

FOOD SERVICES MANAGEMENT AGREEMENT

THIS AGREEMENT, made this 25th day of June, 2021, by and between **NATICK PUBLIC SCHOOLS** ("District") and **ARAMARK EDUCATIONAL SERVICES, LLC**, a Delaware limited liability company ("Aramark"). District and Aramark will be referred to jointly as the "Parties" and individually as a "Party."

WITNESSETH THAT:

1. EMPLOYMENT OF Aramark: District employs Aramark to provide management services to District in connection with the operation of District's non-profit school food service operation in the attendance units listed in Exhibit A, attached hereto and made a part hereof. By mutual agreement, schools may be added to or deleted from Exhibit A. Aramark shall be the sole provider to District of such management services during the term of this Agreement. In providing management services for District's Food Service Program (as hereinafter defined), Aramark shall comply with the applicable provisions of the National School Lunch Act, as amended, and the United States Department of Agriculture ("USDA") regulations set forth in 7 CFR 210 as amended, 7 CFR 220 as amended, 7 CFR 225 as amended, 7 CFR 226 as amended, 7 CFR 245 as amended, and 7 CFR 250 as amended. Further, all mandatory contract language and unallowable contract language as determined by the Massachusetts Department of Elementary and Secondary Education is set forth in Addendum 1 and fully incorporated into this Agreement.

2. DEFINITIONS: The following words and phrases when used in this Agreement shall have the meanings given to them in this Paragraph:

A. "Accounting Periods": The two (2) Accounting Periods of four (4) weeks each and one (1) Accounting Period of five (5) weeks which occur in each quarter.

B. "Cash Equivalents": An amount equal to the Direct Costs attributable to those special functions of District for which there are no cash receipts.

C. "Charge": An amount established by Aramark, which is reasonably allocated to District, for certain services provided by Aramark to client locations.

D. "Current Year": The period beginning July 1, 2021 and ending June 30, 2022.

E. "Direct Costs": Costs incurred by Aramark directly attributable to services provided under this Agreement.

F. "District's Total Food Service Costs": The sum of District's Financial Obligation (as defined in Paragraph 16.C hereof), all personnel and payroll costs for District's food service employees and all other operating expenses charged by District to the food service operation as set forth in the Projected Food Service Budget attached hereto as Exhibit B and made a part hereof.

G. "Effective Date": July 1, 2021.

H. "Equivalency Factor": The amount of \$3.60 used to determine the number of Meal Equivalents served by Aramark. If this Agreement is renewed after the Current Year and if the Equivalency Factor changes in any renewal year, Aramark will receive an automatic adjustment to its General and Administrative Expense and Management Fee to equitably compensate Aramark for the loss of General and Administrative Expense and Management Fee due to the change in the Equivalency Factor. Cash receipts, other than from sales of National School Lunch and Breakfast Program meals served to children and Cash equivalents shall be divided by the equivalency factor to determine the number of Equivalent meals served by Aramark.

I. "Food Service Facilities": The areas, improvements, personal property and facilities made available by District to Aramark for the provision of the food services as more fully described herein.

J. "Food Service Program": The preparation and service of food to District's students, staff, employees and authorized visitors. The Food Service Program may include, but is not necessarily limited to, the National School Lunch Program, the School Breakfast Program, the Summer Lunch Program, the Special Milk Program, Summer Food Service Program, Child/Adult Care Food Program, and a la carte food service.

K. "General and Administrative Expense": Aramark's allowance for the financial reporting, legal, tax and audit services and management oversight provided to client locations by Aramark at the regional and corporate levels. Such allowance shall be of an amount equivalent to Six Thousand Five Hundred Eighty-Eight Dollars and Ninety Cents (\$6,588.90) per month for ten (10) months.

L. "Gross Receipts": The total of all cash receipts, reimbursements received by District and other revenue under the Food Service Program.

M. "Interest Rate": The lesser of either (i) 1.5% per month, or (ii) the maximum rate permitted by law. The District acknowledges that it cannot pay any interest from the Food Service Program fund.

N. "Meal Equivalent": A meal provided by Aramark determined by dividing the total of cash receipts, other than from sales of National School Lunch and Breakfast Program meals or Cash Equivalents by the Equivalency Factor.

O. "Reimbursable Items": Direct Costs, Charges and General and Administrative Expense incurred by Aramark in providing services under this Agreement.

P. "Servicewares": Items utilized in the service of food, including such things as chinaware, glassware and silverware.

Q. "Small Expendable Equipment": Items utilized in the preparation of food, including such things as pots, pans and kitchen utensils.

3. AUTHORITY OF DISTRICT: District shall retain control of its Food Service Program. District shall designate representatives, who shall:

- A.** Ensure that the Food Service Program is in conformance with the District's agreement under the National School Lunch Act;
- B.** Monitor the Food Service Program through periodic on-site visitations;
- C.** Retain control of the quality, extent and general nature of the food service and the prices to be charged the children for meals;
- D.** Retain signature authority on the State agency- District agreement, free and reduced price policy statement, claims for reimbursement, and commodity orders forms;
- E.** Ensure that all federally donated foods received by the District and made available to Aramark accrue only to the benefit of the District's non-profit school food service and are fully utilized therein;
- F.** Maintain applicable health certification and assure that all State and local regulations are being met by Aramark in preparing or serving meals at the District's facilities;
- G.** Establish an advisory board composed of parents, teachers and students to assist in menu planning;
- H.** Retain control of the school food service account and overall financial responsibility for the Program;
- I.** Be responsible for ensuring resolution of the Program review and audit findings;
- J.** Develop, distribute and collect the parent letter and application for free and reduced price meals and free milk;
- K.** Be responsible for determining and verifying applications for free and reduced price meals or free milk benefits and the conduct of any hearings related to such determinations. This responsibility cannot be delegated to Aramark.
- L.** Be responsible for signing reimbursement claims and commodity order forms. This responsibility cannot be delegated to Aramark;
- M.** Be responsible for all contractual agreements entered into in connection with the Programs (i.e. vending meals to other districts or school food authorities);
- N.** Be responsible to ensure that the Food Service Program is in conformance with District's agreement under the Programs; and
- O.** Establish all prices, including price adjustments for food items served under the nonprofit school service account (e.g. reimbursable meals, a la carte service, adult meals and vending machines).
- P.** District shall establish internal controls which ensure the accuracy of lunch counts prior to the submission of the monthly claim for reimbursement. At a minimum, District shall:

(i) review edit check worksheets and make comparisons of daily free, reduced price and paid lunch counts against data which will assist in the identification of lunch counts in excess of the number of free, reduced price and paid lunches served each day to children eligible for such lunches;

(ii) develop and implement a system for follow-up on those lunch counts which suggest the likelihood of lunch counting problems; and

(iii) conduct an on-site review of the lunch counting and claiming system employed by each school within the jurisdiction of District.

Q. District must provide detailed specifications, including, but not limited to, grade and weight for each food component or menu item as specified in 7 CFR Part 210, and include these specifications in the IFBs or RFPs. Specifications may also cover other items such as purchase units, style, condition, ingredients, formulations, and delivery time. 7 CFR 210.16(c)(3).

4. REGULATORY REQUIREMENTS:

A. Aramark shall maintain such records as District will need to support its claim for reimbursement under the National School Lunch and Breakfast Programs, and shall provide the necessary reports to District within 10 days following the end of each month of operation. All records of Aramark pertaining to District's Food Service Program shall be made available to representatives of District, the state agency, USDA, the U.S. Comptroller General, or the U.S. General Accounting Office, upon request, at Aramark's offices during regular business hours.

