



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION  
333 MARKET STREET  
HARRISBURG, PA 17126-0333  
[www.education.pa.gov](http://www.education.pa.gov)

## **Sponsor-to-Sponsor Agreement**

Between

(Purchaser)

and

(Seller)

Any Child Nutrition Program (CNP) Sponsor selecting to purchase meals from another CNP Sponsor must prepare an agreement utilizing this document which may not be re-typed or changed in any way.

## Agreement Page

The Pennsylvania Department of Education (PDE) provides this Sponsor-to-Sponsor Agreement; hereafter referred to as the Agreement, as a service to sponsors, therefore the PDE shall not be named as a party to this Agreement. The Sponsors are the responsible authorities, without recourse to the PDE and/or the United States Department of Agriculture (USDA) regarding the settlement and satisfaction of all issues arising under this Agreement. This includes, but is not limited to disputes, claims, protests of award or source evaluation.

This Agreement is made between the Sponsor purchasing meals, hereafter referred to as the Purchaser, and the Sponsor selling the meals, hereafter referred to as the Seller. A Sponsor is defined as a sponsor in any of the Child Nutrition Programs (CNPs), such as the National School Lunch Program (NSLP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP). This Agreement shall not be used between a Sponsor and a Food Service Management Company (FSMC).

All parties certify that he/she shall operate in accordance with all applicable Federal and State regulations governing the CNPs.

This Agreement shall be in effect from Choose Year.

This Agreement may only be

for a one-year period and cannot contain guaranteed renewal clauses.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representative on the date signed.

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Purchaser

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Seller

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Purchaser's Authorized Representative Signature

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Seller's Authorized Representative Signature

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Purchaser's Authorized Representative Name

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Seller's Authorized Representative Name

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Purchaser's Authorized Representative Title

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Seller's Authorized Representative Title

## Terms and Conditions

### A. General Information

1. This Agreement is entered into for the purpose of purchasing meals for the operation of a nonprofit food service program for \_\_\_\_\_ which will be supplied by \_\_\_\_\_ according to the terms of this Agreement.
2. This is an inter-entity agreement authorized by Title 2 CFR 200.318(e). The Purchaser ensures the prices agreed upon are competitive.
3. This Agreement is used for the Seller that prepares, cooks, and packages unitized or bulk-form meals, with or without milk, at the Seller's own facilities. Seller delivers meals ready-to-eat or heat to the site(s) determined by the Purchaser or the Purchaser picks meals up from the Seller. The Seller shall not provide the Purchaser with on-site staff or provide assistance with other administrative aspects of the CNPs.
4. If the Seller contracts with a FSMC, the Purchaser and the Purchaser's sites must have been included in the Request for Proposal (RFP). If added after the RFP was awarded (initial year contract), the Division of Food and Nutrition (DFN) must evaluate if adding the Purchaser/site will constitute a material change to the contract between the FSMC and the Seller. The Seller's FSMC shall not provide the Purchaser with on-site staff or provide assistance with other administrative aspects of the CNPs.
5. The Seller shall procure all products and services used to prepare meals in accordance with all applicable Federal and State regulations.
6. It is agreed by the parties hereto that there are no other considerations, favors, promises, or interests passing between the parties other than what is expressly stated in this Agreement.
7. All parties certify that all terms and conditions within this Agreement shall be considered a part of the Agreement as is incorporated therein.

### B. Meal Requirements

1. The Seller will provide meals/snacks, inclusive or exclusive of milk, in accordance with this Agreement and the Federal regulations and policies applicable to the USDA CNPs.
2. It is agreed that the Purchaser and the Seller will utilize the same meal pattern in accordance with the applicable CNPs.
3. The meals/snacks, inclusive or exclusive of milk, will conform to the meal pattern or milk in accordance with the requirements for the following CNPs (check all that apply):
  - School Breakfast Program (SBP) (Title 7 CFR Part 220)
  - National School Lunch Program (NSLP) (Title 7 CFR Part 210)
  - Afterschool Snack Program (ASP) (Title 7 CFR Part 210)
  - Special Milk Program (SMP) (Title 7 CFR Part 215)
  - Child and Adult Care Food Program (CACFP) (Title 7 CFR Part 226)
  - Summer Food Service Program (SFSP) (Title 7 CFR Part 225)
4. Meals will be \_\_\_\_\_ of milk.
5. Meals will be provided to the Purchaser in the following manner: (check all that apply)
  - Unitized (individual) meals.
  - In bulk quantities. Seller to provide written instructions listing the planned portion size to be served of each food component to meet the meal pattern requirements and any food safety/ Hazard Analysis Critical Control Point (HACCP) procedures, including but not limited to, heating or cooling instructions.

