuant to specified section, buyer shall pay to seller the seller losses if buyer (i) refuses to accept delivery of hogs as required by this agreement, or (ii) requires hogs to be delivered to a location other than the location, as defined in specified section. Seller shall have the right to sell any hogs rejected by buyer in any reasonable manner; provided, however, that buyer shall not be obligated to indemnify seller for any losses pursuant to this specified section with respect to any rejected hogs which seller has not sold within ten (10) working days after the date buyer refused to accept delivery of such hogs. Out hogs are not subject to this section. Notwithstanding anything to the contrary herein, seller losses shall not include any incidental, special, punitive, exemplary, or consequential damages of any kind whatsoever.

Purchase Conditions and Payment - Producer or Packer Damages

* Seller losses means the number of hogs buyer failed to purchase as required by this agreement multiplied by the positive difference, if any, between the price at which seller could have sold the hogs to buyer pursuant to specified sections and the price at which seller sold the hogs after buyer refused to accept delivery and any transportation costs incurred by seller to deliver such hogs to other buyers in excess of what seller would have paid to deliver such hogs to buyer.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Producer or Packer Damages

* On the fifteenth (15th) day after the end of each buyer fiscal month, buyer shall perform the calculation, as described in specified subpart of specified schedule. If buyer notifies seller that the calculations using the market price are outside the range of the calculation for three consecutive months, the seller may notify buyer that the seller wishes to review the underlying buyer business records used to perform the calculation. Buyer will produce such information subject to the confidentiality provisions set forth in specified section and such information will not be disclosed to buyer's competitors and third parties who have no reasonable need to know such information. In addition, seller may review the underlying buyer business records used to perform a monthly calculation one time per year during the term of this agreement, and buyer will produce such information subject to the confidentiality provisions set forth in specified section and such information will not be disclosed to buyer's competitors and third parties who have no reasonable need to know such information. If the Producer becomes actively engaged in pork processing operations that compete with buyer's, the parties agree that seller's review of buyer records shall be conducted by a third party consultant/auditor who will conduct the review of buyer's business records. It shall be the responsibility of the auditor, subject to the reasonable approval of buyer, to create such protocols for disclosure of any information so reviewed so as to maintain confidentiality and ensure legal compliance during and after the review process. The parties specifically agree seller or the auditor will be allowed to share such information with seller's legal counsel, auditors and appropriate governmental agencies, so long as such parties agree the information will be held in confidence. Documentation necessary to calculate buyer's sales revenue will be made available for seller's or auditor's review at buyer's corporate headquarters during normal business hours as soon as reasonably available, but in no event more than ten (10) working days after seller's request and delivery on the above described protocol.

* Seller and/or the operators of the Facilities, as applicable, shall be solely responsible to pay all costs and expenses necessary to produce the hogs as required by this agreement, including without limitation all cost and expense to house, feed and care for the hogs.

* On behalf of sellers, buyer will pay facilitator per hog for all hogs seller delivers to buyer under this agreement that meet the requirements of this agreement ("Commission"). Buyer will pay this commission on a daily basis, with the payment being made concurrently with payment to seller for hog carcasses. Facilitator is not entitled to a Commission whenever facilitator or any seller is in default. If buyer overpays facilitator, facilitator agrees to promptly repay any overpayment upon receipt of notice of the overpayment. If facilitator fails to do so, buyer may deduct the overpayment from payments otherwise due facilitator. The commission to be paid facilitator may be reduced by an offset as provided in this agreement. Buyer, facilitator, and seller agree that facilitator is not a buying agent or dealer for buyer.

* Seller hereby authorizes and directs buyer to deduct from the purchase price calculated in accordance with this agreement and pay on behalf of seller any mandatory or voluntary (as determined by seller) checkoff fees associated with the sale of all hogs marketed to buyer. Seller shall be solely responsible for the payment of such checkoff fees.

* Seller hereby authorizes and directs buyer to deduct from the purchase price calculated in accordance with this agreement and pay on behalf of seller any mandatory or voluntary (as determined by seller) checkoff fees associated with the sale of all hogs marketed to buyer. Seller shall be solely responsible for the payment of such checkoff fees. Buyer shall use its best efforts to make any such payments in a timely manner.

Swine Packer Marketing Contract Summary - National

Other Provisions

Purchase Conditions and Payment - Third Party Deductions

- * Seller shall be solely responsible for the payment of any mandatory check-off fee associated with the sale of all hogs marketed, as contemplated above.
- * A \$1.25/head program participation fee will be deducted by facilitator and remitted to buyer on each hog marketed. This fee will be used to fund continuing education, process verification, and marketing.
- * Buyer will pay to facilitator an administrative fee of specified amount per hog for all hogs seller delivers to buyer under this agreement that meet the requirements of this agreement. The administrative fee also applies to hogs delivered to buyer by seller affiliates. This fee will cover facilitator expenses in administering agreements between buyer and the seller and providing forecasts (as defined in specified section) to buyer under this agreement. Buyer will pay the administrative fee within one week following the end of each of buyer fiscal periods. Facilitator is not entitled to any administrative fee that would otherwise be payable for hogs delivered by any seller that is in default. In addition, facilitator is not entitled to any administrative fee that would otherwise be payable for hogs delivered by either facilitator or any seller while facilitator is in default.
- * Payments shall be submitted to the seller
- * Buyer shall pay the purchase amount, less all authorized checkoffs and deductions, to seller for each day's delivery of hogs by authorizing the electronic transfer of the sum due through the Automatic Clearing House (ACH) system before the close of the first business day following the prompt determination of the purchase amount by buyer. Buyer shall make available Lot and carcass data to seller via Electronic Data Interchange (EDI) on the next business day following slaughter of the hogs.
- * Buyer shall pay seller in full before the close of the first business day after slaughter. All payments shall be by mail to seller's offices. Payments shall be deemed made when received at seller's offices. If any liens on the hogs exist at the time of delivery, buyer shall jointly pay seller and such lien holders.
- * Buyer shall pay seller for any hogs purchased hereunder within three (3) days following the day of sale or as otherwise may be mutually agreed by the parties. The aggregate purchase price, with respect to any day of sale, shall be determined (a) if a grade and yield matrix is not in effect, by multiplying (i) the total pounds of hogs sold to buyer on that day by (ii) the applicable market value as adjusted pursuant to specified paragraph or (b) if a grade and yield matrix is in effect, in the manner specified in such grade and yield matrix. To the extent buyer purchased miscellaneous hogs on the day of sale, the aggregate purchase price payable to Grower with respect to the day of sale shall include an amount equal to the sum obtained by multiplying (i) the total pounds of miscellaneous hogs sold on that day by (ii) the price per pound bid by buyer and accepted by seller.
- * Buyer will inspect and weigh carcasses at buyer's plant per the carcass merit program.
- * Hogs will be purchased on a carcass weight basis.
- * Buyer shall cause each load of hogs delivered to be weighed upon arrival at buyer's plant and such weight shall be provided to seller with each load's payment. Seller shall have the right to inspect buyer weight records upon 24-hours notice.
- * Swine are purchased live off certified scales.

Swine Packer Marketing Contract Summary - National Other Provisions

Purchase Conditions and Payment - Third Party Deductions

* During each calendar month of the term, seller shall meet the average weight requirement. Buyer shall have the right to audit the average weight requirement on a retroactive basis. Without limiting any other remedies under specified paragraph, with respect to any failure by seller to comply with the average weight requirement during any calendar month, buyer may, at its option, require seller to pay to buyer an amount equal to \$0.40 per head for each pound or fraction thereof that seller's hog average carcass weight is less than 205 pounds or more than 224 pounds during the calendar month, times the number of hogs delivered by seller during the calendar month.

Purchase Conditions and Payment - Weights Used for Payment

* The live weight of each lot shall be weighed at the plant upon delivery, and all carcasses shall be weighed after removal of carcass trim, as described on specified exhibit, which carcass trim procedures may be amended by buyer from time to time in accordance with industry standards. All weights shall be final and conclusive as between the parties hereto. Past averages of seller's yield and sort performance will be used to pay for hogs when there is more than 105 percent carcass identification, less than 75 percent carcass identification, holdovers or when lot carcass yields fall out of the expected range of 71.0-81.0 percent. In situations of more than 105 percent identification, holdovers or when lot carcass yields fall out of the expected range, the entire lot will be paid basis seller averages of adjusted carcass yields and sort loss for the prior two (2) weeks deliveries. For lots with less than 75 percent carcass identification, only carcass data needed to balance the kill will be added basis the seller averages for the prior two (2) weeks deliveries. Holdovers are lots kept in the stockyards for more than one (1) day. When the percent carcass identification is greater than or equal to 75 percent and less than 100 percent, carcass data is added at the average value of the lot to pay for the appropriate number of head. When the percent carcass identification is more than 100 percent and less than or equal to 105 percent, the extra carcasses are deducted at the average value of the lot to pay for the appropriate number of head.

* Average weight requirement shall mean an average monthly weight for all hogs delivered by seller during each calendar month of no less than 205 pounds and no more than 224 pounds, on a carcass weight basis at the designated processing facility.

* Buyer will inspect and weigh carcasses at buyer's plant per the carcass buying program.

* Hot carcass weight means the weight of the hog after the completion of kill floor operations but prior to commencement of chilling operations.

* Swine are scaled at seller's location.

* Hogs shall have a target live weight of 275 pounds per hog. No hog shall have a live weight of less than 200 pounds or more than 340 pounds. In the event that hogs are delivered to the plant and do not meet the weight criteria, the buyer's remedies are outlined under specified section. These weights per hog, may be amended from time to time by buyer in its sole discretion; Buyer will provide seller written notice of any such amendment.

* Plant weights

* Hogs shall have a target live weight of 275 pounds per hog. No hog shall have a live weight of less than 200 pounds or more than 340 pounds.

Swine Packer Marketing Contract Summary - National

Other Provisions

Purchase Conditions and Payment - Weights Used for Payment

- * With respect to any lot, in the event buyer's records reflect more than 105% carcass identification, the entire affected lot will be paid based on seller's historical averages of carcass merit factors in the following order of preference: (A) the averages for the prior two (2) weeks' deliveries if data exists on at least 600 head; or if (A) is not applicable, then (B) if data exists, the averages for the prior four (4) weeks deliveries; or if (A) and (B) are not applicable, then (C) the averages for the last lot delivered by seller if seller has not delivered any hogs to buyer during the last four (4) weeks. With respect to any lot when the percent of carcass identification is less than 75%, only the number of carcasses that equal the number of unidentified carcasses will be added at the historical averages in the order of preference as described above. With respect to any lot when the percent of carcass identification is equal to or greater than 75% and less than or equal to 105%, carcass data will be added or deducted at the average value of the affected lot to pay for the appropriate number of head.
- * For purposes of payment, the weight of the dressed hog shall be the hot carcass weight of the hog.
- * For purposes of this agreement, all weights shall be determined at buyer's certified scales at its, plants, as the case may be.
- * CWT shall be defined to be the abbreviation for hundredweight.
- * All shipments will be weighed at state inspected scales maintained or approved by buyer. If for any reason the carcasses are not able to be weighed, carcass weights will be determined in accordance with seller's historical carcass yields. Seller shall be notified in the event it becomes necessary to utilize historical yields.
- * Hot carcass weight is recorded prior to entering carcass coolers.
- * Hot carcass weight means the weight of the hogs after the completion of kill floor operations but prior to commencement of chilling operations.
- * Inspection, sorting and weighing shall be performed by at the plant where the hogs are delivered. No hogs shall be accepted to fulfill the terms of this agreement if they do not meet the specifications of a hogs.
- * During each delivery year, seller shall meet the average weight requirement.
- * After removal of all carcass trim, in accordance with the carcass trimming procedures set forth on specified exhibit, buyer shall attempt to weigh each carcass included in a lot. The procedures for removal of carcass trim, as set forth on specified exhibit, may be amended by buyer from time to time in accordance with industry standards or to conform to accepted industry practice. All carcass weights so determined shall be final and conclusive as between the parties hereto.
- * The parties expect that hogs delivered by seller will be between 174 and 229 pounds. Any hogs with carcass weights less than 174 pounds or more than 229 pounds will be considered "Off-Weight Hogs" and will be assessed a weight discount pursuant to specified section. If seller's average carcass weights becomes more than 5 pounds heavier and/or lighter than our average carcass weight on a quarterly basis, then the parties will agree to negotiate in good faith to change the base price and/or loss deductions to compensate us for the off-weight hogs.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Carcass Evaluation Program or Matrix

* OP Schedule 228

* Meat Value Factor shall mean any factor or combination of factors (including sort loss) that affects the carcass value as determined by buyer, as set forth in the specified table.

* OP Schedule 257

* OP Schedule 146

* OP Schedule 254

* All hogs marketed by seller to buyer shall be subject to the buyer carcass merit program for lean evaluation and carcass weight discounts. Any carcass merit change will be communicated (30) days prior to execution. Seller will have thirty (30) days to accept the change after notification. If seller agrees to carcass merit change that will be considered notice of termination and the original carcass merit program as described in the agreement shall stay in effect until the contract terminates.

* Carcass merit program may or may not be applicable.

* The carcasses from the hogs must pass USDA post-mortem inspection.

* OP Schedule 253

* Buyer shall require each seller to participate in the buyer carcass merit pricing system program. The buyer standard carcass merit pricing system program offers participants standard adjustments to the market price that other direct selling participants receive for muscle, back fat, and other measures of carcass quality that buyer utilizes to insure a quality end product to its consumers. These adjustments shall be applied to all hogs sold by participants to buyer. Buyer reserves the right to modify any of the terms of the buyer standard carcass merit pricing system program provided buyer has notified participants and facilitator within thirty (30) days of the modification. A description of the buyer standard carcass merit pricing system program together with the terms and conditions of said program are detailed in specified exhibit a copy of which is attached to this agreement.

* For purposes of this agreement, the carcass merit adjustment shall be the amount determined pursuant to buyer's carcass merit matrix. The carcass merit matrix shall be the prevailing carcass merit matrix offered at buyer's plant at the time of delivery, changing as and when buyer changes such matrix. Buyer shall give seller 30 days written notice prior to any changes or revision to buyer's carcass merit matrix. The matrix currently offered by buyer is set forth in specified exhibit attached hereto. The carcass merit adjustment shall be determined in respect of each load of hogs delivered pursuant to this agreement and shall be included in the information in the kill sheets (as defined below), for each such load. The parties acknowledge that buyer's current carcass merit matrix is based upon buyer's current definition for a standard carcass, which is a carcass with 50/52% lean, carcass weight of approximately 188 pounds, and that such matrix may be changed by buyer from time to time and that such changes may reflect, among other factors, changes in buyer's definition of a standard carcass. Other factors that could result in changes to the matrix may include, without limitation, changes in buyer's instruments for determining lean percentage or size. At present, size is determined by weight in pounds, and lean percentage is measured using a Fat-O-Meater. Buyer agrees that no changes shall be made in such instruments unless the substitute instrument is considered by buyer to be more accurate. Carcass weight for the purposes of this agreement shall mean the net weight of the hog's carcass after passing USDA inspection and prior to chilling. Copies of the processing or slaughter reports prepared by buyer (kill sheets) for the hogs delivered under this agreement will be mailed to Seller within two (2) days of the hogs slaughter by buyer and shall contain information to show the calculation of the price for such hogs. All weights referenced herein are to be taken from government inspected and certified scales.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Carcass Evaluation Program or Matrix

- * Seller agrees to abide by the carcass merit program. Seller may obtain a copy of buyer's carcass merit program by contacting their buyer representative, or by logging in to specified URL. Buyer can change the carcass merit program in its sole discretion and if buyer does so, it will provide seller with written notice of said change in the carcass merit program no fewer than specified days in advance of the effective date of the change, which notice seller must immediately forward to each affiliated seller.
- * All hogs sold by seller to buyer shall be subject to buyer's standard carcass weight discount program. Buyer reserves the right to modify any of the terms of the buyer standard carcass weight discount program provided buyer has notified seller within thirty days of the modification. A description of the buyer standard carcass weight discount program together with the terms and conditions of said program are detailed in specified exhibit a as copy of which is attached hereto.
- * All hogs shall meet the specifications referred to or set forth in specified section, including, but not limited to, the specifications set forth on specified exhibit.
- * The parties agree that the table contained in the carcass merit program is superseded with the table attached as specified exhibit to this agreement, which table will be fixed for the duration of the initial term and any renewal term unless changed pursuant to mutual written agreement of the parties.
- * OP Schedule 226
- * OP Schedule 65
- * The four carcass quality traits evaluated and contributing to the seller's score are marbling, objective lean color, loin eye area, and 10th rib backfat.
- * Hogs shall be live and must pass USDA ante mortem inspections and be disease free.
- * Seller understands that buyer will only purchase hogs from sellers who comply with buyer carcass merit program. Seller may obtain a copy of buyer carcass merit program by contacting their buyer representative, or by logging in to specified URL. Buyer can change the carcass merit program in its sole discretion and if buyer does so, it will provide seller with specified days prior written notice of any change in the carcass merit program.
- * Carcass merit adjustments are those standard adjustment to the formula base that other direct selling producers receive for sort, lean back fat, weight, and other such measures as buyer from time to time may utilize. These adjustments shall be applied to seller's hogs. Furthermore, seller shall receive a report on each lot of hogs showing a summary of all adjustments in addition to the adjustments for each individual hogs sold. This information shall be transmitted electronically to seller within two business days. Any changes to the carcass merit adjustment will be communicated 30 days prior to implementation.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Carcass Evaluation Program or Matrix

* The carcass merit adjustment shall be the amount determined pursuant to buyer's carcass merit matrix attached hereto as specified exhibit. The carcass merit matrix shall not be changed by buyer prior to specified date. Thereafter, buyer shall give seller specified days written notice prior to any changes or revision to the carcass merit matrix. The carcass merit adjustment shall be determined in respect of each load of hogs delivered pursuant to this agreement and shall be included in the information in the Kill Sheets (as defined below), for each such load. The parties acknowledge that current definition for a standard carcass, is a carcass with 54% lean and a carcass weight of 214 pounds. Factors that may result in changes to the matrix may include, without limitation, changes in buyer's methods for determining lean percentage or size. At present, size is determined by weight in pounds, and lean percentage is measured using a Fat-0-Meater. Buyer agrees that no changes shall be made in such criteria unless the substitute criteria is reasonably determined by buyer to be more accurate. Buyer shall give seller specified days prior written notice of the change. Carcass weight shall mean the net weight of the hog's carcass after passing USDA inspection and prior to chilling. Copies of the processing or slaughter reports prepared by buyer (kill sheets) for the hogs delivered under this agreement will be mailed to seller within two (2) days of the hogs slaughter by buyer and shall be prepared in accordance with buyer's normal practices consistently applied and shall contain information showing the calculation of the agreement price for such hogs. All weights will be taken from government inspected and certified scales. Buyer shall provide seller with daily electronic data including individual carcass weights and standard slaughter measurements.

* For purposes of this Agreement, (i) the carcass merit adjustment matrix shall be applied with respect to hogs delivered to one of the buyer's locations that is not a designated plant, and (ii) the lean value matrix shall be applied with respect to hogs delivered to one of the designated plants. Each matrix shall be determined in respect of each load of hogs delivered pursuant to this agreement and shall be included in the information in the kill sheets for each such load. Buyer shall have the right to implement changes or revisions to any of buyer's adjustment matrices upon ninety (90) days written advance notice to seller. For one hundred twenty (120) days following the date any such change or revision to any of buyer's adjustment matrices is first implemented, seller shall have the right to give a termination notice pursuant to specified paragraph above, which termination notice may be given at any time of day period and without regard to the limitation on a termination notice being given priority.

* All qualifying hogs and non-qualifying hogs delivered under this agreement are purchased subject to passing inspection by the USDA with deductions to the purchase price for all carcasses or carcass parts that are condemned or not unconditionally approved by the USDA inspectors. Non-qualifying hogs will be purchased at the prevailing price for livestock meeting the quality of the non-qualifying hogs.

* Market hogs will be purchased and paid for hereunder in accordance with buyer's carcass merit program, as the same may be revised from time to time by buyer in its discretion. The price to be paid by buyer to seller for hogs delivered to the buyer's facility will be established by buyer pursuant to the program, and shall be determined according to the buyer matrix program description attached hereto as specified schedule. The price for each delivery of hogs to the buyer's facility shall be paid by buyer by the next business day after the date of slaughter or as per GIPSA requirements. Payment of the price shall be deemed made on the date of mailing of payment as determined by the postmark on such mailing or by the date of ACH transfer. Buyer shall have the right to offset the price by any amounts owed to buyer by seller, regardless of whether such amounts owed are in connection with this agreement. In the event of any dispute between buyer and seller as to the amount due for any hogs delivered hereunder, payment to seller for the lot of hogs so affected shall not be due until such dispute is resolved.