All such records shall be kept on file for three years after the end of the school year to which they pertain, or for such other period which the Secretary of Agriculture or appropriate State officials may from time to time determine; provided, however, that if audit findings have not been resolved, the records shall be retained beyond the three year period as long as required for the resolution of the issues raised by the audit.

Authorized representatives of District, the State, and USDA shall have the right to conduct on-site administrative reviews of the food service operation.

B. Food not prepared in facilities provided by District, but delivered for use in District's Food Service Program, shall meet all State and local sanitation standards. Aramark shall have State or local health certification for any facility outside the District in which it shall prepare meals for use in District, and shall maintain such health certification for the duration of this Agreement.

C. No payment shall be made for meals that are spoiled or unwholesome at time of service; that do not meet the specifications developed by District; or that do not otherwise meet the requirements of this Agreement; provided, however, that no deduction shall be made unless District shall give Aramark written notification within 48 hours of the meal service for which the deduction is to be made, specifying the number of meals for which District intends to deduct payment and setting forth the reasons for the deduction.

D. Aramark and District shall comply with all applicable standards, orders or regulations

issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 7602).

E. Aramark and District shall comply with all 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).

F. Contracts that permit all receipts and expenses to accrue to Aramark are prohibited.

G. In order to offer a la carte food service, all eligible children must be offered free, reduced price and full price reimbursable meals.

H. Aramark must retain records to support District's Claim for Reimbursement of the daily number of meals served, by type. These meal counts must be reported daily.

I. Aramark must retain revenue records broken down by source, type and category of meal or food service, e.g. a la carte sales, reduced price and full price National School Lunch Program and School Breakfast Program meals.

J. By executing this Agreement, District represents and warrants to Aramark that it has complied with the requirements of 7 CFR 210.16(a)(9) and (10) and has obtained the requisite approvals of the Massachusetts Department of Elementary and Secondary Education ("MDESE").

K. Aramark will comply with the Buy American provision set forth in 7 CFR Part 250 to the extent applicable.

L. Aramark will be liable to the District for any actual losses suffered by the District resulting directly from Aramark's negligent acts or omissions or willful misconduct in connection with claims assessed to the District as a result of reviews or audits conducted by the USDA or the State Agency.

M. Aramark and District will comply with all applicable laws and regulations.

5. FOOD SERVICE:

A. Aramark shall serve, on such days and at such times as requested by District:

1) Meals, priced as a unit, which meet the meal component requirements prescribed by USDA. District and Aramark will encourage maximum participation in the National School Lunch and Breakfast Programs.

2) Such other food as may be agreed upon by Aramark and District. A la carte offerings will comply with applicable Federal and State regulations.

B. For the first 21 days of meal service, Aramark shall adhere to the 21-day cycle menu agreed upon by Aramark and District. Thereafter, changes in the menu may be made with the approval of District.

C. Aramark shall make recommendations to District regarding the quality, extent and general nature of the Food Service Program, and the prices to be charged for meals and other food; but District will retain control over such aspects of the Food Service Program and shall have the right to make the final decisions regarding such matters.

D. Aramark shall cooperate with District in promoting the nutritional education aspects of District's Food Service Program and in the efforts of District to coordinate those aspects with classroom instruction.

E. Aramark shall serve free, reduced price and paid meals to those children designated by District and shall protect the anonymity of such children.

F. Upon request by District, Aramark may provide catered food service for special functions conducted outside the non-profit school food service at times and prices mutually agreed upon. In such instances, Aramark shall submit catering invoices by the end of the current month. Costs of catered functions shall not be supported by the nonprofit foodservice account funds. Aramark shall provide the District with copies of invoices and an invoice control log within ten (10) days after the end of each month.

6. FACILITIES AND EQUIPMENT:

A. Food Service Facilities: District shall make available to Aramark suitable Food Service Facilities, completely equipped and ready to operate, together with such heat, fuel, refrigeration, and utilities services as may be reasonably required by Aramark for the efficient performance of this Agreement. District shall have full access to the Food Service Facilities at all times.

B. Repair, Replacement and Maintenance: District shall furnish building maintenance services for the Food Service Facilities, shall promptly make all equipment repairs and replacements, and shall be responsible for compliance with all Federal, State and local safety and health laws and regulations with respect to the Food Service Facilities.

C. Servicewares, Small Expendable Equipment and Cash Registers: District shall provide and Aramark shall maintain as a Direct Cost to District, an adequate inventory of Servicewares, Small Expendable Equipment and cash registers. All Servicewares and Small Expendable Equipment and cash registers shall remain the property of District.

D. IT System: Aramark agrees to provide, install, maintain and operate an information technology system (which may include, but not be limited to, hardware, owned and licensed software and systems support) necessary for the operation of District's Food Service Program (the "IT System"). District shall receive a Charge for the use of the IT System. District shall provide, at its expense, a suitable environment, including such heat, air conditioning, phone and utility service as may be reasonably required for the installation, implementation, operation and maintenance of the IT System.

7. CLEANING RESPONSIBILITIES:

A. Aramark's Responsibilities: Aramark shall maintain high standards of sanitation

and shall be responsible for routine cleaning and housekeeping in the food preparation and service areas (including food service equipment, kitchen floors, hoods and grease filters) and for the routine cleaning of cafeteria tables and chairs.

B. District's Responsibilities:

1) District, at its cost, shall provide regular cleaning service for cafeteria walls, windows, floors, light fixtures, draperies and blinds, and periodic waxing and buffing of floors. In addition, District will be responsible for routine cleaning of grease traps, duct work, plenum chambers and roof fans.

2) District, at its cost, shall be responsible for trash and garbage removal and extermination service.

C. Joint Responsibilities: Aramark and District shall comply with all applicable standards, orders or requirements issued pursuant to Section 306 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 117389, and Environmental Protection Agency regulations (40 CFR, Part 15), and any violations thereof shall be reported to the United States Department of Agriculture and to the USEPA Assistant Administrator for Enforcement (EN-329) or other appropriate authority.

8. HEALTH CERTIFICATION: Aramark, as a Direct Cost, shall comply with all federal, state and local laws and regulations governing the preparing, handling and serving of food, and shall obtain on behalf of District and keep in effect all licenses, permits, food handlers' cards and health certifications as are required by law, and shall post such items in a prominent place within the Food Service Facilities as required. In the event that Aramark elects to prepare meals outside of the Food Service Facilities, Aramark, as a Direct Cost, shall maintain all applicable State and /or local health certifications(s) for the duration of the contract for any facility outside the Food Service Facilities in which it proposes to prepare meals.

9. PERSONNEL:

A. Aramark Personnel:

1) Aramark shall provide and pay a staff of management employees assigned to duty on District's premises for efficient management of the Food Service Program. Aramark's management employees will be subject to rules and regulations of District while on District's premises.

2) Aramark shall be reimbursed for the Direct Costs incurred by Aramark in connection with its employees assigned to duty on District's premises, including, but not necessarily limited to, compensation, performance bonuses and payroll costs and shall charge a Charge for educational and relocation assistance, fringe benefits and human resource services.

3) Aramark shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Act (40 USC 327-330), as supplemented by Department of Labor regulations (29 CFR, Part 5). In addition, Aramark shall comply with all applicable provisions of any other applicable federal, state or local law or regulation with respect to its personnel providing services hereunder.

B. District Personnel:

1) All other supervisory and non-supervisory food service employees shall be District employees. Such employees shall be supervised on District's behalf by Aramark's management employees; provided, however, District shall retain the exclusive right to control the terms and conditions of the employment of such supervisory and non-supervisory employees, including, but not limited to, control over their hiring, firing, promotion, discipline, levels of compensation and work duties.

2) District shall maintain accurate, timely and detailed records of personnel and other payroll costs for employees assigned to the Food Service Program, and shall grant Aramark access, during regular business hours, to such books and records.