6. Seller will provide (check all that apply):

Trays	Safe transportation containers
Serving utensils, i.e. spoons, tongs, ladles	Cleaning of safe transportation containers
Eating utensils	Cooler(s)
Condiments	Cleaning of cooler(s)
Disposable paper supplies, including but not limited to paper plates, napkins, and cups	
Other:	

7. Meals must be delivered in food-grade containers approved by the state or local health departments that maintain the proper temperatures of food.
8. Seller will provide Purchaser with menus at a minimum of \_\_\_\_\_ weeks in advance of the first date listed on the menu. The menus must meet requirements established in Title 7 CFR Part 210, 215, 220, 225, and 226, as appropriate. Purchaser reserves the right to periodically suggest menu changes within the Seller's suggested food cost range throughout the agreement period.
9. Meals/snacks will be delivered or made available daily or other mutually agreed upon period in accordance with the appropriate menu cycle (21-day menus for NSLP, SBP, and ASP; 11-day menu for SFSP). Menu changes may be made only when agreed upon by both parties. When an emergency situation exists, which might prevent the Seller from delivering or offering a specified meal/snack component, the Seller shall notify the Purchaser immediately so substitutions can be agreed upon.
10. No payment will be made to the Seller for meals that are spoiled or unwholesome at the time of delivery or pick up, do not meet detailed specifications as developed by the Purchaser for each food component in the meal pattern, or do not otherwise meet the requirements of this Agreement.
11. The Seller shall not deliver nor bill for incomplete, damaged, or spoiled meals/snacks. The Seller will provide adequate refrigeration or heating to ensure the wholesomeness of food in accordance with state and/or local health codes. Upon delivery or pick up it is the Purchaser's responsibility to maintain adequate refrigeration or heating.
12. The Seller shall deliver the meals/snack(s) to site(s) at the specified site location(s) at the delivery time(s) listed on Attachment A, Site Information, unless there is a schedule change agreed to by both parties. If the Purchaser is picking up, then the meals/snack(s) shall be ready at the time specified on Attachment A, unless there is a schedule change agreed to by both parties.
13. The Seller shall provide a delivery slip with the date and number of meals/snack(s) delivered or picked up. The Purchaser's authorized representative or designee must sign the delivery slip and verify the condition of the meals. The Seller shall only bill the Purchaser for these meals/snacks. The name and address of the Seller and Purchaser must be clearly identified on each delivery slip and each invoice. Payment shall be to the Seller and not to any other party.
14. The Purchaser shall notify the Seller of any modifications and substitutions in meals for students/children whose disabilities restrict their diet. Meal modifications and substitutions shall be made on a case-by-case basis and must be supported by a medical statement with the required information when the modification or substitution cannot be made within the Program meal pattern. Meal substitutions or modifications may result in a different price, to which both parties must agree. There will be no additional charge to the student/child for such substitutions or modifications.
15. The Purchaser will order meals/snacks inclusive or exclusive of milk on a weekly basis notifying the Seller \_\_\_\_\_ days preceding the week of delivery or pick up. Orders will include totals for each site and each type of meal/snack inclusive or exclusive of milk.
16. The Purchaser reserves the right to increase or decrease the number of meals/snacks ordered with a minimum notice of \_\_\_\_\_ hours of delivery or pick up time.

17. The Purchaser reserves the right to add or delete sites and provide one (1) week's written notice to the Seller. If a site is added, the Seller would need to agree to the change. Either party reserves the right to cancel the Agreement and provide 30 days notice.
18. The Seller agrees to supply meals/snacks, inclusive or exclusive of milk, to the Purchaser for the prices as described in Attachment B, Price Per Meal Rates.
19. Any costs incurred under this Agreement that does not meet the requirement of regulations are unallowable costs.

#### C. Certifications

1. If the Purchaser is a sponsor of the NSLP the Seller shall comply with the Buy American provision for agreements involving the purchase of food, Title 7 CFR §210.21 (d). The Seller shall purchase, to the maximum extent practicable, domestic commodities or products which are either an agricultural commodity produced in the United States (U.S.) or a food product processed in the U.S. substantially using agricultural commodities produced in the U.S. The Seller shall certify the percentage of U.S. content in the products supplied to the Purchaser. The Purchaser reserves the right to review Seller purchase records to ensure compliance with the Buy American provision.
2. The Seller shall comply with the mandatory standards and policies relating to energy efficiency contained in the State Energy Conservation Plan in compliance with the Energy Policy and Conservation Act (P.L. 94-163).
3. The Seller shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations, Title 41 CFR Part 60.
4. For agreements in excess of \$100,000, the Seller shall comply with Sections 3702 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. §3701-3708, as supplemented by the Department of Labor Regulations, Title 29 CFR Part 5. Under Section 3702 of the Act, the Seller shall be required to compute the wages of every laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible, provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of forty hours in any work week.
5. The Seller agrees that state and/or local health and sanitation requirements will be met at all times. All food will be properly stored, prepared, packaged, and transported free of contamination and at appropriate temperatures following HACCP guidelines.
6. The Seller shall maintain state and/or local health certifications for any facility in which it prepares meals and shall maintain their health certification for the duration of the Agreement.
7. The Purchaser shall be legally and financially responsible for the conduct of the food service and shall ensure compliance with the rules and regulations of DFN and the USDA regarding CNPs.