* OP Schedule 266

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Carcass Evaluation Program or Matrix

- * A minimum of 20 head of wholesome sows will be required to qualify for the yield program and will be weighed at the slaughter facility.
- * Hogs will initially be valued using buyer's weight and grade payment program and the normal buyer base price in effect on the day of delivery.
- * All hogs, to be considered deliverable pursuant to this agreement, must meet existing weight specifications for all hogs purchased by plants at time of delivery. Any load of hogs or any hog sorted out at the time of delivery will be priced according to existing weight or quality discount schedule.
- * Hogs will meet all other quality characteristics defined in the agreement. Specified schedule may be reasonably amended by from time to time.
- * Upon delivery, buyer shall be entitled to impose the discounts identified in specified exhibit. Any loads that have an average weight outside of the ranges detailed in specified exhibit, or individual hogs weighing outside of the range detailed in specified exhibit shall not count towards the quantity requirements under this agreement, and the price to be paid by buyer to seller for such non-conforming hogs shall be the lower of (i) the discounted agreement price, or (ii) the cash price, as offered by buyer at the plant of delivery on the day of delivery, subject to any applicable discounts under the then current discount program of buyer's plant.
- * Seller covenants and agrees that the hogs will be produced in accordance with the covenants and standards of this section. In the event that seller contracts with a third party to produce seller's hogs hereunder (each, a "provider"), seller shall cause each such provider to comply with the covenants and standards of this section. Seller covenants and agrees that buyer will not be liable for any cost or liability related to compliance with this section, and that seller and each provider, as applicable, will comply with the following standards.
- * OP Schedule 256
- * Lean value matrix shall mean any factor or combination of factors (including sort loss) that affects the carcass value as determined by buyer, as set forth in the specified Exhibit attached hereto.
- * Producer may obtain a copy of buyer's carcass merit program by contacting their buyer representative, or by logging in to specified URL. Buyer can change the carcass merit program in its sole discretion and if buyer does so, it will provide buyer written notice of said change in the carcass merit program no fewer than thirty (30) days in advance of the effective date of the change.
- * Swine must be of good quality and weigh a minimum of 400 pound. Buyer will not slaughter off quality animals (Abscess, wet, thin, etc.)
- * Matrix factor means the applicable number for a given lean percent and carcass weight, as set forth in the carcass merit matrix.
- * Seller agrees to abide by carcass buying program. Seller may obtain a copy of buyer's carcass merit program by contacting their buyer representative, or by logging in to specified URL. Buyer can change the carcass merit program in its sole discretion and if buyer does so, it will provide seller written notice of said change in the carcass merit program.
- * Buyer may request the seller meet the requirements for specified program including delivery with expected documentation at the scheduled time. Additional premium for these pigs will be specified \$/cwt carcass weight.
- * Buyer will make available to seller the documentation of the carcass merit program sheets on the first working day following the slaughter of the hogs.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Carcass Evaluation Program or Matrix

- * Market Hogs shall be of acceptable size, weight, and type as determined by buyer. Hogs determined by buyer to be of unacceptable size or to have unacceptable quality may, in buyer's discretion, be refused by buyer, purchased at a reduced price, or sorted and transported to another market at seller's sole cost and expense.
- * Seller shall use its best efforts to deliver hogs that produce above average carcasses and primal cuts consistent with buyer's quality specifications. Seller's performance in meeting buyer's pH and iodine value specifications shall be compared to the performance of producers who (A) are not controlled by or affiliated with buyer and (b) do not receive any incentive or special payment based on the pH and/or Iodine values. Buyer shall provide seller with reasonably acceptable verification of the performance of such other producers in meeting buyer's quality specifications, including the buyer's pH and iodine value specifications, and the comparability of the other producers whose data is used in the comparison. Each hog carcass from seller's hogs must (i) pass the USDA post-mortem inspection, and (ii) be free of any conditions (e.g. excessive insect bites, damage or loss of portions of the carcass) that result in above normal trim loss, additional handling of the carcass or decreased value of the carcass.
- * Hogs shall be of acceptable quality.
- * All hogs sold to buyer hereunder are of acceptable quality. As used herein, acceptable quality shall mean that the hogs satisfy the then current standards of buyer for acceptable deliveries of hogs, as modified by buyer from time to time, as well as the standards set forth in this agreement and any other standards established under applicable law.
- * Buyer currently maintains the specified incentive program described in the carcass buying program. The incentive will be determined based on hogs delivered by seller during the applicable period. Buyer will provide seller written notice of any change in the application of or elimination of the incentive program.
- * OP Schedule 252
- * For purposes of the agreement, except as provided in this specified section, the carcass merit adjustment shall be the amount determined pursuant to buyer's standard slaughter facility carcass merit matrix in effect at the time of delivery of any hogs by seller. The carcass merit matrix shall be the prevailing carcass merit matrix offered at buyer's plant at the time of delivery. Buyer may modify the matrix from time to time, but shall give seller 30 days prior written notice of any such modification. The current matrix is attached hereto as specified exhibit. The carcass merit adjustment shall be determined in respect of each hogs delivered pursuant to this agreement and shall be included in the information in the kill sheet, for each load of hogs delivered by seller to buyer. The parties acknowledge that the current matrix is based on buyer's current definition for a standard carcass, which is a carcass that is 51% to 53% lean and a carcass weight of approximately 203 pounds, and that the matrix may be modified by buyer from time to time to reflect, among other factors, changes in buyer's definition of a standard carcass. Notwithstanding the foregoing, all hogs delivered under the terms of previous agreement prior to specified date shall be subject to the specified date carcass merit adjustment matrix that is currently applicable to previous agreement. Other factors that could result in changes to the matrix may include, without limitation, changes in buyer's instruments for determining lean percentage or size. At present, size is determined by weight in pounds, and lean percentage is measured using a Fat-O-Meat'er. Buyer agrees that no change shall be made in such instruments unless the substitute instrument is at least as accurate. For the purposes of this agreement, carcass weight shall mean the net weight of the hog's carcass after passing USDA inspection and prior to chilling.
- * OP Schedule 229

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Carcass Evaluation Program or Matrix

* It is mutually understood between buyer and seller that seller will produce hogs with carcasses that will equal or exceed the average of all carcasses from hogs delivered to buyer based on the existing carcass evaluation system at the time of delivery. Producer will use appropriate genetics to produce hogs that seller anticipates on average will have a meat quality (which includes, without limitation, firmness, water holding capacity, marbling as determined by tests such as pH and Minolta readings) that equals or exceeds the meat quality of all other hogs delivered to buyer for slaughter. Specifically, seller agrees (and buyer approves the following genetics to be used by seller) to produce hogs under this Agreement: (i) all the female genetics used to produce hogs shall be Landrace, Large White/York cross and (ii) the genetics of terminal sires used to produce hogs shall be Duroc. Any changes to genetic lines used by seller to produce hogs shall require written pre-approval from authorized personnel.

* Seller agrees to raise and supply to buyer top quality, healthy and wholesome hogs. Seller shall have a genetic program capable of producing lean, uniform sorted hogs that consistently meet the quality standards of buyer in existence from time to time. Without limiting the generality of the foregoing, seller represents and warrants to buyer and agrees as follows: (a) all deliveries of hogs shall meet or exceed the specifications for weight, National Pork Board level, and average lean yield set forth on specified schedule attached hereto and incorporated by reference herein. (b) any lot of hogs with an average lean percentage lower than 50% shall not count toward the minimum quantity of hogs required to be delivered by seller under this agreement. Any such lot of hogs shall have a specified base price rather than under specified schedule of this agreement.

* Freight to be paid by buyer; all animals must be able to walk for the USDA to allow them to be processed. Buyer will not pay for dead pigs (Dead on arrival DOA), condemnments, lame, or blemished hogs. The price will follow the Iowa -Minnesota Market live weight basis. The price will be based on the closing hogs market closest to the day of shipment. Payment will normally be within 7 to 9 days from the delivery date, but not to exceed 14 days.; A payment agreement waiver must be signed to satisfy the Packers and Stockyard Act.

* The carcass merit adjustment shall be the amount determined pursuant to buyer's carcass merit matrix. The carcass merit matrix shall be the prevailing carcass merit matrix offered at buyer's plant at the time of delivery. Buyer reserves the right to modify its carcass merit program at any time during the term to respond to changes in industry standards, product marketability, and advances in evaluation procedures.

* Meat value factor shall mean any factor or combination of factors that affects the carcass value as determined by buyer and uniformly applied to all sellers and/or their affiliates, as applicable, as set forth in the table in specified exhibit.

* The base price shall be subject to premiums and discounts for carcass weight, which premiums and discounts will be determined in accordance with buyer's carcass merit program in effect at the time of slaughter. A copy of the current carcass merit program are attached hereto as specified exhibits. The content of these exhibits may be changed by buyer at any time and from time to time to reflect developments in the pork industry and governmental price reporting. In the event there is a change in the utilization or definition of the indices set forth above, buyer, upon 30 days prior written notice to seller, will adopt a pricing index that, in its reasonable judgment, most closely approximates the changed indices.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Carcass Evaluation Program or Matrix

* The carcass merit adjustment shall be the amount determined pursuant to buyer's carcass merit matrix. The carcass merit matrix shall be the prevailing carcass merit matrix offered at buyer's plant at the time of delivery. Buyer may change the matrix from time to time; provided, however, buyer shall give seller 30 days' written notice prior to changing the matrix. The matrix currently offered by buyer is set forth in specified exhibit attached hereto. The carcass merit adjustment shall be determined with respect to each load of hogs delivered pursuant to this agreement and shall be included in the kill sheets for each such load. Seller acknowledges that buyer's current carcass merit matrix is based upon buyer's current definition for a standard carcass, which is a carcass with 50% lean and a carcass weight of approximately 188 lbs., and that such matrix may be changed by buyer from time to time and that changes may reflect, among other factors, changes in buyer's definition of standard carcass. Other factors that could result in changes to the matrix may include, without limitation, changes in buyer's instruments for determining lean percentage or size.

* All hogs delivered by seller under this agreement must be as follows: (1) top quality, healthy and wholesome hogs that pass pre and post mortem inspection; (2) free of foreign objects (e.g., needles); (3) have a carcass weight of at least one hundred sixty (160) pounds and not more than two hundred forty-three (243) pounds; (4) not crippled, lame, sick, overfilled or otherwise unmerchantable at time of delivery; (5) handled by seller and transporters in such a manner so as to promote best animal care and handling; (6) seller is expected to have a veterinary-client-patient relationship. Seller must follow the guidelines set forth in FDA's published Compliance Policy Guide 7125.37 ("Proper Drug Use and Residue Avoidance by Non-Veterinarians"). (i) seller understands buyer and USDA have the option to and expect to conduct random residue testing and any positives found are grounds for termination of this agreement; (ii) in addition to minimum withdrawal requirements set forth by law, buyer requires a minimum 1-day withdrawal on any tetracyclines prior to delivery of hogs to the delivery plant; and (7) designated as exclusively having a "United States country of origin," as such term is defined in the Agricultural Marketing Act of 1946, as amended, or similar legislation (referred to in this agreement as "COOL"), and in accordance with any corresponding labeling or tracking requirements that buyer may require by written notice during the term of this agreement.

* All antibiotic free hogs and hogs sold to buyer hereunder are of acceptable quality as used herein, Acceptable quality shall mean that the antibiotic free hogs and hogs satisfy the then-current standards of buyer for acceptable deliveries of antibiotic free hogs and hogs, as modified by buyer from time to time including, without limitation, the following: antibiotic free hogs and hogs shall be of an acceptable lean percent as determined pursuant to buyer's carcass grading system. An acceptable lean percent is presently defined as one greater than forty-four percent (44%) on average over a consecutive sixty (60) day time period, subject to modification by buyer from time to time; antibiotic free hogs and hogs shall not exhibit any signs of lameness, respiratory disease, skin conditions, unhealed wounds, rectal prolapse, mange, or any other disease or condition which causes the hog to be unsuitable for processing or which raises questions regarding humane handling and treatment; and antibiotic free hogs and hogs shall be of acceptable size, weight and type as determined by buyer. Antibiotic free hogs determined by buyer to be of unacceptable size or type may be refused by buyer, purchased at a reduced price, or sorted and transported to another market at seller's sole cost and expense.

* Carcass merit program means a program used by buyer to determine the premium above, or the discount below, the base carcass price or price contained in an agreement (whichever is applicable) that buyer will pay seller for each hogs. The carcass merit program is currently based on the hot carcass weight and the lean percentage of the hogs and is attached hereto as specified schedule; provided, however, that buyer may change the factors used to determine the premium above or discount below the base carcass price, from time to time.

* OP Schedule 265

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Carcass Evaluation Program or Matrix

- * In addition to the base price, buyer shall pay to seller or seller shall pay to buyer applicable premiums or discounts (the carcass merit adjustment) determined under specified article as to all hogs delivered under this contract. In addition, if a market hog has a disease which results in additional handling of the carcass and/or decrease value or yield of the carcass, as reasonably determined by buyer, then buyer may deduct buyer's costs associated with the additional handling of the carcasses and/or decreased value or yield of the carcasses. Diseases shall include, but not be limited to the following: pneumonia, peritonitis, jaundice, pericarditis, or arthritis. Additional handling of the carcasses and/or decreased value or yield of the carcasses shall include, but not be limited to, the following: trim loss above normal, downtime on the chain or rail, or damage or loss to portions of the carcass (e.g., ribs, belly, loin, etc.).
- * Grade and yield adjustment shall mean the premium or discount paid to seller for hogs that exceed (premium) or fall short (discount) of buyer's published quality standards.
- * Subject to the requirements of this subsection, seller shall be eligible for an additional carcass premium of \$1.00 per hundred for hogs that were farrowed from sows who gestated in group pens (i.e. "loose housing"). For purposes of certainty, hogs shall be deemed farrowed from sows that were housed in group pens or loose housing during the gestation period (i.e. 35- 42 days post- breeding when pregnancy is confirmed) and up until the final week prior to farrowing. Swine will need to be delivered in specified delivery windows to allow for segregated production, and buyer agrees that deliveries of such hogs shall be permitted at least three days per week beginning specified date. Seller shall maintain records and documentation sufficient to verify (to buyer's reasonable satisfaction) that such hogs are eligible for the additional premium, and seller shall provide such records and documentation (as well as related affidavits) to buyer upon its request. Beginning in specified date, seller estimates that approximately specified number of hogs shall be eligible for this additional premium.
- * Shipments from seller to buyer may not encompass more than 60% barrows. In the event shipments are in excess of 60% barrows, the excess barrows will be purchases by buyer, at market prices as determined by buyer.
- * Individual hogs that do not meet buyer's standards for slaughter (Sub-Standard) will be purchased by buyer, at market prices as determined by buyer, to be resold. Sub-Standard Swine include abscessed, ruptured, thin, crippled, sick, showing signs of pregnancy, boars, non-ambulatory, stressed, and injured.
- * OP Schedule 251
- * For purposes of this agreement, the carcass merit adjustment shall be the amount determined pursuant to buyer's carcass merit matrix. Buyer shall give seller thirty (30) days written notice prior to any changes or revisions to buyer's carcass merit matrix. The matrix currently offered by buyer is set forth in specified exhibit attached hereto. The carcass merit adjustment shall be determined in respect of each load of hogs delivered pursuant to this agreement and shall be included in the information in the kill sheets for each such load.
- * If buyer changes or revises the carcass merit buying matrix currently offered by buyer (a copy of which is attached as specified exhibit) within the first five agreement years, then buyer shall adjust the price for the hogs supplied under this agreement. The adjustment shall be in an amount such that the price for the hogs, based on the changed or revised carcass merit buying matrix, is economically equivalent to the price for the hogs that is based on such matrix in effect on the date of this agreement. Any such adjustment shall be determined with respect to each load of hogs delivered pursuant to this agreement.
- * Buyer may modify or change the standard carcass merit program (lean value or carcass weight discount) for which seller shall be required to participate. Buyer shall give seller a 30 day notice of such changes to take place.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Changes in Evaluation, Target Weight or Grades

- * Seller may evaluate buyer changes; Seller may accept or decline the changes and shall give buyer 60 days' notice in the case seller declines. Both seller and buyer agree to meet to discuss the terms of the changes prior to termination.
- * Buyer may from time to time propose to seller certain carcass value pricing factors (a carcass merit program). The carcass merit program contained in such proposal shall become effective on the proposed effective date set forth in the proposal (which shall be at least fourteen (14) business days after the proposal is delivered to producer) unless prior to such effective date producer shall return to packer the proposal marked "declined" by producer. Once effective, a carcass merit program shall remain effective until ninety (90) days after either packer or producer gives notice to the other that such carcass merit program shall no longer be effective. The method of calculation of a carcass merit premium or discount shall be specified in any carcass merit premium. At any time that a carcass merit programs in effect, the weight discount specified above, and the cripple discount and condemnation credit specified below, respectively, shall not be applicable to the calculation of the purchase price of hogs.
- * If buyer changes or revises the standard carcass weight, defined above, within the first five agreement years, then buyer shall adjust the market price for the hogs supplied under this agreement. The adjustment shall be \$.13 per carcass hundredweight for each pound change in the standard carcass weight. A decrease in standard weight will increase the market price and an increase in standard weight will decrease the market price. For example, if the standard carcass weight is decreased to 210 pounds, the market price will be increased \$.52/cwt. (4
* \$.13 = \$.52). If the standard carcass weight is increased to 220 pounds, the market price will be decreased \$.78/cwt. (6
* \$.13 = \$.78).
- * The buyer premium supplier program may be updated or amended by buyer at any time; Buyer will give seller a 90-day notice before any changes become effective.
- * All hogs marketed by seller to buyer shall be subject to the buyer's carcass merit program for lean evaluation and carcass weight discounts. Any carcass merit change will be communicated (30) days prior to execution. Seller will have thirty (30) days to accept the change after notification. If seller agrees to carcass merit change that will be considered notice of termination and the original carcass merit program as described in the agreement shall stay in effect until the contract terminates.
- * AMDUCA shall mean the Animal Medicinal Drug Usage Clarification Act of 1994, as amended, which regulates extra label drug use in food producing animals.
- * Antibiotic Withdrawal Program shall mean and refer to the requirements set forth on specified exhibit.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Drug Usage or Withdrawal

* All hogs delivered by seller must be free of any violative drug residues to fully comply with the maximum residue limit (MRL) requirements for all domestic and international pork product sales including, but not limited to, the MRL requirements for Japanese pork product sales and the USDA Export Verification Program MRL requirement for pork product sales to the Russian Federation. To comply with the USDA Export Verification Program, seller must meet the specified withdrawal period of at least 14 days, for tetracycline group antibiotics. Seller is responsible for managing the use and withdrawal times for all antibiotics, drugs and medications to ensure that no violative residue exists in the hogs. The Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA) allows veterinarians to prescribe extra-label uses of certain approved animal drugs and approved human drugs for animals under certain conditions. Extra-label (or extra-label) use refers to the use of an approved drug in a manner that is not in accordance with the approved label directions. The key constraints of AMDUCA are that any extra-label use must be by or on the order of a veterinarian within the context of a veterinarian client- patient relationship, must not result in violative residues in food- producing animals, and the use must be in conformance with the implementing regulations published at 21 CFR Part 530. A list of drugs specifically prohibited from extra-label use (530_41.txt and 530_41.pdf) appears in the Code of Federal Regulations. The minimum withdrawals are buyer's minimums. The prescribing veterinarian is still responsible for ensuring that there is no ensuing violative residue. If the prescribing veterinarian chooses to implement a longer withdrawal period, the longer withdrawal period will supersede the minimum withdrawal time in this exhibit. No extra-label uses of drugs in animal feed are allowed. FDA Guidance 209, FDA Guidance 213, and Veterinary Feed Directive (VFD) Requirements: • By December 8, 2015 – Stop using all medically important antibiotics to improve growth rate or improve feed efficiency. • By December 12, 2016 – All water soluble antibiotic products containing medically important antibiotics must change from Over the Counter (OTC) to Rx status (even if they are used according to label directions). • By January 1, 2017 – A VFD will be required to add any medically important antibiotics (listed in Guidance #152) to food animal rations (21 CFR Part 558).

* Prohibited Drugs shall mean those drugs not permitted for use in producing hogs as identified on specified exhibit, which may be amended from time to time by buyer.

* Seller shall provide and administer only medications, feed additives, and other animal health products approved by the FDA and only vaccines approved by the USDA, unless prescribed by a veterinarian and approved by buyer. Buyer shall abide by all laws and regulations governing the use of drugs, medications, feed additives and other animal health products in hogs intended for human consumption, including the requirements of AMDUCA, FDA Guidance 209, FDA Guidance 213, and Veterinary Feed Directive (VFD) requirements. Seller agrees to advise buyer of any regulated, controlled or restricted substances fed or administered to seller's hogs on a regular basis. Notwithstanding any other provision of this agreement, (i) seller shall not provide any prohibited drugs to any hogs delivered to buyer, and (ii) seller shall fully comply with the antibiotic withdrawal program.

* In the event that seller delivers hogs that fail to conform to the specifications, then buyer may, in addition to all other remedies available to buyer, either reject or accept any non-conforming hogs. If buyer agrees to purchase non- conforming hogs, it shall pay for them at a price determined by buyer; however, any such non-conforming hogs shall not be counted towards satisfaction of the volume requirement for hogs set forth in specified exhibit.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Failure to Meet Standards

* In the event that seller delivers hogs that fail to conform to the specifications then buyer may, in addition to all other remedies available to buyer, either reject or accept any non-conforming hogs. If buyer agrees to purchase non-conforming hogs, it shall pay for them at a price determined by buyer; however, any such non-conforming hogs shall not be counted towards satisfaction of the volume requirement for hogs set forth in specified exhibit. If buyer elects to purchase non-ambulatory hogs that make it past inspection at the plant, buyer shall pay seller seventy percent (70%) of the current-business day's specified price for such hogs multiplied by average carcass weight of the lot.

