Minnesota Department of Education

MINNESOTA FOOD DISTRIBUTION PARTNERSHIP
MEMORANDUM OF UNDERSTANDING
DISTRIBUTION OF USDA FOODS
July 1, 2014 – June 30, 2015

_____ (Distributor) duly attests they have read and agree to the terms and conditions set forth on behalf of the Sponsor in the Memorandum of Understanding (MOU), and have made no alterations to the MOU.

Minnesota Department of Education	
State Distributing Agency	**Distributor**
Carol Thomas	
Name	**Name**
Director; Safety, Health, and Nutrition Service	
Title	**Title**
Signature	**Signature**
Date	**Date**
1500 Highway 36 West	
Address	**Address**
Roseville, MN 55113	
City, State, Zip	**City, State, Zip**
Food Distribution Program	
Contact	**Commodity Contact Name**
651-582-8526	
Phone	**Commodity Contact Phone**
651-582-8501	
Fax	**Commodity Contact Fax**
fdp.notify@state.mn.us	
E-Mail	**Commodity Contact E-Mail**
http://education.state.mn.us/MDE/SchSup/FNS/FDP/index.html	
Web Address	**Information Technology Contact Name**
	Information Technology Contact Phone
	Information Technology Contact E-Mail
	Web Address

The United States Department of Agriculture (USDA) makes federally donated foods available to the Minnesota Department of Education Food and Nutrition Service (MDE-FNS) for distribution to eligible School Food Authorities (Sponsors), including public, non-public and residential child care institutions.

The purpose of this MOU is to facilitate the distribution of USDA Foods to Sponsors in Minnesota who participate in the National School Lunch Program. Each school year, Sponsors designate a commercial foodservice distributor with MDE-FNS to handle, stage, and deliver USDA Foods.

Commercial foodservice distributors handling and delivering USDA Foods on behalf of the Sponsor; are governed by the current and applicable sections of Title 7 Code of the Federal Regulations, Parts 210 and 250, and any subsequent changes that take effect through future legislation.

Participation criteria includes: proper authorization through the Minnesota Department of Transportation, the United States Department of Transportation, and compliance with Federal Motor Carrier Safety regulations.

In consideration of the MOU, the commercial foodservice distributor understands and agrees to the following:

1) INTENT:

This MOU sets forth the terms and conditions on behalf of the Sponsor under which their designated commercial foodservice distributor will deliver USDA Foods for the entire school year. The MOU is in effect until further notice from MDE-FNS.

2) REGULAR PACKAGED USDA FOODS:

MDE-FNS offers more than 50 types of USDA Foods such as meats, poultry, fruits, vegetables, cheese, flour, pasta, peanut butter and oil. Regular USDA Foods come dry, canned, temperature controlled, and frozen. USDA Foods may be packaged with a generic USDA Foods label or in commercial packaging.

3) QUANTITIES OF USDA FOODS:

The quantity of Regular Packaged USDA Foods distributed depends on the number of sponsors designated by the respective commercial foodservice distributor and the amount of USDA Foods sponsors request.

4) COMMUNICATIONS:

MDE-FNS goal is to have an effective communication system for coordinating Sponsors allocation of USDA Foods to each respective commercial foodservice distributor.

a) Sponsors are required to complete MDE-FNS preference surveys using Minnesota's Cyber-Linked Interactive Child Nutrition System (CLiCS1), which are their requests for USDA Foods.

b) MDE-FNS shall provide the distributor, a complete list of Sponsors who have indicated in CLiCS1 their preferred commercial foodservice distributor for delivering USDA Foods for the entire school year July 1, 2013 through June 30, 2014.

c) Distributors will verify from the CLiCS1 report provided by MDE-FNS they have a written distribution agreement in place with each Sponsor listed to deliver their Regular USDA Foods for SY2014. If no written distribution agreement is in place between the Sponsor and designated distributor the distributor shall notify MDE-FNS and work directly with Sponsor for agreement setup to deliver their Regular USDA Foods for SY2014.

d) Designated commercial foodservice distributors must have the capability to receive and transmit files electronically with MDE-FNS.

e) MDE-FNS shall provide notifications electronically to the distributor for each Delivery Order arriving at the designated warehouse:

(1) First Notification confirms that Minnesota placed orders with USDA. This notification summarizes the USDA Foods by truckload with the Minnesota's requested delivery date. The notification file includes the following fields: CLiCS1 order number, year, delivery order number, commodity ID, commodity description, unit of measure, ordered quantity, requested delivery date, distributor ID, notification number (1) and date file was processed.

