**Vended Contract to Provide Meals**

**for the**

**USDA Child Nutrition Programs**

**<Enter Sponsor # and Sponsor Name>**

**<Enter Date>**

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA’s TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant’s name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted 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; or

**(2)   fax:**  
           (833) 256-1665 or (202) 690-7442; or

**(3)   email:**  
           [program.intake@usda.gov](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider.

**Vended Contract to Provide Meals for the USDA Child Nutrition Programs**

**I. General Information**

This contract beginning on <enter date> is between the governing board of      , hereinafter referred to as the SPONSOR and      , hereinafter referred to as the CONTRACTOR. This contract provides provisions and instructions to the CONTRACTOR for providing meals for the SPONSOR’s Child Nutrition Programs.

The SPONSOR shall administer the United States Department of Agriculture's (USDA) Child Nutrition Programs. The Child Nutrition & Wellness (CNW) of the Kansas State Department of Education (KSDE) administers Child Nutrition Programs at the State level. This contract is subject to review and approval by CN&W, KSDE prior to implementation. The phrase, "food service program", shall refer to the operation of the National School Lunch Program (NSLP) and/or the School Breakfast Program (SBP), and/or Seamless Summer Option (SSO), and/or the Afterschool Snack Program (ASP), and/or Fresh Fruit & Vegetable Program (FFVP), and/or Special Milk Program (SMP) and/or Child and Adult Care Food Program (CACFP) which includes At-Risk Afterschool Meals, and/or Summer Food Service Program (SFSP).

The contract applies only to those meals served through the SPONSOR's food service program that are subject to the requirements of the USDA Child Nutrition Programs. The CONTRACTOR will assume responsibility for the meals meeting the requirements of the USDA Child Nutrition Program as described in the following contract terms and conditions.

In agreeing to serve meals that will be eligible for reimbursement under the USDA Child Nutrition Program, the CONTRACTOR agrees to follow the program requirements as outlined in this contract. Changes to or modifications of this contract shall be mutually agreed upon to be effective.

The provisions contained in the Contractual Provisions Attachment (Form DA-146a), attached hereto and marked Attachment E, are incorporated by reference and made a part of this Agreement as though fully set forth at length herein.

**II. Meal Services:**

1. The CONTRACTOR will provide the SPONSOR with the meals/snacks/milk indicated below:

|  |  |  |
| --- | --- | --- |
| **National School Lunch/School Breakfast/SSO** |  | **Days Meals Served** |
| Breakfast | Monday |
| Lunch | Tuesday |
| Afterschool Snack | Wednesday |
| Special Milk | Thursday |
| Fresh Fruit & Vegetable Program | Friday |
| A la carte (includes extra milk) | Saturday |
|  | Sunday |
|  | | |
| **Child & Adult Care Food Program** |  | **Days Meals Served** |
| Breakfast | Monday |
| Lunch | Tuesday |
| AM Snack | Wednesday |
| PM Snack | Thursday |
| Supper | Friday |
| Evening Snack | Saturday |
|  | Sunday |
| **Child & Adult Care Food Program At-Risk Afterschool Meals** |  | **Days Meals Served** |
| Breakfast | Monday |
| AM Snack | Tuesday |
| Lunch | Wednesday |
| PM Snack | Thursday |
| Supper | Friday |
| Evening Snack | Saturday |
|  | Sunday |
|  |  |  |
| **Summer Food Service Program** |  | **Days Meals Served** |
| Breakfast | Monday |
| Lunch | Tuesday |
| AM Snack | Wednesday |
| PM Snack | Thursday |
| Supper | Friday |
|  | Saturday |
| Sunday |
| **Other:** | | |

1. The SPONSOR will provide an accurate meal order to the CONTRACTOR’s food service office by       AM each day. The SPONSOR will notify the CONTRACTOR of any increase or decrease in the number of meals ordered no later than       AM each day. The Contractor will provide the Sponsor with adequate servings of meals/snacks to meet the requirements for the number of meals/snacks ordered by SPONSOR.

**III. Meal Program Requirements**

## Sponsor Retains Control: The SPONSOR shall retain control of quality, extent and general nature of its food service program.