3) District shall approve the hiring of all District employees to fill vacant positions in order to minimize overtime wages. In the event such positions are not approved for replacement within 10 working days (a "Hiring Delay"), the excess labor costs incurred by Aramark in the performance of the services hereunder attributable to a Hiring Delay shall be paid by District, but shall not be included in the determination of the District's Total Food Service Costs for purposes of calculating amounts due District under Paragraph 16 herein and the Food Service Budget shall be adjusted to reflect the decreased sales caused by any Hiring Delay.

4) In the event of a work slowdown, work stoppage or similar job action, or any actions directly attributable to the actions of District's employees or any collective bargaining unit representing District's employees or its representatives, if applicable, (collectively "Job Actions") that cause delays in the ability to achieve the financial objectives herein, the costs of such Job Actions shall be paid by District and shall not be included in District's Total Food Service Costs for purposes of calculating amounts due District under Paragraph 16 herein and the Food Service Budget shall be adjusted to reflect the decreased sales caused by any Job Action.

C. District Personnel Actions: If Aramark incurs any costs, including legal fees, retroactive wages and damages, as a result of any personnel action taken by District or by Aramark at the direction of District, Aramark shall charge District for such costs as Direct Costs.

D. Restriction on Hiring Supervisory Employees:

1) Aramark agrees that no food service supervisory employees of District shall be hired by Aramark for the term of this Agreement and 12 months thereafter.

2) District acknowledges that Aramark has invested considerable amounts of time and money in training its supervisory employees in the systems, procedures, methods, forms, reports, formulas, computer programs, recipes, menus, plans, techniques and other valuable information which is proprietary and unique to Aramark's manner of conducting its business and that such information is available, on a confidential basis, to Aramark's supervisory employees. Therefore, District agrees that supervisory employees of Aramark will neither be hired by District or any facility affiliated with District for the term of this Agreement and 12 months thereafter, nor will District permit supervisory employees of Aramark to be employed on District's premises or on the premises of any facility affiliated with District for a period of 12 months subsequent to the termination

of this Agreement (unless such employees were formerly employees of District) whether as an individual or as owner, partner, majority stockholder, director, officer or employee of a food service provider. For the purpose of this prohibition, "supervisory employees" shall be defined as those persons who have directly or indirectly performed management or professional services on District's premises at any time during the 12 month period immediately preceding termination of this Agreement.

In addition, District agrees that if it violates the conditions set forth in the immediately preceding paragraph, then District shall pay to Aramark and Aramark shall accept as liquidated damages and not as a penalty for such breach, an amount equal to two times the annual salary of the Aramark supervisory employee hired by or allowed to work in District in violation of the terms of this Agreement.

E. Equal Opportunity and Affirmative Action Employer: Neither Party shall discriminate because of race, color, religion, sex, age, national origin, pregnancy, disability, gender identity, genetic information, military status, veteran status (specifically status as a disabled veteran, special disabled veteran, Vietnam Era veteran, recently separated veteran, armed forces service medal veteran, or other protected veteran) or other classification protected by applicable federal, state or local law, in the recruitment, selection, training, utilization, promotion, termination, or other employment related activities concerning employees assigned to duty in the District's Food Service Program. Aramark affirms that it is an equal opportunity and affirmative action employer and shall comply with all applicable federal, state and local laws.

F. Background Checks: To the extent permitted by law, Aramark employees and prospective employees assigned to work on District premises shall receive background checks in accordance with Aramark's policy relating to background checks of prospective employees, including the prohibition of employment of individuals with a record of conviction of certain enumerated offenses, and, if required by the District, a fingerprint-based state and national criminal background check. All costs associated with the background checks and the pre-employment screenings shall be the responsibility of Aramark and/or the Aramark Applicant.

10. HEALTH EXAMINATIONS: Aramark shall cause all of its employees assigned to duty on District's premises to submit to periodic health examinations as required by law, and shall submit satisfactory evidence of compliance with all health regulations to District's medical department upon request. The cost of such examinations shall be a Direct Cost.

11. PURCHASING: Aramark shall purchase and pay for, as a Direct Cost, all food supplies and services utilized in District's Food Service Program. Such purchases shall be made exclusively for the benefit of District and shall be used solely in District's Food Service Program. All food and related supplies purchased on behalf of District shall be kept separate and apart and title thereto shall remain in District at all times. All such purchases shall be made in the name of District. Aramark will credit all discounts, rebates, and allowances, except prompt payment discounts, to District's account, and shall show such amounts on the invoice as a credit or reduction in the amount billed. District shall be billed for purchases made hereunder as such food and supplies are received in the District's Food Service Program.

In the event Aramark, either directly or through one of its affiliated companies, furnishes products or services, such as facilities design service, necessary for the efficient operation of the

Food Service Program, the charges to District for such products or services shall be competitive with the cost of obtaining such products or services from an independent source in the open market. Billings for such services shall be a Direct Cost.

Any silence, absence or omissions from this Agreement or the specifications of the RFP concerning any point shall be regarded as meaning that reasonable best commercial practices are to prevail and that materials and workmanship will be of a quality that would normally be specified by a similarly situated school food authority.

12. INVENTORY OF FOOD AND SUPPLIES: INTENTIONALLY OMITTED.

13. GOVERNMENT DONATED FOODS AND COMMODITIES:

A. All donated foods received for use by the District for the school year covered by this Agreement shall be used in the District's food service. All refunds received from processors must be retained by the District.

B. District shall be responsible for all commodities orders. Aramark shall order and select donated foods, in coordination with the District in accordance with 7 CFR 250.52. Title to all USDA donated commodities must remain with District. District shall assure that the maximum amount of USDA donated foods are received and utilized by Aramark.

C. Aramark shall provide storage and inventory management in accordance with 7 CFR 250.52 and 7 CFR 250.14(b). Aramark shall ensure that its system of inventory management does not result in the District being charged for donated foods.

D. Aramark shall use all donated ground beef and ground pork products, and all processed end products, in the District's food service.

E. Aramark shall use all other donated foods, or will use commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, the District's food service.

F. Aramark shall ensure compliance with the requirements of subpart C of 7 CFR part 250 and with the provisions of the distributing and or District's processing agreements in the procurement of process end products on behalf of the District, and will ensure crediting of the District for the value of donated foods contained in such end products at the processing agreement value.

G. Aramark shall not enter into the processing agreement with the processor required in subpart C of 7 CFR 250.

H. Aramark shall credit the District for the value of all donated foods received for use in the District's meal service in the school year (including both entitlement and bonus foods), and include the value of donated foods contained in processed end products, in accordance with the contingencies in 7 CFR 250.51(a), 7 CFR 250.51(c), and 7 CFR 250.58(e).

I. The method used to credit the District for the donated foods shall be crediting by disclosure, which will occur on the billing documents submitted each month.

J. The District, distributing agency, subdistributing agency, the Comptroller General, the Department of Agriculture, or their duly authorized representatives, may perform onsite reviews of Aramark operations, including the review of records, to ensure compliance with requirements for the management and use of donated foods. The District must conduct a reconciliation at least annually (and upon termination of the contract) to ensure that Aramark has credited it for the value of all donated foods received for use in the District's food service in the school year including, in accordance with requirements in 7CFR 250.51(a), the value of donated foods contained in processed end products. Aramark must return all unused donated ground beef, donated ground pork, processed end products and (at the District's discretion) return all unused donated foods in accordance with 7CFR 250.52(c) when a contract terminates, is not extended or renewed.

