

**SUGARBEET DISASTER ASSISTANCE
APPLICATION AND AGREEMENT**

THIS AGREEMENT is entered into effective as of _____, 2020 (the “Effective Date”) by and between Wyoming Sugar Company (“WSC”) and _____ (“Member”), whose Tax ID/EIN is _____.

WHEREAS, WSC and Member previously entered into a Master Contract (the “MC”) relating to the delivery by Member of sugarbeets to WSC and the processing of those sugarbeets by WSC;

WHEREAS, the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Pub. L. 116-20), the Continuing Appropriations Act, 2020 (Pub. L. 116-59) and Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94) (collectively the “Act”) provide funds (the “Relief Funds”) for necessary expenses related to losses of crops, trees, bushes, and vines related to the consequences of eligible adverse weather events occurring in calendar years 2018 and 2019;

WHEREAS, the Act requires that the Secretary of Agriculture, through the Farm Services Agency (“FSA”) shall pay Relief Funds directly to cooperative processors.

WHEREAS, WSC is a cooperative processor and has entered into an agreement with FSA (the “FSA Agreement”) whereby FSA will deliver the Relief Funds to WSC which is responsible for determining if a Member is an “eligible producer” under the FSA Agreement and for disbursing the funds to eligible producers; and

WHEREAS, the parties desire to enter into this Agreement to provide the terms and conditions for the disbursement of the Relief Funds to Member.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **Application**. Member hereby applies for and requests the payment of Relief Funds from WSC based on losses incurred by Member and Member’s “related entities” (as defined herein) with respect to the 2019 sugarbeet crop. In connection with such application and any subsequent allocation of Relief Funds to Member, Member hereby certifies as follows:

a. Member is a member of WSC and was under contract to deliver sugarbeets to WSC in 2019; was the owner of the crop and had the production and marketing risk with respect to such crop; and experienced a quantity or quality loss with respect to such crop as a result of extreme drought, excessive moisture, flooding, snowstorms, tornados, or related conditions.

b. Member is: (check one)

- a citizen of the United States
- a resident alien (as defined in 7 CFR 1400)
- a partnership consisting solely of citizens or resident aliens
- a corporation, limited liability company, or other legal structure organized under state law and consisting solely of citizens or resident aliens

c. Member is not a foreign person or legal entity containing members, stockholders or partners who are foreign persons.

d. Member represents that Member is not past due on any debt to the Federal Crop Insurance Corporation (“FCIC”). Member also represents that Member will pay any debt to FCIC when due.

e. Member shall not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated representative of a Federal department or agency authorized to receive such information.

f. All statements made in this Agreement by Member and any related documents provided by Member are true and correct. Member understands that any false statements made as part of the application for Relief Funds may subject Member to substantial criminal and/or civil liability and sanctions.

g. Member Related Entity is a grower who contracted with WSC to grow sugar beets under a WSC authorized “share use” agreement for the 2019 crop as related entity to the Member or in the case of a crop share lease agreement it means a landlord who is not otherwise a Member.

h. Member agrees that to the extent Member assumes obligations under this agreement for Relief Funds that Member shall ensure that Member’s Member Related Entities fulfill all applicable obligations just as if the Member Related Entity and Member were one and the same. Further Member shall indemnify WSC for any failure of Member’s Member Related Entity to meet such obligations. Such indemnification shall specifically include, but not be limited to, Member Related Entities applying for WHIP + benefits with respect to the 2019 sugar beet crop.

2. **Payment of Relief Funds.** In consideration of the application for Relief Funds, together with the other agreements of Member set forth herein, WSC agrees to pay Relief Funds to Member in the aggregate amount of \$_____, which includes all amounts associated with Member and its Member Related Entities as contracted with WSC, which amount is calculated as follows:

[attach calculation of payment based on contracts and pursuant to the Board's payment plan]

Member hereby accepts the determination of Relief Funds in accordance with the terms hereof and agrees that payment of such funds constitutes the full amount of Relief Funds to be paid to Member with respect to the 2019 sugarbeet crop. The Relief Funds will be paid to Member by ACH transaction, subject any right of set off identified in the MC, and reported by WSC as taxable income to Member.