* In the event that seller delivers hogs that fail to conform to the requirements of this agreement, then buyer may, in addition to all other remedies available to buyer, either reject or accept any non-conforming hogs. If buyer agrees to purchase non-conforming hogs, loads that do not comply with the specifications as listed in specified section will be discounted according to buyer's then current discount schedule and will be counted towards the satisfaction of the requirements listed in specified exhibit A. Individual hogs that do not comply with the specifications as listed in specified section will not be counted towards the satisfaction of the requirements listed in specified exhibit.

* In the event that seller delivers hogs that fail to conform to the requirements of this agreement, then buyer may, in addition to all other remedies available to buyer, either reject or accept any non-conforming hogs. In the event that buyer elects to accept non-conforming hogs, such hogs shall not count towards the quantity requirements under this agreement, and the price to be paid by buyer to seller for the non-conforming hogs shall be lower of (i) the agreement price, as determined under the terms of specified paragraph, or (ii) the cash price, as offered by buyer at the plant of delivery, for similar hogs, on the day of delivery of such non-conforming hogs, subject to any applicable discounts under the then current discount program of buyer's plant. In the event that buyer pays the agreement price for any non-conforming hogs, buyer, at its option, may deduct any overpayment against current and future amounts owed by buyer to seller under this agreement. Buyer shall also have the right to offset against current and future amounts owed to seller under this agreement, any and all damages sustained by buyer as a result of seller's breach of this agreement, including without limitation seller's failure to deliver the quantity of hogs required under this agreement. In the event that buyer has reasonable grounds to believe that seller's ability to perform under this agreement is impaired then buyer may in writing demand from seller adequate assurance of due performance, and buyer may suspend its performance under this agreement, if commercially reasonable to do so, until such adequate assurance is provided by seller. If seller fails to provide such adequate assurance within a reasonable time, not to exceed 30 days, then buyer may terminate this agreement. The rights and remedies set forth in this article are non-exclusive and shall be in addition to any other rights or remedies that may be available to buyer at law or in equity.

* In the event that seller delivers hogs that fail to conform to the requirements of this agreement, then buyer may, in addition to all other remedies available to buyer, either reject or accept any non-conforming hogs. In the event that buyer elects to accept nonconforming hogs, the price to be paid by buyer to seller for the non-conforming hogs shall be lower specified prices subject to any applicable discounts under the then current discount program of buyer's plant. Hogs that are priced at Lower of the Two pricing will be counted towards satisfaction of the volume requirement set forth in specified exhibit.

* Seller shall use the genetics set forth on specified exhibit in order to produce the hogs. Any change to the seller's genetics from those set forth in specified exhibit must be approved, in advance, by buyer.

* The genetics used by seller to produce the hogs be specified genetics for female lines and specified genetics for sire lines. Seller shall not change such genetics without buyer's prior written consent.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Lean Percentage and Yield

- * All hogs shall on average, over each consecutive 6 month period, be no less than the greater of (a) 53% lean, or (b) an amount which meets or exceeds the plant average (with respect to the plant to which the hogs are delivered). Such measurements shall, except as otherwise be set forth in this Contract, be made by Fat-0-Meater. Hot dressing yield shall average, over each consecutive 6 month period, no less than the greater of (a) over 75% per load, or (b) an amount which meets or exceeds the plant average (with respect to the plant to which the hogs are delivered).
- * Hot dressing yield shall average, over each consecutive 6 month period, no less than the greater of (a) over 75% per load, or (b) an amount which meets or exceeds the plant average (with respect to the plant to which the hogs are delivered).
- * Hot dressing yield shall average, over each consecutive 6 month period, no less than 74.5%, and .5% lower than buyer's standard requirement due to the fact seller is part of a genetics company test program and has limited ability to control hot dressing yield.
- * Hot dressing yield for all hogs delivered by seller under this agreement shall average, over each 6 month period ending June 30 and December 31, not less than 74.4%.
- * Annual Lean Requirement shall mean an average annual lean percentage at least equal to 51.5% for all hogs delivered to buyer by seller during any delivery year, with the lean percentage for each carcass calculated by the following formula: $\text{Lean percentage} = 100 \times [2.827 + (0.469 \times \text{carcass weight}) - (18.470 \times \text{fat mm} \times 0.0393701) + (9.824 \times \text{loin depth mm} \times 0.0393701)] / \text{carcass weight}$.
- * Grade and yield adjustment shall mean the premium or discount paid to seller for hogs that exceed (premium) or fall short (discount) of buyer's published quality standards.
- * Carcasses will be scalded at buyer's slaughter facility. Carcass yield for carcasses will be determined after removing the head, kidneys, leaf fat, hanging tenders, and spinal cord. Carcass yield or trim loss due to health reasons, carcass defects, bruises, and any other trimming or harvesting procedures conducted by buyer In Its sole and absolute discretion is at seller's expense. Exceptions are made for carcass impacts caused by the plant such as condemnations due to overscald, and other like circumstances.
- * Hot dressing yield shall average, over each consecutive 6 month period, no less than the greater of (a) over 73.5% per load, or (b) an amount which meets or exceeds the plant average (with respect to the plant to which the hogs are delivered; and provided that the method used to determine plant averages is of a quality and volume to accurately determine the same). For the purposes of this agreement, load shall mean the quantity of hogs contained in a vehicle or trailer, which is used by seller to ship and deliver the hogs to buyer; provided, however, in no event shall a load exceed the quantity that may fill a standard semi-trailer used for the purpose of transporting hogs
- * Hot dressing yield shall average, over each consecutive 6 month period, no less than 75%.
- * During each delivery year, seller shall meet the annual lean requirement.
- * During each consecutive six (6) month period during the term, seller shall deliver hogs that, on average during each such period, (i) are no less than 53% lean, and (ii) have a hot dressing yield of no less than 75%. Lean measurements shall, except as otherwise set forth in this agreement, be made by Fat-0-Meater.
- * Conversions between live prices and carcass prices will be made utilizing buyer's standard yield in effect on the day of slaughter.

Swine Packer Marketing Contract Summary - National

Other Provisions

Quality/Weight- Lean Percentage and Yield

* All hogs shall on average, over each consecutive 6 month period, be no less than the greater of (a) 53% lean, or (b) an amount which meets or exceeds the plant average (with respect to the plant to which the hogs are delivered). Such measurements shall, except as otherwise set forth in this agreement, be made by Fat-O-Meat'er.

Quality/Weight- Meat Quality or Usability

* The pH for each load of hogs shall meet or exceed the plant average (with respect to the plant to which the hogs are delivered). In addition, in the event that buyer establishes a "standard pH" (as defined below) for hogs, then each load of hogs shall also meet or exceed such "standard pH" The "standard pH" shall mean the "Base" pH set forth from time to time in buyer's carcass merit buying matrix existing from time to time as described in specified section. Buyer may revise such "standard pH" from time to time. Buyer shall give seller thirty (30) days notice prior to establishing or revising such "standard pH" Buyer may, in its discretion, determine pH by testing carcass' on a random basis or by testing each individual carcass.

* Seller agrees to maintain a composite iodine value (a measurement of fat saturation) at 72 or lower as determined from carcass belly fat samples collected from Seller's hogs.

* Hot dressing yield shall average, over each consecutive 6 month period, no less than the greater of (a) over 75% per load, or (b) an amount which meets or exceeds the plant average (with respect to the plant to which the hogs are delivered).

* OP Schedule 230

* Carcasses will be scalded at buyer's slaughter facility. Carcass yield for carcasses will be determined after removing the head, kidneys, leaf fat, hanging tenders, and spinal cord. Carcass yield or trim loss due to health reasons, carcass defects, bruises, and any other trimming or harvesting procedures conducted by buyer In Its sole and absolute discretion is at seller's expense. Exceptions are made for carcass impacts caused by the plant such as condemnations due to overscald, and other like circumstances.

* The initial delivery of hogs shall pass a cutting test, as determined by buyer. Provided that the initial delivery of hogs passes the cutting test, each subsequent delivery of hogs shall meet or exceed the standards established by the initial cutting test.

* The initial delivery of hogs shall pass a cutting test, as determined by buyer. Provided that the initial delivery of hogs passes the cutting test, each subsequent delivery of hogs shall meet or exceed the standards established by the initial cutting test. In addition to seller's obligation to meet the foregoing specifications, seller shall, if requested by buyer, implement programs to improve the quality of the hogs and/or buyer's ability to sell pork products produced from the hogs (e.g., a farm hazard analytical control point program, an ISO 9000 program, etc.); provided, however, that any such program does not adversely affect seller's ability to produce hogs in accordance with the specifications of this agreement.

* Use needles and procedures that minimize needle breakage. If/When breakage occurs in an animal despite seller's best practices, seller shall permanently identify such animal and shall communicate the identity of such animal to buyer at the time of delivery. Any animal adequately identified at delivery to location will be humanely euthanized by buyer and seller will receive full payment for such animal. If a needle is found by buyer in a carcass supplied by seller that was not Identified In the manner set forth above, seller will receive no value for that animal. Further, such act will constitute a breach of this agreement, which, notwithstanding anything to the contrary in this agreement, may result in immediate termination of this agreement.

* Seller agrees to tattoo with the letters "NEDL" and to apply a large red ear tag in both ears of all hogs suspected of containing a broken needle.

Swine Packer Marketing Contract Summary - National

Other Provisions

Quality/Weight- Meat Quality or Usability

- * Seller must use highly detectable needles or needleless injection technology to administer injectable vaccines and/or drugs.
- * Nutrition Standards shall mean the standards and requirements set forth on specified exhibit and incorporated herein by this reference, which may be changed from time to time by buyer.

Quality/Weight- Nutrition

- * Seller shall feed the hogs in accordance with the written nutrition plan which has been previously provided to buyer, a copy of which is attached hereto as specified exhibit. If requested by buyer, seller shall modify such nutrition plan and feed the hogs in accordance with the modified plan (e.g., to provide for the use of feed inputs that are non- genetically modified organisms); provided, however, that the modified plan does not adversely affect seller's ability to produce hogs in accordance with the specifications of this agreement. Seller shall give thirty (30) days written notice prior to any use by seller of Beta Agonist, PST, Ractopamine, or any other substance in producing the hogs, and seller shall discontinue the use of such substances if they adversely affect, as determined by buyer, buyer's processing of the hogs or marketing of the pork products from the hogs.
- * No meat and bone meal may be used except porcine (pork) meat and bone meal. Additionally, all feed medications must be fed in accordance with the antibiotic withdrawal program and the PQA Plus requirements. Fat firmness and color are to be preserved through limiting the sources of dietary fat to choice white grease and beef tallow (other sources of fat must be approved by buyer) from 150 pounds of body weight and greater. During the early phase of growth, vegetable oils may be utilized. Overall, pork carcass fat quality is affected by source and level of fat. Therefore, in addition to the above guidelines, average carcass belly fat iodine value (a measurement of fat saturation) must be maintained at 72 or lower. Ractopamine must not be included in the feed used in the production of seller's hogs. This restriction on the use of Ractopamine shall continue indefinitely unless buyer, at buyer's option, notifies seller that seller may include Ractopamine in the feed used in the production of seller's hogs. After the restriction on the use of Ractopamine has been removed by buyer, buyer shall have the option to reinstate the restriction on the use of Ractopamine by notifying seller at least forty-two (42) days in advance that Ractopamine must not be included in the feed used in the production of seller's hogs. During any period of time when buyer has restricted seller from including Ractopamine in the feed used in the production of seller's market seine, seller shall comply with any commercially reasonable requests by buyer to document, verify, or certify that seller's hogs are free from any Ractopamine residues
- * Seller agrees to comply with the nutrition standards, and to otherwise follow a hog nutrition program that will produce hogs that are free of violative drug residues.
- * Seller shall incur any and all condemnation loss as diagnosed by the USDA veterinarian.
- * All hogs delivered to buyer under this agreement are purchased subject to passing inspection by the United States Department of Agriculture ("USDA") with deductions and compensation for carcasses and carcass parts which are condemned by the USDA inspectors. In the event a carcass or carcass part fails to pass USDA inspection, the resulting loss therefore shall fall entirely upon the affected seller from whom the rejected carcass or carcass part originated. Any condemnation must be explained and documented on the settlement sheets.
- * All qualifying hogs and non-qualifying hogs delivered under this agreement are purchased subject to passing inspection by the USDA with deductions to the purchase price for all carcasses or carcass parts that are condemned or not unconditionally approved by the USDA inspectors. Non-qualifying hogs will be purchased at the prevailing price for livestock meeting the quality of the non-qualifying hogs.

Swine Packer Marketing Contract Summary - National

Other Provisions

Quality/Weight- Nutrition

* Carcasses will be scalded at buyer's slaughter facility. Carcass yield for carcasses will be determined after removing the head, kidneys, leaf fat, hanging tenders, and spinal cord. Carcass yield or trim loss due to health reasons, carcass defects, bruises, and any other trimming or harvesting procedures conducted by buyer In Its sole and absolute discretion is at seller's expense. Exceptions are made for carcass impacts caused by the plant such as condemnations due to overscald, and other like circumstances.

Quality/Weight- Out Hogs and Off Quality

* Defect or defects shall mean any hogs that is not acceptable as a hogs hereunder because such animal is an uncastrated male, is a freshly castrated male, or has a condition which causes a downgrade or condemnation of such animal or carcass by buyer or the USDA inspector at the designated facility, including, but not limited to, a rupture, abscess, fresh cut, unhealed wound, an unacceptable drug residue level, or is dead or is otherwise unacceptable.

* If seller brings any hogs to the delivery location that do not meet the above requirements, they will be handled according to the following procedures: Seller will be assessed the costs incurred by buyer for disposing of any dead hogs that are delivered by seller to the delivery location. These costs will be deducted from the total price to be paid to seller. Please see buyer's carcass buying program regarding dead hogs, which policy may be changed in buyer's sole discretion by providing written notice to seller. Fatigued or injured animals will be paid based on buyer's carcass buying program regarding fatigued or injured hogs, which policy may be changed in buyer's sole discretion by providing written notice to seller. Non- harvestable hogs are live hogs that do not meet buyer or USDA's requirements set forth in specified section. Non- harvestable hogs must be segregated from all other hogs on any load brought to the delivery location. Non- harvestable hogs will be paid based on buyer's carcass buying program regarding non-harvestable hogs. Please see buyer's carcass buying program regarding non-harvestable hogs, which policy may be changed in buyer's sole discretion by providing written notice to seller.

* Buyer shall receive a discount against the market value of the hogs in the amount of ten (10) cents per pound for crippled hogs purchased hereunder.

* Notwithstanding any other provision of this agreement, buyer shall have no obligation to purchase from seller any hogs that: (i) are dead at delivery to the designated facility; (ii) die prior to stunning, unless the cause of death of such hogs is a direct and primary result of being held at the designated facility for more than twenty-four (24) hours or the gross negligence by buyer; (iii) are condemned by buyer or a USDA official; (iv) do not meet USDA inspection standards; (v) constitute a defect; or (vi) are not otherwise free of chemicals, residues or other substance or diseases that prohibit, impair or affect processing, marketing or human consumption. All risk of loss of such dead, condemned or excluded hogs shall be borne solely by seller.

* Buyer shall receive a credit for hogs condemned on the kill floor or condemned following purchase subject to USDA approval in an amount equal to the market value multiplied by the average weight of the hogs in the truckload in which the condemned animal was delivered to buyer.

* All hogs are purchased subject to passing inspection by the USDA with deductions to the price for all carcasses or carcass parts that are condemned or not unconditionally approved by the USDA inspectors.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Out Hogs and Off Quality

* Seller agrees to allow the common swine industry audit to be conducted by a third party auditor. Seller agrees to provide the third party auditor with access to the necessary records, documents, relevant information, buildings, facilities, caretakers, and animals to conduct the audit, provided that the third party auditor complies with seller's biosecurity requirements. The cost for the third party auditor to conduct the common swine industry audit shall be paid by buyer.

* In addition to seller's obligation to meet the foregoing specifications, seller shall at all times be in compliance with all provisions of the then current Common Swine Industry Audit and all other applicable local and federal laws, rules, ordinances, and regulations. Seller acknowledges that it may be subject to a third party audit at any time during the term of the agreement.

* Seller must sign an affidavit that market hogs have never been fed any beta agonists. Seller must be PQA Plus certified and complete PQA Plus site assessments every three years for all production sites. Seller must comply with the production requirements listed in buyer's "Producer Certification" form.

Quality/Weight- Quality Improvements or Pork Quality Assurance

* Seller shall at all times during the term of this agreement maintain compliance with the National Pork Board's Pork Quality Assurance ("PQA") Plus Programs and maintain the highest level of certification, including site status, offered by the NPB under the PQA Plus Program with respect to both its sow farm and hog grow-out facilities and/or personnel.

* Seller agrees to comply with the animal welfare Common Industry Audit (the "Audit") and utilize a third party to conduct the audit within ninety (90) days of the beginning of the initial term and then annually thereafter. Seller agrees to provide a copy of all current and past audit results to buyer within five (5) days of buyer's request.

* Seller shall follow industry approved animal welfare and humane handling procedures at all times during the production, transportation and delivery of the hogs. Seller and seller's production employees that work around pigs shall be PQA Plus (Pork Quality Assurance Plus) certified and TQA (Transport Quality Assurance) certified by the National Pork Board.

* Seller agrees to participate in and comply with PQA Plus or to be certified as a Level III participant in the National Pork Board's Pork Quality Assurance program. In addition, seller agrees to comply with other accepted industry food safety programs as reasonably required by seller from time to time.

* Seller agrees that each truck driver delivering Seller's hogs to buyer will comply with and maintain continuous certification in the National Pork Board's Transport Quality Assurance (TQA) Program.

* Seller understands that buyer will only buy hogs from sellers who comply with buyer program.

* Seller agrees to comply with and be certified in the National Pork Board's Pork Quality Assurance Plus (PQA Plus) program. In addition, seller agrees to comply with other accepted industry food safety programs as reasonably required by buyer from time to time.

* Seller shall participate in the National Pork Board's objective on-site assessment of animal well-being and maintain PQA Plus site status for all production sites.

* OP Schedule 289

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Quality Improvements or Pork Quality Assurance

* Seller acknowledges that buyer maintains an audit program to monitor seller's practices. * All sellers are required to participate and maintain current certification in the National Pork Board Producer Quality Assurance (PQA) Plus or equivalent program. Certificate must be on file with the facilitator.

* Seller agrees that seller is subject to the requirements of the Quality Assurance Program and the Animal Care & Handling Program. Seller also agrees to the following: (1) To maintain certification of the National Pork Board's Pork Quality Assurance Plus® Program and Transport Quality Assurance® Program, a Hazard Analysis and Critical Control Points ("HACCP") program, or the highest Level of such PQA Program and/or TQA Program established in the future within specified months of the program change establishing such level. This includes the site assessment in the current PQA Plus Program for each location involved in supplying hogs to buyer, as well as any future assessment/third party audit that may be required through the program or by buyer; (2) To comply with any HACCP or quality program established by buyer or any governmental agency, or by any industry-accepted group, and any change in such a program, within specified months of the establishment of the program or the change. (3) Buyer has announced a change to the Quality Assurance Program and Animal Care & Handling Program, which change will go into effect in approximately specified date. Seller agrees that it will comply with the revised program, called "Farm Animal Care and Treatment Specifications" ("FACTS"), within specified months of receiving a written notice from buyer advising of the commencement date for the new program.

* Seller acknowledges that buyer maintains an audit program to monitor seller's practices. Seller agrees that it will comply with such program and will permit (including any designated third-party entity hired to perform production audits) a reasonable number of telephone interviews and visits to seller's facilities during normal operating hours to review, observe and monitor seller's practices. Such interviews and visits will not unreasonably interfere with the operation of such facilities, and in conducting such visits will follow standard industry practices to maintain bio- security. Seller agrees to provide on request information relating to its production management practices. Seller understands that if its production operations do not conform with appropriate production, quality and management practices under the program, or if there are any violations of animal welfare laws, that may (i) require the seller to cure such deficiencies, (ii) suspend deliveries of hogs if deficiency not cured; or (iii) terminate this agreement for a deficiency or failure to cure.

* Hogs must comply with buyer's general requirements for purchase, such as: PQA Plus certification, born and raised In the USA, and acceptable feed ingredient use. All growers raising pigs for seller shall be PQA Plus certified.

