

PURCHASE AND SALES AGREEMENT

Contract Number: AFG012

As amended and approved by CBI on February 2008

PURCHASE AND SALE AGREEMENT dated as of _____ 2008 between:

Cooperative Business International, Inc (CBI) acting as agent for The Islamic Republic of Afghanistan (Ministry of Finance); and

_____, (Buyer), who has an address of:
_____ and a telephone
number of: _____.

RECITALS

- A. Pursuant to an agreement between the Government of the United States of America (USG) and CBI as agents for The Islamic Republic of Afghanistan, the USG has donated 102,060 cartons of vegetable oil (the Oil) to be sold in Afghanistan. Proceeds from such sales will be allocated to agricultural development projects as agreed to between the USG and The Islamic Republic of Afghanistan.
- B. CBI, a U.S. corporation with an office in Afghanistan and the USG, and will be managing the sale of the Oil on behalf of their principal "The Islamic Republic of Afghanistan, Ministry of Finance".
- C. The Buyer has received a copy of the Bidding Documents dated prepared and distributed by CBI that details certain aspects of these arrangements. These details require that the Buyer certify that the Oil purchased under this agreement will only be used for wholesale, resale or the production of human food consumables in Afghanistan.
- D. The Buyer has agreed to purchase a portion of the Oil, subject to the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, Seller and Buyer agree as follows:

Buyer agrees to buy and Seller agrees to sell the refined U.S. origin vegetable oil (the Oil) as described here below under the terms set forth in this agreement.

1. **Price:** The total purchase price for the Goods shall be US\$ _____.
2. **Delivery period:** The Oil shall be delivered to the Seller's warehouse in Kabul, Afghanistan. Based on the current shipping schedules provided by the shipping companies responsible for delivery of the Oil to Afghanistan under this USG donation, the estimated time of arrival of the Oil in Afghanistan at the Seller's warehouse is (March 1, 2008 and April 15, 2008). *However, the parties mutually agree that the date of the delivery of the Oil under this agreement is the date that the Oil is actually delivered to the Seller's warehouse in Afghanistan. (Delivery delays caused by the weather, by war, by terrorism, by the shipping company or by*

its subcontractors, by any Pakistan Government agencies, by any Afghanistan Government agencies, or by any authorities, conditions or events beyond the control of CBI shall not be a cause for the Buyer to make a claim to or against the Seller or to or against anyone else, nor shall any such delay in delivery relieve the Buyer of his or its obligations and/or his or its duties to perform under this agreement in any respect.)

3. **Delivery charge from Sellers' warehouse in Kabul:** Buyer will pay directly to the Seller's warehouse a fee of 2 Afs (Afghan Government issued currency) per carton for loading the Oil from the Seller's warehouse to the Buyer's vehicle.
4. **Quantity:** in metric tons and in _____ liters (_____ cartons) of Vegetable Oil as described below.
5. **Quality:** The quality of the Oil shall be:
 - a. Full refined soybean oil packed in 4 liter plastic jugs and/or 4 liter round metal cans with quality specifications as provided by United States Department of Agriculture (USDA) as detailed in the USDA document entitled "USDA Requirements (V010) Vegetable Oil Product for use in Export Programs", and as detailed by further USDA reference to special labeling for commodities to be monetized.
 - b. *The Quality of the Oil shall be final at the point of production in the U.S.A. Further, with the exception of damage to the packing of the Oil during shipment from the U.S.A. to Afghanistan, the Seller will not be responsible to accept or compensate the Buyer, or to compensate any other person, for any claims for product quality of the Oil.*

Damage to the packing shall be determined as un-merchantable only at Seller's warehouse in Afghanistan by "Master Marine Surveyors". Claims that the Seller's packing or containers are scratched, nicked, soiled will not be accepted. Further, claims or requests demanding discounts or asserting a right of rejection will not be accepted, other than those arising out of the damage of packing documented by Master Marine Surveyors, located at Master Marine Services, Mississauga, Ontario, Canada L5M 5B7 Tel : (905) 858-2563 Fax : (905) 814-0002 <http://www.mastermarines.com>
 - c. *Damage to the packing determined as un-merchantable by Master Marine Surveyors will be deducted from the contracted quantity. Payment of funds received by the Seller from the Buyer for the same shall be refunded to the Buyer. The Seller shall not be under an obligation to replace the damaged or lost product and shall not compensate the Buyer for any market loss claims the Buyer may suffer to replace Oil due to damage to packing.*
6. **Payment:** The Buyer shall provide the Seller **US\$ 20,000.00** as a security deposit **for each lot of the Oil** that the Buyer has contracted to purchase. The Buyer's payment of the security deposit to the Seller shall be made by the Buyer prior to the award of the contracts by Seller to any bidders, and the security deposit payment **must be received** by the Seller no later than **February 28, 2008**. The Buyer's payment of the security deposit shall be made into the CBI account at Standard Chartered Bank or it

shall be wired to the Seller's agent CBI in accord with the ITB # AFG012 Form 2 document for each lot of the Oil by close of bank business.

