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Combined Fee: $66.16
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2020 PG: 1257

Prepared by/return to: Janette S. Voss, P. O. Box 228, Anamosa, IA 52205 - (319) 462-3577

AGREEMENT

AGREEMENT

Land Owner/Farmer: Steven J. Sheppard and Mary K. Sheppard (hereinafter "Sheppard")

Hog Facility Operator/Owner: Tenderloin Ranch LLC (hereinafter "Tenderloin")

In consideration of the mutual covenants and promises contained herein, the parties hereby expressly agree as follows:

1. **Access Easement:** Sheppard owns Parcel 2020-35, Part of the SW¼ SE¼; Section 3, T87N, R6W of the Fifth P.M, Delaware County, Iowa (hereinafter "Parcel 2020-35") and Parcel 2020-36, Part of the SW¼ SE¼; Section 3, T87N, R6W of the Fifth P.M, Delaware County, Iowa (hereinafter "Parcel 2020-36"). Sheppard also owns the land adjoining Parcel 2020-36 and Parcel 2020-35 on each parcel's southern border. A copy of the Plat of Survey and legal description of the lots and the land on the southern border of each parcel is set forth on Exhibit A, attached. Sheppard is selling Parcel 2020-35 to Tenderloin. Tenderloin will have access to Parcel 2020-35 over the existing twenty-five foot (25') wide easement located at the southern boundary of Parcel 2020-35 and Parcel 2020-36. Sheppard and Tenderloin agree that Tenderloin shall be responsible for the maintenance and repair of the access easement that extends along the southern border of Parcel 2020-35 and Parcel 2020-36. Maintenance and repair shall include, without limitation, repairing and maintaining drainage, and maintaining the surface area in a safe, sightly and serviceable condition, free from settling, holes, and standing water and removing snow, rubbish, trash and waste from the easement area in a reasonable manner. Sheppard and Tenderloin shall not park any machinery, equipment or other structure on the easement which would prevent either party from access to their property. Removal of snow, rubbish, trash and waste from the easement area shall not interfere nor shall it block access to the adjoining real estate on the south and west boundaries of Parcel 2020-35 and Parcel 2020-36. The maintenance responsibilities set forth in

this agreement shall be deemed to be covenants which run with the land described herein and shall be binding upon the parties and their successors in interest. Sheppard, as the owner of Parcel 2020-36 will have no responsibility to share in the associated maintenance expenses for the access easement to Parcel 2020-35. Sheppard reserves the right to make changes, at Sheppard's expense, to the access easement, provided such changes do not materially and/or adversely impact the use of the access easement by the owners of Parcel 2020-35 and/or Parcel 2020-36.

2. **Manure Rights.** Sheppard shall be entitled to the manure generated by Tenderloin's operations on Parcel 2020-35 at no cost. The parties understand and agree that Sheppard's right to take the manure is an obligation imposed upon Sheppard and not an option. Sheppard shall take all of the manure and compost material generated by Tenderloin on Parcel 2020-35. Sheppard shall accept the manure and shall dispose of it by proper and lawful methods. Sheppard shall apply said manure on his farmland at his sole cost. Alternatively, Sheppard may apply said manure at alternate sites at his sole discretion at his sole cost. Except in the event of the sale of Sheppard's surrounding farm, this obligation is exclusive and non-transferrable and said right belongs to Sheppard. Sheppard shall pay for all costs associated with the pumping, hauling and application of the manure.

3. **Further Grant of Easements for Manure Removal:** Sheppard shall remove the manure generated by Tenderloin's operations on Parcel 2020-35 in a timely manner. The manure and compost materials shall be applied to Sheppard's land in accordance with the Manure Management Plan required by the State of Iowa and the Iowa Department of Natural Resources. Sheppard agrees to apply appropriate rates based on DNR rules, soil analysis, manure analysis and crop plan. It is anticipated that manure will be removed once or twice per year at Sheppard's expense. Manure shall be applied only after the harvest of the crop in the fall or prior to the

planting of the crop in the spring. The application of the manure shall not interfere with the growing and harvesting of a crop.

All manure produced by Tenderloin's operations on Parcel 2020-35 must be suitable for application on Sheppard's land. Tenderloin shall not add any harmful chemicals or additives to either the feed consumed by its animals or to the manure and other byproduct in the pits that may cause damage to the soil and that may interfere with the production and growth of Sheppard's crops. In addition, Tenderloin shall keep the pits free from debris and clutter that may interfere with Sheppard's removal of manure from the pits or that may cause damage to Sheppard's application equipment.

In the event of a mass death loss occurring on Parcel 2020-35 or in the hog building located on Parcel 2020-35, Tenderloin shall take all necessary steps to ensure a prompt clean-up and removal of carcasses, compost, byproducts and any contaminated manure that is not deemed suitable for application. In the event of a mass death loss, Sheppard shall have no obligation to remove the manure if it is not deemed suitable for application on Sheppard's land.