* Seller and its trucker must abide by all USDA and buyer animal welfare policies, including buyer Trucker Policy for Animal Welfare and Handling, a copy of which is in specified exhibit.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Quality Improvements or Pork Quality Assurance

- * Seller acknowledges that maintains an audit program known as specified program, to monitor seller's production management practices. Specified program standards currently adhere to the Common Swine Industry Audit standards (the applicable welfare standards). The applicable welfare standards may be updated from time to time. Seller agrees that it will use its best efforts to comply with such program during the term in the production of the hogs to be sold to under this agreement. Seller agrees that it will permit (including any designated third party entity hired to perform production audits) a reasonable number of telephone interviews and visits to facilities during normal operating hours to review, observe and monitor seller's practices. Such interviews and visits will not unreasonably interfere with the operation of such facilities, and in conducting such visits will follow seller's customary written bio-security protocols. Seller agrees to provide upon request reasonable information relating to its production management practices. Seller understands that if its production management practices do not substantially conform with appropriate production management practices that are reviewed by audit program, or if there are any proven violations of applicable animal welfare laws, may (i) require the seller to cure such deficiency or deficiencies, (ii) suspend deliveries of hogs if such deficiency(ies) are not cured; or (iii) terminate this agreement for a failure to cure such deficiency(ies).
- * Seller shall comply with the animal handling practices. Upon buyer's request, seller shall provide buyer with written evidence of compliance with the animal handling practices. Seller shall also participate in the National Pork Board's objective on-site assessment of animal well-being and maintain PQA Plus site status for all production sites.
- * Seller agrees to comply with and be certified in the National Pork Board's Pork Quality Assurance Plus (PQA Plus) program. Seller employees involved in animal husbandry will all be PQA Plus certified and will keep their certifications updated. In addition, seller agrees to comply with other accepted industry food safety programs as reasonably required by buyer from time to time.
- * Seller agrees to comply with, and be certified in, the National Pork Board's Pork Quality Assurance Plus ("PQA Plus") program. Seller shall participate in the National Pork Board's objective on-site assessment of animal well-being and achieve PQA Plus Site Status at least once every three years for all facilities. In addition, seller agrees to comply with other accepted industry food safety programs as reasonably required by buyer from time to time.
- * In addition to seller's obligation to meet the foregoing specifications, seller shall, if requested by buyer, and upon mutual agreement of seller and buyer as to terms, implement programs to improve the quality of the hogs and/or buyer's ability to sell pork products produced from the hogs (e.g., a farm hazard analytical control point program, an ISO 9000 program, etc.); provided, however, that any such program does not adversely affect seller's ability to produce hogs in accordance with the specifications of this agreement.
- * All sellers are required to participate in one facilitator continuing education program annually.
- * Must provide GAP certification
- * See OP Schedule 237
- * Seller shall complete a PQA site assessment of seller's facilities no later than specified date.
- * PQA Plus shall mean the National Pork Board's Pork Quality Assurance Plus program.
- * Seller agrees to certify to buyer once each year or upon request by buyer that seller is in compliance with the terms and conditions of this agreement. Such seller certification shall be in writing and documented on a form supplied by buyer.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Quality Improvements or Pork Quality Assurance

- * Seller shall at all times during the term of this agreement maintain compliance with all existing state and local environmental and swine welfare regulations. Seller agrees to participate in any certification or auditing programs as deemed necessary by buyer. Seller shall comply with all of the American Humane Certified (AHC) standards, as may be modified from time to time, and will undergo audits as required to maintain this certification. Buyer will coordinate and be responsible for the cost of AHC audits. Failure to maintain American Humane Certification as required by buyer may result in termination of this agreement at the sole discretion of buyer.
- * Seller and all of seller's employees who are involved in the transactions contemplated by this agreement must have and maintain a current pork quality assurance ("PQA") certification and follow humane animal handling procedures. All truckers used to transport the hogs must have and maintain a current trucker quality-assurance ("TQA").
- * Each hog shall have been raised following animal welfare, animal husbandry and humane handling procedures that at all times meet the requirements of (i) PQA Plus (Pork Quality Assurance Plus), (ii) TQA (Transport Quality Assurance), (iii) the Common Swine Industry Audit (CSIA), (iv) any successor programs to PQA, TQA or CSIA of the National Pork Board and (v) all applicable federal, state and local laws, regulations and ordinances. Seller acknowledges that it may be subject to a third party audit at any time during the term of the agreement.
- * Maintain at least the highest quality assurance level in affect at any given time as set by the National Pork Board (currently PQA Plus).
- * Seller and its facilities must at all times be in material compliance with the Pork Quality Assurance Program (PQA/TQA Plus) and buyer's specified program. Seller must also follow the recommendations of any Common Swine Industry Audit(s) of its facilities.
- * OFAER assessment shall mean an assessment conducted in accordance with the On Farm Assessment and Environmental Review project as established by the America's Clean Water Foundation.
- * Seller shall use its best effort to achieve live weight of 275 pounds per hog. With each load averaging 250 to 290 pounds live weight per hog, each hog shall not have a live weight of less than 230 pounds or more than 310 pounds. These weights (i.e., live weight per hog, average live weight per load and minimum and maximum live weight per hog may be revised by buyer from time to time. In the event that buyer modifies the required weights, buyer shall give seller thirty (30) days written notice prior to any such modifications.

Swine Packer Marketing Contract Summary - National Other Provisions

Quality/Weight- Target Weights

- * Seller shall use its best effort to achieve live weight of 285 pounds per hog, subject to reasonable seasonal fluctuation and any future adjustments to the carcass merit program. Each load shall average 260 to 310 pounds live weight per hog. Each hog shall not have a live weight of less than 240 pounds or more than 330 pounds. These weights (i.e., live weight per hog, average live weight per load and minimum and maximum live weight per hog) may be revised by buyer from time to time. In the event that buyer changes its carcass merit program, buyer shall give seller thirty (30) days written notice prior to any such revision. Any change to the standard weights shall result in the market price adjustments referenced in specified section.
- * Seller shall use its best effort to achieve live weight of 275 pounds per hog. Each load shall average 250 to 290 pounds live weight per hog. Each hog shall not have a live weight of less than 230 pounds or more than 320 pounds. These weights (i.e., live weight per hog, average live weight per load and minimum and maximum live weight per hog) may be revised by Buyer from time to time. In the event that Buyer changes its standard weights, Buyer shall give Seller thirty (30) days written notice prior to any such revision. At such time, Seller may request that the average weight range per load of hogs and the discount schedule be amended within sixty (60) days of the matrix effective date, with buyer's approval of such request not to be unreasonably withheld.
- * Seller shall use its best effort to achieve live weight of 255 pounds per hogs. Each load shall average 240 to 270 pounds live weight per hogs. Each hogs shall not have a live weight of less than 220 pounds or more than 290 pounds. These weights (i.e., live weight per hogs, average live weight per load and minimum and maximum live weight per hogs) may be revised by buyer from time to time, in the event that buyer changes its standard weights. Buyer shall give seller thirty (30) days written notice prior to any such revision.
- * Average weight requirement shall mean an average annual weight for all hogs delivered by seller during the delivery year of no less than 205 pounds and no more than 224 pounds, on a carcass weight basis at the designated facility.

Volume and Delivery - Changes in Delivery Schedule

- * Buyer and seller will each use its best efforts to always provide the other with as much notice as possible of any changes required in the delivery schedule. At any time during the term of this agreement, except for those market seine scheduled to be delivered within the next twenty-four (24) hours, buyer has the option to direct seller to deliver hogs produced under this agreement to slaughter facilities other than specified location provided that all incremental transportation costs, if any, incurred by seller because of the directive given by buyer are paid to seller by buyer.
- * Buyer and seller will each use its best efforts to always provide the other with as much notice as possible of any changes required in the delivery schedule. At any time during the term of this agreement, except for those hogs scheduled to be delivered within the next twenty-four (24) hours, buyer has the option to direct seller to deliver hogs produced under this agreement to slaughter facilities other than specified location provided that all incremental transportation costs, if any, incurred by seller because of the directive given by buyer are paid to seller by buyer.
- * The parties may mutually agree in writing to modify the delivery schedule and monthly hog quantity for the remaining term of this agreement. Seller understands that uniform weekly deliveries are important to buyer, therefore seller agrees to work with buyer's procurement personnel to schedule hogs at mutually agreeable dates and times. At the beginning of each calendar quarter, seller shall provide buyer with an updated estimated delivery schedule for the next 12 weeks. In addition, seller shall provide buyer written notice of any significant changes in its scheduled hog production as soon as seller identifies such changes.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Changes in Delivery Schedule

- * The parties may agree, from time to time, to change the quantities and delivery dates contained in this delivery schedule. In this event, seller and buyer will complete and sign a new delivery schedule and attach it to the original agreement. For avoidance of doubt, this delivery schedule supplements (but does not replace or amend) any other delivery schedule attached to the Agreement. If seller has executed a separate delivery schedule, seller must separately fulfill its obligations under such delivery schedule and this delivery schedule.
- * Seller's annual quantity is specified number of hogs starting to deliver specified loads per week specified date; increasing to specified loads consisting of 175-180 market hogs per week on specified date. Seller's annual quantity on the agreement represents all of seller's hogs.
- * During the term of this agreement, seller shall sell to buyer and buyer shall purchase from seller during each delivery year seller's adjusted annual quantity of hogs produced in the facilities by seller, pursuant to the terms and conditions of this agreement. The amount at which the hogs shall be purchased and sold shall be the purchase amount, subject to any and all adjustments provided for in this agreement. In addition, buyer shall have the option, but shall have no obligation, to purchase any live non-qualifying hogs, at the current market value for such hogs as determined by buyer.
- * Buyer shall have the express right to inspect each lot in a reasonable manner upon delivery by seller and prior to acceptance thereof. Seller hereby acknowledges that, upon six (6) hours notice, buyer may adjust the scheduling of delivery of hogs to plant or reduce the number of hogs delivered in any given week to accommodate downtime or decreased capacities at the plant. Buyer hereby acknowledges that any adjustment in scheduling of delivery of hogs, as provided above, will not alter or reduce its obligation to purchase hogs under specified section.
- * All hogs already scheduled for delivery and loaded on truck(s) for a particular twenty-four (24) hour period must be delivered and accepted at the processing plant already designated by buyer, e.g., if specified number of hogs are scheduled to be delivered to buyer's specified location on a given Tuesday, with delivery to take place the following day (Wednesday), buyer cannot request a change in that said delivery unless mutually agreeable to seller and said agreement shall not be unreasonably withheld by seller. In the event that seller has not loaded said hogs prior to receiving notice from buyer of the need to delay shipment to, or divert shipment from specified location. Seller will delay loading and shipment of said hogs for up to forty-eight (48) hours, or deliver the hogs to other facilities as directed by buyer. Buyer will unload the hogs in accordance with industry standards giving consideration to all factors affecting unloading (e.g. production requirements, weather, other deliveries, etc.).
- * The parties may agree, from time to time, to change the quantities and delivery dates contained in this delivery schedule. In this event, seller and buyer will complete and sign a new delivery schedule and attach it to the original agreement.
- * The parties may agree, from time to time, to change the quantities and delivery dates contained in this delivery schedule. In this event, seller and buyer will complete and sign a new delivery schedule and attach it to the original agreement. If any new delivery schedule(s) so agreed to by the parties requires deliveries beyond the term of the agreement, the term of the agreement will automatically extend for at least as long as the new delivery schedule(s)
- * With respect to specified subparagraphs, both buyer and seller agree to use best commercial efforts to equitably distribute favorable and unfavorable delivery times (including both days during the week and times during the day) to ensure fair treatment of each party and to accommodate seller's hog flow and buyer's plant production needs.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Changes in Delivery Schedule

* Buyer agrees to purchase from seller, and seller agrees to sell to buyer, (i) hogs meeting the standards of buyer, as such standards may be established or modified from time to time by buyer, and all other program guidelines, and (ii) hogs, as defined below, in the quantities and upon the pricing scale as provided herein. For the purpose of this agreement, hogs refers to hogs other than program hogs and which do not meet the program requirements of buyer. All requirements other than specific program guidelines shall apply to hogs. Deliveries of program hogs or hogs shall be made to the buyer's facility in specified location or other facility as directed by buyer.

* Buyer agrees to purchase from seller, and seller agrees to sell to buyer, hogs meeting the weight and grade standards of buyer, as such standards may be established from time to time by buyer, in the quantities and upon the pricing scale as provided herein. Deliveries of hogs shall be made to the buyer facility in specified location.

* Seller agrees to deliver hogs for slaughter as follows: a. Notify buyer procurement personnel on Tuesday of the intended deliveries for the next week. b. Deliver hogs to buyer on days and times specified by buyer c. Sort off any out hogs and do not deliver such out hogs to the location

* Buyer shall note on seller's truck(s) bill(s) of lading, and before said delivering truck(s) leaves buyer's plant, of the number, if any, of the hogs arriving at buyer's plant that are diseased, disabled, dead, or fail to conform to the weight specifications under this agreement. Buyer may, at its option, dispose of or sell such hogs according to the then current program, at buyer's plant, for disposal of non-conforming hogs; provided, however, that Seller shall receive all proceeds and shall be responsible for all costs, resulting from such disposal or sale.

Volume and Delivery - Delivery Conditions

* All hogs purchased hereunder shall be delivered by seller, freight prepaid by seller (subject to the provisions set forth in specified section, to slaughter facilities, designated from time to time by buyer. Title to and risk of loss of the hogs shall pass from seller after weighing of the carcasses at the hot weight scale at such slaughter facility. For purposes of this agreement, delivery means the unloading of the hogs with the freight charges paid by seller from seller's designated Production Facilities. Deliveries of hogs shall be made as specified by buyer, including deliveries on Saturdays and/or Sundays.

* Seller will segregate qualifying hogs from all other hogs and deliver qualifying hogs to buyer separately from all other hogs.

* Hogs sold on this agreement will be delivered the day prior to slaughter date.

* All hogs will be identified by lot.

* For purposes of specified section, the parties acknowledge and agree that the day of delivery for all scheduled loads shall be based on and determined consistently in accordance with buyer's daily plant schedule, with each day of delivery beginning at 9 P.M. CST on the previous day and ending at 8:59:59 P.M. CST on that day. (For example, the day of delivery for Thursday, November 23, 2017' would begin at 9:00 P.M. CST on Wednesday, November 22, 2017 and would end at 8:59:59 P.M. CST on Thursday, November 23, 2017.)

* In order to facilitate the efficient delivery and processing of seller hogs by buyer, the parties shall adhere to the following procedures: Seller will be responsible for all costs relating to delivery of all hogs to buyer. Seller will bear all risk of loss for livestock shipped to buyer until delivery at the buyer plant. Seller will provide buyer with an estimated shipment schedule for the succeeding week by each Wednesday morning.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Delivery Conditions

- * Seller shall, at its sole cost and expense, be responsible for delivery of all hogs purchased hereunder at the plant. Deliveries of hogs shall be made on the dates and times specified by buyer which may include deliveries on Saturday and Sundays. Seller will deliver hogs using techniques and practices to minimize stress on the hogs while in transit and also to minimize the time the hogs are on the truck.
- * Seller agrees to deliver hogs for slaughter as follows: a. Notify procurement personnel at buyers kill operation on Thursday of the intended deliveries for the next week. b. Deliver hogs to buyer on days and times specified by buyer. c. Handle the hogs both at load out and in transit trucking so as to minimize stress and damage to the hogs.
- * Hogs will be scheduled no later than Wednesday 11:59 a.m. preceding the next delivery week. Delivery date and time will be mutually agreed upon between buyer and seller.
- * Hogs are to be delivered by TQA Certified haulers on a day and time acceptable to buyer.
- * Buyer shall promptly provide seller with a load ticket identifying the number of (i) hogs and (ii) the number of hogs that are diseased, disabled, dead or fail to conform to the weight or other specifications under this agreement in each load delivered by seller. The method of delivery of a load ticket shall be consistent and shall be designed to provide seller with accurate and timely information on the number and condition of all hogs delivered to buyer.
- * Notwithstanding any other provision of this agreement, buyer shall have the express right to inspect each hog in a reasonable manner at the time of delivery by seller and prior to acceptance of each hog by buyer. Buyer shall have the right to reject any hog at the time of delivery in accordance with the terms and conditions of this agreement.
- * Delivery date shall mean a twenty-four (24) hour period commencing at 12:01 a.m. and continuing through 12:00 midnight, during which period seller delivered swine to buyer pursuant to this agreement.
- * Facilitator shall arrange, at seller's cost and expense, delivery of all hogs purchased hereunder at the plant. Deliveries of hogs shall be made on the dates and times agreed in advance by buyer and facilitator, and may include deliveries on Saturday and Sundays. Facilitator shall cause sellers to represent and warrant that they will deliver hogs using techniques and practices to minimize stress on the hogs while in transit. Facilitator will cause sellers to insure all drivers are TQA (Transport Quality Assurance) certified that transport hogs for this agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Delivery Conditions

* Seller agrees to arrange with buyer weekly hogs deliveries to buyer plant(s) located in specified location(s) pursuant to buyer's instructions. Seller and buyer also agree that on an annual basis approximately specified number hogs can be scheduled for delivery under this agreement to buyer's plant in specified location. Deliveries to any other buyer's plants will be mutually agreed upon by the parties. Seller will solely decide when hogs are ready for slaughter and will be eligible to be scheduled by the parties for delivery pursuant to this section. No later than Thursday two weeks prior to the week of delivery, seller will inform of the actual number of hogs to be delivered in delivery week, and by Friday two weeks prior to the week of delivery buyer will provide seller with a schedule of the dates and times for hogs to be delivered to one of the plants described above. If seller cannot reasonably meet the delivery schedule provided by buyer, seller will promptly notify buyer and buyer will make reasonable accommodations. The parties agree to use good faith efforts to assist the other in reducing costs and creating efficient delivery and production schedules. Buyer agrees to use reasonable efforts to schedule seller hogs at one of the plants named in specified section, which is closest to the seller production facility. Seller agrees to discuss with buyer any changes in seller Production Facilities for hog production, and will use reasonable efforts to select new Production Facilities near buyer plants that need additional volumes.

* Seller agrees to deliver hogs to the plant, and buyer agrees to accept deliveries of said hogs in approximately pro- rata quantities on a weekly and daily basis until the end of the term of this agreement. Buyer shall work with seller to schedule the deliveries by seller sufficiently in advance to accommodate the processing capacities and requirements of the plant and within the constraints of seller's production schedule, as follows: buyer shall notify seller not later than Friday of the week two (2) weeks prior to the scheduled delivery of the number of days buyer will be processing hogs that week, and buyer and seller shall agree in good faith to a delivery schedule that includes delivering an approximate equal number of head each processing day. Buyer shall have the express right to inspect each lot in a reasonable manner upon delivery by seller and prior to acceptance thereof. Seller hereby acknowledges that, upon six (6) hours notice, Processor may adjust the scheduling of delivery of hogs to plant or reduce the number of hogs delivered in any given week to accommodate downtime or decreased capacities at the plant. Buyer hereby acknowledges that any adjustment in scheduling of delivery of hogs, as provided above, will not alter or reduce its obligation to purchase hogs under specified section.

* Seller agrees to deliver hogs under this agreement by: (1) Arranging transportation with transporters certified under the Transport Quality Assurance® Program of America's Pork Producers, and incurring freight costs to deliver the hogs to the delivery plant(s) designated on the delivery schedule; (2) Delivering the hogs to a delivery plant other than the delivery plant(s) designated on the delivery schedule if so directed by buyer. Buyer will pay seller for additional freight costs incurred by such delivery pursuant to buyer then current standard livestock freight schedule; and (3) Arranging delivery with buyer's hog procurement personnel by specified day of the week prior to delivery, with specific delivery days and times to be determined by buyer. Early, late, Sunday and holiday deliveries will be required. Time is of the essence in the delivery of hogs under this agreement.