(2) Second Notification is sent after USDA has awarded the contract for the truckload or thirty-days (30) before the expected delivery date and provides the initial allocation of the truckload by Sponsor. This notification includes detailed information, including the following fields: CLiCS1 order number, year, delivery order number, commodity ID, commodity description, unit of measure, Sponsor ID, Sponsor name, expected quantity, expected delivery date, distributor ID, notification number (2) and date notification was processed.

(3) Third Notification is sent once MDE-FNS receives the verification of the receipt of the truckload from the warehouse. The third notification is the final allocation, by Sponsor, of USDA Foods. The third notification includes the same detailed information as the second notification; however the third notification shall indicate any final changes to the original truckload information, such as actual number of cases received by the warehouse. This electronic notification is "Tab Delimited" also known as tab-separated values (TSV), which is a format that can be viewed by most spreadsheet programs.

5) TRANSFER OF TITLE

a) At the time USDA Foods arrive at designated warehouse, a transfer of title will occur to the distributor on behalf of the Sponsor.

b) The distributor will schedule dock appointments with the designated warehouse 48 hours prior to pickup. Distributors must pick up USDA Foods within 60 days of warehouse receipt. The intent of this provision is to promote expedient inventory turns.

c) The designated warehouse shall bill the distributor for USDA Foods handling upon pick up. The distributor will pay the designated warehouse storage costs upon receipt of said USDA Foods.

d) In the event the distributor picks up more USDA Foods than allocated to the distributor on behalf of the Sponsor, this will be seen as mismanagement of the accounting for USDA Foods by the distributor. In the event of an over pull the distributor may be subject to pay the designated warehouse storage costs upon receipt of USDA Foods and or any fees associated for the return of USDA Foods designated by the warehouse. Distributors cannot pass these charges on to Sponsors.

e) In the event the Distributor does not remove the USDA Food by the 60th day of storage, the designated warehouse will bill an additional flat fee for 30-days for each additional month of storage. Distributors will pay any storage charges beyond the initial 60-days, and cannot pass on to the charges to the Sponsor without prior consent.

6) DISTRIBUTION OF USDA FOODS

a) The designated warehouse will stage full pallets of Regular Packaged USDA Foods for pick-up. The warehouse will stage partial pallets as necessary with State of Minnesota approval.

b) Transaction between the designated warehouse and commercial foodservice distributor require pallet exchange at the time of pick-up.

c) The distributor will stage or slot product for delivery to the Sponsor at their facility. The state contracted warehouse is not to be used by distributors to stage USDA Foods specific to sponsor deliveries.

d) MDE-FNS recommends distributors include USDA Food items on order guides for individual Sponsors.

e) MDE-FNS expects distributors to provide prior delivery notification to Sponsors with the designated warehouse' USDA Foods inventory.

7) DISTRIBUTOR PRICING

a) The distributor will invoice the Sponsor for delivery of USDA Foods, itemizing the designated warehouse handling fee and distributor's service fee.

b) All distributors shall charge each Sponsor the same designated warehouse-handling fee as outlined by the designated warehouse in the current distribution center contract.

c) The distributor and the Sponsor will negotiate an agreement in writing for the service fee.

d) Distributors cannot pass the following charges on to the Sponsor:

(1) Designated warehouse fee for picking up more USDA Food than allocated,

(2) Any costs to return of said USDA Food to the designated warehouse,

(3) Any designated warehouse storage and handling charges beyond the initial 60-days, unless a prior agreement is reached with the sponsor.

8) DATA TRACKING AND DOCUMENT MANAGEMENT SYSTEM

a) The distributor will have a data system to allocate and track each allocation of USDA Foods by truckload, distributor's PO number, Sponsor, and lot number (manufacturer and/or designated warehouse). Records must be kept throughout the duration of this MOU, as well as an additional three years and three months beyond the end of the MOU.

b) Distributors will have capability to track, identify and place on hold a Regular Packaged USDA Foods in the event of a Food Safety Recall and/or Hold.

c) Distributors shall provide, upon request by MDE-FNS: verification of delivery to Sponsors and provide an over, short and damage report as necessary.

d) Distributors shall provide an electronic inventory report of all USDA Foods specific to their distribution located at the distributor on a weekly basis throughout the duration of this MOU, as requested by MDE-FNS

e) Distributor uploads files for sponsor rebate claims to the CLiCS1 system with the Minnesota Rebate Program need to be completed by the 10th of each month.

f) Distributors shall provide electronic inventory/sales reporting (i.e. weekly/monthly reporting of sales to K12 or Processor link, etc.) upon request of any manufacturing company processing USDA Food Beef or Pork for Sponsors.

