

OGSM: [agreement number]
COUNTRY: [COUNTRY]

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
[PVO]
FOR THE PROVISION OF AGRICULTURAL COMMODITIES
THROUGH THE FOOD FOR PROGRESS ACT**

Preamble

The Government of the United States of America, acting through the Commodity Credit Corporation (hereafter referred to as CCC), an agency within the U.S. Department of Agriculture (hereafter referred to as USDA), and [pvo] (hereafter referred to as the Participant);

In an effort to use the food resources of the United States in support of countries that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity prices, marketing, input availability, distribution, and private sector involvement;

Desiring to set forth the understandings that will govern the provision of agricultural commodities to the Participant for distribution in [country] pursuant to the Food for Progress Act of 1985, as amended;

Agree as follows:

**PART I
TERMS OF DONATION**

- A. This agreement is subject to the terms and conditions set forth in 7 C.F.R. part 1499.
- B. CCC agrees to donate to the Participant the agricultural commodities, and quantities thereof, specified in Paragraph D (hereafter referred to as the "donated commodities") for assistance in [country] and, to the extent specifically included in Part II, Items I and III, pay ocean transportation and other costs associated with providing the donated commodities.
- C. The Participant agrees to use the donated commodities, and any amount specified in Part II, Item III, Paragraph A, only in accordance with this agreement and the approved Plan of Operation, Attachment A, which is attached hereto and made a part of this agreement.
- D. The donated commodities to be made available under this agreement are as follows:

Commodity	Maximum Quantity Metric Tons (MT)	Commodity Usage	Packaging	Estimated Arrival At U.S. Port(s)
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Total				

The donated commodities will be in accordance with the specifications in Attachment B, which is attached hereto and made a part of this agreement. CCC may, at its option, substitute packaging of a different size or type or both. CCC may, but is not required to, provide extra bags for donated commodities that are packaged if the Participant requests them at the time that it submits its order for delivery of such donated commodities.

E. CCC will endeavor to provide to the Participant the maximum quantities of the commodities specified above. CCC may, however, provide quantities of commodities that are less than the maximum quantities, to the extent that in CCC’s estimation the total cost of commodities, freight, and any U.S. dollar assistance provided under this agreement would otherwise exceed \$ [xx] million. For CCC's financial management purposes, costs associated with this agreement will be obligated against budget fiscal year 20XX funds.

F. This agreement is subject to the availability, during each fiscal year to which this agreement applies, of the necessary commodities and funds.

**PART II
TRANSPORTATION, DAMAGE OR LOSS, AND PAYMENT OF COSTS**

Item I – Transportation of Donated Commodities

A. The Participant will acquire the transportation of the donated commodities from the place at which the ocean carrier receives the donated commodities from the commodity supplier to the designated discharge port(s) in accordance with 7 C.F.R. section 1499.7(b)(2).

B. The Participant agrees to arrange for ocean transportation in accordance with 7 C.F.R. section 1499.7(a) and FAR Subpart 47.5 – Ocean Transportation by U.S.-Flag Vessels.

C. The Participant will submit any proposed invitation for transportation bids to CCC and obtain the approval of CCC prior to issuing such invitation. The Participant will submit any bid that it proposes to accept to CCC and obtain the approval of CCC prior to entering into a contract for transportation based upon such bid. The Participant will provide to CCC copies of the contracts for transportation. CCC will reimburse the Participant for the costs, consistent with the terms of these contracts, of transporting the donated commodities from the place at which the ocean carrier receives the donated commodities from the commodity supplier to the designated discharge port(s).

D. The Participant will include payment instructions in its contracts for transportation. The Participant will require that requests for payment under contracts for transportation be sent to CCC’s automated payment system via the web-based supply chain management (WBSCM) system. The Participant will also ensure that the documents specified in 7 C.F.R. section 1499.6(a)(1) - (7) are maintained on file and made available to CCC.

E. If the Participant uses the services of a freight forwarder, the Participant will provide to the Director, Food Assistance Division, Foreign Agricultural Service (FAS), the name of and contact information for the freight forwarder and the certification required by 7 C.F.R. section 1499.7(c) prior to submitting its initial order for the delivery of donated commodities under this agreement.

