



# SALES AGREEMENT

Nieslanik Beef whole, half and quarter cow orders

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THIS AGREEMENT (the "Agreement") dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

BETWEEN: Nieslanik Beef, LLC, 761 Ranch View Drive, Carbondale, CO 81623 (the 'Seller') OF THE FIRST PART

- AND -

\_\_\_\_\_ (the 'Buyer') OF THE SECOND PART

IN CONSIDERATION OF THE COVENANTS and agreements contained in this Sales Agreement, and in consideration of the specifics outlined in the order confirmation (the 'Order Confirmation') between the Seller and the Buyer, the parties to this Agreement agree as follows:

## Sale of Goods

1. The Seller will sell, transfer and deliver to the Buyer, within the timeframe specified on the Order Confirmation, the following goods (the 'Goods'): A Whole, half or quarter of a processed cow as specified on the Order Confirmation.

## Purchase Price

2. The Buyer will accept the Goods and pay for the Goods as follows:
  - a. The 'Total Due' specified on the Order Confirmation is in US dollars. All payments to the Seller shall be made in US dollars.
  - b. In order to reserve the Goods, the Buyer will pay-in-full the amount specified as 'Total Due' on the Order Confirmation.
  - c. The Buyer and the Seller agree that the 'Hanging Weight' of a cow is the weight of the cow as it hangs in the butcher's cooler once the head, hide, feet, organs and blood are removed during processing.
  - d. The Buyer and the Seller agree that the 'Total Due' specified on the Order Confirmation is an estimated price based on an 'Average Hanging Weight' of 550 pounds for each of the Seller's cows. Furthermore, the Buyer and the Seller agree that the 'Total Due' will be adjusted to a 'Final Total Due' at the time of processing. The 'Final Total Due' will be calculated based on the difference between the 'Average Hanging Weight' in pounds per cow, and the 'Actual Hanging Weight' of the individual cow selected to become the Goods.
  - e. The Buyer and the Seller agree that the price per pound used to calculate the 'Final Total Due' will be the 'Price Per Pound of Hanging Weight' specified on the Order Confirmation.
  - f. The Buyer and the Seller agree that all payments or refunds associated with the 'Final Total Due' will be completed prior to delivery of the Goods.
3. The Seller and the Buyer both acknowledge the sufficiency of this consideration. In addition to the purchase price specified in the Order Confirmation, the amount of any present or future sales, use, excise or similar tax applicable to the sale of the Goods will be paid by the Buyer, or alternatively, the Buyer will provide the Seller with a tax exemption certificate acceptable to the applicable taxing authorities.
4. Payment-in-full must be received by the Seller prior to delivery of the Goods. The Goods will be delivered within the timeframe specified on the Order Confirmation. The Seller will schedule delivery of the Goods with the Buyer when the Goods become available.

## Delivery of Goods

5. The Goods will be deemed received by the Buyer when either picked up by the Buyer at the Seller's ranch (761 Ranch View Drive, Carbondale, CO 81623) or when delivered to the Buyer by the Seller. The method of delivery will be within the discretion of the Seller.

## Risk of Loss

6. Risk of loss will be on the Seller from the date and time an initial payment is made until delivery of the Goods to the Buyer.

## Warranties

7. The Goods are sold 'as is'. The Seller does not assume any liability in connection with the sale of the Goods.
8. The Seller has had the Goods USDA inspected. Further, the Seller disclaims any warranty as to the condition of the Goods.

## Title

9. Title to the Goods will remain with the Seller until delivery and actual receipt of the Goods by the Buyer.

## Security Interest

10. The Seller retains a security interest in the Goods until the Final Total Due is paid in full.

(970) 963-1644

orders@nieslanikbeef.com

www.nieslanikbeef.com

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## Inspection

11. Inspection of the Goods will be made by the Buyer at the time and place of delivery.

## Claims

12. The Buyer's failure to give notice of any claim within 10 days from the date of delivery will constitute an unqualified acceptance of the Goods and a waiver by the Buyer of all claims with respect to the Goods.

## Excuse for Delay or Failure to Perform

13. The Seller will not be liable in any way for any delay, non-delivery or default in delivery due to any causes beyond the control of the Seller. If the Seller, in its sole judgment, will be prevented directly or indirectly, on account of any cause beyond its control, from delivering the Goods to the Buyer within the timeframe specified in the Sales Order, then the Seller will have the right to terminate this Agreement by notice in writing to the Buyer, which will be accompanied by full refund of all sums paid by the Buyer pursuant to this Agreement.

## Cancellation

14. The Seller reserves the right to cancel this Agreement:
  - a. If the Buyer fails to make any payment when said payment is due
  - b. If the Seller deems that its prospect of payment is impaired.
15. If the Buyer defaults on payment, the Seller will retain full payments made to default date.

## General Provisions

16. Headings are inserted for the convenience only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.
17. All representations and warranties of the Seller contained in this Agreement will survive the closing of this Agreement.
18. The Buyer may not assign its right or delegate its performance under this Agreement without the prior written consent of the Seller, and any attempted assignment or delegation without such consent will be void. An assignment would change the duty imposed by this Agreement, would increase the burden or risk involved and would impair the chance of obtaining performance or payment.
19. This Agreement cannot be modified in any way except in writing signed by all the parties to this Agreement.
20. This Agreement will be governed by and construed in accordance with the laws of the State of Colorado, including the Colorado Uniform Commercial Code and the Seller and the Buyer hereby attorn to the jurisdiction of the Courts of the State of Colorado.
21. Except where otherwise stated in this Agreement, all terms employed in this Agreement will have the same definition as set forth in the Uniform Commercial Code in effect in the State of Colorado on the date of execution of this Agreement.
22. If any clause of this Agreement is held unconscionable by any court of competent jurisdiction, arbitration panel or other official finder of fact, the clause will be deleted from this Agreement and the balance of this Agreement will remain in full force and effect.
23. Subject to clause 18, this Agreement will inure to the benefit of and be binding upon the Seller and the Buyer and their respective successors and assigns.
24. This Agreement may be executed in counterparts. Facsimile signatures are binding and are considered to be original signatures.
25. Time is of the essence in this Agreement.
26. This Agreement, in addition to the details specified on the Sales Order, constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise. The Buyer acknowledges that it has not relied upon any representations of the Seller as to prospective performance of the Goods, but has relied upon its own inspection and investigation of the subject matter.

IN WITNESS WHEREOF the parties have executed this Sales Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SELLER: Nieslanik Beef, LLC , 761 Ranch View Drive, Carbondale, CO 81623, [Marty Nieslanik](#)

BUYER \_\_\_\_\_