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# AGREEMENT FOR PROCESSED VEGETABLES - 2019 -

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## BETWEEN

**The Fédération québécoise des producteurs de fruits et légumes de transformation (FQPFLT)**, a federation of professional syndicates duly incorporated, having its place of business at 555 Roland-Therrien Boulevard, Suite 355, Longueuil, responsible for administering the processing-vegetable producers' Joint Plan,

hereinafter called : "The Federation"



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## AND

**The Association des manufacturiers de produits alimentaires du Québec**, a legally constituted association certified by the *Régie des marchés agricoles et alimentaires du Québec* to represent all buyers of vegetables for processing produced in Québec, having its head office at 216 Denison East Street, Granby,

hereinafter called : "The Association"



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<p>This document was prepared for reference purpose only. Please see the French document for the original version.</p>
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# GENERAL PROVISIONS

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## 1. OBJECT OF THE AGREEMENT

- 1.1 This Agreement is made pursuant to the provisions of the Québec Act respecting the marketing of agricultural, food and fish products relative to the processing vegetable producers' Joint Plan.
- 1.2 The object of this Agreement with respect to the marketing of vegetables for processing is to govern to the production and sale conditions of the products specified in the Joint Plan.

## 2. APPLICATION OF THE AGREEMENT

- 2.1 This Agreement is binding on all producers subject to the processing vegetable producers' Joint Plan and all of their buyers with respect to all vegetables specified in the Joint Plan.

- 2.2 In this Agreement, the following words and expressions mean:

"Regulated products"	Cucumbers, wax and green beans, sweet corn, green peas, tomatoes, asparagus, edamame
"Joint Plan"	The Plan conjoint des producteurs de légumes destinés à la transformation (processing vegetable growers' Joint Plan)
"Buyer"	Processor or intermediary who purchases the regulated product
"Processor"	Person engaged in the business of processing a regulated product
"Intermediary"	A person who purchases the regulated product and resells it to a buyer
"Categories"	Regular peas, small peas, sweet corn for corn-on-the cob, sweet corn for cream-style and kernel corn, regular wax beans, regular green beans, large green beans, medium-small wax beans, medium-small green beans, extra-small green beans and extra-small wax beans
"Total gross revenue from production"	Total gross revenue (or equivalent computed according to the Agreement) obtained from a product regulated under the processing vegetable producers' Joint Plan, means the total monetary value of the harvest delivered, including adjustments, if any, premiums, lump sum payments, indemnities and all other money paid by a buyer to the producer
"Field value"	Revenue potential of the crop of products left unharvested, established according to the price set out in the Agreement, multiplied by the unharvested area and the estimated field yield. This is estimated jointly by the buyer and the producer either through a manual sample or mechanical harvesting

- 2.3 Should one or more of the clauses in this Agreement be null with respect to the provisions of the Act, the other clauses shall not be invalidated by such nullity unless such null clause directly invalidates any provision of this Agreement.
- 2.4 All information provided by the buyer to the Federation in accordance with this Agreement is strictly confidential and shall be used only by upper management, the Board of Directors and the production committees. It shall not be divulged, directly or indirectly, in whole or in part, to whomever, in a manner that could reveal the sales figure and/or any other confidential information specific to a producer or buyer, without the prior written consent of the producer or buyer concerned.

### 3. RELATIONSHIP BETWEEN PRODUCERS AND BUYERS

- 3.1 The agreement between a producer and a buyer is established through a written contract entered into between such producer and buyer.

Upon the signing of a contract, the buyer shall give a copy of the signed contract and the Annexes to the producer.

Such producer shall provide the farm plans of *La Financière agricole du Québec* for the lot contracted with the buyer.

- 3.2 The provisions of any contract or agreement between a producer and a buyer must not be inconsistent with those of this Agreement. Where there is inconsistency the provisions of this Agreement shall govern and be binding upon the parties.

#### 3.3

3.3.1 Each year, as soon as possible, but not later than the 1<sup>st</sup> of April and always at least 10 days prior to its signature by the producer, the buyer shall forward a duplicate of his original contract per production to the Federation.

3.3.2 The buyer shall forward to the Federation, no later than the 15<sup>th</sup> of May each year, the list of varieties he plans to use for each product category.

3.3.3 The buyer shall forward to the Federation, on or before the 15<sup>th</sup> of May each year, a list of all his producers per production with their complete addresses, telephone numbers, email, and the acreage or volume contracted, as well as the individual yield allotted for the current year.

