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CCC-509 Appendix  
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U.S. DEPARTMENT OF AGRICULTURE  
Commodity Credit Corporation

2013

**APPENDIX TO FORM CCC-509, DIRECT AND COUNTER-CYCLICAL PROGRAM (DCP) CONTRACT  
or AVERAGE CROP REVENUE ELECTION (ACRE) PROGRAM CONTRACT**

**NOTE:** *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1412, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) as amended by the American Taxpayer Relief Act of 2012 (Pub. L. 112-240). The information will be used to document additional terms and conditions between the producer and Commodity Credit Corporation concerning the Direct and Counter-Cyclical Program (DCP) or Average Crop Revenue Election (ACRE) program contract. The information collected on the form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability on the part of Commodity Credit Corporation to consider and approve the Direct and Counter-Cyclical Program (DCP) or Average Crop Revenue Election (ACRE) program contract.*

*This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, Title I, Subtitle F – Administration) as amended by American Taxpayer Relief Act of 2012 (Pub. L. 112-240, Title VII, Extension of Agricultural Programs.)*

*The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.*  
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**1 PURPOSE AND CHANGES IN LAW**

This Appendix sets forth additional terms and conditions of the Direct and Counter-Cyclical Program (DCP) Contract or Average Crop Revenue Election (ACRE) Program Contract (CCC-509). A farm enrolled in ACRE may only generate payments under ACRE and not under a DCP contract. A producer who signs the Direct and Counter-Cyclical Program Contract and Average Crop Revenue Election Contract agrees to follow the terms and conditions contained in this CCC-509 Appendix, and acknowledges the applicability of any provisions of the federal regulations applicable to the contract including those found at 7 CFR Parts 12, 718, 1400, and 1412. It is also understood and agreed by the participants that benefits under this contract and the programs which are addressed in this contract and Appendix are subject to changes in law and to changes in applicable regulations.

It is understood and agreed that producers on a farm may not, with respect to that farm, participate in both DCP and ACRE in the same crop year and that once producers on a farm elect ACRE in the 2013 crop year neither those producers nor any other producer may, with respect to that farm, participate in the DCP. A DCP contract is a contract that allows for the payment of direct and countercyclical payments. An ACRE contract allows for the issuance of direct payments (but at a reduced rate) and ACRE-specific payments. A farm that generates payments under an ACRE contract cannot thereafter generate payments under a DCP contract.

The final signup date for the 2013 DCP program is August 2, 2013. The final date to sign up for 2013 ACRE is June 3, 2013.

**2 DEFINITIONS**

**A ACRE** means Average Crop Revenue Election program addressed in this Appendix.

**B ACRE Guarantee Price** means the simple average, as determined by CCC, of the national average market prices of the covered commodity or peanuts for the most recent 2 crop years proceeding the relevant current crop year. The ACRE guarantee price of a covered commodity or peanuts is equal to the simple average of the national average market prices of the covered commodity or peanuts for the 2011 and 2012 crops.

- C ACRE Price** means the higher of the following, as determined by CCC, for the covered commodity or peanuts:
- the national average price received by producers during the 12-month marketing year (as defined in 7 C.F.R. Part 1412 or succeeding regulations) for the current crop of the covered commodity or peanuts (the current crop for a program year is the corresponding crop for commodity for that year – the crop for the 2013 program is the 2013 crop), or
  - 70 percent of the marketing assistance loan rate for the current crop of the commodity under Sections 1202 or 1307 of Pub. L. 110-246.
- D Actual Farm Production** means all of a farm’s harvested and appraised production, including grazed acres, of a covered commodity or peanuts. Appraisals shall be performed by appraisers acceptable to FSA. Appraisals performed according to the Non-Insured Crop Disaster Assistance Program (NAP) or crop insurance guidelines are generally deemed acceptable to FSA for DCP and ACRE purposes.
- E Actual Farm Revenue** means per acre amount computed by multiplying the actual per acre farm yield of a covered commodity or peanuts times the ACRE price for the current crop year. The current crop year for these and other purposes is the crop year that corresponds to the calendar year in which the program year ends.
- F Actual Farm Yield** means for the current crop year, the per acre amount determined by dividing the actual farm production of a covered commodity or peanuts by the farm’s total planted and considered planted acres of the covered commodity or peanuts.
- G Actual State Yield** means the State’s per acre amount for the current crop year for a commodity determined by dividing the actual production in the State of the covered commodity or peanuts by the total planted acres of the covered commodity or peanuts in the State.
- H Actual State Revenue** means the per acre amount for a covered commodity or peanuts determined for the current crop year by multiplying the actual state yield by the covered commodity or peanuts times the ACRE Price.
- I Base Acres** means the number of acres for the covered commodity or peanuts on the farm specified on the contract (CCC-509). Base acres may be increased if a Conservation Reserve Program contract applicable to the farm expires or is voluntarily terminated. The adjustment in the base acres of a crop, if any, will be determined by the CCC. The producer’s total base acres on the farm for all covered commodities and peanuts can never exceed the amount equal to the currently available cropland, adjusted for eligible double-cropping acreage on the farm, minus that amount of that cropland which is enrolled in the following:
- in the Department’s Conservation Reserve Program;
  - in the Department’s Wetland Reserve Program; or
  - in a federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.
- J Benchmark Farm Yield** means, except as otherwise provided, a per acre yield for a covered commodity or peanuts computed using the Olympic average of the average yield per planted acre for the farm for the commodity for the 5 most recent crop years. The term “Olympic Average” means that the highest and lowest per acre yields for the 5 years will be eliminated and the remaining annual entries will be averaged. CCC may make adjustments needed to create, in CCC’s opinion, a fair yield for the farm so as to ensure the integrity of the ACRE program. For purposes of determining a benchmark farm yield, yields on planted acres only will be considered except to the extent that the farm does not have a sufficient history to make a fair yield determination in which case a yield may be assigned by CCC.
- K Benchmark State Yield** means for a covered commodity or peanuts a per acre yield based, to the extent practicable, on data from the National Agricultural Statistical Service equal to the Olympic average (see above) of the average yield per planted acre for the State for the 5 most recent crop years. The benchmark State yield is used in determining the State ACRE guarantee. CCC may make such adjustments in these yields as it deems necessary to provide for a fair yield and ensure the integrity of the program.
- L Contract Period** means the compliance period particular program year. The compliance period for the 2013 Contract period begins on October 1, 2012 and carries through September 30, 2013.

