FOOD SERVICE MANAGEMENT CONTRACT
Cost-Reimbursable plus Administrative Fee

School Year: _____

Instructions: A school food authority that participates in School Nutrition Programs (SNP) and has a food service management contract must use this Contract template in order to meet SNP requirements. Except for the provisions that must be completed by the School Food Authority (SFA), this contract template may not be changed without obtaining written approval from the Minnesota Department of Education – Food and Nutrition Service prior to execution of the contract. SFA may include additional provisions in Section XXV of this template, or may attach additional provisions, provided the additional provisions do not conflict with template provisions.

Whereas _____ (SFA) advertised for proposals for food service management in accordance with the specifications attached and made a part of this contract, and

Whereas _____ (Company) submitted a proposal and has been awarded a contract.

SFA and Company mutually agree as follows:

I. SCOPE AND PURPOSE

A. Company will operate the school food service as a benefit to the SFA's students, faculty and staff, in conformance with SFA's Agreement with the Minnesota Department of Education (MDE) to participate in School Nutrition Programs (SNP).

B. Company will provide staff to manage the food service operations and supervise employees. Company will be an independent contractor and not an employee of SFA. The employees of Company are not employees of the SFA.

C. Company will have the exclusive right to operate the following SNP programs for SFA at the sites listed on the attached Services by Location list.

[SFA list the programs to be operated by Company]
☐ National School Lunch Program (NSLP) / Food Distribution Program (FDP).
☐ School Breakfast Program (SBP).
☐ At-Risk Afterschool Meal program (ARASM).
☐ Special Milk Program (SMP).
☐ Minnesota Kindergarten Milk Program (MKMP).
☐ Summer Food Service Program (SFSP).

D. All income accruing as a result of payments by children and adults, federal and state reimbursements, and all other income from sources such as donations, special functions, grants, loans, will be deposited daily in the SFA's food service account. Any profit or guaranteed return will remain in the SFA food service account.

E. SFA will be legally responsible for the conduct of the food service program, and will supervise the food service operations in such manner as will ensure compliance with the requirements of MDE and the United States Department of Agriculture (USDA). SFA will retain control of the school food service account and overall financial responsibility for School Nutrition Programs. SFA will retain signature authority on forms submitted to MDE including the SNP Agreement, the annual SNP application and SNP monthly claims for reimbursement. SFA will evaluate monthly meal information submitted by the FSMC and verify that the information is accurate before

submitting monthly claims for reimbursement. SFA is responsible for conducting the annual onsite review. SFA will establish all selling prices for reimbursable and non-reimbursable meals/milk and a la carte prices.

F. SFA may request Company to provide additional food service, such as special functions and catering. SFA or requesting organization will be billed for the actual cost of food, supplies and labor; plus a mutually agreed-upon mark-up for administrative overhead, which will be negotiated outside of this contract.

G. Company will cooperate with the SFA in promoting nutrition education, coordinating the SFA's food service with classroom instruction, and implementing SFA's Wellness Policy.

H. The Company will comply with the rules and regulations of MDE and USDA that are applicable to the programs being administered, and any additions or amendments thereto, including but not limited to 7 CFR Parts 210, 215, 220, 225, 245, 250, and 3016 or 3019.

II. PAYMENT OF ADMINISTRATIVE FEES AND REIMBURSEMENT OF COSTS

Company will bill SFA monthly for its administrative fees and for reimbursement of its direct costs, based on the number of reimbursable meals served and the number of meal equivalents served in the a la carte food service.

Administrative Fee:
SFA will pay Company the following per-meal administrative fee for each meal service, as proposed by Company on attached cost proposal:

$_____ per lunch

$_____ per breakfast

Cost Reimbursements:
SFA will reimburse Company for the direct costs of providing meals and meal equivalents up to the following maximum amounts as proposed on Company's attached price proposal, or actual costs, whichever is less.

Maximum direct cost reimbursements:

$_____ per breakfast

$_____ per lunch

Company will invoice SFA for allowable costs net of all discounts, rebates and other applicable credits due to school. Company will maintain documentation of discounts, rebates, and other applicable credits and furnish documentation upon request to SFA, MDE, or USDA.

School will pay allowable costs from the school food service account net of all discounts, rebates and other applicable credits accruing to or received by Company or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to school. No expenditure may be made from the from the food service account that results in Company receiving reimbursements in excess of Company's actual, net allowable costs.

Company will exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification. SFA reserves the right to require Company to separately identify for each cost submitted for payment the amount of the cost that is allowable (can be paid from the school food service account) and the amount that is unallowable.

