

CECIL G. CHASON

ATTORNEY-AT-LAW
FOLEY, ALABAMA 36535

Sept. 18, 1968

Mrs. Alice J. Duck
Circuit Clerk
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Schneider vs MFC Services
(AAL), a corporation

I am enclosing Summons and Complaint redrafted in the above styled cause. This Complaint was filed August 12, 1968, but was returned to me because it wasnt signed.

Yours very truly,


C. G. Chason

CGC:dmc

Encl.

Attorney at Law.

P. O. DRAWER 458
216 W. LAUREL AVENUE
FOLEY, ALABAMA 36535
PHONE 205/943-3171

PHONE 205/943-3171

C. G. Chasom

CGC : dmc

STATE OF ALABAMA)
BALDWIN COUNTY) IN THE CIRCUIT COURT . . . LAW SIDE . . .

TO ANY SHERIFF OF THE STATE OF ALABAMA:-

You are hereby commanded to summon MFC Services (AAL), a corporation to appear within thirty (30) days from the service of this writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the complaint of Al Schneider.

WITNESS my hand this the 23 day of ^{Sept.}~~August~~, 1968.

Alice J. Duck
Clerk

AL SCHNEIDER,)	
)	
Plaintiff	)	IN THE CIRCUIT COURT OF
)	
VS	)	BALDWIN COUNTY, ALABAMA
)	
MFC SERVICES (AAL), a	)	AT LAW - CASE NO. <u>8238</u>
corporation,)	
)	
Defendant)	

COUNT I

The Plaintiff claims of the Defendant One Thousand, Eight Hundred Ninety Dollars (\$1,890.00) damages for the breach of a written agreement entered into between them on, to-wit, the 10th day of January, 1968, in substance as follows: The Defendant promised to accept and pay for that certain fifty (50) acres of beans to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which could be economically marketed either with or without further processing or canning, and the Plaintiff says that, although he has complied with all its provisions on his part, the Defendant has failed to comply with the following provisions thereof, viz: That even though the Defendant promised to accept and pay for that certain fifty (50) acres of beans to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which could be economically marketed either with or without further processing or canning, the Defendant breached his

promise and agreement by not accepting and paying for approximately twenty-one (21) tons of the Plaintiff's beans which were duly delivered to the Defendant and which could be economically marketed either with or without further processing or canning.

COUNT II

The Plaintiff claims of the Defendant One Thousand Six Hundred Twenty Dollars (\$1,620.00), damages for the breach of a written agreement entered into between them on, to-wit, the 10th day of January, 1968, in substance as follows: The Defendant promised to accept and pay for that certain fifty (50) acres of beans, to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which could be economically marketed either with or without further processing or canning; and by virtue of this expressed promise, the Defendant impliedly promised not to hinder or prevent, in any way the Plaintiff from performing his part of the agreement of delivering his fifty acres of beans when they could be economically marketed either with or without further processing or canning, and the Plaintiff says that, although he has complied with all its provisions on his part, the Defendant has failed to comply with the following provisions thereof, viz: That even though the Defendant promised not to hinder or prevent, in any way, the Plaintiff from performing his part of the agreement of delivering his fifty acres of beans when they could be economically marketed either with or without further processing or canning, the Defendant breached his promise and agreement by limiting the Plaintiff to the delivery of only one truckload of beans per day and thereby causing approximately eighteen (18) tons of beans which were suitable for marketing to become unsuitable therefor because the Plaintiff was not able to harvest and deliver the said beans when they were suitable for marketing due to the Defendant's delivery limitation as hereinabove set out.


Attorney for Plaintiff

The Plaintiff respectfully demands trial by jury.


ATTORNEY FOR PLAINTIFF

Defendant may be served by and through its duly authorized agent for service of process in the State of Alabama, namely: John E. Lee, Highway 17 West, Aliceville, Alabama.

FILED

SEP 23 1968

WILLIAM J. DUK
CLERK
REGISTER

c. g. c.

24/9:27-68

RECEIVED

SEP 25 1968

WILKINS
SHERIFF

SUMMONS AND COMPLAINT

AL SCHNEIDER,

Plaintiff

VS

MFC SERVICES (AAL), a
corporation,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO 8338

FILED

SEP 23 1968

ALICE J. DUCK
CLERK
REGISTER

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

Executed by serving a copy on

John Lee
this 27 day of Sept 1968
John Lee
Sheriff

By Rufus Hayes
Deputy Sheriff

THE SHERIFF CLAIMS 20
MILES @ 10c PER MILE
FOR A TOTAL OF \$ 2.00

Received 23 day of Sept 1968
and on day of 19
I served a copy of the within on John C. Lee
By service on Taylor Wilkins, Sheriff
By D.S.

AL SCHNEIDER,)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,)	
vs.	)	BALDWIN COUNTY, ALABAMA
MFC SERVICES (AAL), a)	
Corporation,	)	LAW SIDE. NO. 8338.
)	
Defendant.)	

DEMURRER:

Now comes the Defendant by and through its Attorney and demurs to the complaint and each count thereof, and as grounds thereof, assigns separately and severally to the complaint and each count thereof, the following:

1. Said count does not state a cause of action.
2. Said count does not allege a breach of contract.
3. Said count does not allege the contract with sufficient certainty so as to apprise the defendant of the matters it is called upon to defend.
4. The allegations are vague and indefinite.
5. Said count does not allege performance by Plaintiff of all conditions precedent of the written contract.
6. The allegations that "Plaintiff obligated himself to plant, cultivate, harvest and deliver which could be economically marketed either with or without further processing and canning" is vague and indefinite.
7. For aught appears, Defendant agreed to accept and pay for those beans delivered by the Plaintiff which could be economically marketed with or without further processing or canning.
8. The allegation that "Defendant impliedly promised not to hinder or prevent the Plaintiff from performing his part of the agreement" are conclusions of the pleader.
9. Said count does not allege any breach by the Defendant of the contract alleged.
10. The allegation that the Defendant breached the said agreement by limiting the Plaintiff to the delivery of one truck load of beans a day does not allege a breach of said contract.

11. That the said contract as alleged does not provide when or in what quantity the said beans would be accepted.

12. For aught appears only one truck load of beans a day could be economically marketed without further processing or canning by the Defendant.

13. That an implied promise arose from the terms of the contract is a conclusion of the pleader.

14. For aught appears, the allegation of a breach of an implied promise is an attempt to orally vary the terms of the written agreement.

15. For aught appears, the acceptance of the Defendant of one truck load of beans a day was all the beans that could be economically marketed without further processing or canning by the Defendant.

