Call for Tenders for the Provision of Cold Lunch and/or Afterschool Club(s) to

The Commons National School
16608G

Tender procedure: Open Procedure
(Below €750k Procurement Threshold)

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Part 1: Introduction

Cold Lunch and/or Afterschool Club - Service Requirement Calculator								
Club Name	Club Required Y/N	Drink Included Y/N	Drink Choice	Rate of Payment	Time Required for Consumption	Maximum Number of Students	Value of Service Over a Max 3-Year Term	Maximum Number of Meals Over a Max 3-Year Term
Cold Lunch Club	y	Y	JUICE	€1.70	15MINS	82	€76,112.40	44,772
After School Club	N							
Total Contract Value Over a Maximum 3-Year Term							€76,112.40	-
Total Maximum Number of Meals Over a Maximum 3-Year Term (100%)								44,772
60% of Total Maximum Number of Meals Over a Maximum 3-Year Term								26,863.20

Table 1

KEY DETAILS AND DATES	
Contract for	**Call for Tenders for the provision of the Service(s) set out in the Table 1 above to Primary Schools under the Department of Social Protections School Meals Scheme to the Contracting Authority**
Contracting Authority	**The Commons National School**
Contracting Authority Roll Number	**16608G**
Contracting Authority Address	**F94XY84**
Procurement Procedure	**Open Procedure (Below €750k Procurement Threshold)**
Contract Type	**Services**
Competition Publication Date	**02/11/26**
Tender Deadline	**15:00hrs, on 30/11/26**
Closing Date for Clarifications and Queries	**15:00hrs, 23/11/26**
Clarification / Queries only via	**eTenders**
Language tenders must be submitted in	**English**
Mandatory Site Visit Dates	**10am – 2.00pm 16/11/26-20/11/26** **By Appointment Only to: commonsns@gmail.com**
Drop off location(s)	**Main Building**
Minimum Annual Turnover Required of Service Provider	**€25,370.08**
This is a single stage tender procedure whereby all interested parties, who are registered Food Business Operators, may tender, but only those meeting the selection criteria (financial and technical capacity) will be deemed eligible for evaluation against the award criteria.	

Table 2

1.1 The Board of Management of **"The Commons National School"** (the "Contracting Authority") invites tenders ("Tenders") to this call for tenders ("CFT") from economic operators "Tenderers") for the provision of the services as described in Appendix 1 to this CFT (the "Services").

1.2 **In summary, the Services comprise:**

The provision of catering services for the Clubs identified in table 1 above (and more precisely defined in Appendix 1 below) to the students of the Contracting Authority in full compliance with the Department of Social Protection's School Meals Scheme.

The Contracting Authority requires that the Services are made available each day of the school year for the number of students as set out in Table 1 above per Club required.

Tenderers should note that it is not mandatory for students in the school to avail of any Club on any given day or at all and that the successful Tenderer will only be paid for what has been ordered by parents/guardians.

Provision of Services will begin at the earliest practicable date in academic year 2025/2026 (specific date to be agreed and subject to confirmation of funding). The school calendar will be furnished to the successful Tenderer at the beginning of each school year.

For the avoidance of doubt:

a) This contract is only for the purpose of the provision of meals as outlined in Table 1 and does not include sale of optional add-ons or extras

b) Please note, that it is a mandatory requirement of the Contracting Authority that Tenders are submitted on the basis that all food will be prepared off site and delivered ready to eat in compliance with Food Legislation

   No service delivery model other than this will be accepted and a Tender which proposes an alternative service delivery model or variations of the stated service delivery model/will be deemed non-compliant and will be rejected;

c) Food must be delivered to designated drop off point(s) on the Clients premises as set out in table 2 above, at the agreed time while ensuring the cold chain is maintained up to the time of consumption.

d) **Mandatory Site Visit,** all Tenderers are required to visit and review the school campus at the mandatory site visit prior to submitting it's Tender. **See MR01 below for details.**

Tenderers should note that:

- Funding for the Clubs is set out in the School Meals Scheme (the Scheme) which is provided through the Department of Social Protection (DSP). This Funding is allocated on a school-year basis and must be applied for annually by the school;
- There is no automatic entitlement to DSP funding in any year, and all applications are considered on the available budget for the Scheme. Whilst this competition is being run for a specific period any contract that may result from this Competition (the "Services Contract") is entirely dependent on the aforementioned funding, and the Contracting Authority reserves the right to cancel the competition or the Services Contract in the event that funding is no longer available or forthcoming;
- Further information on the School Meals Scheme can be found here: Department of Social Protection. For the avoidance of doubt only the provision of **Club(s) outlined in table 1 above,** is sought under this CFT.

It is intended to award a contract to a single service provider.

The Services required are more particularly set out in Appendix 1 below.

1.3 *Lots - Not used.*

1.4 This public procurement competition (the "Competition") concerns a public contract for social and other specific services as referred to in Annex XIV of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement (Light Touch Regime (LTR)). As the estimated value of the Services Contract which may result from this Competition is **BELOW €750,000** the European Union (Award of Public Authority Contracts) Regulations 2016 (SI 284/2016) (the "Regulations") do not apply to the Competition. The Competition will be run in accordance with the terms of this CFT (and appendices) and modelled on an open procedure at national level while availing of the flexibilities permitted for LTR competitions. Any reference in this CFT to the Regulations are solely for the purposes of identifying requirements of those Regulations which are applied by analogy in this Competition.

Any Services Contract that may result from this Competition will be issued for a term of one (1) year ("the Term").

1.5 The Contracting Authority reserves the right to extend the Term for a period or periods of up to one (1) year with a maximum of two (2) such extension or extensions on the same terms and conditions, subject to the Contracting Authority's obligations at law.

1.6 The Contracting Authority estimates that the expenditure on the Services to be covered by the proposed Services Contract is as set out in Table 1 above over the Term and any possible extensions. Tenderers must understand that this figure is an estimate only based on current and future expected usage.

1.7 Contracting Authority policy seeks to encourage participation on a fair and equal basis by Small and Medium Enterprises ("SME"s) in this Competition. SMEs that believe the scope of this Competition is beyond their technical or business capacity are encouraged, subject to paragraph 2.5, to explore the possibilities of forming relationships with other SMEs or with larger enterprises. Through such relationships they can participate and contribute to the successful implementation of any Services Contract that may result from this Competition and therefore increase their social and economic benefits.

Larger enterprises are also encouraged, subject to paragraph 2.5, to consider the practical ways that SMEs can be included in their proposals to maximise the social and economic benefits of any Services Contracts that may result from this Competition.

Part 2: Instructions to Tenderers

2.1 IMPORTANT NOTICES

2.1.1 While every effort has been made to provide comprehensive and accurate information in all notices and documents prepared for the purposes of this Competition, the Contracting Authority does not accept any liability or provide any express or implied warranty in respect of any such information. Tenderers must form their own conclusions about the solution needed to meet the requirements set out in this CFT and may wish to consult their legal advisers.

2.1.2 The Contracting Authority does not bind itself to accept the lowest priced or any Tender.

This CFT does not constitute an offer or commitment to enter into a Services Contract.

No contractual rights in relation to the Contracting Authority will exist unless and until a formal written Services Contract has been executed by or on behalf of the Contracting Authority.

Any notification of preferred bidder status by the Contracting Authority shall not give rise to any enforceable rights by the Tenderer.

The Contracting Authority may cancel this Competition at any time prior to a formal written Services Contract being executed by or on behalf of the Contracting Authority.

The award of a Services Contract does not confer exclusivity on the successful Tenderer.

2.1.3 This CFT supersedes and replaces any and all previous documentation, communications and correspondence between the Contracting Authority and Tenderers, and Tenderers should place no reliance on such previous documentation and correspondence.

2.1.4 In this clause 2.1.4, "Data Protection Laws" means all applicable national and EU data protection laws, regulations and guidelines including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "General Data Protection Regulation"), and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time.

The Contracting Authority will be a Data Controller (where Data Controller has the meaning given under the Data Protection Laws) in respect of any Personal Data (where Personal Data has the meaning given under the Data Protection Laws) required to be provided by the Tenderer in response to this CFT.

The Tenderer, as Data Controller in respect of any Personal Data provided by it in its Tender, is required to confirm in the statement required under paragraph 2.4 below that all Data Subjects (where Data Subject has the meaning given under the Data Protection Laws) whose Personal Data is provided by the Tenderer have consented to the processing of such Personal Data by the Tenderer, the Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of the participation of the Tenderer in this Competition or that the Tenderer otherwise has a legal basis for providing such Personal Data to the Contracting Authority for the purposes of its participation in this Competition.

2.2 COMPLIANT TENDERS

2.2.1 If a Tenderer fails to comply in any respect with the requirements of this paragraph 2.2.1, the Contracting Authority reserves the right to reject the Tenderer's Tender as non-compliant or, without prejudice to this right and subject to its obligations at law, to take any other action it considers appropriate including but not limited to:

- seeking written clarification from the Tenderer;
- seeking further information from the Tenderer; or
- waiving a requirement, which in the Contracting Authority's view, is non-material or procedural.

Tenderers are required:

(a) To submit all documentation which this CFT requires to be submitted with their Tender, including the Tender Response Document ("TRD");

(b) To follow the format of this CFT and TRD and respond to each element in the order as set out in this CFT and TRD;

(c) To conform to and comply with all instructions and requirements set out in this CFT;

(d) To submit the statement required under paragraph 2.4 below; and

(e) Not to alter or edit this CFT or the TRD in any way.

2.2.2 Without prejudice to the generality of paragraphs 2.2.1, failure to comply with paragraphs 2.6.1, 2.6.2 or 2.6.3 below will render the Tender non-compliant and it will be rejected.

2.3 SERVICES CONTRACT

2.3.1 Tenderers should note the terms and conditions of the Services Contract at Appendix 5 to this CFT.

2.3.2 Tenderers are required to confirm their acceptance of the terms and conditions of the Services Contract by signing the Tenderer's Statement at Appendix 3. Tenderers may not amend the Services Contract.

2.4 ACCEPTANCE OF CFT REQUIREMENTS

Each Tenderer is required to accept the provisions of this CFT. ALL TENDERERS MUST RETURN, with their Tender, a scanned signed copy of the Tenderer's Statement, as set out in Appendix 3, printed on the Tenderer's letterhead. The Contracting Authority must be able to read the scanned signature of the Tenderer. If possible, please sign documents using blue ink. If the Contracting Authority cannot read the scanned signature, Tenderers may be requested to re-submit. Tenderers may not amend the Tenderer's Statement.

2.5 CONSORTIA AND PRIME / SUBCONTRACTORS

Where a group of undertakings (in whatever form and regardless of the legal relationship between them) come together to submit a Tender in response to this CFT, the Contracting Authority will deal with all matters relating to this Competition through a single nominated entity authorised to represent all members of the group of undertakings. The Tenderer must provide details of all members of the group of undertakings and their role in the Tender and clearly set out the contact details including name, title, telephone number, postal address, facsimile number and e-mail address of the nominated entity authorised to represent the

Tenderer and to whom all communications shall be directed and accepted until this Competition has been completed or terminated. Correspondence from any other person will NOT be accepted, acknowledged or responded to.

Prior to and as a condition of award of any Services Contract, the successful Tenderer shall be required to designate a single entity who will carry overall responsibility for the Services Contract (the "Prime Contractor"), irrespective of whether or not tasks are to be performed by a subcontractor or other consortium member (the "Subcontractor").

2.6 TENDER SUBMISSION REQUIREMENTS

2.6.1 Tenders must be submitted via the 'electronic tenderbox' available on www.etenders.gov.ie. Only Tenders submitted to the electronic tenderbox will be accepted. Tenders submitted by any other means (including but not limited to: by email, fax, post, hand delivery, etc.) will NOT be accepted.

Tenderers must ensure that they give themselves sufficient time to upload and submit all required tender documentation in their Tender before the Tender Deadline (as defined in paragraph 2.6.2). Tenderers should take into account the fact that upload speeds vary.

Tenderers must note that in the electronic tenderbox, there is a current file size limit of 250MB for each single file uploaded, with a maximum total limit of 2GB for all documentation (combined) in the Tender submitted.

In order to submit a Tender to the electronic tenderbox, Tenderers must ensure that they follow the necessary steps on the eTenders platform to ensure that their tender has been submitted properly, which includes ensuring that the "Submit" button has been clicked. In the event that Tenderers need to modify or change any aspect of their Tender before the Tender Deadline, the Tender in its entirety will need to be re-submitted. Tenderers should be aware that the "Submit" button will be disabled automatically at the Tender Deadline.

2.6.2 Tenders must be received not later than the time and date set out in Table 2 above (the "Tender Deadline"). Tenders that are received late WILL NOT be considered in this Competition.

2.6.3 Tenders must be submitted in the language set out in Table 2 above.

2.6.4 Subject to paragraph 2.14 and 2.18, each Tenderer is limited to submitting one Tender in its own capacity and one Tender as part of a consortium/group of undertakings under this CFT.

2.6.5 All Tenders submitted in soft copy must be compiled such that they can be read immediately using Word and / or PDF readers. The Contracting Authority is not responsible for corruption in electronic documents. Tenderers must ensure electronic documents are not corrupt.

2.7 QUERIES AND CLARIFICATIONS

2.7.1 All queries relating to any aspect of this Competition or of this CFT must be directed to the messaging facility on www.etenders.gov.ie. **Queries will be accepted no later than the time and date set out in Table 2 above** unless otherwise published by the Contracting Authority. For the avoidance of doubt, Tenderers may not contact the Contracting Authority directly regarding any aspect of this Competition other than to arrange the mandatory school visit.

2.7.2 All responses to queries will be issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie. Where appropriate, queries may be amalgamated. Tenderers should note that the Contracting Authority will not respond to individual Tenderers privately.

2.7.3 The Contracting Authority reserves the right to issue or seek written clarifications.

2.7.4 The Contracting Authority reserves the right at any time before the Tender Deadline, to update or amend the information contained in this document and/or to extend the Tender Deadline. Participating Tenderers will be informed of any such amendment or extension through the eTenders website.

2.7.5 Tenderers should ensure that they register their interest in this Competition, by clicking on the "Accept" button on www.etenders.gov.ie, in order to receive all responses to queries and other updates in relation to this Competition.

2.8 TENDERING COSTS

2.8.1 All costs and expenses incurred by Tenderers relating to their participation in this Competition including, but not being limited to, site visits, field trials, demonstrations and/or presentations shall be borne by and are a matter for discharge by the Tenderers exclusively.

2.9 CONFIDENTIALITY

2.9.1 All documentation, data, statistics, drawings, information, patterns, samples or material disclosed or furnished by the Contracting Authority to Tenderers during the course of this Competition:

(a) are furnished for the sole purpose of replying to this CFT only;

(b) may not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Contracting Authority;

(c) shall be treated as confidential by the Tenderer and by any third parties (including subcontractors) engaged or consulted by the Tenderer; and

(d) must be returned immediately to the Contracting Authority upon cancellation or completion of this Competition if so requested by the Contracting Authority.

2.10 PRICING

2.10.1 Subject to the terms of the Services Contract the Contracting Authority shall pay the fee(s) as set out in table 1 above for the chosen Club(s) only.

For the avoidance of doubt the fees are:

a) per student, per club, per day;
b) VAT Exempt

And which are

delivered in accordance with the Department of Social Protections School Meals Scheme and the terms of the Services Contract and by submitting a Tender the Tenderer so confirms, accepts and agrees to same.

2.10.2 The Fee for each club shall be all-inclusive (including but not being limited to the provision and delivery of the Services, online ordering system, staff, food, ingredients, preparation, packaging, transportation, delivery, pest control, any required actions to comply with the department of Education's Technical Note Guidance **SDG02 TN-06**, rates, taxes, ancillary costs and all other costs/expenses), and is expressed in Euro only.

No other fees, costs, expenses etc. shall be paid by the Contracting Authority to the successful Tenderer for the provision and delivery of the Service. For the avoidance of doubt the successful Tenderer shall not charge nor seek any contribution from students, parents, guardians or any other person or entity towards the cost of the club(s) or the provision of the Services.

2.10.3 *Not used.*

2.10.4 Any currency variations occurring over the term of the Services Contract shall be borne by the Tenderer.

2.10.5 Payments for Services provided pursuant to this CFT shall be subject to and made in accordance with the Services Contract at Appendix 5 to this CFT.

2.11 ENVIRONMENTAL, FOOD, SOCIAL AND LABOUR LAW

2.11.1 In the performance of any Services Contract awarded, the successful Tenderers and their Subcontractors (if any), shall be required to comply with all applicable obligations in the field of environmental, health & safety, hygiene and food, social and labour law that apply at the place where the services are provided, that have been established by EU law, national law, collective agreements or by international, environmental, social and labour law listed in Schedule 7 of the Regulations.

2.11.2 Tenderers shall be required to include an undertaking to comply fully with the provisions of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, business or parts of undertakings or business and as implemented in Irish law by Statutory Instrument No. 131 of 2003, the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 and to indemnify the Contracting Authority for any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligations under the said Directive and Statutory Instrument.

2.11.3 The Protection of Employees (Temporary Agency Work) Act 2012 (the "2012 Act") provides that an Agency Worker (as defined in the 2012 Act) is entitled to the same basic working and employment conditions as those which apply to employees recruited directly by the Hirer (as defined in the 2012 Act) to do the same or a similar job. Where the provision of the Services will involve the provision to the Contracting Authority of Agency Workers (within the meaning of the 2012 Act), Tenderers should ensure that they consider their obligations under the 2012 Act when pricing their Tender. The Contracting Authority shall have no liability for any increase in salaries that may be payable as a result of the application of the 2012 Act to the provision of the Services.

2.12 PUBLICITY

No publicity regarding this Competition or any Services Contract pursuant to this Competition is permitted unless and until the Contracting Authority has given its prior written consent to the relevant communication.

2.13 REGISTRABLE INTEREST

Any Registrable Interest involving any Tenderer or Subcontractor and the Contracting Authority, members of the Government, members of the Oireachtas, or employees and officers of the Contracting Authority and their relatives must be fully disclosed in the Tender or, in the event of this information only coming to the notice of the Tenderer or Subcontractor after the submission of a Tender, must be communicated to the Contracting Authority immediately upon such information becoming known to the Tenderer or Subcontractor.

The terms "Registrable Interest" and "Relative" shall be interpreted as per Section 2 of the Ethics in Public Office Acts 1995 and 2001, copies of which are available at www.irishstatutebook.ie. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or terminating any Services Contract entered into by a Tenderer.

