

CDEF-CDE PROGRAM SERVICE AGREEMENT

The Agreement by and between The Center for Dairy Excellence Foundation of Pennsylvania (“CDEF”), a Pennsylvania nonprofit corporation, and the Center for Dairy Excellence, a Pennsylvania nonprofit corporation (“CDE”).

WHEREAS, CDEF is interested in doing Programs which further its charitable purposes of recruiting and supporting new & beginning dairy farmers through learning programs, networking and financial incentives; and

WHEREAS, CDEF’s charitable purpose parallels CDE’s purpose of stimulating dairy industry-wide support and collaboration in the promotion and use of appropriate educational programs; and

WHEREAS, CDE has a cadre of employees familiar with existing and possible CDEF Programs; and

WHEREAS, the development of CDEF Programs will, in fact, further the purposes of CDE; and

WHEREAS, CDE is willing to have its employees work on CDEF Programs at cost.

NOW THEREFORE, CDEF and CDE agree as follows:

1. Definitions.

a. CHARITABLE ORGANIZATION means a nonprofit organization with an IRS Determination Letter which states that it is an organization described in IRC 501(c)(3) and 170 (c).

b. EXPENDITURE RESPONSIBILITY means the responsibilities of the CDEF and sponsored organizations with regard to programs sponsored by the Foundation, modeled after IRC Section 4945(h), and contained in project and grant agreements with CDEF.

c. GRANT means a payment to a charitable organization for a program sponsored by CDEF.

d. GRANT AGREEMENT means an agreement between CDEF and a charitable organization for a program sponsored by CDEF.

e. GRANT APPLICATION means the form used to apply for a grant for a program to be sponsored by CDEF.

f. PROGRAM means a seminar, exposition, convocation or other educational activity of a charitable organization, including CDEF, a business or nonprofit organization which is not a charitable organization.

g. PROJECT means a program of a business or a nonprofit organization which is not a charitable organization sponsored by CDEF.

h. PROJECT AGREEMENT means an agreement between CDEF and a business or a nonprofit organization which is not a charitable organization for a program sponsored by CDEF.

i. PROJECT APPLICATION means the form used to apply for a program to be sponsored by the Foundation as a project of CDEF.

2. Description of CDE Services. CDE shall furnish services specifically described in Attachment A. The services shall be provided in a timely manner.

3. Payment of CDE. For all the services provided by CDE, described in Section 2, CDEF shall pay CDE, the cost of those services, calculated in accordance with Section 4 and listed on Attachment D, and expenses, including CDE vendor payments incurred, in accordance with Attachment B.

4. Calculation of Cost of CDE Services. CDE shall calculate the cost of its services as an allocated hourly rate for each employee working on CDEF Programs as follows:

- a. Hourly wage rate
- b. Allocated employment tax paid by CDE
- c. Allocated office rental paid by CDE
- d. Allocated cost of office equipment paid by CDE
- e. Allocated pension cost paid by CDE
- f. Allocated health insurance cost paid by CDE

g. Allocated property, casualty, general liability and fidelity insurance cost

5. Prohibited Services and Payments. No substantial part of the activities of CDE shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and CDE shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Proviso: this prohibition shall specifically not include making available the results of nonpartisan analysis, study and research.

6. Description of CDEF Services. CDEF shall provide the services described in Attachment C.

7. Release of Information. CDE may not release information received from CDEF concerning Grant and Project Applications. If CDE releases information to the media regarding a CDEF sponsored Program, it should be described as funded by CDEF, individuals and private and governmental entities making grants to CDEF for the Program. CDEF and entities making grants to CDEF for Programs sponsored by CDEF may release information received from CDE in the form of reports described in Attachment C. Such reports shall then become the property of CDEF and the entities making grants to CDEF for the programs, as well as CDE, to publish in whole or in part.

8. Not Proprietary Information. The techniques and information used by CDE and persons or entities with CDE contracts to provide services pursuant to this Agreement,

("CDE vendors"), unless subject to patents or copyrights, shall not be considered confidential, proprietary information belonging only to CDE and CDE, but shall be available to the public at large.

9. Limitations of Relationships. Nothing contained in this Agreement shall be construed to create, the relationship of employer and employee between CDEF and CDE and its employees or between individuals and entities making grants to CDEF and CDE or its employees. Any representation to the contrary notwithstanding, as to the arrangement described in this Agreement CDEF and CDE each assert that CDE, CDEF, individuals and entities making grants to CDEF are independent contractors and, as to the arrangement described in this Agreement, CDE, CDEF, individuals and entities making grants to CDEF for the Project operate and intend to operate all their activities entirely independent of each other except as stated in the specific and express provisions of this Agreement. Any representation to the contrary notwithstanding, CDEF and CDE assert that, other than as specified in this Agreement, they are not, as to the arrangement described in this Agreement in a joint venture with each other or with individuals and entities making grants to CDEF nor intend to operate the arrangement described in this Agreement as a joint venture.

10. Agreement Subject to Laws and Regulations. This Agreement is subject to the provisions of all pertinent Federal, State and local laws and regulations and all amendments made thereto. Definitions of service, eligibility of recipients of service and

other limitations in this Agreement are subject to modification by amendments to Federal, State and local laws and regulations without further notice to CDE.

