

OGSM: [agreement number]
COUNTRY: [COUNTRY]

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
[PVO]
FOR THE PROVISION OF AGRICULTURAL COMMODITIES AND FINANCIAL
AND TECHNICAL ASSISTANCE THROUGH THE MCGOVERN-DOLE
INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM**

Preamble

The Government of the United States of America, acting through the Foreign Agricultural Service of the United States Department of Agriculture (hereafter referred to as FAS), and [pvo] (hereafter referred to as the Participant);

In an effort to improve food security, reduce the incidence of hunger, and improve literacy and primary education and thereby contribute to more self-reliant, productive societies;

Desiring to set forth the understandings that will govern the provision of agricultural commodities and financial and technical assistance to the Participant for distribution in [country] pursuant to section 3107 of the Farm Security and Rural Investment Act of 2002, 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 1599. In addition to the provisions of 7 C.F.R part 1599, other regulations of general application issued by USDA, including the regulations set forth in Chapter 30 of this title, are applicable to the McGovern-Dole International Food for Education and Child Nutrition Program. All provisions of the CCC Charter Act (15 U.S.C. 714 et seq.) and any other statutory provisions that are applicable to CCC are applicable to the McGovern-Dole International Food for Education and Child Nutrition Program.

B. FAS 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, provide financial and technical assistance and 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)
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. FAS may, at its option, substitute packaging of a different size or type or both. FAS 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. FAS will endeavor to provide to the Participant the maximum quantities of the commodities specified above. FAS may, however, provide quantities of commodities that are less than the maximum quantities, to the extent that in FAS’s estimation the total cost of commodities, freight, and any U.S. dollar financial and technical assistance provided under this agreement would otherwise exceed \$[XX] million. For FAS’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 initial storage site(s), in accordance with 7 C.F.R. section 1599.7(b)(2), using a through bill of lading.

B. The Participant agrees to arrange for ocean transportation in accordance with 7 C.F.R. section 1599.7(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 FAS and obtain the approval of FAS prior to issuing such invitation. The Participant will submit any bid that it proposes to accept to FAS and obtain the approval of FAS prior to entering into a contract for transportation based upon such bid. The Participant will provide to FAS copies of the contracts for transportation. FAS 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 initial storage site(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 FAS'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 1599.6(a)(1) – (7) are maintained on file and made available to FAS.

E. If the Participant uses the services of a freight forwarder, the Participant will provide to the Director, Food Assistance Division, FAS, the name of and contact information for the freight forwarder and the certification required by 7 C.F.R. section 1599.7(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. FAS 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 \$5,000 that occurs following the transfer of title of the donated commodities to the Participant. The Participant will report all damage and 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 FAS. FAS will reimburse the Participant for the reasonable costs, as determined by FAS, of these services.

D. Paragraph C and 7 C.F.R. section 1599.9, with the exception of section 1599.9(a), will not apply with respect to any donated commodities if the Participant notifies FAS, 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. FAS will provide to the Participant not more than \$[FAS funds total from attachment C] for handling, storage and distribution costs incurred by the Participant after delivery of the donated commodities to the initial storage site(s); the costs of administering and monitoring food assistance programs undertaken by the Participant; and the costs of activities that would enhance the effectiveness of the program.

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 FAS 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 1599.5(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 \$100,000. Adjustments beyond these limits must be specifically approved by FAS. The Participant will not make adjustments between items in different categories without prior approval from FAS.

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). The provisional rate will remain in effect for the duration of the agreement.

D. The Participant will arrange for any storage, transportation or distribution of the donated commodities following their delivery to the initial storage site(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, FAS will pay all costs for which it is obligated under this agreement to the Participant by reimbursement. However, FAS will not pay any cost incurred after [XX]. The Participant must liquidate all obligations incurred under the agreement, and submit its final financial report not later than 90 calendar days after the project end date specified in this agreement.

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 FAS.

B. The Participant will distribute or, if approved by FAS, 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 FAS has approved the monetization of some or all of the donated commodities, the Participant will submit a monetization plan for FAS approval that will include draft invitation(s) for bids, payment terms, and estimates of reasonable local market prices. FAS will not deliver commodities to be monetized to the Participant until FAS approves the monetization plan and actual sale price(s) and the Participant notifies FAS, 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 FAS 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 1599.5(e), the Participant will not use FAS-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 the U.S. Department of Agriculture (USDA) as the funding source of these activities. The Participant will notify beneficiaries that USDA provided funds for the activities. The Participant will post signs at project sites that highlight USDA funding as long as the signage will not create risk for the beneficiaries or the Participant's staff or subrecipients. 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 1599.13(b).

B. The Participant will submit semiannual performance reports containing the information required by 7 C.F.R. section 1599.13(c)(1), section 1599.13(c)(3) and, where applicable, section 1599.13(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 and based upon the results outlined in the project level framework in Attachment F. Attachments E and F 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 1599.13(f) to submit financial reports and information to FAS 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 FAS a copy of each such contract valued at greater than \$50,000.

E. . The Participant will submit to FAS a copy of each annual financial audit required by 7 C.F.R. section 1599.13(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 FAS the interim and final evaluations of the implementation of this agreement required by 7 C.F.R. section 1599.13(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 FAS for approval an evaluation plan and a performance monitoring plan that comply with this Monitoring and Evaluation Policy. FAS will not deliver donated commodities until it has approved the evaluation plan and the performance monitoring plan. The Participant will conduct all evaluations in accordance with the plans approved by FAS. Before making any changes to its approved evaluation plan or performance monitoring plan, the Participant must submit the proposed changes to FAS and obtain FAS'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 FAS and request that Attachment E be updated to incorporate such results.

G. The Participant will, within 30 days after the signature of this Agreement, submit for approval, an organizational chart to FAS identifying the names, roles and responsibilities of all key personnel under the Agreement. Following approval of the organizational chart, the Participant will be required to notify FAS within one week of the departure of any key person and seek prior approval before hiring any new key personnel under the Agreement. Furthermore, in accordance with 7 C.F.R. part 3019.25(c)(3) , the Participant will be required to notify FAS of the absence for more than three months, or a 25 percent reduction in the time devoted to the project, by the approved project director.

H. The Participant will, within 60 days after the signature of this agreement, submit copies of all subrecipient agreements to FAS. The Participant will be required to notify FAS and seek prior approval before making any changes to any subrecipients specified in the agreement.

I. The Participant will, within 30 days of the start of each fiscal year, submit for approval, an annual travel plan for all foreign travel to be undertaken under the agreement. Following approval of the travel plan, the Participant will be required to notify FAS of any changes and seek prior approval at least 30 days before the expected travel.

J.. Except as otherwise provided in this agreement or communicated by FAS 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 1599, 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 FAS 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 FAS 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 FAS 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 1599.16, 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 1599.15.

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: _____

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