**FEE FOR SERVICE (FFS) PROCESSOR/DISTRIBUTOR AGREEMENT**

**(Agreement Utilized for Implementation of FFS)**

Effective upon signature, this agreement will be in effect for the 20      -20       school year, between      \_ (Processor) and       (Distributor), collectively the parties. Contractually,

each party in signing below acknowledges their responsibilities outlined below.

Please note that these Agreements are suggested as Templates and can be modified as mutually agreed upon by both partiers (Distributor and Processor)

The Value Pass Through Method is defined by the Recipient Agency (RA) in their Procurement document with the Distributor.

The Fee for Service is method of further processing end items containing USDA Foods is between the further processor and the RA. The method of handling these end items containing USDA Foods on behalf of the RA is outlined in the mutually agreed upon Fee for Service/Processor Agreement between the Processor and the Distributor.

Processor has the following business practices:

1. Order minimum is       pounds mixed product
2. Order to ship lead time is
3. Standard payment terms are net       days
4. Invoice distributor fee for service ( FFS) price for USDA foods
5. Other:

Distributor has the following business practices:

1. Receiving hours are:
2. Lead time for delivery appointments is:
3. Distributor is ordering product from processor and placing in inventory to be sold to eligible Recipient Agencies (RAs) in the future
4. Invoice RA’s FFS price plus additional handling/storage charges
5. Hazard Analysis Critical Control Plan (HACCP) plan on file including control & recall procedures for USDA Foods products
6. Distributor requires the following shelf life at the time of delivery:
7. Other

The purpose of this Agreement is to insure full accountability for the receipt, RA tracking, RA storage and delivery of end items containing USDA Foods.

Under the arrangement of the RA having selected the distributor the fee for service method followed is determined and agreed upon and by the distributor and RA. Templates for these types of Agreements are suggested in the ACDA RA Handbook (2016)

If a RA has selected a distributor through the competitive bidding process to have said distributor to be their authorized billing agent, the processor may require confirmation of this delegation of responsibilities from the RA via email or other methods determined acceptable by all stakeholders.

In the instance of the RA having selected the Distributor as the authorized billing agent, the Distributor therefore is fully and solely accountable and liable for inventory and shi9pping of the end items containing USDA Foods to delivery location specified by the RA.

Delivery by commercial distributors of products processed under Fee for Service contracts must
be in accordance with Federal/State regulations and/or guidance. The USDA always holds title for the USDA food although the Processor has accountability for the USDA food from acceptance at the plant to the delivery of the finished product to the RA or the RA’s designated delivery points.

Processor agrees to:

1. Provide written assignment to the distributor to act as their billing agent if advised by the RA. Processors may, as a best business practice require confirmation of this delegation of fiduciary responsibility and accountability to the commercial distributor.

Note: It is the ultimate responsibility of the RA to verify which Distributor they have designated as their authorized billing and receiving and/or storage agent.

1. Provide a list of all eligible recipient agencies (RA), or allocated pounds, their case allocations (not to be exceeded), and the fee for service by       (date).
2. Invoice the Distributor at the FFS price by item code
3. Notify the Distributor immediately of any product(s) involved in a USDA/Recall situation. Provide direction to insure all product is held, customers are informed, and
costs recovered.
4. Perform USDA Foods inventory reconciliation on a mutually agreed upon frequency. School end reconciliation shall occur no later than 30 days from the last day of the school year. The Distributor shall make every attempt to resolve any issues or disputes arising form said inventory reconciliation within 15 days.

The Distributor agrees to:

1. Provide the RA with the total cost for handling/storage/delivery fee per pound or
case in advance, so the RA can readily determine what the delivery fee is per case. The
Distributor then bills the RA for the Total Case Price (FFS price per case + the agreed
upon fee). Distributors are accountable for adherence to all provisions outlined in Policy Memorandum FD-025 dated March 29, 2004.
2. Provide the Processor with a Certificate of Insurance naming the Processor as beneficiary
for both property and liability coverage for      dollars. This coverage should cover not only the fee for service for processing but also the value of the donated food. The liability specifically includes the current replacement market value of the USD Foods required to produce the finished goods.
3. Unless otherwise noted, acceptance of product for delivery indicates the product was received in good condition.
4. The Distributor shall have adequate facilities for the proper handling and storage of finished end items containing USDA Foods and shall provide adequate supervision for the proper management and control of all activities pertaining to USDA Foods as required by federal law.
5. Reimburse the Processor for lost, damaged, and sales to ineligible RA. At
a minimum, this includes the USDA food value (replacement value) and the FFS.
6. Fair market value is defined as the current replacement value of the USDA Foods at the time the replacement material needs to be purchased by the Processor in accordance with the policies of USDA.
7. Distributor agrees that product received from Processor containing USDA Foods will only be sold to eligible RAs that have a remaining balance of USDA foods
8. Liabilities incurred by the Distributor due to product damage, disposal, loss, “over shipment” to authorized RA and all shipments to unauthorized RA will have a payment due 15 business days from the date the liability is recognized.
9. Secure written permission from the Processor in all instances of going into a negative inventory situation (producing and shipping end items containing USDA Foods before the RA’s raw material has been physically received by the Processor.
10. Any discount to the original pricing offered by the Distributor to the agreed upon FFS pricing is solely at the risk and responsibility of the Distributor.
11. The Distributor, as the designated authorized billing agent by the RA agrees to comply with all terms and conditions of the regulations pertaining to the handling of USDA Foods in the Code of Federal Regulations found in 7 CFR 250 and 210
12. Distributor agrees to retain records for a period of three (3) years from the close of the school fiscal year to which they pertain. However, in instances, when claims and/or audit findings have not been resolved, the records shall be retained as long as required for the resolution of such action or findings.
13. Distributor assures Processor in signing this agreement, that a current
tracking/traceability system is implemented and will identify product by item code and lot number (provided by the processor) in the event of a USDA recall
14. Distributor will fully participate in the event of a recall as required by USDA.
15. Distributor should contact RA as soon as possible, ideally no longer than 24 hours, of receiving notification of a recall.
16. Distributor must provide 24/7 and back up contact information to Processor

Reporting:

1. The distributor will maintain a tracking system that will provide accurate sales data
required by the State Distributing Agency (SDA) to insure USDA food "value pass-through" to the eligible Recipient Agency.
2. Distributors will provide requested information required by USDA/State Distributing
Agencies or Corporate Auditors. This includes but is not limited to individual invoices or
Bills of Lading.
3. Distributor to provide data transfer to Processors' designated system via electronic
channels monthly (at a minimum.)

OR

Provide Processor with a usage report (in lieu of data transfer) in a format specific by
Processor.

1. Processor shall report on the Monthly Performance Report, submitted to the State and
FNS, sales and draw down of USDA food inventory upon receipt and
verification of the sales history reports from the distributor.

Information provided to Processor/Distributor (including all RA sales activity) is proprietary and
confidential.

Processor or Distributor may terminate this Agreement in writing from either party:

1. \_\_ days with cause
2. \_\_ days without cause

Disposition of remaining inventory covered in this Agreement will be in accordance with terms
and conditions of all approved ACDA Agreements.

|  |  |
| --- | --- |
| **DISTRIBUTOR**  | **INFORMATION**  |
| NAME  |  |
| SHIP TO ADDRESS  |  |
| BILL TO ADDRESS  |  |
| CITY  |  |
| STATE  |  |
| ZIP  |  |
| WEB ADDRESS  |  |

Name (Please Print) Title

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Signature Date

 **DISTRIBUTOR CONTACT INFORMATION**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **NAME**  | **PHONE**  | **CELL PHONE** | **EMAIL**  |
| Sales Rep  |  |  |  |  |
| Bid Coordinator  |  |  |  |  |
| Information Systems  |  |  |  |  |
| 24/7 Recall  |  |  |  |  |

|  |  |
| --- | --- |
| **PROCESSOR**  | **INFORMATION**  |
| NAME  |  |
| ADDRESS  |  |
| CITY  |  |
| STATE  |  |
| ZIP  |  |
| WEB ADDRESS  |  |

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Name (please print) Title

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Signature Date

**PROCESSOR CONTACT INFORMATION**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **NAME**  | **PHONE**  | **CELL PHONE** | **EMAIL**  |
| Sales Rep  |  |  |  |  |
| Bid Coordinator  |  |  |  |  |
| Information Systems  |  |  |  |  |
| *24/7* Recall  |  |  |  |  |