

AGREEMENT BETWEEN THE
KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION
AND
GORDON FOOD SERVICE

This agreement is made by and between Kentucky Educational Development Corporation (KEDC), 904 Rose Road, Ashland, KY 41102-7104 and Gordon Food Service (GFS), 342 Gordon Industrial Drive, Shepherdsville, KY 40165. KEDC is an educational cooperative organized under the Kentucky Interlocal Cooperation Act and is considered a local public agency under the Kentucky Model Procurement Code (KRS 45A.345(11)).

This agreement originally commenced on July 01, 2024, and will expire on June 30, 2025, with KEDC reserving the right for annual extensions as permitted by Kentucky Model Procurement Code (KRS Chapter 45A).

This agreement represents the 1st extension for an additional term of one (1) year from July 01, 2025 to June 30, 2026 and incorporates the Grocery RFP Terms and Conditions (PV-GROCERY-2024) and Gordon Food Service's Response by reference.

Vendor Number	10100336
Contract Number	10100336-PV-GROCERY-2024R1

Upon the signature of an authorized officer of KEDC and an authorized representative of the above-named company or corporation, this agreement is hereby executed.

KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION



KEDC Chief Executive Officer

7/22/25 08:21 EDT
Date

Nancy Hutchinson
Printed Name

GORDON FOOD SERVICE



Signature

7/18/25 12:03 EDT
Date

Obinna Okoroafo
Printed Name

Bid Department Supervisor
Title



CHAIRMAN

Thomas Cochran

CHAIRWOMAN-ELECT

Carrie Ballinger

PAST CHAIR

Tim Spencer

CHIEF EXECUTIVE OFFICER

Nancy Hutchinson

KEDC MEMBERS

Augusta Independent

Barbourville Independent

Bath County

Bell County

Berea Independent

Bourbon County

Boyd County

Breathitt County

Campbellsville Independent

Carter County

Casey County

Clark County

Clay County

Corbin Independent

Danville Independent

East Bernstadt Independent

Elizabethtown Independent

Elliott County

Estill County

Fairview Independent

Fayette County

Fleming County

Floyd County

Frankfort Independent

Franklin County

Gallatin County

Greenup County

Harlan Independent

Harrison County

Jackson County

Jackson Independent

Jenkins Independent

Jessamine County

Johnson County

Knott County

Knox County

Lawrence County

Lee County

Leslie County

Letcher County

Lewis County

Lincoln County

Madison County

Magoffin County

Martin County

Mason County

McCreary County

Menifee County

Mercer County

Middlesboro Independent

Montgomery County

Morgan County

Newport Independent

Nicholas County

Owsley County

Paintsville Independent

Paris Independent

Perry County

Pike County

Pikeville Independent

Pineville Independent

Powell County

Pulaski County

Raceland-Worthington Ind.

Robertson County

Rockcastle County

Rowan County

Russell Independent

Science Hill Independent

Scott County

Somerset Independent

Wayne County

Whitley County

Williamsburg Independent

Williamstown Independent

Wolfe County

Woodford County

May 14, 2025

Gordon Food Service

1300 Gezon Parkway SW

Wyoming, MI 49509

The Kentucky Educational Development Corporation (KEDC) wishes to pursue a renewal of the Prime Grocery contract (PV-Grocery-2024) for the period of July 1, 2025, to June 30, 2026, under the existing terms and conditions agreed to by both parties.

Please provide updated pricing at your earliest convenience for the upcoming pricing period.

We will also be exercising our right to add additional items to the contract by mutual agreement as outlined in section 15 of the proposal specific terms and conditions. We will submit those items once the new agreement is signed unless you direct otherwise.

Thank-you and we look forward to a successful 2025-2026 school year with Gordon Food Service.

Regards,

Sam Atkins

Sam Atkins

Chief Business Officer

Kentucky Educational Development Corporation



6/16/2025

Kentucky Education Development Corporation (KEDC)
Attn: Sam Atkins
904 ROSE ROAD
ASHLAND, KY 41102-7104

Re: Renewal of Prime Grocery contract (PV-Grocery-2024)

Dear Sam Atkins;

We greatly appreciate the opportunity we have had to service you under the Bid award during the prior school year. This letter is to inform you that the Gordon Food Service, Inc. ("GFS") agrees to renew the Bid for the 2025/2026 school year subject to the terms and conditions outlined in this letter. While GFS's desire to meet all of your pricing and service expectations is strong, trade tariffs and recent events that could impact the supply chain make it impossible for GFS to continue servicing you under the existing terms of the Bid. Therefore, GFS's offer to renew the Bid is expressly conditioned on the following:

- The attached Supplemental Terms and Conditions for Bid Proposals (the "Supplemental Terms") applying to the supply of goods for the 2025/2026 school year and any subsequent renewal.
- The fixed fee used to derive your produce price will be \$2.33 for the 2025/2026 school year and the resulting prices for the 2025/2026 school year are contained in the attached price sheet, subject to adjustment as outlined in the Supplemental Terms.
- The attached MFFS Ordering and Delivery Requirements shall apply to the supply of goods for the 2025/2026 school year and any subsequent renewal, notwithstanding anything to the contrary in the Bid, any contract or otherwise.

If the terms contained in this letter and the Supplemental Terms are acceptable, please sign, date and return a signed copy of this letter to me at your earliest opportunity. We greatly value our business partnership and your understanding and support.

Sincerely,

Marla Troutman

Marla Troutman
Bid Department Analyst

Acknowledged and accepted by KEDC:

Signed: *Nancy Hutchinson*

Name: Nancy Hutchinson

Title: KEDC Chief Executive Officer

SUPPLEMENTAL TERMS AND CONDITIONS FOR BID PROPOSALS

1. **Applicability.** These supplemental terms and conditions (collectively, the “**Terms**”) are an integral part of Gordon Food Service, Inc.’s or any subsidiaries’ (“**Gordon**”) proposal (the “**Bid Proposal**”) provided in response to a request for proposal or similar document or request (the “**RFP**”) issued by a customer or a group purchasing organization or co-operative on behalf of itself and/or its members (each, a “**Customer**”). The Terms shall apply to all sales of goods and services (collectively, “**Products**”) supplied from time to time by Gordon to any Customer in connection with the RFP and Bid Proposal and any resulting contract or otherwise.

2. **Contract Terms.** By awarding the Bid to Gordon or ordering Products from Gordon, each Customer agrees that the terms of the resulting contract will be governed by and construed in accordance with the terms and clarifications included in Gordon’s Bid Proposal (including but not limited to these Terms), which will become part of the resulting contract (a “**Contract**”). The Contract will comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Notwithstanding anything to the contrary in the RFP or any purchase order or other document issued by any Customer, in the event of a conflict between or among the terms of the documents which comprise the Contract, the documents will control in the following order: the Bid Proposal, these Terms, and the RFP. Any purchase order or other document issued by any Customer containing any inconsistent or additional terms to the Contract is expressly rejected and does not serve to modify or amend these Terms or the Contract.

3. **Warranty.** Gordon warrants to Customer that all Products (a) while in Gordon’s possession or control, will be handled, stored and transported by Gordon in compliance with all applicable laws, regulations and other legal requirements, and (b) will not, while in Gordon’s possession or control, become mislabeled or adulterated, due to the act or omission of Gordon or its employees or agents, so as not to comply with all applicable laws, regulations and other legal requirements. **GORDON EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING AS A RESULT OF CUSTOM, USAGE IN TRADE, OR BY COURSE OF DEALING.** Gordon does not manufacture any of the Products. The availability of Products does not indicate an affiliation with or endorsement of any Product or manufacturer. Gordon will assign to Customer all of its rights against the manufacturers and suppliers of the Products under the warranties (if any) which Gordon receives, to the extent the rights are assignable. Gordon shall provide reasonable support to Customer in the pursuit of any such warranty claims, provided that there is no additional cost to Gordon.

4. **Indemnification.** Subject to these Terms and in full replacement of any provisions in the RFP or otherwise relating to indemnification, Gordon will indemnify and defend Customer against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses, including reasonable attorneys’ fees, that are sought by any third-party from Customer arising out of: (a) any negligent or more culpable act or omission of Gordon (including any reckless or willful misconduct) in connection with its performance of its obligations under the Contract; and (b) any bodily injury, death of any person, or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of Gordon (including any reckless or willful misconduct). The foregoing obligation to indemnify and defend will not apply to the extent such claim or corresponding losses arise out of or result from the negligence or more culpable act or omission of Customer or its employees or agents. This Section sets forth the entire liability and obligation of Gordon and the sole and exclusive remedy for the indemnified party for any damages covered under this Section.

5. **Limitation of Liability.** In no event shall Gordon be liable under the Contract or otherwise, to Customer or any other person or entity for consequential, indirect, incidental, special, exemplary, punitive or enhanced damages, including, but not limited to, attorneys’ fees, lost profits or revenues or diminution in value, arising out of, relating to, or in connection with any breach of these Terms or the Contract, regardless of: (a) whether such damages were foreseeable, (b) whether or not Gordon was advised of the possibility of such damages, and (c) the legal or equitable theory (contract, tort, or otherwise) upon which the claim is based.