Company will deposit any rebate received by check directly into SFA's food service account. Company will refund to SFA any discounts, rebates and other applicable credits received by Company after termination of this agreement. Company must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to School, MDE or USDA. Company's determination of its allowable costs must be made in compliance with applicable U.S. Department of Agriculture regulations and guidance, and Office of Management and Budget circulars.

Company will ensure that its system of inventory management will not result in school being charged the value of USDA foods as a cost.

III. MEALS

A. Company will serve reimbursable meals, snacks, or milk that meet program requirements for the meal services and sites as indicated on the attached list. Company will serve meals on the days and at the times requested by SFA.

B. Company will offer free, reduced-price, and paid reimbursable meals to all eligible children participating in the SBP and/or NSLP.

C. Company will promote maximum participation in the reimbursable meal programs.

D. Company will sell on the premises only those foods and beverages authorized by the SFA and only at the times and places designated by the SFA.

E. No payment will be made to Company for meals that are spoiled or unwholesome at the time of delivery, do not meet detailed specifications as developed by the SFA for each food component in the meal pattern, or do not otherwise meet the requirements of the contract.

F. SFA will retain control of the quality, extent and general nature of the food service.

IV. USDA FOODS

A. Company will perform the following activities relating to USDA Foods and assures School that such activities will be performed in accordance with the applicable requirements in 7 CFR 250:

- ☐ Preparing and serving meals;
- ☐ Selection and ordering of foods in coordination with SFA and in accordance with 7 CFR 250.58(a);
- ☐ Storage and inventory management, in accordance with 7 CFR 250.52;
- ☐ Payment of processing fees or submittal of refund requests to a processor on behalf of the recipient agency, or remittance of refunds for the value of USDA Foods in processed end products to the recipient agency, in accordance with the requirements in 7 CFR 250 subpart C.

B. Company will disclose to SFA the cost savings represented by the values of USDA Foods received for use by Company during the term of the contract, including both entitlement and bonus foods and the value of USDA Foods contained in processed end products, in accordance with the contingencies in 7 CFR 250.51(a).

   On each monthly invoice, Company will disclose the types, amounts, and cash values of USDA donated foods received for use. Cash values of USDA donated foods will be established by the most current documentation available from the Minnesota Department of Education at the time of disclosure.

   SFA will conduct an annual reconciliation after completion of the school year, based on the year-end commodities received report supplied by the Minnesota Department of Education, to ensure that Company has disclosed the cost savings represented by the values of all USDA donated foods received for use by Company during the preceding year. SFA reserves the right to conduct audits throughout the year to ensure compliance with 7 CFR 210 and 250.

   FSMC will ensure that its system of inventory management will not result in SFA being charged the value of USDA Foods as a reimbursable cost.

C. Company will use all USDA donated ground beef and ground pork products, and all processed end products, in SFA's food service. Company will use all other USDA Foods, or will use commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA Foods, in SFA's food service. Company will comply with the storage and inventory requirements for USDA donated foods in 7 CFR 250.52. Upon termination of the contract, Company will return all unused USDA donated ground beef, ground pork, end products and, at SFA's discretion, other unused USDA Foods.

D. Company assures SFA that the procurement of processed end products on behalf of SFA, as applicable, will comply with 7 CFR 250 and with provisions of MDE or SFA processing agreements. Company will disclose to SFA the value of USDA Foods contained in such end products at the processing agreement value. Refunds received from processors must be retained in the food service account. Company will not itself enter into a processing agreement with a processor.

E. Company and SFA will maintain records relating to the use of USDA Foods in accordance with 7 CFR 250.54. Company will have records available to substantiate that the SFA has received the benefit of the full value of received USDA Foods.

F. SFA will ensure that Company is in compliance with the requirements of 7 CFR 250 through SFA's monitoring of the food service operation as required in 7 CFR 210 and, if applicable, 225.

G. SFA, MDE, USDA, the Comptroller General, or their authorized representatives, may perform onsite reviews of Company's food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA Foods.

H. Company accepts liability for any negligence on its part that results in any loss of, improper use of, or damage to, USDA Foods.

I. Company will properly credit SFA's food service account monthly for all discounts, rebates, and allowances received by the FSMC associated with the purchase of processed commodity products on behalf of SFA as well as the full value of USDA Foods. Costs charged to SFA must be net of all discounts, rebates, and allowances

received by Company. The cost reduction will be shown on the monthly invoice or operating statement as a credit or reduction in the amount billed to SFA.

V. FOOD SAFETY

A. SFA will comply with food safety inspection requirements set by USDA for its facilities. SFA will ensure that state and local regulations are being met by Company preparing or serving meals at any SFA facility.