1. Responsible Authority: The SPONSOR is the responsible authority without recourse to USDA Food and Nutrition Services or to KSDE for the settlement and satisfaction of all contractual and administrative issues arising from the contract. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims, or other matters of a contractual nature. Matters concerning violations of the law will be referred to the local, State, or Federal authority that has proper jurisdiction.
2. Menu Planning and Approval: The CONTRACTOR will be responsible for all menu planning. The SPONSOR shall review and approve all menus prior to preparation and service of food. The CONTRACTOR shall provide menus to the SPONSOR on a  basis       days in advance of meal service. If cycle menus are used, they will be furnished monthly or as part of the cycle runs.

Meal Pattern Requirements: The CONTRACTOR shall serve meals that comply with the most current meal pattern requirements and Dietary Guidelines for Americans as required by USDA in Federal regulations for the National School Lunch and the School Breakfast Programs, Child and Adult Care Food Program, and/or Summer Food Service Program as specified in 7 CFR Part 210, 215, 220, 225, 226. All meals claimed for reimbursement by the SPONSOR shall abide by the USDA meal pattern requirements as specified in Exhibit A of this contract, and as modified as program requirements are revised.

If CACFP meals shall be provided by the CONTRACTOR per the Agreement, the CONTRACTOR shall serve reimbursable meals that comply with the Child and Adult Care Food Program (CACFP) meal pattern requirements. Refer to Exhibit A. The CONTRACTOR shall bill the SPONSOR for CACFP meals per Exhibit A.

1. A la Carte: The SPONSOR will retain the sole authority to determine a la carte prices. All a la carte items shall comply with the National School Lunch and School Breakfast Program: Nutrition Standards for All Foods Sold in School as required by the Healthy, Hunger-Free Kids Act of 2010.
2. Menu Planning and Recordkeeping Training: The CONTRACTOR may participate in KSDE Nutrition Standards for School Meals, Calculating Components, CACFP Menu Planning and SFSP Menu Planning training to receive instruction for preparing, serving, crediting and documenting meals to assure that all USDA meal pattern requirements are met.
3. Special Diets: In accordance with Federal regulations and FNS Instruction 783-2, the CONTRACTOR shall make substitutions in reimbursable meals as specified by a licensed healthcare professional (to include registered dietitians)for individuals participating whom are unable, because of a disability or other special dietary need, to consume specified foods. The SPONSOR shall notify the CONTRACTOR of any such required meal modifications.
4. Unacceptable Meals: No payment shall be made for meals that are spoiled, unwholesome, do not meet meal pattern requirements or disallowed by appropriate authority at time of service or do not otherwise meet the intent of this agreement; provided however, that no deduction shall be made unless the SPONSOR shall give the CONTRACTOR written notification, specifying the number of meals for which the SPONSOR intends to deduct payment and setting forth the reasons for the deduction.
5. Food Service Outside of the Child Nutrition Program: This contract shall not interfere with the provision of meals and snacks outside of the USDA’s Child Nutrition Program other than to assure that all federal and state program regulations are met. The CONTRACTOR shall comply with the National School Lunch and School Breakfast Program: Nutrition Standards for All Foods Sold in School as required by the Healthy, Hunger-Free Kids Act of 2010.

# Unitized Meals:

1. If Sponsor participates in the Summer Food Service Program: The Contractor agrees to deliver unitized meals. Meals will be inclusive of milk on a daily basis. If meals are not unitized for delivery, a waiver from unitized meals is on file with KSDE and meals will be served at the site in this manner:      . The CONTRACTOR shall not subcontract for the total meal, with or without milk, or for the assembly of the meal.
2. If Sponsor participates in the Child and Adult Care Food Program: All breakfasts, lunches, and suppers delivered for service in outside-school-hours care centers shall be unitized, with or without milk, unless KSDE determines that unitization would impair the effectiveness of food service operations. The CONTRACTOR shall not subcontract for the total meal, with or without milk, or for the assembly of the meal.

# Food Service Sanitation: The CONTRACTOR shall comply with the laws, ordinances, rules and regulations of all applicable Federal, State, county and city governments, bureaus and departments concerning the sanitation, safety and health of the food service operations, and the implementing regulations of the USDA issued hereunder and any additions or amendments thereto.

1. License: The CONTRACTOR shall obtain and keep in effect all Federal, State, and local licenses required for the operation of its food service operation. Such licenses shall be posted in a prominent place within the food service area as required by law or regulation.