Tenderloin hereby grants to Sheppard an easement across Parcel 2020-35 for as long as animals are located at the site, for the purposes of collecting compost, animal manure, and animal by-products, excluding non-composted animal and animal parts. Sheppard shall have an easement, including the right of entrance and exit, along and upon the driveway of Tenderloin for the purpose of bringing and maintaining equipment for collection of the manure and for Sheppard's vehicles, semitrucks and farm implements used in connection with his farming operation.

Sheppard shall also have an easement over and across all driveways located on Tenderloin's property for his vehicles, semi-trucks and farm implements used in connection with

his farming operation. Sheppard's use of the easement shall not interfere with Tenderloin's operations.

Tenderloin shall be responsible for the maintenance and repair of all driveways located on Parcel 2020-35. Maintenance and repair shall include, without limitation, repairing and maintaining drainage, and maintaining the surface area in a safe, sightly and serviceable condition, free from settling, holes and standing water. Maintenance shall also include removing snow, rubbish, trash and waste from the easement area in a reasonable manner. Tenderloin shall not push or move any snow from Parcel 2020-35 onto the adjoining real estate owned by Sheppard.

Tenderloin agrees to install an electrical outlet on the outside of its building for Sheppard to enable Sheppard to have electrical service to assist him in manure removal or to assist Sheppard with his farming operations and to also service a storage shed that Sheppard intends to build on his property. Tenderloin hereby gives an easement to Sheppard for access to and use of the electrical outlet. Likewise, Tenderloin agrees to install a water spigot/hose bib on the outside of its building for Sheppard's use to enable Sheppard to have access to water as needed from time to time. Tenderloin hereby gives an easement to Sheppard for access to and use of the spigot/bib.

4. **Manure Management Plan:** The parties understand and agree that a Department of Natural Resources/State of Iowa "Manure Management Plan" is required. The parties shall cooperate and communicate in order to stay in annual compliance with the Plan. The parties understand that there are annual reports and renewals for the parties to complete. The parties understand and agree that Sheppard has hired a private firm to assist the parties with the Manure Management Plan specifically for the real estate described herein, and the costs of said Manure Plan Application, Implementation and Compliance shall be paid by Sheppard. The private firm shall complete any and all filings due the DNR/State of Iowa to ensure that Tenderloin and

Sheppard remain in compliance on an annual basis. Sheppard's rights to the manure are contingent upon continuing cooperation with Tenderloin and Sheppard's compliance with DNR/State of Iowa manure management rules.

5. **Applicable Regulations:** Sheppard, while disposing of animal manure and products, shall comply with all applicable State, local and/or Federal laws and shall obtain and maintain at his own expense all permits required by law. Sheppard shall be solely responsible for any violations of applicable laws or ordinances regarding the spreading and disposal of the manure and shall fully indemnify and hold Tenderloin harmless from any criminal or civil liability. Sheppard will apply all additional commercial or organic fertilizers according to current DNR Management Plan requirements as may be specified for the real estate described above. Sheppard shall follow all state and federal regulations pertaining to application levels and methods, and, in the event of issues or litigation due to non-compliance, Sheppard shall be fully liable.

6. **Mutually Beneficial:** The parties agree that the conveyance of land to Tenderloin is of benefit to Owner/Operator Tenderloin. The parties agree that the right to harvest the manure is of benefit to Sheppard. In the event Tenderloin assigns, sells or conveys its interest in the hog facility, this Agreement shall be construed as a covenant running with the land and this Agreement shall be binding on Tenderloin's heirs, successors in interest and assigns.

In the event Sheppard sells, assigns or conveys his interest in his surrounding land, the Manure Disposal Agreement may be assigned to his successor in interest or Sheppard may retain the Manure Disposal Agreement along with its obligations. Tenderloin warrants that it will be the sole Owner of Parcel 2020-35 and it has the authority to grant the terms of this entire agreement described herein. Sheppard warrants it is the sole owner of the surrounding farmland and has the

authority to convey the real estate described on Exhibit "A", and the authority to enter into this Agreement.

7. **Covenant Running with the Land:** This Agreement shall be binding upon and shall inure to the benefit of both parties and their respective successors in interest, heirs, assigns and legal representatives. This Agreement shall be binding upon the parties unless mutually amended or canceled by both parties herein. In case of amendment or cancelation, Tenderloin shall retain as its own the property the land described on Exhibit "A" as Parcel 2020-35 as conveyed to Tenderloin.

8. **Releases/Waivers:** Both parties agree to sign any forms, releases or waivers that may be necessary, appropriate or helpful to carry out the terms and conditions of this Agreement. Furthermore, the parties agree to cooperate and communicate regarding releases for FSA or NRCS information that may be necessary to complete the Required Nutrient Management Plans and/or Nutrient Plan Writer.