* Hogs shall not have access to feed for at least 12 hours and no more than 20 hours prior to their delivery to the designated facility. This requirement does not apply to hogs that are shipped prior to the week of closeout from the finishing barn in which those hogs were raised.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Excess Production/Expansion

- * The weekly requirements of specified exhibit are to be filled first and all excess deliveries applied to the period requirements of specified exhibit.
- * The above minimum quantity is less than the total quantity of hogs produced by seller on both a historical and current basis. Seller's hog production which is in excess of the minimum quantity, but which is below the maximum quantity, as set forth above, shall be sold by seller and purchased by buyer as set forth in the agreement and this exhibit.
- * Any deliveries above the amount specified in this schedule will only be accepted at buyer' sole discretion at the price buyer specifies at the time. Any excess quantities of hogs accepted by buyer will not be deemed to compensate for prior or future deficit monthly quantities and there is no expectation that buyer will accept quantities of hogs that are inconsistent with the anticipated production from seller per week.
- * Buyer and seller will each use its best efforts to always provide the other with as much notice as possible of any changes required in the delivery schedule. At any time during the term of this agreement, except for those hogs scheduled to be delivered within the next twenty-four (24) hours, buyer has the option to direct seller to deliver hogs produced under this agreement to slaughter facilities other than specified location provided that all incremental transportation costs, if any, incurred by seller because of the directive given by buyer are paid to seller by buyer.
- * Seller's delivery of the required quantities of hogs to buyer set forth in specified exhibit is an essential part of this agreement, and seller's failure to supply at least 90/95% of the required quantities of hogs in any quarter may constitute a default hereunder. Buyer may in its sole and absolute discretion assess a \$5.00 per head deficiency fee for the number of qualifying hogs falling below 90/95% of the required quantities.
- * Replacement Damages shall be equal to \$4.00 times the replacement quantity.
- * Seller acknowledges that the failure to deliver all of the contracted forward priced pounds within the delivery period constitutes a material breach of this addendum and the agreement. Notwithstanding any provision of the agreement to the contrary, buyer is entitled to collect any and all damages associated with seller's failure to deliver all of the pounds for which the parties have agreed to a forward price during the required delivery period, including but not limited to, (a) any trading costs and trading losses incurred by buyer in connection with hedging its risk associated with forward priced hogs, and (b) any other indirect, incidental or consequential damages incurred by buyer as a result of such seller's failure to deliver forward priced hogs.
- * Seller shall use its best efforts to ship and deliver to buyer, the quantity of hogs, in accordance with the schedule attached as specified exhibit and specified article of this agreement. If seller fails to ship and deliver the quantity of hogs required by this agreement for a period of one fiscal month, then buyer may, in addition to all other rights and remedies that buyer may have, price any future delivered hogs at the lower of (i) the agreement price, as determined under specified article or (ii) the base cash price, per carcass cwt., as offered by buyer at its plant on the day of delivery of the hogs plus or minus (as the case may be), the carcass merit adjustment (lower-of-the two pricing). Should seller ship and deliver a sufficient quantity of hogs to comply with this agreement, buyer shall cease lower-of- the two pricing. Further, if seller fails to ship and deliver the quantity of hogs required by this agreement for a period of two consecutive fiscal months, then buyer may, in addition to all other rights and remedies that buyer may have, terminate this agreement.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Excess Production/Expansion

* As set forth in specified section, seller shall not be relieved of its obligation to deliver and sell hogs to buyer, in the quantity set forth above, for any reason that does not constitute a Force Majeure Event. If any event occurs, which may possibly affect seller's obligation to deliver and sell hogs in the quantity set forth above and which is not a Force Majeure Event, then seller shall give buyer prompt written notice describing such event and seller's plan to remedy such event. In addition, any failure of seller to deliver and sell hogs to buyer, in the fiscal year quantity set forth above, shall be a material default under this agreement.

Volume and Delivery - Failure to Meet Delivery Schedule

* If seller fails to deliver according to this schedule, buyer has the right to cancel this scheduling agreement by mail.

* If seller cannot reasonably meet the delivery schedule provided by buyer, seller will promptly notify buyer and buyer will use good faith efforts to make reasonable accommodations. Buyer and seller agree to use good faith efforts to equitably distribute favorable and unfavorable delivery times (including both days during the week and holidays) to ensure fair and equitable treatment to seller in comparison to other producers on average, and to reasonably accommodate seller's hogs flow in relation to buyer's plant production needs.

* If seller is unable to consistently supply the contracted number of hogs that meet the quality and weight requirements described above, seller shall have thirty (30) days to correct such deficiencies. During such thirty day period, purchase of seller's hogs may be suspended if, in buyer's opinion, such suspension is warranted.

* In the event that seller at any time is unable to sell and deliver to buyer the foregoing minimum number of head of hogs in any calendar year, such failure shall not be deemed a default under this agreement and buyer's sole remedy for such failure shall be to purchase from a third party that number of swine necessary to make up the difference between the specified number hogs per week that buyer wishes to acquire and the number of head of hogs which seller is then able to sell and deliver to buyer.

* If seller fails to ship and deliver the quantity of hogs required by this agreement for a period of 1 fiscal month, then buyer may, in addition to all other rights and remedies that buyer may have, price any future delivered hogs at the lower of (i) the agreement price, as determined under the specified section or (ii) the base cash price, per carcass cwt., as offered by buyer at its plant on the day of delivery of the hogs plus or minus (as the case may be), the carcass merit adjustment. Further, if seller fails to ship and deliver the quantity of hogs required by this agreement for a period of 2 consecutive fiscal months, then buyer may, in addition to all other rights and remedies that buyer may have, terminate this agreement.

* The initial monthly hog quantity shall be as shown in the delivery schedule, until such time both parties agree to change the delivery schedule. If seller cannot meet the monthly hog quantity for any three consecutive months, then the parties will reassess the delivery schedule and monthly hog quantity for the remaining term of this agreement.

* Seller shall notify buyer in writing immediately upon the occurrence of any event or condition, including, but not limited to, adverse herd health conditions, which could negatively affect seller's ability to deliver hogs at the normal expected production levels within a 10 percent tolerance of specified number.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Failure to Meet Delivery Schedule

* If seller fails to ship and deliver the quantity of hogs or available excess hogs identified on specified exhibit for a period of one (1) fiscal quarter, then buyer may, in addition to all other rights and remedies that buyer may have, price any future delivered hogs or excess hogs from such seller at the lower of (i) the agreement price, as determined under specified section or (ii) the base cash price, per carcass cwt., as offered by buyer at its plant on the day of delivery of the hogs plus or minus (as the case may be), the carcass merit adjustment (lower-of-the-two pricing). Should seller ship and deliver a sufficient quantity of hogs to comply with this agreement, buyer shall cease lower-of-the-two pricing. Further, if seller fails to ship and deliver the quantity of hogs or excess hogs required by this agreement for a period of two (2) consecutive fiscal quarters, then buyer may, in addition to all other rights and remedies that buyer may have, terminate this agreement with the seller.

* If such notification does not conform to the schedule attached as specified exhibit, then such notification shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when seller expects to resume deliveries in accordance with such schedule. If seller fails to ship and deliver the quantity of hogs or excess hogs required by this agreement for a period of one fiscal quarter, then buyer may, in addition to all other rights and remedies that buyer may have, price any future delivered hogs or excess hogs at the lower of stated prices as offered by buyer at its plant on the day of delivery of the hogs plus or minus (as the case may be), the carcass merit adjustment. Should seller ship and deliver a sufficient quantity of hogs or excess hogs to comply with this agreement, buyer shall cease lower-of-the-two pricing. Further, if seller fails to ship and deliver the quantity of hogs or excess hogs required by this agreement for a period of two consecutive fiscal quarters, then buyer may, in addition to all other rights and remedies that buyer may have, terminate this agreement.

* Notwithstanding the foregoing, if seller is unable to furnish the required quantity of hogs as a result of affiliated supplier being unable or refusing to supply weaned pigs from the specified facility as required under seller's production agreement with affiliated supplier, such delivery failure of seller shall not be considered a breach of this agreement or a basis for terminating this agreement but instead the delivery failure of affiliated supplier and shall excuse any related performance failure by seller. However, seller shall continue to supply whatever available and conforming hogs as it has available and, as soon as seller is able to once again supply the quantity of hogs required hereunder, it shall resume doing so.

* Seller acknowledges that it bears the risk of hog production shortfalls. If seller under-delivers for any three consecutive months, then the parties may reassess the delivery schedule for the remaining term of this agreement. The parties may mutually agree in writing to modify the delivery schedule for the remaining term of this agreement. Seller's weekly quantities of hogs delivered must be as uniform as is possible. Seller must provide buyer with written notice of any significant changes in its scheduled hog production as soon as seller identifies such changes.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Failure to Meet Delivery Schedule

* For a default consisting solely of seller's failure or refusal to deliver the number of hogs required by either the delivery schedule or other agreement between the parties, buyer's liquidated damages will be capped at an amount equal to the total number of contracted hogs to be delivered for the remaining term of this agreement multiplied by specified amount. Upon buyer's demand, seller will pay buyer cash in the amount of such damages within specified days of the date of buyer's demand or as otherwise agreed to by buyer, in writing, at buyer's discretion. If seller makes a timely payment of such damages, seller will no longer have any obligation to deliver hogs that are included in the calculation of such damages, and buyer will waive any additional claim for indirect, incidental or consequential damages. The parties agree that the above measure of buyer's damages is a reasonable estimation of buyer's costs to procure replacement hogs for the remaining term of this agreement. However, if seller does not timely pay the damages as set forth in this subsection, then buyer reserves the right to seek these damages plus other damages and remedies that it may have available to it at law or in equity. Examples of such other damages are indirect, incidental and consequential damages.

* Seller acknowledges that it bears the risk of hog production shortfalls. If seller under-delivers for any specified number of consecutive months, then the parties may reassess the delivery schedule for the remaining term of this agreement. The parties may mutually agree in writing to modify the delivery schedule for the remaining term of this agreement. Seller's weekly quantities of hogs delivered must be as uniform as is possible. Seller must provide buyer with written notice of any significant changes in its scheduled hog production as soon as seller identifies such changes.

* Buyer may terminate this agreement if seller fails to deliver the quality of hogs required by buyer, by using this remedial procedure: buyer will provide written notice to seller of the quality problem, and seller will have thirty (30) days to correct it. If seller fails to correct the problem within thirty (30) days after the written notice, this agreement will be terminated on the 45th day following the written notice. During the remediation procedure, buyer may refuse to accept delivery of a seller's hogs suspected of having a violative antibiotic residue. If seller corrects the problem within the thirty (30) days, this agreement will continue under its original terms.

* If seller fails to deliver seller's hogs as agreed to in the delivery schedule, seller will be liable to facilitator for any damages or liabilities accruing under the agreement, and seller and will also be liable for costs and expenses, if any, incurred by facilitator or buyer to obtain additional hogs to fulfill the missed delivery of seller's hogs.

* Seller acknowledges that it bears the risk of hog production shortfalls. Seller's failure to deliver the delivery schedule quantity, unless excused by Force Majeure, will result in seller having to pay delivery shortage assessments as set forth in specified section. If seller under-delivers for any three consecutive months, then the parties may reassess the delivery schedule for the remaining term of this agreement. The parties may mutually agree in writing to modify the delivery schedule for the remaining term of this agreement. Seller's weekly quantities of hogs delivered must be as uniform as is possible. In addition, seller must provide us written notice of any significant changes in its scheduled market seine production as soon as seller identifies such changes.

* Buyer shall have the right of first refusal on any additional volume.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Failure to Meet Delivery Schedule

* In addition, and notwithstanding the foregoing, seller shall have the right to sell up to specified number weaned pigs produced at the designated Production Facilities. Weaned pigs sold can only occur during April 1 through August 31 each year. Any weaned pigs sold will first be offered to buyer at a base price equal to the weighted average cash price for early weaned pigs (10 pound basis) as of the specified price. An increase above the base price equal to \$0.50 per half pound above 10 pounds average weight per load will be added up to a maximum of 15 pounds average weight per load (\$5.00 per head maximum).

* During the term of the agreement and any extensions thereof, seller shall be entitled to sell, grant or otherwise convey to a person or entity other than buyer the right to sell seller's hogs in excess of the seller's annual agreement total production, if seller first (1) gives thirty (30) days prior written notice to buyer of seller's intent to sell such hogs, and (ii) furnishes buyer with true, accurate and complete copies of all documentation relating directly or indirectly to such proposed sale, grant or other conveyance. Should buyer determine to exercise its first right to purchase described herein, buyer shall notify seller in writing of buyer's decision to purchase additional hogs within fifteen (15) days of buyer's receipt of seller's notice by indicating the number (or stating "all") of the additional hogs to be purchased and the time period for delivery of hogs. All hogs delivered by seller and purchased by buyer under this section shall be delivered pursuant to negotiated terms and conditions that may be different than the hogs required to be delivered and sold by seller under the terms and conditions of this agreement. In the event seller and buyer are unable to reach mutually agreeable terms and conditions as to the hogs delivered under this section, seller may deliver and sell its hogs to any other person or entity.

* Buyer and seller acknowledge that seller intends to increase its live hog finishing capacity in the designated geographic area and marketing during the term of this agreement. In the event seller finishes hogs in excess of the maximum number of hogs of the subject agreement year in the designated geographic area, seller shall provide buyer the first right to purchase those hogs at a price not less than the price otherwise provided in this agreement. Seller shall have the right to market hogs in excess of the maximum number of hogs in any agreement year to any other buyer if, after a good faith effort to negotiate by the parties the purchase of such hogs the parties cannot reach agreement as to a purchase price for such hogs.

Volume and Delivery - Right of First Refusal

* Seller hereby grants buyer a right of first refusal to purchase any of seller's other hogs at the rates set forth herein.

* Any hogs available for sale and delivery by seller in excess of the annual agreement total production may be sold by seller to anyone else, subject, however, to buyer's first right to purchase such hogs as set forth in specified paragraph of this agreement.

* Buyer has first right of refusal for any additional load from sellers represented by the facilitator.

* If seller chooses to place additional hogs above specified volume on an annual basis under agreement with any buyer, they grant this buyer the first right of refusal. This buyer will accept or reject any additional volume at the current agreement pricing. If accepted the new volume commitment will began on the agreed upon commencement date and run for two years with a 12 month evergreen.

* Buyer has first right of refusal to the expansion volume of seller starting approximately specified date at the specified pricing stated in specified exhibit of this agreement for specified volume on an annualized basis.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Right of First Refusal

* Seller shall offer for sale to buyer any available pigs that are not otherwise subject to an agreement, whether or not with buyer, where such hogs are located within 150 miles of the locations. If, after a good faith effort to negotiate by the parties the purchase of such hogs the parties cannot reach agreement as to a purchase price for such hogs, seller shall be permitted to sell such hogs to an unrelated third party; provided, however, if buyer's net offer price (with standard adjustments including weight, premiums/discounts and freight for comparison purposes) is within \$0.50/cwt of the best alternative offer, prior to consummation of any sale of such hogs with the unrelated third party, seller shall give buyer a final opportunity to match the negotiated price (with standard adjustments including weight, premiums/discounts and freight for comparison purposes) reached between the unrelated third party and seller. Buyer must respond promptly with a final purchase decision. In the event that buyer matches such net price, seller shall be obligated to sell such animals to buyer pursuant to the terms hereunder. Should buyer purchase such hogs from seller, any hogs sourced from such hogs shall not be counted towards satisfaction of the volume requirements set forth in specified section.

* Seller hereby grants buyer the right of first refusal during the term of this agreement to purchase all specified program hogs farrowed to agreement sows, in excess of the quantities provided in specified appendix. Seller also grants buyer the right of first refusal to purchase hogs farrowed to agreement sows that do not qualify as specified hogs yet meet all other requirements of buyer for commercial hog purchases, although buyer is not obligated to purchase hogs.

* Buyer is hereby granted by seller the right of first refusal during the original term and any renewal term to purchase hogs farrowed to seller's sows other than the agreement sows, as well as hogs farrowed to seller's agreement sows in excess of the quantities provided in specified schedule hereto, at the agreement price, as defined under this agreement.

* Seller hereby grants to buyer the right of first refusal during the term of this agreement (as the same may be extended in accordance herewith) and any subsequent hog agreement to purchase i) hogs farrowed to seller's sows other than the agreement sow and ii) hogs farrows to seller's agreement sows in excess of the quantities provided in specified schedule hereto, in each case that are not otherwise under contract at the time of this agreement, at the agreement price, as defined under this agreement. Seller agrees to notify buyer immediate upon the occurrence of available hogs set forth in specified section.

* Buyer shall have a right of first refusal to any bid seller has received for sows, boars and off quality hogs being sold for slaughter.

* Seller will market all available production to buyer which will equal specified number weekly; specified number monthly; specified number annually. Weekly volume will be evenly distributed. Buyer shall have the right of first refusal on any additional volume. Hogs will be scheduled no later than Thursday 11:59 a.m. the week prior to the desired delivery date and time. Delivery date and time will be mutually agreed upon between buyer and seller.

* In the event seller has access to more qualified program hogs than are required to fulfill the obligation listed on specified schedule, buyer will be given the right of first refusal to buy any such animals unless seller has specifically committed this production to markets within the continental United States.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Right of First Refusal

* Seller shall ship and deliver to buyer, the quantity of hogs in accordance with the schedule attached. Buyer will send seller projection forms requesting the projected quantity of hogs to be shipped and delivered by seller, on a calendar monthly basis, for the current calendar quarter and the subsequent calendar quarter. Seller is obligated to timely fill in and return the projection forms. If projected deliveries do not conform to the schedule attached as specified exhibit, then such projection shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when seller expects to resume deliveries in accordance with such schedule. In any event, seller's failure to ship and deliver the quantity of hogs according to the schedule in specified exhibit shall be a default of this agreement and seller shall be liable and buyer shall have the remedies as set forth in specified article herein.

* Seller shall, before 12:00 noon each Thursday furnish to buyer an estimate of the number of hogs to be delivered for the next week, and seller's request for any specific dates and times for such deliveries. Seller shall also deliver an estimate of the total number of hogs to be delivered in the next succeeding week. By 12:00 noon Friday prior to the week of delivery buyer will provide seller with the dates and times for hogs to be delivered to one of the plants described above, and buyer will reasonably try to accommodate seller's requests for the dates and times of deliveries.

* Seller shall coordinate deliveries with buyer and shall supply buyer with a prearranged schedule, acceptable to buyer, stating delivery times and numbers of hogs to be marketed, by Wednesday of the week prior to the scheduled hog delivery. All costs associated with transportation of the hogs to buyer's facility are the responsibility of seller. Hogs must be transported by haulers certified in the National Pork Board's Transport Quality Assurance Program and approved by buyer. All risk of loss to hogs during transportation and lairage shall be borne solely by seller.

* Seller shall deliver to buyer: (i) on a weekly basis, a forecast schedule of expected deliveries for each successive thirteen-week period during the term hereof, and (ii) on a weekly basis, a firm commitment for the anticipated delivery of hogs on or before Wednesday noon in the week prior to the week of delivery. The commitment for delivery shall include the quantity to be delivered and the day(s) of the week actual delivery is to occur. Failure to deliver the forecast and delivery commitment on a consistent basis may, at buyer's sole and absolute discretion, constitute a default hereunder.

* At least thirty (30) days prior to the commencement of each calendar quarter, during the term hereof, seller shall deliver to buyer an estimate of the number of hogs to be delivered to buyer in the succeeding calendar quarter and the quarter thereafter; each of which shall not be less than the quarterly amount set forth at specified section. Seller shall use its best efforts to deliver the number of hogs as set forth in such estimate.

* By the 20th day of each month, seller will provide with an estimate of the approximate number of hogs to be delivered for each of the next six (6) months. Seller agrees to use good faith efforts to deliver the annual total production on a consistent monthly and weekly basis through each year of the term. If the seller's delivery estimates materially change, the seller shall promptly update the estimates and deliver the new estimates to the buyer.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Scheduling Documentation

* Prior to 8:00 am on Friday (or the last business day of each week if Friday is a holiday), seller shall provide buyer a report stating the proposed delivery schedule (day, time and slaughter facility) and the number of hogs to be shipped each day during the week commencing on the subsequent Monday through the following Sunday. In the event Saturday production is not scheduled for the designated slaughter facility, then no deliveries shall be scheduled for Saturday.

* Prior to midnight on each Tuesday (or the next business day if Tuesday is a holiday), seller shall provide buyer with a preliminary report identifying the number of hogs to be delivered to each of buyer's slaughter facilities during the following week.

* Seller shall use its best efforts to ship and deliver to buyer, the quantity of hogs in accordance with the schedule attached as specified exhibit and specified article of this agreement. Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs to be shipped and delivered by seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter. If such notification does not conform to the schedule attached as specified exhibit, then such notification shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when seller expects to resume deliveries in accordance with such schedule. If seller fails to ship and deliver the quantity of hogs required by this agreement for a period of one fiscal quarter, then buyer may, in addition to all other rights and remedies that buyer may have, price any future delivered hogs at the lower of (i) the agreement price, as determined under specified article or (ii) the base cash price, per carcass cwt., as offered by buyer at its plant on the day of delivery of the hogs plus or minus (as the case may be), the carcass merit adjustment (lower-of-the-two pricing). Should seller ship and deliver a sufficient quantity of hogs to comply with this agreement, buyer shall cease lower-of-the-two pricing. Further, if seller fails to ship and deliver the quantity of hogs required by this agreement for a period of two consecutive fiscal quarters, then buyer may, in addition to all other rights and remedies that buyer may have, terminate this agreement. In addition to the above, seller shall furnish buyer weekly, before 12:00 noon on Wednesday, an estimate of the quantities of hogs to be shipped during subsequent two (2) week period. Further, seller shall notify buyer of the number of hogs to be delivered on a daily basis before 12:00 noon on Wednesday previous to the week of delivery, specifying the number of hogs to be delivered each day of the week, Monday through Sunday (if Saturday production is not scheduled for the designated slaughter facility, then no deliveries shall be scheduled for Saturday, and if buyer does not require deliveries on Sunday for Monday production at the designated slaughter facility, then no deliveries shall be scheduled for Sunday). Following receipt of such schedule, buyer shall give instructions as to where such deliveries shall be made.