The NSLP SPONSOR is ultimately responsible for ensuring that its School Nutrition Program sites have been inspected by Kansas Department of Agriculture at least twice per school year. The SPONSOR shall obtain State or local health license(s) for any facility, in which meals will be served for the SPONSOR's food service programs. Per CFR 210.13 (b) *Food safety inspections:* *Schools shall obtain a minimum of two food safety inspections during each school year conducted by a State or local governmental agency responsible for food safety inspections. They shall post in a publicly visible location a report of the most recent inspection conducted, and provide a copy of the inspection report to any member of the public upon request.*

Per K.A.R. 28-4-439 (o): If CACFP meals are catered:

1. Food shall be obtained from sources licensed by the Kansas Department of Health and Environment.
2. Food shall be transported in covered and temperature-controlled containers, and shall not be allowed to stand.  Hot foods shall be maintained at not less than 140 degrees F, and cold foods shall be maintained at 45 degrees F or less.
3. Buy American: As required by the Buy American provision, all products must be of domestic origin as required by 7 CFR Part 210.21(d). Per SP 38-2017, all Sponsors participating in the National School Lunch Program and School Breakfast Program are required to use the nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products for Program meals. A “domestic commodity or product” is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR Part 210.21(d).

Substantially is defined as that of which the final processed product contains 51% or more of agricultural commodities which were grown domestically. The CONTRACTOR shall provide to the SPONSOR appropriate documents, i.e. attestation statements, country of origin labeling, to document compliance with the Buy American provision.

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. To be considered for the alternative or exception, the request must be submitted in writing to a designated official of the Sponsor, a minimum of       day(s) in advance of delivery. The request must include the:

1. Alternative substitute(s) that are domestic and meet the required specifications:
   * 1. Price of the domestic food alternative substitute(s); and
     2. Availability of the domestic alternative substitute(s) in relation to the quantity ordered.
2. Reason for exception: limited/lack of availability or price (include price):
   * 1. Price of the domestic food product; and
     2. Price of the non-domestic product that meets the required specification of the domestic product.

**The Buy American provision is a best practice for the Child and Adult Care Food Program and the Summer Food Service Program.**

1. Geographic Preference: Contractors purchasing on behalf of a Sponsor may use geographic preference when purchasing unprocessed locally grown and locally raised agricultural products.

**IV. Meal Program Supervision Responsibilities**

1. Review of Pertinent Records: The SPONSOR shall oversee all the provisions of the contract. This includes the review of all pertinent records, including bills for meals served, meal production records, and other relevant information to ensure adherence to the federal and state rules and regulations, and to ensure that bills accurately represent meals served.
2. SPONSOR Rights: The SPONSOR shall monitor and conduct on-site visits to the food service operation to ensure compliance with all applicable rules and regulations of KSDE and the United States Department of Agriculture (USDA).
3. SPONSOR Responsibilities:

SPONSOR shall provide CONTRACTOR with relevant updates in meal pattern and menu documentation requirements as issued by KSDE and USDA.

SFSP: The SPONSOR shall provide to the CONTRACTOR a list of meal service sites approved by KSDE, along with the approved level for the number of meals which may be claimed for reimbursement for each site, established under 7 CFR 225.6 (d)(2), and shall notify the CONTRACTOR of all sites which have been approved, cancelled or terminated subsequent to the submission of the initial approved site list and of any changes in the approved level of meal service for a site. Such notification shall be provided within the time limits mutually agreed upon in the contract.

1. Recordkeeping and Reporting: The SPONSOR and CONTRATOR shall adhere to required record keeping requirements:
2. The CONTRACTOR shall maintain and provide copies of records to the SPONSOR needed to support the SPONSOR’S claim for reimbursement under the National School Lunch Act and Child Nutrition Act including documents such as Child Nutrition Labels, recipes, transport sheets, meal counts and production records. Upon request, all records of the CONTRACTOR pertaining to the SPONSOR's meal requirements shall be made available at the CONTRACTOR's offices during regular business hours to representatives of the SPONSOR, KSDE and USDA.
3. All Child Nutrition Program records shall be kept on file for five (5) years (NSLP) or  three (3) years (SFSP and CACFP) after the end of the Federal fiscal year to which they pertain, or for such other period which the U.S. 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 required program period as long as required for the resolution of the issues raised by the audit.   7 CFR 226.10 (d),  7 CFR 225.15 (c), CFR 210.23 (c) and KSA 72-5121