B. Company will maintain state and/or local health certifications for any facility outside the SFA in which it prepares meals and will maintain the health certification for the duration of the contract as required under 7 CFR 210.16(c). Company will comply with food safety inspection requirements set by USDA and shall ensure that state and local regulations are met in its facilities.

VI. SUBSTITUTIONS AND MODIFICATIONS FOR MEDICAL OR SPECIAL DIETARY NEEDS

Company will substitute food or beverage items or modify food items for qualifying students as required by federal law, state law, and SFA policies, as specified in this section.

A. Substitutions or Modifications for Students with Disability.

Company will provide substitutions to, or modifications of, meals required by federal law for students who are documented by a physician to be unable to consume the regular program meals due to a disability. A physician's statement must identify the student's disability, the major life activities affected by the disability, the food or foods to be omitted from the student's diet, and the food or choice of foods that must be substituted. The statement must be signed and dated by the physician and maintained on file.

B. Lactose-Reduced Milk for Students with Lactose Intolerance.

Company will make available at least one of the following types of lactose-reduced milk specified in Minnesota Statutes section 124D.114, upon the written request of the parent of a lactose-intolerant student: lactose-reduced milk; milk fortified with lactase in liquid, tablet, granular, or other form; or milk to which lactobacillus acidophilus has been added. A portion of a lactose-reduced milk product may be poured or served from a large container. The parent's request must be maintained on file.

Section C applies if this box is checked: ☐

C. Meal Substitutions for Students without Disability.

Company will provide substitutions for students who do not have a disability, but who are unable to eat the regular meals due to medical or special dietary needs, upon the written request of a recognized medical authority (physician, physician's assistant, certified nurse practitioner, registered dietitian, licensed nutritionist, or chiropractor), as allowed by program guidelines and in accordance with SFA policy. The request must specify the food or foods to be omitted from the student's diet and the food or choice of foods that must be substituted, must be signed and dated by the recognized medical authority, and must be maintained on file.

Section D applies if the box is checked: ☐

D. Non-Dairy Fluid Milk Substitutes.

Company will provide non-dairy fluid milk substitute(s) that are nutritionally equivalent to cow's milk, as allowed by program regulations and in accordance with SFA policy, to students with a medical or other special dietary need. A request for a non-dairy fluid milk substitute must be in writing and identify the medical or other special dietary need that restricts the student's diet, must be signed and dated by the parent/legal guardian or a medical authority (physician, physician's assistant, certified nurse practitioner, registered dietitian, licensed nutritionist, or chiropractor), and must be maintained on file. Product information must be maintained on file to document that the non-dairy product(s) offered to students meet program standards for non-dairy fluid milk substitutes.

VII. FREE AND REDUCED-PRICE MEALS POLICY

A. SFA is responsible for the determination of eligibility for free and reduced price meals, including the development, distribution, approval and verification of meal applications, direct certification data, and conducting any appeal hearings related to eligibility determinations. SFA will provide Company with a list of students and their category of meal eligibility. The list will be updated when changes occur in a student's eligibility status. SFA will not disclose confidential information to Company from meal applications and direct certification data that is not needed for meal counts.

B. Company will use the private data on individual student meal eligibility only to provide the correct, approved meal benefits to students and to determine accurate meal counts by category at the point of service. The meal counting system must eliminate the potential for overt identification of students eligible for free and reduced-price meal benefits.

VIII. BOOKS AND RECORDS

A. Company will maintain such records (supported by invoices, receipts, or other evidence) as SFA will need to meet monthly reporting responsibilities. Company will submit monthly operating statements in a format approved by SFA no later than the tenth calendar day after the last day of the month in which services were rendered. Company will submit participation records in a timely manner to facilitate claims submission no later than the fifth day after the last day of the month in which services were rendered. SFA will perform edit checks on the participation records provided by Company prior to the preparation and submission of the claim for reimbursement. Company shall provide SFA with a year-end statement.

B. Company will maintain records at SFA premises to support all allowable expenses appearing on the monthly operating statement. These records will be kept in an orderly fashion according to expense categories.

C. SFA will conduct an internal audit of food, labor and other large expense items quarterly, as well as performing random audits on smaller expense categories.

D. Company will make available the books and records pertaining to the contract, upon demand, in an easily accessible manner for a period of three (3) years from the end of the contract term (including renewals) to which they pertain, for audit, examination, excerpts, and transcriptions by SFA and state or federal representatives and auditors. If audit findings regarding Company's records have not been resolved

within the three (3) year record retention period, the records must be retained beyond the three (3) year period, for as long as required for the resolution of the issues raised by the audit.