- M Covered Commodity** means wheat; corn; grain sorghum; barley; oats; upland cotton; long grain rice; medium grain rice; dry peas; lentils; small chickpeas (Desi Garbanzo beans); large chickpeas (Kabuli Garbanzo beans); sesame; soybeans; canola; cramble; flax; mustard; rapeseed; safflower; sunflowers; or other oilseeds, if any, as designated by the Secretary of Agriculture.
- N Crop Year** means the calendar year in which the crop is normally harvested or in which the majority of the crop, nationwide, would have been harvested. DCP and ACRE payments are made by program year based on certain crop-year specific rates. Those rates for a particular commodity for a particular program year will be for the corresponding crop year.
- O Deputy Administrator** means the person who holds the position of Deputy Administrator for Farm Programs (DAFP) for the Farm Service Agency, or the successor position if that position is abolished.
- P DCP** means the Direct and Counter-Cyclical program addressed in this Appendix.
- Q Dry Peas** means Austrian, wrinkled seed, yellow, Umatilla, and green peas, excluding peas grown for the fresh, canning, frozen or similar markets.
- R Farm ACRE Guarantee** means for a crop year of a covered commodity or peanuts the per acre producer-paid crop insurance premium (if any) added to the result of multiplying the benchmark farm yield, times the ACRE guarantee price. The farm ACRE guarantee is used in determining whether a farm is eligible for ACRE payments for a covered commodity or peanuts.
- S Limited Resource Farmer** means, as determined in accordance with subparagraph 3Q of this Appendix, a farmer or rancher who meets both of the following criteria:
- (a) the person did not have, counting both direct and indirect interests, total gross farm sales for all farms in which that person has an interest of not more than the triggering level, as defined below, in both of the two calendar years that precede the calendar year in which the contract year begins. The triggering level is an indexed number that was originally for other programs, \$100,000. Beginning in October 2004, that number has been adjusted for inflation using the Prices Paid by the Farmer Index compiled by the National Agricultural Statistical Service. The triggering level for this contract shall be the indexed number as adjusted for the fiscal year that begins on the first day of the contract period, and
- (b) the person's total household income is at or below the national poverty level for a family of 4 or less than 50 percent of county median household income in each of the two most recent calendar years ending before the end of the program year, as CCC determines using U.S. Commerce Department Data.
- For purposes of making these determinations, interested persons are encouraged to use the USDA Limited Resource Farmer and Rancher Only Self Determination Tool at <http://www.lrftool.sc.egov.usda.gov/tool.asp>
- T Medium Grain Rice** includes short grain rice.
- U Minimum and Maximum Guarantee** means with respect to the State Acre Guarantee, the adjusted amounts which assures that the 2013 State ACRE Guarantee for a program year for a covered commodity or peanuts shall not decrease or increase more than 10 percent from the 2012 State ACRE Guarantee.
- V National Loan Rate** means the loan rate established according to Sections 1202 (a), (b), and (c) and Section 1307 (b) of Pub. L. 110-246.
- W Per Acre Producer-Paid Crop Insurance Premium** means the insurance premiums paid by all producers of a farm for insurance on a covered commodity or peanuts, provided that at least some of the insured crop acreage is subject to a CCC-509, divided by the total acres of the covered commodity or peanuts subject to the insurance coverage; regardless of whether or not all of the acres insured are included on the farm's FSA-578, Report of Acreage, or subject to a CCC-509.
- Example:** Producers A, B, and C have an interest in barley on a farm and the farm is enrolled in ACRE. Producers A and B paid crop insurance premiums totaling \$800 on 100 insured barley acres.

Regardless how many acres of barley are planted, the per acre producer-paid crop insurance premium for barley is equal to \$8.

**X Planted acres for a State** means for:

- corn, sorghum, barley, oats, and wheat, the sum of harvested acres in a State, as reported by the National Agricultural Statistics Service (NASS) and the sum of failed acres in a State, as reported to RMA.
- all other crops, the sum of planted acres in a State, as reported by NASS
- if NASS data is not available, other sources shall be used as determined appropriate by CCC.

**Y Planted and considered planted (P&CP)** means, with respect to an acreage amount, the sum of the planted and prevented planted acres approved by the FSA county committee on the farm for a crop.