**V. Financial Management**

1. Meal Fees by CONTRACTOR: The fees shall be established on a per meal basis as identified in the contract between the SPONSOR and the CONTRACTOR. At no time shall the fee structure be cost-plus-percentage-of-cost or cost-plus-percentage-of-income.
2. Billing:The CONTRACTOR shall bill the SPONSOR for the total number of meals served each month according to the meal prices specified in Exhibit D, Meal Prices.
3. The CONTRACTOR will invoice the SPONSOR monthly for meals/snacks/milk provided. Payment will be due to the CONTRACTOR within       days from the invoice date. If SPONSOR participates in the Summer Food Service Program, the CONTRACTOR shall attach a ticket with each delivery specifying the quantity of meals, by type, (breakfast, lunch, supper, and snack) that are provided.  The CONTRACTOR shall submit an itemized invoice to the Sponsor  that specifies the quantity of meals by type delivered during the preceding , with a copy of each delivery ticket attached.
4. The SPONSOR will account for the number of student/participant and adult meals served according to procedures approved by the Kansas State Department of Education (KSDE).
5. Food Service Fund Account:
6. The SPONSOR shall retain control of the nonprofit food service account and overall financial responsibility for the food service program.
7. The SPONSOR must maintain separate accounting for all food service revenues and meal payments. Federal and state reimbursement for meals must be used only for the Child Nutrition program. Any excess of revenues over expenses must be used in the Child Nutrition Program.
8. If reimbursement from KSDE is denied as a direct result of the CONTRACTOR's failure to comply with the provisions of this addendum, the CONTRACTOR shall reimburse the SPONSOR for the amount which it would otherwise have been entitled.
9. All payments for meals by Kansas State Department of Education must accrue to the Sponsor’s Food Service account.
10. Audits and Reviews

The SPONSOR shall be responsible for ensuring resolution of program review and audit findings.

* 1. The SPONSOR shall ensure that KSDE has reviewed and approved the contract terms and that the SPONSOR has incorporated all required changes into the contract or addendum before any contract or addendum is executed. Any changes to this prototype contract must be approved in writing by KSDE, prior to the effective date of the contract.
  2. The CONTRACTOR agrees to allow Child Nutrition & Wellness to inspect the CONTRACTOR facilities as part of the Summer Food Service Program Administrative Review.  In addition, the CONTRACTOR agrees to allow Child Nutrition & Wellness to conduct inspections of food preparation facilities and food service sites and perform meal quality tests.

**VI. Contract Provisions**

The CONTRACTOR and SPONSOR shall comply with all requirements of Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

1. Termination
   1. Material Breach: In the event either party commits a material breach, the non-breaching party may terminate this agreement for cause by giving sixty (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.
   2. Notwithstanding the previously stated breaching provision, the SPONSOR may terminate this contract for breach/neglect as determined by the SPONSOR with written notification to the CONTRACTOR, in regard to such items as failure to maintain and enforce required standards of sanitation, failure to provide required periodic information/statements, or failure to maintain quality of service at a level satisfactory to the SPONSOR.
   3. The CONTRACTOR and the SPONSOR may each terminate this agreement without cause by       days written notice to the other party of its intent to terminate.
   4. The rights of termination in this agreement are not intended to be exclusive and are in addition to any other rights available to either party at law or in equity.
2. Performance Security (required for SFSP)
3. In cases of nonperformance or noncompliance on the part of the CONTRACTOR, the CONTRACTOR shall pay the SPONSOR for any excess costs in which the SPONSOR may incur by obtaining meals from another source.
4. The CONTRACTOR shall:
5. Submit with the proposal, a bid guarantee payable to the SPONSOR in the amount of 5% of the bid price in the form of . Upon award of contract, the SPONSOR shall return all such bid guarantees. If the Sponsor operates the Summer Food Service Program then a Performance bond in the amount of       percent of the contract price must be submitted by the successful CONTRACTOR to the SPONSOR. The successful CONTRACTOR shall submit the performance bond from a surety company listed in the most recent U.S. Department of Treasury Circular 570 to the SPONSOR by      .
6. The SPONSOR shall retain the successful CONTRACTOR’S deposit until the CONTRACTOR has faithfully performed all terms of the contract.
7. The CONTRACTOR shall obtain bid bonds and performance bonds only from surety companies listed in the current Department of the Treasury Circular 570. Any “alternative” forms of bid or performance bonds, including but not limited to cash, certified checks, letters of credit, or escrow accounts shall not be allowed.
8. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
9. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
10. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR [180.220](https://www.law.cornell.edu/cfr/text/2/180.220)) must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension”. The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
11. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of $100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
12. Environmental: As specified in 7CFR, Section 3016.36(i)(12), the CONTRACTOR and the SPONSOR shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857(h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA list of Violating Facilities. Violations shall be reported to the U.S. Department of Agriculture and to the USEPA Assistant Administrator for Enforcement (EN-329).

