

MUTUAL NON-DISCLOSURE AGREEMENT

Regional Produce Cooperative Corporation, a Pennsylvania nonprofit cooperative corporation d/b/a The Philadelphia Wholesale Produce Market at 6700 Essington Avenue, Suite J-232, Philadelphia, PA 19153 (“**RPCC**”), and _____, a _____ having a principal place of business located at _____ and its affiliated companies (“**Bidder**”), hereby agree as follows:

1. Bidder desires to be considered to bid upon shares of capital stock of RPCC and, if successful, to become a tenant of RPCC (the “**Business Relationship**”).
2. To further the Business Relationship between the parties hereto, it is necessary and desirable that each party to disclose (the “**Disclosing Party**”) to the other (the “**Recipient**”) certain Confidential Information relating to its current or proposed structure, products and operations.
3. **Confidential Information.** “**Confidential Information**” shall mean any information or know-how which is disclosed by the Disclosing Party to the Recipient, including without limitation, that which relates to research, product plans, products, services, customers, vendors, partners, pricing, marketing strategies, markets, developments, inventions, processes, business or contractual obligations of the Disclosing Party, which is either confidential by its nature, whether designated in writing to be confidential or proprietary, or given orally, or marked as being confidential. Confidential Information does not include information or know-how which: (i) is in Recipient’s possession at the time of disclosure as shown by Recipient’s files and records immediately prior to the time of disclosure; (ii) is or becomes part of the public knowledge or literature through no wrongful act of Recipient; (iii) is approved in advance by the Disclosing Party, in writing, for release; (iv) has been or is independently developed by the Recipient without use or reference, directly or indirectly, of the Confidential Information received from the Disclosing Party; or (v) is required to be disclosed by applicable law or proper legal, governmental or other competent authority provided that the Disclosing Party shall be notified in writing by the Recipient sufficiently in advance of such requirement so that it may seek a protective order (or equivalent) with respect to such disclosure, which Recipient shall fully comply with.

The Disclosing Party shall have no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement, except to the extent that such errors or omissions are willful, grossly negligent, or adversely affect the Recipient’s ability to perform under any contract between the parties hereto.

4. **Non-disclosure.** Each party hereby agrees not to disclose Confidential Information to any person or entity except employees, agents or consultants who are required to have the Confidential Information to perform services contemplated by the Business Relationship. Each party shall use its best efforts to prevent inadvertent disclosure of Confidential Information to others and shall treat the Confidential Information with the highest degree of care, that being at least the degree of care that it treats similar materials of its own, or a higher standard of care if reasonable under the circumstances. Prior to disclosing any Confidential Information to any of its employees, agents, or consultants, the Recipient shall ensure that such persons or entities are aware of the requirements of this Agreement and have agreed in writing to non-disclosure provisions substantially similar to those contained in this Agreement. Each party hereto agrees not to use Confidential Information for its own use or for any purpose except as specifically contemplated and required by the Business Relationship.

5. **Title and Proprietary Rights.** Notwithstanding the disclosure of any Confidential Information by the Disclosing Party to the Recipient, the Disclosing Party shall solely retain title, interest and rights, including without limitation all proprietary rights, in the Confidential Information. No license, ownership or other right under any trademark, patent or copyright, or application for same, which are now or thereafter may be obtained by such party, is granted, assigned or implied by the conveying of Confidential Information. The Recipient shall not alter or obliterate any trademark, trademark notice, copyright notice, confidentiality notice or any notice of any other proprietary right of the Disclosing Party on any copy of the Confidential Information, and shall reproduce any such mark or notice on all copies of such Confidential Information.
6. **Term and Termination.** This Agreement shall terminate as to the exchange of any Confidential Information five (5) years following the effective date hereof, provided, however, that the confidentiality obligations undertaken by each party pursuant to this Agreement shall survive termination for any reason whatsoever and shall continue to remain in full force and effect for five (5) years after such termination. The parties acknowledge and agree that this Agreement does not in any manner impose any obligation of a party to enter into a Business Relationship of any kind with the other party hereto. Notwithstanding the above, the obligation for confidentiality regarding Confidential Information of a technical nature or information which consists of trade secrets and/or of a proprietary nature shall continue indefinitely until such time as it no longer constitutes Confidential Information as provided herein setting forth the exclusions above.
7. **Return of Confidential Information.** The Recipient shall make no internal compilations or copies of any Confidential Information without the prior written consent of the Disclosing Party. Upon the completion or abandonment of the Business Relationship or the termination of this Agreement, and in any event, upon the written request of the Disclosing Party at any time, whether before or after the completion or abandonment of such Business Relationship, the Recipient shall return promptly to the Disclosing Party all Confidential Information along with all copies made thereof and all documents or things containing any portion of any Confidential Information or, at the Disclosing Party's option, shall destroy all such material.
8. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania without giving effect to its principles of conflict of laws. Venue for any action to enforce the provisions of this agreement may be properly laid in the United States District Court for the Eastern District of Pennsylvania.
9. **Waiver.** Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof.
10. **Remedy.** Recipient acknowledges that a breach of this Agreement would result in irreparable harm to the Disclosing Party, the extent of which would be difficult to ascertain, and in any event money damages would be inadequate in the event of such a breach. Accordingly, Recipient agrees that in the event of a breach or threatened breach of this Agreement, the Disclosing Party shall be entitled to injunctive or other equitable relief as the court deems appropriate, without the necessity of proving actual damages, in addition to any other remedies which it may have available.
11. **No Liability.** In no event shall the Disclosing Party be liable for any indirect, punitive or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss) arising out of the Confidential Information or evaluation thereof, even if the Disclosing Party has been advised of the possibility of such damages. The Recipient's sole

recourse in the event of any dissatisfaction with the Confidential Information is to stop using it and return it to the Disclosing Party.

12. **No Warranties**. The Confidential Information is provided “As Is”, without warranty of any kind, without charge and for the limited purpose of executing or evaluating, as the case may be, the Business Relationship only. The Disclosing Party disclaims all warranties, either express or implied, including but not limited to implied warranties of merchantability and fitness of the Confidential Information for a particular purpose.
13. **Severability**. The provisions of this Agreement are independent of and severable from each other. If any provision is found to be invalid or unenforceable for any reason, that provision shall be deemed modified to the extent necessary to make it valid and operative, or if it cannot be so modified, then eliminated, and the remainder of the Agreement shall continue in full force and effect as if the Agreement had been signed with the invalid portion so modified or eliminated.
14. **Entire Agreement**. This Agreement is the complete understanding as to the protection of the Confidential Information disclosed hereunder and supersedes all prior proposals, discussions, agreements, or commitments, whether oral or written, between the parties regarding such subject matter. This Agreement may only be amended and/or modified in writing by the signatures of the authorized representatives of both parties hereto.
15. **Non-Assignment**. This Agreement may not be assigned, in whole or in part, by either party.
16. **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Delivery of an executed counterpart of this Agreement by facsimile or transmitted electronically in portable document format (“pdf”) shall be equally effective as delivery of a manually executed counterpart hereof. Any party delivering an executed counterpart of this Agreement by facsimile or pdf shall also deliver a manually executed counterpart hereof, but failure to do so shall not affect the validity, enforceability, or binding effect of this letter agreement.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have set their respective signature hereunto on ___ day of _____ 2024.

[Bidder]

REGIONAL PRODUCE
COOPERATIVE CORPORATION

By: _____

By: _____

Name: _____

Mark Smith, General Manager

Title: _____