2.14 ANTI-COMPETITIVE CONDUCT

Tenderers' attention is drawn to the Competition Act 2002 (as amended, the "2002 Act"). The 2002 Act makes it a criminal offence for Tenderers to collude on prices or terms in a public procurement competition.

2.15 INDUSTRY TERMS USED IN THIS CFT

Where reference is made to a particular item, source, process, trademark, or type in this CFT then all such references are to be given the meaning generally understood in the relevant industry and operational environment.

2.16 FREEDOM OF INFORMATION

2.16.1 Tenderers should be aware that, under the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, information provided by them during this Competition may be liable to be disclosed.

2.16.2 Tenderers are asked to consider if any of the information supplied by them in their Tender should not be disclosed because of its confidentiality or commercial sensitivity. If Tenderers

consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity, Tenderers must, when providing such information, clearly identify the specific sections of their Tender containing such information and specify the reasons for its confidentiality or commercial sensitivity. For the avoidance of doubt Tenderers may not assert confidentiality or commercial sensitivity over the entire Tender but must clearly identify the specific section containing such information. If Tenderers do not identify information as confidential or commercially sensitive, it is liable to be released in response to a request under the above legislation without further notice to or consultation with the Tenderer. The Contracting Authority will, where possible, consult with Tenderers about confidential or commercially sensitive information so identified before making its decision on a request received. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

2.17 TAX CLEARANCE

It will be a condition of any Services Contract pursuant to this Competition that the successful Tenderer(s) shall, for the term of such contract(s), comply with all applicable EU and domestic tax laws. Tenderers are referred to www.revenue.ie for further information. Prior to the award of any Services Contract arising out of this Competition the successful Tenderer shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Contracting Authority. By supplying these numbers, the successful Tenderer acknowledges and agrees that the Contracting Authority has the permission of the successful Tenderer to verify its tax cleared position online.

2.18 CONFLICTS OF INTEREST

Any conflict of interest or potential conflict of interest on the part of a Tenderer, Subcontractor or individual employee(s) or agent(s) of a Tenderer or Subcontractor(s) must be fully disclosed to the Contracting Authority as soon as the conflict or potential conflict is or becomes apparent. Tenderers are required to declare that the preparation of their Tender was carried out independently. In the event of any actual or potential conflict of interest, the Contracting Authority may invite Tenderers to propose means by which the conflict of interest might be removed and in circumstances where there are links between Tenderers, the Contracting Authority may seek further information to confirm the Tenders have been prepared independently. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or any Mini-Competition or terminating any Framework Agreement or Services Contract entered into by a Tenderer.

2.19 WITHDRAWAL FROM THIS COMPETITION

Tenderers are required to notify the Contracting Authority immediately via the e-tenders website, if at any stage they decide to withdraw from this Competition.

2.20 SITE VISIT

2.20.1 All Tenderers are required to undertake a mandatory site visit (as set out in MR1 below) to view the Contracting Authority's premises at the school by pre-arranged appointment.

The Contracting Authority will facilitate Tenderers by permitting an inspection of the Contracting Authority's premises.

A site visit to assess the Contracting Authority's premises at the school will be organised on the date and times as set out in Table 2 above. Tenderers wishing to make an appointment to avail of this opportunity must confirm their attendance by contacting the school's office (see table 2 above) and the time will be confirmed by the Contracting Authority within 24 business hours from the request.

Attendance at the Contracting Authority's premises will be subject to compliance with local security and health and safety arrangements.

The site visit will allow Tenderers:

- to carry out a health and safety risk assessment, subject to complete compliance with 2.1 of the Department of Education Technical Note Guidance SDG 02 TN-06 (Guidance for Existing Primary Schools in Relation to Facilities for Provision of School Meals), considering issues such as steps, restricted access, uneven surfaces etc. that could impact on the safe transfer of the food to the drop off location set out in table 2 above. Appropriate measures shall be taken by the successful Tenderer to eliminate or to mitigate these risks;
  where required, to identify or assess a possible suitable storage location within the school buildings, subject to complete compliance with the Department of Education Technical Note Guidance **SDG02 TN-06**.
- to determine that their obligations under food legislation can be met while operating the Service;

The site visit will allow for Tenderers to propose their Health and Safety Risk Assessment Report and Mitigation Plan.

2.20.2 The Contracting Authority may inspect the Tenderer's premises/facilities.

2.21 INSURANCE

2.21.1 The successful Tenderer shall be required to hold for the term of the Services Contract, the following insurances:

Type of Insurance	Indemnity Limit
Employer's Liability*	**€13 million limit,** for any one claim or series of claims arising out of a single occurrence and unlimited in the period of insurance.
Public Liability*	**€6.5 million limit,** for any one claim or series of claims arising out of a single occurrence per period of insurance.
Product Liability*	**€6.5 million limit,** for any one claim and in the aggregate per period of insurance.
Motor Cover	**Minimum limit, of €1.3 million** for third party property damage for any one accident. The successful Tenderer must ensure the motor insurance covers the activities set out under the CFT.
Crime Insurance	**€100,000,** Any one claim.
Cyber Liability	**€1 million,** Any One Claim and in the aggregate per Insurance policy year.
***The Employers Liability, Public Liability and Product Liability policies must include an indemnity to principal's clause.	

2.21.2 By signing the Tenderer's Statement at Appendix 3, Tenderers confirm that, if awarded a Services Contract under this Competition, (i) they will, from the Effective Date of the Services Contract (as defined in the Services Contract), obtain and hold the types and levels of insurance as specified at paragraph 2.21.1, (ii) the territorial limits and jurisdiction of its insurance policies include Ireland and (iii) they are not aware of any exclusions, restrictions, conditions or warranties or, in the case of policies with an aggregate limit of indemnity, any outstanding claims, which could have a material adverse impact on the level of coverage specified above. A formal confirmation from the Tenderer's insurance company or broker to this effect will be requested from the successful Tenderer(s) prior to the award of (and shall be a condition of) any Services Contract.

2.21.3 The successful Tenderer will, during the term of the Services Contract, be required to:

(a) immediately advise the Contracting Authority of any material change to its insured status;

(b) produce proof of current premiums paid upon request;

(c) produce valid certificates of insurance upon request.

Part 3: Selection and Award Criteria

3.1 COMPLIANT TENDERS

3.1 Only those Tenderers who have:-

(a) Submitted compliant Tenders pursuant to paragraph 2.2 above, and

(b) Declared by way of the of the Tender Response Document (TRD) that:

(i) no mandatory grounds for exclusion of the Tenderer pursuant to Regulation 57 of the Regulations apply to them, or

(ii) in circumstances where any mandatory exclusion grounds apply to the Tenderer (and where the Tenderer is not precluded from doing so under Regulation 57(17) of the Regulations), that it can provide evidence to the effect that measures taken by it are sufficient to demonstrate its reliability despite the existence of any such relevant exclusion ground, and

(iii) that they satisfy the selection criteria for this Competition as set out in part 3.2 below (the "Selection Criteria"),

will be evaluated in accordance with the Award Criteria at part 3.3 below.

However, please note that the Contracting Authority also reserves the right to exclude from evaluation a Tenderer to whom a discretionary ground for exclusion pursuant to Regulation 57 of the Regulations applies.

Tenderers should note that where a Tenderer is relying on the capacity of other entities (for example, Subcontractors) for the purposes of fulfilling any of the Selection Criteria in part 3.2 below it must ensure that each such entity.

(i) completes and submits the necessary declarations by way of a separate TRD in respect of such Subcontractor at Part 2 of the TRD in respect of each such entity

(ii) when requested by the Contracting Authority, submit proof, to the satisfaction of the Contracting Authority, that each such entity will place the necessary resources at the disposal of the Tenderer.

The Contracting Authority may decide to examine Tenders before verifying the absence of exclusion grounds in Regulation 57 of the Regulations (the "Exclusion Grounds") and the fulfilment of the Selection Criteria.

However, notwithstanding anything to the contrary in this part 3.1, the Contracting Authority reserves the right to ask Tenderers at any moment during the Competition to submit any or all of the following for the purposes of verification of the status of the Tenderer (including the Prime Contractor and any Subcontractor):

(i) a Declaration in the form attached at Appendix 4;

(ii) evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground;

(iii) in the case of the Prime Contractor and any Subcontractor on whose capacity the Prime Contractor relies, all or any of the supporting documents specified at paragraph 3.2 below;

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) its fulfilment of the Selection Criteria (or any one of them) in accordance with this CFT and (ii) the absence of Exclusion Grounds, or its reliability despite the existence of a relevant Exclusion Ground then it shall be excluded from further participation in this Competition.

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) the fulfilment by any Subcontractor on whose capacity the Prime Contractor relies of the Selection Criteria (or any one of them) in accordance with this CFT then, it shall be excluded from further participation in this Competition *unless* it replaces the Subcontractor with one which meets all relevant requirements of this CFT.

3.2 SELECTION CRITERIA

Tenderers will either pass OR fail each of the Selection Criteria in this part 3.2.

A Tenderer who fails a selection criterion will be excluded from participating in this Competition.

3.2.A Economic and Financial Standing

Tenderers must: Demonstrate that they have generated **a minimum annual turnover equal to or greater than the amount as set out in Table 2 above** for each of the three (3) financial years immediately preceding the date of publication of this CFT. For the avoidance of doubt, where Tenderers are submitting a Tender as a Consortium this turnover requirement may be satisfied by combined annual turnover of the consortium members.

Supporting Documentation required: Copies of the audited financial statements for each of the three (3) immediately preceding financial years.

For the avoidance of doubt, Tenderers must submit the documentation requested above with their Tender submission.

However, where the Tenderer is unable, for a valid reason, to provide the specified documentation, the Tenderer must inform the Contracting Authority of the valid reason as to why the documentation cannot be supplied and, if the Contracting Authority considers the reason given to be valid, provide such other suitable alternative documentation to prove, to the satisfaction of the Contracting Authority, their economic and financial capacity.

3.2.B Technical and Professional Ability

Tenderers must declare in the TRD that they satisfy the technical and professional requirement(s) set out below and that they can demonstrate by providing the supporting documentation specified below to the Contracting Authority in each case:

1) **Tenderers must confirm** that they are registered as Food Business Operators (FBOs) with the Health Service Executive (HSE), or the Department of Agriculture, Food and Marine (DAFM), as appropriate to their operation.

Supporting Documentation required: Copy of acknowledgement of notification letter or copy of approval certificate from the competent authority must be submitted with their Tender.

Where the delivery of this Contract results in any significant changes to the successful Tenderer's normal food business operations, the successful Tenderer shall:

- Inform its competent authority, prior to commencement, of any such changes arising from the performance of this Contract;
- Review and, where appropriate, update its Food Safety Management System (including HACCP-based procedures) to reflect the new or revised activities associated with the provision of School Meals; and
- Retain records demonstrating that these reviews and updates have been undertaken.

The successful Tenderer may be requested to confirm to the Contracting Authority that the competent authority has been notified and that appropriate food safety controls remain in place.

2) **Tenderers must demonstrate** that they have the level of experience and capacity to deliver the Services required, as set out in this CFT, by **providing details of at least three (3) previous contract examples** (public sector or private sector) which operated within the last three years and collectively, demonstrating that they have successfully delivered catering services of a similar nature (**for the avoidance of doubt, this does not have to be for school meals**), scale and value to those detailed in this CFT and in Appendix 1 below in the last three years.

   In respect of the previous contracts submitted, to pass this selection criterion, combined the contract examples must meet each of the following:

   Nature: Must have been a food catering service contract;

   Scale*: Average number of meals produced/delivered per day over the term of the contract examples **collectively** must have been **60%**** or more of the number of meals required in this Competition;

   ***For the avoidance of doubt, each previous contract example does not have to meet the 60% threshold. A Tenderer may submit more than three previous contracts that when combined meet the 60% threshold (over the same period of time).**

   ****** The total maximum possible number of meals required for the duration of the contract is set out in table 1 above.**

Supporting Documents Required: Tenderer must provide the contract examples and referee contact details in the table provided in the TRD for each of the contract examples given.

In addition, Tenderers must also provide with their Response a **written reference from three of the named referees** in respect of three (3) (only) of the previous contract examples submitted.

Each reference provided must confirm and be of sufficient detail so as to satisfy the Contracting Authority as to the veracity of the information provided. These references must be either provided as a scanned copy of a letter which has been duly signed by the reference organisation's authorised representative or provided in a format which is fully traceable to the reference organisation's authorised representative, such as an email with the sender's email address clearly shown.

In order to verify a contract or reference, or in the event of insufficient detail in the reference, the Contracting Authority may contact any of submitted referees for verification purposes without prior notice to the Tenderer.

For the avoidance of doubt, Tenderer's must submit the documentation requested above with their submission**.**

3.3 AWARD CRITERIA

3.3.1 The Services Contract will be awarded on the basis of the most economically advantageous tender as identified in accordance with the following criteria:

Mandatory Requirements which are subject to a Pass/Fail Assessment

The Mandatory Requirement is identified below by the use of the letters "MR".

The Tenderers' response to a Mandatory Requirement will be evaluated on a Pass/Fail basis. Tenderers must meet this Mandatory Requirement.

If the Tenderer fails to meet the requirement designated as a Mandatory Requirement, the Tender will not be evaluated in respect of the Qualitative Award Criteria and will be eliminated from further participation in the Competition.

ID	Criteria	Requirement
MR01 (MR)	Site Visit And Submission of the required Declaration	The Contracting Authority requires all Tenderers to visit and review the school campus. In advance of the mandatory site visit, Tenderers are required to have read and familiarised themselves with content and requirements set down in the Department of Education Technical Note Guidance **SDG02 TN-06** (Guidance for Existing Primary Schools in Relation to Facilities for Provision of School Meals) and section 2.20 above. **To pass this Mandatory requirement Tenderers must:** a) **Conduct the site visit** on the date set out in Table 1 above: and b) **Submit with their Tender** a Declaration which must include at a minimum: 1. Confirmation that a site visit has been carried out on a specified date and who was in attendance on behalf of the Tenderer.

		2. Confirmation that a preliminary risk assessment has been carried out in accordance with the requirements of SDG 02-TN06 and that the successful Tenderer will undertake to comply with all the health and safety requirements. 3. Confirmation that the successful Tenderer will comply with all the requirements of SDG 02-TN06 and all other statutory requirements including Building Regulations, Food legislation and Health & Safety legislation. 4. **For the avoidance of doubt,** Tenderers who do not visit the school campus and/or do not submit a declaration will fail this Mandatory Requirement.

Requirements which are subject to Qualitative Assessment

Tenderers must respond to all of the Qualitative Award Criteria questions detailed in the table below. Tenderers must provide their written responses in the relevant section(s) of the TRD.

In response to each question, Tenderers are required to provide a response providing sufficient detail and clarity to enable the Contracting Authority to evaluate the Tenderer's proposal.

The Qualitative Award Criteria are set out below and will be subject to Qualitative Assessment by the Contracting Authority. Tenderers' responses to these Qualitative Assessment requirements will be evaluated and scored in accordance with the scoring methodology set out below. 1,000 marks are available in total for this section.

For the avoidance of doubt, where a qualitative award criterion is further broken down into sub-criteria and/or sub-sub-criteria, Tenderers are required to achieve the minimum pass mark of 70% for each individual sub-criterion and or sub-sub criterion where indicated.

If the Tenderer fails to achieve the requisite minimum score of 70% for any one criterion, sub-criterion or sub-sub-criterion as indicated below, then the Tenderer will be eliminated from further participation in the Competition.

Qualitative Criteria (QA)	Maximum Score	Minimum Score Required
Award Criterion A. Quality of Service Provision	**150 marks**	**As per each sub-criterion**
The Contracting Authority requires a consistent, safe and efficient catering service to be provided by the successful Tenderer. The operation of the catering service is critical to the success of the Services required as set out in this CFT and in particular Appendix 1 below. The Contracting Authority requires Tenderers to describe their approach under the following two sub-criteria: **A.1. Food Ordering System** **A.2. Food Service**		

Tenderers **must** demonstrate, by providing a clear and comprehensive description in the TRD, how their proposed catering services will meet with the requirements in A.1 and A.2 below. **To pass Award Criterion A,** Tenderers must achieve 70% of the marks available in each sub-criterion A.1 and A.2 as set out below.		
Sub-criterion A.1. A food ordering system (e.g. app, website, e-mail, etc.) through which club meals can be ordered and adjusted, including details on how to order and time limits for ordering and changing orders Imagery of the ordering system **must** be provided as part of the Tender.	70 marks	49 marks
Sub-criterion A.2. **Food service,** including delivery to agreed drop off point(s) on the Client premises, individual packaging and labelling and the provision of cutlery (where required) and napkins. Imagery of individual packaging and labelling **must** be provided as part of the Tender.	80 marks	56 marks
Award Criterion B. Food Plan and Food Standards	**500 marks**	**As per each sub-criterion or sub-sub criterion**
The Contracting Authority requires a consistent, safe and efficient catering service to be provided by the successful Tenderer. The operation of the catering service is critical to the success of the Services required as set out in this CFT and in particular Appendix 1 below. The Contracting Authority requires Tenderers to describe their approach under the following two sub-criteria: **B.1. Food Plan** **B.2. Food Standards** Tenderers **must** demonstrate, by providing a clear and comprehensive description in the TRD, how their proposed catering services will meet with the requirements in B.1 and B.2.A, B.2.B and B.2.C below. **To pass Award Criterion B,** Tenderers must achieve 70% of the marks available in sub-criterion B.1 and achieve 70% of the marks available in each of the sub-sub criterion B.2.A, B.2.B and B.2.C as set out below.		
Sub-Criterion B.1. Food Plan The Contracting Authority requires a food plan which provides fresh, healthy and nutritious food consistently. The food plans must be reviewed regularly to provide variety and choice, including for students with special dietary requirements and which encompasses changes to the nutritional standards over the Term of the proposed Contract. Tenderers **must** propose a food plan which meets the food requirements for the selected club(s) in table one above and which meet the individual meal constituents of the club(s) chosen set out in table 3 of Appendix 1 below.	230 marks	161 marks