9) STORAGE AND SANITATION REQUIREMENTS

At all times the distributor facilities, including all storage areas and transportation equipment shall be in compliance with the United States Food, Drug and Cosmetic Act and their State's Department of Agriculture food inspection laws. The distributor shall not store agricultural items, chemical products, or products that may be harmful to the quality of the USDA Foods.

Distributors shall provide MDE-FNS and Sponsor with a copy of their facilities' current Health Inspection(s).

10) FOOD ALERT SYSTEM

Distributors shall follow MDE-FNS' established procedures in compliance with the USDA Commodity Hold and Recall Procedures. MDE-FNS or USDA shall notify Distributors of any USDA Food Holds or Recall Notifications within 24 hours, or by the end of the next business day. Distributors will be asked to isolate the food items on hold or recall and report to MDE-FNS information as requested. During a USDA Commodity Hold or Recall, distributors will not instruct sponsors on collection or destruction steps unless notified by MDE-FNS to do so.

In the event of a food recall, payment terms shall be established between the MDE-FNS and all parties involved.

Commercial product Hold or Recall Procedures are not managed by MDE-FNS. Distributor procedures pertaining to commercial products will be submitted to MDE-FNS. Distributors will follow their internal hold or recall procedures during a commercial hold or recall.

11) LIABILITY FOR REGULAR PACKAGED USDA FOODS

The distributor is financially liable for the value of the USDA Foods in their possession. The distributor/their representative will inspect each pallet of USDA Foods for damages and accuracy before removing them from the designated warehouse. The distributor reconciles any overage, shortage and damaged product with the Sponsor at the time of delivery. The distributor can replace USDA Foods, due to damage or shortage, with a commercial product if all components are of U.S. origin and identical or superior in every particular of the donated food specification, or pay the USDA Foods Value to the Sponsor.

12) ACCESS TO FOODSERVICE DISTRIBUTOR

All Sponsors in Minnesota must have access to a commercial foodservice distributor. Sponsors select a distributor in CLiCS1. If a distributor will not deliver to a Sponsor, the distributor works with the Sponsor and MDE-FNS to assure an alternate delivery service is found for the Sponsor.

13) TERMINATION OF AGREEMENT WITH SPONSOR

The Sponsor/Distributor can terminate the agreement if the Distributor fails to accommodate the Sponsor in their service area or fails to work with the MDE-FNS team. Disposition of the USDA Food inventory with the distributor or payment of value there of shall be based on the following:

a) Distributor will pay for the return of USDA Food to the designated warehouse, or

b) Distributor will pay the Sponsor (copying MDE-FNS) an amount equal to USDA's most recent cost information on acquiring and delivering replacement food relative to the time of termination

If a Sponsor terminates an agreement, which may include a Sponsor that drops from the National School Lunch Program, the Sponsor bears the cost of transferring/removal of all remaining Regular Packaged USDA Foods from the distributor if applicable.

14) RIGHT OF REVIEW AND AUDIT

MDE-FNS, USDA and the General Accounting Office representatives have the right to inspect or audit during distributor's normal working hours:

a) USDA Foods in the possession of the distributor,

b) The facilities used in handling, storing, and transporting methods,

c) Systems of accounting for inventories and deliveries by sponsor, and

d) In the event of a Food Hold or Recall, distributor shall furnish representatives with samples.

15) INSURANCE

Distributor shall provide proof of adequate insurance or bond coverage for all insurable losses.

16) ASSURANCE OF CIVIL RIGHTS COMPLIANCE AND EMPLOYMENT

The distributor and MDE-FNS agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d.et.seq.), all provisions required by the implementing regulations of the Department of Agriculture, Department of Justice Enforcement Guidelines, FNS directives and guidelines to the effect that no person on the grounds of race, color, national origin, sex, age, or handicap shall be excluded from participation in, be denied the benefits of or otherwise be subject to discrimination under any activity carried out under this provision.

In addition the distributor and MDE-FNS agrees not to discriminate on the basis of race, color, national origin, sex, age, or handicap among eligible Sponsors in the delivery of USDA Foods. This assurance is given in consideration or at a nominal consideration. This assurance is binding on the distributor, its successor, transferees, and assignees as long as it receives assistance or retains possession of any assistance from MDE-FNS. Distributors and MDE-FNS shall comply with all applicable Federal, State and local laws and regulations pertaining to wages, hours and conditions of employment.