E. Company will not remove state or federal required records from SFA premises upon contract termination. Company will surrender to the SFA upon termination of the contract all records pertaining to the operation of the food service, to include all food and non-food inventory records, menus, production records, product invoices, claim documentation, financial reports and procurement documentation. The records must be in appropriate order and complete to the extent necessary to reconstruct the individual costs of prior Company billings.

F. Costs charged to SFA must be net of all discounts, rebates and allowances received by Company for purchases on behalf of SFA. Company will credit the food service account monthly, on the monthly invoice or operating statement, for these discounts, rebates and allowances. SFA reserves the right to audit Company books and records to verify that Company has provided required credits.

IX. EMPLOYEES

A. Current SFA employees, including site and area managers, will be retained by:_____(SFA complete).

B. Company will provide SFA with a schedule of employees, positions, assigned locations, salaries, and hours to be worked. Locations and assignments will be provided to SFA two full calendar weeks prior to start date of operations.

C. SFA will have final approval authority regarding the hiring of Company's site manager.

D. Company will comply with all wage and hours of employment requirements of federal and state laws. Company will be responsible for supervising and training personnel, including SFA-employed staff. Supervision activities include employee and labor relations, personnel development, and hiring and termination of Company management and non-management staff, except the site manager.

E. Company will provide workers' compensation coverage for its employees.

F. Company will instruct its employees to abide by the policies, rules and regulations, with respect to use of the SFA's premises as established by the SFA and which are furnished in writing to the Company.

G. Company will maintain its own personnel and fringe benefits policies for its employees, subject to review by the SFA.

H. Staffing patterns, with the exception of the site manager, will be mutually agreed upon.

I. Company will not hire employees in excess of the number required for efficient operation.

J. SFA will provide sanitary toilet and hand-washing facilities for Company employees.

K. SFA may request in writing the removal of any Company employee who violates health requirements or conducts himself/herself in a manner which is detrimental to the well-being of the students, provided such request is not in violation of any federal, state, or local employment laws. In the event of the removal or suspension of any such employee, Company will immediately restructure the food service staff without disruption of service.

L. SFA and/or Company personnel assigned to each school will be instructed in the use of all emergency valves, switches, fire and safety devices in the kitchen and cafeteria areas.

X. MONITORING

A. SFA will monitor the food service operation of Company through periodic on-site visits to ensure that the food service is in conformance with USDA program regulations. If SFA has more than one site, SFA must conduct an on-site review of the counting and claiming system at each site no later than February 1 each year as required by 7 CFR 210.8. If SFA participates in SFSP, SFA is responsible for conducting the required SFSP site visits including preapproval visits.

B. Company must maintain the necessary records for SFA to complete required monitoring activities.

XI. ADVISORY GROUPS / MENUS / WELLNESS POLICY

A. Company will participate in the formation and establishment and periodic meetings of the SFA advisory board, comprised of students, teachers, and parents, to assist in menu planning.

B. Company must comply with the twenty-one (21)-day menu developed by SFA for NSLP, and/or SBP, included in the request for proposals. Any changes made by Company after the first twenty-one (21)-day menu for the NSLP and/or SBP may be made only with approval of SFA. SFA will approve menus no later than two (2) weeks prior to service.

C. Company will assist SFA as needed in implementation of SFA's wellness policy.

XII. USE OF FACILITIES, INVENTORY, EQUIPMENT, AND STORAGE

A. SFA will make available, without any cost or charge to Company, area(s) of the premises agreeable to both parties in which Company will render its services.

B. SFA may request additional food service programs from Company. SFA reserves the right, at its sole discretion, to sell or dispense food or beverages provided such use does not interfere with the operation of the Child Nutrition Programs. SFA may expand food service operations outside the confines of the school/school district, such as expansion to non-affiliated charter schools, non-public, or neighboring public schools, which were not part of the original bid.

C. Prior to the start of operations, Company and SFA will inventory food, including USDA Foods, and supplies on the premises. Company will utilize the inventory at a value determined by invoice. On termination of the contract, Company and SFA will take a closing inventory and the difference added or subtracted to Company's cost of business.

D. Company will maintain the inventory of silverware, chinaware, kitchen utensils and other operating items necessary for the food service operation and at the inventory level as specified by SFA.

E. SFA will replace expendable equipment and replace, repair, and maintain non-expendable equipment, except when damages result from the use of less than reasonable care by Company employees.

F. Company will maintain adequate storage practices, inventory and control of USDA Foods in conformance with the SFA's agreement with the Minnesota Department of Education.