The Food Plan must also include options and choices to accommodate students with food intolerances, allergies and religious observance, including for example lactose-free, gluten-free, vegetarian, vegan and halal options; available per day and per week.		
Sub-Criterion B.2. Food Standards The Contracting Authority requires a catering service which maximises and maintains a high standard of food nutrition, quality, variety and freshness of food items proposed which meets the club(s) requirements as set out in table 3 Appendix 1 below. Tenderers **must** describe their approach for:		
Sub-Sub Criterion B.2.A ensuring food nutrition, quality freshness and variety as set out in table 3 Appendix 1 below. The approach **must** also include their approach to mitigate against menu fatigue.	90 marks	63 marks
Sub-Sub Criterion B.2.B ensuring the correct food temperature, in compliance with Food legislation, from the point of delivery, up to the time of consumption.	90 marks	63 marks
Sub-Sub Criterion B.2.C avoiding food cross-contamination in respect of food allergies, food intolerances and other dietary requirements including but not limited to: lactose-free, gluten-free, religious observance, halal, vegetarian, and vegan.	90 marks	63 marks
Award Criterion C. Contract Performance Management	**150 marks**	**As per each sub-criterion**
The Contracting Authority requires a consistent, safe and efficient catering service to be provided by the successful Tenderer. The operation of the catering service is critical to the success of the Services required as set out in this CFT and in particular Appendix 1 below. The Contracting Authority requires Tenderers to describe their approach under the following two sub-criteria: **C.1. Contract Management** **C.2. Complaint / Incident Management** **To pass Award Criterion C,** Tenderers must achieve 70% of the marks available in sub-criterion C.1 and C.2 as set out below.		
Sub-Criterion C.1. Contract Management The Contracting Authority requires the successful Tenderer to deliver the Service as set out in Appendix 1. Contract management and the performance of the successful Contractor is a critical success factor. The Contracting Authority requires the assignment of a Key Account Manager (KAM) who will have overall responsibility for the delivery of the Service to the Contracting Authority and must have proven experience in successfully delivering similar services as set out in section 6 of the Appendix 1 below. **Tenderers must demonstrate, by providing a clear and comprehensive description in the TRD how their**	50 Marks	35 Marks

proposed KAM will manage the delivery of the Service including the KAM's role as set out in Appendix 1 below. **Tenderers must also provide a curriculum vitae (max 2 A4 pages) including relevant previous experience in the role for their proposed KAM.** **Tenderers should note where they submit a CV with more than 2 pages, the evaluation team will not take into consideration information contained after page 2.**		
Sub-Criterion C.2. Complaint / Incident Management The Contracting Authority requires the service to be provided by the successful Tenderer as per the requirements set out in Appendix 1 below. Tenderers **must** set out their proposed approach to dealing with, managing and resolving complaints/incidents including but not limited to the following critical areas of the services: - product recall; - food contamination e.g. foreign bodies/chemicals; - customer complaints; - incidents of a medical nature (e.g. food borne illness, allergies, food poisoning); - food quality. Tenderers should note that the Contracting Authority has set out its Contract performance requirement in Schedule D: (Service Level Agreement) of the Services Contract appended at Appendix 5. Tenderers **must** demonstrate, by providing a clear and comprehensive description in the TRD, how their proposed catering services will meet with this requirement.	100 marks	70 marks
D. Green Procurement and Sustainability	**200 marks**	**As per each sub-criterion or sub-sub criterion**
The Contracting Authority requires the greenest catering service possible meeting or exceeding, the requirements set out in Appendix 1 below. The Contracting Authority requires Tenderers to describe their approach under the following two sub criteria: **D.1 Environmental Waste Prevention and Minimisation** **D.2 Sustainable Purchasing Policy** Tenderers **must** demonstrate, by providing a clear and comprehensive description in the TRD, how their proposed catering services will meet with the requirements in D.1 and D.2 below. **To pass Award Criterion D,** Tenderers must achieve 70% of the marks available in sub-criterion D.1 and D.2 as set out below.		

Sub Criterion D.1 Waste Prevention and Minimisation The Contracting Authority aims to minimise waste on its school campus. Tenderers are required to detail their approach to: - waste prevention and minimisation of all forms of waste, with a specific focus on food waste prevention, taking into account Ireland's commitment to reduce food waste by 50% by 2030, (in line with target T3 in Buying Greener); - environmentally friendly recyclable packaging materials (including compostable/ biodegradable where possible) in line with the Sectoral Target T4 from Buying Greener and Directive (EU) 2019/904; - their commitment to reducing plastics and non-recyclable materials in packaging and food service.	100 marks	70 marks
Sub-Criterion D.2 Sustainable Purchasing Policy Tenderers are required to detail how their purchasing policy contributes to environmental and social sustainability. This may include (but not be limited to), for example: including waste minimisation as a factor in purchasing decisions, favouring local suppliers to reduce transport miles and to support the local economy, favouring seasonal and local produce.	100 marks	70 marks
Tenderers should note all award Criteria including sub criteria and sub-sub criteria where applicable, will be evaluated holistically.		

Methodology for calculating Scores

Tenderers are requested to submit complete responses to each of the requirements set out in the table above in their TRD submission.

Each response provided by the Tenderer for each individual qualitative criterion and sub-criterion, as applicable, will be evaluated and scored in accordance with the relevant scoring approach as set out in the table above in 3.3.1 and the scoring methodology set out in the Table below.

In order to ensure a high-quality Service, Tenderers must achieve a minimum total score of 70% of the maximum available marks for each individual sub-criterion and or sub-sub criterion where indicated, otherwise, the Tenderer will be eliminated from further participation in the Competition.

Tenderers must therefore demonstrate, by providing a clear and comprehensive description in each case, how their proposal will meet each of the qualitative requirements set out in table above.

For each of the qualitative criteria stated in the Table above, the following scoring methodology will be applied:

Scoring Methodology	
Percentage Weighting Range	**Characteristic of Response**
91- 100%	**Excellent to Exceptional** The Tenderer's proposal is assessed as demonstrating an excellent to exceptional level of quality and understanding in respect of the qualitative criterion.
80- 90%	**Good to Very Good** The Tenderer's proposal is assessed as demonstrating a good to very good level of quality and understanding in respect of the qualitative criterion.
70- 79%	**Satisfactory to Very Satisfactory** **The Tenderer's proposal is assessed as demonstrating a satisfactory to very satisfactory level of quality and understanding in respect of the qualitative criterion.**
30- 69%	**Unsatisfactory or Inadequate** The Tenderer's proposal is assessed as unsatisfactory or inadequate in that it is lacking in some degree of quality and understanding in respect of the qualitative criterion.
1- 29%	**Very Unsatisfactory or Very Inadequate** The Tenderer's proposal is assessed as very unsatisfactory or very inadequate in that it is lacking to a significant degree in quality and understanding in respect of the qualitative criterion.
0	**No response.**

Tie Break Rule

The Contracting Authority will award a Contract to the Highest scoring Tenderer. In the event that there is a tie for the first place between two or more Tenderers, the following tie-break rules will be adopted.

The Tenderer which has been awarded the highest marks for Award Criterion "**A**" **Quality of Service Provision** will be awarded the Contract.

In the event of a tie and there being no difference in the marks for Selection Criterion "A"**,** then the following tie break order will be used:

a) the Tenderer with the highest mark for the Award Criterion "B" **Food Plan and Food Standards** will be awarded the Contract. In the event of a tie following the above process, then
b) the Tenderer with the highest mark for the Award sub-Criterion "B1" **Food Plan** will be awarded the Contract, In the event of a tie following the above process, then
c) the Tenderer with the highest mark for the Award sub-Criterion "B2" **Food Standards** will be awarded the Contract,
d) when a Tenderer can't be identified in the above tie break sequence to be awarded a contract, the tied tenderers names shall be put into a container and the successful

Tenderer will be drawn by an independent Contracting Authority office not involved in the evaluation.

For the avoidance of doubt the Contracting Authority will only award the Contract to one Tenderer.

3.3.2 Subject to paragraphs 2.1 (Important Notices) and 3.5 (Standstill Period) of this CFT, award of the Services Contract to the highest ranked Tenderer (as determined by paragraph 3.3.1) will be conditional upon:

(a) the Tenderer submitting the following evidence in respect of the Tenderer (including the Prime Contractor and any Subcontractors, as applicable in accordance with paragraph 3.1 above) to the extent not already provided, within seven (7) days of request by the Contracting Authority: (i) a Declaration in the form attached at Appendix 4; (ii) if applicable, evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground; (iii) all or any of the supporting documents specified at paragraph 3.2; and

(b) the evidence specified at paragraph 3.3.2(a) above demonstrating that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 3.1(b).

3.4 PRESENTATION OF PROPOSALS

Tenderers may be required to make a presentation of the proposal contained in their Tender. The Contracting Authority will not be responsible for the cost of such presentations (in accordance with paragraph 2.8). Performance at presentations will NOT be evaluated.

3.5 VOLUNTARY STANDSTILL PERIOD

3.5.1 No contract can or will be executed or take effect until at least ten (10) calendar days after the day on which the Tenderers have been sent a notice informing them of the result of this Competition ("Standstill Period") if such notice is sent by electronic means. The Standstill Period shall be eleven (11) calendar days if such notice is sent by other means. The preferred bidder will be notified of the decision of the Contracting Authority and of the expiry date of the Standstill Period.

3.5.2 Tenderers should note that the Contracting Authority may, when notifying Tenderers of the results of this Competition, include the scores obtained by the Tenderer concerned and the scores obtained by the preferred bidder in respect of each award criterion assessed by the Contracting Authority.

3.6 RETURN OF SIGNED CONTRACTS

3.6.1 The successful Tenderer must sign and return the Services Contract and the Confidentiality Agreement, both in duplicate, to the Contracting Authority no later than Five (5) calendar days from the date of expiry of the Standstill Period unless notified otherwise in writing by the Contracting Authority. A signed Services Contract returned by the successful Tenderer is not binding on the Contracting Authority until the Contracting Authority has signed the Services Contract in accordance with paragraph 2.1.2 above.

3.6.2 Where the signed Services Contract and the Confidentiality Agreement have not been received by the Contracting Authority within the period as specified at paragraph 3.6.1 then the Contracting Authority may proceed to award the Services Contract to the next highest-ranked Tenderer in accordance with paragraph 3.6.1 above.

Appendix 1: Requirements and Specifications

Appendix 1 set outs out the Services which the successful Tenderer (the Food Business Operator) will deliver under the Services Contract.

1. BACKGROUND

The Contracting Authority is seeking proposals for the provision of catering services to provide meals for the club(s) as set out in table 1 above, under the School Meals Scheme through the Department of Social Protection (DSP) and is dependent on the level of DSP funding approved for each academic year.

It is a mandatory requirement of the Contracting Authority that Tenders are submitted on the basis that all food will be prepared off site and delivered ready to eat in compliance with Food Legislation, **for the avoidance of doubt** no food handling activities should take place on the school premises.

No service delivery model other than this will be accepted and a Tender which proposes an alternative service delivery model or variations of the stated service delivery model/will be deemed non-compliant and will be rejected.

Food must be delivered to designated area at the agreed time while ensuring the cold chain is maintained up to the time of consumption.

The Contracting Authority requires that the Services are made available each day of the school year for the total of number of students as set out in Table 1 above.

Provision of the Services will begin at the earliest practicable date in academic year 2025/2026 (specific date to be agreed and subject to confirmation of funding). The school calendar will be furnished to the successful Tenderer at the beginning of each school year.

Funding for the Clubs is set out in the School Meals Scheme (the Scheme) which is provided through the Department of Social Protection (DSP). This Funding is allocated on a school-year basis and must be applied for annually by the school.

There is no automatic entitlement to DSP funding in any year and all applications are considered on the available budget for the Scheme. Whilst this competition is being run for a specific period any contract that may result from this Competition (the "Services Contract") is entirely dependent on the aforementioned funding, and the Contracting Authority reserves the right to cancel the competition or the Services Contract in the event that funding is no longer available or forthcoming;

Further information on the School Meals Scheme can be found here: Department of Social Protection. For the avoidance of doubt only the provision of **Club(s) outlined in table 1 above,** is sought under this CFT.

The Contracting Authority may cancel this Competition, at any time prior to a formal Service Contract being executed by or on behalf of the Contracting Authority.

Tenderers must be registered with the Health Service Executive (HSE) or the Department of Agriculture, Food and Marine, as appropriate to their operation, and are responsible for compliance with Food Safety & Hygiene Regulations.

The Contracting Authority accepts no liability or responsibility for any breach in Food legislation, Health and Safety Legislation, and Labour and Employment Legislation etc. in the provision of the Services by the Tenderer and compliance with all relevant legislation is solely a matter for the successful Tenderer.

2. SCHOOL MEALS SCHEME & PAYMENT

Funding under the School Meals Scheme for the Services is provided for the Club(s) chosen in Table 1 above which must be of suitable quality and nutritional value and prepared in an appropriate environment.

The Contracting Authority intends to facilitate the availability of chosen club(s) for students (see Table 1 for estimated number of students) for each day of the school year. For the current academic year, the service provision will begin at the earliest practicable date (subject to confirmation of funding). The school calendar will be furnished to the successful Tenderer at the beginning of each school year.

a) **PLEASE NOTE:** Estimated volumes provided in this CFT are indicative only and are subject to fluctuation. The exact number of students availing of the club(s) will vary on a week-to-week basis. Tenderers should note that it is not mandatory for students in the school to avail of chosen club(s) on any given day or at all and that the successful Tenderer will only be paid for each club meal ordered by parents/guardians.

The Contracting Authority shall be under no obligation to purchase any minimum number or value of Services.

The successful Tenderer will be required to provide accurate details of numbers of meals, per club delivered. See Section 6.7 for further details.

Funding under the School Meals Scheme is based on a rate of payment per Club, per student, per day as set by the DSP. The current rates of payment for the chosen club(s) are as follows:

Rate and Specifications by Club Type		
Club	**Max Rate of Payment (per student per club)**	**Any menu proposed in the tender submission MUST be in line with the following specifications.**
Lunch with Drink	**€1.70**	4 items, plus drink: 2 servings vegetables, salad or fruit, and 1 serving wholemeal or wholegrain cereals or breads, and 1 serving meat, poultry, fish, egg, beans, nuts, or cheese Only drinks available should be water, milk (200ml) or unsweetened juice (150ml)**
Lunch no Drink	**€1.40**	4 items: 2 servings vegetables, salad or fruit, and 1 serving wholemeal or wholegrain cereals or breads, and 1 serving meat, poultry, fish, egg, beans, nuts, or cheese
Afterschool with drink	**€1.70**	4 items, plus drink: 2 servings vegetables, salad or fruit, and 1 serving wholemeal or wholegrain cereals or breads, and 1 serving meat, poultry, fish, egg, beans, nuts, or cheese

		Only drinks available should be water, milk(200ml) or unsweetened juice (150ml)**
Afterschool no drink	**€1.40**	4 items: 2 servings vegetables, salad or fruit, and 1 serving wholemeal or wholegrain cereals or breads, and 1 serving meat, poultry, fish, egg, beans, nuts, or cheese
** Limit fruit juice to once a day.		

Table 3

PLEASE NOTE: the Maximum Rate of Payment (per student per club) set out above (VAT Exempt) is the maximum sum payable per student per club and the only basis for charging under the proposed Services Contract. The successful Tenderer shall not charge nor seek any contribution from students, parents, guardians or any other person or entity towards the cost of the meals or the provision of the Services.

Tenderers are required to confirm their agreement to providing the School Meals Service for the rates stated above. Please refer to the Tender Response Document – Appendix 2.

3. EXECUTIVE SUMMARY OF THE SERVICES TO BE PROVIDED

In respect of the provision of the catering service for the chosen club(s) set out in table 1 above, and without prejudice to the generality of the Services required and set out in Appendix 1, the successful Tenderer will be fully responsible for:

- ensuring all staff are supervised, instructed and trained in food hygiene and all other matters, including Child Protection, commensurate with their work activity. FSAI Guidelines on food hygiene training are available on FSAI.ie;
- compliance with the Garda Vetting process for all staff who will go into the school campus, as set out at 6.6.3 below. Only staff who have completed their Garda Vetting to the satisfaction of the Contracting Authority will be permitted to deliver to the school campus
- compliance with the Department of Education Technical Note Guidance SDG 02 TN-06;
- where meals are to be temporarily kept in insulated boxes or similar within the school premises immediately in advance of serving, a suitable and appropriate location, free from any source of contamination, shall be agreed with the school authority that is separate to teaching rooms and staffrooms that are in use. Agreed locations shall not block fire escape or circulation routes and should ideally be in a storeroom;
- the supply, operation and maintenance of any necessary food storage and delivery equipment;
- providing a healthy, nutritionally balanced and varied comprehensive menu. It is preferable that food items are prepared fresh from fresh ingredients;
- ensuring the correct food temperature in compliance with food legislation, from the point of delivery up to the time of consumption;
- the delivery of meals to the designated Drop off Point(s) on the Clients premises and at the required time;
- compliance with all relevant food legislation;
- The cleaning and disinfection of all storage and delivery equipment each day;
- daily waste prevention and minimisation including but not limited to food waste and packaging;

- compliant with all relevant legislation and **I.S. 340: 2007; 'Hygiene in the Catering Sector' as outlined in the** Department of Education Technical Note Guidance SDG 02 TN-06

The successful Tenderer will be accountable to the Principal and Board of Management of the school for the safety and quality of the food service provided, including any ongoing improvements that need to be made.

See section 6 below for further details on the individual service requirements which the successful Tenderer will be required to deliver.

4. FOOD BUSINESS OPERATORS

It is a pre-condition to the commencement of the Services Contract that the successful Tenderer, as the Food Business Operator, shall not provide meals to the school, unless and until it has notified the name of the food business and the address of the premises and nature of the food business activity operated therein its with the HSE.

The successful Tenderer shall notify the Health Service Executive (HSE) or the Department of Agriculture, Food and the Marine, as appropriate to their operation, of each food establishment under its control that undertakes any stage of the production, processing, or distribution of food, for the purpose of registration. The successful Tenderer shall ensure that all such information remains accurate and up to date throughout the Term of this Agreement.

The successful Tenderer shall notify the Health Service Executive (HSE) or the Department of Agriculture, Food and the Marine, as appropriate to their operation, in writing of the following for registration purposes:

(a) it's name and legal form;
(b) the nature and scope of food activities carried out (including those conducted via distance selling or other means of communication);
(c) all establishments and premises under its control used in connection with the food business, and
(d) any subsequent changes to the information provided*.

* Regulation 6, European Communities (Hygiene of Foodstuffs) Regulations 2006 (S.I. No. 369 of 2006), as amended by S.I. No. 47/2020.

5. SERVICE OPERATION TIMES

The successful Tenderer will provide the Services to the school at the time(s) set out in table 1 above.

The successful Tenderer must provide service on each of the 180 days, other than for exceptional and/or unforeseen closures. The Contracting Authority is not responsible for any loss of earnings incurred by exceptional/unforeseen closures through-out the school year.

