

**AGREEMENT FOR PARTICIPATION IN THE SEAM, LLC
ELECTRONIC FOOD PROCUREMENT SYSTEM FOR THE BENEFIT OF COMMODITY CREDIT CORPORATION**

WHEREAS, from time to time the Commodity Credit Corporation (CCC) seeks to obtain food and/or food products, for use in CCC or USDA food assistance programs, (as used herein the term "CCC" shall include USDA and the term "USDA" shall include CCC),

WHEREAS, CCC has contracted with The Seam, LLC to obtain, through The Seam's Electronic Food Procurement System, competitive offers to supply and deliver food and/or food products to locations specified by CCC, and

WHEREAS, CCC, The Seam, LLC and BankPlus have entered into an Escrow Agreement pursuant to which certain funds are escrowed to secure The Seam's performance of its obligation to pay for food and/or food products obtained through this program,

The undersigned PARTICIPANT acting by its duly authorized owner, partner, officer, or official and The Seam, LLC (The Seam), a Delaware limited liability company with its offices and principal place of business in Memphis, Tennessee, acting by its duly authorized official agree as follows:

- 1.) From time to time The Seam will issue Solicitations (describing CCC's requirements for food and/or food products specifications, delivery points, etc.) electronically on The Seam Food Procurement System. These Solicitations will seek offers to be made electronically on The Seam Food Procurement System. If Participant's offer to sell and deliver food and/or food products pursuant to a given Solicitation is accepted by The Seam, PARTICIPANT will be selected as a Supplier. The designation of Participant as a Supplier shall be specific to a particular Solicitation. The Seam reserves the right to accept or reject any offer in The Seam's sole discretion.
- 2.) Unless the Solicitation otherwise provides: offers to supply and deliver food and/or food products, shall be submitted on a free on board (f.o.b.) destination basis; the price offered by the Supplier will include the commodity, packaging, and transportation costs to the final destination; the Supplier will comply with all applicable laws and regulations; risk of loss to the food and/or food products supplied by Supplier shall remain with the Supplier until the food and/or food products are delivered to and accepted at the destination point required by the Solicitation.
- 3.) All such purchases by The Seam and sales by the Participant are made pursuant to and incorporate: (a) the provisions of this document; (b) The Seam's Food Procurement Rules (if any) posted on The Seam's website prior to the formation of a contract with supplier to supply the goods described in a particular Solicitation; and (c) the terms of the Solicitation (together these three items constitute the "Agreement"). By making an offer, PARTICIPANT represents that it has timely reviewed the current terms of the Solicitation (which may be amended from time to time) and Food Procurement Rules (if any) posted electronically on The Seam Food Procurement System. Participant's use of The Seam Food Procurement System after new or revised provisions are posted is agreement to those provisions and terms.
- 4.) When Participant has been selected to be a Supplier, The Seam will pay Supplier promptly after Documentation (as defined herein) has been provided to The Seam evidencing that the Supplier has delivered the food in compliance with the Supplier's contractual obligations. The Seam will have no obligation to pay Supplier unless and until The Seam receives such Documentation. The receipt of such Documentation will allow The Seam to withdraw funds from the BankPlus Escrow to pay Supplier. Unless otherwise specified in the Solicitation or in The Seam's Food Procurement Rules, the required Documentation will consist of the following:
 - a. In the case of a delivery of fruits, vegetables, stews or meats the Documentation shall consist of (i) Original USDA Certificate of Loading issued at the time of checkloading, and (ii) a copy of the commercial Bill of Lading (BOL) or other commercial receipt evidencing delivery and receipt of the product to the

destination specified by CCC. The BOL or commercial receipt must include the quantity received, the date received, and signature of recipient; or