16. For aught appears a substantial variation exists between the contract as written and as alleged in the complaint and each count thereof.

17. The Plaintiff assigns in each count two breaches of the same stipulation.

18. Said count is duplicitious in that it alleges a breach on behalf of the Defendant by failing to accept said beans and by failing to pay for said beans.

OWENS AND PATTON

By: 

Attorneys for Defendant.

I, the undersigned, one of the attorneys of record for the Defendant in the foregoing cause, do hereby certify that I have caused a copy of the foregoing demurrer to be served on the attorney for the Plaintiff, Cecil G. Chason, by placing the same in the United States Mail, properly addressed, with postage prepaid, this 23rd day of October, 1968.

FILED

OCT 24 1968

ALICE J. DUCK

CLERK
REGISTER

1 VOL

62 PAGE 597

8338

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FILED

OCT 24 1968

ALICE J. DICK

CLERK
REGISTER

AL SCHNEIDER,)	
	Plaintiff,) IN THE CIRCUIT COURT OF
vs.)	
		) BALDWIN COUNTY, ALABAMA
MFC SERVICES (AAL), a)	
Corporation,	)	LAW SIDE. NO. 8338.
	Defendant.)

DEMURRER:

Now comes the Defendant by and through its Attorney, and demurs to the complaint as last amended, and each count thereof, and as grounds thereof, assigns separately and severally to the amended complaint and each count thereof, the following:

1. Said count does not state a cause of action.
2. Said count does not allege a breach of contract.
3. Said count does not allege the contract with sufficient certainty so as to apprise the defendant of the matters it is called upon to defend.
4. The allegations are vague and indefinite.
5. Said count does not allege performance by plaintiff of all conditions precedent of the written contract.
6. The allegation that "Defendant impliedly promised not to hinder or prevent the Plaintiff from performing his part of the agreement" are conclusions of the pleader.
7. Said count does not allege any breach by the defendant of the contract alleged.
8. The allegation that the defendant breached the said agreement by limiting the plaintiff to the delivery of one truck load of beans a day does not allege a breach of said contract.
9. That the said contract as alleged does not provide when or in what quantity the said beans would be accepted.
10. For aught appears only one truck load of beans a day could be economically marketed without further processing or canning by the defendant.

11. That an implied promise arose from the terms of the contract is a conclusion of the pleader.

12. For aught appears, the allegation of a breach of an implied promise is an attempt to orally vary the terms of the written agreement.

13. For aught appears, the acceptance of the defendant of one truck load of beans a day was all the beans that could be economically marketed without further processing or canning by the defendant.

14. For aught appears a substantial variation exists between the contract as written and as alleged in the complaint and each count thereof.

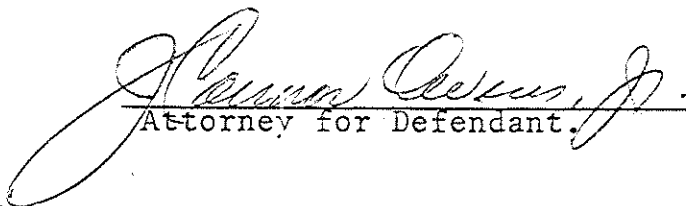
15. The Plaintiff assigns in each count two breaches of the same stipulation.

16. Said count is duplicitious in that it alleges a breach on behalf of the defendant by failing to accept said beans and by failing to pay for said beans.

17. That said count does not allege a failure to perform said contract.

18. That said count does not allege a failure to perform said contract in a manner set forth therein.

19. For aught appears the breach alleged by the plaintiff by allegedly limiting the plaintiff to the delivery of one truck load of beans per day sounds in tort rather than in contract.

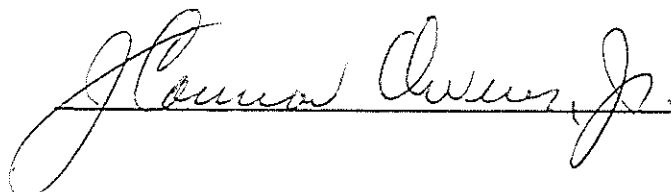

Attorney for Defendant.

I, the undersigned Attorney of Record for the Defendant in the foregoing cause, do hereby certify that I have caused a copy of the foregoing demurrer to be served on the attorney of record for the Plaintiff, Cecil G. Chason, by placing the same in the United States Mail, properly addressed, with postage prepaid, this 23rd day of June, 1969.

FILED

JUN 24 1969

ALICE J. DUCK CLERK
REGISTER



LVOL 62 PAGE 599

AL SCHNEIDER,	)	IN THE CIRCUIT COURT OF
Plaintiff,)	
vs.	)	BALDWIN COUNTY, ALABAMA
MFC SERVICES (AAL), a)	
Corporation,	)	LAW SIDE. NO. 8338.
Defendant.)	

ORDER:

This cause coming on to be heard on the demurrer of the Defendant to the complaint as last amended filed by the Plaintiff, and the same being heard by the Court, and the Court being of the opinion that said demurrer should be overruled as to both counts, it is, therefore,

ORDERED, ADJUDGED AND DECREED by the Court that the said demurrer be, and the same is hereby overruled as to both counts of the Complaint as last amended.

DATED at Bay Minette, Alabama, this 25th day of June, 1969.

Jeffery J. Madaleno
Circuit Judge.

FILED

JUN 25 1969

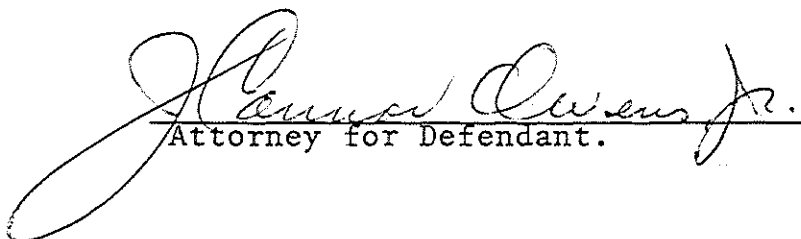
ALICE J. DUCK CLERK
REGISTER

AL SCHNEIDER,)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,)	
vs.	)	BALDWIN COUNTY, ALABAMA
MFC SERVICES (AAL), a)	
corporation,	)	AT LAW. NO. 8338
Defendant.)	