School opening days and or club times may be subject to change temporarily at times during the year and the successful Tenderer will be expected to co-operate fully with the wishes of the school at this time.

Tenderers should note that the times are correct at time of advertising but are subject to change at the request of the Contracting Authority.

6. INDIVIDUAL SERVICE REQUIREMENTS

THE FOLLOWING SECTIONS SET OUT IN DETAIL THE INDIVIDUAL SERVICE REQUIREMENTS WHICH THE SUCCESSFUL TENDERER MUST DELIVER BASED ON THE SERVICE(S) REQUIRED AS SET OUT AT PART 1 SECTION 1.2 OF THIS CFT:

6.1. MENUS AND FOOD SAFETY

6.1.1. MENUS

In relation to the menus proposed, the successful Tenderer will provide:

- meal options and menus that comply with the Nutrition Standards for School Meals which may be updated from time to time over the Term of the contract.
- fresh, seasonal, nutritious food, which includes 2 servings vegetables, salad, or fruit and 1 serving wholemeal or wholegrain cereals or breads and 1 serving meat, poultry, fish, egg, beans, nuts or cheese;
- where the school has indicated their Club includes a drink and their choice of drink as set out in table 1 above, the drink must include one of the following: water, milk (a 200ml cup or small carton) or unsweetened juice (150ml). Where the school requires catering services for two clubs (as set out in table 1 above), a fruit juice can only be provided for one club;
- meal descriptions should include details of portion sizes which should vary by age as per Nutrition Standards;
- foods which are high in fat, saturated fat, sugar and salt **must not** be served as per guidance in Nutrition Standards for School Meals;
- will comply with regulation (EU) 2018/848 as amended, on organic production and labelling of organic products;
- menus should include a range of locally sourced produce along with a greater use of sustainable food, for example, in-season produce, high animal welfare standards on meat, free-range eggs, marine conservation certified fish;
- Organic and in-season produce must be highlighted on menus.

The successful Tenderer will agree all menu options, including individual labelling and packaging, with the Contracting Authority upon award of contract which ensure:

- The menu options must accommodate students with special dietary requirements, such as food intolerances and allergies (for example lactose-free, gluten-free); requirements due to religious observance (for example halal); vegetarian and vegan. A variety of meal options for students with special dietary requirements must be provided. **NOTE:** The successful Tenderer must liaise with the parents or guardians, upon award of contract to confirm the details to accommodate those students.
- The mandatory food information must be available before the parent/guardian selects a menu option on the on-line ordering system. This information must be clear, accurate and easy to understand, the information may be shown on the website or platform used to order the food or provided through other appropriate clear and suitable methods clearly identified by the food business and agreed by the school and the successful Tenderer. This is in accordance with Regulation (EU) No 1169/2011 on the provision of food information to consumers (FIC).
- All menu options must clearly provide allergen information as listed in Annex II of Regulation (EU) No 1169/2011;

- Menus must reflect the school community and their background;
- The Contracting Authority will provide the successful Tenderer with details of the student demographics.
- Food supplied is produced according to fair trade principles as defined by the World Fair Trade Organisation (WFTO).

The successful Tenderer will be responsible for managing menu fatigue, while keeping the healthy eating focus.

The successful Tenderer will undertake regular customer satisfaction surveys;

The successful Tenderer is required to uphold and promote the Healthy Eating Policy of the school.

Arrangements for the communication of weekly menus will be agreed between the successful Tenderer and the School Principal.

For the avoidance of doubt, the successful Tenderer on request from the Department of Social Protection as the funding body must provide information related to meal offerings including but not limited to menus, recipes, suppliers etc. within two business days following the request.

6.1.2. FOOD SAFETY MANAGEMENT SERVICES

In relation to Food Safety, the successful Tenderer must:

- Comply with all relevant food legislation;
- Have regard for relevant Food Safety Authority of Ireland (FSAI) Guidance notes which are available on the FSAI website;
- Provide safe food, i.e., it must not be injurious to health or unfit for human consumption. Unsafe food must be withdrawn or recalled from the school(s) supplied and the School Principal must be immediately notified. In addition, the successful Tenderer must notify the relevant competent authority in accordance with their legal obligations under Regulation 178/2002;

6.2. HEALTHY EATING POLICY

Tenderers must, at a minimum, provide food in line with the published Nutrition Standards for School Meals and any future iteration of these Standards over the Term of the Contract, developed for the Department of Social Protection by the Department of Health, Safefood and the Health Service Executive for the School Meals Scheme.

The School's Healthy eating policy where one exists is or will be based on the Nutrition Standards for School Meals, which must be used as a guide to the successful Tenderer regarding menu plans and examples of suitable options for the students.

6.3. PRE-ORDERING, DELIVERY, DISTRIBUTION AND SERVING SYSTEMS

6.3.1. PRE-ORDERING

In relation to pre-ordering;

The successful Tenderer must provide an on-line ordering system with content (menus and messaging) available in English and Irish in line with the Official Languages Act 2003 and 2021, to enable parents/guardians to order food and for the successful Tenderer to communicate with same and:

- Consult closely with school personnel, parent association and student council before agreeing and finalising all menus before they are setup on the on-line ordering system;
- Communicate directly with the parents/guardians. This includes the initial student, parents and/or Guardians registration set up (including hosting, storage and processing of the student details) on the system in compliance with GDPR rules;
- Define communication channels between all parties in relation to the selection of food for the club(s), the ordering process, timelines, dealing with changes, queries or complaints;
- Where necessary, individual club orders can be cancelled up to 48 hours before day of delivery (for the avoidance of doubt, schools can also cancel all or a number of club(s) meals up to 48 hours in advance);
- The mandatory food information listed below must be available before the parent/guardian selects every meal on the on-line ordering system. This information must be clear, accurate and easy to understand, the information may be shown on the website or platform used to order the food or provided through other appropriate clear and suitable methods that are clearly identified and agreed between the school and the successful Tenderer; This is in accordance with Regulation (EU) No 1169/2011 on the provision of food information to consumers;
- **For the avoidance of Doubt:**

a) it will always be a decision of the parent / guardian to opt-in the student for the club(s) and their consent, if they choose to opt-in, is requested and recorded, when registering on the on-line Ordering System (**for the avoidance of doubt** School Staff are not permitted to enter student / parent / guardian data into the on-line ordering system);
b) The online - ordering system must be configured to be accessible by all parents or guardians, including users with disabilities;
c) all personal data including but not limited to student / parent / guardian data held by the successful Tenderer on their on-line Ordering System must be securely stored, hosted and processed only in data centres located within the EEA.

The successful Tenderer must provide the below list of relevant mandatory food information before the selection of every meal is completed:

The Mandatory information includes:

- The name of each of the menu options;
- A full list of ingredients, including all compound ingredients used in the preparation of each meal.

- Any ingredients or processing aids that may cause allergies or intolerances used as an ingredient in every meal. There are 14 allergens, listed in Annex II of Regulation (EU) 1169/2011, that must be clearly identified if used in the manufacture of the meal;
- The percentage of key ingredients or ingredient groups appearing in the name of the food item (known as QUID – Quantitative Ingredient Declaration);
- The net quantity of the food in grams (g) or kilograms (kg), as appropriate for solid foods, as required under Article 23. This is to indicate the total weight of the food provided, excluding packaging;
- Any special storage instructions and/or conditions of use;
- Name or business name and address of the food business operator i.e. its full postal address;
- The country of origin of the main ingredient(s) if the ingredients are not from Ireland, yet the information indicates that the final meal is Irish;
- The nutritional information of the food, which includes the energy value and the amounts of fat, saturated fat, carbohydrates, sugars, protein, and salt per portion. This nutrition information must be provided on both a per 100g/100ml and per serving (per meal) basis.
- ***It is not a mandatory requirement to provide the date of minimum durability or 'use by' date of the food at the time of selection, however the date of minimum durability or 'use by' date of the food must be displayed on the packaging at time of delivery.**[CP1]

The relevant mandatory information must also be provided on delivery, this information may be provided on commercial documentation before or with the delivery.

6.3.2. DELIVERY

The successful Tenderer will deliver to the club food drop off point(s) on Clients premises as set out in table 2 above with further details provided during the Mandatory site visit.

Club food must be prepared off-site:

- The successful Tenderer must maintain the cold chain in compliance with food legislation and where appropriate the food must be delivered in environmentally friendly suitable containers to maintain perishable items such as sandwiches and drink (if milk is provided) at the appropriate temperature (less than 5°C for refrigerated food) until the time of consumption. Evidence of compliance with the temperature control requirements must be available and comply with applicable food legislation;
- All packaging used for club food **must** be food safe. Environmental friendly packaging materials must be used. Compostable/ biodegradable should be used where possible and at a minimum the packaging must be recyclable, in line with the Sectoral Target T4 from Buying Greener and Directive (EU) 2019/904;
- Each club meal must be labelled for each individual student

- Food delivered must be accompanied by a delivery docket. This is required for reconciliation of club meals delivered against those invoiced before payment is made by the school to the successful Tenderer.

The successful Tenderer is responsible for monitoring the safety of food delivered. All food must be monitored, and records maintained for the following: time/temperature control, delivery, storage and cleaning, where appropriate. These records must be available for inspection by the Environmental Health Officer and the Contracting Authority when requested.

6.4. CLEANING AND DISINFECTION

The successful Tenderer will be responsible for the cleaning and disinfection of all storage and delivery equipment including insulated boxes/ containers and transport vehicles to the relevant standards of hygiene required by food legislation.

As is the case with all the delivery mechanisms listed in [OD1] department of Education's Technical Note Guidance **SDG02 TN-06**, food waste management is a key consideration to avoid potential pest infestation, unwanted smells etc. Further guidance in this regard is provided in the National Standards Authority of Ireland publication **I.S. 340: 2007; 'Hygiene in the Catering Sector'**. Providers are required to demonstrate compliance with this standard (and any subsequent updated versions).

NOTE: Inspections may be carried out by the Contracting Authority, its agents or independent auditors on their behalf at any time to ensure that the highest standards of hygiene and cleanliness are maintained at the food preparation location at all times and that proper methods are applied in food supply, preparation, cooking and the provision of the Services.

6.5. ENVIRONMENTAL WASTE PREVENTION AND MINIMISATION

The successful Tenderer will be responsible for operating policies which progressively address environmental considerations, with a specific focus on food waste prevention.

The successful Tenderer will support schools in their responsibility for the management of waste, in accordance with Waste Management (Food Waste) Regulations 2009 as amended**,** School Sector Climate Action Mandate 2024, and all applicable waste management legislation including relevant EU Directives. Further information can be found on Environmental Protection Agency's website www.epa.ie and on My Waste's website www.mywaste.ie, Ireland's official guide to managing waste, which includes guidance and resources on how to reduce and manage waste.

A food waste minimisation plan describing what actions will be undertaken shall be put in place by the successful Tenderer. They shall review and revise the actions they are taking with suitable regularity to continue to reduce food waste wherever possible and feedback to the Contracting Authority on progress and results with suitable regularity.

The successful Tenderer **must** also:

- Support the European Commission (EC) published European Strategy for Plastics in a Circular Economy (January 2018) and associated measures, those that reduce unnecessary plastic packaging of goods; maximise the reuse and recycling of plastic packaging waste and promote goods that contain recycled plastic;
- Support the Environmental Protection Agency's Food Waste Charter, by signing up to the Charter and commit to reducing food waste, in order to meet the United Nations Sustainable

Development Goals, including By 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses (www.foodwastecharter.ie);

- Support the attainment of Government objectives that aim to minimise the disposal of waste to landfill.

6.6. STAFFING

The successful Tenderer will in delivering the Services:

- have sole responsibility for all staff engaged in providing the Service;
- ensure adequate provision of staff appropriately trained (on all relevant matters commensurate with their work activity, in compliance with all applicable laws including food legislation) are available each day to deliver the Service required;
- ensure staff receive adequate and relevant training in hygienic working practices and food handling techniques, in line with Food legislation (*FSAI Guidelines on food hygiene training are available on the FSAI website*);
- be responsible for ensuring a member of the successful Tenderers staff, who is Occupational First Aid trained, is available during Service delivery times;
- maintain a written record of accidents and dangerous occurrences in accordance with current legislation;

The successful Tenderer's staff must at all times:

- maintain a high level of personal hygiene and standard of dress at all times while delivering the Service;
- be fit to work, this means they must not be suffering from or carrying an illness or disease that could cause a problem with food safety (e.g. Staff who have had diarrhoea and/or vomiting should not return to work until they have had no symptoms for 48 hours);
- keep confidential any conversations by school staff / parents or guardians in relation to students;
- not engage outside of their normal duties, with any of the students;
- conduct themselves in a mannerly and respectful demeanour, to students, parents/ guardians, staff and Visitors, setting a good example for the students.

The Contracting Authority reserves the right to require that any employee of the successful Tenderer who behaves inappropriately is removed from the school and is replaced. Polite and respectful behaviour is expected of all staff in keeping with the school's ethos and Dignity in the Workplace Policy.

The Successful Tenderer shall provide, recruit and train such staff and management as are required to provide to the full satisfaction of the Contracting Authority the delivery of the Services in all respects.

School staff may place Club food on their student's desk only. For the avoidance of doubt, this "in loco parentis" activity must not extend to the responsibility for or activities involving the storage or maintenance of temperature control of the meals by non-FBO contracted staff.

6.6.1. KEY ACCOUNT MANAGER (KAM)

The Contracting Authority requires Tenderers to appoint a dedicated and experienced Key Account Manager (KAM) who will act as the main point of contact for the Term of the Services Contract. This person shall have the authority to deal with all matters in relation to the contract and be responsible for the satisfactory delivery of the Service.

The KAM and nominated back-up KAM must each, have experience in a similar role.

The duties of the KAM will include the following but not be limited to:

- manage the delivery of the Services to the satisfaction of the Contracting Authority;
- provide sufficient appropriately trained staff to deliver the Service;
- overall responsibility for a good working relationship with the Contracting Authority;
- provide the principal, with monthly summary reports of activity regarding volumes sold types/categories of meals served per club, student uptake of the service;
- schedule periodic meetings to review the relationship and examine performance;
- deal with disputes, complaints and concerns;
- regularly give and receive both formal and informal feedback on the relationship, processes, areas and suggestions for improvement;
- proactively engage and work with the Contracting Authority on ways to improve the service delivery in general;
- Update the Principal with any changes in staff assigned to the Service and comply with the Garda Vetting process for all staff, as set out below;
- facilitate where a parent / guardian / school wishes to communicate with the successful Tenderer, in Irish, as per 9E of Section 5 of the Official Languages (Amendment) Act 2021 Act.

A nominated back-up KAM **must** be available for cover, when required.

NOTE: Tenderers will note that Key Account Management activities will be non-billable (i.e., the Contracting Authority will not pay separately for account management activities). The Contracting Authority will nominate authorised staff to liaise with the successful Tenderer and delegate as required.

6.6.2. REPLACEMENT PERSONNEL

The successful Tenderer must notify the Contracting Authority in writing as soon as possible in relation to any proposed change of staff who need to be on the school premises as part of the Service provision; such change to be subject to the written approval of the Contracting Authority. The successful Tenderer shall provide to the Contracting Authority such details as the Contracting Authority may reasonably require in writing regarding any replacement personnel. The Contracting Authority shall have absolute discretion as to the suitability of any proposed replacement personnel.

6.6.3. GARDA VETTING

All proposed service delivery staff **must** undergo and pass Garda Vetting before being deployed to the school. The successful Tenderer will be required to complete vetting application forms in respect of those staff who will be attending the school's campus. A list of these staff, including photos, **must** be provided to the School Principal prior to the successful Tenderers commencement of the Services in the school and only those who complete their Garda Vetting to the satisfaction of the Contracting Authority will be permitted to attend the school campus.

Disclosure of convictions which the Contracting Authority in its sole discretion considers would render the proposed staff member unsuitable to work with children/vulnerable adults will disqualify that staff member. Tenderers shall not draw any inference from the invocation of this right by the Contracting Authority and Tenderers must confirm acceptance of this as part of their Tender.

This process must be followed for all staff assigned to the Contract including replacement and temporary staff assigned over the Term of the Contract.

Where a staff member ceases working with the successful Tenderer or is no longer engaged in the provision of the Services at the school premises for any reason the successful Tenderer must immediately notify the School Principal.

Any successful Tenderers staff who have not gone through this process will be immediately asked to leave the school campus.

The above vetting procedure is subject to the provisions of The National Vetting Bureau (Children and Vulnerable Persons) Vetting Act 2012 – 2016, commenced on 29th April 2016, and Department of Education & Youth and Skills circular letters. Updates are available on the DE (Department of Education & Youth) website Commencement Of Statutory Vetting - Department of Education & Youth and Skills.

6.6.4. CHILD PROTECTION TRAINING

The successful Tenderer must have in place appropriate child protection procedures and training for their staff who attend on the school premises. At a minimum this would include the completion of the Tusla Children First e-Learning Programme or similar. Staff should also be made aware that, in addition to the successful Tenderer's own child protection procedures and reporting obligations, any child protection concern relating to a student in the school, should be reported to the Designated Liaison Person in the school.

6.7. REPORTING AND COMMUNICATION

The successful Tenderer **must** provide the following Management Information Reports and any other supplementary information as may be deemed necessary by the Contracting Authority and as set out in the SLA:

- Numbers and breakdown of all students who avail of the food Club(s) and the types of food ordered per club. This report will be required monthly, based on data from each week in that month, and **must** include a system as to how any discrepancies that may occur are managed and communicated;
- Food preparation and nutritional content;
- Breakdown of invoicing;
- Results of quality feedback reviews, undertaken by both the school and the successful Tenderer on a regular basis;
- Measures being taken to facilitate food waste prevention and improvement in packaging materials in line with the Sectoral Target T4 from Buying Greener and Directive (EU) 2019/904;
- Efforts being made to incorporate organic ingredients as per Green Public Procurement now includes 10% organic target.

For the avoidance of doubt, the successful Tenderer on request from Department of Social Protection as the funding body, must provide information related to meal offerings including but not limited to menus, recipes, suppliers etc. within two business days following the request.

The format and timing of such reporting will be agreed between the Contracting Authority and the successful Tenderer. The reports will be submitted to the School Principal within 10 (ten) working days of the end of the agreed period(s) and will show the required detail for the period(s), together with cumulative, year-to-date statistics. The Contracting Authority reserves the right to amend the scope and detail of management information required during the Term of the Services Contract.

Information is required to be recorded on an individual student basis (for those students who are registered on the successful tenderer's on-line ordering system) such as reporting on students availing or not, of the school club(s). The information is to be provided in electronic format, and in a manner that can be accessed/interpreted easily by the school, e.g., a dashboard type system with menu options.