9. **Well Agreement:** Tenderloin is drilling a new well on Parcel 2020-36 which will service Parcel 2020-36 and also provide water service to Parcel 2020-35. Sheppard agrees to allow Tenderloin to obtain water from the well for the benefit of Tenderloin's operations on Parcel 2020-35, and the parties wish to confirm the respective rights and responsibilities as to the water service.

a. Sheppard shall supply Tenderloin water for its operations on Parcel 2020-35 from the well on Parcel 2020-36.

b. All costs for electricity to operate the pump shall be paid by Tenderloin.

c. All expenses for maintenance and repairs for the well, pump, or pressure system located at the well head, and for any jointly used water line shall be paid by Tenderloin. Each party

shall be individually responsible for maintenance and repair of any water line which services only their respective property.

d. Sheppard grants Tenderloin, and Sheppard's successors in interest, an easement across that portion of Parcel 2020-36 on which the water service lines are extended from the well to Parcel 2020-35 for the purpose of maintaining said service line.

e. This Agreement shall be binding upon the heirs, assigns and successors in interest of the parties hereto and shall run with the land.

10. **Right of First Refusal:** In the event Tenderloin decides to sell or convey the real estate described in Exhibit "A" and the hog confinement operation contained thereon, Sheppard shall have the first option to purchase said real estate and operation. Tenderloin shall provide Sheppard a written notice that it plans to sell the hog confinement operation, building and the land it sits upon, and the specific terms of any existing bona fide offer or offers. Sheppard shall be given the opportunity to match any existing offer or offers. Sheppard shall have ten (10) days from service of the notice to exercise his option in writing and shall have sixty (60) days in which to close upon Tenderloin's land and building. In the event Sheppard fails to exercise the option within ten (10) days or fails to close within sixty (60) days of Tenderloin's acceptance of the offer, the Right of First Refusal in Sheppard's favor shall be null and void and Tenderloin shall have full power and authority to convey to any third person or persons.

11. **Sale of Parcel 2020-36:** Tenderloin shall buy from Sheppard Parcel 2020-36 at such time as Sheppard is ready to sell Parcel 2020-36, during Steven J. Sheppard's or Mary K. Sheppard's lifetime, or during Steven J. Sheppard's and/or Mary K. Sheppard's children's lifetimes. At such time as Sheppard is ready to sell Parcel 2020-36, Sheppard shall provide Tenderloin written notice to trigger Tenderloin's obligation to purchase the real estate. The price

of Parcel 2020-36 shall be determined by appraisal, but shall be no less than $160,000, unless otherwise agreed to by the parties. The appraisal of Parcel 2020-36 shall be based solely on the value of the real estate and any existing buildings and structures on the real estate without any regard to its proximately to the hog confinement operation located on Parcel 2020-35. Sheppard's written notice shall include a copy of a current appraisal of the real estate as completed by a certified appraiser. Tenderloin shall have sixty (60) days from the service of written notice to complete the purchase of Parcel 2020-36 from Sheppard. Sheppard's ability to trigger the mandatory sale of Parcel 2020-36 shall be binding upon Steven J. Sheppard's and Mary K. Sheppard's heirs, assigns and successors in interest. This provision shall also be binding upon Tenderloin's heirs, assigns and successors in interest and shall run with the land.

Dated and approved this 28th day of April, 2020.

Tenderloin Ranch LLC

By: Corey Voelker, Manager/Member

STATE OF IOWA, COUNTY OF Delaware : ss

Subscribed and sworn to before me on this 28th day of April, 2020, by Corey Voelker, as Manager/Member of Tenderloin Ranch LLC.

NOTARIAL SEAL IOWA
JANETTE S VOSS
Commission Number 165769
My Commission Expires
July 15, 2022

Notary Public in and for the State of Iowa

Dated and approved this 28th day of April, 2020.

Tenderloin Ranch LLC

By: Alan J. Krogmann, Manager/Member

STATE OF IOWA, COUNTY OF Delaware : ss

Subscribed and sworn to before me on this 28th day of April, 2020, by Alan J. Krogmann, as Manager/Member of Tenderloin Ranch LLC.

NOTARIAL SEAL IOWA
JANETTE S VOSS
Commission Number 165769
My Commission Expires
July 15, 2022

Notary Public in and for the State of Iowa

Dated and approved this 28th day of April, 2020.

Steven J. Sheppard

Mary K. Sheppard

STATE OF IOWA, COUNTY OF Delaware : ss

Subscribed and sworn to before me on this 28th day of April, 2020, by Steven J. Sheppard and Mary K. Sheppard, husband and wife.

NOTARIAL SEAL IOWA
JANETTE S VOSS
Commission Number 165769
My Commission Expires
July 15, 2022

Notary Public in and for the State of Iowa

EXHIBIT "A"

PARCEL 2020-35, Part of the SW¼ SE ¼; Section 3, T87N, R6W of the Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2020, Page 818.

PARCEL 2020-36, Part of the SW¼ SE ¼; Section 3, T87N, R6W of the Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2020, Page 818.

Adjoining land owned by Steven J. Sheppard and Mary K. Sheppard, legally described as follows:

SW¼ SE¼; Section 3, T87N, R6W of the Fifth P.M., Delaware County, Iowa, EXCEPT Parcel 2020-35 and Parcel 2020-36.