Item II – Damage to or Loss of Donated Commodities

A. CCC will transfer the title to, and the risk of loss of, the donated commodities to the Participant at the time and place at which the ocean carrier receives the donated commodities from the commodity supplier.

B. The Participant will notify the Director, Food Assistance Division, FAS, in writing within 15 days after the date that the Participant becomes aware of any damage to or loss of the donated commodities in excess of \$1,000 that occurs following the transfer of title of the donated commodities to the Participant. The Participant will report all losses in the semiannual performance reports.

C. The Participant will be responsible for arranging for an independent cargo surveyor to inspect the donated commodities upon discharge from the ocean carrier and to prepare a survey or outturn report. The Participant will provide a copy of the report to CCC. CCC will reimburse the Participant for the reasonable costs, as determined by CCC, of these services.

D. Paragraph C and 7 C.F.R. section 1499.9, with the exception of section 1499.9(a), will not apply with respect to any donated commodities if the Participant notifies CCC, prior to the receipt of the donated commodities by the ocean carrier, that the Participant has: (1) sold the donated commodities in accordance with this agreement on terms that require full payment based upon bill of lading quantities, or (2) purchased insurance against marine cargo loss and damage (including general average losses) for at least the landed value of the donated commodities.

Item III – Payment of Other Costs

A. CCC will provide to the Participant not more than \$[CCC cash from Attachment C] to provide assistance in the administration and monitoring of food assistance programs undertaken by the Participant.

B. The Participant may make expenditures of funds generated from a sale of the donated commodities that is otherwise permitted under this agreement (henceforth referred to as the "monetization proceeds") or funds provided in dollars by CCC for the costs, and up to the amounts, specified in the approved Program Budget in Attachment C, which is attached hereto and made a part of this agreement. In accordance with the provisions of 7 C.F.R. section 1499.5(c), the Participant may make adjustments within Attachment C between items within the category "Administration" and between items within the category "Activities" without further approval, provided that the total amount of adjustments within each category may not exceed the lesser of 20 percent of the "Total Direct Costs" approved for all funds in the attachment or \$50,000. Adjustments beyond these limits must be specifically approved by CCC. The Participant will not make adjustments between items in different categories without prior approval from CCC.

C. Any amounts specified for indirect costs in Attachment C are based upon a provisional rate contained in a Negotiated Indirect Cost Recovery Agreement (NICRA). In the event that the NICRA final rate for a particular period is lower than the provisional rate, the Participant: (a) in the case where CCC has made an indirect cost recovery payment in dollars, will return the difference to CCC; and (b) in the case where the indirect cost recovery payment will come from monetization proceeds, will return the difference to CCC; use the difference for one or more of the activities specified in section 3(b) of Attachment A; or request CCC to amend this agreement to permit the Participant to use the difference for an alternative use. In the event that the NICRA final rate for a particular period is higher than the provisional rate, the Participant may request CCC to amend this agreement to permit the Participant to shift an amount of monetization proceeds or funds provided by CCC in dollars equal to or less than the difference from direct costs to indirect costs. In evaluating a request for an amendment, CCC will consider the effect that such an amendment may have on the successful implementation of this agreement.

D. The Participant will arrange for any storage, transportation or distribution of the donated commodities following their delivery to the designated discharge port(s) by contracting directly with the suppliers of such services. Except as may otherwise be provided in Paragraph A, the Participant will be responsible for the payment for such services.

E. Except as otherwise provided in this agreement or agreed in writing between the parties, CCC will pay all costs for which it is obligated under this agreement to the Participant by reimbursement. However, CCC will not pay any cost incurred after [...xx].

PART III PARTICIPANT'S RESPONSIBILITIES

Item I – General

A. The Participant will not sell or barter the donated commodities except as may be specified in Attachment A or otherwise specifically agreed in writing by CCC.

B. The Participant will distribute or, if approved by CCC, sell the donated commodities provided under this agreement within [country] at the earliest practicable time. The Participant will not sell or transship the donated commodities to locations outside of [country].