In the case of any food safety incident or enforcement action the successful Tenderer must immediately notify the relevant competent authority in accordance with their legal obligations under Regulation 178/2002 and notify the School Principal, within 24 hours at the latest.

The successful Tenderer agrees that any information relating to this Agreement and / or the performance of this Agreement may be passed by the Contracting Authority to the Department of Education and Youth ("DEY"), Department of Health ("DOH") or the Department of Social Protection ("DSP") and that DEY, DOH or DSP may use this information in the analysis and reporting of the provision of the Services and the food provided, including for the preparation and publishing of reports and guidelines.

Appendix 2: Pricing Schedule

Subject to the terms of the Services Contract the Contracting Authority shall pay the fees as set out in table 1 above which are (VAT exempt) per student per day per club provided (The "Fees") and delivered in accordance with the Department of Social Protections School Meals Scheme and the Services Contract.

The Fee for each club shall be all-inclusive (including but not being limited to the provision and delivery of the Services, online ordering system, staff, food, ingredients, preparation, packaging, transportation, delivery, pest control, any required actions to comply with the department of Education's Technical Note Guidance **SDG02 TN-06**, rates, taxes, ancillary costs and all other costs/expenses), and is expressed in Euro only. No other fees, costs, expenses etc. shall be paid by the Client to the Contractor for provision and delivery of the Services.

For the avoidance of doubt the successful Tenderer shall not charge nor seek any contribution from students, parents, guardians or any other person or entity towards the cost of the meals or the provision of the Services.

Tenderers should note that it is not mandatory for students in the school to avail of the club(s) on any given day or at all and that the successful Tenderer will only be paid for meals requested by parents/guardians. Estimated volumes provided in this CFT are indicative only and are subject to fluctuation. The exact number of students availing of the meals will vary on a week-to-week basis.

Payment and invoicing

The Contracting Authority will pay the successful Tenderer the Fees owed on a 30 days in arrears basis and in line with the payment and invoicing conditions as set out in the Services Contract.

For the avoidance of doubt, food delivered must be accompanied by a delivery docket. This is required for reconciliation of meals delivered against those invoiced before payment is made by the school to the successful Tenderer.

Appendix 3: Tenderers' Statement

[Instruction to Tenderers: Tenderers shall complete and return the following form of Tenderers' Statement printed on the Tenderers' headed notepaper and signed by the Tenderer.]

TENDERERS' STATEMENT

TO: Insert School Name (the "Contracting Authority")

RE: Call for Tenders for the provision of School Meal Club(s)

Having examined your Call for Tenders (the "CFT") including the Instructions to Tenderers, the Selection and Award Criteria, the Requirements and Specifications, and the Terms and Conditions of the Services Contract, we hereby declare the following:

1. We understand the nature and extent of the Services required to be delivered as described in Requirements and Specifications at Appendix 1 to the CFT.
2. We accept all of the Terms and Conditions of the CFT, the Services Contract and the Confidentiality Agreement and agree if awarded a Services Contract to execute the Services Contract at Appendix 5 to the CFT and the Confidentiality Agreement at Appendix 6 to the CFT.
3. We confirm compliance with the Department of Education Technical Note Guidance **SDG02 TN-06**, in relation to facilities for provision of school meals.
4. We confirm compliance with all relevant food legislation.
5. We confirm compliance with the Waste Management Packaging Regulations 2007 as amended.
6. All packaging used for club food **must** be food safe. Environmental friendly packaging materials must be used. Compostable/ biodegradable should be used where possible and at a minimum the packaging must be recyclable, in line with the Sectoral Target T4 from Buying Greener.
7. We confirm compliance with the Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment, commonly referred to as the Single Use Plastics Directive, as amended.
8. We accept all the Selection and Award Criteria as set out in Part 3 of the CFT.
9. We agree to provide the Contracting Authority with the Services in accordance with the CFT and our Tender.
10. We agree that, if awarded any Services Contract, we shall, in the performance of such contract, comply with all applicable obligations in the field of environmental, social and labour law.
11. We confirm that we have complied with all requirements as set out at Part 2 of the CFT.

12. We confirm that all prices quoted in our Tender will remain valid for the period of time commencing from the Tender Deadline, as specified at paragraph 2.10.3 of the CFT.

13. We shall, if awarded any Services Contract under the CFT, have in place on the Effective Date of the Services Contract all insurances (if any) as required by paragraph 2.21.1 of the CFT.

14. We confirm that all Data Subjects whose Personal Data is provided in our Tender have consented to the processing of such Personal Data by us, the Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of our participation in this Competition or that we otherwise have a legal basis for providing such Personal Data to the Contracting Authority for the purposes of our participation in this Competition and that we will provide evidence of such consent and / or legal basis to the Contracting Authority upon request.

15. We do not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

16. The origin of goods connected to our Tender, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

17. The subcontractor(s) on whose capacity we rely as part of our Tender (where the value of that subcontract exceeds 10% of the value of the Services Contract) does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

SIGNED **Company**

(Authorised Signatory)

Print name **Address**

Date

Appendix 4: Declaration as to Personal Circumstances of Tenderer

RE: Call for Tenders for the provision of Club Meals

NAME: [Click here and insert name]

ADDRESS: [Click here and insert address]

I, [Click here and insert name of Declarant], of [Click here and insert name of entity] do solemnly and sincerely declare that:

1. I am a [insert role of Declarant] of [Click here and insert name of entity] and am authorized by [Click here and insert name of entity] to make this declaration which relates to a tender ("the Tender") submitted by [Click here and insert name of entity] in response to an CFT dated titled [insert description of competition] published by [insert name of contracting authority] ("the Contracting Authority").

2. Neither [Click here and insert name of entity] nor any person who is a member of the administrative, management or supervisory body of [Click here and insert name of entity] nor any person who has powers of representation, decision or control in [Click here and insert name of entity] has:

    a. ever been the subject of a conviction for participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA.
    b. ever been the subject of a conviction for corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and Article 2(1) of Council Framework Decision 2003/568/JHA as well as corruption as defined in the national law of the Contracting Authority or the law of the state in [Click here and insert name of entity] is established.
    c. ever been the subject of a conviction for fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests.
    d. ever been the subject of a conviction for terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA respectively, or for inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision.
    e. ever been the subject of a conviction for money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council.
    f. ever been the subject of a conviction for child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council.

3. [Click here and insert name of entity]:

    a. is not in breach and has not breached its obligations relating to the payment of taxes or social security contributions.

    b. has carried out the preparation of the Tender independently.

4. [Click here and insert name of entity]:

    a. has, in the performance of all public contracts, complied with applicable obligations in the field of environmental social and labour law that apply at the place where the services provided, that have been established by EU law, national law, collective agreements or by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016).
    b. is not bankrupt or the subject of insolvency or winding-up proceedings, its assets are not being administered by a liquidator or by the court, it is not in an arrangement with creditors, its business activities are not suspended nor is it in any analogous situation arising from a similar procedure under national laws and regulations.
    c. is not guilty of grave professional misconduct.
    d. has not entered into agreements with other economic operators aimed at distorting competition.
    e. is not aware of any conflict of interest due to its participation in the Competition;
    f. has not had any prior involvement in the preparation of the Competition;
    g. has not shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.
    h. is not guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the Selection Criteria for this Competition and did not withhold such information and did not fail or is not able to submit supporting documents in respect of this Competition as required under Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016).
    i. has not undertaken to unduly influence the decision-making process of the Contracting Authority in respect of the Competition, or obtain confidential information that may confer upon it undue advantages in respect of the Competition; or negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

5. [Click here and insert name of entity] does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same);

6. The origin of goods connected to the Tender, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same);

7. Any subcontractor, supplier or other entity on whose capacity [Click here and insert name of entity] relies as part of the Tender does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

I understand and acknowledge that the provision of inaccurate or misleading information in this declaration may lead to my business/firm/company/partnership being excluded from participation in this or future tenders, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938. This declaration is made for the benefit of the Contracting Authority.

_____

Signature of Declarant

Declared before me by _____ who is personally known to me

(or who is identified to me by _____who is personally known to me) or*

at _____ this _____ day of _____ 20__

_____

(signed)
Practising Solicitor/Commissioner for Oaths

Please include such other form of identification used to identify the Declarant as permitted by the Statutory Declarations Act, 1938 (as amended)

Appendix 5: Services Contract

Insert School Logo

Insert School Name

School Roll Number:

and

AGREEMENT

Relating to the provision of Club Meals

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THIS AGREEMENT IS MADE ON THE [insert date: e.g., 1st] DAY OF [MONTH] 20[year] BETWEEN

Insert legal name of school, of [address] ("the Client");

And

Insert legal name of successful Service Provider, of [address] ("the Contractor");

(each a "Party" and together "the Parties").

WHEREAS:

A. By Call for Tender advertised on the Irish government website www.etenders.gov.ie on [insert Competition Publication Date] the Client invited tenders from economic operators ("Tenderers") for the provision of the services described in Appendix 1 to the CFT (the "Services"). References to the CFT shall include any clarifications issued by the Client via the messaging facility on www.etenders.gov.ie prior to the closing date of [insert Queries Deadline] (the "CFT Clarifications"). The CFT (including the CFT Clarifications) is hereby incorporated by reference into this Agreement.

B. The Contractor submitted a response to the CFT dated [insert date of Tender submission] ("the Tender"). References to the Tender shall include any clarifications issued by the Contractor in writing to the Client (the "Tender Clarifications"). The Tender (including the Tender Clarifications) is hereby incorporated by reference into this Agreement.

IT IS HEREBY AGREED AS FOLLOWS:

1.1. It is a pre-condition to the commencement of the Services Contract that the successful Tenderer, as the Food Business Operator, shall not provide meals to the school unless and until it has notified the name of the food business and the address of the premises and nature of the food business activity operated therein with the HSE.

1.2. This Agreement consists of the following documents, and in the case of, and to the extent of, conflict of wording, the Agreement shall be construed in the following order of priority:

i. This Agreement and Schedules A to F attached hereto;

ii. The CFT;

iii. The Tender.

2.1. The Contractor agrees to provide the Services described in Schedule B ("the Services") to the Client in accordance with this Agreement ("Agreement"). Schedule B details the nature, quality, time of delivery, key personnel and functional specifications of the Services to be delivered in accordance with the CFT and the Tender ("the Specification").

2.2. Subject to the terms and conditions of this Agreement, the Client agrees to pay to the Contractor the charges as stipulated in Schedule C ("the Charges"). The Charges are exempt of VAT which shall be due at the rate applicable on the date of the VAT invoice.

4. For the purposes of this Agreement, the Client's Contact is [Insert Name]; the Contractor's Contact is [Contractor contact name] of [Contractor contact address].

5. This Agreement shall take effect on the date of this Agreement ("the Effective Date") and shall expire on [insert date], unless it is otherwise terminated in accordance with the provisions of

this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties ("the Term").

The Client reserves the right to extend the Term for a period or periods of up to [12] months with a maximum of [2] such extensions permitted subject to its obligations at law

6. Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the CFT.

7. Headings are included for ease of reference only and shall not affect the construction of this Agreement.

8. Unless the context requires otherwise, words in the singular may include the plural and vice versa.

9. References to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.

10. If any ambiguity or question of intent or interpretation arises in relation to this Agreement, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any of the provisions of this Agreement.

SIGNED for and on behalf of the Client _____ (being a duly authorised officer)	SIGNED for and on behalf of the Contractor _____ (being a duly authorised officer)
Witness	Witness

Schedule A: Terms and Conditions

1. CONTRACTOR'S OBLIGATIONS

A. The Contractor undertakes to act with due care, skill and diligence in the provision of the Services and generally in the carrying out of its obligations under this Agreement and in the appointment, monitoring and retention of its agents and subcontractors. The Contractor shall require its agents and subcontractors to exercise due care, skill and diligence in the provision of the Services and generally in the carrying out of obligations allocated by the Contractor to its agents and subcontractors under this Agreement.

B. In consideration of the payment of the Charges and subject to clause 3 the Contractor shall:

1. provide the Services in accordance with the Specification, the CFT, the Client's directions and the terms of this Agreement;

2. comply with and implement any policies, guidelines and/or any project governance protocols issued by the Client from time to time and notified to the Contractor in writing;

3. comply with all local security and health and safety arrangements as notified to it by the Client;

4. provide the Services in accordance with good industry practice and comply with the Department of Education Technical Note Guidance **SDG02 TN-06** and all applicable laws including but not limited to all obligations in the field of environmental, health & safety, hygiene and food legislation, social and labour law that apply at the place where the Services are provided, that have been established by EU law, national law, collective agreements and by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the "Regulations") . The Contractor shall be responsible for compliance with all statutory requirements of an employer and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purposes of complying with this Agreement; and

5. ensure that the Services are carried out by suitably qualified personnel.

C. The Contractor is deemed to be the prime contractor under this Agreement and the Contractor assumes full responsibility for the discharge of all obligations under this Agreement and shall assume all the duties, responsibilities and obligations associated with the position of prime contractor. The Contractor as prime contractor under the Tender hereby assumes liability for its subcontractors and shall ensure that its subcontractors shall comply in all respects with the relevant terms of this Agreement, including but not limited to clause 1B(4) above, to the extent that it or they are retained by the Contractor. Subject to clause 14, the Contractor shall notify the Client as soon as possible of any changes to the name, contact details and legal representatives of its subcontractors.

D. Without prejudice to clause 1C, where the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to any subcontractor, the Client reserves the right to require the Contractor to immediately replace such Subcontractor and the Contractor shall comply with such requirement. The Contractor shall include in every sub-contract a right for the Contractor to terminate the sub-contract where any of the exclusion

grounds or any of the circumstances set forth in Regulation 73 of the Regulations apply to the subcontractor and a requirement that the subcontractor, in turn, includes a provision having the same effect in any sub-contract which it awards.

E. During this Agreement, the Contractor shall be an independent contractor and not the employee of the Client. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The officers, employees or agents of the Contractor are not and shall not hold themselves out to be (and shall not be held out by the Contractor as being) servants or agents of the Client for any purposes whatsoever.

F. The Client acknowledges that the Contractor may from time to time be dependent on the Client to facilitate the Contractor in the carrying out of its duties under this Agreement. The Client agrees to use its reasonable endeavours to so facilitate the Contractor within the timescales and in the manner agreed by it in writing in accordance with clause 10.

G. The successful Tenderer agrees that any information relating to this Agreement and / or the performance of this Agreement may be passed by the Contracting Authority to the Department of Education and Youth ("DEY"), Department of Health ("DOH") or the Department of Social Protection ("DSP") and that DEY, DOH or DSP may use this information in the analysis and reporting of the provision of the Services and the food provided, including for the preparation and publishing of reports and guidelines.

H. The Contractor shall comply with all applicable obligations arising pursuant to the European Communities (Protection of Employees' Rights on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) and Council Directive 2001/23/EC (together the "TUPE Regulations") and failure to so comply shall constitute a serious breach of this Agreement. The Contractor shall indemnify, save harmless and keep the Client indemnified from and against any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligation under the said TUPE Regulations.

2. KEY PERSONNEL

The Contractor undertakes and acknowledges that it is responsible for ensuring that all key personnel as specified in the Tender including the Key Account Manager (KAM) and nominated back-up KAM ("Key Personnel"), assigned by it to provide the Services shall be available for the Term of this Agreement. The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Client. In the event that any of the Key Personnel assigned by the Contractor to provide the Services under this Agreement becomes unable to provide the Services for whatever reason then, the Contractor acknowledges and undertakes that it shall immediately notify the Client in writing of the inability of any Key Personnel and replace that person with a person of equivalent experience and expertise ("Replacement Personnel"). The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Personnel. The Client shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

3. PAYMENT

A. Subject to the provisions of this clause 3 the Client shall pay and discharge the Charges (plus any applicable VAT), in the manner (including as to timing) specified at Schedule C. Invoicing arrangements shall be on such terms as may be agreed between the Parties.

B. Discharge of the Charges is subject to:

1. Compliance by the Contractor with the provisions of this Agreement including but not limited to any compliance schedules and/or operational protocols in place pursuant to clause 10A of this Agreement from time to time;

2. The furnishing by the Contractor of a valid invoice and such supporting documentation as may be required by the Client from time to time, including valid and accurate delivery dockets. Any Contractor pre-printed terms and conditions are hereby disallowed;

3. Invoices being submitted to the Client's Contact (as set out in this Agreement or such other alternative contact as may be agreed between the Parties). Payment is subject to any rights reserved by the Client under any other provision of this Agreement;

4. The Client being in possession of the Contractor's current Tax Clearance Certificate. The Contractor shall comply with all EU and domestic taxation law and requirements; and

C. The European Communities (Late Payment in Commercial Transactions) Regulations, 2012 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment. For the avoidance of doubt an invalid invoice or incorrect invoice is one which has not been generated or submitted in accordance with the terms of this Agreement, including but not limited to deviations from the agreed payment rate, inaccurate or insufficient delivery dockets vouching the number of meals in respect of which payment is sought, and/or which seeks payment of any other or additional sum over and above the agreed Fees. Any such invoice shall automatically be deemed not to be a valid invoice and will be rejected and returned for correction.

D. Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of this Agreement), the Client may deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or under any other agreement or Agreement with the Client. Any overpayment by either Party, whether of the Charges or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

E. The Charges shall include any and all costs or expenses incurred by the Contractor, its employees, servants and agents in the performance of its obligations under this Agreement.

F. The Charges shall be discharged as provided for in this clause subject to the retention by the Client in accordance with section 523 of the Taxes Consolidation Act, 1997 of any Professional Services Withholding Tax payable to the Contractor. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the Contractor and the Contractor so acknowledges and confirms.

