



MEMBER AGENCY AGREEMENT & AGENCY RELEASE

This Member Agency Agreement made this ____ day of _____ 2____, by
and between _____

("Member Agency"), a Pennsylvania non-profit corporation, and the Central Pennsylvania Food Bank ("Food Bank"), a Pennsylvania non-profit corporation.

WITNESSETH:

WHEREAS, Member Agency is a non-profit corporation which is exempt from federal taxation pursuant to Section 501 (c) (3) of the Internal Revenue Code ("IRC"), or satisfies the Food Bank that it is a 501 (c) (3) equivalent; and

WHEREAS, The purpose of the Member Agency is to provide assorted food and grocery items to low-income, needy, the ill, infants, and other qualified individuals who are in need of food; and

WHEREAS, Member Agency desires to receive assorted foods and grocery items from the Food Bank in order to fulfill such purpose; and

WHEREAS, The Food Bank has agreed to provide such food to the Member Agency, under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties intending to be legally bound and in consideration of the above-stated premises and other valuable consideration which is hereby acknowledged, the parties hereto agree as follows:

1. **Qualified Agency**. Member Agency warrants that it is a tax exempt, non-profit corporation as determined under Section 170 (e) 3 of the IRC and that the Member Agency upon written request from the Food Bank, will provide the Food Bank with the determination letter from the Internal Revenue Service ("IRS") indicating that it continues to be a tax exempt organization

under Section 501 (c) (3) of the IRC, or the Member Agency will provide proof that it is a 501 (c) (3) equivalent, to the Food Bank's satisfaction.

2. **Establishing A Food Bank Account**

a) New membership accounts will be initiated as Cash and Carry for a period of at least six months. Cash and Carry status will remain in effect until such time that the member agency provides the Food Bank with a written request for credit terms. Credit terms are subject to final approval by the Food Bank.

b) Agency agrees to pay the handling fees assessed for inventory received from the Food Bank.

3. **Warranty Upon Delivery and Pick-up.** Member Agency warrants that any food delivered by the Food Bank to the Member Agency at any of its food distribution sites, or picked up at the Food Bank by the Member Agency, shall immediately be duly inspected upon delivery or pick-up and determined to be fit for human consumption. Acceptance of such food upon delivery shall be sufficient for purposes of this agreement that the Member Agency has found the food to be fit for human consumption, unless otherwise indicated by calling the Food Bank no later than 24 hours from the time of delivery or pick-up. At this time, the Food Bank will make a determination as to giving the Member Agency credit for the product, and what is to be done with said product.

4. **No Warranties.** All food delivered to or picked up by the Member Agency will be accepted "as is" by the Member Agency and will be subject to no warranties, either implied or expressed as to the quality or the merchantability of such food. The Food Bank, any original donor, and Feeding America expressly disclaim any implied warranties of

merchantability or other warranties either expressed or implied as to the quality or fitness of such food for human consumption.

5. **Release.** Member Agency agrees to release both the original donor, the Food Bank, and Feeding America from any liability resulting from the conditions of any food provided to the Member Agency by the Food Bank and further agrees to indemnify and hold the Food Bank, Feeding America, and the original donor free and harmless against all and any liabilities, damages, losses, claims, causes of action, and suits of law or equity in connection with the Member Agency's storage, distribution or other use of such delivered food.
6. **Prohibition of Sale or Exchange.** Member agency shall not sell or exchange for property or services any food which is delivered to it by the Food Bank. Member is prohibited from providing inventory received to any other organization or entity other than programs for which the agency was approved for membership.
7. **Use for Tax Exempt Purpose.** Member Agency shall not use any of the food which is delivered to it by the Food Bank in any manner other than for carrying out its tax exempt purpose of providing food for qualified individuals who are eligible for receipt of such food.
8. **Civil Rights Compliance.** Agencies will not engage in discrimination, in the provision of service, against any person because of race, color, citizenship, religion, sex, national origin, ancestry, age, marital status, disability, sexual orientation including gender identity, unfavorable discharge from the military or status as a protected veteran. In addition, recipients will not be required to be a member of any organization or to participate in any religious services as a condition for distribution or receipt of Emergency Food.

9. **Monitoring.** Member Agency agrees to cooperate with the Food Bank in allowing it to conduct biennial visits to any food distribution site in order to assist, advise, and inspect such site for determination of safe handling and proper food storage, and distribution of donated goods which conforms to all local, state and Federal regulations, and compliance with this agreement and the policies and procedures of the Food Bank. If the Central Pennsylvania Food Bank so determines, more frequent site visits may be required. Visits may be announced or unannounced.
10. **Record Keeping and Reporting.** Member Agency agrees to keep adequate records at its distribution site at all times which shall provide a sufficient audit trail for the Food Bank to determine what food has been received from the Food Bank and how such food has been distributed by such Member Agency. Records include: invoice copies, client distribution reports, temperature logs, and statistics reports. Member agrees to report monthly service statistics to the Food Bank by the 5th of each month for its prior months' service. Such information shall be available at the distribution site for inspection by the Food Bank at any time upon request.
11. **Food Safety Certification.** Member Agency shall meet the minimum requirement of securing and maintaining food safety certification appropriate to its distribution type.
12. **Restriction on use of Name of Food Bank.** Member Agency shall not use the name of the Central Pennsylvania Food Bank, Food Bank, or any variation thereof in any promotional event, news story, solicitation, or any other activity without prior written consent of the Executive Director of the Food Bank.
13. **Policies and Procedures.** Member Agency shall strictly comply with the Food Bank policies and procedures, as amended, a copy of which the

Member Agency acknowledges as receiving and is incorporated herein by reference thereto.

14. **Default.** Notwithstanding anything to the contrary to the policies and procedures, any material breach by either party shall be grounds for immediate termination of the Agreement. Furthermore, each party reserves the right to pursue whatever remedies are available by law or equity to enforce the provisions of this Agreement, notwithstanding the right to terminate this Agreement upon default.

15. **Miscellaneous.**

- (a). Notices. Any and all notices, designations, consents, offers, acceptances, or other communications provided for shall be given in writing to the following address:

(1.) **FOR MEMBER AGENCY:**

FOR THE FOOD BANK:

Joseph Arthur, Executive Director
Central Pennsylvania Food Bank
3908 Corey Road
Harrisburg, PA 17109

- (b) **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof and the Agreement shall be construed in all respects as if such invalid or unenforceable provision was admitted.
- (c) **Modification.** No change or modification of this Agreement shall be enforceable against any party unless the same be in writing and signed by the party against whom enforcement is sought.

- (d) **Entire Agreement**. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof. This Agreement may not be changed, waived, discharged, or terminated except by an instrument in writing duly executed by the party against whom such change, waiver, discharge, or termination is sought to be enforced.
- (e) **Binding Agreement**. The provisions of the Agreement shall be binding upon and shall inure to the benefit of the parties hereto and the respective legal representatives, successors, and assigns.
- (f) **Jurisdiction**. This Agreement has been made and shall be construed, enforced, and governed in accordance with the laws of the Commonwealth of Pennsylvania.
- (g) **Replacement**. This Agreement replaces and supersedes the previous Agreement between the Member Agency and the Food Bank dated _____.

IN WITNESS WHEREOF, the parties hereof have executed this Agreement on and as of the date and year first hereinabove set forth.

MEMBER AGENCY

CENTRAL PENNSYLVANIA FOOD BANK

BY:

BY:

TITLE:

Eric Orndorff, Director of Agency and Program
Services