G. Company will provide SFA with one set of keys for food service areas secured with locks.

H. SFA will provide Company with local telephone service.

I. SFA will furnish and install any equipment and make any structural changes needed to comply with federal, state or local laws, ordinances, rules and regulations.

J. SFA will be responsible for any losses, including USDA Foods, which arise due to equipment malfunction or loss of electrical power not within the control of Company.

K. All food preparation and serving equipment owned by SFA must remain on SFA premises.

L. Company will notify SFA of any equipment belonging to Company on SFA premises within ten (10) days of its placement on SFA premises. SFA will not be responsible for loss or damage to equipment owned by Company and located on SFA premises.

M. SFA will have access, with or without notice, to all of SFA's facilities used by Company, for purposes of inspection and audit.

N. Company will not use SFA's facilities to produce food, meals or services for other organizations without the approval of SFA. If such usage is mutually agreeable, SFA and Company must have a signed agreement that stipulates the fees to be paid by Company for facility usage.

O. Company will comply with all SFA building rules and regulations.

P. SFA, on the termination or expiration of the contract, will conduct a physical inventory of equipment and furnishings owned by SFA. Company will surrender all SFA equipment and furnishings to SFA in good repair and condition.

XIII. PURCHASES

A. When procuring goods or services that are reimbursed by SFA under the contract, Company is acting as an agent for SFA and must follow the procurement rules that are applicable to SFA. Company will purchase goods and services at the lowest price possible, consistent with maintaining quality standards and in full compliance with OMB Circulars A-87 and A-110, 7 CFR Parts 210, 215, 220, 225, 245, 250, and 3016 or 3019. Any rebates, discounts, or commissions associated with purchases must be returned to the school food service account. Only net costs may be charged to SFA.

B. Foods purchased must meet the attached specifications.

C. This contract will not prevent SFA from participating in food co-ops or purchasing food from vendors with whom Company normally does not do business.

XIV. SANITATION

A. Company will place garbage and trash in containers in designated areas as specified by SFA. SFA will remove all garbage and trash from the designated areas.

B. Company will clean the kitchen and dining room areas as indicated on the Cost Responsibility Detail Sheet.

C. Company will operate and care for equipment and food service areas in a clean, safe and healthy condition in accordance with the standards acceptable to SFA and comply with all applicable laws, ordinances, regulations, and rules of federal, state, and local authorities, including laws related to recycling.

D. SFA will clean ducts and hoods above the filter line.

E. SFA will provide extermination services as needed.

F. Company will comply with local and state sanitation requirements in the preparation of food.

XV. LICENSES, FEES AND TAXES

A. Company is responsible for paying all applicable taxes and fees, including but not limited to excise tax, state and local income tax, and payroll and withholding taxes for Company employees. Company will hold SFA harmless for all claims arising from payment of such taxes and fees. The extent of responsibility is designated in the cost responsibility attachment to this document.

B. Company will obtain and post all licenses and permits as required by federal, state and/or local law.

XVI. NONDISCRIMINATION

SFA and Company agree that no student who participates in the meal and/or milk programs under this contract will be discriminated against on the basis of race, color, national origin, age, sex or disability.

XVII. EMERGENCY CLOSINGS

A. SFA will notify Company of any interruption in utility service of which it has knowledge.

B. SFA will notify Company of any delay in the beginning of the school day or the closing of school(s) due to snow or other emergency situations.

XVIII. NONPERFORMANCE BY COMPANY

A. Notice of termination of the contract for cause must be provided as follows:

☐ If either party commits a material breach, the non-breaching party may terminate this agreement for cause by giving 60 days written notice. If the breach is remedied prior to the proposed termination date, the non-breaching party may elect to continue this agreement.

☐ Other: _____

B. In the event of the Company's non-performance under this contract and/or the violation or breach of the contract terms, SFA has the right to pursue all administrative, contractual and legal remedies against Company and to seek all sanctions and penalties as may be appropriate. SFA is the responsible authority without recourse to USDA or MDE for the settlement and satisfaction of all contractual and administrative issues. This authority includes, but is not limited to, source evaluation, protests, disputes, claims or other matters of contractual nature. Matters concerning violations of law will be referred to the local, state, or federal authority with jurisdiction.

C. Company will pay SFA the amount of any meal over-claims that are attributable to Company's negligence and that occurred during the effective dates of the contract, including over-claims based on audit or program review findings.