G. Where the Service is not delivered on any school day the Contractor shall not charge the Client.

4. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

A. The Contractor acknowledges, warrants, represents and undertakes that:

1. it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Agreement and to provide the Services hereunder;

2. it is entering into this Agreement with a full understanding of its material terms and risks and can assume those risks;

3. it is entering into this Agreement with a full understanding of its obligations regarding health & safety, hygiene and food legislation, taxation, employment, social and environmental protection and can assume and fulfilling those obligations;

4. it has acquainted itself with and shall comply with all legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the Contractor including the Department of Education Technical Note Guidance **SDG02 TN-06**;

5. it has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement;

6. the status of the Contractor, as declared in the "Declaration as to Personal Circumstances of Tenderer" dated [insert date], which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulations apply to the Contractor, remains unchanged;

7. it owns, has obtained or is able to obtain and maintains and retains, valid licences for all Intellectual Property Rights (as defined in clause 6 below) that are necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes;

8. it has inspected the Client's premises, lands and facilities before submitting its Tender and has made appropriate enquiries to be satisfied in relation to all matters connected with the performance of its obligations under this Agreement;

9. It has obtained and complied with all necessary consents, permissions and approvals in respect of the Services and the Work Area, including all necessary permissions from all relevant local authorities;

10. It is registered as a Food Business Operator and has registered the name of the food business, the address of the school, and the nature of the food business operated therein, with the HSE or the Department of Agriculture, Food and the Marine, as appropriate to its operation;

11. it retains and shall maintain for the Term insurances for the nature and amount specified in the CFT. The Contractor undertakes to advise the Client forthwith of any material change to its insured status, to produce proof of current premiums paid upon written request and where required produce valid certificates of insurance for inspection. The Contractor shall carry out all directions of the Client regarding compliance with this clause 4.A.9;

12. the Client shall be under no obligation to purchase any minimum number or value of Services; and

13. it shall comply with and implement any policies, guidelines and/or directions issued by the Client from time to time and notified to the Contractor in writing.

B. The Contractor undertakes to notify the Client forthwith of any material change to the status of the Contractor with regard to the warranties, acknowledgements, representations and undertakings as set out at clause 4A and to comply with all reasonable directions of the Client with regard thereto which may include termination of this Agreement.

5. REMEDIES

A. The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly as a result of the negligence, act or omission, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of the Contractor, its employees, subcontractors or agents or any of them or as a result of the Contractor's failure to exercise skill, care and diligence as outlined in clause 1. The terms of this clause 5A shall survive termination of this Agreement for any reason.

B. Save in respect of fraud (including fraudulent misrepresentation), personal injury or death or in respect of the Contractor's indemnity under clause 6(G, neither Party will be liable for any indirect losses (including loss of profit, loss of revenue, loss of goodwill, indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.

C. Should the Client find itself obliged to order elsewhere in consequence of the failure of the Contractor to deliver Services, the Client shall be entitled to recover from the Contractor any excess prices or expenses which may be paid by the Client.

D. Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

E. Save in respect of fraud, personal injury or death or in respect of the Contractor's indemnity under clause 6(G) (for which no limit applies), the limit of the Contractor's aggregate liability to the Client under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed

(i) the Insurance liability levels as set out in section 2.20 of CFT.

(ii) where no relevant insurance indemnity applies, a sum equal one third of the estimated contract value (including extensions) as set out in Table 1 of the CFT.

F. If for any reason the Client is dissatisfied with the performance of the Contractor, a sum may be withheld from any payment otherwise due calculated as follows:

20 per cent of the monthly charges ("the Retention Amount") which Retention Amount shall not at any given time exceed 50 per cent of the Charges. In such event the Client shall identify the Services with which it is dissatisfied together with the reasons for such dissatisfaction. Payment of the Retention Amount will be made upon replacement and/or remedy of the said Services as identified by the Client or resolution of outstanding queries. The Client shall hold the Retention Amount on behalf of the Contractor but without any obligation to invest. The terms of this clause

5F shall be without prejudice to and not be in substitution for any remedy of the Client under this Agreement.

G. Time of delivery shall be of the essence and if the Contractor fails to deliver the Services within the time promised or specified in the Specification or agreed between the Parties, the Client may by notice in writing to the Contractor's Contact release itself from any obligation to accept and pay for the Services and / or terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.

6. INTELLECTUAL PROPERTY

A. Intellectual Property Rights ("IPR") means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof.

B. Pre-existing IPR means all IPR existing prior to the date of this Agreement and all IPR in any materials, acquired or developed by or for Contractor or Client independently of this Agreement.

C. All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio-visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of this Agreement (collectively "the Materials") (or any part or parts thereof) shall vest in the Client and the Contractor so acknowledges and confirms. For the avoidance of doubt the Contractor hereby assigns all Intellectual Property Rights, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the Client absolutely.

D. The Client grants to the Contractor a royalty-free non-exclusive licence to use the Client's Pre-existing IPR for the Term to the extent necessary to enable the Contractor to fulfil its obligations under this Agreement. Save as expressly set out in this clause 6 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.

E. The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Agreement.

F. Nothing in this Agreement shall prohibit or be deemed to prohibit the Contractor from providing services like the Services to any party other than the Parties hereto. In no event shall the Contractor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.

G. The Contractor shall ensure that all and any necessary consents and/or licences for any software, instrument, modality or methodology are obtained and in place before use for the purposes of this Agreement (to include but not be limited to ensuring that the Client shall be vested with all necessary rights so as to enable the Client to enjoy the benefit of the Services for its business purposes). The Contractor hereby indemnifies the Client and shall keep and hold the Client

harmless from and in respect of all and any losses (whether direct, indirect or consequential) liability, damages, claims, costs or expenses which arise by reason of any breach of third party Intellectual Property Rights in so far as any such rights are used for the purposes of this Agreement.

At the request of the Client for and in respect of any such breach, the Contractor shall at its expense and option:

(i) procure the necessary rights for the Client to continue use;

(ii) replace the relevant deliverable with a non-infringing equivalent;

(iii) replace the relevant deliverable to make it non-infringing while giving equivalent performance; or

(iv) if the Contractor cannot obtain the remedies in (i), (ii) or (iii) above, it may direct the return of the deliverable and refund to the Client Charges paid for such deliverable less a reasonable amount for the Client's use of the deliverable up to the time of return, provided such reasonable amount is due to the owner of the said deliverable, TOGETHER with all losses (whether direct, indirect or consequential) thereby accruing to the Client as a result of the breach.

H. Upon the termination of this Agreement for whatever reason, the Contractor shall immediately deliver up to the Client all the Materials prepared up to the date of termination. The provisions of this clause 6 will survive the expiration or termination of this Agreement for any reason.

7. CONFIDENTIALITY

A. Each of the Parties to this Agreement agrees to hold confidential all information, documentation and other material received, provided or obtained arising from their participation in this Agreement ("Confidential Information") and shall not disclose same to any third party except to: -

1. its professional advisers subject to the provisions of this clause 7; or

2. as may be required by law; or

3. as may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 7; or

4. in the case of the Client by request of any person or body or authority whose request the Client or persons associated with the Client (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.

B. The Contractor undertakes to comply with all reasonable directions of the Client with regard to the use and application of all and any of its Confidential Information and shall comply with the confidentiality agreement as exhibited at Appendix 6 to the CFT ("the Confidentiality Agreement").

The obligations in this clause 7 will not apply to any Confidential Information:

1. in the receiving Party's possession (with full right to disclose) before receiving it from the other Party; or

2. which is or becomes public knowledge other than by breach of this clause; or

3. is independently developed by the disclosing Party without access to or use of the Confidential Information; or

4. is lawfully received by the disclosing Party from a third party (with full right to disclose).

C. The Contractor acknowledges that the security of the State and its information is of paramount importance to the Client. Accordingly, the Contractor confirms that it will, if requested by the Client, from time to time, submit full personal details of its personnel (including those of subcontractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The Contractor further acknowledges that checks may be carried out in relation to all such personnel by police authorities and the Contractor shall comply with all reasonable directions of the Client arising therefrom.

D. In circumstances where the Client is subject to the provisions of the Freedom of Information Act 2014 or the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, then in the event of the Client receiving a request for information related to this Agreement, the Client shall consult with the Contractor in respect of the request. The Contractor shall specifically identify any information that is not to be disclosed on grounds of confidentiality or commercial sensitivity, and shall state the reasons for this sensitivity. The Client will consult the Contractor about this confidential or commercially sensitive information before making a decision on any request received under the above legislation. The Client accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

E. The terms of this clause 7 shall survive expiry, completion or termination for whatever reason of this Agreement.

8. FORCE MAJEURE

A. A 'Force Majeure Event' means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 8B below) which has the effect of delaying or preventing that Party from complying with its obligations under this Agreement including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or Subcontractor or agent) places of business.

B. In the event of any failure, interruption or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party ("the Affected Party") shall promptly notify the other Party in writing specifying:

1. the nature of the Force Majeure Event;

2. the anticipated delay in the performance of obligations;

3. the action proposed to minimise the impact of the Force Majeure Event;

and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party, provided always that the Affected Party

shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.

C. If the Force Majeure Event continues for 14 calendar days either Party may terminate at 14 days' notice.

D. In circumstances where the Contractor is the Affected Party, the Client shall be relieved from any obligation to make payments under this Agreement save to the extent that payments are properly due and payable for obligations actually fulfilled by the Contractor in accordance with the terms and conditions of this Agreement.

9. TERMINATION

A. This Agreement may be terminated by the Client, without liability for compensation or damages, by serving three (3) months written notice to the Contractor. This Agreement may be terminated by the Contractor, without liability for compensation or damages, by serving three (3) months written notice to the Client.

B. Either Party shall have the right (in addition to its rights under clause 9(a) and any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following:

1. If the other Party commits any serious breach or a series of breaches of any provision of this Agreement or of applicable law and fails to remedy such breach(es) (if the breach(es) are capable of remedy) within 30 days after receipt of a request in writing from the other Party;
2. In the event of an audit or inspection of the Contactor as the contracted food business operator being found to be in a serious or repeated non-compliance with the Department of Education Technical Note Guidance **SDG02 TN-06**;
3. The Contractor fails to complete any Performance Improvement Plan (PIP) required in accordance with the terms of the SLA;
4. If the other Party becomes insolvent, becomes bankrupt, enters into examinership, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect;
5. In circumstances where the Client becomes aware of any conflict of interest on the part of the Contractor which cannot, in the opinion of the Client, be removed by other means; and
6. In circumstances where the Client becomes aware of any registrable interest on the part of the Contractor.

C. The Client shall have the right, in addition to any other rights which it has at law, to terminate this Agreement immediately and without liability for compensation or damages in circumstances where the Client becomes aware (i) that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Contractor, (ii) if any of the circumstances set forth in Regulation 73 of the Regulations apply to the Contractor or any of its subcontractors or agents, or (iii) that the Contractor (or its subcontractor(s), if any) falls within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

D. Termination of this Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

E. The Contractor is solely responsible for making good any damage caused by the Contractor or any of its employees or subcontractors to the Client's premises or any equipment or objects contained therein, fair wear and tear expected.

F. On completion or termination of this Agreement, howsoever arising, the Contractor shall immediately return all Confidential Information, records, papers, materials, media and other property of the Client which is in its possession.

G. If requested by the Client, the Contractor shall promptly furnish such anonymised information relating to the terms and conditions of the employment of all persons providing the Services as may be required by the Client ("Employment Information"). The Contractor agrees that the Client may release the Employment Information to third parties for the purposes of any procurement competition for the provision of the Services upon expiry of the Term or earlier termination of this Agreement for whatever cause.

10. CONTRACT MANAGEMENT

A. The Client's Contact and the Contractor's Contact shall liaise on a regular basis to address any issues arising which may affect the performance of this Agreement and to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the Contractor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.

B. The Contractor agrees to:

1. liaise with and keep the Client's Contact fully informed of any matter which might affect the observance and performance of the Contractor's obligations under this Agreement;
2. maintain such records and comply with such reporting arrangements and protocols as required by the Client from time to time;
3. comply with all reasonable directions of the Client; and
4. comply with the service levels and performance indicators set out in Schedule D.

C. The Client or its authorised representative may inspect the Contractor's premises, lands and facilities (or such part or parts thereof relating solely to this Agreement) with due access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the terms of this Agreement. The Contractor shall comply with all reasonable directions of the Client thereby arising. The cost of inspection shall be borne by the Client.

11. DISPUTES

A. In the event of any dispute arising out of or relating to this Agreement (the "Dispute"), the Parties shall first seek settlement of the Dispute as set out below.

B. The Dispute shall be referred as soon as practicable to [contact] within the Contractor and to [insert name] within the Client respectively.

C. If the Dispute has not been resolved within fifteen (15) Business Days (being days other than weekends or public holidays in Ireland) (or such longer period as may be agreed in writing by

the Parties) of being referred to the nominated representatives, then either Party may refer the Dispute to an independent mediator, the identity of whom shall be agreed in advance by the Parties.

D. If the Parties are unable to agree on a mediator or if the mediator agreed upon is unable or unwilling to act, either Party may within twenty-one (21) days from the date of the proposal to appoint a Mediator or within twenty-one (21) days of notice to either Party that the mediator is unable to act, apply to the Chairman of the Chartered Institute of Arbitrators, Irish Branch to appoint a mediator.

E. Any submissions made to and discussions involving the mediator, of whatever nature, shall be treated in strict confidence and without prejudice to the rights and/or liabilities of the Parties in any legal proceedings and, for the avoidance of doubt, are agreed to be without prejudice and legally privileged. The Parties shall make written submissions to the mediator within ten (10) Business Days of his/her appointment.

F. The Parties shall share equally the cost of the mediator. The costs of all experts and any other third parties who, at the request of any Party, shall have been instructed in the mediation, shall be for the sole account of, and shall be discharged by that Party.

G. For the avoidance of doubt, the obligations of the Parties under this Agreement shall not cease or be suspended or delayed by the reference of a dispute to mediation. The Contractor shall always comply fully with the requirements of the Agreement.

12. GOVERNING LAW, CHOICE OF JURISDICTION AND EXECUTION

A. This Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Parties hereby agree that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.

B. This Agreement shall be executed in duplicate and each copy of the Agreement shall be signed by all the Parties hereto. Each of the Parties to this Agreement confirms that this Agreement is executed by their duly authorised officers.

C. References in this Agreement to statutory and EU Law provisions shall be deemed to include any amendments, re-enactments or replacements thereof.

13. NOTICES

A. Any notice or other written communication to be given under this Agreement shall either be delivered personally or sent by registered post or email. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 13.

B. All notices shall be deemed to have been served as follows:

1. if personally delivered, at the time of delivery;
2. if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and
3. if communicated by email, on the next calendar day following transmission.

14. ASSIGNMENT AND SUBCONTRACT

A. Subject to a Party's obligations at law, any assignment to a third party or other transfer of a Party's rights or obligations under this Agreement (the "Assignment") requires the prior written consent of the other Party. Prior to any such Assignment, the assignee will be obliged to sign an undertaking to comply with all obligations under this Agreement. Any attempted Assignment not complied with in the manner prescribed herein shall be null and void.

B. Subject to a party's obligations at law, any sub-contract of a party's rights or obligations under this agreement requires the prior written consent of the other part, such consent not to be unreasonably withheld or delayed. Any attempted subcontract not complied with in the manner prescribed herein shall be null and void. For the purposes of Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same), the Client may require information from the Contractor in relation to the status of the proposed subcontractor(s) including, but not limited to, in respect of natural persons, copies of identity documents and, in respect of legal persons, a certificate or extract from the commercial register or other competent authority of the country in which the person is established.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the Parties, and any and all other previous agreements, arrangements and understandings (whether written or oral) between the Parties regarding the subject matter of this Agreement (save where fraudulently made) are hereby excluded.

16. SEVERABILITY

If any term or provision herein is found to be illegal or unenforceable for any reason, then such term or provision shall be deemed severed and all other terms and provisions shall remain in full force and effect.

17. WAIVER

No failure or delay by either Party to exercise any right, power or remedy shall operate as a waiver of it, nor shall any partial exercise preclude further exercise of same or some other right, power or remedy.

18. NON-EXCLUSIVITY

Nothing in this Agreement shall preclude the Client from purchasing services (or Services) from a third party at any time during the currency of the Agreement.

19. MEDIA

No media releases, public announcements or public disclosures relating to this Agreement or its subject matter, including but not limited to promotional or marketing material, shall be made by the Contractor without the prior written consent of the Client.

20. CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS

A. The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that neither it nor any Subcontractor nor agent has any conflicts in relation to the Services and its obligations undertaken under this Agreement. The Contractor hereby undertakes to notify the Client immediately should any conflict or potential conflict of interest come to its attention during the currency of this Agreement and to comply with the Client's directions in respect thereof. In the event of such notification, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages.

B. Any registrable interest involving the Contractor (and any Subcontractor or agent as the case may be) and the Client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Contractor (Subcontractor or agent as the case may be) and the Contractor shall comply with the Client's directions in respect thereof, to the satisfaction of the Client. In the event of such disclosure, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available on request.

C. The Contractor shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 20C or the commission of any offence by the Contractor, any Subcontractor, agent or employee under the Criminal Justice (Corruption Offences) Act 2018 shall entitle the Client to terminate this Agreement immediately and without liability for compensation or damages and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Contractor of the amount or value of any such gift, consideration or commission.

21. ACCESS TO PREMISES

A. Any of the Client's premises made available from time to time to the Contractor by the Client in connection with this Agreement, shall be made available to the Contractor on a non-exclusive licence basis and shall be used by the Contractor solely for the purpose of performing its obligations under this Agreement. The Contractor shall have use of such premises as licensee and shall vacate the same on completion, termination or abandonment of this Agreement.

B. The Contractor shall upon reasonable notice by the Client allow the Client access to its premises (including the premises of any Subcontractor or agent) where the Services are being performed for the Client under this Agreement.

22. EQUIPMENT

A. The Contractor shall provide all equipment and material necessary for the provision of the Services. For the avoidance of doubt no food handling activities should take place on the school premises, therefore no installation of equipment should be required.

B. The Contractor shall maintain and store all items of Equipment within the Client's premises in a safe, serviceable and clean condition.

For the Term of the contract, the Contractor shall maintain all equipment in compliance with the requirements set out in food legislation, including Annex II of Regulation (EC) No 852/2004 on the hygiene of foodstuffs and I.S. 340:2007 'Hygiene in the Catering Sector' and in compliance with the manufacturer guidelines for the Term of the Agreement.

D. The Contractor shall, at the Client's written request, at its own expense and as soon as reasonably practicable:

i. removes from the Client's premises any equipment which in the reasonable opinion of the Client is either hazardous, noxious or not in accordance with this Agreement; and

ii. replace such item with a suitable substitute item of Equipment.

E. All Equipment brought onto the Client's premises shall be at the Contractor's own risk and the Client shall have no liability for any loss of, caused by or damage to any Equipment. The Contractor shall provide for the haulage or carriage thereof to the Client's premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the premises will remain the property of the Contractor.

F. On completion of the Services the Contractor shall remove the Equipment used by the Contractor to provide the Services and shall leave the Client's premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Client's premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any of its employees or subcontractors.

23. NON-SOLICITATION

A. For the Term and for a period of 12 months thereafter (and save in respect of publicly advertised posts) neither the Client nor the Contractor shall employ or offer employment to any of the other Party's employees without that other Party's prior written consent.