The Buyer's payment of a security deposit for each lot of the Oil purchased by the Buyer shall be deducted from the total purchase price (as set out in item 1 "Price", above) established in the Buyer's contract in order to calculate a balance owed by Buyer to Seller. Buyer's complete payment of the final balance due for the Oil under this contract shall be made to the Seller's account in cash as follows:

a **A payment of the entire balance due Seller for the contracted amount shall be received by the Seller no later than March 11, 2008 by close of Seller's bank's business day.**

b **Payment delays:** If the Seller has not received full payment by March 11, 2008 then Buyer shall be assessed a penalty of Ten Thousand Dollars (\$10,000.00). Further, if the Seller fails to receive payment by March 13, 2008 at the close of Seller's bank business in Kabul, Afghanistan, or at Seller's bank business by wire transfer in Cleveland, Ohio, USA, as confirmed by the Seller's bank, then the Buyer will forfeit Buyer's deposit. Thereafter, the Buyer shall be in default under this agreement, and the Seller may terminate the Buyer's contract. Seller may further elect to dispose of the Oil to someone other than the Buyer. Moreover, Seller may recover from the Buyer all of the Seller's costs and expenses, as well as any of the Seller's market losses, that the Seller has incurred due to Buyer's failure to perform. (No exceptions will be made)

c **Payment shall be made by the Buyer to the following account:**

- Account Name: Cooperative Business International
- Account Number: 01-1056700-01
- Account with: Standard Chartered Bank located in Kabul
 - House 10, Street 10 B
 - Wazir Akbar Khan Area
 - Kabul, Afghanistan
 - Tel. +93-799-007777

(OR) by Wire transfer to Sellers' USA A/C

- Bank Name: KeyBank (Cleveland OH)
- ABA Routing #: 041 001 039
- Beneficiary Name: Cooperative Business International
- International Wire Information: Swift # KEYBUS33
- Bank Contact: Mr. Robert Kurek (216) 689 7193
- (Email Robert's_Kurek@Keybank.com)

8. USDA regulations and controlling interest: The parties further agree to the following USDA requirements:

a. This contract incorporates by reference, as though fully rewritten herein, all statutes, rules and regulations stated in the *Food for Progress Act of 1985*, as amended (hereinafter "The Act"); in addition, this contract incorporates by reference all regulations and rules promulgated under the DEPARTMENT OF AGRICULTURE Commodity Credit Corporation, (*See 7 CFR Part 1499, Foreign Donation of Agricultural Commodities*). All such rules and regulations under the

Department of Agriculture Commodity Credit Corporation are hereinafter collectively referred to as “The Regulations”.

b. Effect of the Act and Regulations on this contract:

i. Where the provisions of the Act or the Regulations are in conflict with the specific terms and conditions of this contract or the offer of contract, whether before or after the Seller’s offer has been accepted by the Buyer, then the Act and the Regulations shall prevail over the terms contained in this contract.

ii. This contract is subject to USDA or USG action under the Act and/or the Regulations. Buyer agrees that such USDA or USG action shall not create liability as between the contracting parties. Action by the USDA so as to prevent, delay or hinder the Seller’s or the Buyer’s performance of this agreement shall not be considered a breach of this agreement. Further none of the parties shall be held in default under this agreement by reason of the USDA’s election to prevent performance of this contract, or to otherwise the USDA’s election to affect the parties’ performance.

iii. **Conditions Precedent or Subsequent:** The Seller and Buyer agree that this contract is conditioned upon the USDA and/or USG not acting under the Act or the Regulations to prevent the agreed performance of this contract or to otherwise the USDA’s election to affect the parties’ performance, and that such USDA and/or USG action shall constitute a condition precedent to contract, or a condition subsequent to contract, as may be pertinent under the circumstances. As used herein, a *condition precedent* means that the USDA and/or USG action that alters a substantial term of this agreement without the parties’ prior agreement is a condition which, if it occurs *prior* to the formation of the contract, may prevent the formation of an enforceable contract. Also, as used herein, a *condition subsequent* means that the USDA and/or USG action that alters a substantial term of this agreement without the parties’ prior agreement is a condition which, if it occurs *after* the formation of the contract, such occurrence may terminate the contract, without there being any fault of the parties and without any liability of any party to the other by reason of such termination. However, it is also agreed by the parties that in the case of all partially performed obligations that should occur prior to the USDA action and/or USG action affecting a substantial term of this agreement for future performance, then the parties agree to perform their respective obligations hereunder with regard to the partial performance of a party, to the extent permitted by the Act and/or the Regulations, and to the extent consistent with this agreement.