IXX. SUMMER FOOD SERVICE PROGRAM

Company agrees to provide food service management for the Summer Food Service Program (SFSP), in accordance with federal regulations at 7 CFR 225 and other SFSP requirements, if SFA participates in the SFSP during the original contract term or during any contract renewal. School will maintain responsibility for administrative functions that are prohibited from being contracted out by SFSP regulations at 7 CFR 225.15(a)(3). If Company does not agree to provide food service management for SFSP, this is indicated below.

During each period that School participates in SFSP, Company will perform the same food service management tasks for SFSP meal services as provided to SFA during the school year, unless differences are described below. School will pay Company for SFSP meals using the same payment structure used for payments to Company during the school year unless differences are specified below.

XX. DEFICIT

The requirements of Minnesota Statutes Section 124D.111, Subd. 3, will be met if a deficit exists in the food service fund at the end of a fiscal year.

XXI. INSURANCE

☐ Company will meet insurance requirements that are attached to this contract.

☐ Company will meet insurance requirements as specified here:

Company will maintain the insurance coverage set forth below for each accident provided by insurance companies authorized to do business in the state of Minnesota. A Certificate of Insurance of Company's insurance coverage indicating these amounts must be submitted at the time of contract award.

Comprehensive General Liability – includes coverage for:

1. Premises – Operations.
2. Products – Completed Operations.
3. Contractual Insurance.
4. Broad Form Property Damage.
5. Independent Contractors.
6. Personal Injury.

$ _____ Combined Single Limit

Automobile Liability: $ _____ Combined Single Unit.

Workers' Compensation-Statutory; Employer's Liability: $ _____.

Excess Umbrella Liability: $ _____ Combined Single Unit.

Company must name SFA as additional insured on General Liability, Automobile, and Excess Umbrella. Company must provide a waiver of subrogation in favor of SFA for General Liability, Automobile, Workers' Compensation, and Excess Umbrella.

The contract of insurance shall provide for notice to SFA of cancellation of insurance policies 30 days before cancellation takes effect.

XXII. MISCELLANEOUS

A. This contract will be construed under the laws of the State of Minnesota. Any action or proceeding arising out of this contract will be heard in the appropriate courts of the State of Minnesota.

B. Company will comply with the provisions of the proposal specifications, which in all respects will be made a part of the contract.

C. No provision of the contract will be assigned or subcontracted without prior written consent of SFA.

D. No waiver of any default will be construed to be or constitute a waiver of any subsequent claim.

E. Any silence, absence, or omission from the contract specifications concerning any point will be regarded as meaning that only the best commercial practices are to prevail and that only materials (e.g., food, supplies) and workmanship of a quality that would normally be specified by the SFA are to be used.

F. Payments on any claim will not preclude the SFA from making a claim for adjustment on any item found not to have been in accordance with the provisions of this contract and proposal specifications.

G. SFA is responsible for ensuring the resolution of program review and audit findings.

H. The contract and information about SFA's procurement process are subject to review by the Minnesota Department of Education for the purpose of determining whether federal and state requirements for SFA's participation in USDA Child Nutrition Programs have been met.

XXIII. TERM, RENEWAL OPTIONS, TERMINATION

A. The contract is effective _____(month/day/year) and ends June 30, _____ (year).

B. The contract may be renewed, upon mutual agreement of SFA and Company, for up to (two/four) years after the original contract, using the renewal document provided by the Minnesota Department of Education. Contract costs and fees may be renegotiated for a renewal contract up to a maximum of the Consumer Price Index (CPI) – Food Away from Home, Midwest Region (U.S. Bureau of Labor Statistics) for the 12-month period ending in the December that precedes the last month of the current term of the contract.

C. SFA or Company may terminate the contract for cause by giving sixty (60) day written notice.

D. Neither SFA nor Company is responsible for any losses resulting from fulfillment of the terms of the contract being delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any acts not within the control of SFA or Company, respectively, and which by the exercise of due diligence it was unable to prevent.

XXIV. CERTIFICATIONS

A. Company will comply with the mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

B. Company will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C §§ 327-330, as supplemented by the Department of Labor regulations, 29 CFR, Part 5. Under Section 103 of the Act, Company is required to compute the wages of every laborer on the basis of a standard workday of eight (8) hours and a standard workweek of forty (40) hours. Work in excess of the standard workday or standard workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of eight (8) hours in any calendar day or forty (40) hours in any work week.

C. Company will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations, 41 CFR, Part 60.

D. Company will comply will applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Air Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA0 regulations (40 CFR Part 15).

E. Company will comply with the Copeland “Anti-Kickback” Act (18 (U.S.C. 874) as supplemented in U.S. Department of Labor regulations (29 CFR Part 3).

