

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

**MEAT HARVESTING AND  
PROCESSING FACILITY  
MANAGEMENT AGREEMENT**

THIS MEAT HARVESTING AND PROCESSING FACILITY MANAGEMENT AGREEMENT (the "Management Agreement") is entered into effective August \_\_, 2011 by and between CABARRUS COUNTY (the "County"), a body politic and political subdivision of the State of North Carolina; CRUSE MEAT PROCESSING, LLC ("CMP") a North Carolina limited liability company, and MAX E. CRUSE, SR. and wife, RUTH B. CRUSE ("Cruse Individuals") individual residents of Cabarrus County, North Carolina. CMP and the Cruse Individuals are sometimes referred to as the "Cruse Parties".

**PREMISES**

1. There is a demonstrated need in and around Cabarrus County for a meat harvesting and processing facility to serve meat producers in that area.
2. It is in the public interest to satisfy that need, which will also promote economic development and build a more resilient economy.
3. It is also in the public interest to provide access to fresh, healthy and safe meat products produced and processed locally.
4. The County had applied for and has been awarded a grant (the "Grant") for construction of a meat harvesting and processing facility (the "Facility") in the County by the North Carolina Agricultural Development and Farmland Preservation Trust Fund.
5. CMP owns real estate in the Rimertown area of the County on which the Cruse Individuals presently conduct a small meat processing and sales operation which does business under the name Cruse Meats and which is located at 4701 Rimer Road, Concord, North Carolina. The Cruse Individuals are the members and managers of CMP.

6. The County and the Cruse Parties desire for the County to construct the Facility on the CMP property in Rimertown and for the Cruse Individuals to manage and operate the Facility for the County.

7. The purpose of this Management Agreement is to set forth the terms by which the Cruse Parties will permit the County to construct the Facility and by which the Cruse Individuals will operate the Facility for the County.

8. This Management Agreement is entered into pursuant to the authority granted to the County by N.C. Gen. Stat. §158-7.1.

In consideration of the above Premises and the Terms below, which the parties agree constitute sufficient legal consideration to make this Management Agreement legally binding and enforceable, the parties agree as follows.

### **TERMS**

1. The County agrees to provide the funds necessary to construct the Facility on CMP real property. This property (the "Real Property") consists of approximately 15.875 acres of land, more or less, as more particularly described in a deed to CMP from the Cruse Individuals recorded in Book 9286, page 220 of the Cabarrus Public Registry and as shown in a plat recorded in Book 59, page 46 of such Registry.

2. The Facility to be constructed includes the water source and the wastewater treatment and wastewater irrigation systems required by the North Carolina Department of Environment and Natural Resources (NCDENR") to treat wastewater from the meat harvesting and processing operations. In this Management Agreement, these wastewater systems are sometimes separately referred to collectively as the "Water and Wastewater Systems".

3. The County has received the Grant in the amount of \$675,000.00 and has budgeted an additional \$455,857.00 for construction of the Facility. The County agrees to expend such total sum in the construction of the Facility.

4. The County has contracted with a general contractor to construct the Facility. The County will contract with a qualified firm within ninety (90) days of the execution of this agreement to construct the Water and Wastewater Systems necessary to operate the Facility. The Cruse Parties permit the County, this general contractor and all subcontractors, including employees and agents of each, to have unlimited access to the Real Property for the purpose of testing the Real Property and constructing and supervising the construction of the Facility.

5. All utilities required for construction and operation of the Facility, including but not limited to the electric power, Water and Wastewater Systems, shall be in the name of CMP and shall be paid for by CMP.

6. The Cruse Parties shall pay for all equipment necessary to fully utilize and operate a kill floor of the size to be contained in the Facility. An itemized listing of such equipment (the "Equipment") is attached as Schedule 1.

7. The Cruse Parties shall impose a surcharge on the processing fees charged to their customers and remit the proceeds of the surcharge to the County. The surcharge shall be sufficient to reimburse the County for the cost incurred to construct the Water and Wastewater Systems, estimated to cost approximately \$350,000.00. Should the County obtain any new grant moneys to pay for the Water and Wastewater Systems, such grant amount shall reduce the amount in like sum that is to be repaid to the County for construction of these systems.

8. The County shall be solely responsible for supervising the construction of the Facility, including the Water and Wastewater Systems, but shall allow the Cruse Parties to provide input to the County concerning the ongoing construction of the Facility.

9. The County engages the Cruse Parties to promote, operate and manage the Facility for the period of time, specified below, that the County either owns the Facility or has a deed of trust secured by the Facility. In such capacity, the Cruse Parties shall have exclusive authority over the day-to-day operation of the Facility and its activities, provided that the Cruse Parties shall follow any policies or guidelines that have or may be promulgated by the County, the Internal Revenue Service, NCDENR, the Cabarrus Health Alliance, OSHA, the Cabarrus County Fire Marshall or the North Carolina Department of Agriculture as required by the Grant for the Facility.

10. Without limiting the generality of the preceding Paragraph 9, the Cruse Parties shall have the authority, and the obligation, to employ sufficient competent personnel (including other Cruse family members); to enter into and administer contracts for utilities, supplies, meat processing and selling and other business needs of the Facility; to provide sufficient maintenance and repair of the Facility; to prepare and maintain complete and accurate books and records for operation and management of the Facility; and to timely pay all debts of the Facility.