Per 2 CFR, Section 200.322, the CONTRACTOR and the Sponsor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

1. Energy: The SPONSOR and CONTRACTOR shall recognize 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 (7CFR, Section 3016.36(i)(13)).
2. The SPONSOR and CONTRACTOR shall comply with Executive Order 11246, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41CFR Part 60) pursuant to 7CFR, Section 3016.36(i)(3).
3. Nondiscrimination: The SPONSOR and CONTRACTOR shall not discriminate on the basis of disability, race, color, sex, national origin or age as defined by applicable governmental law, in the recruitment, selection, training, utilization, promotion, termination, or other employment related activities concerning food service personnel pursuant but not limited to Titles VI and VII of the Civil Rights Act of 1964. This fundamental rule of conduct will be clearly communicated to all employees, prospective employees and the community at large. In addition, each part affirms that it is an equal opportunity and affirmative action employer.
4. The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from—
   1. Providing or attempting to provide or offering to provide any kickback;
   2. Soliciting, accepting, or attempting to accept any kickback; or
   3. Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (H,i-iii) of this clause in its own operations and direct business relationships.

When the Contractor has reasonable grounds to believe that a violation described in paragraph (H, i-iii) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5) but excepting paragraph (c)(1), in all subcontracts under this contract which exceed $100,000.

1. Awarding agency requirements and regulations including allowable cost provisions in 7 CFR Part 210.21.
2. As specified in 7CFR, Section 3016.36(i)(12), the CONTRACTOR and the SPONSOR shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857(h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA list of Violating Facilities. Violations shall be reported to the U.S. Department of Agriculture and to the USEPA Assistant Administrator for Enforcement (EN-329).

**VII. Sponsor Responsibilities**

1. NSLP: For contracts totaling less than $250,000, informal purchasing procedures may be followed.
   1. Obtain an adequate number of price quotations (**2 or more**).
   2. Maintain a written record of all contacts and quotations obtained*.*
   3. Award the contract to the most responsive and lowest in price.
2. SFSP: For contracts totaling less than $250,000, informal purchasing procedures may be followed.
   1. Obtain an adequate number of price quotations (**2 or more**).
   2. Maintain a written record of all contacts and quotations obtained (*Price Quotation Record).*
   3. Award the contract to the most responsive and lowest in price.
   4. All bids in an amount which exceeds the lowest bid shall be submitted to KSDE for approval before acceptance.
   5. If the contract exceeds $250,000, submit the contract and price quotes to KSDE prior to signing.
3. CACFP: For contracts totaling less than $250,000, informal purchasing procedures may be followed.
4. Obtain an adequate number of price quotations (**2 or more**).
5. Maintain a written record of all contacts and quotations obtained (*Price Quotation Record).*
6. Award the contract to the most responsive and lowest in price.
7. If the contract exceeds $250,000, submit the contract and price quotes to KSDE prior to signing.
8. Indicate price of contract: $     .

**VIII. Term of Contract**

1. Contract Period: This contract shall become effective on      , and shall terminate on       (a period not exceeding 1 year).
2. The SPONSOR may terminate this contract for breach/neglect as determined by the CONTRACTOR when considering such items as failure to maintain and enforce required standards of sanitation, failure to provide periodic information/statements or failure to maintain quality of service at a level satisfactory to the SPONSOR.

**IX. Signatures**

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date and year first written above.