6. **Excusable Delays.** Gordon shall not be liable for delays or failure to perform due, directly or indirectly, to: (a) causes beyond Gordon's reasonable control, (b) shortage of utility, facility, material or labor, delay in transportation, breakdown, including mechanical, electrical or other equipment failure, or (c) acts of God or nature, acts (including failure to act) of any governmental authority, wars (declared or undeclared), terrorist acts, strikes or other labor disputes, fires, and natural calamities (such as floods, earthquakes, storms, disease, quarantine, pandemics, and epidemics).

7. **Firm Adjustable Pricing.**

a. The prices of the Products included in the Bid Proposal are based on the Product costs negotiated with vendors and all expenses and fees customarily charged by Gordon in the cost of Products including, without limitation, freight, inventory transfers, cross-docking, tariffs, and related charges ("**Product Cost**") and other factors. Gordon negotiates Product Cost for extended periods of time in an effort to keep Product prices firm. However, extenuating circumstances may result in an unexpected price increase from the vendor or require Gordon to procure Product from an alternate source who may not honor the negotiated Product Cost. In addition, interruptions in the labor market and inflation make it impossible for Gordon to tender a competitive mark-up on the Product Cost without significant risk of providing the Products at a loss due to future changes. Accordingly, and notwithstanding anything to the contrary in the RFP, Contract or otherwise, the Product prices contained in the Bid Proposal are offered conditionally on Gordon's ability to (i) immediately pass through any newly imposed costs or expenses that increase Product Cost including, but not limited to, tariffs, duties and trade embargos, and (ii) pass through increases to existing costs or operational expenses on a quarterly basis as outlined below in this Section. Commencing on the date that Gordon's Bid Proposal or renewal proposal, as applicable, is submitted, the price of the Products will be recalculated and set by Gordon according to (a) the prevailing Product Cost each August, October, January and March (each, a "**Quarterly Review Periods**"), plus (b) the difference between the applicable bid price of the Product less the original Product Cost (the "**Fixed Fee**") adjusted for inflation annually at the time of annual renewal of the Contract. The adjustment for inflation will be determined by the increase in the Consumer Price Index for All Urban Consumers (All-Items U.S. City Average (1982-1984=100)) published monthly by the Bureau of Labor and Statistics of the United States Department of Labor ("**CPI-U**"). At the time of the annual renewal of the Contract, the last published CPI-U rate will be compared to the published CPI-U rate for the same month in the prior year. The percent increase (if any) between the two rates will determine the percent increase to the Fixed Fee.

b. Gordon shall have no obligation to provide evidence or supporting documents from the vendor or otherwise for all increases to the Product Cost, notwithstanding anything to the contrary in the RFP, Contract, or otherwise. Customer's right to audit or verify prices or any increases to Product Cost shall be limited to five (5) single Products, selected by Customer, that were subject to an increase to the Product Cost as outlined in Section 7(a) above ("**Cost Verification**"). Customer may request a Cost Verification within 30 days after each Quarterly Review Period by notifying GFS. GFS will make commercially reasonable efforts to obtain written documentation or evidence from the vendor (to the extent available) to demonstrate the change to Product Cost for the five Products selected by Customer for the Cost Verification.

c. Customer may elect to purchase from Gordon other Products available from Gordon's that are not included in the RFP or Gordon's Bid Proposal ("**Off-Bid Items**"). If Customer requests, Gordon will make Off-Bid Items available for ordering on Customer's order guide. Notwithstanding anything to the contrary in the RFP, Contract or otherwise, the price of Off-Bid Items will not be subject to the pricing offered in Gordon's Bid Proposal, but will instead have a separate price offered by Gordon on Customer's order guide that will be updated periodically by Gordon. Additional separate charges may apply to Off-Bid Items in connection with special orders.

8. **Buy American.** Gordon recognizes that Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) (commonly known as the "**Buy American Act**") requires, among other things, that school food authorities in the contiguous United States to purchase, to the maximum extent practicable, domestic commodities or products for use in meals served under the school meals programs. The classification of a Product as domestic or non-domestic product is done by the manufacturer of the Product and Gordon makes no representation or warranty as to the accuracy of any such classification by a

manufacturer. Gordon will make commercially reasonable efforts to identify non-domestic Products in the Bid Proposal and as requested from time to time by Customer in writing, based on available data and information provided to Gordon by the manufacturer. Notwithstanding anything to the contrary in the RFP, Contract or otherwise, Gordon makes no representation, warranty or covenant that the Products comply with the requirements of the Buy American Act or meet the definition of a domestic product under the Buy American Act.

