

15. Calculation Determination: The amount of assistance an eligible aquaculture producer may receive shall be calculated as follows:

- | | |
|---|---------|
| 1) Producers 2008 Average Price per ton..... | _____ |
| 2) Minus the 2003-2007 (5-year) Average Price per ton..... | - _____ |
| 3) Equal Payment Rate..... | = _____ |
| 4) Multiplied by Producer's 2008 tons purchased..... | x _____ |
| 5) Equals the amount a producer is eligible to receive before applying payment limitations & payment factor, if applicable | = _____ |
| 6) (The next line will be completed by HDOA)
The amount a producer is eligible to receive after payments limitations and payment factor, if applicable..... | _____ |

16. **TERM OF AGREEMENT:** Beginning August 15, 2010 through November 31, 2010.

17. **COMPLIANCE WITH PROGRAM:** PRODUCER agrees to comply with the terms and conditions of the 2008 AGP as specified by the STATE.

18. **RECORDS AND AUDITS:** PRODUCER agrees to maintain, for a period of 3 years after September 30, 2010 or until final resolution of any audit findings or litigation claims relating to the distribution of AGP funds, all records pertaining to such funds and the aquaculture operation during the term of this agreement. PRODUCER agrees to furnish such information and reports relating to this Agreement as may be requested by the STATE. Periodically, the STATE may require PRODUCER to forward to the STATE copies of any records that support PRODUCER'S receipt of assistance under the 2008 AGP. The records required to be maintained by PRODUCER shall be available at all reasonable times for an audit or inspection by authorized representatives of the STATE or of the United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records will result in termination of this Agreement by the STATE and refund to STATE of all benefits received, plus interest thereon, as determined by the STATE.

19. **PRIMARY STATE CONTACT:** Should any dispute or question arise concerning the implementation of this Agreement or the 2008 Aquaculture Grant Program, PRODUCER should contact the STATE official listed below:

Todd Low, Manager
 Aquaculture Development Program
 Phone: 808-587-0031
 Fax: 808-587-0033
 todd.e.low@hawaii.gov

20. **APPLICABLE LAWS:** The provisions of this Agreement are subject to all applicable laws and authorities, including section 102(d) of the Economic Recovery Act of 2009.

21. **SCHEME OR DEVICE:** If the PRODUCER is suspected by STATE to have knowingly: (1) adopted any scheme or device which violates this Agreement; (2) made any fraudulent representation; (3) misrepresented any fact affecting a determination under this Agreement; or (4) otherwise violated the terms and conditions of the 2008 AGP, the STATE will notify the appropriate investigating agencies of the STATE and the United States Department of Agriculture and may terminate the Agreement with a full refund of all benefits received there under, plus interest, and the producer will be subject to substantial penalties under applicable civil and criminal laws.

22. **TERMINATION OF AGREEMENT:** This Agreement will continue in force unless terminated in writing by STATE or by the mutual agreement of the parties. The STATE may terminate this Agreement without prior written notice when required to do so by programmatic requirements, expiration of authorizing legislation or authority, or the exhaustion of funds.

23. **PRODUCER CERTIFICATIONS AND SIGNATURES:** *PRODUCER hereby certifies as follows:*

- a. *This agreement and all supporting documents (as required) are submitted in accordance with the 2008 AGP;*
- b. *For 2009, PRODUCER is raising the applicable aquaculture species in a controlled environment, maintain such eligible species for commercial use as part of a farming operation, and have a financial risk in the production of such species;*
- c. *For 2008, PRODUCER raised the applicable aquaculture species in a controlled environment, maintained such eligible species for commercial use as part of a farming operation, and had financial risk in the production of such eligible species;*
- d. *Feed costs represented at least twenty-five percent of the total input costs for such aquaculture operation;*
- e. *PRODUCER has not received and will not receive assistance under section 531 of the Federal Crop Insurance Act or section 901 of the Trade Act of 1974 for any losses in 2008 relating to the applicable aquaculture species (these programs include the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish (ELAP), the Livestock Forage Disaster Program (LFP), the Livestock Indemnity Program (LIP), the Supplemental Revenue Assistance Program (SURE), and the Tree Assistance Program (TAP));*
- f. *Records on file for the producer at an applicable Farm Service Agency county office show:*
 - a. *That their average adjusted gross income does not exceed \$2.5 million for the three preceding tax years (2005-2007), as calculated under regulations in 7 CFR Part 1400; and*
 - b. *Compliance with the conservation compliancy eligibility provisions for other programs found at 7 CFR Part 12;*
- g. *I am a principal in the PRODUCER and I am fully authorized to make and sign this Agreement on behalf of PRODUCER;*
- h. *I am currently in operation as of the date of the application;*
- i. *Funds received under the 2008 AGP will be used for costs associated with such aquaculture operation;*
- j. *The statements made on this application and all 2008 AGP documents are true and correct; and*
- k. *I have read and understand all the provisions of this Agreement and agree to the terms and conditions herein. I further agree that any false statements made as a part of the 2008 AGP application, or any other documents pertaining to the 2008 AGP documents, can be the subject of substantial civil and/or criminal liability and sanctions.*

Signature of Authorized Representative

Date

Title

24. **STATE APPROVAL:** This Agreement is executed by the STATE and shall be effective on the date indicated below:

On Behalf of State

Effective Date

SIGNED AGREEMENT: A signed copy of this agreement shall be sent to the following STATE contact on or before **Friday, September 18, 2009**. STATE official to receive agreement:

Todd Low
Manager
Aquaculture Development Program
1177 Alakea Street, #400
Honolulu, HI 96813