**Z Producer** means an owner, operator, landlord, tenant, or sharecropper who *shares in the risk of producing a crop* and is *entitled to share in the crop available for marketing* from the farm, or would have shared had the crop been produced. In determining whether a grower using hybrid seed, under contract, to produce a covered commodity or peanuts is eligible for a program payment to which the contract applies, the CCC shall ignore the contract with the seed producer and allow the payment to the grower of the hybrid seed. The preceding sentence shall only apply, however, if the grower of the hybrid seed would, but for the contract, be eligible to be considered a producer of the crop.

**AA Pulse Crops** means dry peas, lentils, small chickpeas (Desi Garbanzo beans), and large chickpeas (Kabuli Garbanzo beans).

**AB Socially Disadvantaged Farmer or Rancher** means, as determined in accordance with subparagraph 3Q of this Appendix, a member of a group that, as declared and approved by the Deputy Administrator, is considered for these purposes to be a group whose members have been subject generally to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. The groups have been identified to include: (1) American Indians and Alaskan Natives; (2) Asian-Americans; (3) Black or African-Americans; (4) Hispanic-Americans; (5) Women. Other groups will not be included as a group to which this definition applies unless so declared by the Deputy Administrator. Persons submitting the contract should not check the box for socially disadvantaged farmer or rancher unless they certify that they are members of one of the five specific groups named above.

**AC State Acre Guarantee** means the per acre amount which is 90 percent times the benchmark State yield times the ACRE guarantee price, subject to the minimum and maximum guarantee specified above.

**AD All words and phrases** have the meanings assigned to them in the regulations found at 7 CFR Parts 718, 1400, and 1412 except to the extent that such definitions would be inconsistent with the specific provisions of this Appendix or of the contract.

### 3 CONTRACT

By signing CCC-509 the owners and producers on a farm understand and agree that:

**A** Only a “producer”, as defined in part 2 of this Appendix, is entitled to earn direct and counter-cyclical or direct and ACRE payments. For a farm participating in DCP, the direct and counter-cyclical payment shares for each commodity for each producer, as identified on CCC-509, must be representative of each producer’s interest in base acres based on farming practices in the area to the satisfaction of the FSA County Committee. For a farm participating in ACRE, the direct payment shares for each commodity, as identified on CCC-509, must be representative of each producer’s interest in base acres based on farming practices in the area to the satisfaction of the FSA County Committee. The ACRE payment shares for a producer identified on the CCC-509, must be representative of the producer’s interest in planted acres of the covered commodities or peanuts planted on the farm;

**B** A farm is limited in the number of ACRE payment acres to 85 percent of the planted and considered planted acres on the farm, not to exceed the total number of base acres of covered commodities and peanuts;

- C** The direct and counter-cyclical payment shares for a producer may not exceed the producer's applicable interest in base acres;
- D** Producers have through the final signup date to timely file the CCC-509 for that program year. That date is June 3, 2013 for ACRE and August 2, 2013 for DCP. Under no circumstances will enrollment be permitted after June 3, 2013 for ACRE and August 2, 2013 for DCP. Requests for enrollment received after the end of the contract period will not be acted on or processed by CCC. CCC cannot contract after the end of the contract period. Contracts will not be approved unless all producers sharing in base acres with more than a zero share have submitted all applicable contracts and documentation necessary to make such approval, as determined by the Deputy Administrator. For those producers with an interest in the farm but a zero share of the contract payments, the contract will not be approved unless all producers on the farm have signed the contract or furnished supportive and necessary contractual documents (such as cash leases in lieu of signing for a zero share). A producer on the farm with a zero share of direct payment acres who wishes to be eligible to receive an ACRE payment must be a signatory on the CCC-509 with a zero share. For a farm to be enrolled in ACRE, a properly executed CCC-509 must be on file according to this section. A contract not having all requisite signatures of producers having more than a zero share of contract acreage on or before the final sign-up date for the program year, will not be considered submitted to CCC for any purpose and will not be acted on or approved. Unless completed on time, those contracts submitted by a producer on or before the final signup date that were not signed by other producers according to this section will be deemed withdrawn and will not be approved. Producers on a farm are solely responsible for ensuring that enrollment occurs properly;
- E** A CCC-509 becomes effective when signed by an authorized representative of CCC; however, the contract period is from October 1, 2012 through September 30, 2013 irrespective of when the contract is signed by the CCC representative or the person applying for benefits. Producers signing CCC-509 are representing compliance with the terms and conditions of the CCC-509 Appendix and federal regulations for the entire contract period;
- F** At any time through September 30, 2013, the contract may be terminated upon written agreement of all producers receiving payment under the contract;
- G** Payments will be terminated for a producer or owner whose interest in the crops or land on the farm is transferred during the contract period, in which case each applicable producer will repay payments received for the contract year and will not be entitled to earn direct, counter-cyclical or ACRE payments with respect to the farm for that contract period. The transferee may assume the obligation of the contract if the transferee is otherwise eligible to participate in the program by entering into a revised contract during the period of time prescribed by CCC. In the event a succession-in-interest occurs and the contract obligation is not assumed timely for the contract year, all producers on the contract must refund to CCC payments received for the contract year in which the succession occurred, plus interest, and the farm will not be considered enrolled;
- H** Changes in the farming operation that may affect any program determination after the Direct and Counter-Cyclical Program Contract and Average Crop Revenue Election Program Contract (CCC-509) is signed, including, but not limited to, ownership changes, producer changes, changes in the crop share arrangements on the farm, enrollment in the Planting Transferability Pilot Project, or as a result of adding pulse crop bases to the farm, must be reported to CCC by all applicable producers signing a revised CCC-509 to reflect the change no later than September 30, 2013. The failure of producers to timely report changes and file a revised CCC-509 may result in the loss of payments for all producers on the farm for the crop year covered by the contract. In such event, all producers on the contract must refund to CCC payments received for the crop year, plus interest, and the farm will be considered not enrolled in DCP or ACRE;
- I** A completed farm reconstitution which divides or combines farms will result in the termination of the initial contract and, with respect to the base acreage assigned by the Secretary to the resulting farms of a reconstitution, the farm producers must, enroll the base acres by signing a new Direct and Counter-Cyclical Program Contract and Average Crop Revenue Election Program Contract (CCC-509) for the resulting farm by the later of the final signup date, or 30 days after notification of the bases and yields of the resulting farm. A contract not having all requisite signatures of producers on or before the final signup date, or 30 days after notification of the bases and yields of the resulting farm, will not be considered submitted to CCC for any purpose and will not be acted on or approved. Those contracts not enrolled by a producer on or before the final signup date, or 30 days after notification of the bases and yields of the resulting farm will be deemed withdrawn and will not be approved. Producers on a farm are solely responsible for ensuring that enrollment occurs. In addition, after the