* Seller agrees to arrange and schedule with a designated representative, hogs deliveries to plant(s) located at specified location. Other plants may be added as delivery points for hogs as mutually agreed to by the parties. Each Thursday, seller will provide to the estimated number of loads, to deliver in three weeks (i.e., if a Thursday falls on the 1st, the estimate would be for deliveries starting on the week of Monday the 26th). Seller will notify the number of hogs and the actual site that are ready for delivery no later than Thursday three weeks prior to the week of delivery. By Friday of the week preceding delivery, buyer will schedule the loads and notify seller of the day of the week and the time of day that hogs should be delivered to the designated facility. Buyer will make good faith effort to schedule an even number of hogs throughout the week, to include Saturday when schedules Saturday slaughters. Seller and buyer will work together to create reasonable schedules for the delivery of hogs. Require seller to deliver hogs, on an even flow daily and at certain times, to enable to process hogs in compliance with country of origin, or any similar law which requires segregation of hogs or pork product (Law). In addition, seller may be asked deliver with each load of hogs any affidavit or other document requested by to comply with such Law.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Scheduling Documentation

* Seller will provide on a quarterly basis the estimated number of hogs that seller will deliver for each month in the following quarter. Seller agrees to use good faith efforts to deliver the annual total production on a consistent monthly and weekly basis through each year of the term.

* Seller shall use its best efforts to ship and deliver to buyer, the quantity of hogs, including excess hogs, in accordance with the schedule attached and specified article of this agreement. Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs (including excess hogs) to be shipped and delivered by seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter. If such notification does not conform with the schedule attached, then such notification shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when seller expects to resume deliveries in accordance with such schedule. If seller fails to ship and deliver the quantity of hogs or excess hogs required by this agreement for a period of 1 fiscal quarter, then buyer may, in addition to all other rights and remedies that buyer may have, price any future delivered hogs or excess hogs at the lower of (i) the agreement price, as determined under the specified paragraph (this provision applies to the pricing of undelivered excess hogs), or (ii) the base cash price, per carcass cwt., as offered by buyer at its plant on the day of delivery of the hogs (and/or the excess hogs), plus or minus (as the case may be), the carcass merit adjustment. Further, if seller fails to ship and deliver the quantity of hogs or excess hogs required by this agreement for a period of 2 consecutive fiscal quarters, then buyer may, in addition to all other rights and remedies that buyer may have, terminate this agreement. In addition to the above, seller shall furnish buyer weekly, before 12:00 noon on Wednesday, an estimate of the quantities of hogs to be shipped during subsequent two (2) week period. Further, seller shall notify buyer of the estimated number of excess hogs to be delivered on a daily basis before 12:00 noon on Wednesday previous to the week of delivery, specifying the estimated number of hogs to be delivered each day of the week, Monday through Sunday (if Saturday production is not scheduled for the designated slaughter facility, then no deliveries shall be scheduled for Saturday, and if buyer does not require deliveries on Sunday for Monday production at the designated slaughter facility, then no deliveries shall be scheduled for Sunday). Such daily estimate shall include, and specifically identify the number of, excess hogs to be delivered. Following receipt of such estimate, buyer shall give instructions as to where such deliveries shall be made. Buyer and seller will each use its best efforts to always provide the other with as much notice as possible of any changes required in the delivery schedule. At any time during the term of this agreement, except for those hogs scheduled to be delivered within the next twenty-four (24) hours, buyer has the option to direct seller to deliver hogs produced under this agreement to slaughter facilities other than specified location, provided that all incremental transportation costs, if any, incurred by seller because of the directive given by buyer are paid to seller by buyer.

* The parties agree that seller will supply and buyer will purchase specified loads of hogs weekly, estimated to be approximately specified hogs, regardless of the number of days the plants are operating during a given week. Seller will provide on a quarterly basis the estimated number of hogs that seller will deliver for each month in the following quarter. Seller agrees to use good faith efforts to deliver the annual total production on a consistent monthly and weekly basis through each year of the term.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Scheduling Documentation

* Seller shall use its best efforts to ship and deliver to buyer, the quantity of hogs in accordance with the schedule attached as specified exhibit. Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs to be shipped and delivered by seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter. If such notification does not conform with the schedule attached as specified exhibit, then such notification shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when seller expects to resume deliveries in accordance with such schedule. If seller fails to ship and deliver the quantity of hogs required by this agreement for a period of 3 consecutive months, then buyer may, in addition to all other rights and remedies that buyer may have, price any future delivered hogs at the lower of (i) the Contract price, as determined under the first paragraph of specified section, or (ii) the base cash price, per carcass cwt., as offered by buyer at its plant on the day of delivery of the hogs, plus or minus (as the case may be), the carcass merit adjustment. Further, if seller fails to ship and deliver the quantity of hogs required by this agreement for a period of 6 consecutive months, then buyer may, in addition to all other rights and remedies that buyer may have, terminate this agreement.

* Seller will fax a hog movement sheet every Thursday for the following week hogs deliveries.

* Seller agrees to arrange and schedule with a designated buyer representative hogs deliveries to buyer's plant located at specified locations. Other buyer plants may be added as delivery points for hogs as mutually agreed to by the parties. Seller will notify buyer that hogs are ready for delivery no later than Thursday of the week prior to the week of delivery. By Friday of the week preceding delivery, buyer will schedule and notify seller of the day of the week and the time of day that hogs should be delivered to the designated buyer facility. Seller and buyer will work together to create reasonable schedules for the delivery of hogs. Changes in that schedule will be permitted only by agreement between seller and buyer reached at least twenty-four hours prior to delivery, or unless provided for otherwise in this agreement.

* Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs to be shipped and delivered by Seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter. If such notification does not conform with the schedule attached as specified exhibit, then such notification shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when seller expects to resume deliveries in accordance with such schedule.

* Seller must arrange delivery of hogs with buyer hog procurement personnel by specified day of the week prior to the delivery. At the same time, seller must also advise buyer of the day(s) during the following week on which it will deliver forward priced hogs.

* The scheduling of the loads for delivery will be made seller one week prior to their anticipated arrival and the quantity of loads delivered each day will be determined by mutual agreement between the parties.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Scheduling Documentation

* Seller shall use its best efforts to ship and deliver to buyer, the quantity of hogs, including excess hogs, in accordance with the schedule attached as specified exhibit and specified article of this agreement. Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs (including excess hogs) to be shipped and delivered by seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter. If such notification does not conform to the schedule attached as specified exhibit, then such notification shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when seller expects to resume deliveries in accordance with such schedule. If seller fails to ship and deliver the quantity of hogs required by this agreement for a period of two consecutive fiscal months, then buyer may, in addition to all other rights and remedies that buyer may have, price any future delivered hogs at the lower of (i) the agreement price, as determined under specified article or (ii) the base cash price, per carcass cwt., as offered by buyer at its plant on the day of delivery of the hogs plus or minus (as the case may be), the carcass merit adjustment (lower-of-the-two pricing”). Should seller ship and deliver a sufficient quantity of hogs to comply with this agreement, buyer shall cease lower-of-the-two pricing. Further, if seller fails to ship and deliver the quantity of hogs required by this agreement for a period of three consecutive fiscal months, then buyer may, in addition to all other rights and remedies that buyer may have, terminate this agreement. In addition to the above, seller shall furnish buyer weekly, before 12:00 noon on Wednesday, an estimate of the quantities of hogs to be shipped during subsequent two (2) week period.

* Seller shall use its best efforts to ship and deliver to buyer, the hogs, including any available excess hogs, in accordance with the schedule attached as specified exhibit and specified article of this agreement. Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs (including excess hogs) to be shipped and delivered by seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter. If such notification does not conform to the schedule attached as specified exhibit, then such notification shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when Seller expects to resume deliveries in accordance with such schedule.

* By the fifteenth of each month seller will provide buyer with a report detailing the actual number of weaned pigs placed in the designated Production Facilities during the immediately preceding month. Buyer agrees to keep such reports confidential.

* Seller agrees to deliver hogs under this agreement by arranging delivery with buyer's hog procurement personnel by specified day of the week prior to delivery, with specific delivery days and times to be determined by buyer. Early, late, Sunday and holiday deliveries will be required. Time is of the essence in the delivery of hogs under this agreement.

* On or before specified date, and each June 1 thereafter, seller, after consultation with buyer regarding buyer's projected needs for hogs, shall deliver to buyer an estimate of the number of hogs to be delivered in the following year. The estimate shall be the greater of (1) the amount set forth at specified section, or (2) the prior year's actual deliveries of hogs by seller to buyer plus or minus 10%.

* This delivery schedule is agreed to by seller and buyer as part of the hog procurement agreement between seller and buyer effective specified date. Seller agrees to sell to buyer, and buyer agrees to buy, the following estimated quantity of hogs during each calendar month under the agreement.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Scheduling Documentation

* Buyer agrees to cooperate with seller in developing a schedule for the delivery by seller of hogs taking into account the processing capacities and requirements of the processing facility and seller's production schedule. This shall require seller to regularly advise buyer of seller's production schedule. To facilitate the scheduling process, seller shall notify buyer not later than the Monday of the week prior to the scheduled delivery of hogs of the date and time for delivery of each lot, and seller agrees to use its best efforts to comply with such schedule. Seller hereby acknowledges that buyer may adjust the delivery schedule of hogs to the processing facility or reduce the number of hogs to be delivered in any given week to accommodate downtime or decreased capacities at the processing facility.

* Seller agrees to arrange and schedule, with a designated buyer representative, hogs deliveries to buyer plant(s) located at specified location. Other plants may be added as delivery points for hogs as mutually agreed to by the parties with the understanding that if buyer requests hogs be moved to another plant, the additional freight costs will be paid for by buyer. Each Thursday, seller will provide to buyer the estimated number of loads, to deliver beginning the Monday that is three weeks after (e.g., if a Thursday falls on the 1st, the estimate would be for deliveries starting on the week of Monday the 26th). Seller will notify buyer of the number and location of the hogs that are ready for delivery no later than Thursday of the week prior to the week of delivery. By Friday of the week preceding delivery, buyer will schedule the loads and notify seller of the day of the week and the time of day that hogs should be delivered to the designated facility. Will make good faith effort to schedule an even number of hogs throughout the week and to include Saturday when schedules Saturday slaughters. Seller and buyer will work together to create reasonable schedules for the delivery of hogs.

* Seller agrees to arrange and schedule with a designated buyer's representative hogs deliveries to either of specified locations (excluding the specified location unless seller is an approved supplier for buyer's customer/excluding Canadian origin hogs. Canadian origin hogs will be scheduled to the specified facility). Buyer will use good faith efforts to arrange delivery to the nearest plant when possible. Seller will notify buyer that hogs are ready for delivery no later than, Thursday of the week prior to the week of delivery. By Friday of the week preceding delivery, buyer will schedule and notify seller of the day of the week and the time of day which hogs should be delivered to the designated buyer facility. Buyer and seller will work together to create reasonable schedules for the delivery of hogs. Changes in that schedule will be permitted only by agreement between buyer and seller reached at least twenty-four (24) hours prior to delivery, or unless agreed to otherwise in this agreement. Other buyer plants may be added as delivery points for hogs as mutually agreed to by the parties.

* Seller agrees to arrange and schedule with a designated buyer representative hogs deliveries to buyer plant(s) located at specified location. Seller understands that he must be an approved buyer supplier. If seller is unable to maintain buyer supplier status hogs will be delivered to specified alternate location. Other buyer plants may be added as delivery points for hogs as mutually agreed to by the parties. Seller will notify buyer that hogs are ready for delivery no later than Thursday three weeks prior to the week of delivery (i.e., if a Thursday falls on the 1st, the estimate would be for deliveries starting on the week of Monday the 26th). By Friday of the week preceding delivery, buyer will schedule and notify seller of the day of the week and the time of day that hogs should be delivered to the designated buyer facility. Seller and buyer will work together to create reasonable schedules for the delivery of hogs. Changes in that schedule will be permitted only by agreement between seller and buyer reached at least twenty-four hours prior to delivery, or unless provided for otherwise in this agreement.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Scheduling Documentation

* Buyer agrees to cooperate with seller in developing a schedule for the delivery by seller of hogs taking into account the processing capacities and requirements of the designated facility. Buyer and seller shall agree on a date and time for delivery of each Lot that is not more than fourteen (14) days before the hogs will be slaughtered and not later than the Wednesday of the week before the hogs will be slaughtered. Seller shall use its best efforts to deliver each week the number of loads (consisting of approximately 160 head per load) of hogs equal to the number of operating days in buyer's weekly operating schedule. Seller hereby acknowledges that buyer may adjust the delivery schedule of hogs to the designated facility or change the number of hogs to be delivered in any given week to accommodate downtime, decreased capacities, or Saturday operations at the designated facility.

* Seller agrees to arrange and schedule such deliveries with a designated buyer representative.

* Seller shall furnish buyer weekly, before 12:00 noon on specified day, an estimate of the quantities of hogs to be shipped during subsequent two (2) week period. Further, seller shall notify buyer of the number of hogs to be delivered on a daily basis before 12:00 noon on specified day previous to the week of delivery, specifying the number of hogs to be delivered each day of the week, Monday through Sunday (if Saturday production is not scheduled for the designated slaughter facility. Then no deliveries shall be scheduled for Saturday, and if Buyer does not require deliveries on Sunday for Monday production at the designated slaughter facility, then no deliveries shall be scheduled for Sunday). Following receipt of such schedule. Buyer shall give instructions as to where such deliveries shall be made.

* This delivery schedule is agreed to by seller and buyer as part of the hog procurement agreement between seller and buyer. Terms not otherwise defined in this delivery schedule have the meaning set forth in the agreement.

* Seller will provide buyer on a quarterly basis the estimated number of hogs that seller will deliver for each month in the following quarter (e.g., on January 1, specified year, seller will provide to the number of hogs the seller estimates will be delivered in April, May and June of specified year). Seller agrees to use good faith efforts to deliver the annual total production on a consistent monthly and weekly basis through each year of the term.

* The delivery schedule for the annual quantity of hogs by sellers shall be as set forth in the hog flow schedule attached as specified exhibit and incorporated by reference. (i) In order to accurately project and monitor deliveries over the course of the years, the parties further agree as follows (1) Seller shall submit to buyer the initial 24 month exhibit hogs flow schedule projected of hogs as provided to them by affiliate sellers. More accurate projections for nearby deliveries will be updated on the 15th of every month on a rolling basis. The projection received on the 15th shall be entered into buyer's system as a firm volume number. Seller shall ensure delivery the number of hogs entered into buyer's system as a firm volume as uniformly as possible over the month plus or minus a 5%/10% variance.

* Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs (including excess hogs) to be shipped and delivered by seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Scheduling Documentation

* This delivery schedule is agreed to by seller and buyer as part of the agreement between seller and buyer. Terms not otherwise defined in this delivery schedule have the meaning set forth in the agreement. When this delivery schedule is executed, seller must choose the delivery schedule to be used, either Option One or Option Two, as set forth below. Seller has indicated its choice by initialing next to the chosen option. **OPTION ONE:** Quarterly delivery schedule. Seller agrees that the delivery schedule will be on a quarterly basis, with each quarter consisting of three (3) consecutive calendar months. Seller agrees to sell to buyer, and buyer agrees to buy, the number of hogs shown below: [Specified Numbers] **OPTION TWO:** Monthly delivery schedule. Seller agrees that the delivery schedule will be on a monthly basis. Seller agrees to sell to buyer, and buyer agrees to buy, the following number of hogs on a per month basis. [Specified number]

* This delivery schedule is agreed to by seller and buyer as part of the agreement between seller and buyer. Terms not otherwise defined in this delivery schedule have the meaning set forth in the agreement. When this delivery schedule is executed, seller must choose the delivery schedule to be used, either option one or option two, as set forth below. Seller has indicated its choice by initialing next to the chosen option. **OPTION ONE:** Quarterly Delivery Schedule. Seller agrees that the delivery schedule will be on a quarterly basis, with each quarter consisting of three (3) consecutive calendar months. Seller agrees to sell to buyer, and buyer agrees to buy, the number of hogs shown: specified number. **OPTION TWO:** Monthly Delivery Schedule. Seller agrees that the delivery schedule will be on a monthly basis. Seller agrees to sell to buyer, and buyer agrees to buy, the following number of hogs on a per month basis: specified number

* Beginning on approximately the dates listed on specified schedule, seller shall deliver to buyer 100% of producer's hogs from approximately specified sows as designated on specified schedule, estimated at the time this agreement is executed to be specified hogs annually. Seller and acknowledge that such dates on specified schedule assume construction start dates for the new sow farms to produce the hogs that are in turn dependent on timely Iowa DNR issuance of construction permits for the sow farms and therefore the dates may vary depending on permitting. Seller will provide updates to specified schedule to promptly after any changes to the specified schedule become known to seller. To potentially mitigate any delay in hogs being provided by construction of the new sow farms as contemplated on specified schedule, seller and buyer agree that seller may enter into wean pig purchase agreement(s) and will designate as such on specified schedule. Seller shall use its best efforts to ensure that seller shall deliver to 100% of hogs from approximately specified sows beginning approximately specified date. Seller shall use best efforts to purchase replacement pigs where the terminal sires used in producing pigs were from DNA Duroc. Thereafter, seller shall continue to deliver 100% of seller's hogs originating from the sow farms designated on specified schedule through the remainder of the term, as such term is hereinafter defined. In the event seller enters into a wean pig purchase agreement, seller reserves the right to replace that facility at a later date and to submit a revised specified schedule. Once commercial production from all sow farms listed on specified schedule commences, seller and buyer will confer and agree before seller purchases pigs to replace volume from sow farms listed on specified schedule.

* Seller represents and warrants to buyer that each projection certificate delivered by seller will be true, accurate and complete in all respects and will reflect seller's good faith projection concerning its annual contracted total production.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Scheduling Documentation

- * At least every specified days or more often, seller will provide buyer with an updated rolling forecast of all hogs hog deliveries to be made under this agreement over the following specified months (forecast). This forecast will reconfirm the number of hogs detailed on delivery schedules being delivered under Option 1 and Option 2, and must identify the seller or affiliated sellers who will be delivering said hogs under each of the options. This forecast will also outline any additional hogs seller affiliated sellers may have available for purchase by buyer but which are not covered by this agreement.
- * This delivery schedule is agreed to by seller and buyer as part of the hog procurement agreement between seller and buyer. Terms not otherwise defined in this delivery schedule have the meaning set forth in the agreement. By executing this delivery schedule, seller agrees to sell to buyer, and buyer agrees to buy, the following number of hogs as outlined: [Numbers Specified]
- * On the first day of each calendar month, seller will provide buyer with a thirteen (13) week marketing projection. Projection must be within 10% of quarterly marketing numbers on a weekly basis as designated on specified attachment. If monthly projection indicated is more than 15% weekly variation either positive or negative from the quarterly market number, seller and buyer will agree to a number of animals to be added or removed to bring market numbers into compliance. For positive variance above 15% on a weekly basis, buyer reserves the right at its sole option to accept or refuse any hogs available to ship to seller over that amount. If the weekly variance is negative, buyer reserves the right to implement a charge of up to \$5 per market hog undelivered during week of violation.
- * Seller shall use its best efforts to ship and deliver to buyer, the quantity of hogs in accordance with the schedule attached as specified exhibit. Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs to be shipped and delivered by seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter. If such notification does not conform to the schedule attached as specified exhibit, then such notification shall include the reason for any variance from such schedule, the actions being taken by seller to remedy any such variance, and when seller expects to resume deliveries in accordance with such schedule.
- * Subject to buyer's obligation to purchase, and seller's obligation to sell, the quantity of seller's hogs as provided at specified section above, buyer and seller agree that: (i) Each Tuesday by noon buyer shall designate the approximate percentage of hogs to be allocated and delivered to each of buyer's plants for the following week. Seller shall use its best efforts to comply with buyer's request taking into consideration location of the hogs to each plant, Paylean certification, and other factors. (ii) Seller shall, before 12:00 noon each Thursday, furnish to buyer an estimate of the number of hogs to be delivered and the date and time of each delivery for the next week. Seller shall also deliver an estimate of the total number of hogs to be delivered in the next succeeding week.
- * Producer agrees to arrange and schedule with a designated representative, specified hogs deliveries weekly to plant(s) located at specified locations. Other plants may be added as delivery points for Market Hogs as mutually agreed to by the parties.
- * The annual total production shall be delivered to buyer in even installments throughout the period of the agreement. In addition to delivering a projection certificate, the producer shall deliver a monthly delivery estimate, attached as specified exhibit to the agreement, to buyer, detailing each delivery installment.
- * The seller shall, upon the extension of the agreement, deliver a projection certification, attached as specified exhibit to the agreement, to buyer representing the seller's good faith projections concerning its annual total production for term of the extension.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Scheduling Documentation