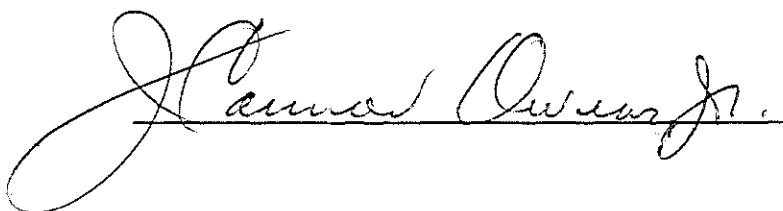
ANSWER:

Now comes the Defendant in the above styled cause, by its Attorney of Record, and for answer to the complaint as last amended, and to each count thereof, separately and severally, says:

1. That the allegations of the complaint are untrue.
2. Not guilty.


Attorney for Defendant.

I, the undersigned Attorney of Record for the Defendant in the foregoing cause, do hereby certify that I have caused a copy of the foregoing answer to be served on Cecil G. Chason, the Attorney of Record for the Plaintiff, by placing the same in the United States Mail, properly addressed, with postage prepaid, this 30 day of October, 1969.



FILED

OCT 31 1969

ALICE J. DUCK CLERK
REGISTER

AL SCHNEIDER,	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
Plaintiff,	)	LAW SIDE. NO. 8338
vs.)	
MFC SERVICES (AAL),)	
A Corporation,)	
)	
Defendant.)	

DEMURRER:

Now comes the Defendant by and through its Attorney, and demurs to the complaint as last amended, and each count thereof, and as grounds therefor, assigns separately and severally to the amended complaint and each count thereof, the following:

1. That it affirmatively appears from said contract that the same does not contain any provision wherein the Defendant promised not to hinder or prevent the Plaintiff from performing his part of the agreement.
2. For aught appears, said count sounds in tort rather than in contract.
3. The allegation that the Defendant breached the contract by informing the Plaintiff that it would not accept 18 tons of beans which were suitable for marketing, is a conclusion of the pleader.
4. It affirmatively appears from the contract attached that the Plaintiff had the duty of delivering said beans to said plant on or before July 20, 1968.
5. That said count does not state a cause of action.
6. That said count does not allege a breach of contract.
7. That said count does not allege the contract with sufficient certainty so as to apprise the Defendant of the matters it is called upon to defend.
8. The allegations are vague and indefinite.
9. That said count does not allege performance by Plaintiff of all conditions precedent of the written contract.
10. That said count does not allege any breach by the Defendant of the contract alleged.

11. The allegation that "Defendant impliedly promised not to hinder or prevent the Plaintiff from performing his part of the agreement" are conclusions of the pleader.

12. That an implied promise arose from the terms of the contract is a conclusion of the pleader.

13. For aught appears, the allegation of a breach of an implied promise is an attempt to orally vary the terms of the written agreement.

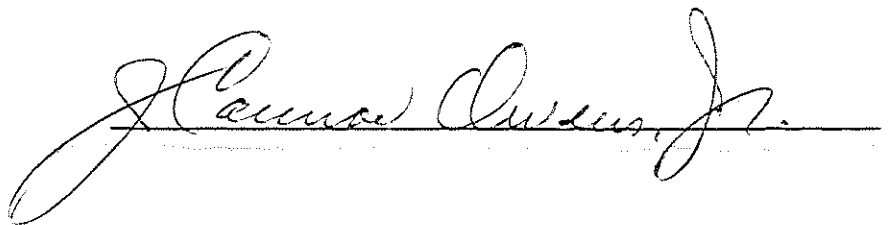
14. For aught appears a substantial variation exists between the contract as written and as alleged in the complaint and each count thereof.

15. That said count does not allege a failure to perform said contract.

16. That said count does not allege a failure to perform said contract in a manner set forth therein.


Attorney for Defendant.

I, the undersigned Attorney of Record for the Defendant in the foregoing cause, do hereby certify that I have caused a copy of the foregoing demurrer to be served on the Attorney of Record for the Plaintiff, Cecil G. Chason, by placing the same in the United States Mail, properly addressed, with postage prepaid, this 13 day of November, 1969.



FILED

NOV 13 1969

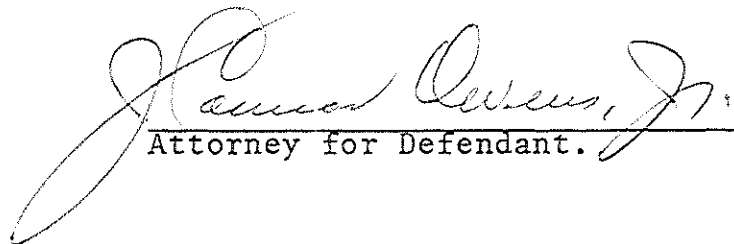
ALICE J. DUCK CLERK
REGISTER

AL SCHNEIDER,)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,)	
vs.	)	BALDWIN COUNTY, ALABAMA
MFC SERVICES (AAL))	
A Corporation,	)	AT LAW. NO. 8338
)	
Defendant.)	

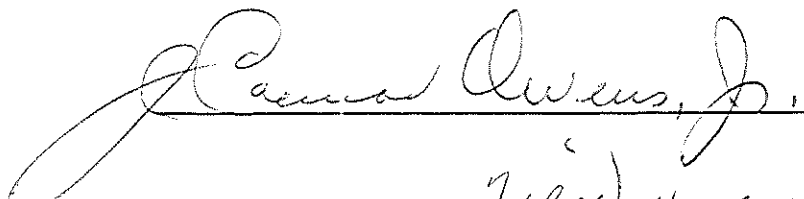
ANSWER:

Now comes the Defendant in the above styled cause, by its Attorney of Record, and for answer to the complaint as last amended, and to each count thereof, separately and severally, says:

1. That the allegations of the complaint are untrue.
2. Not guilty.


 Attorney for Defendant.

I, the undersigned Attorney of Record for the Defendant in the foregoing cause, do hereby certify that I have caused a copy of the foregoing answer to be served on Cecil G. Chason, the Attorney of Record for the Plaintiff, by delivering to him a copy of the same this 17th day of November, 1969.