final signup date, neither the combination of a farm enrolled in DCP with any farm not enrolled in DCP nor the combination of a farm with an ACRE election with any farm not having an ACRE election is allowed. The failure of producers and owners to timely enroll the base acres may result in the loss of payments for all producers on the original or new farm for the crop year. The provisions of this paragraph that allow for a new contract after the normal signup date in the case of a reconstitution only apply to contracts for the program year in which the reconstitution was requested.

- J** Producers will timely file in the manner prescribed by CCC with the FSA County Committee the following, if required, and agree to meet any other certification or filing requirements, as may be required by CCC, if not already on file:
- (1) A certification of the acreage of all cropland on the farm in accordance with 7 CFR Part 718; and
  - (2) A farm operating plan in accordance with 7 CFR Part 1400; and
  - (3) A certification of compliance with the highly erodible land and wetland conservation provisions set forth in 7 CFR Part 12; and
  - (4) A certification of compliance with the average adjusted gross income provisions in accordance with 7 CFR Part 1400 (together with any waivers as may be deemed needed by CCC to verify income with the Internal Revenue Service or to otherwise facilitate the administration of the DCP and ACRE programs); and
  - (5) A report of production on the farm according to 7 CFR §1412.76.
- K** Violations of the highly erodible land and wetland conservation provisions of 7 CFR Part 12 may result, at CCC's discretion, in termination of the payments with respect to each producer in violation (or considered in violation) or a reduction in the contract payment. Upon termination, each producer shall forfeit all rights to receive contract payments on each farm in which the producer has an interest and shall refund to CCC all contract payments received by such producer during the period of violation, plus interest. A producer considered in violation of those provisions may also lose other benefits.
- L** The payment limitation provisions of 7 CFR Part 1400 relating to payment limits and payment eligibility requirements are applicable to this contract and Appendix as indicated by relevant regulations. Except as specified below, the payment limitation per person or legal entity for direct payments received directly or indirectly for any crop year is \$40,000 for all covered commodities for all farms together under all contracts and separately, \$40,000 for peanuts. The general limit per person or legal entity per crop year under all contracts for that person or legal entity, for counter-cyclical payments received directly or indirectly, is \$65,000 for all covered commodities and separately, \$65,000 for peanuts. These limits are modified for persons or legal entities that elect to participate in ACRE on any farm. Producers on farms enrolled in ACRE are ineligible for counter-cyclical payments on that farm; direct payments for that farm are reduced by 20 percent. In addition, the loan rate on ACRE farms for marketing loans will be reduced to 70 percent of the rate that would otherwise apply. For all persons or legal entities, the limits are for all covered commodities together per contract year for ACRE payments and counter-cyclical payments shall be, summed together and on all farms for all "covered commodities" combined and for peanuts (which is not a "covered commodity") separately, equal to \$65,000 plus the amount by which direct payments for those commodities, as applicable, were reduced for that person or legal entity under the ACRE contract or contracts. It is understood that a producer may be subject to an ACRE contract on some farms but not others, and that overall limits apply as indicated above. Under no circumstances can the total amount received per person or legal entity per contract year on all farms for covered commodities together, or peanuts separately, exceed \$105,000 for all direct, counter-cyclical, and ACRE payments. All determinations shall be made using the procedures and rules of part 1400. Further, for entities, an otherwise due payment will be reduced commensurately to the extent that any person with an interest in the entity, as determined under the payment limitation regulations in part 1400, would otherwise have a direct or indirect interest in program payments greater than the foregoing limits. Also, as permitted by 7 CFR Part 1403 payments to an entity can be setoff commensurately to the extent that persons with a direct or indirect ownership interest have a past due or collectable obligation to the United States or one of its agencies. Each producer determined by CCC to have adopted a scheme or device designed to evade, or which has the effect of evading such regulations, must refund any contract payment, marketing loan gain, or loan deficiency payment and any other applicable payment received on all farms in which such producer has an interest and shall be ineligible for such payments

for the following contract year. Further, no payment may be allowed which is prohibited by any applicable regulation or statute;