11. Effective Date. The effective date of this Agreement shall be January 1, 2014.

12. Term. The term of this Agreement shall be from January 1, 2014 to December 31, 2014, with automatic renewal for a like term, under the same terms and conditions, including automatic renewal, except that CDE may change Attachment D to reflect allocated hourly rates for the current term except in accordance with the early termination provisions of Section 13.

13. Termination. Either party may terminate this Agreement upon thirty (30) days prior written notice to the other. Upon receipt of such notice from CDEF, CDE shall take all necessary action to cancel outstanding purchase orders and other commitments relating to the work under this Agreement, and shall exercise reasonable diligence to cancel or redirect commitments for services to its other activities and operations. CDEF shall remain liable for all costs incurred under this Agreement, including any of the above mentioned commitments entered into by CDE in good faith prior to the receipt of the termination notice. In the event that either party hereto shall commit any material breach of or default in any terms or conditions of this Agreement, and also shall fail to reasonably remedy such default or breach within sixty (60) days after receipt of written notice thereof, the non-breaching party may, at its option and in addition to any other

remedies which it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to such effect. Termination shall be effective as of the day of the receipt of such notice. Termination of this Agreement by either party for any reason shall not affect the rights and obligations of the parties accrued prior to the effective date of termination of this Agreement.

14. Notices. Communications intended for CDEF should be addressed to CDEF, Attn: Program Officer, 2301 North Cameron Street, Suite 407, Harrisburg, PA 17110–9408, Telephone (717) 346-0849, fax no. (717) 705-2342. Communications intended for CDE should be addressed to CDE, Attn: Program Officer, 2301 North Cameron Street, Suite 407, Harrisburg, PA 17110–9408, Telephone (717) 346-0849, fax no. (717) 705-2342.

15. Modifications of this Agreement. This Agreement may be modified only with the written consent of both parties.

16. Force Majeure. Neither CFDEF nor CFDE shall be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes are strictly limited to include acts of God or of a public enemy, explosion, fires, unusually severe weather or labor disputes. Dates and times of performance shall be extended to the extent of the delays excused by this Section provided that the party

whose performance is affected notifies the other promptly of the existence and nature of the delay.

17. Binding Agreement. This Agreement shall be binding on the parties, their heirs, successors and assigns and administrators.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested to by the duly authorized officers.

ATTESTED:

The Center for Dairy Excellence Foundation



Executive Director
Center for Dairy Excellence

By: Paula M. Sabon
Chairman

The Center for Dairy Excellence



By: _____
Chairman

December 5, 2013
Date

ATTACHMENT A
DESCRIPTION OF SERVICES OF CDE

The Executive Director of CDE or his designee shall do the following to implement those Agreements:

A. Review and evaluate Applications for Grants and Projects forwarded to CDE by CDEF.

B. Report to CDEF the results of its review and evaluation of Applications for Grants and Projects.

C. Have CDE employees and CDE vendors carry out tasks in connection with CDEF Programs, including Expenditure Responsibility, which CDEF assigns to CDE from time to time.

D. Turn over all payments made to it in the name of CDEF to CDEF or credit CDEF for those payments.

E. At least seven (7) days prior to requested payment date, submit a summary of invoices to CDEF by facsimile transmission for approval by CDEF that payment is in compliance with the provisions of this Agreement.

F. Prior to the expected payment date, submit the originals of invoices for payment initialed by John Frey, as Ex. Director of CDE, signifying approval of the expenditure. CDE will maintain in its files, for CDEF audit purposes, all receipts pertaining to CDE.

G. Where there are extraordinary circumstances involved, CDE may propose for approval by CDEF alternative or accelerated procedures for submission of invoices and payment.

H. Negotiate with CDE vendors for scope of their work and supervise their work.

I. Provide additional services as requested by CDEF and agreed to by CDE in writing in advance.

J. CDE shall cooperate with any audits conducted by CDEF or an entity making a grant to CDEF. All costs of such audits, including reimbursing CDEF for its costs incurred on account of such an audit, shall be paid by CDEF at the time invoices are submitted.

ATTACHMENT B
PAYMENT SCHEDULE

CDEF shall make the following payments:

A. Payments to the CDE or CDE vendors, within seven (7) days of receipt of a summary of invoices, as described in Attachment A, or as otherwise agreed by CDEF, as described in Attachment A, provided the invoices are approved by CDEF from the facsimile summary as described in Attachment A and the initialed originals of invoices are submitted in accordance with procedures specified in Attachment A.

ATTACHMENT C
CFDEF RESPONSIBILITIES

CDEF shall:

- A. Provide approvals within criteria of Attachment A, which approvals shall not be unreasonably withheld.
- B. Collect and account for all payments to CDE for CDEF.
- C. Make payments as required by Attachment B.
- D. Make reports to entities making grants to CDEF as required.
- E. Provide such financial reporting as needed by CDE and independent accountant of CDE.
- F. Provide such other assistance as may be reasonably requested by CDE in connection with this Agreement.

CDE EMPLOYEES ALLOCATED HOURLY RATES

G:\Center for Dairy Excellence Foundation/ CDEF-CDE Program Service
Agreement