- * By the end of each month, seller will provide buyer with an aggregate monthly estimated market hog delivery report. This report will reflect seller's estimate, based on its actual weaned pig production at the designated Production Facilities and its anticipated removal rate, of deliveries of hogs to buyer for each of the five months following the immediately preceding month. For example, the February report will reflect January and prior months weaned pig production and will estimate market hog deliveries for the immediately following march through July period. In addition, by the end of each month seller will provide buyer with a report detailing the actual number of pigs weaned at the designated Production Facilities then subject to this agreement. Buyer agrees to keep such reports confidential.
- * On the first day of each calendar month, seller will provide buyer with a thirteen (13) week marketing projection. If seller chooses to send overage or underage from the acceptable range, buyer reserves the right to implement a charge of up to \$5 per hogs delivered during week of violation.
- * Pursuant to the agreement, seller must arrange delivery of hogs with buyer's hog procurement personnel by of the week prior to the delivery. At the same time, seller must also advise buyer of the day(s) during the following week on which it will deliver forward priced hogs.
- * Notwithstanding any provisions of this agreement to the contrary, seller shall have the right to exclude from the number of hogs otherwise subject to purchase and sale under this agreement to specified number of such hogs per week for sale by seller to specified buyers for a period of specified days from the effective date of this agreement.
- * Number of hogs/group: specified number of head / specified number of CME contracts per week
- * Seller agrees to deliver approximately specified number head on a consistent monthly basis in calendar year specified year and through term. Seller also agrees to spread these deliveries evenly on a weekly basis through each year of the term.
- * Buyer shall purchase from seller and seller shall sell to buyer, all hogs farrowed to seller's sows (contract sows) as indicated in specified schedule provided, however, that the quantities of hogs buyer shall be obligated to purchase from seller shall not differ from the quantities set forth in specified schedule hereto [by more than ten percent (5/10%), plus or minus].
- * Seller agrees to deliver all of the hogs seller has to sell on an annual basis estimated to be as follows: annual Period estimated hog numbers

Volume and Delivery - Volume

- * Seller shall deliver F.O.B. facility hogs pursuant to the following terms. a. Seller agrees to sell and deliver, and agrees to purchase, seller's hogs pursuant to the terms of this agreement. During the term, seller will deliver on an annual basis the following number of hogs: specified number
- * For each following agreement year, seller shall deliver and sell to buyer, and buyer shall purchase, no less than the estimated number of hogs (as determined by subparagraph above).
- * Seller agrees to sell to buyer under this agreement, and buyer agrees to buy, hogs in the quantities specified in the delivery schedule attached as specified exhibit.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume

- * Buyer shall purchase from seller, and seller shall sell to buyer, the quantity of specified number +/- 5% annually, under the terms of the carcass merit program described below. On short production or holiday week, buyer may require seller to reduce the number of loads marketed. Buyer may purchase additional quantities of hogs (in excess of the foregoing amount) from seller, subject to the terms of the standard carcass merit program, or other payment method mutually agreed to. However, seller is not obligated to sell, and buyer is not obligated to purchase, additional hogs in excess of the quantity provided above. Seller shall be in default hereunder if it fails to consistently supply the quantities of hogs provided for herein.
- * Seller agrees to sell to buyer, and buyer agrees to buy, specified hogs per delivery period, or specified hogs per year. The quantity of hogs must be the same for each delivery period during the term of this agreement.
- * Seller shall deliver specified hogs satisfying the criteria per week. The amount of hogs shall be applied against the delivery requirement in the agreement.
- * The agreement is amended from all of the hogs estimated to be specified head annually in specified calendar years, to a specific number of hogs estimated to be specified hogs annually starting specified date through the remainder of the term.
- * The parties agree that seller will supply and buyer will purchase on a weekly basis approximately specified number hogs during the term regardless of the number of days the buyer plants are operating during a given week.
- * Buyer shall accept delivery and purchase from seller during each delivery year no more than 115% of seller's annual contracted total production.
- * Seller shall sell a minimum of specified number and a maximum of specified number of hogs to buyer during the initial term and be delivered pursuant to the delivery schedule attached.
- * Specified months following the delivery of the termination notice, seller shall only be obligated to deliver specified percentage of the annual production on a prorated basis.
- * For purposes of specified section, the estimated number of hogs for each annual period shall be reduced upon the occurrence of each the following: (a) receipt of notice from determination to reduce the annual production to specified number the reduction notice; and (b) six months has elapsed from receipt of the reduction notice.
- * Specified pounds of sows. Weekly target volumes will be specified pounds of sows.
- * Seller shall deliver to buyer a minimum of specified head of hogs per week/month/year/delivery period.
- * Seller shall deliver and sell to buyer during each delivery year the number of hogs, even if that number of hogs exceeds seller's total production of Market Hogs.
- * Number of hogs: specified number
- * Beginning on the date that this agreement is signed by the parties, seller shall deliver hogs to buyer in substantially equal weekly quantities so as to deliver a total of specified hogs to buyer during the first year of this agreement. Beginning on specified date and continuing each year thereafter during the entire term of this agreement, seller shall deliver to buyer in substantially equal weekly quantities so as to deliver a total of specified hogs to buyer during each such year.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume

- * Except as otherwise set forth herein, during each of the fiscal years provided for under this agreement, buyer shall accept delivery and purchase, and seller shall deliver and sell the number of hogs per fiscal year, from the designated Production Facilities, as set forth below.
- * Buyer agrees to accept delivery and purchase from seller and seller agrees to deliver and sell to buyer, seller's annual total production, subject to the following terms and conditions.
- * Seller agrees to deliver the following specific number of hogs on an annual basis.
- * Subject to the limitations provided herein, the parties agree that seller will supply and buyer will purchase on an annual basis specified hogs during each year of the term.
- * Estimated annual volume: specified number
- * Producer agrees to sell to buyer and buyer agrees to buy the following number of hogs.
- * 100% hog production
- * During the initial term and any renewal term of this agreement, seller agrees to deliver and sell under the terms of the agreement the number of hogs shown below. Weekly deliveries must be as uniform as is possible. Seller agrees to deliver the hogs to the buyer delivery plant.
- * Delivery requirements: specified head per month
- * Seller shall deliver and sell to buyer during each delivery year no less than 85% of its annual contracted total production, regardless of whether that number exceeds seller's total production of hogs.
- * Producer shall deliver approximately specified hogs each Thursday during the term F.O.B. specified facility.
- * Approximately specified hogs per week
- * Seller shall deliver specified hogs to buyer each year during the term of this agreement (approximately specified loads per week), except that during the last three (3) months of the six-month period after written notice to terminate has been given by either party, the required quantity of hogs delivered by seller shall be reduced 50%.
- * This contract requires a long-term commitment by the seller to deliver a specific number of hogs.
- * The seller is legally required to provide the number of hogs meeting the specifications in the agreement.
- * Specified head production (estimated to be specified annual head)
- * Seller's annual quantity is specified hogs delivering specified loads each week. The first specified loads from each week will be applied to this agreement. Load meaning specified range head; Seller's annual quantity on the agreement represents all of seller's hogs/ a portion of seller's hogs; Buyer has first right of refusal to the expansion volume of seller starting approximately specified date at the pricing stated in specified exhibit of this agreement for an additional 2 loads per week.
- * Specified number of loads per week or specified loads per month

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Volume

- * Seller shall sell to buyer, and buyer shall purchase from seller, pursuant to the terms and conditions of this agreement, a minimum of specified hogs and a maximum of specified hogs per calendar quarter, or specified hogs per week. Until seller has sold to buyer the maximum for any given calendar quarter, all hogs produced by seller at the facilities shall be sold to buyer pursuant to the terms hereof. The number of hogs to be delivered quarterly may be increased upon the written agreement of the parties hereto. Buyer has the first option to buy any additional hogs available at prices equal to offers from other parties after purchase of the maximum. Buyer shall have the option, but not be obligated, to purchase any live non-qualifying hogs which may be sorted off based on a live hundred weight basis, reflecting the current market value for such hogs as determined by buyer
- * Specified number of head per week, Specified number of head per year
- * Buyer shall purchase from seller, and seller shall sell to buyer, the quantity of approximately specified hogs annually (+/- 10%), under the terms of the specified pricing described below. Buyer may purchase additional quantities of hogs (in excess of the foregoing amount) from seller, subject to the terms of the specified program or other pricing arrangements mutually agreed to. However, seller is not obligated to sell, and buyer is not obligated to purchase, additional hogs in excess of the quantity provided above. Seller shall be in default hereunder if it fails to consistently supply the quantities of hogs provided for herein. Seller and buyer may also mutually agree to increase the number of hogs applicable to this agreement.
- * Seller shall deliver specified hogs satisfying the criteria per week beginning on or about the start date to buyer plants. Seller may request an increase to approximately specified hogs per week, provided that buyer shall not be obligated to provide such increased amount until six months following request. The amount of hogs shall be applied against the delivery requirement in the agreement.
- * Delivery schedule will be specified number of loads per week. Any changes to the schedule must be agreed upon by all parties.
- * Seller's annual quantity is specified hogs, plus or minus specified percentage on an annualized basis and plus or minus specified percentage on a quarterly basis, delivering evenly over the annual harvest schedule for the delivery year, as provided by buyer.
- * Specified Month: Specified pounds; weekly target volumes will be specified pounds.
- * Seller's weekly volume shall mean a minimum of specified head with a maximum of specified head of hogs delivered to buyer.
- * Seller shall supply to buyer approximately specified hogs per week, equating to an annual total of specified hogs. Additional hogs per week may be purchased and supplied by mutual agreement.
- * Seller shall deliver to buyer a minimum of specified number of loads of hogs per week, in accordance with delivery schedule established by facilitator and buyer.
- * Subject to a Force Majeure Event, buyer shall be obligated to purchase hogs up to the maximum quantity in any calendar year, but, in no event, shall buyer be obligated to purchase hogs in excess of the maximum quantity in any calendar year.
- * Quantity By Month: Specified month: specified head range with the target quantity of specified head.
- * Buyer shall purchase from seller and seller shall sell to buyer, specified number of hogs (+/- 10%) per 4 weeks at the specified price.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Volume

- * Maximum quantity shall mean the maximum total annual number of hogs required to be purchased by buyer from seller during the specified calendar year.
- * Period means each period set forth on a projection certificate, each year of which begins on January 1 and ends on December 31.
- * Projection certificate means each certificate prepared and delivered by seller to buyer pursuant to specified section of the agreement, each of which shall be substantially in the form attached hereto as specified exhibit.
- * Replacement Quantity shall mean the difference between (a) seller's annual quantity of hogs minus (b) the actual number of hogs delivered by seller to buyer during such delivery year.
- * Required annual quantity shall mean, during all but the last twelve (12) months of the term, the number of hogs delivered by seller that is at least equal to the minimum quantity, as specified on specified exhibit for the applicable calendar year, but not in excess of the maximum quantity, as specified on specified exhibit for the applicable calendar year.
- * Replacement quantity shall mean (i) with respect to any failure by seller to deliver seller's weekly quantity, the difference between (a) seller's minimum weekly quantity of hogs and (b) the actual number of hogs delivered by seller to buyer during such week.

Volume and Delivery - Volume Definitions

- * Delivery year means each period of the term and any renewed or extended term hereof consisting of fifty-two consecutive delivery weeks.
- * Projection forms shall mean the form or forms provided from time to time by buyer to seller to be used by seller to provide buyer with information regarding the number and timing of available hogs produced by seller.
- * Seller's annual quantity shall mean the number of hogs that seller is obligated to deliver to buyer in each delivery year as set forth on specified exhibit in each delivery year.
- * Seller's annual quantity shall mean the number of hogs for each delivery year equal to (a) seller's quantity plus, (b) if applicable, seller's default quantity, plus (c) if applicable, seller's deficient hogs, minus (d) if applicable, seller's excess hogs, minus (e) any reduction of such number by buyer during a delivery year pursuant to specified sections, in each case for each full delivery year or pro rata portion thereof for less than a full delivery year.
- * Seller's year-to-date quarterly quantity shall mean the number of hogs that seller is obligated to deliver to buyer pursuant to this agreement from January 1 to the ending date for the first, second, or third fiscal quarter, which is equal to seller's year-to-date required deliveries calculated from January 1 to the ending date of such fiscal quarter, less any reduction of such number by buyer during a delivery year pursuant to specified sections. Examples illustrating the effect of changes in the number of days in a week buyer will process hogs are attached on specified schedule hereto.
- * Quarter means each of the four, three month periods in each calendar year commencing on January 1, April 1, July 1, and October 1.
- * The minimum monthly hog quantity will be eighty percent (80%) of the expected hog quantity for each month, or specified hogs per month.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume Definitions

- * Seller's adjusted annual quantity shall mean the number of hogs that seller is obligated to deliver to buyer in each delivery year as set forth on specified exhibit, less a reduction in direct proportion to the fraction of a year included in the first delivery year or the last delivery year, and less any reduction of such number by buyer during a delivery year pursuant to specified paragraph.
- * Delivery week means each calendar week during the term or any renewed or extended term hereof beginning at 12:01 A.M. on Sunday and ending at 11:59 P.M. on the following Saturday.
- * Seller's quarterly quantity shall mean the number of hogs delivered to buyer during any quarterly period of the delivery year at least equal to 23.0% of seller's annual quantity but not more than 27.0% of seller's annual quantity of hogs, less any reduction of such number by buyer during such quarterly period pursuant to specified paragraph.
- * Minimum quantity shall mean the minimum total annual number of hogs required to be sold by seller to buyer during the specified calendar year.
- * Delivery Year shall mean the period commencing on the effective date of this agreement and ending on December 31 of that same year, and each successive 12 month period commencing on January 1 and ending on December 31 until this agreement is terminated in accordance with its terms.
- * Seller's year-to-date required deliveries as of any date in any year shall mean the accumulated sum of each seller's daily quantity in effect on each day of such year from January 1 to the date in question.
- * Seller's weekly quantity shall mean the most recent seller's daily quantity multiplied by the total number of operating days for the Processing Facilities scheduled for such calendar week as determined by buyer, less any reduction of such number by buyer during a delivery year pursuant to specified sections.
- * Seller's ownership quantity shall mean the number of hogs that seller is obligated to deliver to buyer in each full delivery year (or pro rata portion thereof if less than a full delivery year) and shall be determined by multiplying each seller's percentage interest times the total requirement. If a change in the seller's quantity occurs at a time other than the end of a delivery year, then seller's annual quantity, seller's daily quantity, seller's year-to-date quarterly quantity, seller's weekly quantity, and, if applicable, seller's default quantity will all be appropriately adjusted by buyer by written notice from buyer to seller.
- * Seller's monthly quantity shall equal the sum of seller's daily quantity for each day in the relevant fiscal month of the delivery year.
- * Annual contracted total production means with respect to any period the number of hogs that seller in good faith believes will be produced by seller or on his behalf during such period, as set forth on seller's projection certificate.
- * To be delivered every: weekly (Sunday >> Saturday)
- * Seller shall deliver, and if such hogs meet the standards, buyer shall purchase, the following quantity of hogs pursuant to the specified price and the carcass merit program. Seller shall sell all hogs produced as uniformly as possible throughout the agreement year to buyer: a. Number of Hogs; 1. The number of hogs stated in specified section represents specified percent of hogs produced by seller; 2. Seller's flow shall follow the schedule set forth on specified exhibit as closely as possible. Any changes to such flow must be approved in advance by buyer; 3. Notwithstanding the volume requirement above, from specified date through specified date the number of hogs delivered will be specified number; 4. Additional number of hogs due to production fluctuations throughout the agreement year to buyer to specified facilities.
- * Seller shall deliver such hogs on a ratable basis through the term.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Volume Definitions

- * Buyer shall purchase from seller, and seller shall sell to buyer, during the term of this agreement identified on specified schedule (and during any subsequent terms) all hogs farrowed by seller's sows identified on specified schedule (contract sows); provided, however, that the quantities of hogs seller shall be obligated to sell to buyer and buyer shall be obligated to purchase from seller shall not differ from the quantities set forth in specified schedule by more than 10% every 3 weeks. [20% on a weekly basis, 15% on a monthly basis, 10% on an annual basis]. Seller shall use its best efforts to make these hogs available under this agreement as soon as possible, but shall not be obligated to do so after the termination dates specified therein.
- * Facilitator agrees to cause sellers to deliver and sell under the terms of the agreement specified head of hogs annually, which is approximately specified market hogs per month. Facilitator is allowed a variance of specified percentage per month under or over the delivery requirement. Weekly deliveries must be as uniform as is possible.
- * Seller will supply and buyer will purchase on a weekly basis specified number of loads of hogs regardless of the number of days the plants are operating during a given week, but in any event not less than specified number of hogs per each calendar quarter during the term. Seller and will make good faith effort to schedule an even number of hogs throughout the week and to include Saturday when schedules Saturday slaughters. Seller and will work together to create reasonable schedules for the delivery of hogs.

Volume and Delivery - Volume Scheduling

- * During the term of this agreement, and subject to the terms and conditions hereinafter set forth, buyer agrees to purchase, and seller agrees to sell and deliver that number of hogs determined as follows: buyer agrees to purchase and seller agrees to sell and deliver during each calendar month during the term of this agreement, all hogs actually produced by seller and any affiliate of seller up to a maximum of specified number of hogs per month. Seller shall give buyer at least ninety (90) days' prior written notice that its monthly production of hogs will continuously exceed specified number. Within thirty (30) days of the receipt of such notice, buyer shall have the option, but not the obligation, to increase the number of hogs subject to the terms of this agreement by giving written notice to seller of the increased number of hogs that will be subject to the terms of this agreement. Seller shall have the right to sell, free of this agreement, all hogs in excess of the specified number per month which have not been placed under this agreement by buyer exercising the option herein established.
- * During the term subject to specified section, seller shall use its best efforts to deliver seller's daily quantity, seller's weekly quantity, seller's year-to-date quarterly quantity, and seller's annual quantity of hogs.
- * Seller agrees to sell to buyer under this agreement, and buyer agrees to buy, hogs in the quantities specified in the delivery schedule. The quantity of hogs must be the same for each delivery period during the term of this agreement.
- * Seller's daily quantity shall mean as of any date (a) the difference of seller's annual quantity minus seller's year-to-date required deliveries(s) divided by (b) the total number of operating days for the Processing Facilities remaining for the current fiscal year as estimated by buyer as of such date, less any reduction of such quantity by buyer pursuant to specified paragraph.
- * The first delivery of hogs by seller will begin on the date specified in a written notice by buyer to seller. During the start-up period, buyer may require seller to reduce its delivery obligation of hogs proportionately.
- * Seller shall use good faith efforts to meet buyer's early delivery requirements (arrival at least two hours prior to the facility start-up) for up to specified number loads per day to specified location at mutually agreed early delivery times for such specified number loads per day.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume Scheduling

- * The expected weekly number of hogs shall be approximately specified hogs, scheduled for delivery on a day and time directed by buyer.
- * Seller's deliveries of hogs will be approximately specified hogs per week or specified hogs per month. Seller understands that weekly delivery numbers should be as uniform as possible, and seller will make commercially reasonable efforts to make uniform deliveries.
- * Except as otherwise set forth herein, during each of the fiscal years provided for under this agreement (fiscal year, for the purposes of this agreement, shall begin April 1 and end March 31), buyer shall accept delivery and purchase, and seller shall deliver and sell the number of hogs per fiscal year, from the designated Production Facilities, as set forth below. In addition to the above, such fiscal year quantities are set forth on the schedule attached as specified exhibit, and are further detailed, on such schedule, on a monthly and fiscal quarter basis.
- * To be delivered every: Scheduled a week prior; Time: Monday -Saturday
- * Following the termination date and during the wind down period of this agreement, seller will continue to sell and deliver to buyer, and buyer will continue to purchase from seller, hogs as set forth below.: Year# Approximate Quantity per Month; At the end of two years following the Termination Date, this agreement will end and seller will cease to sell, and buyer will cease to purchase, hogs under this agreement
- * At a date to occur in specified range, which exact date the parties shall mutually agree upon, and in no event a date later than specified date, seller shall deliver to buyer 100% of seller's hogs from an additional approximately specified sows as designated on specified schedule, estimated at the time this agreement is executed to be an additional hogs annually. Thereafter, seller shall continue to deliver 100% of seller's hogs from the additional sows through the remainder of the term.
- * Seller agrees that the delivery schedule will be on a monthly basis. Seller agrees to sell to buyer, and buyer agrees to buy, approximately specified number hogs per month, which equals specified hogs annually. Seller agrees that it will inform buyer in advance if seller expects to deliver more than specified % above the amounts shown in the delivery schedule. Any excess quantities of hogs accepted by buyer will be paid at the agreement price but will not be deemed to compensate for prior or future deficit monthly quantities.
- * For hogs delivered under specified pricing option, the quantity of hogs delivered on all of specified option price selections for each specified period of time on this agreement are set forth below.
- * Seller shall provide transportation of hogs in quantities set forth in specified exhibit at seller's expense to the slaughter facility of buyer located at specified location.
- * Seller shall deliver to buyer minimum of specified hogs every other week in accordance with delivery schedule established by facilitator and buyer.
- * The quantity of hogs bought and sold will be specified hogs per year, and generally scheduled as specified loads on each plant operating day. All hogs will be priced per the terms of this agreement as set forth below.
- * Seller agrees to deliver hogs to the plant, and buyer agrees to accept deliveries of said hogs in approximately pro- rata quantities on a weekly and daily basis until the end of the term of this agreement. Buyer shall work with seller to schedule the deliveries by seller sufficiently in advance to accommodate the processing capacities and requirements of the plant and within the constraints of seller's production schedule, as follows: buyer shall notify seller not later than Tuesday of the week prior to the scheduled delivery of the number of days buyer will be processing hogs that week, and seller and buyer shall agree in good faith to a delivery schedule that includes delivering an approximate equal number of head each processing day.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume Scheduling