- M** The regulations at 7 CFR Parts 12, 718, 1400, and 1412 are incorporated by reference as part of this contract;
- N** Representatives of CCC may enter the farm to determine if the producers are in compliance with this contract;
- O** The base acres on the farm to which this contract applies must be devoted to an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use. Base acres that are devoted to an agricultural or conserving use through noncultivation of any portion require effective control of noxious weeds and other maintenance measures through sound agricultural practices.
- P** Payments are subject to the availability of funds, compliance with all applicable laws and statutory changes and to limits on payments as may be provided for in the program regulations. It is specifically understood that any payments under this Appendix and the programs to which it applies are subject to statutory and regulatory changes including those that occur after the signing of the contract. Payments under the DCP and ACRE programs may be reduced by a certain percentage due to a sequester order required by Congress and issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. Should a payment reduction be required, FSA will provide notice about the required percent of payment reduction that applies to direct, counter-cyclical and ACRE payments.
- Q** Generally, a farm that has a total of 10 base acres or less is not eligible to receive payments on that farm, as determined by the Secretary. However, such a prohibition does not apply to a farm where at least 50 percent of the ownership interest is held by socially disadvantaged or limited resource farmers or ranchers, as determined by CCC. If the farm is owned by an entity, such as a corporation, at least 50 percent of the interest in that entity must be held by socially disadvantaged or limited resource farmers or ranchers for the entity to be considered qualified as a socially disadvantaged or limited resource farmer or rancher. Socially disadvantaged farmers and rancher and limited resource farmers and ranchers shall otherwise have the meaning assigned in part 2 of this Appendix;
- R** Calculations provided for in this Appendix shall be made by farm, as provided for in the program contract (Form CCC-509) and each farm from which a producer or producer seeks payments must have a separate CCC-509 on file. There shall only be one CCC-509 from any farm for 2013 – that is, all producers on the farm must for 2013, file a single, new CCC-509;
- S** If there is a discrepancy between terms of the CCC-509, the CCC-509 Appendix, or any current or subsequent statutory or regulatory provisions then the statutory or regulatory language shall apply.
- T** Producers are not required to purchase crop insurance or participate in the Non-insured Crop Disaster Assistance Program (NAP) in order to participate in DCP or ACRE.

#### **4 PLANTING FLEXIBILITY PROVISION**

- A** Producers may plant that part of their cropland that represents land in excess of the total base acres on the farm to any commodity. For that part of the cropland equal to the eligible base acres, the producer shall be subject to the restrictions set out below.
- B** The planting of fruits (including nuts), vegetables (other than mung beans and pulse crops) or wild rice on base acres on the farm is prohibited and shall result in a violation of the terms of this contract unless one of the following exceptions are met:
  - (1) The fruit (including nuts), vegetable or wild rice is planted in a double-cropping practice with a covered commodity or peanuts, as determined by the FSA County Committee, in any region designated by CCC in the regulations at 7 CFR Part 1412 as having a history of double-cropping covered commodities or peanuts with fruits, vegetables or wild rice, in which case there is no contract violation or reduction in, as applicable direct, counter-cyclical or ACRE payments;

- (2) The fruit (including nuts), vegetable or wild rice is planted on a farm that has an established history of planting fruits, vegetables or wild rice, as determined by the FSA County Committee, in which case there is no contract violation; however, direct, counter-cyclical or ACRE payment acres shall be reduced by an acre for each acre of base acres planted to a fruit (including nuts), vegetable (other than mung beans and pulse crops) or wild rice; or
- (3) The producer(s) with an interest in the specific fruit (including nuts), vegetable or wild rice planted has an established history of planting the specific fruit, vegetable or wild rice, and the plantings on base acres do not exceed the producer's average annual planting history for the specific fruit, vegetable or wild rice for either the 1991 through 1995 crop years or the 1998 through 2001 crop years, but not both, as selected by the producer, in which case there is no contract violation; however, direct, counter-cyclical, or ACRE payment acres shall be reduced by an acre for each acre of base acreage planted to a fruit (including nuts), vegetable (other than mung beans and pulse crops) or wild rice. When calculating a producer's average annual planting history, all years in which the producer did not plant the specific fruit, vegetable or wild rice, as applicable, shall be excluded.

**C** Failure to comply with the fruit, vegetable and wild rice provisions of this section may result in the termination of the contract or a reduction in the direct, counter-cyclical, or ACRE payments, at CCC's discretion.

## **5 DIRECT PAYMENTS**

- A** Subject to limits otherwise provided for (including, but not limited to the limits for ACRE farms), the direct payment for each covered commodity or peanuts will be computed by multiplying: (1) 85 percent of the covered commodity's or peanut's base acres (the result of which is indicated by the payment acres in Item 9 of CCC-509), by (2) the covered commodity's or peanut's program payment yield (identified in Item 10A of CCC-509), by (3) the payment rate for the covered commodity or peanuts as provided for in this Appendix, by (4) the producer's share of the covered commodity or peanuts (identified in Item 13 of CCC-509).
- B** Advance direct payments are not available. A final payment for the crop year will be made to producers as soon as practicable after October 1, 2013.
- C** A producer must refund to CCC any payment which exceeds the amount actually earned under this contract, including the refund of unearned payments for a crop year resulting from another owner or producer assuming an interest in the base acres for the crop year. Interest on such refunds shall be assessed in accordance with 7 CFR Part 1403 and will accrue from the date of disbursement. In the event a succession-in-interest is timely reported on a revised CCC-509, interest on refunds from predecessors is not charged if such refund is made by September 30 of the contract period.
- D** For any person or entity with an ACRE contract on a farm, the direct payment otherwise allowed by this section for that farm shall be reduced by 20 percent.