 Filed 11-17-69
 Alice F. Duck

AL SCHNEIDER,	)	IN THE CIRCUIT COURT OF
)	
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
)	
vs.	)	AT LAW CASE NO. 8338
)	
MFC SERVICES (AAL), a)	
corporation,)	
)	
Defendant)	

AMENDED COMPLAINT

COUNT ONE

The Plaintiff claims of the Defendant ONE THOUSAND, EIGHT HUNDRED NINETY DOLLARS (\$1,890.00) damages for the breach of a written agreement entered into between them on, to-wit, the 10th day of January, 1968, in substance as follows: Said written agreement is attached hereto and incorporated herewith as Exhibit "A" and under and by virtue of said written agreement, the Defendant promised to accept and to pay for that certain fifty (50) acres of beans to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which were suitable for marketing by reason of not being inferior or defective in quantity, grade or condition, and the Plaintiff says that, although he has complied with all its provisions on his part, the Defendant has failed to comply with the following provisions thereof, viz: That even though the Defendant promised to accept and to pay for that certain fifty (50) acres of beans to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which were suitable for marketing by reason of not being inferior or defective in quality, grade or condition, the Defendant breached his promise and agreement by not accepting and paying for approximately twenty-one (21) tons of the Plaintiff's from to-wit: May 21, 1969, through to-wit: May 28, 1969 beans which were duly delivered to the Defendant/and which were suitable for marketing by reason of not being inferior or defective in quality, grade or condition.

COUNT TWO

The Plaintiff claims of the Defendant ONE THOUSAND, SIX HUNDRED TWENTY DOLLARS (\$1,620.00), damages for the breach of a written agreement entered into between them on the 10th day of January, 1966, in substance as follows: Said written agreement is

attached hereto and incorporated herewith as Exhibit "A" and under and by virtue of said written agreement, the Defendant promised to accept and to pay for that certain fifty (50) acres of beans, to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which were suitable for marketing by reason of not being inferior or defective in quality, grade or condition; and by virtue of this expressed promise, the Defendant impliedly promised not to hinder or prevent, in any way, the Plaintiff from performing his part of the agreement of delivering his fifty (50) acres of beans when they were suitable for marketing by reason of not being inferior or defective in quality, grade or condition, and the Plaintiff says that, although he was ready, willing and able to perform all its provisions on his part, the Defendant has failed to comply with the following provisions thereof, viz: That even though the Defendant promised not to hinder or prevent, in any way, the Plaintiff from performing his part of the agreement of delivering his fifty (50) acres of beans when they were suitable for marketing by reason of not being inferior or defective in quality, grade or condition, the Defendant breached his promise and agreement on to-wit, May 27, 1969, by informing the Plaintiff/ that the Defendant would not accept approximately eighteen (18) tons of beans which were suitable for marketing by reason of not being inferior or defective in quality, grade or condition whether said beans were duly delivered or not.


Attorney for Plaintiff

~~I hereby certify that I have this day mailed a copy of the above complaint to J. Connor Owens, Attorney of Record for the Defendant by placing the same postage prepaid and properly addressed in the U. S. Post Office, Foley, Alabama, on this the _____ day of November, 1969.~~

FILED

NOV 12 1969

ALICE J. DUCK CLERK
REGISTER

EXHIBIT "A"

MFC SERVICES (AAL)

VEGETABLE PRODUCTION DEPARTMENT

DEPOSIT SUPPLEMENT

PRODUCER NAME (Please Print) AL SCHNEIDER

Post Office or Route Number _____

City and State Foley, ALABAMA

Type of Seed Bush SNAP BEANS Variety _____

4400 lbs./bu. of seed ordered at .44 ¢ per pound = \$ 1936.00

Less Deposit - 50.00

Balance Due..... \$ 1886.00

Type of Seed _____ Variety _____

_____ lbs./bu. of seed ordered at _____ ¢ per pound = \$ _____

Less Deposit..... - _____

Balance Due..... \$ _____

Type of Seed _____ Variety _____

_____ lbs./bu. of seed ordered at _____ ¢ per pound = \$ _____

Less Deposit..... - _____

Balance Due..... \$ _____

PLEASE FILL OUT IN DUPLICATE AND RETURN BOTH COPIES WITH THE CONTRACT.

Sieve Size

Price Per Ton

2 & 3

\$120.00

4

90.00

5 and up

60.00

WITNESS:

J. L. Jordan

Date

1-10-68

Al. Schriener

Signature of Member Producer

Route and Box Number

Foley, Alabama

Post Office

MFC SERVICES (AAL) W.H.

BY

W. J. Bryan

SUPPLEMENT A

SUPPLEMENT TO GROWER CONTRACT

Bush Green Beans
(Mechanical Harvest)CROP YEAR 1968 Acres 50

FIRST: In accord with the Vegetable Growing, Processing and Marketing Agreement by and between the undersigned member and MFC Services (AAL) attached hereto Process VAR Bush Green Beans will be produced on the acres shown above and delivered to the Processing Plant in crates unless otherwise specified by MFC according to the following specifications and terms:

A. MFC will accurately weigh the beans harvested and fit for canning and take representative samples of each load of beans, which shall be weighed and cleaned of all dirt, stones, stems, leaves, other foreign matter, and beans not suitable for canning. Beans not suitable for canning are beans containing large seed or over 0.15% fiber or beans that are overmature, stringy, wilted, puffy, wrinkled, spongy, rusty, spotted, blemished, or badly misshapen. The clean samples shall be graded according to the U. S. Standard sizes, each grade shall be weighed, and the percentage that the weight of each grade bears to the total weight of the samples time the weight of the load shall constitute the amount of that grade in the load.

B. Whenever MFC determines that a field of beans or part thereof is unfit for canning purposes because of any of the following causes or other causes--plant diseases, worms, insects, thistles or other weeds, excessive heat or moisture, hail, wind, frost, inaccessability due to excessive rainfall or high fiber due to lack of sufficient irrigation--it shall so notify the member in writing. The member's compensation for the production of beans unfit for canning shall consist exclusively of his personal right to use the crop for a green manure crop.

C. It is agreed between both parties that any seed or plants purchased by the member under contract is not guaranteed in any way.

D. Member agrees to use on his crops insecticides that have been recommended and approved by U.S.D.A. and abide by all directions on said label.

E. MFC will have the right to specify the days and hours each week for member to make delivery to the processing plant and will not obligate itself to accept bush beans after 6-20 1968.

F. MFC will endeavor to assist member in procuring equipment to harvest the beans and harvest charges will be paid by the member. Where such harvesting equipment is unable to operate effectively under its own power because of the field conditions, the member will provide up to two appropriate tractors (3-bottom plow size) with operators as may be required or MFC may acquire such power at member's expense. All beans will be delivered by member to processing plant.

SECOND: MFC in consideration of the products produced by the undersigned member agrees to pay for Bush Green Beans delivered according to the above specifications at the following rates per ton for the various grades f.o.b. processing plant.

VEGETABLE GROWING, PROCESSING, AND MARKETING AGREEMENT

WHEREAS, MFC Services (AAL) (hereinafter referred to as "MFC") operates a vegetable processing plant at Crystal Springs, Mississippi, and furnishes a marketing service to its patrons and the undersigned producer of vegetables (hereinafter referred to as "Member") desires that the vegetables grown by him shall be processed at said plant and that MFC shall market such vegetables for him;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that in consideration of the mutual covenants and agreements herein contained, and in consideration of other like promises on the part of other members of MFC, the parties hereto agree as follows:

I.