8. Seller shall be responsible for any import customs duties taxes and thereafter Buyer shall take full responsibility for the payment of any and all taxes, as may be imposed, for the amount of Goods purchased after the Goods are received by the Buyer from the Seller. (**Note to Buyers:** *The Government of Afghanistan has agreed to waive all import duties and taxes for the Oil as the proceeds from the sale are for the benefit of Afghanistan.*)
9. **Transfer of Title to the Goods and Delivery:** After Seller’s confirmation of the Buyer’s deposit for the total balance due into Seller’s bank account, Seller will transfer title for the Goods to Buyer by endorsing a Delivery Authorization Form in favor of the Buyer.

- a. The Delivery Authorization Form serves as a transfer of title and also serves as a dispatch order for the Seller's warehouse in Kabul.
 - b. The Delivery Authorization Form is subject to the actual arrival of the Oil at the Seller's warehouse; thereafter the final delivery will be made.
 - c. The Seller's warehouse working hours are Saturday through Thursday from 8:00 am – 4:00 pm.
 - d. The Delivery Authorization Form shall be issued within two working days from the date of confirmation of Buyer's cash deposit into Seller's bank account for the balance due, If the Delivery Authorization Form cannot be provided to Buyer within 4 business days from confirmation of Buyer's deposit of the balance due, due to Buyer's fault, this agreement may be terminated at the Seller's option. Thereafter, the Buyer shall be in default under this agreement, and the Seller may terminate the Buyer's contract. Seller may further elect to dispose of the Oil to someone other than the Buyer. Moreover, Seller may recover from the Buyer all of the Seller's costs and expenses, as well as any of the Seller's market losses, that the Seller has incurred due to Buyer's failure to perform.
 - e. If the Buyer's payment of the balance due for the Oil awarded under the auction is not made on time, then the Buyer shall forfeit their security deposit to the Seller; and the Buyer shall pay all additional costs associated with the re-sale of the Oil to another Buyer and as well as all of Seller's loss claims that are substantiated by the Seller to be caused by the Buyer's failure to timely pay the Seller.
10. Buyer shall remove the Goods, purchased through this agreement, from the Seller's warehouse, at Buyer's own expense, within 10 working days from the date the Oil is ready to be picked up at the warehouse or from the date the Delivery Authorization Form is issued to the Buyer, whichever is later. Otherwise, the Buyer shall pay as a storage fee US\$ 1.00 per each 45 cartons, for any balance of the Oil remaining in the Seller's warehouse for each additional day a balance of the Oil remains.
- i. The Oil will not be delivered to Buyer until Buyer has paid for all outstanding warehouse storage charges accrued.
 - ii. If after 15 days from the date the Delivery Authorization Form is issued, or 15 days after the Seller has notified the Buyer that the cargo is ready to be picked up at the warehouse (whichever is later), the Buyer still has Oil from the shipment remaining in the Seller's warehouse, then the Buyer agrees the Buyer has forfeited all rights to the remaining Oil left at the Seller's warehouse. Buyer further agrees that the Buyer shall pay the Seller ten percent (10%) of the purchase price of the Oil remaining at the Seller's warehouse as liquidated damages for such failure.
11. Seller warrants that the Oil will comply with the specifications provided in the Bidding Documents dated prepared and distributed by CBI. If the Buyer objects to the quality of the Oil, the Buyer must raise all objections with respect to quality of the Oil before taking delivery of the Oil. Buyer agrees that Buyer waives all rights to later claim for defects in quality if no objection is made prior to taking delivery of the Oil. If there is a material defect in quality of the Oil that has been caused by damage to the packing in transit from the point of origin, as determined solely by Master Marine Surveyors, then the Buyer has the right to reject the Goods; and, if such rejection is warranted, the Buyer may obtain a refund of all or a part of the Purchase

Price. If the Oil is so rejected, Seller shall be liable only to refund to Buyer all or a part of the Purchase Price and Seller shall not be liable for any direct or consequential damages incurred by Buyer as a result of any defect in quality.