## **6 COUNTER-CYCLICAL PAYMENTS**

- A** Counter-cyclical payments are authorized for a covered commodity or peanuts when the effective price for the commodity is less than the target price of the commodity. The effective price for a covered commodity or peanuts is equal to the sum of: (1) the higher of the national average market price received by producers identified in item 11 of this Appendix during the applicable 12-month marketing year for the covered commodity or peanuts, as determined by CCC under its regulations, or the national average loan rate for the commodity, subject to statutory changes, as found in the regulations at 7 CFR Parts 1421 and 1425, or other regulations, as applicable and (2) the direct payment rate for the covered commodity or peanuts, as provided at 7 CFR Part 1412 or other regulations, as applicable. The "marketing year" shall be the period identified in 7 CFR Part 1412 as the "marketing year" for the relevant commodity.
- B** The counter-cyclical payment, if any, for each covered commodity or peanuts will be computed by multiplying: (1) 85 percent of the covered commodity or peanut's base acres (the results of which is indicated by the payment acres identified in Item 10 of CCC-509), by (2) the program payment yield (identified in Item 11B of Form CCC-509), by (3) the payment rate for the covered commodity or peanuts (identified in Item 11 of this Appendix), by (4) the producer's share of the covered commodity or peanuts (identified in Item 14 of CCC-509).

- C** The counter-cyclical payment rate for a commodity, is determined by subtracting the effective price for the commodity from the target price of the commodity (target prices are established by statute and are listed later in this document). The direct payment rates, national loan rates, and maximum counter-cyclical payment rates are identified in Item 11 of this Appendix. Payments for eligible oilseeds, if any, shall be as determined by the CCC.
- D** Partial counter-cyclical payments are not available.
- E** The counter-cyclical payment for the crop year, if applicable, will be made to producers beginning October 1, or as soon as practical, after the end of the 12-month marketing year for the applicable commodity.
- F** Notwithstanding any other provision of this section, for any person or legal entity with an ACRE contract for a particular farm, there shall be no counter-cyclical payment made or due for that farm. That is, for such person or legal entity, the counter-cyclical payment for that farm shall be zero.

## 7 AVERAGE CROP REVENUE ELECTION PAYMENTS

- A** For a farm to be enrolled in ACRE, a properly executed CCC-509 must be on file according to paragraph 3. No later than June 3, 2013, **any producer** on the farm may revoke the ACRE election by providing written notification to the FSA County Committee. Once that farm is considered to have been finally enrolled in ACRE, that farm may only generate payments under ACRE and receive reduced direct payments irrespective of whether the ownership of the farm changed and irrespective of whether the producers on the farm have changed.
- B** As set forth in subparagraph A, except for the limitation in subparagraph A, an ACRE election for a farm is permanent and irrevocable for 2013. When a parent farm with a valid ACRE election is reconstituted, each resulting farm is considered subject to the parent farm's ACRE election and cannot generate DCP (as opposed to ACRE) payments. That is, the resulting farms are ineligible for DCP and may not be combined further with any farm that is not subject to an ACRE election.
- C** A farm for which an ACRE election is made **cannot** be enrolled in DCP. If a producer with respect to a particular farm that has not previously been enrolled in ACRE enrolls in DCP in a contract year then subsequently chooses to elect and enroll that farm in ACRE in the same contract year, the DCP contract must be withdrawn on or before June 3, 2013. The enrollment in ACRE must occur on or before June 3, 2013 for that farm to be considered to be enrolled in ACRE. It is the producer's responsibility, not Farm Service Agency's, to ensure that decisions on DCP enrollment or ACRE enrollment are made timely. Once a farm has been enrolled in ACRE then the farm may only generate payments in ACRE and receive reduced direct payments.
- D** Advance ACRE payments are not authorized. ACRE payments will be made beginning October 1, 2014, or as soon as possible thereafter, after the end of the applicable marketing year.
- E** **For a commodity** to generate an ACRE payment, two thresholds must be met for that program year for the relevant commodity:
  - the State ACRE Guarantee must exceed the Actual State Revenue; and
  - the Farm ACRE Guarantee must exceed the Actual Farm Revenue.
- F** The ACRE payments are made on a farm basis and may be made only if both thresholds of subparagraph E are met and if those thresholds are met, then the payment for each covered commodity or peanuts will be computed by multiplying:
  - 85 percent of the number of the farm's acres planted to the commodity and/or considered, by CCC, to have been planted to the commodity, but not to exceed the maximum number of payment acres provided for in K, by,
  - the benchmark farm yield divided by the benchmark state yield for that commodity by:
  - the lesser of:
    - the state ACRE guarantee minus actual state revenue for that commodity, or
    - the state ACRE guarantee times 25 percent for that commodity.