3. **Linkage Requirements.** As a condition of receiving Relief Funds, Member agrees to obtain Federal Crop Insurance or Noninsured Crop Disaster Assistance (“NAP”) for sugarbeets of at least the 60/100 level of coverage for the 2021 and 2022 crop years to the extent Member and Member’s related entities who grew sugarbeets for WSC in 2019, produces sugarbeets in such years. If both Federal Crop Insurance and NAP are unavailable to Member, Member must purchase Whole Farm Revenue Protection (“WFRP”) at the 60 percent level. Member agrees to provide WSC by April 1st of 2021 and 2022 a Certificate of Insurance or other evidence satisfactory to WSC that Member has purchased the Federal Crop Insurance, NAP, or WFRP for crop years 2021 and 2022. In the event Member fails to purchase the required Federal Crop Insurance, NAP, or WFRP as required by this section, Member shall within fourteen (14) days of receipt of a written demand by WSC repay WSC the full amount of Relief Funds paid to Member, together with interest at 4% per annum from the date the Relief Funds were paid to Member.

4. **Member Agreements.** In consideration of receiving the Relief Funds, Member agrees as follows:

a. Member hereby authorizes FSA, the Risk Management Agency (“RMA”), the Federal Crop Insurance Corporation (“FCIC”), the United States Department of Agriculture (“USDA”), and/or any other government agency to release to WSC any and all records and other documentation related to Member’s crop insurance for crop years 2018, 2019, 2020, 2021, and 2022 for purposes of facilitating payment of Relief Funds and ensuring Member’s compliance with the terms of this Agreement.

b. Member hereby authorizes WSC to provide to FSA, RMA, USDA and any other government agency with a copy of this Agreement and any other data or documents in WSC’s possession with respect to Member’s sugarbeet production and/or receipt of Relief Funds.

c. Member agrees to retain all financial and other records related to the receipt of Relief Funds for the latter of (i) three (3) years following the receipt of the Relief Funds, or (ii) the final resolution of any audit findings or litigation claims related to the receipt of Relief Funds.

d. Within three (3) business days of receipt of a written request by WSC, Member agrees to provide WSC with any other documents or records requested by WSC

to audit the payment of Relief Funds, or as may otherwise be requested by WSC to facilitate compliance with WSC's obligations to FSA.

e. Member agrees that none of the Relief Funds will be used to influence or attempt to influence an officer or employee of a U.S. federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any federal grant or federal loan.

5. **Breach.** The failure of Member to comply with the requirements of this Agreement shall be a material breach of this Agreement. In the event of a breach of this Agreement by Member, within fourteen (14) days of the receipt of a written demand by WSC, Member agrees to repay the full amount of the Relief Funds together with interest at 5% per annum from the date the Relief Funds were paid to Member.

6. **Indemnification and Waiver.** Member agrees to indemnify WSC from all claims, costs, and expenses incurred by WSC as a result of Member's or Member's Related Entity's breach of this Agreement, including but not limited to the amount of any Relief Funds returned by WSC to FSA and any legal expenses incurred by WSC as a result of Member's failure to comply with the linkage requirements or other breach of this Agreement. Member agrees that the dollar amount reflected in Section 2 of this Agreement has been properly calculated by WSC. Member hereby releases WSC, its officers, and its directors from all claims related to the calculation and payment of Relief Funds to Member and how such payments have been allocated to the Members of WSC.

7. **Right of Set-Off.** The requirement of Member to repay Relief Funds as provided herein is a binding obligation of Member. WSC may pursue any available legal remedies against Member as a result of any failure to repay the Relief Funds, including but not limited to: (a) the set-off of the repayment obligation against any other amounts owed by WSC to Member; (b) any other remedy permitted for a breach of the FYA.

8. **Miscellaneous Provisions.** This Agreement reflects the entire agreement of the parties and supersedes all prior written and oral agreements with respect to the subject matter hereof. This Agreement shall be binding on the parties and their respective successors and heirs. This Agreement may be amended only by a written agreement that is signed by both parties. This Agreement shall be interpreted and construed under Wyoming law and any dispute shall be resolved exclusively in the District Court of Washakie County, Wyoming.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MEMBER

WYOMING SUGAR COMPANY

By: _____

By: _____

Its: _____

Its: _____