K. Aramark shall maintain records to document its compliance with the requirements relating to donated foods in accordance with 7 CFR 250.54(b). In accordance with 7 CFR 250.52(a), Aramark may store and inventory donated foods together with foods it has purchased commercially for the District's use, unless this is specifically prohibited in its contract. Aramark may store and inventory such foods together with other commercially purchased foods only to the extent that such a system ensures compliance with the requirements for the use of donated foods in 7 CFR 250.51(d).

L. Extensions or renewals of this Agreement, if applicable, are contingent upon fulfillment of all contract provisions relating to donated foods.

M. Aramark accepts liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA donated foods.

14. LICENSES, PERMITS AND TAXES: Aramark shall obtain all federal, state and local licenses and permits required for District's Food Service Program and shall be responsible for all sales, use, excise taxes and all other state and local taxes attributable to District's Food Service Program. The cost of all such licenses, permits and taxes shall be charged as Direct Costs.

In the event that a determination is made by a government authority that any sales, purchases, payments, maintenance or use of inventory or property made to or by Aramark under this Agreement, either in whole or in part, are subject to any sales, use, gross receipts or any similar tax, the full amount of any such tax liability, together with any interest or penalties thereon, shall constitute a Direct Cost and shall immediately be reimbursed by District to Aramark upon Aramark's demand therefore, notwithstanding the fact that this Agreement may have expired or been terminated for any reason by either Party hereto prior to the date of such determination; further, in the event that such determination is made during the term of this Agreement, District, from the time of such determination forward, shall pay such tax to Aramark as a Direct Cost or, if applicable, shall assist Aramark in collecting such tax at the point of sale.

15. INSURANCE:

A. Insurance Aramark agrees to provide workers' compensation insurance as required

by law. In addition, Aramark shall carry comprehensive general liability insurance, including products, contractual, and broad form vendors' coverage, with minimum limits of \$1,000,000. Aramark shall furnish to District, upon request, a certificate of insurance indicating that such coverage is in effect. Aramark shall charge District a Charge for providing insurance coverage and related services.

District and Aramark waive any and all right of recovery from each other for property damage, or loss of use thereof, howsoever occurring. This waiver shall include, but not be limited to, losses covered by policies of fire, extended coverage, boiler explosion and sprinkler leakage. This waiver shall not apply to claims for personal injury or death.

Aramark and District agree to hold harmless, defend and indemnify each other from and against any claims, actions, costs, losses, damages or liability for injury arising out of their negligent acts or omissions or those of their respective officers, employees or agents, pursuant to this Agreement, to the extent permissible by law.

16. FINANCIAL TERMS:

A. District's Food Service Program: Aramark shall manage District's Food Service Program for the benefit to District's students, faculty and staff. All Federal and State reimbursements and cash receipts shall be utilized solely in District's Food Service Program or for the improvement of such Food Service Program. Aramark shall turn over all cash receipts to District for deposit in District's food service account. District represents and warrants that all financial and operating information it has provided to Aramark is true, complete and correct and presents fairly and accurately all items of revenue and expense of the Food Service Program to be managed by Aramark herein in conformity with generally accepted accounting principles consistent with that of the preceding years and applied in accordance with past practice.

B. District's Responsibilities: All facilities, equipment and services to be provided by District shall be at District's expense.

C. Payment to Aramark: District shall pay Aramark for all Reimbursable Items, including an allowance for its General and Administrative Expense. In addition, District shall pay to Aramark a management fee of \$ 0.0692 per meal for each National School Lunch and Breakfast Program meal served and Meal Equivalent served (the "Management Fee"). The total of such Reimbursable Items and Management Fee is the "District's Financial Obligation." For the purpose of computing the foregoing meal counts, the number of National School Lunch and Breakfast Program meals served to children shall be determined by actual count. Cash receipts, other than from sales of National School Lunch and Breakfast Program meals served to children and Cash Equivalents shall be divided by the Equivalency Factor to determine the number of Equivalent Meals served by Aramark.

D. Meal Count: The number of National School Lunch and Breakfast Program meals served to children shall be determined by actual count. Meal Equivalents shall be determined as set forth in Paragraph 2 hereof.

E. Number of Meals: Aramark's allowance for its General and Administrative Expense and Management Fee is based on an anticipated service per school year of 388,206 National School

Lunch Program meals, 50,960 Breakfast Program meals and 150,978 Meal Equivalents. In the event that existing conditions at District change (including by way of example, student population, number of service days, type and number of schools, personnel practices, hours, length or type of meal service or any other conditions beyond the control of Aramark), so that such minimum number of meals is not achieved, District and Aramark will renegotiate the Financial Terms set forth herein. Furthermore, the projected number of meals to be served by Aramark in the Current Year is based on the meal counts provided by District to Aramark as part of the request for proposal process. District represents and warrants that such meal count data and other information provided to Aramark as part of the request for proposal process is true and correct.

F. Aramark Guarantee:

1) Projected Food Service Budget Surplus: Aramark estimates that the projected surplus for the Current Year shall be at least \$300,000 (the "Projected Surplus") for those items of revenue and expense set forth in the mutually agreed upon budget attached hereto as Exhibit B (the "Food Service Budget").

2) Aramark Reimbursement: Aramark agrees to reimburse District for the amount, if any, by which District's Surplus is less than the Projected Surplus for the Current Year ("District's Shortfall") up to the amount of Aramark's Management Fee and General and Administrative Expense for the Current Year. District shall be responsible for the balance of the District's Shortfall. If this Agreement is renewed after the Current Year, and Aramark reimburses District for any amount of District's Shortfall for the Current Year, District shall permit Aramark to recover in such subsequent year all or a portion of any amount previously reimbursed to District to the extent that Gross Receipts exceed District's Total Food Service Costs in such subsequent year. As used herein, the term "District's Surplus" shall mean the amount, if any, by which District's actual Gross Receipts for the Current Year exceed District's actual Total Food Service Costs for the Current Year.

3) Reimbursement Conditions and Assumptions: Aramark's obligation to reimburse District in accordance with Paragraph 16.F(2), above, shall remain in effect only during the Current Year and is contingent upon the following conditions and assumptions remaining in effect for the Current Year:

- (a) Reimbursement rates for Food Service Program meals shall not be less than the rates in effect for the prior school year.
- (b) The value of government donated commodities or cash in lieu thereof received shall not be less than the value of government donated commodities or cash in lieu thereof received during the prior school year. The mix and quantity of government donated commodities shall not change from the mix and quantity received the prior school year so as to increase actual food costs over the level of projected food cost set forth in Exhibit B.
- (c) There shall be at least One Hundred Eighty-Two (182) full service days where breakfast and lunch is served at the high school and middle school levels and at least One Hundred Eighty-Two (182) full service days at the elementary school level where lunch only is served and One Hundred and Eighty-Two (182) days where breakfast is

served at the elementary school level for the Current Year full service days where breakfast and lunch are served for the Current Year.