12. Buyer agrees that it shall not export the Oil from Afghanistan after delivery; further, it is a violation of the Act and the Regulations to do so, and is prohibited under this Agreement.
13. Buyer represents that it is not an individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts; further it is a violation of the Act and the Regulations if a Buyer is an individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts.
14. **Termination: The Seller shall have the right to terminate this contract:**
 - a. If the Buyer, in the good faith and exclusive judgment of the Seller, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
 - i. For the purpose of this clause, "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution;
 - ii. For the purpose of this clause, "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Seller (and this includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Seller of the benefits of free and open competition).
 - b. If the Buyer commits a breach of the terms of the Contract.
 - c. If a receiver, liquidator, administrator is appointed in relation to the Buyer (or similar action is taken under equivalent procedures in any foreign jurisdiction) or if the Buyer attempts to make or makes any compromise or arrangement with its creditors.
 - d. If the Buyer and or his agents harass, intimidate, assault, or otherwise act so as to attempt to do the same, or if they should at any time or in any way do harm to CBI employees, local independent contractors, warehouse workers, Ministry officials, or U.S. Government agency officials or representatives. (Furthermore CBI and the aforementioned officials reserve their full rights under the law to prosecute any Buyer for intentionally causing harm.)
15. Where the Seller has terminated the Contract, the Seller shall be entitled to immediately make alternative arrangements for the Sale of U.S. Refined Soybean Oil (not already delivered and paid for by Buyers), on such terms as may be available to the Seller, and the Buyer shall be liable for all direct losses, damages and charges incurred by the Seller, in relation to the termination of the Contract. The Seller shall not be liable for any direct or consequential damages incurred by Buyer as a result of

such contract termination beyond that of refunding any advance funds for oil not delivered to the Buyer as per the agreement.

16. **Force Majeure** If there is failure by either party of this agreement to complete any of the terms of this agreement due to *Force Majeure*, (Acts of God, Acts of civil or military authorities, Acts of State, fires, floods, epidemics, quarantine restrictions, embargoes, war, riot, terrorism, and strikes) then the terms of this agreement will be extended for the period of delay resulting from the *Force Majeure* condition. If the *Force Majeure* condition results in the destruction of the Oil, the Seller may terminate part or all of this agreement depending on the quantity of the Oil that is lost. Upon such termination Seller shall refund to Buyer (without interest) all funds received from the Buyer for the purchase of the destroyed or lost Oil. The Seller shall not be liable for any direct or consequential damages incurred by Buyer as a result of such termination.
17. **Arbitration clause and Applicable Law:** Any and all disputes arising out of this agreement shall be subject to final and binding arbitration with the American Arbitration Association (AAA). Rules governing arbitration thereunder shall be in accord with the AAA International Arbitration Rules. Further, the arbitrator(s) shall have exclusive authority to resolve all claims covered by this arbitration agreement, and any dispute relating to the interpretation, applicability, enforceability or formation of this arbitration agreement, including, but not limited to, any claim that all or any part of this arbitration agreement is void or voidable. Any issues involving the arbitrability of a dispute shall be governed by the substantive law of the Federal Arbitration Act, 9 U.S.C. Section 1 *et seq.* The venue of arbitration shall be in New York, New York U.S.A. The substantive law used for arbitration, or otherwise for all dispute resolution, shall be that of New York State, U.S.A., exclusive of its conflict of laws provisions except as to arbitrability, or otherwise except as relates to the Act's application. The State of New York, U.S.A., shall be deemed the place the contract is formed. Furthermore it is agreed that the party awarded the dispute resolution provided by the arbitrators shall be compensated for all related legal fees, travel expenses and professional expenses related to the dispute, including but not limited to arbitration or arbitrator fees and expense, legal fees, and expert cost or fees.
18. There are no extra fees or costs to be incurred by Buyer under the terms of this agreement other than the purchase price for the Goods stated in Paragraph One (1), any applicable taxes other than customs duties, any cost incurred by the Buyer for the receipt of the Goods from the Seller's warehouse, and any possible warehouse charges incurred for slow removal of the goods from the Seller's warehouse.
19. This contract is non-transferable by the buyer to any other party.
20. If anyone from the Seller's office requests any extra payment this request should be reported immediately to the Project Manager of the CBI office in Columbus, Ohio to the following address, e-mail **and** telephone.

Mr. Robert Clark (President & CEO)
5898 Cleveland Ave.
Columbus, Ohio 43231 USA
E-mail: rclark@cbi-global.com Tel. 1-614-839-2700 Fax 1-614-839-2709

21. This Agreement:

- a) may only be amended by a written agreement duly executed by the parties hereto;
- c) may not be assigned by either party hereto without the prior written consent of the other party;
- d) shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; and
- e) has been executed in English and Dari language versions, but in the event of any dispute as to interpretation between the versions, the English language version shall prevail.
- f) incorporates into its terms by reference as if fully rewritten herein those consistent terms stated in the Seller's Invitation To Bid dated 2/14/2008, referred to as "ITB # AFG012".

WITNESS the following signatures.

Seller: CBI (Cooperative Business International) on behalf of The Islamic Republic of Afghanistan

By:

CBI Afghanistan Representative

Buyer: _____

By:

Name:

Title:

