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Plaintiff ALDI INC., by and through its undersigned counsel, files this Complaint against the Defendants identified below for their illegal conspiracy, which increased the prices of pork sold in the United States beginning at least as early as 2009 and continuing through the present. Plaintiff brings this action against Defendants for treble damages, and for such other damages to the maximum extent allowed under the antitrust laws of the United States, and demands a trial by jury.

## **I. NATURE OF ACTION**

1. The pork producer defendants are the leading suppliers of pork in an industry with approximately \$20 billion in annual commerce in the United States. The United States pork industry is highly concentrated, with a small number of large companies controlling the supply. Defendants and their Co-Conspirators collectively control over 80 percent of the wholesale pork market.

2. Defendants Agri Stats, Clemens, Hormel, Seaboard, Smithfield, Triumph, and Tyson entered, along with Co-Conspirator Indiana Packers Corporation, into a conspiracy from at least 2009 to the present (the “Conspiracy Period”) to fix, raise, maintain, and stabilize the price of pork.<sup>1</sup> The defendants, other than Agri Stats, are referred to here collectively as the “Producer Defendants.”

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<sup>1</sup> For the purposes of this Complaint, “pork” includes, but is not limited to, a variety of meat products from pigs (also referred to in the industry as porcine or swine) purchased fresh, frozen, processed, rendered or non-rendered, including but not limited to any and all processed pork products, (e.g., smoked ham, sausage, bacon, pepperoni, lunch meats), and other processed products and by-products containing pork. “Pork by-products” can include, but is not limited to, offal and individual parts or organs from pigs used in pet foods (e.g., livers, kidneys, lungs, hearts, cheeks) and/or rendered products (e.g., meat meals and bone meals). From time to time in this complaint, “pork” and “swine” are used interchangeably, particularly when referring to the pork or swine industry.

3. One method by which Defendants implemented and executed their conspiracy was by coordinating output and limiting production with the intent and expected result of increasing pork prices in the United States.

4. In furtherance of their conspiracy, the Producer Defendants exchanged detailed, competitively sensitive, and closely guarded non-public information, such as prices, capacity, production, sales volume, and demand, including through their co-conspirator, Defendant Agri Stats.

5. Beginning in at least 2009, Defendant Agri Stats began providing highly sensitive “benchmarking” reports to the Producer Defendants. Legitimate benchmarking allows competitors to compare their profits or performance against that of other companies. Yet Agri Stats’ reports are unlike those of lawful industry reports; rather, Agri Stats gathers detailed financial and production data from each of the Producer Defendants and their Co-Conspirator Indiana Packers, standardizes this information, and produces customized reports and graphs for the conspirators. The type of information available in these reports is not the type of information that competitors would provide each other in a normal, competitive market.

6. On at least a monthly basis, and often far more frequently (*e.g.*, weekly or every other week), Agri Stats provides the Producer Defendants with current and forward-looking sensitive information (such as profits, costs, prices and slaughter information), and regularly provides the keys to deciphering which data belong to which participant. The effect of this information exchange was to allow the pork producers to monitor each other’s production, and therefore control supply and price in furtherance of their anticompetitive scheme.

7. The data exchanged through Agri Stats also bears all the hallmarks of the enforcement and implementation mechanism of a price-fixing scheme. First, the data are current and forward-looking—which courts have consistently held has “the greatest potential for generating

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