C. If CCC has approved the monetization of some or all of the donated commodities, the Participant will submit a monetization plan for CCC approval that will include draft invitation(s) for bids, payment terms, and estimates of reasonable local market prices. CCC will not deliver commodities to be monetized to the Participant until CCC approves the monetization plan and actual sale price(s) and the Participant notifies CCC, in writing, that the Participant has entered into a contract with a buyer for the sale of such commodities. The Participant will immediately deposit the monetization proceeds into an account of a bank in sound financial condition. The account will be interest-bearing unless CCC agrees in writing otherwise. An appropriate official of the Participant will supervise such account and must approve all disbursements from the account. The Participant will maintain a full accounting of all funds under this agreement.

D. As provided in 7 C.F.R. section 1499.5(e), the Participant will not use CCC-provided funds to acquire goods or services, either directly or indirectly through another party, in a way that violates any of the country-specific economic sanction programs published by the U.S. Treasury Office of Foreign Assets Control.

E. The Participant will publish notifications in local newspapers to highlight its activities under this agreement and identify USDA as the funding source of these activities; provided, however, that when the Participant will monetize donated commodities in accordance with this agreement, the Participant will not identify the U.S. Government, USDA, or CCC as the donor of the commodities being offered for sale in the invitation for bids or in local newspapers until after the sale has been completed. The Participant will notify beneficiaries that USDA provided funds for the activities. In addition, the Participant will recognize USDA in all printed materials produced with USDA resources under this agreement. When beneficiaries will receive the donated commodities directly, the Participant will provide information regarding the proper preparation and use of such commodities.

Item II – Reports and Document Submission

A. The Participant will, within 30 days after the export of all or a portion of the donated commodities, submit evidence of such export, in accordance with 7 C.F.R. section 1499.13(b).

B. The Participant will submit semiannual performance reports containing the information required by 7 C.F.R. section 1499.13(c)(1), section 1499.13(c)(3) and, where applicable, section 1499.13(c)(2). In each semiannual performance report, the Participant will report its progress toward achieving the targets in the performance indicators contained in Attachment E, using the methods set forth in the performance monitoring plan in Attachment F, and based upon the results outlined in the project level framework in Attachment G. Attachments E, F and G are attached hereto and made a part of this agreement. For agreements signed October 1 through March 31, the first report is due by the following May 16 and will cover the period from the agreement signing date through March 31. For agreements signed April 1 through September 30, the first report is due by the following November 16 and will cover the period from the agreement signing date through September 30. Thereafter, performance reports will cover each subsequent six-month period until all activities have been completed and all proceeds from commodity sales have been disbursed.

C. The Participant will comply with the requirement in 7 C.F.R. section 1499.13(f) to submit financial reports and information to CCC by consulting the Food Aid Information Service (FAIS) located at <http://www.fas.usda.gov/FAIS/webapp/> and submitting through FAIS, on a semiannual basis, the financial reports and information required in FAIS.

D. The Participant will enter into a written contract with each provider of goods, services, or construction work valued at greater than \$10,000 that requires the provider to maintain adequate records to account for all donated commodities or funds or both provided by the Participant to the provider and to submit annual reports to the Participant. The Participant will submit to CCC a copy of each such contract valued at greater than \$50,000.

E. The Participant will submit to CCC a copy of each annual financial audit required by 7 C.F.R. section 1499.13(d). If the Participant is a commercial organization, it will be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” as implemented in 7 C.F.R. part 3052.

F. The Participant will submit to CCC the interim and final evaluations of the implementation of this agreement required by 7 C.F.R. section 1499.13(e)(1) in accordance with the Food Assistance Division’s Monitoring and Evaluation Policy located at: <http://www.fas.usda.gov/excredits/FoodAid/Guidebook/7EvalPol.pdf>. Within three months after both parties have signed this agreement, the Participant will submit to CCC for approval an evaluation plan that complies with this Monitoring and Evaluation Policy. CCC will not deliver donated commodities until it has approved the evaluation plan. The Participant will conduct all evaluations in accordance with the plan approved by CCC. Before making any changes to its approved evaluation plan, the Participant must submit the proposed changes to CCC and obtain CCC’s approval in writing. Furthermore, within six months after both parties have signed this agreement, the Participant must submit the results of any baseline study to CCC and request that Attachment E be updated to incorporate such results.