9. **Product Formulation Statements.** Product Formulation Statements ("PFS") may be produced by a manufacturer and made available to Gordon. If requested by Customer in writing, Gordon will use commercially reasonable efforts to supply a PFS on one or more Products to the extent readily available to Gordon. Notwithstanding anything to the contrary in the RFP, Contract or otherwise, Gordon makes no representation, warranty or covenant as to the accuracy or completeness of a PFS.

10. **Balanced Ordering.** Customer agrees to equally spread its orders of shelf stable, frozen, disposable, and durable Products ("Core Products") for the entire school year over a period of twelve months from May through April (the "Ordering Period") to achieve, taking in consideration holidays and spring break, an equal volume of Core Products for each month during the Ordering Period ("**Balanced Ordering**").

11. **Additional Charges.** The prices offered in Gordon's Bid Proposal are subject to certain additional charges not included in Gordon's Bid Proposal and the prices of the Products may include one or more additional charges if the Product is: (a) ordered in less than whole case quantities (to the extent available); (b) cross-docked from a Gordon distribution center to the selling Gordon distribution center due to having weekly sales of less than 20 cases; or (c) ordered for expedited delivery and fulfilled by Gordon's affiliate, Gordon Food Service Store LLC.

12. **No Third-Party Beneficiaries; No Piggybacking.** These Terms do not and are not intended to confer any rights or remedies upon any person or entity other than Customer. Notwithstanding anything to the contrary in the RFP, Contract or otherwise, to the maximum extent permitted by applicable law, in no event will Gordon be obligated to extend the terms of the Contract to any third party (commonly referred to as piggybacking), including other school districts, administrative agencies, or other governmental instrumentalities.

13. **Minimum Delivery Amount.** Irrespective of the absence of any minimum order amount or any lesser minimum order amount specified in the RFP, Contract or otherwise, the minimum order amount to receive a delivery shall be \$750.00 per order.

14. **Diesel Fuel Surcharge.** Not included in the price of the Products is a surcharge for diesel fuel that may be applied if the average cost of diesel fuel exceeds \$4.000 per gallon. The surcharge will apply to each delivery and will apply notwithstanding anything to the contrary in the RFP, Contract or otherwise. The amount of the surcharge will be \$3.00 plus \$1.00 for each \$0.50 (or part of \$0.50) that the average cost of diesel fuel exceeds \$4.500 per gallon. The average cost of diesel fuel will be determined by the U.S. Average for Retail OnHighway Diesel Price per Gallon for the continental U.S. as published by the United States Energy Information Agency, or another similar index reasonably chosen by Gordon. The average will determine the surcharge for the entire month, effective on the first Monday of the month. The average will be calculated from the published weekly average over the previous month. Gordon's fiscal calendar will determine the monthly periods.

15. **Credit Cards and Purchasing Cards.** If a Customer pays Gordon by credit card or p-card, Gordon may, in Gordon's sole and absolute discretion, elect to assess a surcharge on such payments up to the maximum rate permitted by the applicable payment network rules and applicable law, notwithstanding anything to the contrary in the RFP, Contract or otherwise.

16. **Equal Employment Opportunity.** Subject to these Terms and in full replacement of any provisions in the RFP, any attachments to the RFP or certifications or documents related to the RFP that relate to equal employment opportunity or discrimination against employees, prospective employees or applicants for employment, Gordon makes only the following certification: *Gordon Food Service is committed to compliance with all applicable federal and state statutory requirements and obligations, including affirmative action regulations (e.g., 41 CFR 60-1, 60-2, 60-3, 60-4). Gordon Food Service maintains a policy of non-discrimination and will*

diligently monitor and adapt to evolving legal and regulatory landscapes, including Executive Orders, as soon as is reasonably feasible within our business, to ensure ongoing compliance.