17) REQUESTED PROFILE INFORMATION

Distributors submit the following documents/information as part of the MOU (Please check box in left column to ensure completed.

☐ a) Signed Memorandum of Understanding

☐ b) CLiCS1 Login ID Access Request Form (Attached Partner CLiCS1 Add-Delete Request) if applicable

☐ c) Proof of Insurance Coverage (Example in Addendum 1), with the Certificate Holder listed as:

Minnesota Department of Education

Attn: Safety, Health and Nutrition Services - Food Distribution Program

1500 Highway 36 West

Roseville, MN 55113

☐ d) Copy of Current Health Inspection(s)

☐ e) Sign and Submit Debarment Certificate (Addendum 2)

☐ f) Describe the Distributor’s USDA Commodity Food Safety Recall Process

☐ g) Describe the Distributor’s Commercial Food Safety Recall Process

☐ h) Briefly Explain/Describe the Distributor’s process for managing Regular USDA Foods and system utilized to ensure accurate quantities are submitted and pulled from state warehouse

☐ i) Copy of Certificate of Registration for Hire Carrier of Property, if applicable

☐ j) Submit Distributor Contact Information (As requested on the first page of this MOU)

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

CONTACT NAME:
PHONE (A/C, No, Ext): FAX (A/C, No.):
E-MAIL ADDRESS:
PRODUCER CUSTOMER ID #: 20559841

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A:	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES CERTIFICATE NUMBER: 7004010143 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			TC23-CAP-41934[illegible]-468110	07/01/2010	07/01/2011	EACH OCCURRENCE
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)
	X $100,000 DED						PERSONAL & ADV INJURY
							GENERAL AGGREGATE
	GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG
A	AUTOMOBILE LIABILITY			TC23-CAP-41934[illegible] Commercial Tr[illegible]	07/01/2010	07/01/2011	COMBINED SINGLE LIMIT (Ea accident)
A	X ANY AUTO			TC23-CAP-41938206-10 PPT/Light Trucks	07/01/2010	07/01/2011	BODILY INJURY (Per person)
	ALL OWNED AUTOS						BODILY INJURY (Per accident)
	SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)
	HIRED AUTOS						
	NON OWNED AUTOS						
	X $250,000 Ded						
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE
	EXCESS LIAB CLAIMS-MADE						AGGREGATE
	DEDUCTIBLE						
	RETENTION						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N/A					STATU-TORY LIMITS / OTH-ER
							E.L. EACH ACCIDENT
							E.L. DISEASE - EA EMPLOYEE
							E.L. DISEASE - POLICY LIMIT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

Minnesota Department of Education
Food and Nutrition Service
1500 Highway 36 West
Roseville MN 55113 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Example

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION — LOWER-TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Executive Order 12689, and 31 U.S.C. 6101; Debarment and Suspension, 2 CFR Part 417, Subpart C, Responsibilities of Participants Regarding Transactions.

(Please read instructions on next page before completing Certification.)

1. The prospective lower-tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

2. Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____

Organization Name

_____

Name and Title of Authorized Representative

_____ _____

Signature **Date**

INSTRUCTIONS FOR DEBARMENT CERTIFICATION FORM

1. By signing and submitting this form, the prospective lower-tier participant is providing the certification set out on the reverse side in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower-tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower-tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted to obtain a copy of those regulations.

5. The prospective lower-tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower-tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions," without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Excluded Parties List System (EPLS) at http://epls.arnet.gov/

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies as appropriate, including suspension and/or debarment.

School Year 2014-2015 Distributor Contact Information

Primary Contact for USDA Foods

Name:_____

Title:_____

E-Mail:_____

Phone Number:_____ (ext.)_____

Communications Needed:

- ☐ Minnesota Rebate Program
- ☐ Regular USDA Foods
- ☐ Both

Secondary Contact for USDA Foods

Name:_____

Title:_____

E-Mail:_____

Phone Number:_____ (ext.)_____

Communications Needed:

- ☐ Minnesota Rebate Program
- ☐ Regular USDA Foods
- ☐ Both

Supervisor for Primary and/or Secondary Contact

Name:_____

Title:_____

E-Mail:_____

Phone Number:_____ (ext.)_____

Communications Needed:

- ☐ Minnesota Rebate Program
- ☐ Regular USDA Foods
- ☐ Both

IT Distributor Contact to Receive MDE-FNS Communications

Name:_____

Title:_____

E-Mail:_____

Phone Number:_____ (ext.)_____

Communications Needed:

- ☐ Minnesota Rebate Program
- ☐ Regular USDA Foods
- ☐ Both