Should other producers enter into a contract with a buyer after that date, the buyer shall notify the Federation of this as soon as possible and no later than 15 days after completing the planting of each of the contemplated products.

- 3.4 No later than the 15<sup>th</sup> of October for cucumber crops, no later than the 5<sup>th</sup> of October for peas crops, and no later than the 15<sup>th</sup> of November for bean and sweet corn crops, each buyer shall provide the Federation with:

3.4.1 The contributions withheld on all regulated products purchased or received from each producer, in accordance with the order respecting such levies, as well as any other sum withheld from producers and owed to the Federation or owed by the buyer to the Federation in accordance with this Agreement. Any late payment shall be subject to an interest charge of 1% per month (12% per annum) from the date of payment specified in this Article;

- 3.4.2 Upon request, the Federation shall support buyers in their efforts to collect amounts owed to them by certain producers for goods and/or services covered by this Agreement;
- 3.4.3 A copy of the statement of account accompanying the final payment to the producer;
- 3.4.4 A statement per production showing the name of all producers, and for each producer, the number of gross and net tons received for each category of products specified in this Agreement, the variety seeded, the acreage planted and harvested, the average tenderness reading of the peas delivered, the total gross revenue from production and the amount of all contributions withheld;
- 3.4.5 The total number of gross tons received from the producers for each category of products specified in this Agreement;
- 3.4.6 The total acreage planted and harvested for each category of products specified in this Agreement.

### 3.5 Contract & production standards

3.5.1 Each producer, upon signing a contract with a buyer, shall produce the variety of vegetables agreed upon, in accordance with the standards determined by the buyer to ensure that both the yield and the quality meet the requirements of the buyer.

3.5.2 Pesticide spraying report: Upon signing the contract, the producer agrees to declare to the buyer which pesticides he used the previous year on the contracted plot of land.

The producer agrees to use, on the contracted farmland and on the crop itself, only pesticides that comply with government standards and that meet the approval of the buyer as specified in his individual contract.

Furthermore, producers of green peas, wax beans, green beans, sweet corn and edamame shall forward, prior to harvesting and as specified in the individual contract, a copy of the duly completed "pesticide spraying report", stating which pesticides they sprayed or had sprayed. If this is not done, the buyer shall be under no obligation to harvest the crop or can delay payment until such time as the report has been received.

3.5.3 Any specifications introduced by a buyer must be developed in co-operation with the Federation. Such specifications must not be at variance with the rules and conditions of this Agreement and the standards and regulations in effect in Québec.

3.5.4 Whenever practical, any new variety introduced into Québec by a buyer, i.e. any variety produced for the first time in Québec, must undergo prior testing on an experimental plot and/or on farmland before it can become the subject of a contract with a producer.

Should circumstances not permit such preliminary trials, the buyer agrees to inform the producer and the Federation of the characteristics known about this variety and to conclude a special agreement.

3.5.5 Any individual contract must include a provision stipulating that both parties reserve the right to end the agreement before the 15<sup>th</sup> of April.

3.5.6 Crop insurance shall not be a condition of contracting.

- 3.5.7 In the event a buyer or his representative wishes to conduct an analysis of the soil to determine the presence of diseases or pests, he shall notify the producer thereof in advance and obtain the latter's written authorization before taking any samples.
- 3.6 The minimum selling prices are listed in the Annexes in this Agreement.
- 3.7 Payment guarantee
- 3.7.1 Each buyer of green peas, wax and green beans, sweet corn and edamame shall provide a performance bond each year before the 1<sup>st</sup> of April to the satisfaction of the Federation.
- 3.7.2 Where a buyer, for any specific reason, fails to comply with the payment provisions specified in the Annexes, he shall first be required to give written notice thereof to the Federation and the Association. An agreement respecting the payment provisions and conditions applicable to such buyer solely for the current year shall then be concluded to the satisfaction of the Federation and the buyer concerned. The above-mentioned written notice and agreement shall be required prior to the signing of any contract and no later than the 15<sup>th</sup> of March.
- Failing agreement by such date, the Federation or the Association shall refer the matters in dispute to the *Régie des marchés agricoles et alimentaires du Québec* for conciliation and arbitration, the payment provisions and conditions applicable to such buyer to be known no later than the 1<sup>st</sup> of April;
- 3.7.3 Should the buyer fail to comply with the prescribed dates of payment, any net amount due to the producer shall bear interest for each day of default from the dates specified in the Annexes or in any agreement with the Federation pursuant to paragraph 3.7.2 at the following annual rate: basic rate plus 3%. (For green peas, wax and green beans, sweet corn and edamame, the basic rate is the prime rate of the National Bank of Canada on the last Friday of September at closing; for cucumbers, the basic rate is the prime rate of the National Bank of Canada on the last Friday of July at closing.)
- 3.8 The special provisions for each regulated product are specified in the following Annexes and shall apply to and form part of this Agreement:
- ANNEX 1 → Cucumbers
  - ANNEX 2 → Wax and green beans
  - ANNEX 3 → Sweet corn
  - ANNEX 4 → Green peas
- 3.9 It is expressly agreed that the following clauses shall apply to and form part of the respective Annexes and shall not be amended other than by the Committee which negotiates the general provisions of this Agreement:
- ⇒ Seed clauses
  - ⇒ Receiving slip
  - ⇒ Producer's statement of account
  - ⇒ By-passed acreage
  - ⇒ The payment terms



## 4. WEIGHTS AND MEASURES

- 4.1 Individual sales between producer and buyer shall be based on weights and measures within the meaning of the Civil Code of Québec.
- 4.2 The producer's crop shall be delivered to the buyer's factory or receiving station once it has been weighed, graded and approved.
- 4.3 Weighing, determination of foreign materials and grading shall be carried out by the buyer upon delivery, at the scale and at the factory or receiving station, unless otherwise provided for in the Annexes.

For cucumbers, green peas, wax and green beans and sweet corn, the sampling method and the standards for determining foreign materials prescribed by the buyer shall apply to and form part of the buyer's individual contract, in accordance with the Agreement between the Federation and the Association.

- 4.4 The crops delivered by the producer shall be weighed on scales that comply with the standards set out in the Acts and regulations in force in Canada and in compliance with such Acts and regulations.
- 4.5 Where applicable and subject to the "International system" (I.S.) equivalency, the unit of measure shall be the pound (lb) and the short ton (st=2,000 lb).

Businesses that have adopted the I.S. may weight and grade all vegetable crops and make their payments and statements accordingly.

The conversion factors recognized under the Agreement are as follows:

1 hectare (ha)	=	2.471 ac
1 acre (ac)	=	0.4047 ha
1 kilogram (kg)	=	2.2046 lb
1 pound (lb)	=	0.4536 kg
1 short tonne (st)	=	0.9072 mt
1 metric tonne (mt)	=	1.1023 st

- 4.6 The producer or a representative of the Federation may at any time be present during the weighing, sampling and processing of the vegetables, but without interfering with the operations of the buyer and at no cost to the buyer. The producer or his representative shall notify the buyer prior to his arrival and shall be accompanied by a duly authorized representative of the company or shall comply with any other rules set by the factory. It is expressly agreed that the buyer may request that the representative bring identification issued by the Federation. **All visitors must comply with the health and safety and food safety requirements in force on the buyer's site**

The Federation shall assume full responsibility for its representative and shall be jointly and severally liable for all damages and interest for which its representative may be held responsible. It is expressly agreed that the representative shall enter the factory at his own risk and that the buyer shall not be held responsible for any material damage or physical injury the representative may have suffered while in the factory and for any specific reason.

## 5. GOOD HUSBANDRY PRACTICES

- 5.1 The buyer shall not intimidate and/or penalize any grower who assumes a function on behalf of the Federation or who has instituted proceedings by virtue of this Agreement.
- 5.2 Any lawsuit, grievance, claim or dispute (hereinafter called "grievance") with respect to the interpretation or application of this Agreement between one or more producers and/or the Federation, on the one hand, and between one or more buyers and the Association, on the other hand, shall, if unresolved, be settled in accordance with the following procedure:

### Preliminary Steps

- 5.2.1 When a field is definitely by-passed by a buyer, the said buyer shall immediately notify the producer of such action both verbally and in writing, with a copy to the Federation. He shall specify the area left unharvested and the reason. Should there be matter for dispute, the producer shall notify the buyer in writing within the next three (3) days. Both the buyer and the producer shall try to settle their grievance amicably. The producer may request the assistance of a representative of the Federation in settling the grievance between himself and the buyer, who may request the assistance of a representative of the Association. Failing agreement or a meeting, either party may submit a grievance notice, which triggers the first phase of the grievance procedure.

### First Phase

- 5.2.2 Producers submit their grievance notice to the Federation. Should it find a grievance justified, the Federation notifies the buyer concerned and the Association in writing within twenty (20) days following the incident.  
  
Buyers submit their grievance notice to the Association. Should it find a grievance justified, the Association notifies the producer concerned and the Federation in writing within twenty (20) days following the incident.

### Second Phase

- 5.2.3 Should the buyer concerned and the Association receive a written grievance notice from the Federation, or should the Federation and the producer concerned receive a written grievance notice from the Association, the representatives of the Federation and the Association must meet within the next twenty (20) days to settle the dispute.

### Third Phase

- 5.2.4 Failing agreement, the party who submitted the grievance notice may within fifteen (15) days refer matters in dispute to the *Régie des marchés agricoles et alimentaires du Québec* or to any person appointed by the Régie for arbitration and shall notify the other party thereof in writing.

## 6. ACT OF GOD

6.1 The buyer of green peas, green and wax beans and sweet corn, shall subscribe, at their cost, to an insurance covering the value of field vegetables in the event of a disaster preventing fulfillment of the contract with the producer; the deductible, if applicable, for all vegetables, may not exceed 0.75% of the insured value.

“Disaster,” means an occurrence beyond the buyer’s control such as fire, explosion, major breakdown of production equipment, internal power failure or interruption of the water supply system due to an internal problem.

6.1.1 The buyer shall submit a copy of the insurance certificate to the Federation.

6.1.2 The buyer shall pay to the producers concerned any indemnity granted under the terms of this insurance, in proportion to their respective field value.

6.2 An act of God is any unforeseeable event beyond the control of the contracting party. This includes in particular, natural disasters, epidemics, wars, uprisings, riots, terrorist acts, orders of civil or military authorities, an external power failure, interruption of the water supply system caused by an external problem, and lack of transportation facilities.

Also considered acts of God for cucumber buyers in **2019** are fires, explosions, a major breakdown of production equipment, an internal power failure or interruption of the water supply system caused by an internal problem. The Federation and cucumber buyers shall jointly evaluate possible solutions in this regard for the next years.

In the event of inability, due to force majeure, to honour a commitment set out in this Agreement and/or in the signed contract between the producer and the buyer:

- the party concerned shall inform all parties in writing (email, letter, fax) within 12 hours;
- the party concerned shall be excused for non-fulfilment of its commitment to the extent that it took, where possible, all required action to resolve the situation and reduce the damage;

## 7. DURATION, TERMINATION AND RENEWAL

7.1 This Agreement comes into force upon its signature by the parties and shall be submitted forthwith for ratification by the *Régie des marchés agricoles et alimentaires du Québec*. Subject to the provisions specified hereafter respecting the reopening of this Agreement and its renewal or termination, this Agreement shall continue indefinitely.

7.2 This Agreement shall be terminated permanently upon a decision to that effect by the *Régie des marchés agricoles et alimentaires du Québec*, or by mutual agreement by the signatory parties. Should the Association no longer be certified or the Federation no longer have the right to administer the Joint Plan and negotiate the terms and conditions for the production or marketing of vegetables or should the Joint Plan be revoked or abolished, this Agreement shall also be terminated forthwith.

7.3

7.3.1 Each year, no later than the 15<sup>th</sup> of January, the Federation and the Association shall forward to each other in writing the amendments they propose to the Agreement.

- 7.3.2 Both parties shall meet to negotiate the aforesaid amendments. The negotiations shall be concluded no later than the 10<sup>th</sup> of March.
- 7.3.3 Upon agreement, the Agreement shall be submitted for ratification by the *Régie des marchés agricoles du Québec*.
- 7.3.4 Failing agreement within the time period specified under paragraph 7.3.2, either party or both parties jointly shall refer the matter in dispute, before the 15<sup>th</sup> of March, to the Régie des marchés agricoles et alimentaires du Québec for conciliation and arbitration as soon as possible. Both parties agree to make themselves available on the dates proposed by the Régie, since the prices and conditions of the Agreement must be known no later than March 31<sup>st</sup> of each year.

**IN WITNESS WHEREOF WE HAVE SIGNED ON THIS 2<sup>nd</sup> DAY OF THE MONTH OF MAY 2019.**

Association des manufacturiers de produits  
alimentaires du Québec (AMPAQ-CTAQ)  
(The Association)

Fédération québécoise des producteurs de fruits  
et légumes de transformation (FQPFLT)  
(The Federation)

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