17. **Policies and Procedures.** Gordon recognizes that Customer may have certain policies and procedures that are attached to the RFP, incorporated by reference in the RFP, or which Customer may otherwise request be acknowledged and accepted by Gordon in some other form or instrument (collectively, the “**Customer Policies**”). Gordon agrees to comply with such Customer Policies, but only to the extent that (a) Gordon has affirmatively agreed to comply with in writing, (b) the Customer Policies are limited to employee conduct or appearance while on Customer’s premises and have been adequately disclosed in writing to Gordon’s employees in advance; (c) the Customer Policies are consistent with the provisions contained in Section 8 of these Terms; (d) the Customer Policies are consistent with the terms and conditions contained in the Contract; (e) the Customer Policies are not contrary to and do not conflict with Gordon’s own policies and procedures; and (f) the Customer Policies do not require Gordon to incur any additional costs or expenses other than what is already contemplated in its Bid Proposal for the distribution of the Products. Gordon will not be bound by any amendments, updates, or changes to the Customer Policies, unless Gordon has separately agreed in writing to comply.

18. **Substitutions; Cost Coverage.** If Gordon is required to provide a substitute for the original Product, Gordon will make commercially reasonable efforts to find a replacement Product that has generally comparable specifications and has a similar price. Notwithstanding anything to the contrary in the RFP, Contract or otherwise, the price of a substitute Product may be higher or lower than the price of the original Product. Should Gordon not be able to provide the original Product or provide an acceptable substitute Product, Customer may purchase such Product from another source for the period of time that Gordon is unable to provide the Product or an acceptable substitute. Gordon shall not be responsible for any difference in price of any Product purchased from another source or any substitute Product, or be liable for any costs, expenses, or losses incurred by Customer as a result of Gordon’s breach of the Contract or its inability to supply one or more Products, notwithstanding anything to the contrary in the RFP, Contract or otherwise. Gordon makes no representation or warranty that the prices offered by Gordon are better than or more favorable than the prices offered by Gordon to any other customer. If Gordon offers a better price to another customer, Gordon shall have no obligation to match such price for Customer or issue a credit or refund to Customer, or otherwise adjust the price for Customer, if the price paid by Customer on any Product is not as favorable, notwithstanding anything to the contrary in the RFP, Contract or otherwise.

19. **Proprietary Inventory.** If Customer requests and Gordon agrees to bring into inventory any Product that is primarily purchased only by Customer at the servicing Gordon distribution center (each, a “**Proprietary Product**”), the entire inventory of such Product, as replenished from time to time by Gordon, must be purchased by Customer. In the event Customer ceases to purchase a Proprietary Product, Customer must purchase all remaining inventory of such Proprietary Product within 30 days of Gordon’s written notice to Customer. If the inventory is not purchased within 30 days, Gordon may dispose of the inventory in any reasonable manner and Customer agrees to pay Gordon the applicable bid price for each case of Proprietary Product comprising the inventory plus Gordon’s costs and expenses to dispose of the inventory.

20. **Taxes.** With the exception of any tax applied against Gordon’s income, Customer shall be solely liable and shall indemnify Gordon for any tax, levy or other governmental obligation due or arising related to the sale of Products by Gordon to Customer or otherwise arising pursuant to the Contract.

21. **Renewals.** Any renewal or extension of the Contract term must be mutually agreed to by Gordon and Customer in a written instrument signed by both parties, notwithstanding anything to the contrary in the RFP, Contract or otherwise.

22. **Termination.** Gordon reserves the right to terminate the Contract for any or no reason by providing Customer ninety (90) days’ written notice.

23. **Confidentiality.** Gordon shall have no confidentiality obligation to Customer for any information or documentation Gordon may obtain in the performance of its obligations under the Contract.

24. **Setoff**. Customer shall have no right of setoff against any sums due to Gordon under the Contract or otherwise.

25. **No Assignment**. Customer shall not assign its rights under the Contract without Gordon's prior written consent.

MFSS ORDERING AND DELIVERY REQUIREMENTS

In response to the FD-40 Policy, FD-40 USDA Draw Down in USDA Foods Processing, dated July 16, 2021, this memo clarifies the Gordon Food Service ordering and delivery process for Modified Fee-for-Service ("MFSS") products.

The following shall apply to each MFSS product:

- o Item Code, usage in cases and actual delivery date requested for each RA's customer delivery site. See template below to provide to the Education Specialist at least two months in advance of delivery date.
- o Any remaining inventory at the Gordon Food Service Warehouse on 5/15 of each year will be shipped and invoiced to the customer and customer agrees to pay for such products.
- o Gordon Food Service will not store the MFSS product over the summer break, unless otherwise agreed upon in writing. Even if special arrangements are made, all MFSS product must be delivered by June 30th of the current school year.

Example

Enter more than one line for each delivery Date						
Customer Unit #	GFS #	Item Description	Vendor	DC	Case	Delivery Date
112568854	498702	4-5# PORK PULLED BBQ LO SOD	Brookwood	Kenosha	20	9/15/2022