- (d) The average daily student enrollment for the Current Year shall be at least 5,452.
- (e) The cost of wages, salary, and fringe benefits for the food service operations employees or the number of such employees shall not exceed such levels as set forth in Exhibit B. Aramark's reimbursement obligation is based on the Federal and State minimum wage laws and health care benefit rates, laws, and regulations including, without limitation, any prevailing wage rates and laws, in effect as of January 1, 2018. Should the minimum wage or health and welfare benefit rates be increased above the January 1, 2018 level pursuant to any Federal, State or local law or regulation, or should Aramark's costs increase due to causes beyond Aramark's control, Aramark's reimbursement obligation shall automatically be adjusted to cover increased costs resulting directly or indirectly from such increase.
- (f) The actual costs charged to the Food Service Budget by District shall not exceed the projected operating expenses as set forth in Exhibit B attached hereto and made a part hereof.
- (g) Food Costs during the Current Year shall not increase by an amount greater than Three Percent (3%) per proposal response. Food costs will be measured by the greater of the (a) yearly percentage change in the Consumer Price Index, All Urban Consumers, U.S. City Average, Food Away From Home Index ("CPI-FAH"), published by the U.S. Department of Labor and (b) the yearly percentage change in the Market Basket of Products (as defined below) which approximate the products served pursuant to this Agreement (the "District Menu"). The period for determining CPI-FAH and Market Basket of Products increases shall be June of the immediately preceding year to June of the Current Year. The "Market Basket of Products" represents categories or types of products that are generally used in the District Menu. Such products are classified into the following six categories of food items (each, a "Menu Category"): beverage; baked goods; produce; dairy; meat; and grocery items (composed of the food items in the menu that are not otherwise included in one of the preceding categories). Each Menu Category will be ascribed a percentage (the "Category Weighting") representing the proportion of the District Menu that such Menu Category approximately represents based on purchasing levels during the Current Year. Each Category Weighting will then be multiplied by the percentage change in the corresponding Bureau of Labor Statistics category compiled by the U.S. Department of Labor, and the results of each such calculation will be added together to

arrive at the overall percentage change which will represent the Market Basket of Products.

- (h) District and its representatives, including, but not limited to, the District liaison, school principals, teachers and District employees shall fully cooperate with Aramark and its representatives in the implementation of the Food Service Program and any modifications to the Food Service Program. District shall fully cooperate with Aramark to limit the expansion of competitive food sales in order to maximize the Gross Receipts and other non-cash sales of the Food Service Program.
- (i) The ratio of students eligible to receive free and reduced price meals as compared to total student enrollment shall not decrease from prior year.
- (j) District and/or any facility affiliated with District shall neither hire any supervisory employee of Aramark, nor permit any supervisory employee of Aramark to be employed on District's premises or on the premises of any facility affiliated with District during the Current Year or for a period of 12 months subsequent to the Current Year (unless such employees were formerly employees of District) whether as an individual or as owner, partner, majority stockholder, director, officer or employee of a food service provider. For the purpose of this provision, "supervisory employees" shall be defined as those persons who have directly or indirectly performed management or professional services on District's premises at any time during the Current Year or the 12 month period immediately preceding the Current Year.

In the event any of the foregoing conditions or assumptions is not met during the Current Year, Aramark's obligation shall be reduced by the amount of any increase in District's Total Food Service Costs or any reduction in Gross Receipts which is attributable to the changes in such conditions or assumptions. Furthermore, if during the Current Year District requests a material change in any phase of the Food Service Program that results in a decrease in Gross Receipts or an increase in Total Food Service Costs from the amounts set forth in the Food Service Budget, Aramark shall advise District of its estimate of the increase in the Total Food Service Costs or decrease in Gross Receipts attributable to such requested change. Any budget, including the Food Service Budget, agreed to by Aramark and District shall be adjusted to reflect such estimated increase in Total Food Service Costs or decrease in Gross Receipts.

G. Renegotiation: Aramark's allowance for its General and Administrative Expense and Management Fee shall be increased on an annual basis by an amount to be mutually agreed upon; provided, however, in the event no agreement is reached with respect to such increase, Aramark's allowance for its General and Administrative Expense and Management Fee shall be increased by the Yearly Percentage Change in the Consumer Price Index, as published by the U.S. Department of Labor, Bureau of Labor Statistics (1982 - 100% base period), Food Eaten Away From Home ("CPI") or a comparable index if that index is not available. Such increases shall be effective

on a prospective basis on each anniversary date of this Agreement. The Yearly Percentage Change in the CPI shall be defined as the percentage change in the CPI during the 12 month reported period preceding each anniversary date hereof.

17. ACCOUNTING AND FINAL RULE:

A. Weekly Billing: Within five (5) days after the end of each week, Aramark will submit to District an invoice for its payroll costs and Weekly Batch Accounts Payable. Weekly Batch Accounts payable means all invoices generated weekly by Aramark in accordance with its general course of business.

B. Accounting Period Operating Statement and Notification of Billing Adjustment: Within thirty (30) days after the end of each Accounting Period, Aramark shall submit to District an operating statement for such Period. Any difference between the amount of the invoice previously submitted for the Accounting Period (as referred to in Paragraph 17.A) and the amount shown on the operating statement as owing to Aramark for the Accounting Period will be reflected in the subsequent Accounting Period billing.

C. Payment Terms: All invoices submitted by Aramark to District shall be paid within ten (10) days of the invoice date. In the event invoices are not paid within twenty-five (25) days of the invoice date, interest shall be charged on each invoice at the Interest Rate from the invoice date.

The right of Aramark to charge interest for late payment shall not be construed as a waiver of Aramark's right to receive payment of invoices within ten (10) days of the invoice date. In the event that Aramark incurs legal expense in enforcing its right to receive timely payment of invoices, District agrees to pay Aramark's reasonable attorney's fees and other costs.

D. Current Year Reconciliation: Within thirty (30) days following the end of the Current Year, Aramark shall submit to District an operating statement for the Current Year and shall pay to District the amount, if any, due District or shall submit to District an invoice pursuant to Paragraph 16.F, herein.

E. Accounting Requirements: (i) Allowable costs will be paid from the nonprofit school food service account to the FSMC net of all discounts, rebates and other applicable credits accruing to or received by the FSMC or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the District;

(ii) Aramark will exclude all unallowable costs from its billings and certify that only allowable costs are submitted for payment by District. Records must be established that maintain visibility of unallowable costs, including directly associated costs, in a manner suitable for contract cost determination and verification;

(iii) Aramark's determination of its allowable costs must be made in compliance with the applicable USDA regulations and National School Lunch Program and Commodity School Program regulations and Office of Management and Budget cost circulars;

(iv) Aramark shall identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the District for payment and individually identify the

amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the Massachusetts Department of Elementary and Secondary Education (“MDESE”), the District may permit the FSMC to report this information on a less frequent basis than monthly, but no less than annually;

(v) Aramark shall identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract;

In the event that discounts, rebates and/or other applicable credits allocable to this Agreement are earned by Aramark subsequent to the expiration and/or termination of this Agreement, Aramark shall report such discounts, rebates and other applicable credits to the District by way of a supplemental report. To the extent that such discounts, rebates and/or other applicable credits were not previously credited to the District, Aramark shall refund the amount of such discounts, rebates and/or other applicable credits to the District subject to any necessary supplemental reconciliation of the final operating statement provided by Aramark to the District for the final year of the Agreement;

and

(vi) Aramark shall maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the District, the MDESE, or the USDA.

18. FORCE MAJEURE; REMEDIES:

A. Neither Party shall be responsible to the other for any losses resulting from the failure to perform any terms or provisions of this Agreement, except for payments of monies owed, if the Party’s failure to perform is attributable to war, riot, or other disorder; strike or other work stoppage; fire; flood; or any other act not within the control of the Party whose performance is interfered with, and which, by reasonable diligence, such Party is unable to prevent. Any such occurrence shall be referred to as a “Force Majeure”.

In the event of a Force Majeure which interferes with the operation of District’s Food Service Program, upon request, Aramark will take all reasonable steps to continue to provide service upon terms and conditions satisfactory to Aramark and District and any guarantee provided herein shall be adjusted to account for lost Gross Receipts and any increase in District’s Total Food Service Costs.

B. Notwithstanding any other provision of this Agreement, both parties shall be deemed to have retained any and all administrative, contractual and legal rights and remedies to which they may be entitled.