24. CHANGE CONTROL PROCEDURE

A. At any time during the Term of this Agreement, either Party may propose a change or changes to any part or parts of this Agreement.

B. The change control procedures set out in this Schedule will apply to all changes irrespective of whether the Contractor or the Client proposes the change.

C. A change control notice ("Change Control Notice") shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on the Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("Impact Assessment").

D. All Change Control Notices proposing changes to this Agreement must be submitted for review to the other Party's Contact.

E. The Parties must indicate their acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and it's Tender for review,

subject to a maximum of twenty (20) calendar days or such other period agreed between the Parties.

F. On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing.

G. If either Party rejects the Impact Assessment, the change(s) shall not take place and the Parties shall continue to perform their obligations under this Agreement.

H. The Contractor and the Client will agree a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether the variation is implemented. If the Client's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services then the Contractor will not be liable for such delay and will be entitled to an extension of time equal to not less than the period of the delay.

25. DATA PROTECTION AND SECURITY

A The Parties agree that contemporaneously with the execution of this Agreement they shall execute the Data Processing Agreement ("DPA") set out at Appendix 7 of the CFT and that the executed DPA (appended at Schedule E of this Agreement) shall form part of this Agreement, and the Parties shall comply with the provisions thereof.

B. The provisions of this clause 25 shall survive termination and or expiry of this Agreement for any reason.

26. ADDITIONAL CONDITION(S)

Schedule B: Services: The Specification

The provision of catering services to provide **club meals** to the students of the Client in full compliance with the Department of Social Protection's School Meals Scheme and as more particularly set out in Appendix 1 of the CFT incorporated by reference into this Agreement.

Without prejudice to the generality of the Services required and set out in Appendix 1 the Services shall include but not limited to the following:

- Provision of club meals as set out in table 1 above;
- ensuring all staff are supervised, instructed and trained in food hygiene and all other matters, including Child Protection, commensurate with their work activity. FSAI Guidelines on food hygiene training are available on FSAI.ie;
- compliance with the Garda Vetting process for all staff, as set out at 6.6.3 below. Only staff who have completed their Garda Vetting to the satisfaction of the Contracting Authority will be permitted to work on the school campus
- compliance with the Department of Education Technical Note Guidance **SDG02 TN-06**;
- the supply, operation and maintenance of all necessary delivery equipment as required;
- providing a healthy, nutritionally balanced comprehensive menu. It is preferable that food items are prepared from fresh ingredients;
- ensuring the correct food temperature in compliance with food legislation, from the point of delivery up to the time of consumption;
- the delivery of meals to the identified drop off point(s) on the Clients premises;
- compliance with all relevant food legislation;
- cleaning and disinfection of all storage and delivery equipment including insulated boxes/ containers and transport vehicles to the relevant standards of hygiene required by food legislation.
- Waste prevention and minimisation;

Schedule C: Charges

The Client shall pay the Contractor the fees set out in table 1 above (VAT exempt) ("the Fees") for each club meal ordered and delivered to the Client's identified drop off location(s) as part of the Services set out under Schedule B and in accordance with the terms and conditions of this Agreement, and in compliance with Department of Social Protection School Meals Scheme.

The Fee for each club shall be all-inclusive (including but not being limited to the provision and delivery of the Services, online ordering system, staff, food, ingredients, preparation, packaging, transportation, delivery, pest control, any required actions to comply with the department of Education's Technical Note Guidance **SDG02 TN-06**, rates, taxes, ancillary costs and all other costs/expenses), and is expressed in Euro only. No other fees, costs, expenses etc. shall be paid by the Client to the Contractor for provision and delivery of the Services.

For the avoidance of doubt the Contractor shall not charge nor seek any contribution from students, parents, guardians or any other person or entity towards the cost of the club(s) or the provision of the Services.

The Contractor acknowledges that it is not mandatory for students in the school to avail of the club(s) on any given day or at all and that the Contractor will only be paid for club meals requested by parents/guardians. Estimated volumes provided in the CFT are indicative only and are subject to fluctuation; the exact number of students availing of the club meals will vary on a week-to-week basis.

Payment and invoicing

The Client will pay the Contractor the Fees owed on a 30 days in arrears basis and in line with the payment and invoicing conditions as set out in this Agreement.

For the avoidance of doubt, all food delivered must be accompanied by an accurate delivery docket which will used for reconciliation of club meals delivered against meals invoiced before payment is made by the Client to the Contractor.

Schedule D: Service Levels / Service Level Agreement

1. ADDITIONAL DEFINITIONS

For the avoidance of doubt, capitalised terms not specifically listed below shall have the meaning as defined elsewhere in this Agreement.

"**Available**"	means that the Services are ready for and capable of full operation, execution and use at the Clients Premises as set out in the CFT;
"**Incident"**	means any defect or failure in the operation or execution of the Service that prevent the Service being delivered to the Client (school);
"**Support**"	means the support to be provided by the Contractor;
"Normal Support Time"	means Monday to Friday from 08:00hrs to 17:00hrs excluding Irish bank and public holidays;
"**Priority 1 Incident**"	means a complete loss of Service to the Client or any food safety incident or enforcement action.
"**Priority 2 Incident**"	means a partial loss of the Service or intermittent errors affecting the Service;
"**Priority 3 Incident**"	means affecting issues which do not delay the Service, requests for information and billing issues etc;
"**Problem**"	means the cause of any Incident or series of Incidents or potential future Incident or Incidents (for example, the Contractor Operation is closed by FSAI);
"**Response**"	means a communication from the Contractor to the Client acknowledging receipt of an Incident report, providing an Incident tracking identifier and informing the Client that the Contractor has commenced diagnosis of the Incident;
"**Response Time**"	means the time taken by the support personnel to assess each Incident once reported and to provide a Response to the Client. The Response Time commences upon notification of the Incident to the Contractor either verbally or electronically by the Client. Where an Incident occurs outside of Normal Support Time, the Response Time for a Priority 1 Incident commences immediately upon notification and for all other Incidents commences at the start of the next period of Normal Support Time;
"**Resolution**"	means a solution to an Incident, supplied to and acceptable to the Client to enable continuation of the Service to the Client. In providing a Resolution, the Client acknowledges that an interim Resolution or fix may be required to enable the continuation of the Service to the Client;
"**Resolution Time**"	means the time to be taken by the Support Personnel to provide a Resolution to the Incident. The Resolution Time commences upon notification of the Incident to the Contractor either verbally or electronically by the Client. Where an Incident occurs outside of Normal Support Time, the Resolution Time for a Priority 1 Incident commences immediately upon notification and for all other Incidents commences at the start of the next period of Normal Support Time.

2. OVERVIEW OF SUPPORT SERVICE

In providing the Service, the Contractor shall at all times provide:

- A reliable service;
- A safe service that does not expose Client staff or Students to any risk;
- A service that is easy to use;
- Rapid response to and resolution of Incidents;
- Regular reports on the functioning of the Service including numbers and types of Incidents, Response Times, Resolution Times, and service KPIs (as defined below);
- Clear communication pathways between the Client and the Contactor, including communication protocols and meeting schedules if applicable.

3. KEY ACCOUNT MANAGER (KAM)

The Contractor shall appoint a KAM to manage the delivery of the Service contracted for by the Client. The KAM will also be responsible for:

- Ensuring a good working relationship with the Client;
- Reporting to the Client as set out below;
- Meeting with the Client to review the Contractors Performance;
- Managing the resolution of Problems and Incidents as defined in 1 above and within the timelines set out in this SLA;
- Providing regular feedback (informally and formally) on the relationship, processes, areas and suggestions for improvement and:
- Proactively discuss with the Client ways of improving efficiency regarding service delivery in general.

In the event the KAM is unavailable, the Contractor will provide a replacement/backup KAM in line with the Key Personal clause of the Agreement.

4. SERVICE LEVELS

INCIDENT RESOLUTION TIMES

In the case of any food safety incident or enforcement action the successful Tenderer must immediately notify the relevant competent authority in accordance with their legal obligations under Regulation 178/2002 and notify the School Principal, within 24 hours at the latest.

The following table defines the timescales within which Incidents shall be dealt with and resolved by the Contractor.

Priority	On Site Response Time	Resolution Time	Client Updates
1	1 hours	Within the same school Day	Every 1 hour
2	1 hours	The same school day or next school day	Every 2 hours
3	24 hours	Within 5 school days	Every school day

The Priority for each Incident shall be specified by the Client when it reports the Incident and updated as soon as practicable after it becomes aware of any change in the Priority of the Incident in question. The Contractor shall not change or downgrade the Priority assigned without prior agreement of the Client.

A) Response and Resolution times will be evidenced in accordance with Contractor's Incident tracking system from time to time.

B) A protocol for dealing with Priority 1 Incidents will at a minimum include the appointment of an Incident Manager, the establishment of a conference call for all updates and a list of the key contacts who need to be regularly updated.

C) Where it becomes evident that the Response and Resolution of a Priority 1 Incident will take place outside Normal Support Time (e.g. Incident reported at end of a working day or end of a working week, or prior to a public holiday), the Contractor shall ensure that sufficient Support Personnel are available to carry out the necessary Resolution of these Incidents as per the Response and Resolution Times set out above.

5. MANAGEMENT AND RESOLUTION OF INCIDENTS AND PROBLEMS

(a) The Contractor shall respond to and resolve all Incidents and Problems within the Response Times set out at clause 4(a) above.

(b) Every effort shall be made by the Contractor to resolve each Incident at, or as soon as possible after, the first point of contact.

(c) The Contractor shall ensure the use of an issue tracking system to maintain a comprehensive record of all Incidents, including the Priority of each Incident and the actions taken to achieve their Resolution.

(d) Incidents may be communicated by either telephone or electronic mail or other means agreed between the Parties, however all Incidents must be recorded and logged in the issue tracking system.

6. ESCALATION PROCESS FOR INCIDENTS

(a) To ensure that all Client Incidents receive the highest level of care, the escalation matrix set out in this clause 6 shall apply. The Contractor guarantees that any Incident which falls outside the Resolution Times defined in this Service Level Schedule will receive the attention of senior management within the Contractor's organisation.

(b) Where an Incident is not resolved within the relevant time period specified in the escalation matrix (the "Escalation Time") the Client may escalate the Incident to the Contractor and Client personnel listed in the escalation matrix. The appropriate Contractor personnel shall take any and all action necessary within his/her level of responsibility to effect a full Resolution of the problem for the benefit of the Client as soon as possible.

(c) The Escalation Time for Priority 1 Incidents commences upon notification or detection of the Incident, regardless of whether this occurs during Normal Support Time. The Escalation Time for all other Incidents commences upon notification or detection of the Incident, provided such notification or detection occurs within Normal Support Time, or alternatively on the commencement of Normal Support Time immediately following such notification or detection.

Priority	Escalation Time	Escalation Point	Update Frequency
1	4 hours	School Principal and the Contractors Senior management	Hourly
2	8 hours	School Principal and the Contractors Senior management	Every 4 hours
3	1 week	Contractors Key Account Manager	Every working day

7. REMEDIES

(a) The provision of Service will be assessed on a quarterly basis by reference to the Service Reports defined in section 8 below. At the end of each quarter, in the event that any Incident(s) have not been resolved within the applicable Resolution Time, the Client shall be entitled to, and the Contractor shall provide to the Client, service credits in accordance with the following matrix up to a maximum aggregate amount of 15% of the projected Quarterly Service cost:

Priority	Service Credits for Exceeding Resolution Time (for each Incident)
1	5% of the projected monthly Service Cost
2	2.5% of the projected monthly Service Cost

Service Credits will be accumulated for all Incidents exceeding the Resolution Time.

(b) In the event that any service credits apply under the terms of this clause, the Contractor shall refund the Client the full amount of the aggregate service credits within 30 days of the date of the receipt of an invoice from the Client. Alternatively, and at its sole discretion, the Client shall be entitled to offset service credits against any future payments due under any other contract in place between the Client and the Contractor.

(c) In the event that the aggregate service credits applied reaches the 15% of the projected Service Cost in any Quarter, then the Contractor shall provide to the Client a plan to remedy the underlying issues (the "Remedial Plan") within 7 calendar days of the end of such period.

(d) In the event that the aggregate service credits applied in any 6-month period (two quarters) exceed 15% of the Annual Cost of the Service or in the event that all actions in the Remedial Plan have failed to address the underlying issue to the full satisfaction of the Client, in its sole discretion, this shall be deemed to be a material breach of this Agreement.

8. SERVICE REPORTS

(a) Throughout the Term of this Agreement, the Contractor shall provide the Client with reports which shall be used to monitor performance Service and the Contractors response to Problems and Incidents under this Service Level Schedule on an ongoing basis. The Contractor shall propose appropriate KPIs for performance monitoring of at least each of the areas set out below. Service KPIs are as follows:

Service KPIs	Target
Customer Service	
Complaints to be acknowledged	3 hours
Complaints to be fully resolved	3-5 days
General queries to be responded to within 24 hours	100%
Key account Manager response within 1 hour	100%
Food Ordering and Delivery	
Flexible ordering systems available (excluding planned down time)	99%
Food must be delivered to designated area at the agreed time	99%
Staff	
Key Account Manager and back-up KAM in place and contactable	100%
Staff garda vetted prior to commencing work in school – Contractor to supply evidence throughout the contract term where staff changes occur	100%
Garda vetting and photo of regular staff (for staff who will work on school site) shared with school in advance of implementation of club meals service – Contractor to supply evidence throughout the contract term where staff changes occur	100%
In instances where replacement staff are attending due to illness/absence of regular staff, Garda vetting and photo of replacement staff to be shared with school contact in advance of start of service	100%
Staff to adhere to school policies and procedures as required by principal (e.g.) safeguarding, fire safety, health and safety, parking, appropriate dress/behaviour etc.	100%
Cleaning and Waste Management	
All transport, transport containers / storage devices must be cleaned and where applicable disinfected on an ongoing basis.	100%
Food	
Fresh food	100%
Organic ingredients in line with a minimum of 10% organic buying-greener-green-public-procurement-strategy-and-action-plan-2024-2027.pdf where possible.	>10%
Lunch Club with drink 4 items, plus drink: 2 servings vegetables, salad or fruit, and 1 serving wholemeal or wholegrain cereals or breads, and 1 serving meat, poultry, fish, egg, beans, nuts, or cheese Only drinks available should be water, milk (200ml) or unsweetened juice (150ml)	100%
Lunch Club no drink 4 items: 2 servings vegetables, salad or fruit, and 1 serving wholemeal or wholegrain cereals or breads, and 1 serving meat, poultry, fish, egg, beans, nuts, or cheese	100%

Afterschool with drink 4 items, plus drink: 2 servings vegetables, salad or fruit, and 1 serving wholemeal or wholegrain cereals or breads, and 1 serving meat, poultry, fish, egg, beans, nuts, or cheese Only drinks available should be water, milk(200ml) or unsweetened juice (150ml)	
Afterschool no drink 4 items: 2 servings vegetables, salad or fruit, and 1 serving wholemeal or wholegrain cereals or breads, and 1 serving meat, poultry, fish, egg, beans, nuts, or cheese	
Offer a variety and choice of meals daily (including for those that are vegetarian/vegan/coeliacs etc.)	100%
Cater for food intolerances and allergies including lactose-free, gluten-free, etc., as required	100%
Cater for religious observance and cultural dietary requirements etc.	100%
Provide clearly visible labelling including student name, ingredients and allergen list etc.	100%
Compliance	
Contractor registered with relevant Competent Authority	100%
Food labelling requirements	100%
Department of Education Technical Note Guidance **SDG02 TN-06**	100%

Problems and Incident KPIs	
Area	**KPI**
Incident Management	Number of repeated Incidents
Incident Management	Number of Escalations
Incident Management	Number of Incidents
Incident Management	Incident Resolution Time
Incident Management	Resolution within SLA
Problem Management	Number of Problems
Problem Management	Number of unresolved Problem

Reporting formats will be agreed in advance with the Client. Key reports which shall be delivered by the Contractor shall include:

a) Quarterly activity and performance reports of all Incidents to be supplied to the Client no later than the 10th working day after the end of each quarter. The monthly reports shall include cover but not be limited to the following:

   (i) Resolution of Incidents, in accordance with the requirements set out in clause 4 above;
   (ii) Availability of the Service for the reporting period based on an analysis of Incidents logged;
   (iii) Performance of the Service for the reporting period in accordance with the KPIs, details of any critical Incidents or repetitive non-critical Incidents noted;
   (iv) Recommendations for any changes in the Service to support performance and availability;
   (v) Incident and Problem activity for the period.
   (vi) Continuous improvement and value add opportunities.

b) Monthly status reports reporting key information in a format to be approved by the Client, which should include performance of the Service against the KPIs.

9. MANAGEMENT REPORTING

The Contractor will also provide the Client with the following Service Management Reports:

- Numbers and breakdown of all students who avail of the food Club(s) and the types of food ordered per club. This report will be required monthly, based on data from each week in that month, and **must** include a system as to how any discrepancies that may occur are managed and communicated;
- Breakdown of cost charged per club in a Month and Quarterly.
- Results of quality feedback reviews, undertaken by both the school and the successful Tenderer on a regular basis;
- Measures being taken to facilitate food waste prevention and improvement in packaging materials in line with the Sectoral Target T4 from Buying Greener and Directive (EU) 2019/904;
- Efforts being made to incorporate organic ingredients;
- Any another report required by the Client.

For the avoidance of doubt, the successful Tenderer on request from Department of Social Protection as the funding body, must provide information related to meal offerings including but not limited to menus, recipes, suppliers etc. within two business days following the request.

The format of such reporting and report timing will be agreed between the Client and the Contractor. The reports will be submitted to the Client within 10 (ten) working days of the end of the agreed period(s) and will show the required detail for the period(s), together with cumulative, year-to-date statistics. The Client reserves the right to amend the scope and detail of management information required during the Term of the Services Contract.

Information is required to be recorded on an individual student basis per club. Orders are made on an individual student basis so the information should be easily retrieved. It is preferable that information is to be provided in electronic format, and in a manner that can be accessed/interpreted easily by the school.

Schedule E: Data Processing Agreement

This Data Processing Agreement is made on _____ (insert date) between:

_____(insert school name), hereafter referred to as the Controller

and

_____(insert provider name), hereafter referred to as the Processor

This agreement is based on the Standard Contractual Clauses issued by the European Commission between controllers and processors under Article 28 (7) of Regulation (EU) 2016/679 of the European Parliament and of the Council as set out in the Commission's Implementing Decision of 4 June 2021.