- G** Separate State ACRE Guarantees may be established by CCC for irrigated and non-irrigated production of a commodity if a state has at least 25 percent of the acreage planted to a covered commodity or peanuts as irrigated acres and at least 25 percent of the acreage planted to a covered commodity or peanuts as non-irrigated acres.
- H** Production reports for planted acres or appraisals must be submitted no later than July 15, 2014 for the covered commodity or peanuts. If a producer does not submit production evidence by the reporting deadline, the farm will not be eligible for ACRE payments and CCC may assign a zero yield. Producers are responsible for establishing to the satisfaction of CCC that acres should be considered planted to a commodity and CCC may in any circumstance considered an acre not to be planted or considered planted to a particular commodity if CCC deems it necessary for program integrity including those instances in which the crop may have been planted but in which there was not a reasonable likelihood of harvest.
- I** For any person or entity on a farm in ACRE with respect to a particular year:
- the direct payments for that farm otherwise allowed shall be reduced by 20 percent, and
  - no counter-cyclical payment shall be made or be considered due for that farm. That is, for such person or legal entity, the counter-cyclical payment for that farm shall be zero.
  - In addition, the market assistance loan rates for commodities produced on the farm shall be reduced by 30 percent such that those rates shall be 70 percent of the rates that would apply if the farm were not in ACRE.
- J** The maximum ACRE payment acres on a farm are equal to 85 percent of the planted or considered planted (P&CP) acres, not to exceed the total number of base acres on the farm. Producers with more than a zero share of covered commodities or peanuts planted on the farm must notify CCC which acres and crops may be eligible for ACRE payments when total planted acres on the farm are more than 118 percent of the total base acres on the farm by September 30, 2013. If those producers can not or do not decide on the covered commodity or peanuts and the number of acres of each, then the payment acres will be prorated based on the percentage of P&CP acres.
- K** To establish the farm benchmark yield, participants must provide five year's production history. The farm benchmark yield shall use a 5-year Olympic average. There may be situations when the producer did not plant the covered commodity or peanuts or is not able to provide production evidence to establish the farm benchmark yield. In order to establish the farm benchmark yield in these types of situations, the farm benchmark yield shall be calculated using 95 percent of the actual county yield as determined appropriate by CCC, but CCC may make any adjustments as it deems necessary to ensure program integrity.
- L** Covered commodities or peanuts must meet the definition of the crop, as defined by DAFP. In general, covered commodities or peanuts must be intended to be mechanically harvested or grazed.
- M** Only initial planted acreage of covered commodities and peanuts, except for CCC-approved double-cropping, is eligible for ACRE payments. "Subsequent" crops, defined as crops planted on acreage that is prevented from being planted or on failed acreage are not eligible to generate ACRE payments, unless the subsequent crop meets CCC approved double-cropping requirements.

## **8 OTHER PAYMENT PROVISIONS**

- A** A producer who declines to receive direct, counter-cyclical, or ACRE payments by indicating such on CCC-509 may subsequently decide to receive payments, provided that the producer signs a revised CCC-509 or otherwise notifies the FSA County Committee in writing by September 30, 2013. This authority is simply directed at a wholesale declination of payments and is unrelated to the irrevocable nature of an election to place a farm in ACRE. The ACRE election for a farm as specified elsewhere in this appendix can only be revoked by June 3, 2013.
- B** Payments will not be earned by any producer on a contract, unless payment shares are properly designated and all producers sign the contract in accordance with the regulations at 7 CFR Part 1412. In cases where a payment share dispute exists, direct, counter-cyclical, or ACRE payments will not be earned by producers involved in the dispute on the farm unless the payment share in dispute is resolved by agreement of the parties and documented in

writing to the satisfaction of the FSA County Committee by September 30, 2013, and the agreed upon payment shares are compliant with program regulations and provisions.

- C** Any payment or portion thereof due any producer will be made by CCC without regard to any question of title under state law, and without regard to any claim or lien against the crop, or proceeds there from, which may be asserted by a creditor, except agencies of the U.S. Government. Offsets for debts owed to agencies of the U.S. Government shall be made prior to making any payments to producers or their assignees.
- D** Payments can be denied to any signatory who CCC determines has violated State law provisions that affect a tenant's right to lease agricultural land, or any person (including a subsequent tenant) who would profit by such a violation.
- E** Interest on any refund due CCC shall accrue beginning on the date of disbursement by CCC.
- F** All payments are subject to the availability of funds and to other limits in this Appendix or elsewhere that may apply and all payments are subject to changes in statutory and regulatory provisions (including any and all new statutory or regulatory provisions) irrespective of whether those amendments and provisions or changes occurred after the signing of this contract.
- G** In addition, no person or legal entity may receive a payment under this contract if their average adjusted gross nonfarm income for the relevant base period, as determined under the adjusted gross income (AGI) regulations in 7 CFR Part 1400 is more than \$500,000 as determined under those regulations. Also, no person or legal entity can receive direct payments if their average adjusted gross farm income for the relevant period exceeds \$750,000. In addition, no person or legal entity shall receive a direct payment, if that person or legal entity has an average adjusted gross income in excess of \$1,000,000. Further, for entities, an otherwise due payment will be reduced commensurately to the extent that any person with an interest in the entity, as determined under the AGI regulations, had such income over the foregoing limits for the relevant period as determined under statute or 7 CFR Part 1400.