SPONSOR: CONTRACTOR:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Signature Authorized Signature

     

Name and Title Name and Title

Date Date

**Exhibits**

|  |  |
| --- | --- |
| Exhibit A | Nutrition Standards/Meal Pattern Requirements |
| Exhibit B | Contractor Responsibilities for the Child Nutrition Program |
| Exhibit C | Other Responsibilities as Specified |
| Exhibit D | Meal Fees |
| Exhibit E | Specifications for Meals on Contract |
| Exhibit F | Menus |
| Exhibit G | Contractual Provisions Attachment |

**Exhibit A – Menu Standards**

**National School Lunch Program Meal Pattern**

**and Dietary Specifications**

A screenshot of a blue and white table

Description automatically generated

**School Breakfast Program Meal Pattern**

**and Dietary Specifications**

**A screenshot of a blue and white screen

Description automatically generated**

**Afterschool Snack Program (NSLP)**

Snacks reimbursable under the United States Department of Agriculture, Afterschool Snack Program must contain two (2) of the food components chosen from the list below:

* 1 cup fluid milk
* ¾ cup fruit or vegetable
* 1 unit grain/bread
* 1 ounce meat/meat alternate

**Summer Food Service Program Meal Pattern Requirements**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **BREAKFAST** | **LUNCH OR SUPPER** | | | **SNACK** | |
| One serving of milk. | One serving of milk. | | | Must contain two food items. | |
| One serving of a vegetable or fruit or full strength juice. | Two or more servings of vegetables, fruits and/or juice (from 2 or more sources). | | | Items must be from a different component. | |
| One serving of grains or breads. | One serving of grains or breads. | | | Juice cannot be served when milk is served as the only other component. | |
| A meat or meat alternate is optional. | One serving of meat or meat alternate. | | |  | |
| **FOOD COMPONENTS** | | **BREAKFAST** | **LUNCH/SUPPER** | | **SNACK** |
| **MILK**  Fluid Milk | | 1 c (8 fl oz) | 1 c (8 fl oz) | | 1 c (8 fl oz) |
| **VEGETABLES AND/OR FRUITS**  Vegetable/Fruits OR  Full-strength vegetable or fruit juice OR  An equivalent quantity of any combination of vegetables/fruits/juice | | ½ c  ½ c (4 fl oz) | ¾ c  3/8 c (3 fl oz) juice is maximum allowable of ¾ c total | | ¾ c  ¾ c (6 fl oz) |
| **GRAINS AND BREADS**  **(whole grain or enriched)**  Bread OR  Corn bread, biscuits, rolls, muffins, etc. OR  Dry cereal OR  Cooked pasta or noodles OR  Cooked cereal or cereal grains OR  An equivalent quantity of any combination of grains/breads | | 1 slice  1 serving  ¾ c or 1 oz  ½ c  ½ c | 1 slice  1 serving  ------------  ½ c  ½ c | | 1 slice  1 serving  ¾ c or 1 oz  ½ c  ½ c |
| **MEAT AND MEAT ALTERNATES**  Lean meat/poultry/fish OR Cheese OR  Eggs OR  Cooked dry beans or peas OR  Peanut/soynut butter or other nut/seed butters OR Peanuts/soynuts or tree nuts or seeds OR  Yogurt, plain or flavored, sweetened OR unsweetened OR  An equivalent quantity of any combination of the above meat/meat alternates | | 1 oz  1 oz   1. large   ½ c   1. Tbsp   1 oz  ½ c or 4 oz | 2 oz  2 oz  1 large  ½ c  4 Tbsp  1 oz (may meet no more than ½ of requirement)  1 c or 8 oz | | 1 oz   1. oz   ½ large  ¼ c   1. Tbsp   1 oz  ½ c or 4 oz |

**Child and Adult Care Food Program Meal Pattern Requirements**

Refer to 7 CFR 226.20 for the regulatory references to the CACFP Meal Pattern.

**Ages**

**Breakfast** **1-2 3-5 6-12 & 13-18 Adults**

Milk 1/2 cup 3/4 cup 1 cup 1 cup

Vegetables, fruits, or both 1/4 cup 1/2 cup 1/2 cup 1/2 cup

Grains 1/2 oz eq\* 1/2 oz eq\* 1 oz eq\* 2 oz eq\*

\*Meat and meat alternates may be used to substitute the entire grains component a maximum of 3X per week.

Oz eq = ounce equivalents

**Ages**

**Lunch and Supper** **1-2 3-5 6-12 & 13-18 Adults**

Milk 1/2 cup 3/4 cup 1 cup 1 cup\*

Meat and meat alternates 1 oz 1 ½ oz 2 oz 2 oz

Vegetables 1/8 cup 1/4 cup 1/2 cup 1/2 cup

Fruits 1/8 cup 1/4 cup 1/4 cup 1/2 cup

Grains 1/2 oz eq 1/2 oz eq 1 oz eq 2 oz eq

\*A serving of milk is not required at supper meals for adults.