19. CONFIDENTIAL INFORMATION AND PROPRIETARY MATERIALS:

A. Confidential Information: All financial, statistical, operating, marketing and personnel materials and information, including, but not limited to, the IT System, manuals, recipes, menus and meal plans, and computer programs relative to or utilized in Aramark’s business or the business of any affiliate of Aramark (collectively, “Confidential Information”), shall be the property of

Aramark and shall be confidential. District shall keep such Confidential Information confidential during or subsequent to the term of this Agreement and shall so instruct its agents, employees, and independent contractors, and the use of such Confidential Information by District in any manner shall not affect Aramark's ownership or the confidential nature of such Confidential Information. District shall not photocopy or otherwise duplicate any such Confidential Information without the prior written consent of Aramark.

B. Proprietary Materials: District agrees that all computer software programs, signage and marketing and promotional literature and material (collectively referred to as "Proprietary Materials") used by Aramark on District's premises in connection with the food services provided by Aramark under this Agreement shall remain the property of Aramark notwithstanding the fact that District may have paid a Charge for the use of such Proprietary Materials in connection with District's Food Service Program. Upon the expiration or termination of this Agreement, all use of trademarks, service marks and logos owned by Aramark or licensed to Aramark by third parties shall be discontinued by District, and District shall immediately return to Aramark all Proprietary Materials.

C. District Information: Aramark acknowledges that during the course of this Agreement, Aramark shall have access to business systems, techniques and methods of operation developed at great expense by District which Aramark recognizes to be unique assets of District's business. Aramark agrees to keep such information confidential and shall not disclose such information directly or indirectly during or subsequent to the term of this Agreement.

20. TERM AND TERMINATION:

A. This Agreement shall be in effect for the Current Year, and may be renewed by mutual agreement of District and Aramark for two additional terms of one school year each.

B. Either Party may terminate this Agreement at any time by giving 60 days' written notice to the other Party of its intention to terminate as of the date specified in the notice.

C. If, at any time, Aramark or District shall make a reasonable decision that adequate funding from federal, state or local sources shall not be available to enable District to carry out its financial obligation to Aramark, then Aramark or District shall have the option to terminate this Agreement by giving 10 days' written notice to the other Party.

D. In the event of a breach of this Agreement by either District or Aramark, the non-breaching party shall give the breaching party written notice specifying the default, and the breaching party shall have 30 days within which to cure the default. If the default is not cured within that time, the non-breaching party shall have the right to then terminate this Agreement by giving the breaching party 30 days' written notice of its intention to terminate.

21. DEBARMENT/SUSPENSION CERTIFICATE: Aramark must sign a Debarment/Suspension Certification. This certification assures District that Aramark has not been debarred from entering into contracts with the federal government or any entity receiving federal funds or suspended from entering contracts during a time when Aramark is being investigated or a legal action is being taken to debar Aramark from contracting activities. The certification must be attached to the signed contract and kept on file at District. A copy of the certification must also be forwarded to the state agency with a copy of the signed Agreement or addendum.

22. LOBBYING:

A. Certification: Aramark must sign a Lobbying Certification regarding lobbying which conforms in substance with language in 7 CFR 3018. The certification shall be attached to this Agreement and kept on file at District. A copy of the certification must also be forwarded to the state agency with a copy of the signed Agreement or addendum.

B. Disclosure Form: Aramark must disclose lobbying activities in connection with the Food Service Program. The disclosure form must be attached to this Agreement and kept on file at District. A copy of the disclosure form must also be forwarded to the state agency with a copy of the signed Agreement or addendum.

23. ENTIRE AGREEMENT AND AMENDMENTS: This Agreement represents the entire agreement between the parties and supersedes any and all prior agreements. All prior negotiations have been merged into this Agreement and there are no understandings, representations or agreements, oral or written, express or implied other than those set forth herein. The terms of this Agreement may not be changed, modified or amended except by a writing signed by both parties. Obligations of the parties set forth in this Agreement arising out of events occurring during the life of this Agreement shall survive the termination of this Agreement.

24. NOTICES: All notices, consents, waivers or other communications which are required or permitted hereunder shall be sufficient if given in writing and delivered personally, or by sending a copy thereof by first class or express mail, postage prepaid, or by courier service, charges prepaid, or by facsimile transmission (followed by the original) to the address (or to the facsimile or telephone number), as follows (or to such other addressee or address as shall be set forth in a notice given in the same manner):

- To District: Natick Public Schools
13 East Central Street
Natick, MA 01760
Attn: Director of Finance

- To Aramark: Aramark Educational Services, LLC
Aramark Headquarters
2400 Market Street
Philadelphia, Pennsylvania 19103
Attn: Vice President, Finance

- Copy to: Aramark Educational Services, LLC
Aramark Headquarters
2400 Market Street
Philadelphia, Pennsylvania 19103
Attn: Vice President and Associate General Counsel,
Aramark Education (K-12)

If such notice is sent by mail or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or courier service for delivery to that

person or, in the case of facsimile transmission when received.

25. WAIVER: The failure of Aramark or District to exercise any right or remedy available under this Agreement upon the other Party's breach of the terms, covenants or conditions of this Agreement or the failure to demand prompt performance of any obligation under this Agreement shall not be deemed a waiver of such right or remedy; of the requirement of punctual performance; or of any subsequent breach or default on the part of the other Party.

26. ASSIGNMENT: Neither District, nor Aramark shall assign this Agreement without the prior written consent of the other; provided, however, that either Party may assign the Agreement to an Affiliate without the consent of the other Party. For purposes of this Agreement, "Affiliate" shall mean a company which controls, is controlled by, or is under common control with the assigning Party or its ultimate parent company.

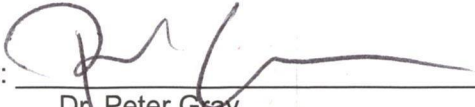
27. SEVERABILITY: If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement, and the application of such provision to other persons or circumstances, shall not be affected thereby, and to this end the provisions of this Agreement are declared to be severable.

28. HEADINGS: All paragraph headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.

[SIGNATURE PAGE FOLLOWS ON NEXT PAGE]


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives the day and year first above written.

NATICK PUBLIC SCHOOLS

By: 

Dr. Peter Gray
Director of Finance

ARAMARK EDUCATIONAL SERVICES, LLC

DocuSigned by:
By: 

24973484508D450
Daniel T. Regler
Vice President, Finance

ADDENDUM 1

MASSACHUSETTS DEPARTMENT OF ELEMENTARY & SECONDARY EDUCATION SFA-FSMC MANDATORY & UNALLOWABLE CONTRACT LANGUAGE

The following terms shall be fully incorporated into the Food Services Management Agreement (“Agreement”) between Natick Public Schools (“SFA”) and Aramark Educational Services, LLC (“FSMC”). In the event of any conflict or inconsistency between the terms and provisions of this Addendum 1 and the terms and provisions of any other part of this Agreement, the terms and provisions of this Addendum 1 shall control.