## **9 LOSS OF BENEFITS**

- A** If CCC determines a producer erroneously represented any fact affecting a determination to be made by CCC under this contract, direct, counter-cyclical, or ACRE payments shall not be allowed on the farm with respect to the payment shares of that producer. If CCC determines that the misrepresentation was intentional or fraudulent, or if the producer knowingly adopted any scheme or device which tends to defeat the purposes of this contract, the producer forfeits all rights to contract payments on each farm in which the producer has an interest and must refund to CCC all contract payments received by the producer during the period of the violation, plus interest. Schemes and devices and other actions to evade payment limitations can lead to ineligibility for payments for the 2013 and 2014 as well, under the provisions of 7 U.S.C. 1308-2. Also, under those same statutory provisions, the filing of false documents or, to the extent provided by regulation, other serious actions can lead to a five year disqualification for payments. In addition, any scheme or device to increase the amount of the payment under a DCP or ACRE contract shall, irrespective of whether it is related to a maximum payment limitation or not, be grounds for denying payment under the contract involved or for demanding repayment if payment has already been made.
- B** All producers sharing in the contract payments are jointly and severally liable for any refunds determined pursuant to paragraph A of this section and CCC will establish claims for the full amount of the refund against each producer in accordance with 7 CFR Part 1403 and this Appendix. A signatory to the contract who does not receive any direct, counter-cyclical or ACRE share of the contract payments will not be liable for the repayment of such refund.
- C** The provisions of this section are in addition to any liability which may be incurred under various criminal and civil statutes, including, but not limited to, 7 U.S.C. 1308-2, 15 U.S.C. 714m, 18 U.S.C. 286, 287, 371, 641, 1001; and 31 U.S.C. 3729.

**10 MODIFICATIONS**

CCC reserves the right to correct all errors in entering data on CCC-509 and the results of computations made pursuant thereto and to modify this agreement and Appendix to reflect statutory and regulatory changes (including new statutory and regulatory provisions) in the program, including changes in program payments and program eligibilities. In the event of such modifications, producers shall be allowed to withdraw from the 2013 contract, in which case all payments received under the 2013 contract shall be refunded with interest from the date the funds were disbursed by CCC. CCC also reserves the right to require refunds of payments as the result of determinations made in accordance with the maximum payment limitations in the regulations at 7 CFR Part 1400.

**11 PAYMENT RATE INFORMATION**

| <b>Direct Payments and Maximum Counter-Cyclical Rates for Covered Commodities and Peanuts, Crop Year 2013</b> |              |                     |                                      |                             |                                |  |
|---|--------------|---------------------|--------------------------------------|-----------------------------|--------------------------------|--|
| <b>Commodity</b>  | <b>Units</b> | <b>Target Price</b> | <b>Direct Payment Rate for DCP *</b> | <b>Loan Rate for DCP **</b> | <b>Minimum Effective Price</b> | <b>Maximum Counter-Cyclical Payment Rate</b> |
| <b>Wheat</b>  | \$/bu.       | 4.17                | 0.52                                 | 2.94                        | 3.46                           | 0.71   |
| <b>Corn</b>   | \$/bu.       | 2.63                | 0.28                                 | 1.95                        | 2.23                           | 0.40   |
| <b>Grain Sorghum</b>  | \$/bu.       | 2.63                | 0.35                                 | 1.95                        | 2.30                           | 0.33   |
| <b>Barley</b>   | \$/bu.       | 2.63                | 0.24                                 | 1.95                        | 2.19                           | 0.44   |
| <b>Oats</b>   | \$/bu.       | 1.79                | 0.024                                | 1.39                        | 1.414                          | 0.376  |
| <b>Upland Cotton</b>  | \$/lb.       | 0.7125              | 0.0667                               | 0.5200                      | 0.5867                         | 0.1258                                       |
| <b>Rice, Long Grain</b>   | \$/cwt.      | 10.50               | 2.35                                 | 6.50                        | 8.85                           | 1.65   |
| <b>Rice, Medium Grain</b>   | \$/cwt.      | 10.50               | 2.35                                 | 6.50                        | 8.85                           | 1.65   |
| <b>Soybeans</b>   | \$/bu.       | 6.00                | 0.44                                 | 5.00                        | 5.44                           | 0.56   |
| <b>Other Oilseeds</b>   | \$/cwt.      | 12.68               | 0.80                                 | 10.09                       | 10.89                          | 1.79   |
| <b>Dry Peas</b>   | \$/cwt.      | 8.32                | 0.00                                 | 5.40                        | 5.40                           | 2.92   |
| <b>Lentils</b>  | \$/cwt.      | 12.81               | 0.00                                 | 11.28                       | 11.28                          | 1.53   |
| <b>Small Chickpeas</b>  | \$/cwt.      | 10.36               | 0.00                                 | 7.43                        | 7.43                           | 2.93   |
| <b>Large Chickpeas</b>  | \$/cwt.      | 12.81               | 0.00                                 | 11.28                       | 11.28                          | 1.53   |
| <b>Peanuts</b>  | \$/short ton | 495.00              | 36.00                                | 355.00                      | 391.00                         | 104.00                                       |

\* Reduced by 20 percent for farms participating in ACRE.

\*\* Reduced by 30 percent for farms participating in ACRE.

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