#### D. Records

1. The Seller will maintain full and accurate records pursuant to the provisions of Federal regulations the Purchaser is required to meet. Recording responsibilities shall be on a calendar month basis supported by invoices, receipts, or other records. The Seller shall promptly submit itemized monthly invoices and daily delivery receipts to the Purchaser. These records are to be kept at the Purchaser's site.
2. The Seller shall provide meal allergen information and standardized recipes upon request by the Purchaser.

3. The Seller shall maintain and provide to the Purchaser production records for the School Nutrition Programs (SNP). The records must show how the meals provided contribute to the required food components in order to be creditable. Records and supporting documentation (recipes, manufacturer formulation statement, Child Nutrition label, etc.) shall be provided to the Purchaser. The Purchaser must maintain records for a period of three (3) years after the end of the fiscal year to which they pertain (or longer if an audit is in progress). The Seller may maintain this information for the Purchaser, under the Purchaser's name, in the PrimeroEdge Menu Planning system.
4. Upon request, the Seller shall make available all accounts and records pertaining to the program to representatives of PDE, USDA, the Office of Inspector General, and/or the General Accounting Office for audit and/or administrative review purposes.
5. This Agreement shall be construed under the laws of the Commonwealth of Pennsylvania. Any action or proceeding arising out of this Agreement shall be heard in the appropriate courts of the Commonwealth of Pennsylvania.
6. No waiver of any default shall be construed to be or constitute a waiver of any subsequent claim.
7. The Seller and Purchaser shall regard any silence, absence, or omission from Agreement specifications concerning any point as meaning that only the best commercial practices prevail. The Seller shall use materials (i.e., food, supplies, etc.) and workmanship of a quality normally specified by the Purchaser.
8. In the event of the Seller's nonperformance under this Agreement and/or the violation or breach of the Agreement terms, the Purchaser shall have the right to pursue administrative, contractual, and legal remedies against the Seller and shall have the right to seek appropriate sanctions and penalties.

E. Term and Termination

1. The Purchaser or the Seller may terminate the agreement for cause or for convenience by giving 60 days written notice.
2. At any time, because of circumstances beyond the control of the Purchaser or the Seller, either party may terminate the agreement by giving 10 days written notice to the other party.
3. Force Majeure. Neither the Seller nor the Purchaser shall be responsible to the other for losses should the fulfillment of the terms of the Agreement be delayed or prevented by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, wars, acts of public enemies, strikes, work stoppages, natural disasters, acts of God, civil disorders, public health crises, freight embargos, or loss or malfunctions of utilities, respectively, and which by the exercise of due diligence the Seller or Purchaser were unable to prevent.
4. The Purchaser is protected under the Commonwealth of Pennsylvania's Tort Claims Act (act), and as such, cannot and shall not be held responsible or otherwise liable for those actions or inactions specifically enumerated under the Act. Based on the foregoing, each party agrees to protect, indemnify, and hold harmless the other party and its agents, employees, directors, officers, affiliates, consultants, and/or contractors from and against any and all damages, injuries (including bodily injury, dismemberment, and/or death), claims, liabilities, and costs (including reasonable attorneys' fees), which arise or may be suffered or incurred in whole or in part as a result of the acts or omissions of the indemnifying party, its agents, employees, directors, officers, affiliates, consultants, and/or contractors, and whether arising under this Agreement, to the extent permitted by law.

F. Additional Information

The Sponsor may add any additional items that need to be covered in the Agreement.

If the agreement is to begin after the start of the school year (July 1) or the start of the program year (October 1) and the beginning Agreement term date is later than July 1 or October 1, respectively, enter the beginning Agreement term date under this section. The ending Agreement term date will always be June 30 or September 30, respectively.

Do not repeat any items/specifications outlined above.

## Sponsor-to-Sponsor Agreement

### Site Information

**Purchaser Name:** \_\_\_\_\_

**Seller Name:** \_\_\_\_\_

Site Name	Complete Site Address	Site Contact Name	Site Contact Phone Number	Meal Service Specifications				
				Meal Type	Meal Service Time	Number of Daily Servings	Availability Time	Availability Method



**Sponsor-to-Sponsor Agreement**  
**Price Per Meal Rates**

**Purchaser Name:** \_\_\_\_\_  
**Seller Name:** \_\_\_\_\_

**Indicate whether Seller will provide meals/snacks inclusive or exclusive of milk to the Purchaser:**

**The Seller agrees to supply meals/snacks to the Purchaser for the prices listed below:**

Meal Type	Unitized or Bulk Form	Estimated Daily Servings	Estimated Serving Days Per Year	Unit Price	Estimated Total
<b>Grand Total of Agreement</b>					