- * Seller agrees that the delivery schedule will be on a [monthly/quarterly] basis. Seller agrees to sell to buyer, and buyer agrees to buy approximately [specified number qualifying hogs per month/number qualifying hogs shown below]. Each quarter consists of three (3) consecutive calendar months,
- * Seller will deliver qualifying hogs to buyer at the date and time required by buyer to specified process plant, as required by buyer, regardless of the delivery location identified in the qualifying delivery schedule. However, if the location required by buyer is different than the location identified in the qualifying delivery schedule, buyer will pay seller for additional freight costs incurred by such delivery pursuant to buyer's then current standard livestock freight schedule.
- * Schedule hogs Wednesday noon, week prior
- * INCREASED DELIVERIES. Beginning on specified date and thereafter for the remainder of the term of the agreement, seller Producer agrees to sell to buyer, and buyer agrees to buy from seller, specified number. Deliveries for the month during which the agreement is terminated will be pro-rated to the termination date.
- * Seller shall deliver to buyer (i) on a monthly basis, a forecast schedule of expected deliveries for each successive four-week period during the term hereof, and (ii) on a weekly basis, a firm commitment for the anticipated delivery of qualifying hogs on or before Wednesday noon in the week prior to the week of delivery. The commitment for delivery shall include the quantity to be delivered and the day(s) of the week actual delivery is to occur. Failure to deliver the forecast and delivery commitment on a consistent basis may, at buyer's sole and absolute discretion, constitute a default hereunder.
- * Seller agrees to sell and deliver, and buyer agrees to purchase, seller's hogs pursuant to the terms of this agreement. During the term, seller will deliver on an annual basis the following number of hogs (annual production): specified year specified number hogs; specified year through term: 100% of production
- * Seller agrees to sell, and buyer agrees to purchase, seller's hogs, as defined in attached schedule. During the term, seller will deliver on an annual basis the following number of hogs: Annual Period specified years and through term
- * Seller agrees to sell to buyer under this agreement, and buyer agrees to buy, hogs in the quantities specified in the delivery schedule attached as specified exhibit. Sellers becoming obligated hereunder agree to sell and deliver hogs to buyer pursuant to the terms of this agreement made applicable to sellers, the terms of the seller agreement and the terms of the seller delivery schedules executed by such sellers. Each seller specifically agrees to deliver the quantity of hogs identified in such seller's delivery schedule.
- * Seller will use its best commercially reasonable efforts to deliver to and buyer will use its best commercially reasonable efforts to accept from seller, the annual total production of hogs on an even and consistent basis over the term. However, due to potential herd health or production related issues the parties agree that on a weekly basis seller will deliver, and will accept, a minimum of specified hogs and a maximum of specified hogs during the term, and on a quarterly basis producer will deliver a minimum of specified hogs and a maximum of specified hogs during each quarter of the year of the term. Any change to the weekly delivery requirements will be mutually agreed to by the parties.
- * Facilitator agrees to coordinate the scheduling of hogs so that sellers deliver approximately specified number head on a weekly basis through each year of the term.
- * Notwithstanding the above, during the 12 month period provided in specified section the parties agree to step-down deliveries each month on a pro-rata basis, and during each month the deliveries will decrease by approximately specified hogs.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume Scheduling

- * Starting specified date, seller, shall sell a minimum of specified head of hogs per year to buyer, which hogs shall be purchased and received or, if applicable, rejected as set forth in this agreement. The parties, in recognition of the uncertainties of hog production, acknowledge and agree that a five/ten percent increase or decrease in the annual delivery (i.e. an annual delivery of hogs) shall be permitted under the terms of this agreement.
- * Seller shall sell to buyer and buyer shall purchase from seller the hogs produced by seller which shall be from specified date through specified date; specified hogs per month and specified date forward at specified hogs per month. It is expected that this number shall not vary by more than + 10% in total. However, should circumstances arise that would create a greater variance than this, seller will notify buyer as soon as seller can accurately determine the variance and will inform buyer as to the reason for the variance.
- * Seller will provide buyer on November first of each year the approximate number of hogs to be delivered on a monthly basis for the next year. Seller will use his best efforts to deliver to buyer the scheduled annual total production of hogs on an even and consistent basis over each year of the term. If the seller's delivery estimates change, the seller shall update the estimates immediately and deliver the new estimate to buyer.
- * Seller will deliver to buyer all of seller's hogs finished in the designated geographic area, up to the maximum number of hogs each calendar year. Producer shall have the right to deliver to buyer hogs produced outside the designated geographic area in order to satisfy the delivery requirement of the minimum number of hogs. Within the minimum number of hogs and the maximum number of hogs, seller may deliver to buyer hogs produced outside the designated geographic area at the option of seller.
- * REDUCTION OPTION. Seller will use its best efforts to deliver the monthly quantity of market hogs according to this delivery schedule and will deliver the monthly quantity of hogs within specified amount above or below the monthly quantity stated above.
- * Facilitator agrees to cause sellers to sell and deliver hogs to buyer under this agreement, and buyer agrees to buy such hogs in the quantities specified in the delivery schedule attached as specified exhibit (delivery schedule). Sellers becoming obligated hereunder agree to sell and deliver hogs to buyer pursuant to the terms of this agreement made applicable to sellers, the terms of the seller agreement and the terms of the seller delivery schedules executed by such sellers. Each seller specifically agrees to deliver the quantity of hogs identified in such seller's delivery schedule.
- * To be delivered every: Monday & Wed; Time: specified time
- * To be delivered every: Scheduled a week prior; Time: Sunday-Saturday/Monday - Saturday
- * To be delivered every: [specified number each week/number of loads per week/minimum loads per quarter/maximum annually without buyer review/per schedule/every other Wednesday]
- * Seller agrees to sell to buyer under this agreement, and buyer agrees to buy, hogs in the quantities specified in the delivery schedule attached as specified exhibit.
- * Delivery schedule will be an average of specified number of loads per week. The first week of each month will be specified number loads. The second and third week of the month will be specified number loads. The fourth week of each month will be specified number loads. For months having five (5) weeks, the fifth week would be specified number loads. The schedule would be worked to try to maintain a specified number load average. Any changes to the schedule must be agreed upon by all parties.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume Scheduling

- * Seller shall deliver or shall cause seller affiliates to deliver F.O.B. buyer facility hogs pursuant to the following terms: hogs delivered by seller, or seller affiliate, shall be considered seller hogs. Seller agrees to sell and deliver, and buyer agrees to purchase, seller's hogs pursuant to the terms of this agreement. During the term, seller will deliver on an annual basis the following number of hogs (annual production). Hogs delivered by seller affiliates shall be considered seller hogs. [schedule of delivery quantities]
- * The parties anticipate that on a daily basis seller will deliver between specified numbers head per day; however, seller must deliver between specified numbers hogs per week. If buyer is operating on Saturday, or if due to holidays or other reasons buyer plants are operating less than five (5) days during a given week, seller will still deliver between specified numbers hogs in such week and the daily deliveries will be decreased or increased appropriately.
- * Loads shall be scheduled for delivery to buyer between 7:00 AM and 8:00 AM on Monday, Tuesday, Thursday, and Friday each calendar week, subject to change by mutual agreement between seller and buyer.
- * Beginning specified date and ending specified date, delivery would be targeted for alignment with production scheduling at seller.
- * Each seller acknowledges that it bears the risk of hog production shortfalls. Weekly quantities of hogs delivered hereunder must be as uniform as is possible. Each seller must provide buyer with written notice of any significant changes in its scheduled hog production as soon as such seller identifies such changes.
- * Seller agrees to sell to buyer under this agreement, and buyer agrees to buy, hogs as provided for in this section and in the estimated monthly quantities specified in the delivery schedule made part of this agreement (the delivery schedule). Seller and buyer shall in good faith agree on and sign the delivery schedule within 60 days of the date this agreement is signed, and the delivery schedule will be revised when necessary. The parties understand and agree that there will be normal seasonal variation in the numbers of hogs produced, and the parties agree to build this variation into the delivery schedule.
- * Seller shall maintain a consistent weekly delivery of hogs to buyer. Seller shall deliver approximately specified number hogs each week or approximately specified number loads of hogs each week, throughout the duration of this agreement. Seller and buyer shall cooperate to insure, to the greatest extent practical, that Seller can deliver required hogs per week to buyer and that during the summer months the hogs will be delivered to buyer during the cooler times of the day. Seller shall fax a delivery schedule to buyer on the Thursday prior to the delivery of hogs.
- * Buyer and seller shall cooperate in the orderly scheduling and delivery of hogs during the week to accommodate the process and requirements at buyer's plant. Buyer and seller shall further cooperate to insure, to the greatest extent practical, that during the summer months the hogs will be delivered to buyer during the cooler times of the day as is possible. Buyer and seller also cooperate as to Saturday deliveries. Seller will also guarantee to buyer at least ten percent (10%) of the loads of hogs to be delivered each Sunday night as needed by buyer.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Volume Scheduling

- * Seller agrees to sell to buyer under this agreement, and buyer agrees to buy, hogs as provided for in this section and in the monthly quantities specified in the delivery schedule made part of this agreement (the delivery schedule). Seller intends to deliver to buyer specified number hogs per year with any additional hogs to be included in the delivery schedule at buyer's discretion. Seller is already making hogs deliveries under the original agreement. At the beginning of each calendar quarter, seller will provide buyer with an updated weekly hog delivery schedule for the next 12 weeks. In addition, at the beginning of each calendar month, seller will provide buyer with an estimated hog delivery schedule for the next 6 months, with a breakdown of hogs per month.
- * This delivery schedule is agreed to by seller and buyer as part of the hog procurement agreement between seller and buyer. Seller agrees that the delivery schedule will be on a monthly basis. Seller agrees to sell to buyer, and buyer agrees to buy approximately specified number hogs per month, with a minimum monthly hog quantity of specified number hogs per month. Seller understands that weekly delivery numbers should be as uniform as possible, and seller will make commercially reasonable efforts to make uniform deliveries. This delivery schedule can be amended at any time upon mutual written agreement of the parties.
- * This delivery schedule is agreed to by seller and buyer as part of the hog procurement agreement between seller and buyer. Terms not otherwise defined in this delivery schedule have the meaning set forth in the agreement. Seller agrees that the delivery schedule will be on a monthly basis. Seller agrees to sell to buyer, and buyer agrees to buy, the number of hogs shown on the following table:
- * Seller shall use its best efforts to ship and deliver to buyer, the quantity of hogs, including excess hogs, in accordance with the schedule attached as specified exhibit and specified article of this agreement. Seller shall notify buyer at the beginning of each fiscal quarter, of the projected quantity of hogs (including excess hogs) to be shipped and delivered by seller, on a monthly basis, for the current fiscal quarter and the subsequent fiscal quarter.
- * The parties agree that seller will supply and buyer will purchase specified number hogs on a weekly basis during the term, and may schedule deliveries of hogs from seller and seller affiliates to meet this requirement provided that during each year of each term of the contracts between buyer and seller. Fifty percent (50%) of the total number of hogs delivered pursuant to all agreements are U.S. origin hogs. Seller shall supply and buyer shall purchase the number of hogs identified above regardless of the number of days the plants are operating during a given week. If is operating on Saturday, or if due to holidays or other reasons plants are operating less than five (5) days during a given week, seller will still deliver specified number of hogs in such week and the daily deliveries will be decreased or increased appropriately.
- * Except as otherwise set forth herein, during each of the fiscal years provided for under this agreement (fiscal year, for the purposes of this agreement, shall begin October 1 and end September 30), buyer shall accept delivery and purchase, and seller shall deliver and sell the number of hogs per fiscal year, from the designated Production Facilities, as set forth below. The annual quantities committed will be distributed by month based on historic seasonality.
- * Seller will market specified head annually to buyer. Hog volume will be evenly distributed and delivered throughout the year and submitted on specified exhibit.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume Scheduling

- * Except as otherwise set forth herein, during each of the fiscal years provided for under this agreement (fiscal year, for the purposes of this agreement, shall begin January 1 and end December 31), Buyer shall accept delivery and purchase, and seller shall deliver and sell the number of hogs per fiscal year, from the designated Production Facilities, as specified.
- * Seller will provide buyer on November first of each year the approximate number of hogs to be delivered on a monthly basis for the next year. Seller will use his best efforts to deliver to the scheduled annual total production of hogs on an even and consistent basis over each year of the term. If the seller's delivery estimates change, the seller shall update the estimates immediately and deliver the new estimate to buyer.
- * Deliveries of hogs shall be on a monthly basis in accordance with the following: 1. Beginning delivery date: specified date 2. Total annual hog delivery requirement: specified number 3. Total monthly hog delivery requirement: specified number
- * To be delivered every: Facilitator Weekly Schedule; Time: Sunday-Saturday
- * Seller shall deliver such hogs on a ratable basis throughout the term.
- * To be delivered every: weekly (Sunday >> Saturday)
- * Seller shall use its best efforts to ship and deliver to buyer, the quantity of hogs, including excess hogs, in accordance with the schedule attached as specified exhibit of this agreement.
- * Seller shall deliver to buyer a minimum of specified [hogs/loads of hogs] per week/delivery period], in accordance with delivery schedule established by facilitator and buyer.
- * Seller's annual quantity is specified hogs, plus or minus specified percentage on an annualized basis and plus or minus specified percentage on a quarterly basis, delivered evenly each week over the annual harvest schedule for the delivery year, as provided by buyer. Seller's annual quantity on the agreement represents all/ a portion of seller's hogs.
- * Seller's annual quantity is specified hogs delivering specified loads each week. The first specified loads each week will be applied to this agreement. Load meaning (minimum of 160 head to a maximum of 170 head). Seller's annual quantity represents a portion/all of seller's hogs.
- * The parties anticipate that starting specified dates, seller shall deliver one to two hog loads per week, from specified date, seller shall deliver two to three loads per week, and beginning specified date through the remainder of the term seller shall deliver seven to eight loads of hogs per week (with each load consisting of approximately 165 hogs).
- * Seller agrees to forward price specified lots (which is equal to specified carcass pounds, or approximately specified hogs) per delivery period. Seller acknowledges that this number of forward priced pounds may not constitute all of the hogs it is required to deliver under the agreement, and that seller is required to deliver all hogs called for under the agreement. If seller delivers a quantity in excess of the specified lot or lots, the excess quantity will be priced pursuant to the effect to this addendum.
- * In addition to the quantity of hogs to be sold by seller to buyer under the agreement (as may be detailed in the delivery schedule executed in connection therewith), seller agrees to sell to buyer, and buyer agrees to buy, hogs in the quantities specified in the delivery schedule attached as specified exhibit. For avoidance of doubt, the attached delivery schedule supplements (but does not replace or amend) any other delivery schedule executed in connection with the agreement.

Swine Packer Marketing Contract Summary - National

Other Provisions

Volume and Delivery - Volume Scheduling

- * Producer agrees to sell to buyer, and buyer agrees to buy, specified hogs per delivery period, or specified hogs per year. The quantity of hogs must be the same for each delivery period during the term of this agreement.
- * Seller agrees to sell and deliver, and buyer agrees to purchase, seller's hogs pursuant to the terms of this agreement. During the term, seller will deliver on an annual basis the following number of hogs (annual production): ANNUAL PERIOD: MARKET HOG #'s
- * Seller has the right to schedule the first specified number every week at their discretion. The balance of the weekly hogs sales are scheduled by buyer procurement with notice given to seller by 10:30 A.M. day prior to day of requested delivery. Additional freight is paid if delivery to plants other than specified location is requested.
- * Beginning on specified date, seller shall deliver to 100% of seller's hogs from approximately specified sows as designated on specified schedule and seller shall continue to deliver 100% of seller's hogs from such approximately specified sows, estimated at the time this agreement is executed to be specified hogs annually. Thereafter, seller shall continue to deliver 100% of seller's hogs from the initial sows through the remainder of the term, as such term is hereinafter defined.
- * Except as otherwise provided in the agreement or this schedule, during each calendar month of the schedule buyer will purchase and seller will supply, between specified numbers sows. All sows will be delivered by seller to buyer at specified location. Although seller will not be required to supply more than the minimum purchase quantity, seller agrees that buyer will be considered a preferred customer and, as such, seller will use commercially reasonable efforts to satisfy buyer's desire to purchase any additional quantities of sows from seller, taking into account any contractual commitments seller may have to its remaining customers at the time of such intended purchases and prior to its accepting orders from any new customers.
- * Seller agrees to deliver approximately specified head on a consistent monthly basis in specified years and approximately specified head monthly in specified year and through the term of the agreement. Seller also agrees to spread these deliveries evenly on a weekly basis through each year of the term.
- * During each year of the term, the parties agree that on a weekly basis seller will deliver specified loads of hogs per week (approx. specified head). Any change to the weekly delivery requirement will be mutually agreed upon by the parties in writing.
- * Seller agrees to arrange and schedule, with a designated buyer representative, specified loads of hogs weekly (approximately specified hogs) to buyer plant(s) located at specified locations. Other buyer plants may be added as delivery points for hogs as mutually agreed to by the parties.
- * Annual Period specified year: specified hogs and through term specified hogs annually.
- * Deliveries of hogs under the agreement will start with specified delivery period beginning specified date, and continue with seller making deliveries of hogs in each half-month delivery period specified in the table on specified exhibit, in the column marked "Delivery Period".
- * During the term hereof, buyer shall purchase hogs from seller and seller shall sell to buyer qualifying hogs according to the schedule shall set forth herein. The purchase price shall be determined In accordance with the terms and conditions hereof.
- * Seller will market specified head annually to buyer. Hog volume will be evenly distributed and delivered throughout the year and submitted on specified exhibit. Buyer shall have the right of first refusal on any additional volume. Hogs will be scheduled no later than Wednesday 11:59 a.m. preceding the next delivery week. Delivery date and time will be mutually agreed upon between buyer and seller.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Volume Scheduling

- * The parties agree that seller will supply and buyer will purchase specified number hogs on a weekly basis regardless of the number of days the buyer plants are operating during a given week. The parties anticipate that on a daily basis seller will deliver between specified numbers head per day; however, seller must deliver between specified numbers hogs per week. If buyer is operating on Saturday, or if due to holidays or other reasons buyer plants are operating less than five (5) days during a given week, seller will still deliver between specified numbers hogs in such week and the daily deliveries will be decreased or increased appropriately.
- * Beginning on specified date, buyer shall purchase from seller, and seller shall sell to buyer, the specified quantity of loads of hogs (approximately specified hogs) per week, equivalent to specified hogs annually, under the terms of the specified pricing as modified. Buyer may purchase additional quantities of hogs (in excess of the foregoing amount) from seller, subject to terms mutually agreed to by the parties.
- * Seller agrees to sell to buyer under this agreement, and buyer agrees to buy, hogs in the quantities specified in the delivery schedule attached as specified exhibit.
- * Seller shall deliver to buyer specified hogs for the year commencing specified date and ending specified date.
- * Seller agrees that the delivery schedule will be on a monthly basis. Seller agrees to sell to buyer, and buyer agrees to buy, specified head per month, which equals specified hogs annually.
- * Deliveries of hogs shall be on a monthly basis in accordance with the following: 1. Beginning delivery date: specified date; provided, however, if the plant is not ready to receive hogs on the beginning delivery date, such deferred delivery date as may be specified by buyer to seller at least thirty (30) days in advance. In the event that a deferred delivery date is specified by buyer, buyer will give priority to contracted hogs to be slaughtered first as the availability of slaughter capacity at the plant permits. 2. Total annual hog delivery Requirement: specified number 3. Total monthly hog delivery requirement: specified number 4. The annual delivery requirement is subject to a 5% deviation without penalty, breach or default imposed herein. Monthly or weekly deliveries must be as uniform as possible.
- * Seller will supply and buyer will purchase on a weekly basis between specified numbers of hogs regardless of the number of days the buyer's plants are operating during a given week, but in any event not less than specified hogs per each calendar quarter during the term. Seller and buyer will make good faith effort to schedule an even number of hogs throughout the week and to include Saturday when buyer schedules Saturday slaughters. Seller and buyer will work together to create reasonable schedules for the delivery of hogs.
- * Buyer shall purchase from seller, and seller shall sell to buyer, during the term of this agreement identified on specified schedule seller shall use its best efforts to make these pigs available under this agreement as soon as possible, but shall not be obligated to do so after the term expires in accordance with specified section.
- * Subject to the potential increases as provided herein, the parties agree that seller will supply and buyer will purchase on a monthly basis specified hogs per day during the term. The specified head per day is based on a five day week and excludes holidays when buyer plants are not operating; however, if buyer is processing on Saturdays the parties will mutually agree if hogs will be delivered under agreement on Saturdays. The parties agree that on a daily basis seller will be allowed to deliver between specified range per day; however, on average seller must deliver specified head of hogs per day during each week. If buyer operates its plants more than five days in a given week, any deliveries on the sixth or seventh day will be mutually agreed upon by the parties.

Swine Packer Marketing Contract Summary - National Other Provisions

Volume and Delivery - Volume Scheduling

* This delivery schedule is agreed to by seller and buyer as part of the hog procurement agreement between seller and buyer. Terms not otherwise defined in this delivery schedule have the meaning set forth in the agreement. Seller agrees to cause affiliated sellers to deliver and sell under the terms of the agreement specified head of hogs annually, which is approximately specified hogs per month. Seller is allowed a variance of specified percentage per month under or over the delivery requirement. Weekly deliveries must be as uniform as is possible.