During the 19 68 season the Member shall produce, harvest, and deliver to MFC the vegetables hereinafter designated, which vegetables shall be processed and marketed by MFC in accordance with the terms hereof.

II.

If not already a member of MFC the undersigned Member does hereby apply for producer membership in MFC and agrees to abide and be bound by the By-Laws of MFC.

III.

Member agrees that during said crop year he will devote 50 acres of land, to be selected by Member and to be approved by MFC to the production of Bush Green Beans to be delivered to and processed and marketed by MFC.

IV.

Member covenants and agrees that he will plant, cultivate, harvest and deliver to MFC at its processing and canning plant all of the aforesaid vegetables harvested by Member from the aforesaid acres during the continuance of this agreement, it being expressly understood that the Member shall raise a crop of the aforesaid vegetables during each crop year during the continuance of this agreement. Upon delivery of said vegetables to MFC's plant and acceptance thereof by MFC, legal title thereto and such rights and interest therein shall vest in MFC as is necessary to enable MFC to thereafter handle and dispose of such vegetables the same as if such vegetables were the absolute property of MFC, it being expressly understood and agreed that MFC shall have such title to and interest in said vegetables as will enable it in its sole and uncontrolled discretion to borrow money thereon, to mortgage, pledge or hypothecate the vegetables as security for the payment of such loans, to pool and co-mingle such vegetables with other vegetables, including vegetables owned absolutely by MFC, and to market such vegetables with or without further processing or canning and at such prices and upon such terms and conditions as MFC shall deem advisable.

Vegetables delivered to the plant of MFC by Member shall be conclusively presumed to have been accepted by MFC when but not until the shipment of vegetables delivered by Member shall have been so

so co-mingled with other vegetables or otherwise so handled as to be no longer identifiable as vegetables delivered to the plant by Member. Until the vegetables delivered by Member shall have been so accepted by MFC, MFC shall have the right to reject any and all vegetables delivered or sought to be delivered to it which in the good faith opinion of MFC cannot be economically marketed either with or without further processing or canning, by reason of inferior or defective quality, grade, or condition.

Any vegetables rejected by MFC shall, upon rejection, be and become the sole property of the Member to be disposed of by the Member as he sees fit wholly free of the terms of this agreement. In the event MFC rejects any vegetables after the same are unloaded by Member at MFC's plant, MFC shall furnish the labor to reload the vegetables on vehicles furnished by Member, provided Member makes such vehicles available for reloading at MFC's plant as soon as possible and in any event within six hours after notification of rejection. If member fails to provide such transportation within such time, MFC may destroy the rejected vegetables without liability or responsibility to Member with regard thereto.

V.

With respect to all said vegetables delivered to MFC's plant by Member under the terms of this agreement, MFC shall determine the weight or quantity and shall grade and class such vegetables and shall advance to Member for such vegetables so delivered and accepted an amount to be determined with respect to each type of vegetable delivered hereunder by the application of that part of the attached payment schedule which is applicable to such type of vegetable, which payment schedule is attached hereto as an exhibit and is made a part hereof as though copied herein in full. It is expressly understood that the payment schedule attached hereto as an exhibit is intended as a minimum price schedule and that MFC shall have the right to and will make such increases therein, if any, as MFC may, from time to time, feel justified by prevailing market conditions. It is further understood and agreed that without regard to the attached payment schedule MFC shall never be required to advance to Member with respect to any vegetable an amount greater than the then prevailing store door delivered market price of such vegetable. The good faith determination by MFC of the weight, quality, grade, and class of the vegetables delivered hereunder shall be conclusive.

VI.

Member agrees that he will faithfully and promptly follow and carry out the recommendations of the field men and/or inspectors to be furnished by MFC with regard to planting dates, seed, plant and variety selection, land preparation, plant spacing, insecticide program and selection, fertilizer program and selection, time and manner of harvesting, time of delivery to the plant of MFC, and other cultural practices, including irrigation. Member shall provide and pay for all labor, seeds, plants, insecticides, fertilizers, equipment, tools, materials, containers and transportation for complying with such recommendations and for delivery of the vegetables to MFC's plant. If requested to do so by MFC, Member shall field grade, trim, and do other such field processing of the vegetables before delivery to MFC, in which event Member shall be entitled to extra advances for such field processing, such extra advances to be in such amount as MFC shall deem fair and equitable under the circumstances then existing.

VII.

Unless MFC is otherwise advised by the member in writing, the act of delivery of vegetables by Member to MFC shall constitute a representation and warranty by Member that the vegetables delivered are the sole property of Member wholly free of any and all claims and liens in favor of others. In the event MFC is reliably informed and believes that a lien or claim against the vegetables exists in favor of a third person or persons, MFC may withhold all advances with respect to such vegetables until satisfied that such lien or claim has been satisfied or MFC may, at its option, issue checks for the advances so that the third person or persons are named as payees of such check along with the Member.

VIII.

The parties hereto understand and admit that it will be impractical or extremely difficult to fix the actual damage to MFC which will result from a breach of this contract by the Member, and the parties hereto expressly agree and stipulate that in the event of the Member's neglect, failure or refusal to promptly deliver to MFC as herein required the vegetables which are to be delivered to MFC under this agreement, or any part thereof, that Member will pay to MFC as liquidated damages, with respect to the vegetables not so delivered, a sum equal to not less than twenty percent (20%) of the advance MFC would have paid to Member had the vegetables been delivered to MFC under this agreement. Any judgment recovered against the Member in any suit to enforce this contract or any right hereunder shall include all costs of court and all expenses arising out of or caused by the litigation and a reasonable attorney's fee for the attorneys of MFC which fee shall be fixed and allowed by the Court rendering such judgment.

In the event either party hereto violates any of the covenants and agreements on their party contained herein, the other party hereto may, at its option terminate this agreement without prejudice to the rights of either party accrued up to the date of termination, including the right of MFC to recover liquidated damages for prior breaches. No indulgences or acquiescence by either party in requiring the strict and prompt compliance by the other party of the agreements herein contained on behalf of the other party shall constitute a waiver of such agreements, and each party expressly reserves the right to have, assert, and claim all of its rights hereunder without regard to prior indulgences or acquiescence.

IX.