Oz eq = ounce equivalents

**Ages**

**Snack** **1-2 3-5 6-12 & 13-18 Adults**

Milk 1/2 cup 1/2 cup 1 cup 1 cup

Meat and meat alternates 1/2 ounce 1/2 ounce 1 ounce 1 ounce

Vegetables 1/2 cup 1/2 cup 3/4 cup 1/2 cup

Fruits 1/2 cup 1/2 cup 3/4 cup 1/2 cup

Grains 1/2 oz eq 1/2 oz eq 1 oz eq 1 oz eq

Select 2 of the 5 components for snack.

Oz eq = ounce equivalents

*Note: All serving sizes are minimum quantities of the food components that are required to be served.*

**Infant Meal Pattern**

**Child and Adult Care Food Program Meal Pattern Requirements**

Refer to 7 CFR 226.20 for the regulatory references to the CACFP Meal Pattern.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Breakfast** | **Lunch and Supper** | **Snack** |
|  |  |  |  |
| **0-5 Months** | 4-6 fluid ounces (fl. oz.) | 4-6 fl. oz. breastmilk | 4-6 fl. oz. breastmilk |
|  | breastmilk or formula | or formula | or formula |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **6-11 Months** | 6-8 fl. oz. breastmilk or | 6-8 fl. oz. breastmilk or | 2-4 fl. oz. breastmilk or |
|  | formula | formula | formula |
|  |  |  |  |
|  | 0-4 tbsp. infant cereal, meat, fish, poultry, whole eggs, cooked dry beans or peas; or 0-2 oz. cheese; or 0-4 oz. (volume) cottage cheese; or 0-4 oz. yogurt; or a combination\* | 0-4 tbsp. infant cereal, meat, fish, poultry, whole eggs, cooked dry beans or peas; or 0-2 oz. cheese; or 0-4 oz. (volume) cottage cheese; or 0-4 oz. yogurt; or a combination\* | 0-1/2 bread slice; or 0-2 crackers; or 0-4 tbsp. infant cereal or ready-to-eat cereal\* |
|  |  |  |  |
|  | 0-2 tbsp. vegetable, fruit or both\* | 0-2 tbsp. vegetable, fruit or both\* | 0-2 tbsp. vegetable, fruit, or both\* |
|  |  |  |  |
|  |  |  |  |

\*Required when infant is developmentally ready.

*All serving sizes are minimum quantities of the food components that are required to be served.*

**Exhibit B – Contractor Responsibilities for the Child Nutrition Program**

|  |  |
| --- | --- |
|  | Plan menus that meet Child Nutrition Program requirements for:  Infant Meals  Grades K-5  Ages 1-2  Grades 6-8  Ages 3-5  Grades 9-12  Ages 6-12  Adults  Summer Food Service Program |
|  | Complete production records as required by KSDE that reflect actual production and that meals that are to be claimed for reimbursement meet Child Nutrition Requirements |
|  | Purchase and prepare food. |
|  | Meals shall coincide on a daily basis with the menu cycle which appears in Exhibit F (minimum of four weeks). Menu changes shall be agreed upon by both parties but changes will not be entertained subsequent to placement of any weekly order. Menu changes shall be approved by the Sponsor. When an emergency situation exists which might prevent the contractor from delivering a specified meal component he shall notify the Sponsor immediately so substitutions can be agreed upon. The Sponsor reserves the right to suggest menu changes within the contractor’s unit price cost periodically throughout the contract period. |
|  | Plan menus that meet Child Nutrition Program requirements. |
|  | Complete production record/transport sheets as required by KSDE that reflect actual production quantities and confirm meals that are to be claimed for reimbursement meet Child Nutrition Requirements |
|  | Purchase and prepare food according to USDA Procurement Guidelines as stated in 2 CFR, Part 200 and 7 CFR 210-299 . |
|  | Deliver meals to each site according to Exhibit E. The Sponsor reserves the right to add or delete sites. Sites will be added or deleted not less than one week prior to the date of change in service. Any change in transportation cost that incurs shall be negotiated. |
|  | The Contractor shall attach a Meal Transport Sheet with each delivery specifying the date and quantity of meals, by type (breakfast, lunch, snack, supper) that are provided. |