- b. In the case of a delivery of other commodities the Documentation shall consist of (i) Certificate of Analysis issued by the vendor, and (ii) a copy of the commercial Bill of Lading (BOL) or other commercial receipt evidencing delivery and receipt of the product to the destination specified by CCC. The BOL or commercial receipt must include the quantity received, the date received, and signature of recipient,
- 5.) The use by PARTICIPANT of any access code(s) (“access code(s)” includes passwords) assigned to it by The Seam shall be intended by PARTICIPANT as, and shall be deemed to be, a signature, and PARTICIPANT agrees that each access code when used is intended by PARTICIPANT to, and shall, authenticate its actions. It is further agreed that the electronic communications and records made pursuant to this Agreement constitute a “writing” as defined by the Uniform Commercial Code which includes any intentional reduction to tangible form. An electronic acceptance or confirmation from The Seam shall be deemed to be a “writing” from The Seam and “signature” of The Seam. Any purchase, sale or other transaction made pursuant to The Seam Food Procurement System shall be valid and binding on PARTICIPANT and The Seam, and neither shall assert as a defense to the validity and enforcement of such transaction any claim that the electronic records of such transaction do not constitute “writing” or lack a “signature.”
 - 6.) PARTICIPANT will be fully responsible for any transaction conducted by anyone using PARTICIPANT’s access code or codes. Notwithstanding any notice by PARTICIPANT to The Seam or to any other PARTICIPANT that PARTICIPANT is acting as an agent for another party, PARTICIPANT’s responsibility to The Seam and to other PARTICIPANT shall be as a principal with respect to any transaction conducted by PARTICIPANT on The Seam Food Procurement System. PARTICIPANT will indemnify and hold The Seam harmless from all loss, damage, claims, and expenses including attorneys’ fees resulting from any claim or cause of action asserted by or caused by Participant or a third party for whom the PARTICIPANT was acting as agent or purportedly acting as agent. PARTICIPANT warrants, represents, and guarantees that each person using its access code(s) has authority to act for and bind PARTICIPANT and that by so doing such person and PARTICIPANT are not in conflict with any other agreement, obligation, or law.
 - 7.) PARTICIPANT acknowledges that there may be computer, electronic, or other system failures from time to time, and agrees that The Seam does not warrant, represent or guarantee continued or uninterrupted access to the system. PARTICIPANT acknowledges that as a result of such failures PARTICIPANT may be cut off from the system for a period of time when trading is still being conducted on The Seam Food Procurement System by others who are still linked. PARTICIPANT agrees to immediately inform The Seam in writing or by e-mail of any error or unauthorized transaction.
 - 8.) PARTICIPANT agrees that when Participant is the successful offeror, it will comply with the requirements, conditions, terms and specifications of the applicable Solicitation. Participant will indemnify and hold harmless The Seam, LLC from any loss, costs or expense, including attorney’s fees, resulting from Participant’s breach of contract or other wrongdoing. Participant agrees that CCC and United States Department of Agriculture (USDA) are third party beneficiaries of this Agreement and of any agreement made pursuant to a Solicitation, and such agreements may be enforced by them or either of them and may be assigned to them or either of them. Participant agrees to keep records of any transactions entered into pursuant to this Agreement for four (4) years or the number of years CCC or USDA regulations require, whichever is longer, and to make those records available for inspection by The Seam, CCC and/or USDA upon request.
 - 9.) In case of any dispute arising out of or in connection with this Agreement or the performance thereof, exclusive jurisdiction and venue shall be in the state and federal courts of Memphis, Shelby County, Tennessee, unless the presence of a third party or parties to the litigation is necessary and jurisdiction over all necessary parties cannot be obtained in such courts—in such a case jurisdiction and venue may be in a court where all necessary parties can be joined. The law applicable to this Agreement shall be that most favorable to its enforcement from the following

10.) THE SEAM DOES NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO ITS SERVICES. THE OPERATION OF THE SYSTEM MAY BE INTERFERED WITH BY NUMEROUS FACTORS. IN NO EVENT WILL THE SEAM BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WHETHER OR NOT SUCH DAMAGES ARE FORSEEABLE AND THE SEAM HAS BEEN APPRISED OF THE POSSIBILITY OF SUCH DAMAGE INCLUDING LOST PROFITS OR REVENUES, OR LOST DATA.

11.) This Agreement shall remain in effect from year to year unless terminated as provided herein. PARTICIPANT may terminate this Agreement upon written notice of termination to The Seam. The Seam may terminate this Agreement upon written notice of termination to PARTICIPANT. The Seam or its designee may set transaction limits for the PARTICIPANT. Termination shall not relieve any party of obligations arising before termination.

Witness our hands as of the _____ day of _____, 200__.

The Seam, LLC

Participant

By: _____

By: _____

(Printed Name)

(Printed Name)

(Title)

(Title)

(Date)

(Date)