Member's rights hereunder shall not be assigned without the written consent of MFC, but in the event of the death of Member before the termination of this agreement, the agreement shall continue in full force and effect until all vegetables then in production have been harvested and delivered to MFC at which time this agreement shall cease and terminate without prejudice to the rights of either party accrued up to the date of termination.

X.

It is agreed that in the event of providential hindrances, strikes, fires, floods, or other agencies beyond the control of the parties to this agreement, which would make the performance of this agreement by either party impossible, that the party

affected by such agencies shall, while so affected, be relieved of its obligations hereunder to the extent that such party is prevented by such agencies from performing such obligations.

XI.

MFC agrees to provide or cause to be provided field men and/or inspectors and to furnish to Member through such field men or inspectors technical field supervision and advice with respect to the planting, cultural and harvesting practices mentioned in Paragraph number VI above. It is expressly understood and agreed that neither MFC nor such field men shall be liable to Member for or by reason of any mistake in judgment or erroneous advice regarding matters not susceptible of exact knowledge so long as the judgment or advice of the field men or inspectors is formed in good faith and with reasonable care and diligence.

XII.

MFC agrees that during the term of this agreement it will grade, class, prepare for market and market, either with or without further processing or canning, as MFC shall deem advisable, all of the vegetables delivered to MFC by Member under the terms of this agreement; such services to be performed under and in accordance with such rules, regulations, or practices with respect to classing, grading, financing, shipping, pooling, processing, canning, selling, marketing and otherwise handling or disposing of such vegetables as MFC may, from time to time, adopt or follow. It is further understood and agreed that all net margins, if any, realized by MFC from the operation of said plant and the furnishing of the services herein agreed to be furnished shall be divided between and allocated to Member and other patrons of said plant in accordance with such rules, regulations and practices as may, from time to time, be adopted or followed by MFC, all of which rules, regulations, and practices shall be consistent with the by-laws of MFC, as shall also the method of determining and arriving at the amount of net margins, if any, to be allocated to the patrons of said plant and the amount of authorized reserves to be retained by MFC.

XIII.

It is agreed that this contract contains all covenants, promises or agreements relating to the matters herein dealt with and no other statements or representations with regard to such matters are of any force or effect unless set forth herein.

XIV.

Without regard to anything herein indicated to the contrary, the Member shall not deliver to MFC any vegetables rejected by the field men or supervisors in the field, and all such vegetables shall be the sole property of the Member to be disposed of as the Member sees fit.

IN TESTIMONY WHEREOF, WITNESS THE SIGNATURE OF THE PARTIES hereto, this the 10 day of Jan. 19 68.

MFC SERVICES (AAL) W.H.

BY

W. J. Bryan

Al. Schneider
(Member)

8338

FILED

NOV 12 1969

ALICE J. DUCK CLERK
REGISTER

AL SCHNEIDER,	)	IN THE CIRCUIT COURT OF
)	
Plaintiff	)	BALDWIN COUNTY, ALABAMA
)	
VS	)	AT LAW CASE NO. 8338
)	
MFC SERVICES (AAL), a)	
corporation,)	
)	
Defendant)	

AMENDED COMPLAINT

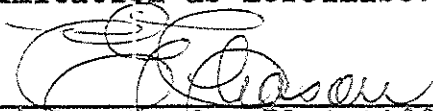
COUNT ONE

The Plaintiff claims of the Defendant ONE THOUSAND, EIGHT HUNDRED NINETY DOLLARS (\$1,890.00) damages for the breach of a written agreement entered into between them on, to-wit, the 10th day of January, 1968, in substance as follows: Said written agreement is attached hereto and incorporated herewith as Exhibit "A" and under and by virtue of said written agreement, the Defendant promised to accept and to pay for that certain fifty (50) acres of beans to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which were suitable for marketing by reason of not being inferior or defective in quantity, grade or condition, and the Plaintiff says that, although he has complied with all its provisions on his part, the Defendant has failed to comply with the following provisions thereof, viz: That even though the Defendant promised to accept and to pay for that certain fifty (50) acres of beans to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which were suitable for marketing by reason of not being inferior or defective in quality, grade or condition, the Defendant breached his promise and agreement by not accepting and paying for approximately twenty-one (21) tons of the Plaintiff's beans which were duly delivered to the Defendant and which were suitable for marketing by reason of not being inferior or defective in quality, grade or condition.

COUNT TWO

The Plaintiff claims of the Defendant ONE THOUSAND, SIX HUNDRED TWENTY DOLLARS (\$1,620.00), damages for the breach of a written agreement entered into between them on, to-wit, the 10th

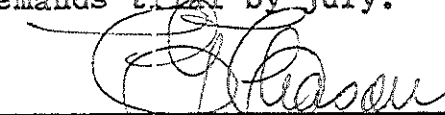
day of January, 1966, in substance as follows: Said written agreement is attached hereto and incorporated herewith as Exhibit "A" and under and by virtue of said written agreement, the Defendant promised to accept and to pay for that certain fifty (50) acres of beans, to which the Plaintiff obligated himself to plant, cultivate, harvest and deliver which were suitable for marketing by reason of not being inferior or defective in quality, grade or condition; and by virtue of this expressed promise, the Defendant impliedly promised not to hinder or prevent, in any way, the Plaintiff from performing his part of the agreement of delivering his fifty (50) acres of beans when they were suitable for marketing by reason of not being inferior or defective in quality, grade or condition, and the Plaintiff says that, although he tendered the performance of all its provisions on his part, the Defendant has failed to comply with the following provisions thereof, viz: That even though the Defendant promised not to hinder or prevent, in any way, the Plaintiff from performing his part of the agreement of delivering his fifty (50) acres of beans when they were suitable for marketing by reason of not being inferior or defective in quality, grade or condition, the Defendant breached his promise and agreement by limiting the Plaintiff to the delivery of only one truckload of beans per day and thereby causing approximately eighteen (18) tons of beans which were suitable for marketing by reason of not being inferior or defective in quality, grade or condition, to become unsuitable therefor because the Plaintiff was not able to harvest and deliver the said beans when they were suitable for marketing by reason of not being inferior or defective in quality, grade or condition, due to the Defendant's delivery limitation as hereinabove set out.


Attorney for Plaintiff

The Plaintiff respectfully demands trial by jury.

FILED

JUN 23 1969


Attorney for Plaintiff

C. G. C.

ALICE J. DUCK CLERK
REGISTER

I hereby certify that I have this day mailed a copy of the above Complaint to J. Connor Owens, Attorney of Record for the Defendant by placing the same postage prepaid and properly addressed in the U. S. Post Office, Foley, Alabama on this the 26 day of June, 1969.