G. Except as otherwise provided in this agreement or communicated by CCC to the Participant in writing, the Participant will submit any reports, information or requests required by or related to this agreement, and any other submissions required in 7 C.F.R. part 1499, to the Director, Food Assistance Division, FAS, through FAIS. The Participant will consult FAIS at <http://www.fas.usda.gov/FAIS/webapp/> for required forms and instructions.

Item III – Certification and Compliance Requirements

A. By signing this agreement, the Participant provides the certification set forth in the “Foreign Agricultural Service Terrorist Financing Certification for Food Aid Grant Agreements, July, 2013,” Attachment D, which is attached hereto and made a part of this agreement.

B. The Participant agrees to comply with the applicable provisions of 2 C.F.R. part 417, Nonprocurement Debarment and Suspension, and 7 C.F.R. part 3021, Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).

C. The Participant agrees to comply with the award term in Appendix A to 2 C.F.R. part 25, Universal Identifier and Central Contractor Registration, which term is incorporated herein by reference.

D. The Participant agrees to comply with the award term in 2 C.F.R. section 175.15(b), Trafficking in Persons, which term is incorporated herein by reference. The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) are implemented by FAS at 2 C.F.R. part 417.

E. The Participant agrees to comply with the award term in Appendix A to 2 C.F.R. part 170, Reporting Subawards and Executive Compensation, which term is incorporated herein by reference.

F. The Participant has signed Form AD-3031, Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants, which is attached hereto and made a part of this agreement.

G. The Participant asserts that it has taken action to ensure that any donated commodities that will be distributed to beneficiaries will be imported and distributed free from all customs, duties, tolls, and taxes. The Participant has submitted information to CCC to support this assertion.

H. The Participant asserts that, to the best of its knowledge, the donated commodities can be imported and distributed without a disruptive impact upon production, prices, and marketing of the same or like products within [country]. The Participant also asserts that adequate transportation and storage facilities are available in [country] to prevent spoilage or waste of the donated commodities. The Participant has submitted information to CCC to support these assertions.

I. The Participant asserts that, to the best of its knowledge, any sale or barter of the donated commodities will not displace or interfere with any sales of like commodities that may otherwise be made within [country]. The Participant has submitted information to CCC to support this assertion.

J. As a condition of this grant, the Participant assures and certifies that it is in compliance with and will comply in the course of this agreement with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those set out in 7 C.F.R. section 3015.205(b), which hereby are incorporated in this agreement by reference, and such other statutory provisions as are specifically set forth herein.

**PART IV
FINAL PROVISIONS**

A. This agreement will enter into force upon signature by both parties.

B. The Participant may appeal a determination under this agreement, in accordance with 7 C.F.R. section 1499.16, by submitting its appeal in writing to the Director, Food Assistance Division, FAS, within 30 days after the date of the determination.

C. This agreement may be terminated only in accordance with 7 C.F.R. section 1499.15.

In witness whereof, the representatives of the parties, duly authorized for the purpose, have signed this agreement.

FOR THE GOVERNMENT OF	FOR
THE UNITED STATES OF AMERICA	[PVO]

By: _____ By: _____

Title:	Title:
Deputy Administrator Office of Capacity Building and Development, Foreign Agricultural Service, U.S. Department of Agriculture	

Date: _____ Date: _____

The public reporting burden for this information collection is estimated to be 30 minutes. This burden estimate includes time for reviewing instructions, researching existing data sources, gathering and maintaining the needed data, and completing and submitting the information. Send comments regarding the accuracy of this burden estimate and any suggestions for reducing the burden to: U.S. Department of Agriculture, Foreign Agricultural Service, Office of Capacity Building and Development, Food Assistance Division, Attn: OMB Number (0551-0035), 1400

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