F. Company will comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by U.S. Department of Labor regulations (29 CFR Part 5).

G. Company will comply with civil rights laws, as amended: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and USDA-FNS Instruction 113-1, Civil Rights Compliance and Enforcement in School Nutrition Programs.

H. Company will comply with the Buy American provision for contracts that involve the purchase of food products with federal funds, 7 CFR, Part 250.23.

I. Company has signed the following attached certifications, which are incorporated here by reference and made a part of this contract.

- Certification of Independent Price Determination.
- Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.
- Certification Regarding Lobbying and, if applicable, Disclosure Form to Report Lobbying.

J. Company will comply with all other pertinent state and federal laws.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

_____

Signature, Authorized Representative of SFA Date

Signature, Authorized Representative of Company Date

Name and Title of Authorized Representative

Name and Title of Authorized Representative

Name of SFA

Name of Company

INDEPENDENT PRICE DETERMINATION CERTIFICATE

Both the School Food Authority (SFA) and the Food Service Management Company (Offerer) shall execute this Independent Price Determination Certificate.

_____ _____

Name of Food Service Management Company Name of School Food Authority

A. By submission of this offer, the Offerer certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

   1. The prices in this offer have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Offerer or with any competitor.
   2. Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed to the Offerer and will not knowingly be disclosed by the Offerer prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other Offerer for the purpose of restricting competition.
   3. No attempt has been made or will be made by the Offerer to induce any person or firm to submit or not submit an offer for the purpose of restricting competition.

B. Each person signing this offer on behalf of the Offerer certifies that:

   1. He or she is the person in Offerer's organization responsible within the organization for the decision as to the prices being offered herein and has not participated, and will not participate, in any action contrary to A.1 through A.3 above; or
   2. He or she is not the person in Offerer's organization responsible within the organization for the decision as to the prices being offered herein, but that he or she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate in any action contrary to A.1 through A.3 above, and as their agent does hereby certify; and he or she has not participated, and will not participate, in any action contrary to A.1 through A.3 above.

To the best of my knowledge, this Offerer, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any government agency and have not in the last three years been convicted of or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

_____ _____

Signature of Food Service Management Company's Authorized Representative Title Date

In accepting this offer, the SFA certifies that no representative of the SFA has taken any action that may have jeopardized the independence of the offer referred above.

_____ _____

Signature of Food Service Management Company's Authorized Representative Title Date

NOTE: Accepting a bidder's/offerer's offer does not constitute award of the contract.

INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT FORM

1. By signing and submitting this form, the prospective lower-tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower-tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower-tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower-Tier Covered Transactions," without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Excluded Parties List System (EPLS). View the EPLS (http://epls.arnet.gov/).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies as appropriate, including suspension and/or debarment.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

LOWER-TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Executive Order 12689, and 31 U.S.C. 6101; Debarment and Suspension, 7 CFR Part 3017, Subpart C, Responsibilities of Participants Regarding Transactions Doing Business with Other Persons.

(Please read instructions on next page before completing certification.)

(1) The prospective lower-tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Project: National School Lunch Program

Organization Name

Name and Title of Authorized Representative

Signature **Date**

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of any federal grant, the making of a federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment or modification of a federal contract, grant, loan or cooperative agreement;

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Project: National School Lunch Program

Organization Name

Name and Title of Authorized Representative

Signature **Date**

DISCLOSURE OF LOBBYING ACTIVITIES

STANDARD FORM –LLL APPROVED BY OMB
COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352
(SEE NEXT PAGE FOR PUBLIC DISCLOSURE)

1. Type of Federal Action: ☐ A. Contract
   ☐ B. Grant
   ☐ C. Cooperative Agreement
   ☐ D. Loan
   ☐ E. Loan Guarantee
   ☐ F. Loan Insurance
2. Status of Federal Action: ☐ A. Bid/Offer/Application
   ☐ B. Initial Award
   ☐ C. Post award
3. Report Type: ☐ A. Initial Filing
   ☐ B. Material Change
   For Material Change Only: Year: _____ Quarter: _____
   Date of Last Report: _____
4. Name and Address of Reporting Entity: ☐ Prime
   ☐ Subawardee
   Tier, if known: _____
   Congressional District, if known: _____
5. If Reporting Entity in Number 4 is Subawardee, Enter Name and Address of Prime:
   _____
   Congressional District, if known: _____
6. Federal Department/Agency: _____
7. Federal Program Name/Description: _____
   CFDA Number, if applicable: _____
8. Federal Action Number, *if known*: _____
9. Award Amount, *if known*: _____
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):
    _____
    b. Individual Performing Services (*including address if different from Number 10a*) (*Last name, first name, MI*):
    _____
11. Amount of Payment (*check all that apply*): _____ ☐ Actual ☐ Planned
12. Form of payment (*check all that apply*):
    ☐ A. Cash (Nature: _____)
    ☐ B. In-kind (specify) (Value: _____)