EXHIBIT " A "

MFC SERVICES (AAL)

VEGETABLE PRODUCTION DEPARTMENT

DEPOSIT SUPPLEMENT

PRODUCER NAME (Please Print)

AL Schneider

Post Office or Route Number

City and State

Foley, ALABAMA

Type of Seed

Bush Snap Beans

Variety

4400 lbs./bu. of seed ordered at 44 ¢ per pound = \$ 1936.00

Less Deposit

50.00

Balance Due

\$1886.00

Type of Seed

Variety

 lbs./bu. of seed ordered at ¢ per pound = \$

Less Deposit

-

Balance Due

\$

Type of Seed

Variety

 lbs./bu. of seed ordered at ¢ per pound = \$

Less Deposit

-

Balance Due

\$

PLEASE FILL OUT IN DUPLICATE AND RETURN BOTH COPIES WITH THE CONTRACT.

<u>Sieve Size</u>	<u>Price Per Ton</u>
2 & 3	<u>\$120.00</u>
4	<u>90.00</u>
5 and up	<u>60.00</u>

WITNESS:

J. J. Joid

Date

1-10-68

Ed. Schriener

Signature of Member Producer

Route and Box Number

Foley, Alabama

Post Office

MFC SERVICES (AAL) W.H.

BY

W. J. Bryan

SUPPLEMENT A

SUPPLEMENT TO GROWER CONTRACT

Bush Green Beans
(Mechanical Harvest)

CROP YEAR 1968 Acres 50

FIRST: In accord with the Vegetable Growing, Processing and Marketing Agreement by and between the undersigned member and MFC Services (AAL) attached hereto Process VAR Bush Green Beans will be produced on the acres shown above and delivered to the Processing Plant in crates unless otherwise specified by MFC according to the following specifications and terms:

A. MFC will accurately weigh the beans harvested and fit for canning and take representative samples of each load of beans, which shall be weighed and cleaned of all dirt, stones, stems, leaves, other foreign matter, and beans not suitable for canning. Beans not suitable for canning are beans containing large seed or over 0.15% fiber or beans that are overmature, stringy, wilted, puffy, wrinkled, spongy, rusty, spotted, blemished, or badly misshapen. The clean samples shall be graded according to the U. S. Standard sizes, each grade shall be weighed, and the percentage that the weight of each grade bears to the total weight of the samples times the weight of the load shall constitute the amount of that grade in the load.

B. Whenever MFC determines that a field of beans or part thereof is unfit for canning purposes because of any of the following causes or other causes--plant diseases, worms, insects, thistles or other weeds, excessive heat or moisture, hail, wind, frost, inaccessability due to excessive rainfall or high fiber due to lack of sufficient irrigation--it shall so notify the member in writing. The member's compensation for the production of beans unfit for canning shall consist exclusively of his personal right to use the crop for a green manure crop.

C. It is agreed between both parties that any seed or plants purchased by the member under contract is not guaranteed in any way.

D. Member agrees to use on his crops insecticides that have been recommended and approved by U.S.D.A. and abide by all directions on said label.

E. MFC will have the right to specify the days and hours each week for member to make delivery to the processing plant and will not obligate itself to accept bush beans after 6-20 1968.

F. MFC will endeavor to assist member in procuring equipment to harvest the beans and harvest charges will be paid by the member. Where such harvesting equipment is unable to operate effectively under its own power because of the field conditions, the member will provide up to two appropriate tractors (3-bottom plow size) with operators as may be required or MFC may acquire such power at member's expense. All beans will be delivered by member to processing plant.

SECOND: MFC in consideration of the products produced by the undersigned member agrees to pay for Bush Green Beans delivered according to the above specifications at the following rates per ton for the various grades f.o.b. processing plant.

VEGETABLE GROWING, PROCESSING, AND MARKETING AGREEMENT

WHEREAS, MFC Services (AAL) (hereinafter referred to as "MFC") operates a vegetable processing plant at Crystal Springs, Mississippi, and furnishes a marketing service to its patrons and the undersigned producer of vegetables (hereinafter referred to as "Member") desires that the vegetables grown by him shall be processed at said plant and that MFC shall market such vegetables for him;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that in consideration of the mutual covenants and agreements herein contained, and in consideration of other like promises on the part of other members of MFC, the parties hereto agree as follows:

I.

During the 1968 season the Member shall produce, harvest, and deliver to MFC the vegetables hereinafter designated, which vegetables shall be processed and marketed by MFC in accordance with the terms hereof.

II.

If not already a member of MFC the undersigned Member does hereby apply for producer membership in MFC and agrees to abide and be bound by the By-Laws of MFC.

III.

Member agrees that during said crop year he will devote 50 acres of land, to be selected by Member and to be approved by MFC to the production of Bush Green Beans to be delivered to and processed and marketed by MFC.

IV.

Member covenants and agrees that he will plant, cultivate, harvest and deliver to MFC at its processing and canning plant all of the aforesaid vegetables harvested by Member from the aforesaid acres during the continuance of this agreement, it being expressly understood that the Member shall raise a crop of the aforesaid vegetables during each crop year during the continuance of this agreement. Upon delivery of said vegetables to MFC's plant and acceptance thereof by MFC, legal title thereto and such rights and interest therein shall vest in MFC as is necessary to enable MFC to thereafter handle and dispose of such vegetables the same as if such vegetables were the absolute property of MFC, it being expressly understood and agreed that MFC shall have such title to and interest in said vegetables as will enable it in its sole and uncontrolled discretion to borrow money thereon, to mortgage, pledge or hypothecate the vegetables as security for the payment of such loans, to pool and co-mingle such vegetables with other vegetables, including vegetables owned absolutely by MFC, and to market such vegetables with or without further processing or canning and at such prices and upon such terms and conditions as MFC shall deem advisable.

Vegetables delivered to the plant of MFC by Member shall be conclusively presumed to have been accepted by MFC when but not until the shipment of vegetables delivered by Member shall have been so

so co-mingled with other vegetables or otherwise so handled as to be no longer identifiable as vegetables delivered to the plant by Member. Until the vegetables delivered by Member shall have been so accepted by MFC, MFC shall have the right to reject any and all vegetables delivered or sought to be delivered to it which in the good faith opinion of MFC cannot be economically marketed either with or without further processing or canning, by reason of inferior or defective quality, grade, or condition.