11. It is understood and agreed that the County shall have no responsibility or obligation for the management of or operation of the Facility during the term of this Management Agreement.

12. CMP shall extend to the County and execute with the County a ground lease for the Real Property, with a term to coincide with the length of the County's legal interest in the Facility, whether as an owner through construction of the Facility or as an owner via foreclosure of the lien of its deed of trust. No rent shall be required of the County by CMP for this lease.

13. Upon completion of the Facility, the Cruse Parties shall operate and manage the Facility on a full time basis for at least five (5) years, or as long as any grant supplying funds for the Facility requires the County to own the Facility, whichever period is longer (the "Initial Period"). At the end of the Initial Period, at the request of the Cruse Parties, the County will convey the Facility to the Cruse Parties, on condition that the Cruse Parties at that time execute a deed of trust, security agreement and financing statements for the benefit of the County, granting the County a valid first lien on the Facility and the Equipment. The amount of the deed of trust and security agreement shall be \$754,000.00, which is two-thirds of the amount expended by the County in constructing the Facility. For each additional year after the Initial Period that the Cruse Parties operate and manage the Facility, one-tenth of the deed of trust balance shall be amortized and considered paid or reduced. At the conclusion of fifteen (15) years after the Initial Period, if the Cruse Parties have continued to operate and manage the Facility continuously

during that time, the deed of trust and security agreement shall be considered paid in full and shall be released. Notwithstanding the foregoing, once the \$350,000.00 amount for the Water and Wastewater Systems construction (as provided in Paragraph 7) is paid whether by the surcharge or a new grant, the time for the Cruse Parties to operate the facility after the Initial Period shall be reduced to ten (10) years and the amortization recalculated accordingly. At any time the Cruse Parties may pay any balance remaining on the deed of trust in lawful funds and obtain a release of the deed of trust and security agreement. No interest shall be charged on this deed of trust/security agreement obligation.

14. Upon prior written approval of the County, the Cruse Parties may borrow money for the construction of improvements or repairs to the Facility. In such event, the parties agree to increase the retail and wholesale prices of meat products processed by the Facility so that such debt may be timely paid.

15. In the event the Facility is unable to generate a profit on normal operations, the County may require the Cruse Parties to adjust the pricing of the products being processed in the Facility. Except as provided in this paragraph and Paragraphs 7 and 14, the Cruse Parties shall be the sole decision-makers on pricing of meat products processed by the Facility.

16. The Cruse Parties shall designate one or more individuals to be certified in any and all operations required by any and all federal, state and local authorities to fully manage and operate the Facility, including but not limited to any water and wastewater certifications required by NCDENR.

17. The County through its designated agents and employees shall be entitled to unlimited access to the Facility and shall be entitled to audit the activities and books and records of the Cruse Parties at the County's expense, in order to monitor the operational and financial activities of the Facility.

18. The Cruse Parties shall indemnify and hold harmless the County and its Board of Commissioners, employees and agents from any and all claims, demands, losses and damages, including but not limited to County's attorneys fees, arising from the management and operation of the Facility.

19. The Cruse Parties shall maintain liability and workers compensation insurance coverage amounts satisfactory to County. The County shall be named as an additional insured on such coverage.

20. The Cruse Individuals shall devote sufficient energy and time to the management and operation of this Facility such that it would be considered full time employment.

21. Default shall be defined as the failure of the Cruse Parties to comply with one or more of their obligations under this Management Agreement. Should the Cruse Parties default in performance of this Management Agreement, the County shall provide written notice of default to the Cruse Parties at the CMP address. The Cruse Parties shall have thirty (30) days from the date of such notice to comply with the provisions of this Management Agreement which caused the default. Should the Cruse Parties fail to comply, the County at its option may terminate this Management Agreement. Should the County terminate this Management Agreement, the County

at its option shall not be required to convey the Facility to the Cruse Parties or if it has already conveyed the Facility, the County may foreclose the lien of its deed of trust as provided below.

22. This Management Agreement is subject to the provisions and requirements of the Grant documents, which are incorporated by reference into this Management Agreement.

23. Nothing in this Agreement shall be construed to relieve Cruse Parties of their obligation to comply with all federal, state and local laws, regulations and rules regarding the management and operation of the Facility.

24. No provision of this Agreement shall be construed in such a way as to create a partnership between the County and the Cruse Parties. The relationship of the County to the Cruse Parties is that of independent contractors. The Cruse Individuals are not employees of the County and shall be responsible for their own income tax obligations.

25. This Agreement constitutes the entire understanding of the parties with respect to the subject matter of this document and the relationship of the parties. There are no other provisions. Any modification to this Agreement must be in writing and signed by the parties.

26. This Agreement is to be construed pursuant to North Carolina law. Any litigation concerning this Agreement shall be brought exclusively in the Superior Court of Cabarrus County.

IN WITNESS, the parties have executed this Agreement as indicated below.

CABARRUS COUNTY

CRUSE MEAT PROCESSING, LLC

BY: \_\_\_\_\_  
John D. Day, County Manager

BY: \_\_\_\_\_  
Member-Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Kay Honeycutt, Clerk

\_\_\_\_\_(Seal)  
MAX E. CRUSE, SR.

Date: \_\_\_\_\_

\_\_\_\_\_(Seal)  
RUTH B. CRUSE

Date: \_\_\_\_\_

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

By: \_\_\_\_\_  
Finance Director

Approved as to legal content.

\_\_\_\_\_  
County Attorney