SECTION I

Clause 1. Purpose and scope

(a) The purpose of these Standard Contractual Clauses (the Clauses) is to ensure compliance with Article 28(3) and (4) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

(b) The controllers and processors listed in Annex I have agreed to these Clauses in order to ensure compliance with Article 28(3) and (4) of Regulation (EU) 2016/679.

(c) These Clauses apply to the processing of personal data as specified in Annex II.

(d) Annexes I to IV are an integral part of the Clauses.

(e) These Clauses are without prejudice to obligations to which the controller is subject by virtue of Regulation (EU) 2016/679.

(f) These Clauses do not by themselves ensure compliance with obligations related to international transfers in accordance with Chapter V of Regulation (EU) 2016/679.

Clause 2. Invariability of the Clauses

(a) The Parties undertake not to modify the Clauses, except for adding information to the Annexes or updating information in them.

(b) This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a broader contract, or from adding other clauses or additional safeguards provided that they do not directly or indirectly contradict the Clauses or detract from the fundamental rights or freedoms of data subjects.

Clause 3. Interpretation

(a) Where these Clauses use the terms defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

(b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.

(c) These Clauses shall not be interpreted in a way that runs counter to the rights and obligations provided for in Regulation (EU) 2016/679 or in a way that prejudices the fundamental rights or freedoms of the data subjects.

Clause 4. Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties existing at the time when these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 5. Docking clause

(a) Any entity that is not a Party to these Clauses may, with the agreement of all the Parties, accede to these Clauses at any time as a controller or a processor by completing the Annexes and signing Annex I.

(b) Once the Annexes in (a) are completed and signed, the acceding entity shall be treated as a Party to these Clauses and have the rights and obligations of a controller or a processor, in accordance with its designation in Annex I.

(c) The acceding entity shall have no rights or obligations resulting from these Clauses from the period prior to becoming a Party.

SECTION II – OBLIGATIONS OF THE PARTIES

Clause 6. Description of processing(s)

The details of the processing operations, in particular the categories of personal data and the purposes of processing for which the personal data is processed on behalf of the controller, are specified in Annex II.

Clause 7. Obligations of the Parties

7.1. Instructions

(a) The processor shall process personal data only on documented instructions from the controller, unless required to do so by Union or Member State law to which the processor is subject. In this case, the processor shall inform the controller of that legal requirement before processing, unless the law prohibits this on important grounds of public interest. Subsequent instructions may also be given by the controller throughout the duration of the processing of personal data. These instructions shall always be documented.

(b) The processor shall immediately inform the controller if, in the processor's opinion, instructions given by the controller infringe Regulation (EU) 2016/679 or the applicable Union or Member State data protection provisions.

7.2. Purpose limitation

The processor shall process the personal data only for the specific purpose(s) of the processing, as set out in Annex II, unless it receives further instructions from the controller.

7.3. Duration of the processing of personal data

Processing by the processor shall only take place for the duration specified in Annex II.

7.4. Security of processing

(a) The processor shall at least implement the technical and organisational measures specified in Annex III to ensure the security of the personal data. This includes protecting the data against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to the data (personal data breach). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purposes of processing and the risks involved for the data subjects.

(b) The processor shall grant access to the personal data undergoing processing to members of its personnel only to the extent strictly necessary for implementing, managing and monitoring of the contract. The processor shall ensure that persons authorised to process the personal data received have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

7.5. Sensitive data

If the processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences ("sensitive data"), the processor shall apply specific restrictions and/or additional safeguards.

7.6. Documentation and compliance

(a) The Parties shall be able to demonstrate compliance with these Clauses.

(b) The processor shall deal promptly and adequately with inquiries from the controller about the processing of data in accordance with these Clauses.

(c) The processor shall make available to the controller all information necessary to demonstrate compliance with the obligations that are set out in these Clauses and stem directly from Regulation (EU) 2016/679. At the controller's request, the processor shall also permit and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or an audit, the controller may take into account relevant certifications held by the processor.

(d) The controller may choose to conduct the audit by itself or mandate an independent auditor. Audits may also include inspections at the premises or physical facilities of the processor and shall, where appropriate, be carried out with reasonable notice.

(e) The Parties shall make the information referred to in this Clause, including the results of any audits, available to the competent supervisory authority/ie's on request.

7.7. Use of sub-processors

(a) The processor shall not subcontract any of its processing operations performed on behalf of the controller in accordance with these Clauses to a sub-processor, without the controller's prior specific written authorisation. The processor shall submit the request for specific authorisation at least one month prior to the engagement of the sub-processor in question, together with the information necessary to enable the controller to decide on the authorisation. The list of sub-processors authorised by the controller can be found in Annex IV. The Parties shall keep Annex IV up to date.

(b) Where the processor engages a sub-processor for carrying out specific processing activities (on behalf of the controller), it shall do so by way of a contract which imposes on the sub-processor, in substance, the same data protection obligations as the ones imposed on the data processor in accordance with these Clauses. The processor shall ensure that the sub-processor complies with the obligations to which the processor is subject pursuant to these Clauses and to Regulation (EU) 2016/679.

(c) At the controller's request, the processor shall provide a copy of such a sub-processor agreement and any subsequent amendments to the controller. To the extent necessary to protect business secret or other confidential information, including personal data, the processor may redact the text of the agreement prior to sharing the copy.

(d) The processor shall remain fully responsible to the controller for the performance of the sub-processor's obligations in accordance with its contract with the processor. The processor shall notify the controller of any failure by the sub-processor to fulfil its contractual obligations.

(e) The processor shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the processor has factually disappeared, ceased to exist in law or has become insolvent - the controller shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

7.8. International transfers

(a) Any transfer of data to a third country or an international organisation by the processor shall be done only on the basis of documented instructions from the controller or in order to fulfil a specific requirement under Union or Member State law to which the processor is subject and shall take place in compliance with Chapter V of Regulation (EU) 2016/679.

(b) The controller agrees that where the processor engages a sub-processor in accordance with Clause 7.7. for carrying out specific processing activities (on behalf of the controller) and those processing activities involve a transfer of personal data within the meaning of Chapter V of Regulation (EU) 2016/679, the processor and the sub-processor can ensure compliance with Chapter V of Regulation (EU) 2016/679 by using standard contractual clauses adopted by the Commission in accordance with of Article 46(2) of Regulation (EU) 2016/679, provided the conditions for the use of those standard contractual clauses are met.

7.9. Processor's Own Responsibilities

Nothing within this Agreement relieves the processor of its own direct responsibilities and liabilities under the GDPR.

Clause 8. Assistance to the controller

(a) The processor shall promptly notify the controller of any request it has received from the data subject. It shall not respond to the request itself, unless authorised to do so by the controller.

(b) The processor shall assist the controller in fulfilling its obligations to respond to data subjects' requests to exercise their rights, taking into account the nature of the processing. In fulfilling its obligations in accordance with (a) and (b), the processor shall comply with the controller's instructions.

(c) In addition to the processor's obligation to assist the controller pursuant to Clause 8(b), the processor shall furthermore assist the controller in ensuring compliance with the following obligations, taking into account the nature of the data processing and the information available to the processor:

1) the obligation to carry out an assessment of the impact of the envisaged processing operations on the protection of personal data (a 'data protection impact assessment') where a type of processing is likely to result in a high risk to the rights and freedoms of natural persons;

2) the obligation to consult the competent supervisory authority/ies prior to processing where a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk;

3) the obligation to ensure that personal data is accurate and up to date, by informing the controller without delay if the processor becomes aware that the personal data it is processing is inaccurate or has become outdated;

4) the obligations in Article 32 Regulation (EU) 2016/679.

(d) The Parties shall set out in Annex III the appropriate technical and organisational measures by which the processor is required to assist the controller in the application of this Clause as well as the scope and the extent of the assistance required.

Clause 9. Notification of personal data breach

In the event of a personal data breach, the processor shall cooperate with and assist the controller for the controller to comply with its obligations under Articles 33 and 34 Regulation (EU) 2016/679, taking into account the nature of processing and the information available to the processor.

9.1. Data breach concerning data processed by the controller

In the event of a personal data breach concerning data processed by the controller, the processor shall assist the controller:

(a) in notifying the personal data breach to the competent supervisory authority/ies, without undue delay after the controller has become aware of it, where relevant / (unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons);

(b) in obtaining the following information which, pursuant to Article 33(3) Regulation (EU) 2016/679, shall be stated in the controller's notification, and must at least include:

1) the nature of the personal data including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;

2) the likely consequences of the personal data breach;

3) the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

(c) in complying, pursuant to Article 34 Regulation (EU) 2016/679, with the obligation to communicate without undue delay the personal data breach to the data subject, when the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons.

9.2. Data breach concerning data processed by the processor

In the event of a personal data breach concerning data processed by the processor, the processor shall notify the controller without undue delay after the processor having become aware of the breach. Such notification shall contain, at least:

(a) a description of the nature of the breach (including, where possible, the categories and approximate number of data subjects and data records concerned);

(b) the details of a contact point where more information concerning the personal data breach can be obtained;

(c) its likely consequences and the measures taken or proposed to be taken to address the breach, including to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

The Parties shall set out in Annex III all other elements to be provided by the processor when assisting the controller in the compliance with the controller's obligations under Articles 33 and 34 of Regulation (EU) 2016/679.

SECTION III – FINAL PROVISIONS

Clause 10. Non-compliance with the Clauses and termination

(a) Without prejudice to any provisions of Regulation (EU) 2016/679, in the event that the processor is in breach of its obligations under these Clauses, the controller may instruct the processor to suspend the processing of personal data until the latter complies with these Clauses or the contract is terminated. The processor shall promptly inform the controller in case it is unable to comply with these Clauses, for whatever reason.

(b) The controller shall be entitled to terminate the contract insofar as it concerns processing of personal data in accordance with these Clauses if:

1) the processing of personal data by the processor has been suspended by the controller pursuant to point (a) and if compliance with these Clauses is not restored within a reasonable time and in any event within one month following suspension;

2) the processor is in substantial or persistent breach of these Clauses or its obligations under Regulation (EU) 2016/679;

3) the processor fails to comply with a binding decision of a competent court or the competent supervisory authority/ies regarding its obligations pursuant to these Clauses or to Regulation (EU) 2016/679.

(c) The processor shall be entitled to terminate the contract insofar as it concerns processing of personal data under these Clauses where, after having informed the controller that its instructions infringe applicable legal requirements in accordance with Clause 7.1 (b), the controller insists on compliance with the instructions.

(d) Following termination of the contract, the processor shall, at the choice of the controller, delete all personal data processed on behalf of the controller and certify to the controller that it has done so, or return all the personal data to the controller and delete existing copies unless Union or Member State law requires storage of the personal data. Until the data is deleted or returned, the processor shall continue to ensure compliance with these Clauses.

ANNEX I: LIST OF PARTIES

Controller(s):

CONTROLLER 1: (insert details of school)

Name:	
Address:	
Contact person's name, position and contact details:	
Signature:	
Date:	

Processor(s):

PROCESSOR: (insert details of provider)

Name:	
Address:	
Contact person's name, position and contact details:	
Signature:	
Date:	

ANNEX II: DESCRIPTION OF THE PROCESSING

Categories of data subjects whose personal data is processed	Students of the school and their parents / guardians
Categories of personal data processed:	**Identity and dietary requirements of the Student:** • **Student's name** • **Student's school** • **Student's class** • **Student's meal choice per club** • **Student's dietary requirements (e.g. allergies, medical conditions that impact dietary requirements etc)** **Identity and contact details of the parent/guardian:** • **Parent's/guardian's name** • **Parent's/ guardian's contact details e.g. phone number, email address**
Sensitive data processed (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures:	**Health data if the Student has food allergies** **Data on religion for the purpose of e.g. halal, kosher meals** **Processing is based on parental/guardian consent and will be subject to the school's and provider's existing data protection safeguards – see school's data protection policy, provider's data protection policy and Annex II of this agreement.**
Nature of the processing:	**Processing of personal data listed by the school and provider for the provision of school meals as part of the scheme that the Student has been signed up for**
Purpose(s) for which the personal data is processed on behalf of the controller:	**Provision of school meals**
Duration of the processing:	**For the duration of the contract/ when the Student leaves the school**

ANNEX III: TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

Schools and providers should review this list and add to it or delete from it as necessary.

The technical and organisational measures on the part of the provider to ensure security of the data are as per the tender and contract documentation and their data protection policy. They include appropriate technical and organisational measures to protect the shared personal data in their possession against unauthorised or unlawful processing in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the shared personal data transmitted, stored or otherwise processed. This includes but is not limited to the following:

- Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services
- Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident
- Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing
- Measures for user identification and authorisation
- Measures for the protection of data during transmission
- Measures for the protection of data during storage
- Measures for ensuring physical security of locations at which personal data are processed
- Measures for internal IT and IT security governance and management
- Measures for certification/assurance of processes and products
- Measures for ensuring data Minimisation
- Measures for ensuring data quality
- Measures for ensuring limited data retention
- Measures for ensuring accountability
- Measures for allowing data portability and ensuring erasure
- Policies, guidelines and procedures governing information security
- Password protection for computer access
- Automatic locking of idle PCs
- Appropriate security where remote access is allowed
- Data breach procedures
- Staff training and awareness
- Adopting a clear desk policy

ANNEX IV: LIST OF SUB-PROCESSORS

This Annex needs to be completed in case of specific authorisation of sub-processors (Clause 7.7(a), Option 1). If not applicable, please delete this annex.

The controller has authorised the use of the following sub-processors:

SUB-PROCESSOR 1:

Name:	
Address:	
Contact person's name, position and contact details:	
Description of the processing (including a clear delimitation of responsibilities in case several sub-processors are authorised):	

SUB-PROCESSOR 2 (if applicable):

Delete if not applicable

Name:	
Address:	
Contact person's name, position and contact details:	
Description of the processing (including a clear delimitation of responsibilities in case several sub-processors are authorised):	

Appendix 6: Confidentiality Agreement

THIS AGREEMENT is made on the [date] day of [month] 20 [year] BETWEEN:

The [insert name of Contracting Authority], of [insert address] (hereinafter "the Contracting Authority") of the one part;
and

[Contractor's legal name: to be completed on signing.], of [address: to be completed on signing.] (hereinafter called "the Contractor") of the other part.

WHEREAS:

A. By Call for Tenders dated [insert date] entitled [insert title] (the "CFT") the Contracting Authority invited tenders ("Tenders") for the provision of the Services described in Appendix 1 to the CFT (the "Services") ("the Competition"). The Contractor submitted a response to the CFT dated the [insert date of Tender].

The Contractor has been identified as the preferred bidder in the Competition.

B. For the purposes of the Competition and any subsequent contract awarded thereunder (if any) ("the Contract"), certain confidential information as defined at clause 2 of this Agreement, will be furnished to the Contractor. The Confidential Information is confidential to the Contracting Authority.

NOW IT IS HEREBY AGREED in consideration of the sum of €2.00 (the receipt of which is hereby acknowledged by the Contractor) as follows:

1. The Contractor acknowledges that Confidential Information may be provided to them by the Contracting Authority and that each item of Confidential Information shall be governed by the terms of this Agreement.

2. For the purposes of this Agreement "Confidential Information" means:

   2.1 unless specified in writing to the contrary by the Contracting Authority all and any information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Contracting Authority, the supply of Services under the Contract and all and any information supplied or made available to the Contractor (to include employees, agents, Subcontractors and other suppliers) for the purposes of the Contract(s) including personal data within the meaning of the Data Protection Laws; and

   2.2 any and all information which has been derived or obtained from information described in sub-paragraph 2.1.

3. For the purposes of this Agreement "Data Protection Laws" means all applicable national and EU data protection laws, regulations and guidelines, including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "General Data Protection Regulation"), and any

guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time

4. Save as may be required by law, the Contractor agrees in respect of the Confidential Information:

4.1 to treat such Confidential Information as confidential and to take all necessary steps to ensure that such confidentiality is maintained;

4.2 not, without the prior written consent of the Contracting Authority, to communicate or disclose any part of such Confidential Information to any person except:

I to those employees, agents, Subcontractors and other suppliers on a need to know basis; and/or

ii to the Contractor's auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Contractor

PROVIDED ALWAYS that the Contractor shall ensure that all such persons and bodies are made aware, prior to disclosure, of the confidential nature of the Confidential Information and that they owe a duty of confidence to the Contracting Authority; and shall use all reasonable endeavours to ensure that such persons and bodies comply with the provisions of this Agreement.

5. The obligations in this Agreement will not apply to any Confidential Information:

i. in the Contractor's possession (with full right to disclose) before receiving it from the Contracting Authority; or

ii. which is or becomes public knowledge other than by breach of this clause; or

iii. is independently developed by the Contractor without access to or use of the Confidential Information; or

iv. is lawfully received from a third party (with full right to disclose).

6. The Contractor undertakes:

6.1 to comply with all directions of the Contracting Authority with regard to the use and application of all and any Confidential Information or data (including personal data as defined in the Data Protection Laws);

6.2 to comply with all directions as to local security arrangements deemed reasonably necessary by the Contracting Authority including, if required, completion of documentation under the Official Secrets Act 1963 and comply with any vetting requirements of the Contracting Authority including by police authorities;

6.3 upon termination of the Competition (or the Contract) for whatever reason to furnish to the Contracting Authority all Confidential Information or at the written direction of the Contracting Authority to destroy in a secure manner all (or such part or parts thereof as may be identified by the Contracting Authority) Confidential Information in its possession and shall erase any Confidential Information held by the Contractor in electronic form. The Contractor will upon request furnish a certificate to that effect should the Contracting Authority so request in writing. For

the avoidance of doubt "document" includes documents stored on a computer storage medium and data in digital form whether legible or not.

7. The Contractor shall not obtain any proprietary interest or any other interest whatsoever in the Confidential Information furnished to them by the Contracting Authority and the Contractor so acknowledges and confirms.

8. The Contractor shall, in the performance of the Contract, access only such hardware, software, infrastructure, or any part of the databases, data or ICT system(s) of the Contracting Authority as may be necessary for the purposes of the Competition (and obligations thereunder or arising therefrom) and only as directed by the Contracting Authority and in the manner agreed in writing between the Parties.

9. The Contractor agrees that this Agreement will continue in force notwithstanding any court order relating to the Competition or termination of the Contract (if awarded) for any reason.

10. The Contractor agrees that this Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Contractor hereby further agrees that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.

SIGNED for and on behalf of the Contracting Authority _____ (being a duly authorised officer)	SIGNED for and on behalf of the Contractor _____
Witness	Witness