Section A – SFA Responsibilities

1. **Provisions Under Program Agreement.** Pursuant to 7 CFR § 210.16(a)(2), SFA will ensure that the food service operation is in conformance with the SFA’s agreement under the program.
2. **Signature Authority.** Pursuant to 7 CFR § 210.16(a)(5), SFA will retain signature authority on the SA-SFA agreement and related document reports:
 - a. Free/reduced application process, including hearings and verifying free & reduced meal applications
 - b. SFA’s free & reduced price policy statement & agreement
 - c. Monthly claims for reimbursement
 - d. Commodity Order Forms
3. **Control of SFA Account and Overall Financial Responsibility.** Pursuant to 7 CFR § 210.16(a)(4), SFA shall:
 - a. Retain control of the nonprofit school food service account and overall financial responsibility for the nonprofit food service operation; and
 - b. Retain control for the establishment of all prices, including price adjustments, for meals served under the nonprofit school food service account, e.g. pricing for reimbursable meals, a la carte service including vending machines, and adult meals.
 - c. If FSMC promises a guarantee to meet fiscal goals specified by the SFA, the SFA must ensure that all conditions and assumptions of a break even be clarified and defined and any guaranteed return promised by the FSMC is defined (using actual numbers) and remains in the non-profit food service account. If the contract contains such guarantees, the contract should also contain language that ensures that the FSMC bears responsibility for failure to meet those goals. “Returns” cannot be contingent upon multi-year contract duration.
4. **USDA Donated Foods.** Pursuant to 7 CFR § 210.16(a)(6), SFA shall:
 - a. Retain title to USDA donated foods;
 - b. Ensure that all USDA donated foods made available to the FSMC, including processed USDA donated foods, accrue only to the benefit of the SFA’s nonprofit

school food service and are fully utilized therein. All refunds received from processors must be retained by the SFA.

- c. Method (including frequency) delineating how the FSMC will pass along the full value of USDA donated foods to the SFA.

5. **Quality, Extent, and General Nature of Food Service.** Pursuant to 7 CFR § 210.16, SFA shall:
 - a. Provide detailed specifications for each food component or menu item as specified in 7 CFR Part 210, and include these specifications in the IFBs or RFPs. Specifications must cover items such as grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time.
 - b. Retain control of the quality, extent, and general nature of its food service.
 - c. Make no payment for meals that are spoiled or unwholesome at the time of delivery, do not meet detailed specifications or do not otherwise meet the requirements of the contract.
6. **Health Regulations.** Pursuant to 7 CFR § 210.16(a)(7), SFA shall maintain all applicable health certifications and assure that all State and local regulations are being met by a FSMC preparing or serving meals at a SFA facility.
7. **Monitoring Responsibilities.** Pursuant to 7 CFR § 210.16(a)(3), SFA shall monitor the food service operation through periodic on-site visits to ensure the food service is in conformance with program regulations.
8. **Use of Advisory Board.** Pursuant to 7 CFR § 210.16(a)(8), establish and maintain an advisory board composed of parents, teachers, and students to assist in menu planning.
9. **21-Day Cycle Menu.** Pursuant to 7 CFR § 210.16(b)(1), include a 21-day cycle menu developed in accordance with the meal pattern requirements specified in 7 CFR Part 210.

Section B – FSMC Responsibilities

1. **Health Certification.** Pursuant to 7 CFR § 210.16(c)(2), FSMC shall maintain all applicable State and/or local health certification(s) for the duration of the contract for any facility outside the school in which it proposes to prepare meals. The FSMC must meet all applicable State and local health regulations in preparing and serving meals at the SFA facility.
2. **21-Day Cycle Menu.** Pursuant to 7 CFR § 210.16(b)(1), FSMC shall adhere to the 21-day menu cycle which was included in the IFB or RFP for the first 21 days of meal service. Changes thereafter may only be made with the approval of the SFA.
3. **Provision of Free and Reduced-Price Meals.** Pursuant to 7 CFR § 210.16(a), in order to offer a la carte food service, the FSMC must also offer free, reduced price and full price reimbursable meals to all eligible children.

4. **USDA Donated Foods.** Pursuant to 7 CFR § 210.16(a)(6) (per OIG, 7/03), FSMC shall to the maximum extent possible, utilize USDA donated foods made available by the SFA. This means the FSMC does not purchase foods that are available as commodities. FSMC will use USDA donated foods solely for the purpose of providing benefits for the SFA's food service operation.
5. **Recordkeeping.** Pursuant to 7 CFR Parts 3016.42, 3019.53, § 210.16(c)(1), ; § 250.53, and ; § 210.23(c), FSMC shall maintain records to support the SFA's Claim for Reimbursement; make all records available to the SFA upon request; and retain all records for a period of three (3) years after the SFA submits the final Claim for Reimbursement for the fiscal year for inspection and audit by representatives of the SFA, SA, USDA, and Comptroller General, at any reasonable time and place. In instances where audit findings have not been resolved, the records must be retained beyond the 3-year period until resolution of the issues raised by the audit.
6. **Resource Management.** Pursuant to 7 CFR § 210.14, for all contracts, including fixed price per meal contracts, awarded on a per meal basis and with revenues from nonprogram food sales converted into meal equivalents to which the fixed price cost is applied, the FSMC will annually provide the information on food costs and revenues, including the food costs for reimbursable meals, the food cost for non-program foods, revenue from non-program foods, and total revenue.
7. **Reporting.** Pursuant to 7 CFR § 210.16(c)(1), FSMC shall report the claim information to SFA promptly as the end of each month or more frequently as specified by the SFA.
8. **Purchasing.** Pursuant to Federal Register Vol. 72 and OIG 7/03, all applicable payment discounts, rebates, and allowances obtained from vendors must go to the SFA's food services account.
9. **Purchasing.** Pursuant to Federal Register Vol. 72 and OIG 7/03, charges to the SFA for goods and services should be reasonable and necessary for the operation of the non-profit food service.

Section C – General Terms

1. **Contract Duration.** Pursuant to 7 CFR § 210.16(d), contracts must be of a duration no longer than one (1) year, and options for yearly renewals of a contract may not exceed four (4) additional one-year extensions.
2. **Energy Policy and Conservation.** SFA and FSMC will comply with Energy Policy and Conservation Act, 7 CFR Part 3016.36(i)(13) and Pub. L. 94-163, 89 Stat 871.
3. **Termination.** Pursuant to 7 CFR § 210.16(d), either party may cancel for cause with 60-day notification.
4. **Breach.** Pursuant to 7 CFR §210.21, § 210.16(b)(2), any invitation to bid or request for proposal shall indicate that nonperformance subjects the FSMC to specified sanctions in

instances where the FSMC violates or breaches contract terms. The SFA shall indicate these sanctions in the invitation to bid or request for proposal.

5. **Nonperformance.** Pursuant to 7 CFR Part 3016.36(i), provisions allowing for administrative, contractual, or legal remedies in instances where the FSMC violates or breaches contract terms, and providing for such sanctions and penalties as may be appropriate.
6. **Prohibited Contracts.** Pursuant to 7 CFR § 210.16(c), contracts that permit all income and expenses to accrue to the FSMC and “cost-plus-a-percentage-of-income” contracts are prohibited. Contracts that provide for fixed fees such as those that provide for management fees established on a per meal basis are allowed.

Section D – Contracts in Excess of \$2,500 Involving Food

1. **Contract Work Hours and Safety.** In the event this contract exceeds \$2,500, the Contract Work Hours and Safety Standards Act, 7 CFR Part 3016.36(i), and 2 CFR Appendix II to Part 200(E) shall apply to any service workers whose duties are manual or physical in nature.

Section E – Contracts in Excess of \$10,000

1. In the event this contract exceeds \$10,000, the following shall apply:
 - a. **Termination.** A termination clause in compliance with OMB Circular No. A-102, 7 CFR Part 3016.36(i), and 2 CFR Appendix II to Part 200 (B); and
 - b. **Equal Opportunity.** Equal employment opportunity in compliance with 7 CFR Part 3016.36(i), and 2 CFR Appendix II to Part 200.

Section F – Contracts of \$25,000 or More

1. In the event this contract exceeds \$25,000, the following shall apply:
 - a. **Debarment, Suspension, Ineligibility, and Voluntary Exclusion.** Certification regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion pursuant to 2 CFR 200.212.