Any vegetables rejected by MFC shall, upon rejection, be and become the sole property of the Member to be disposed of by the Member as he sees fit wholly free of the terms of this agreement. In the event MFC rejects any vegetables after the same are unloaded by Member at MFC's plant, MFC shall furnish the labor to reload the vegetables on vehicles furnished by Member, provided Member makes such vehicles available for reloading at MFC's plant as soon as possible and in any event within six hours after notification of rejection. If member fails to provide such transportation within such time, MFC may destroy the rejected vegetables without liability or responsibility to Member with regard thereto.

V.

With respect to all said vegetables delivered to MFC's plant by Member under the terms of this agreement, MFC shall determine the weight or quantity and shall grade and class such vegetables and shall advance to Member for such vegetables so delivered and accepted an amount to be determined with respect to each type of vegetable delivered hereunder by the application of that part of the attached payment schedule which is applicable to such type of vegetable, which payment schedule is attached hereto as an exhibit and is made a part hereof as though copied herein in full. It is expressly understood that the payment schedule attached hereto as an exhibit is intended as a minimum price schedule and that MFC shall have the right to and will make such increases therein, if any, as MFC may, from time to time, feel justified by prevailing market conditions. It is further understood and agreed that without regard to the attached payment schedule MFC shall never be required to advance to Member with respect to any vegetable an amount greater than the then prevailing store door delivered market price of such vegetable. The good faith determination by MFC of the weight, quality, grade, and class of the vegetables delivered hereunder shall be conclusive.

VI.

Member agrees that he will faithfully and promptly follow and carry out the recommendations of the field men and/or inspectors to be furnished by MFC with regard to planting dates, seed, plant and variety selection, land preparation, plant spacing, insecticide program and selection, fertilizer program and selection, time and manner of harvesting, time of delivery to the plant of MFC, and other cultural practices, including irrigation. Member shall provide and pay for all labor, seeds, plants, insecticides, fertilizers, equipment, tools, materials, containers and transportation for complying with such recommendations and for delivery of the vegetables to MFC's plant. If requested to do so by MFC, Member shall field grade, trim, and do other such field processing of the vegetables before delivery to MFC, in which event Member shall be entitled to extra advances for such field processing, such extra advances to be in such amount as MFC shall deem fair and equitable under the circumstances then existing.

VII.

Unless MFC is otherwise advised by the member in writing, the act of delivery of vegetables by Member to MFC shall constitute a representation and warranty by Member that the vegetables delivered are the sole property of Member wholly free of any and all claims and liens in favor of others. In the event MFC is reliably informed and believes that a lien or claim against the vegetables exists in favor of a third person or persons, MFC may withhold all advances with respect to such vegetables until satisfied that such lien or claim has been satisfied or MFC may, at its option, issue checks for the advances so that the third person or persons are named as payees of such check along with the Member.

VIII.

The parties hereto understand and admit that it will be impractical or extremely difficult to fix the actual damage to MFC which will result from a breach of this contract by the Member, and the parties hereto expressly agree and stipulate that in the event of the Member's neglect, failure or refusal to promptly deliver to MFC as herein required the vegetables which are to be delivered to MFC under this agreement, or any part thereof, that Member will pay to MFC as liquidated damages, with respect to the vegetables not so delivered, a sum equal to not less than twenty percent (20%) of the advance MFC would have paid to Member had the vegetables been delivered to MFC under this agreement. Any judgment recovered against the Member in any suit to enforce this contract or any right hereunder shall include all costs of court and all expenses arising out of or caused by the litigation and a reasonable attorney's fee for the attorneys of MFC which fee shall be fixed and allowed by the Court rendering such judgment.

In the event either party hereto violates any of the covenants and agreements on their party contained herein, the other party hereto may, at its option terminate this agreement without prejudice to the rights of either party accrued up to the date of termination, including the right of MFC to recover liquidated damages for prior breaches. No indulgences or acquiescence by either party in requiring the strict and prompt compliance by the other party of the agreements herein contained on behalf of the other party shall constitute a waiver of such agreements, and each party expressly reserves the right to have, assert, and claim all of its rights hereunder without regard to prior indulgences or acquiescence.

IX.

Member's rights hereunder shall not be assigned without the written consent of MFC, but in the event of the death of Member before the termination of this agreement, the agreement shall continue in full force and effect until all vegetables then in production have been harvested and delivered to MFC at which time this agreement shall cease and terminate without prejudice to the rights of either party accrued up to the date of termination.

X.

It is agreed that in the event of providential hindrances, strikes, fires, floods, or other agencies beyond the control of the parties to this agreement, which would make the performance of this agreement by either party impossible, that the party

affected by such agencies shall, while so affected, be relieved of its obligations hereunder to the extent that such party is prevented by such agencies from performing such obligations.

XI.

MFC agrees to provide or cause to be provided field men and/or inspectors and to furnish to Member through such field men or inspectors technical field supervision and advice with respect to the planting, cultural and harvesting practices mentioned in Paragraph number VI above. It is expressly understood and agreed that neither MFC nor such field men shall be liable to Member for or by reason of any mistake in judgment or erroneous advice regarding matters not susceptible of exact knowledge so long as the judgment or advice of the field men or inspectors is formed in good faith and with reasonable care and diligence.

XII.

MFC agrees that during the term of this agreement it will grade, class, prepare for market and market, either with or without further processing or canning, as MFC shall deem advisable, all of the vegetables delivered to MFC by Member under the terms of this agreement; such services to be performed under and in accordance with such rules, regulations, or practices with respect to classing, grading, financing, shipping, pooling, processing, canning, selling, marketing and otherwise handling or disposing of such vegetables as MFC may, from time to time, adopt or follow. It is further understood and agreed that all net margins, if any, realized by MFC from the operation of said plant and the furnishing of the services herein agreed to be furnished shall be divided between and allocated to Member and other patrons of said plant in accordance with such rules, regulations and practices as may, from time to time, be adopted or followed by MFC, all of which rules, regulations, and practices shall be consistent with the by-laws of MFC, as shall also the method of determining and arriving at the amount of net margins, if any, to be allocated to the patrons of said plant and the amount of authorized reserves to be retained by MFC.

XIII.

It is agreed that this contract contains all covenants, promises or agreements relating to the matters herein dealt with and no other statements or representations with regard to such matters are of any force or effect unless set forth herein.

XIV.

Without regard to anything herein indicated to the contrary, the Member shall not deliver to MFC any vegetables rejected by the field men or supervisors in the field, and all such vegetables shall be the sole property of the Member to be disposed of as the Member sees fit.

IN TESTIMONY WHEREOF, WITNESS THE SIGNATURE OF THE PARTIES hereto, this the 10 day of Jan. 19 68.

MFC SERVICES (AAL) *W.H.*

BY *W. J. Bryan*

Al. Schneider
(Member)