13. Type of Payment (*check all that apply*):

☐ A. Retainer
☐ B. One-Time Fee
☐ C. Commission
☐ D. Contingency Fee
☐ E. Deferred
☐ F. Other: *(specify)* _____

14. Brief description of services performed or to be performed and date(s) of service, including officer(s), employees, or members) contracted for payment indicated in Number 11. (Attach continuation sheets if necessary)

15. Continuation sheets attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. The disclosure of lobbying activities is a material representation of fact upon which evidence was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. The information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosures shall be subject to a civil penalty of no less than $10,000 and no more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone Number: _____ Date: _____

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INSTRUCTIONS FOR COMPLETION OF DISCLOSURE OF LOBBYING ACTIVITIES FORM

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient, at the initiation or receipt of a covered federal action or a material change in a previous filing, pursuant to Title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered federal action. Use a Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget (OMB) for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include, but are not limited to, subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks Subawardee, then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if know. For example: Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (Item1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identified in Item 1; e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the federal agency. Include prefixes; e.g., RFP-DE-90-001.
9. For a covered federal action where there has been an award or loan commitment by the federal agency, enter the federal amount of the award/loan commitment for the prime entity identified in Item 4 or Item 5.
10. a. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.

10. b. Enter the full name of the individual performing services, and include full address if different from 10a. Enter last name, first name, and middle initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate item. Check all items that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box. Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the dates of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with federal officials. Identify the federal officials or employees contacted or the officers, employees, or Members of Congress that were contacted.
15. Check whether continuation sheets are enclosed.
16. The certifying official shall sign and date the form; print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Cost Proposal
Cost-Reimbursable Food Service Management Contract

The undersigned proposes to operate the food service management program for School Food Authority (SFA) _____ during school year _____, subject to the information provided by the school food authority in its Request for Proposals (RFP), for the maximum per-meal costs to school food authority shown below. The awarded contract will require the company to bill school food authority for its actual direct costs plus the fixed administrative fees shown below for each meal / equivalent meal.

The contract will be awarded based on the school food authority's evaluation of lowest total costs, as shown below, and other non-price evaluation criteria established by the school food authority.

Program	Fixed Administrative Fee per Meal/ Equivalent	+	Maximum Direct Costs per Meal/ Equivalent *	=	Maximum Total Cost per Meal/ Equivalent	X	Total Meals & Equivalents (SFA projection**)	=	Maximum Total Cost to SFA (based on SFA projected meals)
Lunch		+		=		X		=	
A la Carte (Meal Equivalents)		+		=		X		=	
Breakfast		+		=		X		=	

Maximum Grand Total Cost to SFA: _____

* For the direct costs that Company is responsible for as specified by SFA on Cost Responsibility Detail Sheet.

** Cost Proposal must be based on the estimated numbers of meals/equivalent meals provided by the SFA.

Submitted by:

Name of Management Company: _____

Authorized Signature: _____

Title: _____

Address: _____

City, State, Zip Code: _____

Date: _____

(Sample)
Minimum Food Specifications

Meat/Seafood – All meats, meat products, poultry products, and fish must be government inspected.

- Beef, lamb and veal shall be USDA Grade Choice or better.
- Pork shall be U.S. No. 1 or U.W. No. 2,
- Poultry shall be U.S. Government Grade A.
- Seafood to be top grade, frozen fish – must be a nationally distributed brand, packed under continuous inspection of the USDA.

Dairy Products – All dairy products must be government inspected.

- Fresh eggs, USDA Grade A or equivalent, 100 percent candled.
- Frozen eggs, USDA – inspected.
- Milk, pasteurized Grade A.

Fruits and Vegetables

- Fresh fruits and vegetables selected according to written specifications for freshness, quality, and color – U.S. Grade A Fancy.
- Canned fruits and vegetables selected to requirements – U.S. Grade A Choice or Fancy (fruit to be packed in light syrup or natural juices).
- Frozen fruits and vegetables shall be U.S. Grade A Choice or better.

Baked Products

- Bread, rolls, pies, cakes, and puddings either prepared or baked on premises or purchased on a quality level commensurate with meeting USDA breakfast and lunch requirements, as applicable.

Staple Groceries

- Staple groceries to be a qualify level commensurate with previously listed standards.