Section G – Contracts in excess of \$100,000

1. In the event this contract exceeds \$100,000, the following shall apply:
 - a. **Lobbying.** Disclosure of Lobbying Activities pursuant to 7 CFR Part 3018
 - b. **Environmental.** Clean Air Act, Clean Water Act, and Environmental Protection Agency Regulations, 7 CFR Part 3016(i), 2 CFR Appendix II to Part 200 (G); 42 U.S.C. 7401-7671q; 33 U.S.C. 1251-1387.

Section H – Contracts Involving Research, Developmental, Experimental and Demonstration Work

1. In the event this contract involves research, developmental, experimental, and demonstration work, the following shall apply:
 - a. **Intellectual Property.** USDA Rights to Copyrights, Parent Rights and Rights in Data and Reporting of Discoveries and Inventions, 7 CFR Part 3016.36(i).

Section I – Required Inclusions

1. **Program Regulation.** SFA and FSMC shall conduct program operations in accordance with 7 CFR Parts 210, 215, 220, 225, 226, 245, and 250, and FNS instructions and policy.
2. **Special Functions.** SFA and FSMC shall mutually delineate the cost allocation for special functions conducted outside the nonprofit food service. The method should demonstrate that labor costs are not being doubled billed for program meals and special function meals.
3. **Fee Structure.** SFA and FSMC shall mutually agree on a breakdown of administrative and management fees in order to prevent double billing. SFA and FSMC shall mutually agree on the basis for fee adjustments.
4. **Purchasing.** In a cost reimbursable contract, if FSMC makes purchases, the prices charged to the SFA must be reasonable and necessary. Any silence, absence or omission from the contract document specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and that only materials (food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA are to be used.
5. **Independent Price Determination.** SFA and FSMC shall submit a Certificate of Independent Price Determination.
6. **Civil Rights.** SFA and FSMC shall comply with the following 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; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement in School Nutrition Programs. Further, both SFA and FSMC agree to the following requirements as outlined in the USDA Nondiscrimination Statement below:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program

information (e.g. Braille, large print, audiotape, American Sign Language, etc.) should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW Washington D.C. 20250-9410
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov

This institution is an equal opportunity employer.

7. **Buy American.** SFA and FSMC shall comply with the Buy American Provision pursuant to 7 CFR § 210.21(d) and 7 CFR § 250.23.
8. **Claim Liability.** FSMC accepts claim liability as follows:
 - a. FSMC accepts liability caused by FSMC negligence for claims assessed as a result of Federal/State review/audits, corresponding with the SFA's period of liability.
 - b. FSMC accepts liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA donated foods.
9. **Location of Records.** All FSMC records pertaining to the SFA shall be maintained at the SFA while the contract is in effect, and preferably for the required retention period.
10. **Cost Reimbursement.** If the contract is a cost-reimbursable contract, SFA and FSCM must comply with the following requirements from 7 CFR § 210.21:
 - a. Pursuant to 7 CFR § 210.21(i), SFA will pay allowable costs from the nonprofit food service account to FSMC net of all discounts, rebates, and other applicable credits accruing to or received by FSMC or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to SFA.
 - b. FSMC must either:

- i. Pursuant to 7 CFR § 210.21(f)(ii)(A), separately identify and provide sufficient information to permit the SFA to identify for each cost submitted for payment to SFA the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account), or
 - ii. Pursuant to 7 CFR § 210.21(f)(ii)(B), 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.
 - c. Pursuant to 7 CFR § 210.21(f)(iii), FSMC's determination of its allowable costs must be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget (OMB) Cost Circulars.
 - d. Pursuant to 7 CFR § 210.21(iv), FSMC has identified the amount of each discount, rebate, and other applicable credit on bills and invoices presented to the SFA for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the State agency, the SFA may permit the contractor to report this information on a less frequent basis than monthly, but no less frequent than annually.
 - e. Pursuant to 7 CFR § 210.21(v), FSMC has identified the method by which it will report discounts, rebates, and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract. Describe the method here:
 - f. Pursuant to 7 CFR § 210.21(vi), FSMC must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the SFA, MDESE, or USDA.
11. **Nutrition Education.** FSMC shall take responsibility for nutrition education activities, as applicable.

12. **Donated Foods.** SFA and FSMC shall comply with the following:

- a. **Crediting for Value.** In accordance with 7 CFR § 250.51(a) and (b), the FSMC shall credit the SFA for the value of all donated foods received for use in the SFA's meal service in the school year, on at least an annual basis, through invoice reductions, refunds, discounts, or other means. Such requirement includes crediting for the value of donated foods contained in processed end products if the FSMC, in accordance with its contract, procures such end products on behalf of the SFA, or acts as an intermediary in passing the donated food value in such end products on the the SFA. All forms of crediting must include clear documentation of the value received from donated foods. In cost-reimbursable contracts, crediting may be performed by disclosure. The SFA

must ensure that the FSMC procurement of processed end products is restricted to those processors that have signed processing agreements with the State distributing agency or the SFA in accordance with 7 CFR Part 250.

- b. **Donated Food Values Required in Crediting.** In accordance with 7 CFR § 250.51(c), the SFA must ensure that the FSMC uses the donated food values determined by the distributing agency, in accordance with 7 CFR § 250.58(e), or, if approved by the distributing agency, donated food values determined by an alternate means of the SFA's choosing.
- c. **Use of Donated Foods.** In accordance with 7 CFR § 250.51(d), the FSMC must use all donated ground beef, donated ground pork, and all processed end products, in the SFA's food service, and must use all other donated foods, or commercially purchased foods of the same generic identity, or U.S. origin, and of equal or better quality than the donated foods, in the SFA's food service.
- d. **Storage and Inventory Management.** FSMC shall meet the general requirements for the storage and inventory management of donated foods in 7 CFR § 250.14(b). In accordance with 7 CFR § 250.52(a), the FSMC may store and inventory donated foods together with foods it has purchased commercially for the SFA's use, unless this is specifically prohibited elsewhere in the contract. It may store and inventory such foods together with other commercially purchased foods only to the extent that such a system ensures compliance with the requirements for the use of donated foods in 7 CFR 250.51(d). Additionally, under cost-reimbursable contracts, the FSMC must ensure that its system of inventory management does not result in the SFA being charged for donated foods.
- e. **Recordkeeping and Review Requirements.** The SFA and FSMC must maintain records of receipt of donated foods and processed end products, or crediting for the value of donated foods, and other records relating to donated foods, in accordance with 7 CFR 250.54. The SFA must conduct a reconciliation at least annually (upon termination of the contract) to ensure that the FSMC has credited it for the value of all donated foods received for use in the SFA's food service in the school year including, in accordance with requirements in 7 CFR § 250.51(a), the value of donated foods contained in processed end products. The FSMC must return all unused donated ground beef, donated ground pork, processed end products and (at the SFA's discretion) return all unused donated foods in accordance with 7 CFR 250.52(c) when a contract terminates, is not extended or renewed.
- f. Pursuant to 7 CFR § 250.53(a)(12), extensions or renewals of the contract, if applicable, are contingent upon the fulfillment of all contract provisions relating to donated foods.

EXHIBIT A

SCHOOL FOOD SERVICE LOCATIONS MANAGED BY ARAMARK

Bennett-Hemenway Elementary

Brown Elementary

Johnson Elementary

Lilja Elementary

Memorial Elementary

Kennedy Middle

Wilson Middle

Natick High

EXHIBIT B

PROJECTED FOOD SERVICE BUDGET

	21-22 SY Budget
Service Days	180
Total Meals	590,144
Total Client Revenue	2,030,470
Food Costs	643,677
Client Labor	636,000
Aramark Labor	193,398
Total Labor	829,398
Client Directs	
Aramark Directs	124,905
Management Fee	40,838
Admin Fee	65,889
Total Directs	231,632
Client Return	325,764