**Exhibit C – Other Responsibilities as Specified**

|  |  |  |
| --- | --- | --- |
|  | Other Responsibilities as Specified | Indicate Contractor (C) or Sponsor (S) |
|  | Transportation of food to serving sites.  Meals/snacks provided will be . |  |
|  | Provide eating utensils/ trays |  |
|  | Provide serving utensils |  |
|  | Provide paper goods |  |
|  | Provide appropriate containers for transporting food |  |
|  | Cleaning of transport containers |  |
|  | Attend KSDE sponsored training to acquire understanding of required menu documentation requirements. |  |
|  | Provide adequate refrigeration/heating for all food transported to sites. |  |

**Exhibit D – Meal Fees**

The SPONSOR agrees to pay the CONTRACTOR the following prices for meals/snacks/milk:

|  |  |
| --- | --- |
| **National School Lunch/School Breakfast** | **Student/Child Meal Price** |
| Breakfast |  |
| Lunch |  |
| Afterschool Snack |  |
| Special Milk or extra milk |  |
| Fresh Fruit & Vegetable Program |  |
| A la carte |  |
| Internal Catering |  |
| **Child and Adult Care Food Program** | |
| Breakfast |  |
| AM snack |  |
| Lunch |  |
| PM snack |  |
| Supper |  |
| Evening snack |  |
| Internal Catering |  |
| **Summer Food Service Program** | |
| Breakfast |  |
| Lunch |  |
| AM Snack |  |
| PM Snack |  |
| Supper |  |
| A la carte |  |
| Internal Catering |  |

**Exhibit E – Specifications for Meals on Contract**

**Directions:** Complete one Exhibit E for each site. Type “XXX” in boxes which are not applicable.

|  |  |
| --- | --- |
| Name of Site | |
| Address | |
| City | Zip |
| Center Director | Phone Number |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Breakfast** | **AM Snack** | **Lunch** | **PM Snack** | **Supper** | **Evening Snack** |
| 1. Delivery time for each meal. |  |  |  |  |  |  |
| 1. Estimated number of meals per day. |  |  |  |  |  |  |
| 1. Estimated number of serving days per year. |  |  |  |  |  |  |
| 1. Unit price per meal. |  |  |  |  |  |  |
| 1. Estimate total for contract period.   (B x C x D = E) |  |  |  |  |  |  |

**Exhibit F – Menus**

| **20-Day Cycle Menu** | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Program:**  **National School Lunch Program**  **School Breakfast Program**  **Afterschool Snack Program**  **Seamless Summer Option** | | **Program:**  **Fresh Fruit & Vegetable**  **Child & Adult Care Food Program**  **Summer Food Service Program** | | | **Meal:**  **Breakfast**  **Lunch**  **Supper**  **Snack** | |
| **Day** | **Menu Items** | **Portion Sizes** | | | | |
|  |  | **Age/Grade Group** | **Age/Grade Group** | **Age/Grade Group** | | **Age/Grade Group** |
| 1 |  |  |  |  | |  |
| 2 |  |  |  |  | |  |
| 3 |  |  |  |  | |  |
| 4 |  |  |  |  | |  |
| 5 |  |  |  |  | |  |
| 6 |  |  |  |  | |  |
| 7 |  |  |  |  | |  |
| 8 |  |  |  |  | |  |
| 9 |  |  |  |  | |  |
| 10 |  |  |  |  | |  |
| 11 |  |  |  |  | |  |
| 12 |  |  |  |  | |  |
| 13 |  |  |  |  | |  |
| 14 |  |  |  |  | |  |
| 15 |  |  |  |  | |  |
| 16 |  |  |  |  | |  |
| 17 |  |  |  |  | |  |
| 18 |  |  |  |  | |  |
| 19 |  |  |  |  | |  |
| 20 |  |  |  |  | |  |

State of Kansas

Department of Administration

DA-146a (Rev. 07-19)

**Exhibit G – CONTRACTUAL PROVISIONS ATTACHMENT**

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the

\_\_ day of ,20 \_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.).*
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.)* and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.)* and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.)* (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to

comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

1. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
2. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
3. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
4. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
5. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.),* the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
6. **Information: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.***
7. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
8. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.